

ORDINANCE 2021-13

BOROUGH OF HIGHTSTOWN

COUNTY OF MERCER

STATE OF NEW JERSEY

AN ORDINANCE AUTHORIZING THE BOROUGH OF HIGHTSTOWN TO ACQUIRE AN EASEMENT FOR PERMANENT ACCESS OVER A PORTION OF CERTAIN REAL PROPERTY LOCATED AT 111 MORRISON AVENUE (LOT 1, BLOCK 57) WITHIN THE BOROUGH, IN ORDER TO FACILITATE THE RAILROAD AVENUE, DEY STREET, CENTER STREET AND SOUTH ACADEMY STREET IMPROVEMENT PROJECT.

WHEREAS, Caroline Muhindi and Miguel Santos, wife and husband, as tenants by the entirety, are the owners of certain real property located at 111 Morrison Avenue in the Borough of Hightstown (the “Borough”), County of Mercer, State of New Jersey, which property is more commonly known and designated as Lot 1, Block 57 on the Hightstown Borough Tax Map (hereinafter referred to as the “property”); and

WHEREAS, the Borough is undertaking a public project involving the construction of improvements to Railroad Avenue, Dey Street, Center Street, and South Academy Street within the Borough (hereinafter referred to as the “project”); and

WHEREAS, in order to facilitate the project, it will be necessary for the Borough to acquire an easement for permanent access over a portion of the property; and

WHEREAS, the area of the easement is described in more detail in a legal description prepared by Roberts Engineering Group, LLC, dated September 7, 2021, a copy of which is attached hereto as Exhibit “A,” and

WHEREAS, the location of the easement is depicted in more detail on a map entitled “Proposed Right of Way Easement Plan,” dated September 7, 2021, as prepared by Roberts Engineering Group, LLC, a copy of which is attached hereto as Exhibit “B”; and

WHEREAS, pursuant to the New Jersey “Local Lands and Buildings Law,” N.J.S.A. 40A:12-1, *et seq.*, a municipality may acquire any real property, capital improvement, personal property, or any interest or estate whatsoever therein (including a permanent easement), by purchase, gift, devise, lease, exchange, condemnation, or installment purchase agreement, pursuant to the adoption of an Ordinance; and

WHEREAS, the Mayor and Council have determined that it would be in the best interests of the health, safety and welfare of the residents of the Borough, and the general public, to move forward to acquire the necessary easement for permanent access upon and across a portion of the property (as described and depicted in the attached Exhibits) in order to facilitate the project.

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

Section 1. That, pursuant to N.J.S.A. 40A:12-1, *et seq.* the Borough is hereby authorized to acquire an easement for permanent access upon and across a portion of the property (as described and depicted in the attached Exhibits) in order to facilitate the project. This authorization includes utilization of the power of condemnation/eminent domain, if necessary, in accordance with N.J.S.A. 20:3-1, *et seq.*, in those circumstances where the easement cannot be acquired through amicable negotiations.

Section 2. That the Borough Attorney is hereby authorized and directed to prepare the necessary deed of easement for the property, and arrange for its execution and recording with the Mercer County Clerk's Office. The Borough Attorney is also authorized to institute proceedings before the Superior Court of New Jersey in order to acquire the easement through the power of condemnation/eminent domain, in accordance with N.J.S.A. 20:3-1, et seq., in any circumstance where the easement cannot be obtained through amicable negotiations.

Section 3. That all relevant Borough officials are authorized to execute any documents that are necessary in order to effectuate the acquisition of the necessary easement concerning the property, either through amicable negotiations or through the power of condemnation/eminent domain, so long as said documents are in a form satisfactory to the Borough Attorney.

Section 4. That all relevant Borough officials are authorized to undertake all necessary activities in furtherance of the intentions of the within Ordinance.

Section 5. That this Ordinance shall become effective immediately upon final passage and publication in accordance with the law.

Section 6. That all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 7. That, 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 the remaining portions of this Ordinance shall be deemed severable therefrom and shall not be affected.

Introduction: September 20, 2021

Adoption: October 4, 2021

ATTEST:

MARGARET RIGGIO
MUNICIPAL CLERK

LAWRENCE D. QUATTRONE
MAYOR