

## RESOLUTION

### AMENDING RESOLUTION #186-2022 AUTHORIZING THE PURCHASE OF GASOLINE AND DIESEL FUEL THROUGH THE MORRIS COUNTY CO-OP, CONTRACT #1 FOR MOTOR GASOLINE AND CONTRACT #12 FOR ULTRA LOW SULFUR DIESEL FUEL, INCREASING THE NTE TO \$160,000

**WHEREAS**, there is a need to amend Resolution #186-2022 to purchase gasoline and diesel fuel to be used by the Department of Public Works, Police, Fire and other municipal departments; and

**WHEREAS**, the Township belongs to the Morris County Co-op and purchases gasoline and diesel fuel through this program for the year.

**WHEREAS**, the funds are available as evidenced by the Chief Finance Officer's Certification through account #01-201-31-460-261; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Township of Clinton, as follows:

1. Gasoline and diesel fuel shall be purchased through the MCCPC from Griffin Allied Trucking D/B/A Allied Oil, increasing the NTE amount to \$160,000.

ATTEST:

\_\_\_\_\_  
Carla Conner, Township Clerk

\_\_\_\_\_  
Brian Mullay, Mayor

Adopted: November 9, 2022

## CERTIFICATION

I, Carla Conner, Municipal Clerk of the Township of Clinton, County of Hunterdon, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a resolution duly authorized by the Mayor and Council on this 9<sup>th</sup> day of November, 2022.

\_\_\_\_\_  
*Conner Conner, Municipal Clerk*

## RESOLUTION

### **RESOLUTION AMENDING AGREEMENT FOR EXTRAORDINARY UNSPECIFIABLE SERVICES WITH THE CANNING GROUP, LLC FOR INTERIM ACTING ADMINISTRATOR SERVICES, BY INCREASING THE TOTAL CONTRACT AMOUNT FROM \$50,000.00 TO \$85,000.00**

**WHEREAS**, by Resolution #148-2022 adopted on July 13, 2022, the Township of Clinton (“Township”) awarded an agreement for extraordinary unspecifiable services (the “EUS agreement”) to the Canning Group, LLC to serve as the Township’s Acting Administrator during the regular Township Administrator’s leave of absence or until December 31, 2022, whichever is sooner; and

**WHEREAS**, the original not-to-exceed contract amount for said services was \$50,000.00; and

**WHEREAS**, due to the need for the Acting Administrator to provide more service hours per week than had originally been estimated, it is necessary to increase the not-to-exceed amount by an additional \$35,000.00, for a total not-to-exceed contract amount of \$85,000.00 for calendar year 2022; and

**WHEREAS**, the Chief Financial Officer has certified that sufficient funds are available to pay for said services from Account No. 02-201-20-100-203;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Clinton, County of Hunterdon, State of New Jersey, as follows:

1. For the reasons set forth in the above “Whereas” clauses, the EUS agreement between the Township and the Canning Group, LLC to serve as the Township’s Acting Administrator during the regular Township Administrator’s leave of absence or until December 31, 2022 (whichever is sooner), is hereby by amended

to increase the original not-to-exceed contract amount set forth in Resolution #148-2022 by \$35,000.00, for a new not-to-exceed contract amount of \$85,000.00.

2. When countersigned below by the Canning Group, LLC, this resolution shall serve as a first contract amendment to the EUS agreement authorized by Resolution #148-2022 adopted on July 13, 2022.
3. A notice of this action shall be published in the Township's official newspaper as required by law.

ATTEST:

\_\_\_\_\_  
Carla Conner, Township Clerk

\_\_\_\_\_  
Brian Mullay, Mayor

Adopted: November 9, 2022

**AGREED to this 9th day of November, 2022**

WITNESS:

THE CANNING GROUP, LLC

\_\_\_\_\_  
By: \_\_\_\_\_

CERTIFICATION

I, Carla Conner, Municipal Clerk of the Township of Clinton, County of Hunterdon, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a resolution duly authorized by the Mayor and Council on this 9th day of November, 2022.

