

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E**

ORDINANCE NO. 010-2016

**RE: AN ORDINANCE AUTHORIZING THE GRANT OF
A DRAINAGE EASEMENT TO THE COUNTY OF CAPE MAY ALONG
BELCROFT AVENUE AT THE INTERSECTION OF NEW BRIDGE ROAD,
UPPER TOWNSHIP, NEW JERSEY**

WHEREAS, the County of Cape May with an office at 4 Moore Road, Cape May Court House, New Jersey has submitted a proposed Declaration of Easement (Drainage) to the Township of Upper which provides for a drainage easement along the right of way of an Upper Township road commonly known as Belcroft Avenue, Upper Township, Cape May County, New Jersey; and

WHEREAS, this easement is for the express public purpose of allowing drainage improvements to be constructed, and maintained, by the County to connect to County drainage facilities at New Bridge Road; and

WHEREAS, pursuant to N.J.S.A. 40A:12-13.4 said easement may be granted by the Township for nominal consideration; and

WHEREAS, the Township Committee of the Township of Upper has determined it is in the best interest of the Township to grant said Declaration of Easement for nominal consideration and authorize the execution of same; and

WHEREAS, the Declaration of Easement has been reviewed and approved by the Municipal Attorney and the Municipal Engineer and will be on record in the office of the Township Clerk available for public inspection.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee, in the Township of Upper, County of Cape May and State of New Jersey, as follows:

SECTION 1. The Township of Upper is hereby authorized to grant to the County of Cape May, for nominal consideration, a drainage easement over the road commonly known as Belcroft Avenue, Upper Township, Cape May County, New Jersey as set forth in the Declaration of Easement attached hereto as Exhibit A.

SECTION 2. The Mayor, Township Clerk and other Township officers and representatives are hereby authorized, directed and empowered to execute the Declaration of Easement on behalf of the Township of Upper along the Township's road commonly known as Belcroft Avenue, Upper Township, Cape May County, New Jersey, as more particularly described in Exhibit A attached hereto.

SECTION 3: SEVERABILITY: If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

SECTION 4. EFFECTIVE DATE: This ordinance shall take effect immediately upon adoption and publication as required by law.

ATTEST:


BARBARA L. YOUNG, Township Clerk


RICHARD PALOMBO, Mayor

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE **9th DAY OF MAY, 2016** AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE **13th DAY OF JUNE, 2016** AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.

BARBARA L. YOUNG, TOWNSHIP CLERK
TOWNSHIP OF UPPER

Legislative History:

Introduced: May 9, 2016

Publication: May 13, 2016

Newspaper(s): The Press of Atlantic City

Second Reading and Public Hearing: June 13, 2016

Final Adoption: June 13, 2016

Final Publication Date: June 16, 2016

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on June 13, 2016 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on June 16, 2016.


BARBARA L. YOUNG, Township Clerk

PREPARED BY:

JAMES B. ARSENAULT, JR., ESQ.
Cape May County Counsel

**DECLARATION OF EASEMENTS
(DRAINAGE)**

THIS DECLARATION OF EASEMENTS is made on the 16th day of JUNE, 2016, by **THE TOWNSHIP OF UPPER**, a municipal corporation of the State of New Jersey whose principal offices are located at 2100 Tuckahoe Road, Petersburg, New Jersey 08270 (hereinafter referred to as "Grantor") in favor of **THE COUNTY OF CAPE MAY**, a body corporate and politic of the State of New Jersey, with offices at 4 Moore Road, Cape May Court House, New Jersey 08210 (hereinafter referred to as "Grantee"). The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

THE EASEMENTS are granted by Grantor to Grantee for and in consideration of One (\$1.00) Dollar and other good and valuable consideration, receipt of which is hereby acknowledged.

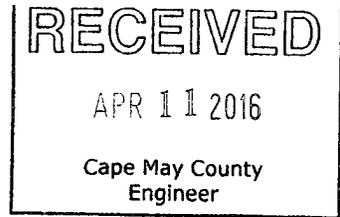
THE LANDS AFFECTED by the Declaration of Easements are as described on Schedule "A" (identified as the "Drainage Easement") dated March 11, 2016 and prepared by William B. Fahber, P.L.S. (N.J. Lic. No, 24GS03595700) on behalf of the Office of the Cape May County Engineer, attached hereto and made a part hereof. The affected lands are more particularly shown on a plan entitled "Individual Property Parcel Map, Parcel E3, New Bridge Road/Corson Tavern Road (CR628) Roadway Improvements" dated March 10, 2016, prepared by the Urban Engineers, Inc. of Cherry Hill, New Jersey on behalf of the Office of the Cape May County Engineer, attached hereto as Schedule "B" and made a part hereof.

SAID AFFECTED LANDS, containing some 3,201sf +/-, are a part of the lands and premises owned and/or maintained by the Township of Upper as Belcroft Avenue, an improved municipal street, and will allow drainage improvements to be constructed by the County to connect to County drainage facilities at New Bridge Road (County Road 628), all within the Township of Upper, County of Cape May and State of New Jersey.

THE TERMS OF THIS DECLARATION are as follows:

1. Upon reasonable notice to Grantor, Grantee is permitted to place, construct, erect, operate, maintain, inspect and if necessary replace drainage facilities across the described premises. This shall include the installation of a storm drain and associated improvements.
2. Grantee shall have the right of ingress and egress to and over said described premises at any and all times for the purpose of constructing, repairing, inspecting or patrolling the said drainage facilities and for doing anything necessary, useful or convenient for the enjoyment of the easement herein granted.
3. Grantee shall have the right to remove at any time any or all of the drainage improvements erected upon, under or on the described premises.
4. Grantee shall be indemnified and held harmless from and against any claim, liability, damage or expense (including reasonable attorney's fees) that Grantee may incur relating to, arising out of or existing upon the negligence or otherwise wrongful conduct on the part of the Grantor's (its agents, successors or assigns) activities within the described premises.

SCHEDULE “A”



(WBF:wbf) 3/11/2016

Drainage Easement
to be conveyed
by
The Township of Upper
to
The Cape May County Board of Chosen Freeholders

AN Easement in certain lands situate, lying and being in The Township of Upper, in the County of Cape May and State of New Jersey and particularly described as follows:

Parcel E3, as indicated on a map attached hereto and made a part hereof, marked "Exhibit B" entitled "INDIVIDUAL PROPERTY PARCEL MAP; PARCEL E3, NEW BRIDGE ROAD/CORSONS TAVERN ROAD (CR 628) ROADWAY IMPROVEMENTS"; dated 3/10/2016; and also being part of construction project New Bridge Road/Corsons Tavern Road (C.R. 628) Roadway Improvements from South of Unnamed Street to Somers Avenue, Township of Upper, County of Cape May, State of New Jersey.

Parcel E3, consisting of the permanent right to access, construct, reconstruct and maintain subsurface drains, manhole and appurtenances as far as the line marked "DRAINAGE EASEMENT LINE", as shown on the aforesaid maps. The drainage improvements shown are for illustration purposes only. The County reserves the right to place all drainage improvements as far as the line marked "Drainage Easement Line", as shown on the aforesaid maps.

SUBJECT, HOWEVER, to all public utility easements, recorded or unrecorded, affecting the herein described premises.

The above described premises are color-coded on "Exhibit B" in the following manner:
GREEN – DRAINAGE EASEMENT LINE.

William B. Fahber, P.L.S.
NJ Lic. No. 24GS03595700

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SCHEDULE “B”

