

ORDINANCE NO. 2022-3337

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH**

**ORDINANCE AMENDING ORDINANCE NO. 2021-3327 ESTABLISHING FAIR
MARKET VALUE FOR PROPERTY IDENTIFIED AS BLOCK 865, LOT 134 GENERALLY
KNOWN AS FAIR VIEW FIELDS WITHIN THE TOWNSHIP OF MIDDLETOWN AND
AUTHORIZING ACQUISITION OF BLOCK 865, LOT 134 BY PURCHASE OR
EMINENT DOMAIN FOR THE PURPOSE OF MAINTAINING THE PUBLIC
RECREATIONAL FACILITIES ON SITE**

WHEREAS, the Township of Middletown (the "**Township**"), pursuant to the provisions of the "Local Lands and Building Laws," N.J.S.A. 40A:12-1 et seq. and the "Eminent Domain Act of 1971", N.J.S.A. 20:3-1 et seq. has determined it necessary to acquire lands and premises identified as Block 865, Lot 134 on the official tax map of the Township (the "**Property**"), which is necessary for continued public recreation that has taken place on the Property for approximately 30 years; and

WHEREAS, the Property is owned by the Fair View Cemetery Association; and

WHEREAS, the Property's fair market value was previously determined to be \$2,235,000 under Ordinance No. 2021-3327; and

WHEREAS, the Township has determined that a reasonable value for a voluntary conveyance of the Property to avoid various costs, including but not limited to litigation costs is now \$3,100,000 under current market conditions.

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

SECTION 1. Authorization to Acquire

Pursuant to the provisions of the "Local Lands and Building Laws," N.J.S.A. 40A:12-1 et seq. and the "Eminent Domain Act of 1971", N.J.S.A. 20:3-1 et seq., the Township hereby authorizes and directs the acquisition of Block 865, Lot 134 by either purchase or eminent domain for public recreational purposes.

SECTION 2. Cost of Acquisition

The Township hereby accepts a valuation of \$3,100,000 (the "**Cost of Acquisition**") as having been established in accordance with applicable law as establishing the fair market value for the Property inclusive various costs of acquisition including but not limited to the avoidance of the costs of litigation. The Chief Financial

Officer of the Township is hereby authorized and directed to pay the Cost of Acquisition as well as to pay the Township's costs connected with title reports, appraisal reports, attorney's fees, professional consultant's fees, and other costs necessary for the acquisition of the Property by way of purchase or eminent domain.

SECTION 3. Authority of Agents

The Mayor, Township Administrator, Chief Financial Officer, Archer & Greiner, PC, 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 to take by eminent domain (including the institution of any necessary legal proceedings) to acquire title to Block 865, Lot 134.

SECTION 4. Repealer

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are, to the extent of such inconsistency, hereby repealed, including specifically Ordinance No. 2021-3327.

SECTION 5. Severability

Should any section, clause, sentence, phrase or provision of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 6. Effective Date

This ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.