

EXPLANATION: This Ordinance authorizes the Township of Hillsborough to acquire a development easement over Block 201, Lot 8; Block 202, Lot 7; and Block 202, Lot 11 from Ina Van Nuys and authorizes an appropriation in the total amount of \$3,700,000.00 from the Open Space Trust Fund and to acquire Rights-of-Way along Hillsborough and Willow Roads in front of these lots with funding from the Capital Improvement Fund.

ORDINANCE 2009-33

**AN ORDINANCE AUTHORIZING THE TOWNSHIP OF
HILLSBOROUGH TO ACQUIRE A DEVELOPMENT
EASEMENT OVER BLOCK 201, LOT 8; BLOCK 202, LOT 7; AND
BLOCK 202, LOT 11 FROM INA VAN NUYS AND
AUTHORIZING AN APPROPRIATION IN THE TOTAL
AMOUNT OF \$3,700,000.00 FROM THE OPEN SPACE TRUST
FUND AND TO ACQUIRE RIGHT-OF-WAY ALONG
HILLSBOROUGH AND WILLOW ROADS IN FRONT OF
THESE LOTS WITH FUNDING FROM THE CAPITAL
IMPROVEMENT FUND.**

WHEREAS, the Township of Hillsborough negotiated with Ina Van Nuys to acquire a development easement over Block 201, Lot 8; Block 202, Lot 7; and Block 202, Lot 11, ("Property") for open space, conservation and recreational or similar uses as authorized in N.J.S.A. 40A:12-1 et seq.; and

WHEREAS, the negotiations resulted in an agreement being reached subject to the approval and ratification of the Township Committee; and

WHEREAS, the Township Attorney drafted an "Option Agreement" and "Agreement for the Purchase of the Property and a Development Easement" ("Agreements") between Ina Van Nuys and the Township, which Agreements were reviewed, revised and approved by the attorney for Ina Van Nuys; and

WHEREAS, the Agreements have been executed by Ina Van Nuys; and

WHEREAS, the Agreements call for a total purchase price for the development easement of \$3,696,118.47 (\$990,400.00 for Lot 7, \$1,380,330.00 for Lot 8, and \$1,325,388.47 for Lot 11); and

WHEREAS, the Agreements are subject to certain contingencies which must be satisfied before closing of title; and

WHEREAS, the Township Committee reviewed the Agreements and discussed them with the Township Attorney and finds them acceptable; and

WHEREAS, the Township Committee desires to authorize the Mayor and Township Clerk to execute the Agreements on behalf of the Township; to authorize the Township Administrator and Township Attorney to take all required action to satisfy all contingencies contained in the Agreements; and to arrange to close within one hundred and eighty (180) days from the Effective Date of the Agreements; and

WHEREAS, the Open Space Advisory Committee recommended the acquisition of the Property for the purposes set forth hereinbefore and the funding of such acquisition through the Open Space Trust Fund ("Trust Fund"); and

WHEREAS, the Township will fund the purchase price through the said Trust Fund; and

WHEREAS, the Township intends to seek reimbursement for the acquisition of the Property from the Federal Farm and Ranchland Protection Program, the State Agriculture Development Committee and the Somerset County Agriculture Development Board; and

WHEREAS, the Township Committee desires to adopt this Ordinance to authorize the acquisition of the development easement, authorize the funding for the acquisition of the development easement, and authorize seeking reimbursement from the Federal Farm and Ranchland Protection Program, the State Agriculture Development Committee and the Somerset County Agriculture Development Board; and

WHEREAS, the Township Committee desires to authorize the Township Administrator and Attorney to obtain all necessary studies, including title searches, surveys and Phase I Environmental Audit; and

WHEREAS, the Township Committee filed applications to participate in the Federal Farm and Ranchland Protection Program and the State of New Jersey Planning Incentive Grant Program; and

WHEREAS, these applications stated that the Property would be enrolled in these programs in exchange for partial reimbursement of the purchase price; and

WHEREAS, it is the intention of the Township to assign to the County of Somerset the Deeds of Easement for the Property to be enrolled in the PIG Program; and

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-13(b)(1) and N.J.S.A. 40A:12-13.4, authorize the Township to transfer unneeded municipal interests in land to the County at a private sale provided that the property continues to serve a public purpose; namely, preserved as farmland; and

WHEREAS, the Township has also determined that there is a need to acquire Rights-of-Way along Hillsborough and Willow Roads with funding from the Capital Improvement Fund, along the frontage of Block 201, Lot 8, Block 202, Lot 7 and Block 202, Lot 11, as a capital improvement, and as shown on Boundary Surveys for each of these lots prepared by Maser Consulting, P.A.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hillsborough, in the County of Somerset and State of New Jersey, as follows:

1. This Ordinance, upon final adoption, shall authorize the Township of Hillsborough to acquire the development easement, authorize the funding for the acquisition of the development easement, authorize seeking reimbursement from the Federal Farm and Ranchland Protection Program, the State Agriculture Development Committee and the Somerset County Agriculture Development Committee, authorize all necessary studies, including title searches, surveys and Phase I Environmental Audit and expend money from the Trust Fund for these purposes.

2. The Township of Hillsborough Mayor and Clerk are hereby directed and authorized to utilize the Trust Fund for this purchase, to execute the "Option Agreements" and "Agreements for the Purchase of a Development Easement" for the purchase of Block 201, Lot 8; Block 202, Lot 7; and Block 202, Lot 11 for the total purchase price of \$3,696,118.47.

3. The Township Administrator and Township Attorney are hereby directed to take all action required to satisfy the contingencies contained in the Agreements.

4. The Township Administrator and Township Attorney are hereby directed to apply for reimbursement of all or a portion of the purchase price, and to take all action necessary to accomplish these goals.

5. There is hereby authorized an appropriation in the amount of \$3,700,000.00 from the Trust Fund for the acquisition of the development easement described in this Ordinance. The Township Chief Financial Officer shall, prior to the effective date of this Ordinance, file with the Township Clerk a statement certifying that sufficient funds are available in the Trust Fund to make this appropriation. The original certification shall be attached to the original of this Ordinance and shall be kept on file with the Township Clerk.

6. The Township Mayor, Clerk and Attorney are hereby authorized to take any action necessary to assign the PIG Deeds of Easement to the County of Somerset in exchange for partial reimbursement of the purchase price.

7. The Township Administrator and Attorney are hereby authorized to take all action required to acquire the Rights-of-Way along Hillsborough and Willow Roads as shown on the Boundary Surveys prepared by Maser Consulting, P.A.

8. This Ordinance shall take effect upon its final passage and publication according to law.

ATTEST:

TOWNSHIP OF HILLSBOROUGH

By: _____
Kevin P. Davis, Clerk

By: _____
Frank DelCore, Mayor

Introduced: 09/08/09
Published: 09/17/09
Public Hearing: 10/13/09
Adopted: 10/13/09
Published: 10/22/09