\_\_\_\_\_  
*Carla Conner, RMC, Municipal Clerk*

## **RESOLUTION**

### **RESOLUTION AUTHORIZING THE TOWNSHIP OF CLINTON TO ACCEPT A SUBGRANT AWARD OF THE FEDERAL FISCAL YEAR 2022 OF EMERGENCY MANAGEMENT PERFORMANCE GRANT AND EMERGENCY MANAGEMENT AGENCY ASSISTANCE**

**WHEREAS**, the Township of Clinton Office of Emergency Management has been awarded State Homeland Security Grant Program Sub-grant AFN #97.042, Subgrant Award #FY22-EMPG-EMAA-1006 from the New Jersey Department of Law and Public Safety, Office of the Attorney General. The subgrant, consisting of \$10,000.00 Federal Award is for the purpose of enhancing the Township's ability to prevent, protect against, respond to and recover from acts of terrorism, natural disasters and other catastrophic events and emergencies; and

**WHEREAS**, the Township of Clinton will use these funds to enhance your Emergency Management Program and that the funds will be used for Emergency Management purposes; and

**WHEREAS**, the award period is from July 1, 2022 to June 30, 2023; and

**WHEREAS**, the subgrant award incorporates all conditions and representations contained or made in application and notice of award; and

**WHEREAS**, the Township of Clinton Office Emergency Management, designated by the New Jersey State Police, Office of Emergency Management, has submitted an Application for Subgrant Award that has been required by the said New Jersey State Office of Emergency Management.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Clinton, in the County of Hunterdon, State of New Jersey:

1. That the Mayor and Council accepts the award of the FFY22 Emergency Management Performance Grant Program (EMPG), Emergency Management Agency Assistance Subgrant (EMAA) in the amount of up to \$10,000.00 Federal Funds from the New Jersey State Police, Office of Emergency Management.
2. That the Chief Financial Officer and Office of Emergency Management Coordinator are authorized to sign the appropriate subgrant award documents.
3. That copies of this resolutions shall be forwarded to the New Jersey State Police, Office of Emergency Management, the City Business Administrator, the Chief Financial Officer and the County Division of Emergency Management and Office of Treasury.

ATTEST:

\_\_\_\_\_  
Carla Conner, Township Clerk

\_\_\_\_\_  
Brian Mullay, Mayor

Adopted: November 9, 2022

**CERTIFICATION**

I, Carla Conner, Municipal Clerk of the Township of Clinton, County of Hunterdon, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a resolution duly authorized by the Mayor and Council on this 9<sup>th</sup> day of November, 2022.

\_\_\_\_\_  
*Conner Conner, Municipal Clerk*

## RESOLUTION

### AUTHORIZING THE PURCHASE OF A CHASSIS CAB FROM NATIONAL AUTO FLEET GROUP THROUGH SOURCEWELL CO-OP #091521-NAF, NTE \$75,303.20

**WHEREAS**, there is a need to purchase a Chassis cab for the Township of Clinton DPW; and

**WHEREAS**, the funds are available as evidenced by the Chief Finance Officer's Certification; through account #04-215-55-912-003; and

**WHEREAS**, public bids are not required when the purchase is made through a purchasing cooperative in accordance with N.J.S.A. 40A:11-12.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Township of Clinton in the County of Hunterdon that the Township of Clinton DPW is hereby authorized to purchase a Chassis cab from National Auto Fleet Group through Sourcewell CO-OP #091521-NAF at a total cost not to exceed \$75,303.20.

ATTEST:

\_\_\_\_\_  
Carla Conner, Township Clerk

\_\_\_\_\_  
Brian Mullay, Mayor

Adopted: November 9, 2022

## CERTIFICATION

I, Carla Conner, Municipal Clerk of the Township of Clinton, County of Hunterdon, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a resolution duly authorized by the Mayor and Council on this 9<sup>th</sup> day of November, 2022.

\_\_\_\_\_  
*Conner Conner, Municipal Clerk*

**TOWNSHIP OF CLINTON**  
**ORDINANCE NO. \_\_\_\_\_-2022**

**AN ORDINANCE OF THE TOWNSHIP OF CLINTON IN HUNTERDON  
COUNTY, NEW JERSEY REGARDING SIDEWALKS, ROADS AND  
ROADWAY EXCAVATIONS AND AMENDING CHAPTER 239,  
“STREETS AND SIDEWALKS” OF THE “CODE OF THE TOWNSHIP  
OF CLINTON”**

**BE IT ORDAINED** by the Mayor and Council of the Township of Clinton in Hunterdon County, New Jersey as follows:

1. **Chapter 239, “Streets and Sidewalks” of the “Code of the Township of Clinton” amended.** Chapter 239 entitled, “Streets and Sidewalks” of the Code of the Township of Clinton (“Code”) is hereby replaced with the revised and supplemented provisions set forth in Exhibit “A” attached hereto and made a part hereof.

