

**Department of Engineering and Planning  
Administrative Procedure**

Sussex County, New Jersey

**Titled:** Procedure Governing Bonding Requirements for Division of Engineering Permits and Sussex County Planning Board Approvals

**Dated:** Aug 23, 2006 **Revised:** No Revisions

1. Purpose and Need – The County of Sussex hereby establishes a policy outlining general procedures which can be applied by the Division of Engineering and Division of Planning when bonding is required for work within the County’s right-of-way.
  
2. Definitions – For the purpose of this policy and procedure, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use for the purpose of this policy and procedure clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include future, words used in the plural number include singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.
  - a. County right-of-way – any public Right-of Way owned or maintained by Sussex County generally for the purpose of transportation infrastructure.
  - b. County Route - any roadway or other thoroughfare operated by Sussex County.
  - c. Traveled Way – The portion of the roadway traversed by vehicles.
  - d. Applicant – An entity, public or private, proposing to perform work within the County’s right-of-way. This will be inclusive of, but not limited to, Public or Private Utilities, Government Agencies, Private Individuals, or Partnerships and Corporations of any form.
  - e. Performance or Maintenance Bond – A bond issued by a firm that is licensed to do business in the State of New Jersey guaranteeing the proper and satisfactory completion of the proposed work.
  - f. Cash Bond: A certified check for the project amount made payable to the County of Sussex.
  - g. Letter of Credit: A letter from a financial institution licensed to conduct business in the State of New Jersey acting as an irrevocable guarantee of payment to the County of Sussex for the bonded work.
  - h. Maintenance Bonding Period – At the direction of the County Engineer, Maintenance bonds will be held by the County for a period of one (1) year from the date of acceptance by the County Division of Engineering of the completed work.
  
3. Prohibited Conduct – No Applicant may conduct work within the County’s right-of-way without first obtaining Permits issued by the Sussex County

Division of Engineering. An Applicant shall provide the County with appropriate bonding prior to the issuance of permits.

4. Exemptions – there are no exemptions from this requirement.
5. Responsibilities:
  - a. It is the responsibility of the Applicant to provide Sussex County with bonding as required by the permit or approval process and outlined below.
  - b. It is the responsibility of County Employees to administer and enforce this policy.
  - c. The Division of Engineering and Division of Planning shall coordinate acceptance and release of bonds impacting projects of mutual interest.
6. Bonding Requirements: Prior to performing any work within the County's right-of-way or as may be required through the Planning Process the County shall be provided a Bond by the Applicant equal in amount to that of the proposed work plus a ten (10) percent contingency.
  - a. Determination of Bonding amount:
    - i. The Applicant shall provide the County with an Engineer's Estimate or Quotation for proposed work. Estimates and Quotations shall, at minimum:
      1. Be itemized and correlated with unit quantities as represented on the applicants plan submittal.
      2. Have been established using industry acceptable prices.
      3. Utilize prevailing wage labor rates.
      4. Include mobilization and traffic control.
    - ii. The County Engineer shall review the provided estimate or quotation and either:
      1. Provide acceptance of same, or
      2. Based upon his professional judgment, modify the estimate or quotation to accurately reflect actual industry prices reflective of those born by the County of Sussex to complete the proposed work within a public right-of-way.
    - iii. Bonds for work scheduled one or more year(s) future shall include an inflation adjustment factor.
    - iv. Project estimates shall be adjusted when needed by the County Engineer to reflect as built project values, the adjusted estimate shall be used to determine the value of the Maintenance Bond.
  - b. Bond Amount and Type: The Applicant shall provide a Bond to the County of Sussex in compliance with the following (Unless otherwise approved by the County Engineer) the bonded amount will include the project estimate or quotation plus a ten (10) percent contingency:
    - i. Construction Bonding:
      1. Projects up to and including \$20,000.00 in estimated value: Cash Bond or Letter of Credit for the value of the proposed work.

