

ORDINANCE NO. O-20-1  
TOWNSHIP MEETING DATE – January 14, 2020

ORDINANCE AMENDING CHAPTER 190 (LAND USE), ARTICLE VII (LAND SUBDIVISION PROCEDURES), SECTION 190-52 (PERFORMANCE GUARANTEES AS CONDITION TO FINAL APPROVAL) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF FREEHOLD, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

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BE IT ORDAINED by the Township Committee of the Township of Freehold, County of Monmouth, State of New Jersey, as follows (additions are underlined, and deletions are in [brackets]):

**I**

Chapter 190, Land Use, Article VII, Land Subdivision Procedures, Section 190-52, Performance Guarantees as Condition to Final Approval, is hereby amended as follows:

**§ 190-52 Performance guarantees as condition to final approval.**

A. As a condition of final subdivision approval, the Planning Board may require that the owner, [ø] subdivider and/or developer:

(1) Submit a financial statement setting forth the assets and liabilities of the owner, [ø] subdivider and/or developer and net worth, which statement shall be certified by a certified public accountant or a registered public accountant, and in the case where the owner, [ø] subdivider and/or developer is a corporation, such financial statement shall be as of the last annual or fiscal audit prepared in the preceding 12 months. The statement shall contain the names and addresses of the officers and directors and of each stockholder holding 10% or more of the capital stock.

(2) Provide the names and locations of developments completed by the owner, [ø] subdivider and/or developer and the names and addresses of at least five business references.

(3) Furnish performance guarantees for the installation of improvements pursuant to N.J.S.A. 40:55D-53a in an amount not to exceed 120% of the cost thereof as estimated by the Township Engineer according to law.

B. The performance guarantee shall consist of a developer's agreement; the terms of which shall concern the general development of the tract, plus 10% of the performance guarantee amount in cash and the remaining 90% by any of the following:

C. (1) A performance bond issued by a bonding or surety company authorized to serve as a surety in the State of New Jersey, approved by the Township Attorney as to form pursuant to NJSA 40:55D-53b; cash, a certified check, an irrevocable standby letter of credit issued by a financial institution whose latest rating by Sheshunoff Financial Rating Service is a B or better, in a form [prepared] approved by the Township Attorney pursuant to NJSA 40:55D-53 b. , or such other security as may be approved by the Township Committee.

(2) All guarantees posted herein shall be in addition to and not in substitution for the developer's primary responsibility to install improvements and complete the subdivision in accordance with all rules, regulations, standards, specifications, and ordinances of the Township.

(3) ~~[All] [p] Performance guarantees [amounts] shall be [computed, not only on the cost of installation of the particular improvements, but also on the cost of repair for any damage caused by the owner or subdivider to existing streets, for soil protection, for protection against removal of trees, and for repair of areas damaged by the owner or subdivider which remain incomplete and detrimental to the community after and in the event of abandonment of the project by the owner or subdivider. Nothing herein shall require that the Planning Board require all on-site improvements to be bonded. In appropriate circumstances, to be determined by the Planning Board upon advice from the Township Engineer, it is permissible as to on-site improvements which will not be dedicated to the public for the Planning Board to require performance guarantees in an amount sufficient to stabilize the site and protect the public health, safety and welfare in the event of abandonment of the project.]~~ for the cost of installation of those on-tract improvements required by the approval or developer's agreement to be dedicated to the Township or other public entity, and that have not yet been installed, which cost shall be determined by the municipal engineer, according to the method of calculation set forth in NJSA 40:55D-53.4, for the following improvements as shown on the approved plans or plat: streets, pavement, gutters, curbs, sidewalks, street lighting, street trees, surveyor's monuments, as shown on the final map and required by "the map filing law," or by N.J.S.46:26B-1 through N.J.S.46:26B-8, water mains, sanitary sewers, community septic systems, drainage structures, public improvements of open space, and any grading necessitated by the preceding improvements as well as privately owned perimeter buffer landscaping as required by ordinance or imposed as a condition of approval for each section or phase of the development (hereafter sometimes referred to as "required improvements").

(4) At the developer's option a separate performance guarantee may be posted for the privately-owned perimeter buffer landscaping.