2. **Repealer.** All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed to the extent of such inconsistency.

3. **Severability.** If any section, paragraph, subsection, clause or provision of this ordinance is adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this ordinance shall be valid and enforceable.

4. **Effective Date.** This ordinance shall take effect twenty days after its final passage, in accordance with N.J.S.A. 40:69A-181(b).

ATTEST:

\_\_\_\_\_  
Carla Conner, RMC, Township Clerk

\_\_\_\_\_  
Hon. Brian, Mayor

Introduced: \_\_\_\_\_, 2022

Adopted: \_\_\_\_\_, 2022

**Chapter 239**  
**STREETS AND SIDEWALKS**

**ARTICLE I**  
**Acts Harmful to Streets and Sidewalks**

**§239-1. Driving on newly laid pavement, sidewalk, curb or gutter.**

It shall be unlawful for any person to drive any vehicle upon any newly laid pavement or other prepared road surface, sidewalk surface, curb or gutter, or part thereof, in the course of construction or repair.

**§239-2. Driving over unprotected curb; doing any act to damage, litter or deface roadway pavement, sidewalks, curbs or gutters.**

It shall be unlawful for any person to drive over any curb without first placing a buffer, jumper block or other device in such position as will effectively protect such curb from injury. No person shall do or cause to be done any act which will result in injury to public roadway surface courses, public roadway base courses, sidewalks, curbs and gutters, or litter, deface or spoil the appearance of the same within the township.

**ARTICLE II**  
**Excavation and Occupation of Right-of-Way**

**§ 239-3. Permit required.**

- A. Excavation. No person shall temporarily or permanently occupy or cut, dig, drill or make any opening, hole, trench, or other excavation in any portion of the rights-of-way, roads, streets, alleys, highways, sidewalks, pathways, curbs or gutters under the jurisdiction of the township, whether paved or unpaved, without first having obtained a permit in accordance with the requirements of this article.

**§ 239-4. Application for permit.**

- A. An application for a permit required by section 239-3 above shall be made in writing on the form furnished by the township construction official for such purpose. The form shall be signed by the applicant and accompanied by a plan as required hereinbelow, together with all fees, charges, guarantees and certificates required by this article.
- B. Permit applications shall be submitted to the construction department for review by the township engineer. Each application shall include the following:
- (1) A plan showing the exact location and dimensions of all proposed openings;

- (2) A statement giving detailed and complete information as to the character of the proposed work;
- (3) A traffic control plan, which plan shall be subject to the approval of the township chief of police;
- (4) The fees required under section 239-5 below;
- (5) The performance guarantee required under section 239-5 below; and
- (6) The insurance certificate required under section 239-6 below.

If an emergency has arisen that makes it necessary to begin work immediately, the township engineer may waive the requirement to provide the fees and performance guarantee in advance, provided that the permit application is submitted at the same time the work begins or as soon thereafter as it is practicable.

- C. All permits issued pursuant to this article shall be conditioned on the following, and the acceptance of any such permit shall constitute an agreement to comply with the below terms and conditions whether the same is expressed or not:
  - (1) The permittee agrees to replace or repair, at its own cost and expense, the portion of the road, street, curb, gutter, unimproved area and/or sidewalk disturbed or damaged by the work. In cases where multiple trenches are required, the applicant may be required to replace all undisturbed areas between trenches for a uniform restored finish.
  - (2) The permittee agrees to indemnify, defend and hold harmless the township and its officers, employees and agents from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under said permit, and as required by section 239-7 below.
- D. Once issued, the permit must be in the possession of the party or parties performing the work and must be exhibited to the township engineer or engineer's designee upon request.

**§ 239-5. Fees.**

- A. The applicant for a road/street opening permit shall be required to pay a nonrefundable application fee in the amount of \$75 and a nonrefundable permit fee in the amount of \$50. The applicant shall also be required to post an escrow to cover the cost of professional review and inspections associated with the permit application and work performed thereunder.
- B. The initial escrow fees required to be posted shall be as follows:
  - (1) For projects located outside of a road cartway or within a right-of-way not impacting a township road: \$300.

- (2) For projects located within a right-of-way and crossing a township road: \$500.
- (3) For projects located within a road cartway that runs parallel along a township road(s) within a right-of-way: \$800.
- C. In the event that a project encompasses work that runs parallel along a township road within the road cartway for a distance greater than 200 feet, the amount of the escrow to be posted will be established by the township engineer.
- D. Escrows may be required by the township to be increased during the completion of the construction work. Any escrow sums not expended will be returned to the applicant.

**§ 239-6. Insurance requirements.**

- A. No permit shall be issued until the applicant has furnished the township with an acceptable certificate of insurance naming as an additional insured the township, its officers, agents and employees, and indicating that the permittee is insured against injury to persons and damage to property caused by any act or omission of the permittee, his or her agents, employees or subcontractors, done in the course of the work to be performed under the permit. The insurance shall cover all hazards likely to arise in connection with the work, including but not limited to collapse, explosion and underground work by equipment on the street and all operations, including labor, equipment, materials and all else involved in work under the permit and shall also insure against liability arising from completed operations. The liability insurance for bodily injury in effect shall be in an amount not less than one million dollars for each person, one million dollars for each accident or occurrence and one million dollars for property damages, and with an aggregate of two million dollars for all accidents or occurrences. The insurance certificate shall also contain a clause holding the township and its officers, agents and employees harmless against any claim or damage which may arise out of any liability resulting from the permittee's work.
- B. The township engineer may waive the requirements of this subsection in the case of public utilities or authorities upon the presentation of satisfactory proof that the utility or authority in question is capable of meeting any claims against it up to the amount of the limits of the insurance policy that would otherwise be required.
- C. Self-insurers may be relieved of the obligation of submitting certificates if they are self-insured in accordance with the requirements of state law and submit certificates thereof acceptable to the township attorney.

**§ 239-7. Township to be held harmless from liability concerning work under permit.**

The holder of the permit issued pursuant to this article shall indemnify, defend and hold harmless the township and each of its officers, employees and agents from all loss, damage, claim, or expense, including expenses incurred in the defense of any litigation, arising out of injury to any person or property resulting from any work done by the permittee, its employees, or agents, in connection with the performance of the work covered by the permit. In addition,

the permittee agrees to indemnify the township and each of its officers, employees and agents for any expense incurred in enforcing the provisions of this article.

**§ 239-8. Performance and maintenance guarantees.**

- A. Every permittee shall provide a performance guarantee to the township to cover the costs of all work associated with the approved permit. The performance guarantee for these improvements shall be equal to 120% of the cost of the improvements or \$2,000.00, whichever is more, based on an estimate prepared on behalf of the applicant and reviewed and approved by the township engineer. At least twenty percent of the performance guarantee shall be in the form of cash or a certified check made payable to the "Township of Clinton."
- B. Public utilities or authorities may file a blanket performance bond in lieu of the aforementioned performance guarantee in an amount to be fixed by and subject to the approval of the township attorney and township engineer.
- C. Default. Whenever the township engineer or shall find that a default has occurred in the performance of any term or condition of the permit, he or she shall thereupon give written notice of the default to the principal and, as applicable, the surety on the bond. Such notice shall state the work to be done, the estimated cost thereof, which shall include the estimated administrative costs to the township, and the period of time determined by the township engineer to be reasonably necessary for completion of such work. After receipt of such notice by the surety (if there is one), the surety must, within the time therein specified, either cause the required work to be performed or, failing therein, indemnify the township for the cost of doing the work as set forth in the notice.
- D. The bond shall be conditioned upon the indemnification and hold harmless requirements set forth in sections 239-6 and 239-7 above and upon the permittee's completed restoration of the surface and foundation of the street, sidewalk, curb or gutter for which the permit is granted and the restoration of any disturbed vegetated areas within the right-of-way, including lawns. Said restoration must be accomplished in a manner acceptable to the township engineer and as required by this article.
- E. No bond or deposit or check in lieu of bond shall be released until all repaving and replacing of streets or other surfaces or appurtenances within the street area and/or the restoration of all disturbed vegetated areas within the right-of-way, including lawns, are fully completed to the satisfaction of the township engineer and all costs and fees required by this article are paid in full. In no event shall any such bond, deposit or check be released within a period of twelve months from the completion of said work, except as provided hereinbelow, and until, and upon, written approval by the township engineer.
- F. Maintenance guarantee. Upon satisfactory completion of all work permitted or required under permits issued pursuant to this article, the township may authorize a refund of eighty percent of the security for deposit where the same has been made by check or cash and may retain the remaining twenty percent thereof as security for the maintenance of said work for a period not to exceed one year. All bonds and certificates of insurance required by this article shall contain

a provision that the same shall remain in full force and effect for a period not to exceed one year after the last work under any permit has been completed and accepted by the township. Upon satisfactory completion of all work permitted or required under the permit, and the expiration of the one-year time period provided herein, the township engineer will release the full or remaining amount of the security deposit.

