

RESOLUTION NO. 24-

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH**

**Resolution Updating Fair Market Value And Authorizing And
Directing The Acquisition Of Easements On Property Located In The Township Of
Middletown Designated As Block 265, Lot 66 By Purchase Or Eminent Domain**

WHEREAS, the United States Army Corps of Engineers ("**USACE**") conducted an investigation and identified areas located in the Township of Middletown (the "**Township**") that were subject to significant coastal storm damage and tide-induced flooding; and

WHEREAS, the USACE's investigation resulted in the Raritan Bay and Sandy Hook Bay, Port Monmouth Feasibility Report for Hurricane and Storm Damage Reduction (the "**Feasibility Report**") dated September 25, 2000; and

WHEREAS, under Section 101 of the Water Resources Development Act of 2000, and based on the Feasibility Report, the United States Congress authorized a hurricane and storm damage reduction project in the Raritan Bay and Sandy Hook Bay, Port Monmouth, New Jersey; and

WHEREAS, the hurricane and storm damage reduction project included the Raritan Bay and Sandy Hook Bay, Port Monmouth, Phase II, NJ Flood Risk Management Project (the "**Project**"); and

WHEREAS, under public law 113-2, the Disaster Relief Appropriation Act of 2013, Chapter 4, Congress appropriated funds for this Project; and

WHEREAS, the USACE is now implementing the Project, which provides for hurricane and storm damage reduction and flood risk management and calls for certain improvements on certain real property, including, but not being limited to the construction of a floodwall and/or levee, road closure gates, interior drainage structures and other related work; and

WHEREAS, pursuant to Ordinance No. 2021-3324, the Township is authorized and directed to acquire by purchase or gift, or, in the alternative, to take, or condemn certain real property identified as necessary components under the Project's Phase II Contracts 4b and 5 for the purchase price and/or fair and just compensation as valued by the appraisal reports issued by J. McHale & Associates, Inc. (the "**Appraiser**"), subject to and upon receipt of final approval required by the Project's Phase II Contracts 4b and 5 and the adoption of a resolution by the Township Committee memorializing the same; and

WHEREAS, on August 15, 2022, pursuant to Resolution No. 22-206, the Township accepted the initial valuation by the Appraiser of the easements to be acquired at Block 265, Lot 66 (the "**Property**") following the Township's review and approval pursuant to the Project's Phase II Contract 4b; and

WHEREAS, the initial valuation of the Property is now out-of-date and has been updated by the Appraiser; and

WHEREAS, the Township is in receipt of the updated appraisal report reviewed and approved pursuant to the Project's Phase II Contract 4b for the Property and wishes to proceed with the acquisition of the Property for the Project.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Middletown in the County of Monmouth, State of New Jersey, as follows:

Section 1. That the Township Committee hereby accepts the Appraiser's updated valuation of the Property as having been performed in a competent manner and in accordance with the relevant appraisal standards and the applicable law as establishing the fair market value of the Property at \$90,000 (the "**Cost of Acquisition**").

Section 2. The Mayor, Township Administrator, Spiro Harrison & Nelson LLC and/or any other attorneys retained by the Township for purposes of the Project, and such other officials, employees and agents of the Township, specifically including, but not limited to professional appraisers, environmental experts, consulting engineers, surveyors and similar professionals as are appropriate, are hereby authorized and directed to execute such documents and to perform all other acts necessary to negotiate in good faith or take, condemn (including the institution of any necessary legal action to acquire the Property including but not limited to action to gain necessary access to the Property for related purposes) or to acquire title to the Property for dedication to the Project; and the Mayor and Township Clerk are hereby authorized and directed to execute any and all documents necessary for the acquisition of said Property; however, no settlement figure, purchase price or stipulation to purchase in excess of the Cost of Acquisition shall be binding on the Township or its agents until the Township Committee gives final approval to such figure or price by resolution.

Section 3. The Chief Financial Officer of the Township is hereby authorized and directed to pay the purchase price and/or fair and just compensation to the owner of record in the amount of the Cost of Acquisition for the Property as valued by the updated appraisal report issued by J. McHale & Associates, Inc., as well as to pay the Township's share of costs connected with title reports, appraisal reports, attorney's fees,

professional consultant's fees, and other costs necessary for the general acquisition of the Property by way of condemnation of the Property.

This resolution shall take effect immediately and shall supersede and replace Resolution No. 22-206 only as regards the Cost of Acquisition for Block 265, Lot 66.