

Introduced: 11/12/2019
Public Hearing: 12/10/2019
Adoption: 12/10/2019

**TOWNSHIP OF TEWKSBURY
COUNTY OF HUNTERDON, NEW JERSEY
ORDINANCE NO. 19-2019**

**AN ORDINANCE OF THE TOWNSHIP OF TEWKSBURY, COUNTY OF
HUNTERDON, STATE OF NEW JERSEY, AUTHORIZING THE ACQUISITION OF
A PERCENTAGE OF THAT PROPERTY KNOWN AS BLOCK 32, LOT 32.02, AS
SHOWN ON THE TAX MAP OF THE TOWNSHIP OF TEWKSBURY, FROM
CHRISTOPHER M. AND SARAH P. TREANOR, AND APPROPRIATING THE
NECESSARY FUNDS**

WHEREAS, Christopher M. and Sarah P. Treanor (the “**Sellers**”) own an approximately 63.218-acre parcel of land known and designated as Block 32, Lot 32.02 on the official tax maps of the Township of Tewksbury (the “**Property**”); and

WHEREAS, in cooperation with the Tewksbury Land Trust (“**TLT**”) and the New Jersey Department of Environmental Protection Green Acres Program (“**NJDEP**”), the Township of Tewksbury (the “**Township**”) wishes to preserve the Property and acquire interests therein; and

WHEREAS, TLT has entered into an agreement (the “**Agreement**”) with the Sellers for the purchase of the Property at a purchase price that is less than the Property’s certified fair market value and wishes to assign to the Township the right to acquire a fifty (50%) percent undivided interest in the Property from Sellers with the understanding that ultimately the Township will hold a 25% undivided interest in the Property and TLT will hold a 75% undivided interest in the Property; and

WHEREAS, the Property contains a gross area of approximately 63.218 acres, 62.998 of which will be subject to a deed of conservation restriction limiting the use of the Property to passive recreation and open space purposes; and

WHEREAS, the purchase price for the Property is \$1,133,964 based upon a certified net eligible acreage of 62.998 acres multiplied by an agreed-upon \$18,000.00 per acre (subject to any adjustments that might be required in the final acreage or computation of the purchase price); and

WHEREAS, the Township wishes to apply the sum of \$283,491.00 (equal to 25% of the purchase price) toward the acquisition of the Property, which sum has accrued in a Green Acres Local Assistance Grant for the benefit of the Township; and

WHEREAS, TLT has procured the balance of the funding needed for this acquisition, with all sources of funding being as follows:

Introduced: 11/12/2019
Public Hearing: 12/10/2019
Adoption: 12/10/2019

Source of Funds	Percentage	Amount
Green Acres Program grant to Tewksbury Township	25%	\$283,491.00
Green Acres Program grant to Tewksbury Land Trust	25%	\$283,491.00
Highlands Open Space Partnership Program grant to TLT	50%	\$566,982.00
TOTAL	100%	\$1,133,964.00

WHEREAS, although the NJDEP Green Acres Program requires that the Township initially take a 50% interest in the Property at closing (based upon twice the percentage attributable to the amount of the Township's grant), the Green Acres Program agrees that thereafter the Township may convey a 25% undivided interest in the Property to TLT, which is a tax-exempt nonprofit corporation qualified under Section 501(c)(3) of the federal Internal Revenue Code, with a specific mission to conserve land and natural resources, and promote access thereto in accordance with the rules and regulations of the NJDEP Green Acres Program, and also qualifies as a "charitable conservancy" under the New Jersey Conservation Restriction and Historic Preservation Restriction Act; and

WHEREAS, ownership of a 50% interest in the Property by the Township is not needed by the Township to further the public use thereof because TLT will promote the Property's public use, maintenance and management, and accordingly, following closing the Township will convey a 25% undivided interest in the Property to TLT; and

WHEREAS, pursuant to N.J.S.A. 13:8C-34, the Township may convey lands it holds for recreation and conservation purposes to a qualifying tax-exempt nonprofit corporation, such as TLT, provided the lands will continue to be preserved and used for recreation and conservation purposes; and

WHEREAS, the Township wishes to retain a 25% undivided interest in the Property, but convey the balance of its interest in the Property to TLT in consideration of TLT's efforts to secure the Property's preservation, obtain the Agreement to acquire the Property, partial assignment of the Agreement to the Township, contribution of costs associated with acquisition of the Property and its undertaking to manage and maintain the Property, and in order to facilitate natural resource protection, the woodland and watershed management of the Property, and educational and passive recreational use of the Property by the general public, including the residents of the Township; and

WHEREAS, it is the intention of the Township and TLT to provide for the joint management and maintenance of the Property for passive recreational and natural resource protection purposes through a mutually acceptable management agreement, and to that end, that the Property will be hunted in order to manage the deer population; and

