

**EXPLANATION:** This Ordinance authorizes the sale of an Access and Maintenance Easement over a portion of Vroom Drive, a paper street in the Township of Hillsborough, by public auction as required by law.

**ORDINANCE 2011-06**

**AN ORDINANCE AUTHORIZING THE SALE OF AN ACCESS AND MAINTENANCE EASEMENT OVER A PORTION OF VROOM DRIVE, A PAPER STREET IN THE TOWNSHIP OF HILLSBOROUGH, BY PUBLIC AUCTION AS REQUIRED BY LAW.**

**WHEREAS,** the Township of Hillsborough, in the County of Somerset (“Township”), is the owner of Vroom Drive, an unimproved paper street within the Township; and

**WHEREAS,** the Township desires to sell an Access and Maintenance Easement along Vroom Drive described as follows:

Metes and Bounds Description attached as Exhibit A; and

**WHEREAS,** the Township Committee has determined that the Township’s exclusive ownership of Vroom Drive is no longer necessary; and

**WHEREAS,** the Township Committee has determined it to be in the public interest to sell an Access and Maintenance Easement along a portion of Vroom Drive by open public sale at auction to the highest bidder in accordance with N.J.S.A. 40A:12-13(a).

**NOW THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Hillsborough that:

1. The Township Committee declares that the Township’s exclusive ownership of Vroom Drive is no longer necessary and that the sale of an Access and Maintenance Easement along Vroom Drive is authorized pursuant to N.J.S.A. 40A:12-13(a).

2. The sale of an Access and Maintenance Easement along Vroom Drive shall be by open public sale at auction to the highest bidder.

3. The sale shall be held at the Municipal Building, located at 379 South Branch Road, Hillsborough, New Jersey, 08844.

4. An invitation for bids shall be published in accordance with the law and a bid

for the Access and Maintenance Easement may be accepted in accordance with the terms and conditions of the invitation for bids. All bids shall satisfy any requirements and meet any terms and conditions of the invitation for bids.

5. The invitation for bids shall contain the following conditions for the sale of the Access and Maintenance Easement:

(a) The highest bidder will be the purchaser, subject to the provisions below.

(b) Prior to commencement of the auction, every person who wishes to bid on the Access and Maintenance Easement will be required to provide to the person conducting the auction or to his or her assistant, cash or a certified, bank or cashier's check in the amount of \$1,000.00, payable to either the "Township of Hillsborough" or to the name of the bidder (checks made payable to the bidder are to be endorsed to the Township of Hillsborough if the bidder is the successful bidder) as a security deposit. Persons who have not presented such cash or a certified, bank or cashier's check will not be permitted to bid.

(c) Any person bidding on behalf of a corporation or limited liability company must either submit a copy of a Resolution or letter on its business stationary signed by the President or Managing Member of the entity authorizing the bidder to bid on the Access and Maintenance Easement on behalf of the entity. A person bidding on behalf of a partnership or using a trade name must submit a letter of authorization from the other majority partners and certifying their ownership interest, and in the event of the use of a trade name, a copy of the filed Certificate of Trade Name.

(d) The Township will only accept bids calling for an all cash purchase of the Access and Maintenance Easement. Full payment of the purchase price must be received at the time of closing as set forth in the Contract of Sale. The successful bidder will be required to pay, by either cash or by certified, bank or cashier's check, a deposit equal to ten (10%) percent of the purchase price, less the deposits referenced in 5(b) above, within three (3) business days of acceptance of the successful bid and authorization of the Mayor and Township Clerk to sign the Contract for Sale by Resolution of the Township Committee, with the balance to be paid by either cash or certified check at closing. Pending sale of the Access and Maintenance Easement, the Contract deposit and the deposit referenced in 5(b) above will be held by Counsel for the Township in a non-interest bearing escrow account, with the total deposit (excluding interest) to be credited to the purchase price.

(e) The sale of the Access and Maintenance Easement is being made subject to the following terms, conditions, restrictions and limitations:

1) The successful bidder will be required to pave Vroom Drive as follows:

a) A bituminous concrete road surface of at least 18 feet in width and 170 feet in length.

b) The bituminous road surface must conform to Residential Site Improvement Standards for pavement thickness as

follows: (i) four (4") inch thick Dense Graded Aggregate Base Course; (ii) four (4") inch thick Hot Mix Asphalt Base Course, Stone Mix 1-2; and (iii) two (2") inch thick Hot Mix Asphalt Surface Course, Stone Mix 1-5;

- 2) The successful bidder shall be required to obtain any and all necessary permits from the New Jersey Department of Environmental Protection ("NJDEP") prior to the start of construction. If the successful bidder is unable to obtain such NJDEP permits, the successful bidder shall be entitled to a full refund of any monies paid to the Township; and
- 3) The successful bidder shall be responsible for the maintenance of the Access and Maintenance Easement, including its perpetual repair, snow, ice and other obstruction removal, and repaving as necessary and as required by the Township's Engineering Department from time to time. Said maintenance obligation shall be set forth in the Access and Maintenance Easement to be prepared by the Township Attorney and shall be binding upon successors of the successful bidder, including any homeowner association and the owners of Block 199, Lots 18.02, 18.03 and 18.04. Failure to maintain the easement may result in the Township maintaining same and placing a lien on Block 199, Lots 18.02, 18.03 and 18.04.
- 4) The successful bidder shall be required to complete all improvements set forth above no later than twenty-four (24) months from the date the award is made by the Township Committee. If the successful bidder has not completed the improvements within twenty-four (24) months, unless such time frame is extended by the Township Committee, the Access and Maintenance Easement shall automatically revert to the Township and all rights of the successful bidder thereto shall terminate and be of no further legal force or effect. In such event, no portion of the amount paid to the Township for the Access and Maintenance Easement shall be refunded to the successful bidder.
- 5) All bids must satisfy any requirements and meet any terms and conditions of the Contract. The successful bidder will execute the Contract upon completion of bidding and its payment of the required deposit. To execute the Contract, the bidder shall properly execute the Contract in the signature spaces at the end. Failure to execute the Contract properly shall not affect the obligation of the successful bidder or the validity of the sale. The Access and Maintenance Easement shall be prepared by the Township Attorney. No title contingencies or conditions are permitted.
- 6) In the event that the successful bidder fails to pay the Township for the Access and Maintenance Easement, the bidder shall forfeit

all deposit monies made to the Township. No refunds will be made by the Township.

- 7) The successful bidder shall pay the cost of recording fees for the Access and Maintenance Easement.
- 8) The sale shall be subject to adjournment or cancellation by the Township Committee.
- 9) Bidders may bid on the Access and Maintenance Easement until the Auctioneer strikes a final price. The highest bid when struck will be the purchase price for the Access and Maintenance Easement.
- 10) The minimum amount to acquire the Access and Maintenance Easement shall be as follows:  
Vroom Drive - \$7,500.00.
- 11) The Township reserves the right to accept the highest responsive bid if equal to or greater than the minimum bid price, or to reject all bids at the public sale and not to award to the highest bidder. The Township reserves the right to waive any and all defects and informalities in any proposal, and to accept or reject the highest responsible and responsive bid deemed to be in the best interest of the Township.
- 12) The Township's acceptance or rejection of bids shall be made not later than at the second regular Township Committee meeting following the auction. No bid shall be considered finally accepted until passage by the Township Committee of a Resolution accepting such bid. The closing on the delivery of the Access and Maintenance Easement shall occur not later than thirty (30) days from the date of Contract is signed by the Mayor and Township Clerk.
- 13) Any material prepared and distributed in connection with this auction sale is for convenience purposes only and is intended to give prospective bidders a general understanding of the condition, location and size of the Access and Maintenance Easement. The Township is not responsible for errors that may appear in such materials. Each prospective bidder is urged to thoroughly research and examine Vroom Drive prior to placing a bid. Vroom Drive will be available for inspection by appointment only. Prospective bidders desiring to inspect Vroom Drive should contact Thomas Belanger, Assistant Township Engineer, at 908-369-4460 between the hours of 9:00 A.M. and 4:00 P.M. to make an appointment.
- 14) **BIDDER(S) SHALL INDEMNIFY AND SAVE HARMLESS THE TOWNSHIP AND ANY OF ITS OFFICIALS,**

**OFFICERS, EMPLOYEES, ASSIGNS, DESIGNEES, AGENTS OR CONTRACTORS AND THE AUCTIONEER, AND ANY OF ITS OFFICIALS, OFFICERS, EMPLOYEES, ASSIGNS, DESIGNEES, AGENTS OR CONTRACTORS FOR ANY DISCREPANCIES OF ANY TYPE AND FOR ANY ERRORS OR OMISSIONS OF ANY TYPE IN PRINT, ADVERTISING OR ANNOUNCEMENTS AND FOR ANY REPRESENTATIONS OR STIPULATIONS, ORAL OR WRITTEN. THE TOWNSHIP MAKES NO WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, WITH RESPECT TO VROOM DRIVE.**

