

NEW JERSEY TRANSIT CORPORATION
RAILROAD PROPERTY CONSTRUCTION AND/OR OCCUPANCY PERMIT

PERMIT NO. P1417-3015-01

The New Jersey Transit Corporation (NJ TRANSIT) hereby grants permission to the Permittee:

Township of Long Hill
915 Valley Road
Gillette, New Jersey 07933

to construct one (1) drainage outlet in connection with this Project for a term of one (1) year, which term will commence on the date of execution of this Permit by NJ TRANSIT.

This Permit is non-exclusive and is for the sole purpose of permitting the Permittee to occupy NJ TRANSIT property as specifically stated above. This Permit shall not be construed to permit the Permittee to locate any other or different facilities or objects on NJ TRANSIT property, except as expressly provided for herein. Furthermore, this Permit shall not prevent NJ TRANSIT from locating or permitting others to locate objects or other facilities on, over, below or across the Permittee's facility, so long as it does not unreasonably interfere with the Permittee's use as permitted herein. This permit shall not be deemed or construed as transferring to Permittee any interest in the land of NJ TRANSIT or any right in the nature of an interest in land, irrespective of any expenditure by Permittee for the Facilities.

This Permit is subject to the following conditions, restrictions, reservations and covenants.

1. The Permittee agrees to comply with the rules on Use or Occupancy of State-owned Railroad Property, codified at NJAC 16:77 et. seq., as if they were set forth

in their entirety herein. The provisions of this Permit and all rights and obligations herein shall be governed by and construed in accordance with the laws of the State of New Jersey and applicable federal laws.

2. (a) (i) Upon execution of this Permit, the Permittee shall pay to NJ TRANSIT Rail Operations Inc. the sum of Seven Hundred Twenty Dollars (\$720.00) as reimbursement for the costs and expenses incident to the review and approval of plans, methods of construction, and data connected with the Project, and to NJ TRANSIT the sum of Two Hundred Thirty Eight Dollars (\$238.00) as the administrative fee.

(ii) The Permittee shall pay to NJ TRANSIT a further sum of Nine Hundred Seventy Two Dollars (\$972.00) as the total amount for occupancy of NJ TRANSIT right-of-way for one (1) year.

(b) The Permittee shall, upon expiration of this Permit, if the term is five (5) years or more, submit a written request for renewal. A new occupancy fee will then be assessed in accordance with the fee schedule rates in effect at that time.

(c) If the term of this Permit is less than five years, the Permit will automatically be extended upon expiration unless terminated by NJ TRANSIT. The occupancy fee for the extended term shall be subject to change in accordance with the fee schedule rates in effect at that time.

3. The Project must conform to the NJ TRANSIT approved plans for the Project,

more clearly identified as: "Oaks Road Improvements, Township of Long Hill, Morris County, New Jersey", dated 5/8/18, last revised 6/7/19, Pages 1 of 13 through 13 of 13, Project No: 17LH104, and approved on 9/24/19.

4. It is expressly understood that at least fourteen (14) days prior to construction, maintenance, repair, removal, change of location or use, the Permittee must contact, NJ TRANSIT Rail Operations, Manager Right-of-Way Engineering or his representative at (973) 491-8301 and any other appropriate NJ TRANSIT Rail Operations offices to coordinate construction with inspection, flagmen, and railroad operations. A copy of all approved construction plans shall be made available on site by Permittee until completion of the Project.

5. All construction or installation work specified herein must be completed within one (1) year from the date of issuance of this Permit, unless otherwise stated herein, or unless written approval is given by NJ TRANSIT for extension of construction time; otherwise, this Permit will automatically terminate. All requests for extensions must be submitted in writing to NJ TRANSIT Corporation, Department of Property Management.

6. When construction or installation work under this Permit is started within one (1) year from the date of issuance and cannot be completed within the indicated time limit, the Permittee shall apply to NJ TRANSIT in writing for an extension of time. No work shall be done beyond this one (1) year limit unless NJ TRANSIT has granted an extension in writing. The Permittee must contact NJ-1-Call at (800) 272-1000 to identify buried third party facilities prior to performing any excavation

work within NJ TRANSIT's Right-of-Way. If Permittee fails to timely provide such notification to NJ-1-Call, the Permit will be immediately canceled.