(5) In the event that the developer seeks a temporary certificate of occupancy for a development, unit, lot, building or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate "temporary certificate of occupancy guarantee" in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy, and which are not covered by an

existing performance guarantee. The scope and amount of the "temporary certificate of occupancy shall be determined by the Township Engineer and accepted by resolution from the governing body. At no time shall more than one guarantee be held by the Township for the same improvement. The "temporary certificate of occupancy guarantee" shall be released by the governing body upon the issuance of a permanent certificate of occupancy with regard to the unit, lot, building or phase as to which the "temporary certificate of occupancy guarantee" relates.

(6) In addition to the performance guarantee pursuant to paragraph A. above the developer shall also post a "safety and stabilization guarantee" in favor of the Township to be available solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:

1. Site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure, and

2. Work has not recommenced within 30 days following the provision of written notice by the Township to the developer of the Township's intent to claim payment under the guarantee. The Township shall not serve notice of its intent to claim payment under a "safety and stabilization guarantee" until a period of at least 60 days has elapsed during which all work on the development has ceased for reason other than force majeure. The Township shall provide written notice to a developer by certified mail or other form of delivery providing proof of receipt.

(7) The amount of the "safety and stabilization guarantee" for a development with bonded improvements in the amount not exceeding \$100,000 shall be \$5,000. The amount of the "safety and stabilization guarantee" for a development with bonded improvements exceeding \$100,000 shall be calculated as a percentage of the bonded improvements costs of the development or phase of development as follows:

1. \$5,000 for the first \$100,000 of bonded improvements, plus

2. Two and one half percent of bonded improvements costs in excess of \$100,000 up to \$1,000,000; plus

3. One percent of bonded improvement cost in excess of \$1,000,000

(8) At the developer's option the safety and stabilization guarantee may be provided as a separate guarantee or as a line item in the performance guarantee.

(9) "Performance Guarantee" as used hereafter in this Section may, as appropriate to the context of use, refer to all guarantees provided in this paragraph.

DC. Any and all performance guarantees posted by the developer hereunder may be subject to recalculation annually by the Township Engineer as to the amount thereof based on current costs

of labor and materials at 120%. Upon written notification of the new amount, the developer shall provide the Township with a new guarantee or an addendum to the existing guarantee showing the new amount. [~~If and in the event, the performance guarantee shall consist of a performance bond, it shall be 90% in the form of a performance bond executed by a surety company authorized to issue such performance bonds in the State of New Jersey and 10% cash or certified check. Said bond shall be approved as to form by the Township Attorney for which the owner or subdivider shall pay a fee to cover the approval of the performance guarantee.~~]

D - K. No change.

ML. Maintenance guarantees.

(1) Following final acceptance of an improvement, the developer shall post a maintenance guarantee for a period of two years in an amount not exceeding 15% of the cost of the required improvements. The maintenance guarantee shall consist of [~~any~~] the form of security acceptable pursuant to NJSA 40:55D-53b. [to the Township Attorney within the general guidelines set forth for performance guarantees.] In addition, upon the inspection and issuance of final approval of the following private site improvements by the municipal engineer, the developer shall post with the Township, a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the following private site improvements: stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any, which cost shall be determined according to the method of calculation set forth in NJSA 40:55D-53.4.

(2) – (6) No change.

NM. No change.

N. Inspection fees.

(1) Inspection Fees. The obligor shall reimburse the Township for reasonable inspection fees paid to the Township Engineer for the foregoing inspection of improvements; which fees shall not exceed the sum of the amount set forth in subparagraphs (1) and (2) of this subsection N. The Township may require of the developer a deposit for the inspection fees in an amount: (1) not to exceed, except for extraordinary circumstances, the greater of five hundred (\$500.00) dollars or five (5) percent of the cost of improvements estimated pursuant to N.J.S.A. 40:55D-53.4 of the Municipal Land Use Law and (2) not to exceed five (5) percent of the cost of private site improvements that are not subject to a performance guarantee under this Section. For those developments for which the reasonably anticipated fees total less than ten thousand (\$10,000.00) dollars, fees may, at the option of the developer, be paid in two installments. The initial amount deposited in escrow by a developer shall be fifty (50) percent of the reasonably anticipated fees. When the balance on deposit drops to ten (10) percent of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspections, the developer shall deposit the remaining fifty (50)

percent of the anticipated inspection fees. For those developments for which the reasonably anticipated fees total ten thousand (\$10,000.00) dollars or greater, fees may, at the option of the developer, be paid in four (4) installments. The initial amount deposited in escrow by a developer shall be twenty-five (25) percent of the reasonably anticipated fees. When the balance on deposit drops to ten (10) percent of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspection, the developer shall make additional deposits of twenty-five (25) percent of the reasonably anticipated fees.