2. Projects exceeding \$20,000.00 in estimated value shall adhere to the following schedule:
  - a. Cash Bond or Letter of Credit, not required to exceed \$100,000.00:
    - i. \$20,000.00, plus
    - ii. 20% of the value exceeding \$20,000.00; at the Applicants discretion the entire project value may be provided as a Cash Bond or Letter of Credit.
  - b. Performance Bond:
    - i. Having a value equal to the project balance in excess of that provided by the Cash Bond or Letter of Credit. All Performance Bonds must be issued by a company licensed to do business in the State of New Jersey.
  - ii. Maintenance Bond: A Maintenance bond shall be provided unless otherwise approved by the County Engineer for fifty (50) percent of the project estimate in accordance with the following:
    1. Bonding amounts as calculated under 6.b.i and adjusted per 6.a.iv shall be provided to the County at a rate of fifty (50) percent of the amount bonded there under. The type of bonding shall be as follows:
      - a. Maintenance Cash Bond valued at fifty (50) percent of the Construction Cash Bond Value, adjusted when needed under 6.a.iv.
      - b. Maintenance Bond valued at fifty (50) percent of the Construction Performance Bond value, adjusted when needed under 6.a.iv. All Maintenance Bonds must be issued by a company licensed to do business in the State of New Jersey.
- c. Special Considerations:
  - i. Municipal Projects: Consideration will be given by the County Engineer for acceptance of joint County/Municipal Performance and Maintenance bonds on a case-by-case basis. To be considered:
    1. The Applicant should send a written request to the County Engineer.
    2. The proposed work should not impact the County Route Traveled Way.
  - ii. Utility Emergent Response Work: The County will accept annual bonds from Public and Private Utility Companies for the purpose of response to unplanned emergent work as conditions develop. The bonds will be subject to the conditions contained herein. The bonding amount shall be established by the County Engineer on an annual basis during the month of January. This does not apply to planned capital improvements or service connections.

- iii. The County will accept concurrent bonding from Applicants seeking both Sussex County Planning Board Approvals requiring bonding and issuance of Road Opening or Road Entrance Permits by the Division of Engineering.
- 7. Bond Use: The County may utilize bond funds to rectify substandard performance, workmanship or maintenance requirements related to the work performed under the bonding or disturbance or damage of adjacencies. The County shall provide the Applicant and the Bonding Company ten (10) days notice during which the Applicant shall remediate the deficiency. If the Applicant fails to remediate the deficiency within ten (10) days of the notice the County will utilize bonded funds to remediate the deficiency. Funds held in Cash Bond or Letter of Credit shall be utilized prior to pursuit of the applicants surety. Bond funds may be utilized for, in addition to other deficiencies, the remediation of any portion of the work or workmanship jeopardizing public safety.
- 8. Release of Bond:
  - a. General:
    - i. Bond release shall be approved by the County Engineer at the recommendation of the Division of Engineering and for bonding emanating from County Planning Board Approvals, the Division of Planning.
  - b. Construction Bonding:
    - i. Construction Bonds shall not be released until the County has accepted the final construction AND the Applicant has provided the County with the required Maintenance bonding.
  - c. Maintenance Bonding:
    - i. The Maintenance bond, unless otherwise approved by the County Engineer, shall not be released until the one year maintenance period has lapsed and all deficiencies, if any, have been corrected.
- 9. Applicability: The procedure outlined herein shall be utilized for all future and ongoing projects.
- 10. Penalties – Unbonded work performed within the County’s right-of-way will be subject to permit violation assessments.

RESOLUTION RE: Authorization for the Sussex County Board of Chosen Freeholders to adopt a policy and procedure governing the acceptance of bonds by the Division of Engineering for Permits and Division of Planning when needed by Sussex County Planning Board Approvals

Summary: Applicants are required to provide bonding for work proposed within the County's right-of-way prior to the issuance of Road Opening and Road Entrance Permits as well as for certain approvals by the Sussex County Planning Board.

Currently, there is no established procedure for the determination, acceptance or release of bonds for an Applicants work within the right-of-way. This resolution establishes a policy and procedure for use by the Division of Engineering and Division of Planning when administering project bonding.