**§ 239-9. Start date; expiration of permit.**

- A. Start date. If the work or activity for which the permit has been issued does not begin within forty-five days from the date on which the permit issued, the permit shall be automatically terminated and may only be renewed upon the repayment of the application and permit fees required herein.
- B. Expiration. Every permit shall expire following the passage of time determined by the township engineer to be necessary for completion of the work or within ninety days, whichever is sooner. The township engineer may extend the completion deadline in his or her discretion provided the permittee requests such an extension in writing prior to the expiration of the permit, and provided further that the township engineer deems the extension to be necessary and not contrary to public interest.

**§ 239-10. Design standards.**

All improvements, repairs, installation of utilities, and all other requested work within a municipal right-of-way shall conform to the township's Roads and Improvements Ordinance and standard construction details annexed to said ordinance, as well as all other applicable regulations, and/or requirements established by the township engineer as conditions of the approved permit.

**§ 239-11. Backfilling of trenches; maintenance of trenches in safe condition.**

Any person making a cut or excavation in any public right-of-way pursuant to a permit issued under this article shall backfill the trench with care, using such methods as the township engineer may from time to time prescribe in accordance with accepted engineering practices, and shall be responsible for the maintenance of such trench in a safe and smooth condition until all final repairs have been made. Failure to comply with the requirements of this section shall be grounds for the township to revoke the permit pursuant to section 239-14 below, and shall constitute cause for the township to deny any future permit applications by the permittee.

**§ 239-12. Repaving to be done by permittee after opening made in street; exception.**

- A. All pavement disturbed or removed in the making of any opening in any street within the township for any purpose whatsoever by any person shall be restored and replaced by the permittee at the permittee's cost, under the supervision of the township engineer. All work shall be done subject to the inspection and approval of the township engineer and in accordance with such methods as the township engineer may from time to time prescribe.

- B. The township engineer shall possess the right to supervise the replacement of surfaces, and the permittee agrees to be bound by the township engineer's requirements in furtherance of restoration.
- C. The specific manner and nature of the restoration required shall be determined by the township engineer pursuant to the requirements of this article.
- D. In no case shall any opening made by a permittee be considered the charge or care of the township, or any of its officers or employees, and no officer or employee is authorized in any way to assume any jurisdiction over any such opening, except in the exercise of police power when the permittee fails to make the required repairs within a period of ten days and it is necessary to protect life and property or to cure an unsafe condition as set forth hereinbelow.
- E. When the required work has not been completed within a period of ten days, and the permittee has not requested an extension of time, and when the township deems the unfinished work to be an unsafe condition, the township engineer may, if he or she deems necessary, take steps to place a permanent pavement over the opening for which the permit has been issued. All costs and expenses incurred by the township for undertaking this work shall be borne by the permittee.
- F. In cases where the permittee fails to make the required restorations in connection with a permit, the township shall undertake such work at the sole cost and expense of the permittee. The township engineer shall keep an accurate record of the costs and expenses incurred in undertaking said restoration and shall bill the permittee based on the flat rate for each opening or occupation in accordance with the schedule set forth in section 239-5, which charge shall in addition to the permit fee and inspection fee previously paid by the permittee pursuant to section 239-5.
- G. In the case of longitudinal trenches of such length, or in other cases where the restoration work in connection with an excavation permit is of such magnitude, that such charges are not, in the judgment of the township engineer, sufficient to cover the cost of restoration, the township engineer shall certify such conditions to the mayor and council, who shall fix such terms as will provide for the proper restoration.
- H. Any permit issued pursuant to section 239-17 below for disturbance to or the excavation of a newly paved street within five years of completion and final acceptance of the improvement, paving or repaving, shall be subject to the additional restoration obligations set forth in said section.

**§ 239-13. Inspections.**

- A. The township engineer shall periodically inspect the areas of the work covered by the permit, including all street, sidewalk, curb or gutter openings and repairs, and resurfacing thereof, for the purpose of determining compliance with any of the conditions imposed on the issuance of the permit and the plans previously filed with the township engineer's office detailing the work

to be performed by the permittee. After undertaking such inspection, the township engineer may:

- (1) Order a temporary stop to the unimproved shoulder, roadway, sidewalk, curb or gutter opening;
- (2) Order the permittee to perform or correct specified work in accordance with the directions of the township engineer;
- (3) Order a stop to any work; revoke the permit; correct or complete any work after notification to the permittee and his or her neglect or refusal to make such corrections, and take such other action permitted by this article; and/or
- (4) Take such other actions deemed reasonable under the circumstances.