(2) If the Township determines that the amount in escrow for the payment of inspection fees, as calculated pursuant to subparagraphs (1) and (2) below, is insufficient to cover the cost of additional required inspections, the municipality may require the developer to deposit additional funds in escrow provided that the Township delivers to the developer a written inspection escrow deposit request, signed by the Township Engineer which: (1) informs the developer of the need for additional inspections, (2) details the items or undertakings that require inspection, (3) estimates the time required for those inspections, and (4) estimates the cost of performing those inspections.

## **II**

All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

## **III**

If any section, subparagraph, sentence, clause or phrase of this Ordinance shall be held to be invalid, such decision shall not invalidate the remaining portion of this Ordinance.

## **IV**

This Ordinance shall take effect upon adoption and publication according to law and filing with the Monmouth County Planning Board.

**EXPLANATORY STATEMENT:**

This ordinance revises the Land Use Ordinance provisions for Performance Guarantees, Inspections and Maintenance Guarantees to reflect recent amendment to the state Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq.

ORDINANCE NO. O-20-2  
TOWNSHIP MEETING DATE – January 14, 2020

ORDINANCE AMENDING CHAPTER 97 (CAMPGROUNDS) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF FREEHOLD, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

BE IT ORDAINED by the Township Committee of the Township of Freehold, County of Monmouth, State of New Jersey, as follows: (additions are underlined, and deletions are in [brackets]):

**I**

Chapter 97, Campgrounds, is hereby amended to read as follows:

97-1 - No change.

97-2 License required.

No person shall construct, expand, operate, or maintain a campground within the Township unless such person shall first obtain a license for the construction, expansion, operation or maintenance thereof, from the Township and pay the fees as hereinafter provided. ~~[All campgrounds in existence as of the date of the adoption of this chapter shall within 60 days thereafter obtain a license.]~~ Any approval of plans and applications for a license to construct or expand a campground shall be subject to automatic revocation in the event the applicant to whom the approval is granted shall fail to commence construction or expansion of the campground for which a license is applied for within ~~[48]~~ 12 months from the date of the granting of such approval. No license shall be issued to any owner unless and until such person shall have applied for and been granted approval for the construction, expansion, or operation of such campground by the New Jersey Department of Health pursuant to Chapter XI of the New Jersey State Sanitary Code.

97-3 – 97.4 - No change.

97-5 Duration of licenses.

Licenses or permits to maintain and operate a campground pursuant to this chapter shall be issued annually ~~[for a three-year period]~~, commencing on the first day of January and terminating on the 31st day of December. ~~[three years hence.]~~

97-6 – 97-8. – No change.

## **II**

All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

## **III**

If any section, subparagraph, sentence, clause or phrase of this Ordinance shall be held to be invalid, such decision shall not invalidate the remaining portion of this Ordinance.

## **IV**

This Ordinance shall take effect upon adoption and publication according to law.

**EXPLANATORY STATEMENT:**

This Ordinance amendment clarifies the duration of permits issued for campgrounds.



*Resolution of the Township of Freehold*  
Monmouth County, New Jersey

No: R-20-22

Date of Adoption: January 14, 2020

**TITLE: RESOLUTION APPROVING CONSOLIDATED BILLS LIST**

**- - - R E S O L U T I O N - - -**

BE IT RESOLVED by the Township Committee of the Township of Freehold that the vouchers listed on the Consolidated Bills List, in the amount of \$12,619,580.01 dated January 14, 2020 as presented by the Township Treasurer/Chief Financial Officer, be paid from existing appropriations subject to adopt of resolution authorizing expenditures.