7. If the work under the terms of the Permit does not commence within one (1) year from the date the Permit was issued, the Permittee must reapply. The new application and plans must reflect any developments which would necessitate any change in the installation from the prior application.

8. Any sign placed on NJ TRANSIT property shall be designed and installed in exact compliance with the "Specifications For Pipeline Occupancy of New Jersey Transit Property" form EP-2 which states all pipelines (except those in streets where it would not be practical to do so) shall be prominently marked at rights-of-way limits (on both sides of track for undercrossings) by durable weatherproof signs. Signs shall include the following:

1. Name and address of Owner
2. Contents of Pipe
3. Pressure in Pipe
4. Depth of pipe below grade at point of sign
5. Emergency telephone in the event of pipe rupture

The material, size of lettering and the method of installation of the signs shall be as approved by the Chief Engineer. For pipelines running longitudinally on NJ TRANSIT property, signs shall be placed over the pipe (or offset and appropriately marked) at all changes in direction of the pipeline. Such signs should also be located so that when standing at one sign the next adjacent marker in either

direction is visible. In no event shall they be placed less than 500 feet apart unless otherwise specified by the Chief of Engineer-Structures.

9. The Permittee agrees that it will, at its own sole cost and expense, at all times during the period of initial construction or subsequent repairing, maintaining, changing, relocating or removing of the facilities, support and sustain the tracks and roadbed on which the railroad operates, to the end that traffic thereon shall not be hindered or delayed, and upon completion of the work will restore the tracks and roadbed to the same or as good condition as before the work was commenced.

10. It is expressly understood that upon the written request of NJ TRANSIT, the Permittee shall promptly change the location of its facilities, or any of them, at the points aforesaid at any time hereafter at the sole expense of the Permittee and within 30 days after such request is made, so as to enable NJ TRANSIT to make any alterations or improvements upon its property and any changes in or additions to its facilities that it may deem necessary or advisable hereafter at any time, and nothing herein contained shall in any way be so construed as to limit NJ TRANSIT in the full and free use and occupation of the full width of its right-of-way and property at the location aforesaid.

11. Proposed occupancies shall be designed so that adequate and uninterrupted drainage of railroad right-of-way is maintained throughout construction. If, in the course of construction, it is necessary to block a ditch, pipe, or other drainage facility, temporary pipes, ditches or other drainage facilities shall be installed to

maintain adequate drainage, as approved by NJ TRANSIT and/or NJ TRANSIT Rail Operations. Upon completion of the work, the temporary facilities shall be removed and the permanent facilities restored.

12. The Permittee shall not foul any track on NJ TRANSIT owned railroad property during construction, except when Flagmen or Signalmen are present. Cranes, trucks, motor shovels, or any other equipment shall be considered as fouling tracks when working in such a position that failure of the same, with or without load, brings the equipment within the fouling limit.

13) (a) NJ TRANSIT Rail Operations and/or NJ TRANSIT reserve the right to enter upon the Project and perform necessary emergency precautions, including the furnishing of material, whenever, in the opinion of NJ TRANSIT Rail Operations Manager Right-of-Way Engineering and/or the NJ TRANSIT designee, the Project work is in such condition as to endanger operating trains, operating facilities, public facilities, and/or the general public. The Permittee shall make full restitution to NJ TRANSIT Rail Operations and/or NJ TRANSIT for all costs incurred by this action.

(b) In addition to the inspection performed by NJ TRANSIT Rail Operations personnel, NJ TRANSIT reserves the right to inspect the work performed to insure the work conforms to the plans, specifications, and/or permit requirements. In conjunction with the above inspections, the Permittee is required to contact, NJ TRANSIT Rail Operations, Manager Right-of-Way Engineering, or his representative, telephone (973) 491-8301, at least fourteen (14) working days prior to the desired date of construction for his approval of methods of installation and

related matters, as well as inspection coordination.

