

# Ordinance 2013-05

*BOROUGH OF HIGHTSTOWN  
COUNTY OF MERCER  
STATE OF NEW JERSEY*

**AN ORDINANCE AUTHORIZING THE BOROUGH OF HIGHTSTOWN TO LEASE CERTAIN REAL PROPERTIES LOCATED ALONG BANK AND MECHANIC STREETS, MORE COMMONLY KNOWN AND DESIGNATED AS BLOCK 30, LOTS 4, 5, 6 AND 7 ON THE BOROUGH'S TAX MAP, FROM GREYSTONE CAPITAL PARTNERS, FOR THE PLACEMENT OF MODULAR FACILITIES TO PROVIDE TEMPORARY OFFICE SPACE FOR CERTAIN BOROUGH OPERATIONS, AND AUTHORIZING THE APPROPRIATE BOROUGH OFFICIALS TO EXECUTE ALL NECESSARY DOCUMENTS ASSOCIATED THEREWITH.**

**WHEREAS**, Greystone Capital Partners (also referenced as the "Landlord") is the owner of certain parcels of real property located along Bank and Mechanic Streets in the Borough of Hightstown (also referenced as the "Borough"), more commonly known and designated as Block 30, Lots 4, 5, 6 and 7 on the Borough's Tax Map (hereinafter collectively referenced as the "properties"); and

**WHEREAS**, the properties are physically situated behind the "Ely House," and comprise a cumulative total land area of approximately 0.44 of an acre (measuring approximately 168' x 114'); and

**WHEREAS**, the properties are currently vacant and the only improvements that are constructed thereon at the current time are parking lots which are of an asphalt/macadam substance; and

**WHEREAS**, the Borough wishes to acquire an interest in the properties by way of a lease agreement so that the Borough may utilize the properties for the erection and placement of modular facilities to provide temporary office space(s) for the Borough's municipal operations, including but not limited to the Borough's administrative offices and the Borough's Police Department (also referenced as the "project"); and

**WHEREAS**, the project is necessary as a result of the damages sustained to the former Borough Hall facilities as a result of Hurricane Irene, which occurred in August of 2011 and which caused the former Borough Hall facilities to become uninhabitable; and

**WHEREAS**, following negotiation, the Borough and the Landlord have reached an agreement regarding the terms and conditions associated with this understanding; and

**WHEREAS**, said terms and conditions are contained in a proposed Lease Agreement, a copy of which is attached hereto and made a part hereof (copies of the proposed Lease Agreement are available at no cost from the Borough Clerk's office during regular business hours); and

**WHEREAS**, the Mayor and Borough Council believe that the proposed Lease Agreement is in the best interests of the residents of the Borough; and

**WHEREAS**, the Mayor and Borough Council have previously referred the project to the Planning Board, pursuant to the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, *et seq.*, and specifically N.J.S.A. 40:55D-31, for review and recommendation in conjunction with the Borough's Master Plan; and

**WHEREAS**, the New Jersey Local Lands and Buildings law, N.J.S.A. 40A:12-1, *et seq.*, and specifically N.J.S.A. 40A:12-5(a)(1), authorizes a municipality, by ordinance, to provide for the acquisition of any real property by purchase or lease; and

**WHEREAS**, the Mayor and Borough Council wish to authorize the appropriate Borough Officials to execute the attached Lease Agreement on behalf of the Borough for the public purposes set forth above; and

**WHEREAS**, the properties are currently involved in foreclosure proceedings instituted by the Landlord's mortgagee (TD Bank) (also referenced as the "Bank"); and

**WHEREAS**, the Bank's counsel has previously approved the attached Lease Agreement on behalf of the Bank; and

**WHEREAS**, the Mayor and Borough Council also wish to authorize the appropriate Borough Officials to execute a Non-disturbance and Subordination Agreement with TD Bank, and/or any other Agreement(s) that may, in the opinion of the Borough Attorney, be necessary in order to properly protect the Borough's interests with regard to the lease of the properties in the event of a Sheriff's sale.

**NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED**, by the Borough Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey, as follows:

1. That the Mayor is hereby authorized to execute, and the Borough Clerk to attest, the attached Lease Agreement between the Borough of Hightstown and Greystone Capital Partners, so that the Borough may lease the properties for the public purposes referenced above in accordance with the terms and conditions set forth in the said Lease Agreement.
2. That the Mayor is hereby also authorized to execute, and the Borough Clerk to attest, a Non-disturbance and Subordination Agreement with TD Bank, and/or any other Agreement(s) that may, in the opinion of the Borough Attorney, be necessary in order to properly protect the Borough's interests with regard to the lease of the properties in the event of a Sheriff's sale. All such documents shall be in a form acceptable to the Borough Attorney.

3. That all Borough officials and professionals are hereby authorized and directed to take all actions that are necessary in order to effectuate the intentions of this Ordinance.
4. That the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged to be invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.
5. That all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.
6. That this Ordinance shall take effect upon final passage and publication in accordance with the law.

Introduced:

Adopted:

**ATTEST:**

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Debra L. Sopronyi,  
Borough Clerk

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Steven Kirson, Mayor