No. R-20-22

<b>VOTE OF THE TOWNSHIP COMMITTEE</b>							
COMMITTEEMAN	I	S	Y	N	NV	AB	
Mr. Ammiano							
Mr. Cook							
Mrs. Fasano							
Mayor Preston							

I-Introduced By   S-Seconded By   X- Indicates Vote   NV- Not Voting   AB- Absent



# Resolution of the Township of Freehold

Monmouth County, New Jersey

No: R-20-23

Date of Adoption: January 14, 2020

**TITLE: RESOLUTION REAPPOINTING ANDREA DIGIOVANNI AS  
QUALIFIED PURCHASING AGENT**

## **- - - R E S O L U T I O N - - -**

WHEREAS, the Local Public Contracts Law gives local contracting units the ability to increase their bid threshold up to the maximum threshold; and,

WHEREAS, NJSA 40A:11-3a permits an increase in the bid threshold if a Qualified Purchasing Agent is appointed, as well as granted the authorization to negotiate and award such contracts below the bid threshold; and,

WHEREAS, NJAC 5:34-5 et seq. establishes the criteria for qualifying as a Qualified Purchasing Agent; and,

WHEREAS, Andrea DiGiovanni, who possesses the designation of Qualified Purchasing Agent, as issued by the Director of the Division of Local Government Services, in accordance with NJAC 5:34-5 et seq., has effectively served in this capacity since March 12, 2019;

WHEREAS, Catherine M. Campbell also holds the position of Qualified Purchasing Agent, in accordance with Resolution R-20-5;

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Freehold hereby reappoints Andrea DiGiovanni as Qualified Purchasing Agent, through December 31, 2020 to exercise the duties of a Purchasing Agent, pursuant to NJSA 40A:11-2(30), with specific relevance to the authority, responsibility and accountability of the purchasing activity of the contracting unit;

BE IT FURTHER RESOLVED that the Township Committee of the Township of Freehold, in the County of Monmouth, State of New Jersey, hereby increases its bid threshold up to the maximum threshold;

BE IT FURTHER RESOLVED that, in accordance with NJAC 5:34-5.2, the Township Clerk shall forward a certified copy of the within Resolution to the following:

- Director, New Jersey Department of Community Affairs  
Division of Local Government Services  
101 South Broad Street - P.O. Box 803  
Trenton, NJ 08625-0803
- Andrea DiGiovanni, Purchasing Agent
- Peter R. Valesi, Township Administrator
- Cheryl Horne - Human Resources

No. R-20-23

<b>VOTE OF THE TOWNSHIP COMMITTEE</b>							
COMMITTEEMAN	I	S	Y	N	NV	AB	
Mr. Ammiano							
Mr. Cook							
Mrs. Fasano							
Mayor Preston							

I-Introduced By   S-Seconded By   X- Indicates Vote   NV- Not Voting   AB- Absent



*Resolution of the Township of Freehold*  
Monmouth County, New Jersey

No: R-20-24

Date of Adoption: January 14, 2020

**TITLE: RESOLUTION AUTHORIZING A CONTRACT FOR AN  
EMERGENCY NOTIFICATION SYSTEM**

**- - - R E S O L U T I O N - - -**

WHEREAS, the Township of Freehold has a need for an Emergency Notification System as a non-fair and open contract, pursuant to the provisions of N.J.S.A. 19:44A-20.4 or 20.5 as appropriate; and,

WHEREAS, the Purchasing Clerk has determined and certified in writing that the value of the acquisition will not exceed that Township's bid threshold, but will exceed \$17,500.00 in vendor aggregation; and,

WHEREAS, the anticipated term of this contract is for 1 year; and,

WHEREAS, Everbridge, Inc. can supply the Township with the required services for a cost of \$19,570.00; and,

WHEREAS, Everbridge, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that Everbridge, Inc. has not made any reportable contributions to a political or candidate committee in the Township of Freehold, County of Monmouth, in the previous one year, and that the contract will prohibit Everbridge, Inc. from making any reportable contributions through the term of the contract; and,

WHEREAS, the Director of Finance has certified to the Township Clerk that funds are available in the following Budget Accounts contingent upon Governing Body approval of the 2020 Municipal Budget:

0-01-27-330-330-210

0-01-42-330-330-269

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Freehold that a Contract for an Emergency Notification System is hereby authorized with Everbridge, Inc. in the amount of \$19,570.00;

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution;

BE IT FURTHER RESOLVED that certified copies of the within Resolution be forwarded to the Director of Finance, the Health Officer, the Purchasing Agent and Everbridge, Inc.

