

ORDINANCE NO. 2023-

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH**

**Ordinance Establishing Fair Market Value For Property Identified As Block 835,
Part Of Lot 18 Within The Township Of Middletown And Authorizing
Acquisition Of This Property By Purchase Or Eminent Domain For The Purpose
Of Maintaining Open Space And Enhancing Public Recreational Opportunities**

WHEREAS, the Township of Middletown (the "**Township**"), pursuant to the provisions of the Local Lands and Building Law, N.J.S.A. 40A:12-1 et seq. and the Eminent Domain Act, N.J.S.A. 20:3-1 et seq. has determined it necessary to acquire lands and premises identified as Block 835, Part of Lot 18 on the official tax map of the Township (the "**Property**"), which is necessary for open space and public recreational purposes; and

WHEREAS, in the November 3, 2020 general election, Township voters approved an increase of the annual collection rate to the Middletown Open Space, Recreation, Floodplain Protection, Farmland and Historic Preservation Trust Fund ("**Trust Fund**") from two cents per \$100 in equalized valuation to three cents per \$100 in equalized valuation to enhance open space and recreation opportunities in the Township; and

WHEREAS, on April 19, 2021, pursuant to N.J.S.A. 40:12-15.7(b), the Township Committee adopted Ordinance No. 2021-3307 to implement the voter-approved increase to the annual collection rate of the Trust Fund; and

WHEREAS, in calendar year 2022, the Township began collecting this increased tax to bolster the Trust Fund and build financial resources to enhance open space and recreation opportunities within the Township; and

WHEREAS, to the best of the Township's knowledge, the Property is owned by Joseph, Victor and Herman Tretter and/or their estate; and

WHEREAS, the Township hired an independent appraiser to evaluate the Property in order to determine the fair market value for the purpose of acquiring the Property; and

WHEREAS, the Property was appraised by Gagliano & Company (the "**Appraiser**") and determined to have fair market value of \$820,000 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 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 hereby authorizes and directs the acquisition of Block 835, Part of Lot 18 by either purchase or eminent domain for open space and public recreational purposes.

SECTION 2. Cost of Acquisition

The Township hereby accepts a valuation of \$820,000 (the "**Cost of Acquisition**") as having been established by the Appraiser as having been performed in a competent manner and in accordance with applicable law as establishing the fair market value of the Property. 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, attorneys' fees, professional consultants' 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, Spiro Harrison & Nelson LLC, 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 acts necessary to negotiate in good faith and to take by eminent domain (including the institution of any necessary legal proceedings) to acquire title to Block 835, Part of Lot 18.

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.

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.