- 15) The Mayor, Township Clerk or such other Township officials as the law may provide, are hereby authorized to prepare and execute such documents as may be required to affect the auction sale authorized by this Ordinance and the transfer of title to Access and Maintenance Easement to the successful bidder.
- 16) This Ordinance, and the invitation for bids attached hereto and made a part hereof, shall constitute and serve as the public notice to be published in a newspaper circulating in the Township at least once a week for two (2) consecutive weeks, the last publication being not earlier than seven (7) days prior to the date set forth for the public sale.
- 17) If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.
- 18) In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Hillsborough, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Code of the Township of Hillsborough are hereby ratified and confirmed, except where inconsistent with the terms hereof.
- 19) This Ordinance shall take effect immediately upon final passage and publication according to law.

**ATTEST:  
COMMITTEE**

**HILLSBOROUGH TOWNSHIP**

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Michael Merdinger  
Acting Clerk

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Gloria McCauley, Mayor

*Introduced: 2/08/2011*

*Published: 2/17/2011*

*Public Hearing/Reintroduced: 3/08/2011*

*Public Hearing/Adopted: 4/26/2011*

*Published: 5/5/2011*

All that certain lot, piece or parcel of land, situated, lying and being in the Township of Hillsborough, County of Somerset and State of New Jersey.

*METES AND BOUNDS DESCRIPTION*

BEGINNING at a point on the northwesterly right-of-way line of Royce Brook Road (50 feet wide), said point being distant 75.00 feet from the northeasterly corner of Lot 92 in Block 199, and runs thence:

- Course 1. Along the northwesterly line of Royce Brook Road (50 feet wide), on a curve to the left having a radius of 446.19 feet, a delta angle of  $04^{\circ}42'56''$ , an arc length of 36.72 feet, and having a chord length of 36.71 feet and a chord bearing of South  $33^{\circ}31'26''$  West to a point,
- Course 2. Along the northwesterly line of Royce Brook Road (50 feet wide), on a curve to the left having a radius of 446.19 feet, a delta angle of  $05^{\circ}30'03''$ , an arc length of 42.84 feet, and having a chord length of 42.82 feet and a chord bearing of South  $28^{\circ}24'57''$  West to a point,
- Course 3. Along the southerly line of Vroom Drive (50 feet wide), on a curve to the left having a radius of 15.00 feet, a delta angle of  $97^{\circ}57'08''$ , an arc length of 25.64 feet, and having a chord length of 22.63 feet and a chord bearing of North  $23^{\circ}18'39''$  West to a point of tangency,
- Course 4. Still along the southerly line of Vroom Drive (50 feet wide), North  $72^{\circ}17'13''$  West 139.57 feet to a point, thence
- Course 5. Along a portion of the line of Lot 91 in Block 199 South  $17^{\circ}42'47''$  West 6.00 feet to a point, thence
- Course 6. Through the lands of Proposed Lot 18.04 in Block 199 North  $72^{\circ}17'13''$  West 50.00 feet to a point, thence
- Course 7. Passing over the lines of Proposed Lots 18.02 and 18.03 in Block 199 North  $17^{\circ}42'47''$  East 31.00 feet to a point, thence
- Course 8. Passing over the lines of Proposed Lots 18.03 and 18.04 in Block 199 North  $17^{\circ}42'47''$  East 31.00 feet to a point, thence
- Course 9. Through the lands of Proposed Lot 18.02 in Block 199 South  $72^{\circ}17'13''$  East 50.00 feet to a point, thence
- Course 10. Along a portion of the westerly line of Lot 92 of Lot 18.04 in Block 199 South  $17^{\circ}42'47''$  West 6.00 feet to a point, thence
- Course 11. Along the northerly line of Vroom Drive (50 feet wide), South  $72^{\circ}17'13''$  East 158.13 feet to a point of curvature, thence
- Course 12. Still along the northerly line of Vroom Drive (50 feet wide), on a curve to the left having a radius of 15.00 feet, a delta angle of  $71^{\circ}49'54''$ , an arc length of 18.81 feet, and having a chord length of 17.60 feet and a chord bearing of North  $71^{\circ}47'50''$  East to a point, and place of BEGINNING.

Containing 0.2599 acres more or less of land as described above.

Exhibit A