No. R-20-24

<b>VOTE OF THE TOWNSHIP COMMITTEE</b>							
COMMITTEEMAN	I	S	Y	N	NV	AB	
Mr. Ammiano							
Mr. Cook							
Mrs. Fasano							
Mayor Preston							

I-Introduced By   S-Seconded By   X- Indicates Vote   NV- Not Voting   AB- Absent



# Resolution of the Township of Freehold

Monmouth County, New Jersey

No: R-20-25

Date of Adoption: January 14, 2020

**TITLE: RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE  
GUARANTEES FOR MERIDIAN HEALTH REALTY CORP., SITE PLAN  
NO. 882-16**

## **- - - R E S O L U T I O N - - -**

WHEREAS, the developer of Site Plan No. 882-16, located on West Main Street, has requested release of its performance guarantees previously posted with the Township of Freehold in accordance with its previously received Planning Board approval; and

WHEREAS, the Township Engineer has, in a memorandum dated December 13, 2019, (attached hereto as Exhibit "A") recommended that the following performance guarantees be released:

Performance Bond No. 106608917, issued by Traveler's Casualty & Surety Company of America, dated October 28, 2016 in the amount of \$93,698.00.

Cash Bond Deposit in the amount of \$10,411.00.

WHEREAS, the balance of the Engineering Inspection Fee is to remain on account through the maintenance period; and

WHEREAS, the recommended release of the above performance guarantees is subject to the posting of a cash maintenance guarantee or a Maintenance Bond for a duration of two years, or a Maintenance Letter of Credit for a duration of two and one-half years, in the amount of \$52,054.50.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Freehold as follows:

1. It has reviewed, agrees with and hereby adopts all recommendations by the Township Engineer as set forth in Exhibit "A".
2. It hereby authorizes the release of the performance guarantees set forth in the Township Engineer's Memorandum attached hereto as Exhibit "A".

3. Pursuant to the recommendation of the Township Engineer as set forth in the memorandum referred to above, the Township hereby accepts the public improvements, if any, and any easements and/or dedications of property to be accepted by the Township of Freehold pursuant to the Planning Board approval.

BE IT FURTHER RESOLVED that a copy of this Resolution, certified by the Township Clerk to be a true copy, be forwarded to each of the following:

- (a) Township Engineer
- (b) Township Chief Financial Officer
- (c) Township Superintendent of Public Works
- (d) Township Construction Official
- (e) Township Attorney
- (f) Developer

No. R-20-25

<b>VOTE OF THE TOWNSHIP COMMITTEE</b>							
COMMITTEEMAN	I	S	Y	N	NV	AB	
Mr. Ammiano							
Mr. Cook							
Mrs. Fasano							
Mayor Preston							

I-Introduced By   S-Seconded By   X- Indicates Vote   NV- Not Voting   AB- Absent



*Resolution of the Township of Freehold*  
Monmouth County, New Jersey

No: R-20-A

Date of Adoption: January 14, 2020

**TITLE: RESOLUTION - EXECUTIVE SESSION**

**- - - RESOLUTION - - -**

WHEREAS, N.J.S.A. 10:4-13 of the Open Public Meetings Act permits the exclusion of the public from meetings of public bodies in certain circumstances which are set forth in N.J.S.A. 10:4-12 (b); and

WHEREAS, the Township Committee of the Township of Freehold is of the opinion that such circumstances currently exist.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Freehold as follows:

1. The public shall be excluded from the discussion of any action upon the hereinafter specified matters.
2. The nature of the subject matter to be discussed is as follows:
  1. PERSONNEL
    - 1A. Promotional Interviews
  2. ATTORNEY-CLIENT PRIVILEGE
    - 2A. Affordable Housing
3. It is anticipated at this time the above-stated subject matter will be made public in approximately thirty days or at such time as any litigation discussed is resolved.

No. R-20-A

<b>VOTE OF THE TOWNSHIP COMMITTEE</b>							
COMMITTEEMAN	I	S	Y	N	NV	AB	
Mr. Ammiano							
Mr. Cook							
Mrs. Fasano							
Mayor Preston							

I-Introduced By   S-Seconded By   X- Indicates Vote   NV- Not Voting   AB- Absent