**§ 239-14. Revocation of permits.**

- A. Any permit may be revoked by the township engineer, after notice to the permittee, and based upon the following grounds:
  - (1) Violation of any condition of the permit or of any provision of this article;
  - (2) Violation of any provision of any other applicable ordinance or law relating to the work to be performed under the permit; or
  - (3) The existence of any condition or the doing of any act constituting or creating a nuisance or hazard to the public or safety or the property of others.
- B. Written notice of any such violation or condition shall be served upon the permittee or his agent engaged in the work. The notice shall contain a brief statement of the grounds relied upon for revoking the permit. Notice may be given either by personal delivery thereof to the person to be notified or by certified or registered mail addressed to the person to be notified at the address stated in the application.
- C. A permittee shall be granted a period of forty-eight hours from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by the permit before said permit is revoked.
- D. When any permit has been revoked and the work authorized by the permit has not been completed, the township engineer shall take whatever action may be necessary to complete the work authorized by the permit and to restore the street, sidewalk, curb or gutter (or part thereof) or disturbed vegetated area to a condition equal to its condition before the opening was made or occupancy took place. All expenses incurred by the township shall be recovered from the bond, or the check or deposit in lieu of bond, filed by the permittee.

**§ 239-15. Barricade warning signs and lights required.**

All work within a municipal right-of-way shall be properly guarded by suitable barricades and warning signs during the day and by barricades and lights at night.

**§ 239-16. Approval of restoration work; return of unused funds.**

Proper and satisfactory restoration of work within a municipal right-of-way and all installed appurtenances shall be subject to the approval of the township engineer. Upon acceptance of the completed project, any unused funds remaining shall, upon written request, be returned to the applicant.

**§ 239-17. Newly paved streets; restrictions on excavations.**

- A. Whenever the mayor and council enacts any ordinance or resolution providing for the improvement, paving or repaving of any street, the township engineer shall promptly mail a written notice thereof to all persons owning property within or adjacent to the limits of work within said street and to all public utilities and authorities operating in the township, including any person, firm or corporation owning any sewer main or conduit or other utility in or under said street. Such notice shall notify such person, firm, corporation or public utility that:
- (1) No excavation permit shall be issued for openings, cuts or excavation in said street for a period of five years after the date of completion and final acceptance of the improvement, paving or repaving by the township, unless otherwise approved by the township engineer; and
  - (2) An application for an excavation permit for work to be done prior to such paving or repaving shall be submitted promptly in order for the work covered by the excavation permit to be completed as soon as practicable and in no event after final roadway paving.
- B. Restrictions on opening newly paved streets. No permit shall be issued to any person, firm, corporation, public utility or authority given notice under subsection A. above that would allow an excavation or opening in a paved or improved street surface less than five years after the completion and acceptance of the improvement, paving or repaving of the street, unless the applicant can clearly demonstrate that the need for the proposed work could not have been reasonably foreseen prior to the completion of said work.
- C. Restoration obligations and fees.
- (1) If by special permission by the township engineer a permit is issued to open any paved or improved street surface less than five years after the completion and acceptance of the improvement, paving or repaving of the street, the permittee shall be required to complete restoration in the following manner, as determined by the township engineer:

- a. Mill and resurface the entire width of the street in which the opening or excavation is made, from curb to curb and for a minimum distance extending one foot beyond the limits of the opening or excavation or as directed by the engineer.
  - b. In cases of minor trenching, as determined by the township engineer, infrared road repair (IRR) pavement technology can be utilized by a professional specializing in IRR of an area one foot beyond all limits of the trench opening.
- (2) The permittee must also pay the required application and inspection fees provided in section 239-5 above.

**§ 239-18. Violations and penalties.**

Any person who violates any provisions of this article shall, upon conviction thereof, be subject to the general penalties set forth in section 1-17 of this Code. Each day such violation is permitted to continue shall constitute a separate offense and shall be punishable as set forth in section 1-17F. Repeat offenders shall be subject to the penalties set forth in section 1-17D.

**§ 239-19. Exemption.**

The provisions of this article shall not apply to public utility companies having infrastructure projects with the township or operating under special ordinances or statutes, nor to any person doing work in any of said streets, avenues, roads or highways subject to a township infrastructure project.