

**DELAWARE TOWNSHIP**  
**ORDINANCE #2013-07**

AN ORDINANCE OF THE TOWNSHIP OF DELAWARE IN HUNTERDON COUNTY, NEW JERSEY, AUTHORIZING THE ACQUISITION OF INTERESTS IN A PORTION OF PROPERTY LOCATED ON PAVILICA ROAD, DESIGNATED AS BLOCK 13, LOT 19 ON THE DELAWARE TOWNSHIP TAX MAP IN COOPERATION WITH THE NEW JERSEY CONSERVATION FOUNDATION, THE NEW JERSEY WATER SUPPLY AUTHORITY, THE COUNTY OF HUNTERDON, AND THE STATE OF NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, AND ALSO TO PROVIDE FOR THE CONVEYANCE OF INTERESTS IN THE PROPERTY TO THE NEW JERSEY WATER SUPPLY AUTHORITY AND NEW JERSEY CONSERVATION FOUNDATION. #2013-07

**WHEREAS**, Thompson Realty Company of Princeton, Inc. ("**Thompson**") owns an approximately 102-acre parcel of land designated on the Delaware Township Tax Map as Block 13, Lot 19 (the "**Thompson Parcel**");

**WHEREAS**, in cooperation with the New Jersey Conservation Foundation ("**NJCF**"), the New Jersey Water Supply Authority, a body corporate and politic of the State of New Jersey ("**Authority**"), the County of Hunterdon ("**County**"), and the State of New Jersey, Department of Environmental Protection ("**NJDEP**"), the Township of Delaware wishes to acquire interests in the Thompson Parcel, specifically 94.371± acres therein, said portion of the Thompson Parcel being depicted on a survey attached herewith as Schedule A and hereinafter referred to as the "**Property**;"

**WHEREAS**, the Property contains natural and water resources of recognized value;

**WHEREAS**, the Property is located in the vicinity of Hunterdon County's Plum Brook Greenway;

**WHEREAS**, the Plum Brook feeds into the Wickecheoke Creek, which, in turn, feeds the D&R Canal, a source of public drinking water;

**WHEREAS**, the Property is proximate to at least three other preserved parcels in the Township near the Plum Brook;

**WHEREAS**, the total purchase price of the Property is \$1,793,049.00;

**WHEREAS**, the Township of Delaware wishes to apply the sum of \$519,070.31± for the acquisition of interests in the Property, which sum has accrued in a Green Acres Local Assistance Grant for the benefit of the Township, currently being held by the NJDEP Green Acres Program;

**WHEREAS**, the Delaware Township Green Acres Grant will be matched by funds from the NJCF and County, including a grant of \$500,000.00± for the benefit of the Township for this acquisition;

**WHEREAS**, the Authority, NJCF and County are providing additional funding for the acquisition;

**WHEREAS**, the 1772 Foundation is also contributing \$40,000.00± to the acquisition of the Property, but will not hold an interest in the Property;

**WHEREAS**, fee simple title will be conveyed by Thompson Realty to the Township, Authority and NJCF, which is a tax exempt, not-for-profit 501 (c)(3) organization under the Internal Revenue Code, with a specific mission to conserve land and its resources, and to promote public access thereto in accordance with the rules and regulations of NJDEP Green Acres Program, and is also recognized as a “charitable conservancy” under N.J.S.A. 40:12-15.1;

**WHEREAS**, the NJDEP Green Acres Program requires that the Township initially take a 57.9±% interest in the Property at closing;

**WHEREAS**, ownership of such a large percentage interest in the Property by the Township is not needed by the Township to further the public use thereof because the Authority and NJCF, in concert with others, will promote the Property’s public use, maintenance and management, and, accordingly, following closing, pursuant to the Local Lands and Buildings Law, N.J.S.A. 40A12-1 et seq., the Township wishes to convey a portion of its interest in the Property to NJCF;

**WHEREAS**, pursuant to N.J.S.A. 40A:12-21, by ordinance, the Township may enter into a private sale with NJCF with a limitation that the Property be used for the purposes of NJCF and that if the Property is not so used, title thereto shall revert to the Township without any entry or reentry made thereon on behalf of the Township;

**WHEREAS**, the Township wishes to retain a 5±% undivided interest in the Property, but convey the balance of its interest in the Property to the NJCF in consideration of NJCF’s

contribution to the purchase of the Property and its undertaking to solely manage and maintain the Property, and in order to facilitate natural flood protection, the woodland and watershed management of the Property, and educational and recreational use of the Property by the general public, including the residents of the Township;

**WHEREAS**, it is the intention of the parties to the acquisition of the Property, including the Township, to provide for the management and maintenance of the Property exclusively by NJCF through a mutually acceptable Management Agreement to be executed by all the parties participating in the acquisition of the Property;

**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, NJCF and Authority will deed one or more conservation restrictions to NJDEP and, if sought by the County to the County, to confirm this requirement; and

**WHEREAS**, uses permitted on the Property are limited to passive, non-motorized recreation (except as may be required by applicable law to afford access to disabled persons) including, but not limited to, trails and pathways, as well as meadow, wildlife, natural flood protection, woodland and watershed management, agricultural activities, and additional uses and activities related to the aforesaid purposes.

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

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

**Section 2. Findings.** The Township Committee of the Township of Delaware 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 a contract providing for the purchase of interests in the Property from Thompson Realty in cooperation with the Authority, County, NJCF and NJDEP.

**Section 3. Authorization to Acquire Jointly In Ownership of a Portion of Block 13, Lot 19.** Pursuant to N.J.S.A. 40A:12-1 et seq., the Township of Delaware is hereby authorized to acquire in conjunction with the NJCF and Authority a portion of the fee simple ownership of Property for the purposes set forth above, and to that end to expend the funds held in reserve on behalf of Township of Delaware in the New Jersey Department of Environmental Protection Green Acres Local Assistance Grant Program in the amount of \$519,070.31. A County grant of \$500,000.00 to the Township shall also be applied to the acquisition.

**Section 4. Authorization to Convey Partial Ownership of Part of Block 13, Lot 19.** Pursuant to N.J.S.A. 40A:12-21, the Township of Delaware is hereby authorized, following acquisition, to convey all but 5±% of its undivided interest in the Property to NJCF for the purposes set forth herein, which will result in undivided ownership interests in the Property as follows:

NJCF	74±%
Authority	21±%
Township	5±%.

**Section 5. Management of Property.** The Property shall be managed and maintained solely by NJCF 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, 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 Delaware'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, Authority and County requirements.

**Section 7. Repealer.** All ordinances and resolutions, or parts thereof, inconsistent with this Ordinance, are hereby repealed.

**Section 8. Severability.** If any section, paragraph, subsection, clause or provision of this 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 9. Effective Date.** This Ordinance shall take effect immediately upon its passage and publication as required by law.

ATTEST:

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Judith A. Allen, RMC  
Township Clerk  
March 25, 2013  
Published 3/28/13

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Donald F. Scholl, Jr., Mayor

PLEASE TAKE NOTICE that the above Ordinance was approved on first reading at a Regular Meeting of the Delaware Township Committee held on March 25, 2013. It will be considered on second reading for final adoption and will have a public hearing at a Regular Meeting beginning at 7:30 p.m. on April 8, 2013 at the Delaware Township Municipal Bldg., 570 Rosemont Ringoes Road (Rt. 604), Sergeantsville, NJ. At that time an opportunity will be given for all interested citizens to be heard.

**SEE ATTACHED SCHEDULE A**

