

ORDINANCE NO. 2023 -3402

TOWNSHIP OF MIDDLETOWN  
COUNTY OF MONMOUTH

ORDINANCE AMENDING ORDINANCE NO. 2021-3313 TO REVISE THE DEED OF DEDICATION AND PERPETUAL FLOOD PROTECTION LEVEE EASEMENT AREA AND TEMPORARY WORK AREA EASEMENT AREA ON BLOCK 265, LOT 60.01, BLOCK 268, LOTS 27-28, BLOCK 276, LOTS 47 & 77.021, AND RIGHTS OF WAY ON WOODSTOCK AVENUE, CAMPBELL AVENUE, BROADWAY, AND MAIN STREET AND AUTHORIZING THE GRANTING OF A DEED OF DEDICATION AND PERPETUAL FLOOD PROTECTION LEVEE EASEMENT ON BLOCK 276, LOT 77.022, ON 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 4)

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 ("Project"); and

WHEREAS, in order to accomplish Phase II (Contract 4) of the Project, 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. 2021-3313 ("Easements"); and

WHEREAS, Middletown and the State have determined that an amendment to the Deed of Dedication and Perpetual Flood Protection Levee Easement and Temporary Work Area Easement is required to revise the easement areas to be conveyed on Block 265, Lot 60.01, Block 268, Lots 27-28, Block 276, Lots 47 and 77.021, and the Rights of Way on Woodstock Avenue, Campbell Avenue, Broadway, and Main Street in order to accomplish Phase II (Contract 4); and

WHEREAS, the Deed of Dedication and Perpetual Flood Protection Levee Easement and Temporary Work Area Easement granted by way of Ordinance No. 2021-3313 are hereby amended and superseded as provided on **Exhibit A** and in the legal description(s), attached hereto as **Exhibit B**, revising the easement areas to be conveyed on Block 265, Lot 60.01, Block 268, Lots 27-28, Block 276, Lots 47 and 77.021, and the Rights of Way on Woodstock Avenue, Campbell Avenue, Broadway, and Main Street; and

WHEREAS, on December 19, 2022, pursuant to Ordinance No. 2022-3361, the Township authorized the purchase of real property known as Block 276, Lot 77.022 (the "Walling Property") owned by Bruce D. Walling and Arlene Walling, a portion of which is required to complete the Project; and

WHEREAS, the Township and the State have determined that an amendment to the Easements is necessary to grant a flood protection levee easement on the Walling Property to the State to complete Phase II (Contract 4); and

WHEREAS, the Easements granted by way of Ordinance No. 2021-3313 are hereby amended and superseded as provided in **Exhibit A** attached hereto, which adds a flood protection levee easement on the Walling Property and revises the easement areas to be conveyed; 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:

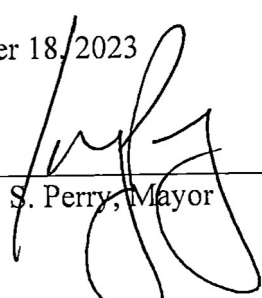
1. The findings set forth in the foregoing preamble are hereby incorporated as if fully restated.
2. The Mayor and Township Clerk are hereby authorized to execute the Deed of Dedication and Perpetual Flood Protection Levee Easement and Temporary Work Area Easement granted by way of Ordinance No. 2021-3313, as modified by the addition of a permanent flood protection easement on Block 276, Lot 77.022 as shown on **Exhibit A**, and as further modified by the legal description(s) attached hereto as **Exhibit B**, 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. 2021-3313, 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.

PASSED ON FIRST READING:

December 4, 2023

PASSED AND APPROVED:

December 18, 2023

  
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Anthony S. Perry, Mayor

ATTEST:

  
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Heidi R. Pieluc, Township Clerk

EXHIBIT A

**Description of Perpetual Flood Protection Levee Easement – Port Monmouth Phase II**  
**Contract 4b**

A permanent easement to construct and maintain a flood protection levee across portions of Block 265, Lot 60.01, Block 268, Lots 27-28, Block 276, Lots 47, 77.021, and 77.022, and the rights-of-way of Woodstock Avenue, Broadway, Campbell Avenue, and Main Street, as shown on the map titled "Perpetual Flood Protection Levee Easement – Port Monmouth – Phase II-Contract 4b," located in the Twp. of Middletown, Monmouth County, New Jersey.

<b><u>BLOCK</u></b>	<b><u>LOT</u></b>	<b><u>AREA</u></b> <b><u>(acres)</u></b>
265	60.01	.204
268	27 & 28	.337
276	47	2.378
276	77.021	.188
276	77.022	.190
Woodstock Avenue		.095
Broadway		.156
Campbell Avenue		.140
Main Street		.008

**Description of Temporary Work Area Easement – Port Monmouth Phase II**  
**Contract 4b**

A Temporary Work Area Easement across portions of Block 268, Lots 27-28, Block 276, Lot 47, and the right-of-way of Broadway, as needed to construct the various features within Contract 4b of the Raritan Bay and Sandy Hook Bay Hurricane and Storm Damage Reduction Project, as shown on the map titled "Temporary Work Area Easement – Port Monmouth – Phase II-Contract 4b," located in the Twp. of Middletown, Monmouth County, New Jersey.

<b><u>BLOCK</u></b>	<b><u>LOT</u></b>	<b><u>AREA</u></b> <b><u>(acres)</u></b>
268	27 & 28	.882
276	47	1.812
Broadway		.027