Introduced: 11/12/2019
Public Hearing: 12/10/2019
Adoption: 12/10/2019

WHEREAS, TLT and the Township will draft and execute a management agreement that will generally assign deer management responsibilities to the Township and passive recreational and other natural resource management responsibilities to TLT; and

WHEREAS, uses of and activities on the Property shall be consistent with the State of New Jersey Green Acres Program rules and regulations as contained in N.J.A.C. 7:36-20, et seq. as may be amended and supplemented from time to time, and the Township and TLT will deed one or more conservation restrictions to NJDEP at the closing of title to confirm this requirement; and

WHEREAS, the acquisition of the Property is contingent upon the funding sources contributing the full purchase price for the property; and

WHEREAS, the Township desires to appropriate \$283,491.00 from a Green Acres Program grant for the purposes described in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Tewksbury, County of Hunterdon, State of New Jersey, as follows:

Section 1. *Preamble incorporated.* The preamble to this ordinance is incorporated and made a part hereof as if set forth at length herein.

Section 2. *Findings.* The Township Committee of the Township of Tewksbury hereby finds and determines that it is in the best interests of the Township and its residents to preserve the Property and consequently, to enter into an assignment and assumption agreement with TLT for the acquisition of a 50% undivided interest in the Property.

Section 3. *Authorization to acquire the Property.* Pursuant to N.J.S.A. 40A:12-1, et seq., the Township of Tewksbury is hereby authorized to acquire partial fee simple ownership of the Property for the purposes set forth above, and to that end to expend the funds reserved to the Township of Tewksbury in the New Jersey Department of Environmental Protection Green Acres Local Assistance Grant Program in the amount of \$283,491.00. Any matching funds related to the foregoing that may be considered to be a grant to the Township shall also be applied to the acquisition.

Section 4. *Authorization to convey partial ownership to TLT.* The Township of Tewksbury is hereby authorized, following acquisition, to convey all but 25±% of its undivided interest in the Property to TLT for the purposes set forth herein, which will result in undivided ownership interests in the Property as follows:

TLT	75%
Township	25%

Introduced: 11/12/2019
Public Hearing: 12/10/2019
Adoption: 12/10/2019

Section 5. *Management of the Property.* The Property shall be managed and maintained jointly by Township and TLT in accordance with the terms of a mutually acceptable management agreement, consistent with the purposes of this acquisition and the permitted activities and uses identified herein and in the conservation restriction(s) to be placed on the Property, to be executed by the parties to the transactions herein authorized, and the requirements of NJDEP.

Section 6. *Authorization to execute documents and undertake acts necessary to effectuate the purposes of this Ordinance.* The Mayor, Administrator, Clerk and Township Attorney are hereby authorized and directed to execute any and all such documents, including but not limited to agreements providing for the Township of Tewksbury's purchase and conveyance of interests in the Property as described herein, and to undertake any and all such acts as may be necessary to effectuate the terms hereof, subject to the Township Attorney's approval of the form and substance of said documents. This grant shall include the authority to make non-material changes to the terms described herein as may be necessary to satisfy NJDEP and/or other funding agency requirements.

In particular, but without limitation upon the foregoing, the said persons are authorized to execute the following:

- a) An assignment and assumption of partial interest in the Agreement;
- b) Preliminary Assessment Report certification forms and acknowledgements as required by Green Acres;
- c) Funding agreement as required by Green Acres
- d) Deed to TLT conveying a 25% undivided interest in common;
- e) Declaration of Conservation Restrictions in form acceptable to the NJDEP Green Acres Program;
- f) Closing statement;
- g) Reimbursement vouchers or other similar payment request;
- h) Form IRS form 8283 acknowledging the bargain sale provided by the Sellers;
- i) Mutually agreed upon management agreement with TLT; and
- j) Such other documents as may be necessary or convenient in order to consummate the transactions authorized by this Ordinance.

Section 7. *Green Acres funding agreement.* The transactions authorized herein shall be subject to Green Acres review and approval of a funding agreement to be entered into between TLT and the Township, including approval the transfer described in Section 4 hereof.

Section 8. *Repealer.* All ordinances and resolutions, or parts thereof, inconsistent with this Ordinance, are hereby repealed.

Section 9. *Severability.* If any section, paragraph, subsection, clause or provision of this

Introduced: 11/12/2019
Public Hearing: 12/10/2019
Adoption: 12/10/2019

ordinance shall be adjudged to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

Section 10. *Effective date.* This Ordinance shall take effect immediately upon its passage and publication as required by law.

ATTEST:

Jennifer Ader, Acting Municipal Clerk

William Voyce, Mayor

DATE ADOPTED: 12/10/2019