(c) NJ TRANSIT RAIL OPERATIONS or their contractors, agents or assigns will be fully reimbursed by the Permittee for all inspection personnel provided by NJ TRANSIT RAIL OPERATIONS or their agents or assigns as required by the use, work or occupancy, and which may include, but is not limited to, watchmen, operators, flagmen, and others to insure the safe operation of the trains. It will be the responsibility of NJ TRANSIT Rail Operations or their assigns to submit an itemized invoice to the Permittee of all charges with a copy to NJ TRANSIT after all work within railroad right-of-way has been completed. The Permittee must show evidence by a signed receipt from NJ TRANSIT Rail Operations or their assigns that the above mentioned invoice is paid in full before the installation will be accepted as complete by NJ TRANSIT and allowed into operation.

(d) In the event the facilities consist of an underground occupation, the Permittee will be responsible for any settlement cost to the roadbed, right-of-way, and/or tracks, facilities and appurtenances of the railroad arising from, or as a result of, the said facilities for a period of three (3) years subsequent to the date of completion of the installation, and the Permittee must agree to pay to NJ TRANSIT Rail Operations, on demand, the full cost and expense therefore.

(e) Final acceptance of the installation and approval to occupy NJ TRANSIT railroad property is dependent upon full reimbursement of all costs incurred by NJ TRANSIT Rail Operations and NJ TRANSIT.

14. The Permittee shall be responsible for obtaining all appropriate documentation allowing its Project to be constructed and shall be subject to all applicable NJ Transit rules and general conditions, municipal ordinances, rules, and regulations, and all applicable State and Federal laws and regulations. All employees, agents, contractors, servants and officials of the Permittee must be safety trained prior to entering NJ TRANSIT property.

15 (a) The Permittee shall have the responsibility during the term of the Permit to maintain its facility in a safe and proper manner, to the satisfaction of the NJ TRANSIT and NJ TRANSIT Rail Operations. If repair or maintenance of a Permittee's facility is required, the Permittee must notify NJ TRANSIT in writing and request permission to initiate, repair, or maintain such facility. The Permittee may not begin such work without prior written approval from NJ TRANSIT.

(b) In the event of an emergency, the Permittee shall take immediate corrective action and shall notify NJ TRANSIT Rail Operations Chief Dispatcher's office at (973) 491-8301.

16. INDEMNIFICATION:

(a) The Permittee shall indemnify, defend, keep and save harmless NJ TRANSIT, NJ TRANSIT Rail Operations, NJ TRANSIT's contract operators, and other railroad(s) operating on the affected property, their successors, assigns, contractors, agents, employees, servants or officials, and each and every one of them or any other designee of NJ TRANSIT, (the "Indemnified Parties") against all claims, just or unjust, made against the Indemnified Parties on

account of injuries, deaths, losses of any kind whatsoever, damages, suits, liabilities, judgments, claims for infringement of patent, trademark or copyright, cost and expenses which may in anywise accrue against the Indemnified Parties in consequence of the granting of a Permit or which may in anywise result therefrom, and whether or not it shall be alleged or determined that the cause thereof was the negligent acts or omissions of the Indemnified Parties and the Permittee shall appear, defend and pay, as its own expense, all costs, including counsel fees, arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against the Indemnified Parties in any such action, the Permittee shall, at its own expense, satisfy and discharge the same.

- (b) The railroad operations at or near the Facilities involve some risk, and the Permittee, as part of the consideration for a Permit, and with full knowledge and appreciation of such risk, shall release and waive any right to ask for or demand any special, direct, incidental, indirect, punitive, reliance or consequential damages, whether foreseeable or not, for or on account of any loss or injury to any property of the Permittee and its employees, including property in the care, custody, and control of the Permittee, and to the Facilities and contents thereof that are over, under, upon, or in the property of NJ TRANSIT, including loss of, or interference with, service or use thereof, or loss of profits or revenue, cost of capital, cost of replacement services, claims of customers or third parties, whether or not it shall be alleged or determined that the cause thereof was breach of contract, breach of warranty, negligent acts or omissions of the Indemnified Parties or the Permittee, their successors,

assigns, contractors, agents, employees, servants and officials or of other persons.

