

**ORDINANCE NO. 2024-3418**

**TOWNSHIP OF MIDDLETOWN  
COUNTY OF MONMOUTH**

**ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 2023-3371 SOLELY AS TO THE ESTABLISHED FAIR MARKET VALUE FOR PROPERTY IDENTIFIED AS BLOCK 1045, LOT 2 (NUT SWAMP ROAD), BLOCK 1045, LOT 3 (1114 NUT SWAMP ROAD), AND BLOCK 1045, LOT 4 (DWIGHT ROAD) WITHIN THE TOWNSHIP OF MIDDLETOWN**

**WHEREAS**, pursuant to the provisions of the “Local Lands and Buildings Law,” 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 of Middletown (the “**Township**”) is authorized to acquire, by condemnation or voluntary acquisition, land or premises for public use for the public purpose of maintaining open space and enhancing public recreational opportunities; and

**WHEREAS**, on June 5, 2023, pursuant to Ordinance No. 2023-3371, the Township established the fair market value for Block 1045, Lot 2 (Nut Swamp Road), Block 1045, Lot 3 (1114 Nut Swamp Road), and Block 1045, Lot 4 (Dwight Road) on the official tax map of the Township (collectively, the “**Nut Swamp Road Property**”) and authorized its acquisition by purchase or eminent domain for the purpose of maintaining open space and enhancing public recreational opportunities in the Township; and

**WHEREAS**, Ordinance No. 2023-3371 established the fair market value for the Nut Swamp Road Property at \$740,000 based on an appraisal report dated May 15, 2023 prepared by Gagliano & Company (the “**Appraiser**”), the independent appraiser hired by the Township to evaluate the Nut Swamp Road Property in order to determine the fair market value for purposes of acquiring the Nut Swamp Road Property; and

**WHEREAS**, the passage of time has led to an increase in the fair market value of the Nut Swamp Road Property, requiring amendment of Ordinance No. 2023-3371 solely to increase the fair market value established for the Nut Swamp Road Property; and

**WHEREAS**, pursuant to an updated appraisal report dated December 5, 2023, the Appraiser determined the Nut Swamp Road Property to have a fair market value of \$760,000 as of November 3, 2023; and

**WHEREAS**, on April 18, 2024, the Township made a good faith offer to purchase the Nut Swamp Road Property from The Franklin at Middletown, LLC, the record owner of the Nut Swamp Road Property, for the fair market value of \$760,000 as of November 3, 2023, which offer was not accepted by The Franklin at Middletown, LLC.

**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. Fair Market Value**

Ordinance No. 2023-3371 adopted by the governing body of the Township on June 5, 2023 is hereby amended and restated solely with regard to the fair market value established for the Nut Swamp Road Property.

The Township accepts that the fair market value of the Nut Swamp Road Property as of November 3, 2023 is \$760,000 and accepts that valuation as having been performed by the Appraiser in a competent manner and in accordance with applicable laws and as establishing the fair market value of the Nut Swamp Road Property as of November 3, 2023.

### **SECTION 2. 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.

### **SECTION 3. 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 4. Effective Date**

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