

ORDINANCE NO. 2023-

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH**

**Ordinance Authorizing Execution Of Quitclaim Deed Releasing
Reversionary Rights And Amending And Restating Restrictive
Covenants Upon Block 607, Lot 6 Pursuant To Settlement
Agreement Between The Township And The Nj Titans Hockey
Club In Consideration For \$1.5 Million**

WHEREAS, on April 16, 2012, pursuant to Ordinance No. 2012-3058, the Township of Middletown (the "**Township**") authorized the sale of what was then known as the Middletown Swim Club located upon Block 607, Lot 6 (the "**Property**") for \$1,370,000 to a non-profit corporation known as the NJ Titans Hockey Club (the "**Titans**"), which maintained the pre-existing swimming facilities while building hockey rinks and associated uses on the Property; and

WHEREAS, the Property was conveyed from the Township to the Titans by way of deed dated August 13, 2012 (the "**Deed**"); and

WHEREAS, the Deed contained certain restrictions requiring that the Property be used for fee based public recreational purposes in perpetuity (the "**Deed Restrictions**"), subjecting the Property to noticeable reversionary rights held by the Township wherein the Township could provide 30 days' notice of its intent to enforce its reversionary interest and thereafter take steps to cause title to the Property to revert to the Township (the "**Reversionary Interest**"); and

WHEREAS, over the last decade various disputes concerning the use of the Property, including use for "public recreation," under the terms of the Deed (the "**Disputes**") have arisen between the parties resulting in multiple litigation matters before the Tax Court; and

WHEREAS, on May 1, 2023, pursuant to Resolution No. 23-151, the Township authorized and entered into a Settlement Agreement with the Titans to resolve the Disputes; and

WHEREAS, the Settlement Agreement requires the Township and the Titans to modify the Deed to remove the Reversionary Interest and release the Deed Restrictions in 10 years in exchange for the Titans paying additional consideration of \$1.5 million above and beyond the original 2012 purchase price to the Township (the "**Additional Consideration**"); and

WHEREAS, in the interest of carrying out the terms of the Settlement Agreement to resolve the Disputes between the parties, the Township wishes to modify the Deed in exchange for the Additional Consideration.

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 Amend Deed

The Mayor is hereby authorized and directed to execute all documents necessary to effectuate the entry of a modified Deed in accordance with the terms of the Settlement Agreement in the form attached hereto and made part hereof.

SECTION 2. Severability.

If any section, subsection or paragraph of this ordinance is declared unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, such chapter, section subchapter or paragraph shall to the extent that is not held unconstitutional, invalid or inoperative remain in full force and effect and shall not affect the remainder of this ordinance.

SECTION 3. Repealer.

All ordinances and resolutions, and parts of ordinances and resolutions which are inconsistent with provisions of this ordinance shall be, and are hereby, repealed to the extent of any such inconsistency.

SECTION 4. Effective Date.

This ordinance shall take effect after final adoption and approval pursuant to law.