17. INSURANCE:

In addition to other insurance carried by Permittee, Permittee shall carry, or cause to have carried during any Project construction, through completion and acceptance of the Project by NJ TRANSIT and for the entire period of occupancy permitted herein, insurance coverage of the following kinds and minimum amounts:

(a) Permittee's Comprehensive General Liability Insurance

The Permittee shall purchase and maintain a comprehensive general liability policy of insurance. This policy shall protect Permittee, NJ TRANSIT and the Indemnified Parties, against liability which arises in consequence of granting this Permit, including access thereto over NJ TRANSIT's adjacent property and/or which arises from any of the claims indicated in Indemnification Paragraph 16 (a) and (b) against which Permittee is required to indemnify NJ TRANSIT. The policy is to be written by a good and solvent insurance company authorized to do business in New Jersey with an A.M. BEST Insurance Rating of "A-" or better or by companies acceptable to NJ TRANSIT. This policy shall name NJ TRANSIT as an additional insured. The liability policy (ies) and insurance shall include a cross-liability coverage providing severability of interests so that coverage will respond as if separate policies were in force for each insured. The coverage limits of the policy shall be not less than \$5,000,000 combined single limit per occurrence for bodily injury and property damage. NJ TRANSIT reserves the right to require reasonable increases in the coverage limits from time to time.

(b) Automobile Liability Insurance

Minimum of two million dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage liability. This policy shall name NJ TRANSIT and the Indemnified Parties as an additional insured.

(c) Contractors' and/or Subcontractors' Comprehensive General Liability Insurance

The Permittee shall furnish evidence by virtue of a standard certificate of insurance that, with respect to any work or activities performed by its contractors and/or subcontractors hereunder, they carry in their own behalf Comprehensive General Liability Insurance in the amount of \$5,000,000 per occurrence for damages arising out of bodily injuries or death and/or Property Damage. Coverage provided under this liability policy shall be on an occurrence basis and shall include, but not be limited to, premises operations liability, personal injury liability, property damage liability, contractual liability, independent contractors liability and products liability. There shall be no coverage exceptions for property containing or adjacent to railroad facilities. This policy shall name NJ TRANSIT and the Indemnified Parties as an additional insured. The liability policy (ies) and insurance shall include a cross-liability coverage providing severability of interests so that coverage will respond as if separate policies were in force for each insured. Should Permittee be self-insured, it is required to supply annually a letter certifying that it is self-insured and is complying with all laws and regulations required for self-insurance.

(d) Contractor's Pollution Liability Insurance

The Permittee shall furnish evidence of contractor's pollution liability insurance covering the liability of its contractor arising out of any sudden and/or non-sudden pollution or impairment of the environment, including clean-up costs and defense that arise from the

operation of contractor or its subcontractor. Coverage under this policy shall have limits of liability with a minimum of \$2,000,000 per occurrence. This policy shall name NJ TRANSIT and the Indemnified Parties as additional insured.

(e) Railroad Protective Public Liability Insurance

In addition to the above, Permittee shall furnish evidence in the form of one signed copy and one certified copy of the Railroad Protective Public Liability Insurance Policy that, with respect to the operations it, its contractors, or any of its subcontractors perform, it has provided Railroad Protective Public Liability Insurance (AAR- AASHO form) in the name of NJ TRANSIT, NJ TRANSIT Rail Operations, NJ TRANSIT's contract operator, and other Operating Railroad providing for a limit of not less than \$2,000,000 single limit bodily injury and/or property damage combined, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to or destruction of property, including the loss of use thereof, in any one occurrence. Such insurance shall be furnished with an aggregate of not less than \$6,000,000 for all damages as a result of more than one occurrence. (Reference: "Standard Provisions for General Liability Policies" as contained in U.S. Department of Transportation, Federal Highway Administration, Federal Aid Highway Program Manual, Volume 6, Chapter 6, Section 2, Subsection 2, Attachment I, as amended).

(i) The address of NJ TRANSIT CORPORATION shall appear as Director of Risk Management and Insurance, One Penn Plaza East, Newark, NJ 07105-2246. The insurance hereinbefore specified shall be carried until all work required to be performed under the terms of the contract is satisfactorily completed and formally accepted.

(f) Workers' Compensation and Employer's Liability Insurance

The Permittee shall provide to NJ TRANSIT a certificate of insurance showing that the coverage the Permittee, its contractors and/or its subcontractors carry for Workers' Compensation is within the statutory limits of the State of New Jersey. In case any class of employees on the Project under this Permit is not protected under the Worker's Compensation Statute, the Permittee shall provide and shall cause each subcontractor to provide employer's liability insurance for the protection of each of its employees as are not otherwise protected. Limits of Employer Liability are as follows:

Employer's Liability	\$1,000,000 each accident
	\$1,000,000 each employee disease
	\$1,000,000 policy limit – disease

(g) (i) All insurance required by the Permit shall be provided at the sole cost of Permittee and shall be in full force and effect until all work is completed to the satisfaction of NJ TRANSIT. Proof of insurance must be provided prior to entering upon the property, with a copy of the general accord statement being supplied to NJ TRANSIT's Manager Right-of-Way Engineering or his representative.

(ii) All insurance policies or certificates shall contain the following cancellation notice:

"This policy is not subject to cancellation or change until thirty (30) days after NJ TRANSIT has received written notice thereof as evidenced by return receipt of a registered letter addressed to the Director, Risk Management and Insurance, New Jersey Transit Corporation, One Penn Plaza East, Newark, New Jersey, 07105-2246."

(iii) All hazards to be covered shall include the so-called "XCU" coverage for explosion, collapse, and damage where work is to be done over or under NJ TRANSIT owned railroad property.

(h) The foregoing insurance coverage is not intended to, nor does it limit the liability of the Permittee to hold the Indemnified Parties harmless as set forth in Paragraph 16 above.

(i) All insurance certificates must bear this NJ TRANSIT Permit number and should be mailed to NJ TRANSIT Corp., Real Estate Division, 7th Floor, Attn: Manager, Property Management – Permits, One Penn Plaza East, Newark, New Jersey 07105.

18. TITLE:

- (a) NJ Transit does not represent, guaranty or warrant the quality of its title to the property where Permittee's facility is located. Nothing in this Permit shall act as or be deemed to act as any warranty, guaranty or representation of the quality of NJ TRANSIT's title for any particular NJ Transit property occupied, used or enjoyed in any manner by Permittee under any rights created in this Permit. It is expressly understood that NJ Transit does not warrant title to NJ Transit property and Permittee will accept the grants and privileges contained herein, subject to all lawful outstanding existing liens, mortgages and superior rights in and to the NJ Transit property, and all leases, easements, permits and licenses or other interests previously granted to others therein. Permittee's occupancy of such property will be at its sole risk.
- (b) Permittee agrees it shall not have nor shall it make, and hereby completely and

absolutely waives its right, to any claim against NJ Transit for damages on account of any deficiencies in title to the selected NJ Transit property in the event of failure or insufficiency of NJ Transit's title or any portion thereof.

19. It is expressly understood that this Permit shall not be assigned or otherwise transferred by the Permittee.

20. Violation of any of these covenants and/or conditions by the Permittee may be cause for summary revocation of this Permit with restoration of the property to its former condition and severage of the connection being completed, all at the sole expense of the Permittee.

21. NJ TRANSIT reserves the right to revoke this Permit including all privileges and permission granted pursuant to it upon 30 days written notification to Permittee.

NEW JERSEY TRANSIT CORPORATION

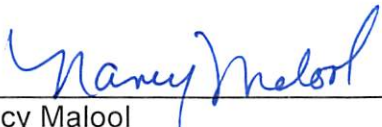
Witness

Jeffrey A. Nadell
Senior Director,
Real Estate and Economic Development

Date

TOWNSHIP OF LONG HILL

This permit is signed and attested to by the Permittee's authorized officers or representatives. Its corporate seal is affixed.

By: 
Nancy Malool
Township Administrator

Attested by:
By: 
Authorized Corporate Officer or Representative

STATE OF:

SS:

COUNTY OF:

I certify that on 11/14, 2019 the attesting witness named above personally appeared before me and acknowledged under oath to my satisfaction that he/she is a duly authorized representative of the Permittee, a corporation of the State of NJ, and was attesting witness to the signing of this Permit by the Permittee by its President or other duly authorized representative, that he/she knows the proper seal of the corporation which has been affixed to this permit and that he/she has signed this proof to attest to the truth of these facts.

Attesting Witness

Sworn to and signed before
me on NOVEMBER 14, 2019


Signature and Seal of Notary

