

Ordinance No. 2022-3360

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$850,000 FOR THE ACQUISITION OF EASEMENTS AND REAL PROPERTY FOR THE PORT MONMOUTH FLOOD CONTROL PROJECT BY AND FOR THE TOWNSHIP OF MIDDLETOWN IN THE COUNTY OF MONMOUTH, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$807,500 IN BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION.

BE IT ORDAINED, BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MIDDLETOWN, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) **AS FOLLOWS:**

SECTION 1:

The improvements described in Section 3 of this bond ordinance (the “Improvements”) are hereby authorized to be undertaken by the Township of Middletown, New Jersey (the “Township”) as a general improvement. For the said Improvements there is hereby appropriated the amount of \$850,000, such sum includes the sum of \$42,500 as the down payment (the “Down Payment”) required by the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 5A, Municipalities and Counties of the Revised Statutes of New Jersey (the “Local Bond Law”). The Down Payment is now available by virtue of provision in one or more previously adopted budgets for down payments for capital improvement purposes.

SECTION 2:

In order to finance the cost of the Improvements not covered by application of the Down Payment, negotiable bonds of the Township are hereby authorized to be issued in the principal amount of \$807,500 pursuant to the provisions of the Local Bond Law (the “Bonds”). In anticipation of the issuance of the Bonds and to temporarily finance said improvements or purposes, negotiable bond anticipation notes of the Township are hereby authorized to be issued in the principal amount not exceeding \$807,500 pursuant to the provisions of the Local Bond Law (the “Bond Anticipation Notes” or “Notes”).

SECTION 3:

(a) The Improvements hereby authorized and the purposes for which obligations are to be issued is for the acquisition of easements for the Port Monmouth Flood Control Project, identified as Block 265, Lot 31.04, Block 265, Lot 65, Block 276, Lot 78, Block 265, Lot 31.03, Block 265, Lot 67, Block 265, Lot 70, Block 133, Lot 11, Block 139, Lot 7, Block 133, Lot 12, Block 265, Lot 68, Block 26, Lot 2.01, Block 137, Lot 2.06, Block 136, Lot 7, Block 276, Lot 77.03, Block 276, Lot 77.01, Block 265, Lot 62 and 63, Block 265, Lot 64 and Block 265, Lot

66, and for the acquisition of real property for the Port Monmouth Flood Control Project, identified as Block 136, Lot 5 and Block 276, Lot 77.022, all as shown and in accordance with the plans and specifications therefor on file in the Office of the Clerk.

(b) The estimated maximum amount of Bonds or Notes to be issued for the purpose of financing a portion of the cost of the Improvements is \$807,500.

(c) The estimated cost of the Improvements is \$850,000, which amount represents the initial appropriation made by the Township.

SECTION 4:

All Bond Anticipation Notes issued hereunder shall mature at such times as may be determined by the chief financial officer of the Township (the "Chief Financial Officer"); provided that no Note shall mature later than one year from its date. The Notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Officer shall determine all matters in connection with Notes issued pursuant to this ordinance, and the signature of the Chief Financial Officer upon the Notes shall be conclusive evidence as to all such determinations. All Notes issued hereunder may be renewed from time to time subject to the provisions of Section 8(a) of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the Notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body of the Township at the meeting next succeeding the date when any sale or delivery of the Notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Notes sold, the price obtained and the name of the purchaser.

SECTION 5:

The capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey is on file with the Township Clerk and is available for public inspection.

SECTION 6:

The following additional matters are hereby determined, declared, recited and stated:

(a) The Improvements described in Section 3 of this bond ordinance are not current expenses, and are capital improvements or properties that the Township may lawfully make or acquire as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of the Improvements, within the limitations of the Local Bond Law, taking into consideration the respective amounts of all obligations authorized for the several purposes, according to the reasonable life thereof computed from the date of the Bonds authorized by this bond ordinance, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Township Clerk and a complete executed duplicate thereof has been filed in the office of the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey. Such statement shows that the gross debt of the Township, as defined in the Local Bond Law, is increased by the authorization of the Bonds and Notes provided in this bond ordinance by \$807,500 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$100,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

SECTION 7:

Any funds received from time to time by the Township as contributions in aid of financing the purposes described in Section 3 of this Ordinance shall be used for financing said Improvements by application thereof either to direct payment of the cost of said Improvements or to the payment or reduction of the authorization of the obligations of the Township authorized therefor by this Bond Ordinance. Any such funds received may, and all such funds so received which are not required for direct payment of the cost of said Improvements shall, be held and applied by the Township as funds applicable only to the payment of obligations of the Township authorized by this Bond Ordinance.

SECTION 8:

The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

SECTION 9:

The Chief Financial Officer of the Township is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Township and to execute such disclosure document on behalf of the Township. The Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Township and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof,

provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Township fails to comply with its undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 10:

This Bond Ordinance constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Township reasonably expects to pay expenditures with respect to the Improvements prior to the date that Township incurs debt obligations under this Bond Ordinance. The Township reasonably expects to reimburse such expenditures with the proceeds of debt to be incurred by the Township under this Bond Ordinance. The maximum principal amount of debt expected to be issued for payment of the costs of the Improvements is \$807,500.

SECTION 11:

This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

PASSED ON FIRST READING: November 21, 2022

PASSED AND APPROVED: