

ORDINANCE NO. 2017-01

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ANDOVER AUTHORIZING THE ACQUISITION BY PURCHASE OR EMINENT DOMAIN IF NECESSARY, OF A TEMPORARY CONSTRUCTION EASEMENT ON A PORTION OF THE REAL PROPERTY KNOWN AS BLOCK 5, LOT 1 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF ANDOVER FOR THE BENEFIT OF THE " LACKAWANNA CUT OFF RAIL PROJECT"

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Township of Andover ("Township") is authorized to adopt an Ordinance for the purpose of constructing the Lackawanna Cut-Off Rail Project which is for the benefit of public use; and

WHEREAS, pursuant to N.J.S.A. 40A:12-1 et seq., the Township has the power to acquire real property for a public purpose through negotiated agreement or by the exercise of its powers of eminent domain; and

WHEREAS, the Lackawanna Rail Project is one which will provide public rail transportation to the residents of Sussex County; and

WHEREAS, the completion of the Lackawanna Cut Off Project is contingent upon NJ Transit reconstructing a culvert which is located on the property commonly known as the "Hudson Farm Property" which is known as Block 5, Lot 1 on the official tax map of the Township of Andover; and

WHEREAS, the completion of the repairs to this culvert are critical and necessary to the completion of this project and to address certain public safety, storm water issues related to this project; and

WHEREAS, based on the recommendations of NJ Transit, the Township has determined that in order to make the required improvements to the culvert located on the Hudson Farm Property that are necessary for this project which is for rail transportation and the benefit of the public use, a temporary construction easement in the property known as Block 5, Lot 1, (known as the property on the official tax map of the Township of Andover) is necessary and required; and

WHEREAS, the Township of Andover has determined that the completed improvements in the Lackawanna Cut Off Rail Project will provide significant benefits to public transportation by creating a passenger railroad and station in Andover Township; and

NOW, THEREFORE BE IT ORDAINED, by the Township Committee of the Township of ANDOVER, County of Sussex, State of New Jersey that:

SECTION 1. The Township of Andover be and is hereby authorized to acquire, by negotiation, contract of purchase or, if necessary, by the exercise of its power of eminent domain pursuant to N.J.S.A. 20:3-1 et seq., a temporary construction easement in certain lands and/or any and all other interests in the Property for the purposes described hereinabove identified as Block 5 Lot 1 on the official tax map of Andover Township and the exhibits identified as plans designed by Jacobs Engineering for NJ Transit entitled "Lackawanna Cut-Off Andover Station Trackbed Restoration Project" on sections identified as "Hudson Farm Culvert Replacement Site Restoration Plan" (Exhibits A-F which are on file at the Township's Clerks Office), and take such

other actions necessary to take title and possession of the temporary construction easement in the Property; and

SECTION 2. The Township Attorney, any special counsel retained by the Township and the Township Administrator are hereby authorized to hire and employ such appraisers, consultants and experts as may be appropriate to effectuate such acquisition, whether by negotiation or eminent domain proceedings, and to pay said consultants and experts a reasonable fee for their services; and

SECTION 3. The amount to be offered by the Township of Andover to the record owner of the Property pursuant to N.J.S.A. 20:3-6 shall be fixed by further resolution of the Township upon receipt and approval of an appraisal report prepared on behalf of the Township by a qualified licensed real estate appraiser; and

SECTION 4. The Township Attorney, any special counsel retained by the Township and the Township Administrator are hereby authorized to take any and all actions necessary to acquire the temporary construction easement in the Property and/or any other interests thereto, either through negotiation or, if necessary, the exercise of the Township's powers of eminent domain; and

SECTION 5. The Mayor and Township Administrator are hereby authorized to execute and witness any documents or instruments necessary to acquire the temporary construction easement in the Property and/or any other interests thereto; and


SECTION 6. The Township Administrator is hereby authorized to take all actions necessary to coordinate the Township's improvements to the Hudson Farm Property; and

SECTION 7. If any word, phrase, clause, section or provision of this ordinance shall be adjudged by any Court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of this Ordinance and the remainder of this Ordinance shall remain in full force and effect; and

SECTION 8. If any ordinances or parts thereof are in conflict with the provisions of this Ordinance, such ordinances or parts thereof are hereby repealed to the extent of such conflict; and

SECTION 9. All ordinances or parts of ordinances inconsistent herewith are repealed to the extent of such inconsistency.

SECTION 10. This ordinance shall take effect immediately upon final passage and publication as required by law.



Diana Francisco, RMC/CMR
Municipal Clerk/Administrator

INTRODUCED: February 27, 2017
ADOPTED: March 13, 2017
PUBLICATION: March 20, 2017