

ORDINANCE NO. 2022 -3344

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH**

Ordinance Amending Ordinance No. 2021-3314 Modifying the Easements Area on Block 136, Lot 3, Main Street Row, And Brainard Avenue Row, Which Easements Are Upon Portions of Township-Owned Property Pursuant to The Raritan Bay and Sandy Hook Bay, Hurricane and Storm Damage Reduction Project, Port Monmouth, New Jersey, Phase II (Contract 5)

WHEREAS, the Township of Middletown (“Middletown”) recognizes that coastal storm damage and tide-induced flooding in Port Monmouth is a significant concern that threatens safety of life and property of the citizens of Middletown and the State of New Jersey; and,

WHEREAS, Middletown and the State of New Jersey (“State”) desire to participate with each other and the United States Army Corps of Engineers to construct the Raritan Bay and Sandy Hook Bay, Hurricane and Storm Damage Reduction Project, Port Monmouth, New Jersey, Phase II, as defined in the January 31, 2014 Project Partnership Agreement, executed between the New Jersey Department of Environmental Protection and the United States Army Corps of Engineers; and

WHEREAS, in order to accomplish Phase II (Contract 5), Middletown and the State require deeds of easement upon portions of certain real property owned by Middletown, which were approved by way of Ordinance No. 2021-3314; and

WHEREAS, Middletown and the State have determined that an amendment to the Deed of Dedication and Perpetual Flood Protection Levee Easement is required to expand the easement area to be conveyed in Block 136, Lot 3, the Deed of Dedication and Perpetual Pipeline Easement to expand the easement area to be conveyed in the Main Street ROW and Brainard Avenue ROW, and the Temporary Work Area Easement to expand the easement area to be conveyed in Block 136, Lot 3 and Brainard Avenue ROW, and to decrease the easement area to be conveyed in the Main Street ROW in order to accomplish Phase II (Contract 5); and

WHEREAS, the Deed of Dedication and Perpetual Flood Protection Levee Easement, the Deed of Dedication and Perpetual Pipeline Easement, and the Temporary Work Area Easement granted by way of Ordinance No. 2021-3314 are hereby amended and superseded as provided in **Exhibit A** attached hereto, modifying the easement areas to be conveyed in Block 136, Lot 3, the Main Street ROW and Brainard Avenue ROW; and

WHEREAS, N.J.S.A. 40A:12-13(b)(1) authorizes Middletown to convey an easement upon its real property to any department or political subdivision of the State of New Jersey pursuant to duly adopted ordinance.

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

1. The findings set forth in the foregoing preamble are hereby incorporated as if fully restated.
2. The Mayor and Township Clerk are hereby authorized to execute the Deed of Dedication and Perpetual Flood Protection Levee Easement, the Deed of Dedication and Perpetual Pipeline Easement, and the Temporary Work Area Easement granted by way of Ordinance No. 2021-3314, as modified by **Exhibit A** attached hereto, subject to the final review and approval of the Township Attorney.
3. The Mayor, Township Clerk, Township Attorney, and Township Administrator are hereby authorized and directed to execute and file any and all such documents and undertake any and all such actions as may be reasonably necessary to effectuate the terms hereof.
4. All ordinances and resolutions, and parts of ordinances and resolutions, and specifically Ordinance No. 2021-3314, which are inconsistent with provisions of this ordinance shall be, and are hereby, repealed to the extent of any such inconsistency.
5. This Ordinance shall take effect upon passage and publication in accordance with law.

EXHIBIT A