

**TOWNSHIP OF HAMILTON
COUNTY OF MERCER, NEW JERSEY**

ORDINANCE

No. **24-010**

1ST READING February 20, 2024
2ND READING & PUBLIC HEARING March 5, 2024
WITHDRAWN _____ LOST _____

DATE TO MAYOR March 6, 2024
DATE RESUBMITTED TO COUNCIL _____
DATE EFFECTIVE _____

APPROVED AS TO FORM AND LEGALITY

ACTUAL CONTENTS CERTIFIED TO BY

TOWNSHIP ATTORNEY

TITLE

AN ORDINANCE AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY LOCATED AT 1766 and 1768 EAST STATE STREET IN THE TOWNSHIP OF HAMILTON, DESIGNATED AS BLOCK 1637, LOTS 7 AND 6 OF THE HAMILTON TOWNSHIP TAX MAP FOR THE PUBLIC PURPOSE OF AFFORDABLE HOUSING AND THE PROTECTION OF PUBLIC HEALTH AND SAFETY

Whereas on June 9, 2015, a six alarm fire heavily damaged a series of attached homes located on East State Street, in the Bromley Section of the Township, rendering them uninhabitable; and

Whereas the Township previously obtained ownership of eleven (11) properties, commonly known as 1744 through 1764 East State Street, Hamilton, NJ; and

Whereas the Township is in the process of obtaining ownership of 1770 East State Street, Hamilton, NJ; and

Whereas the Township demolished the heavily damaged homes for the protection of Public Health and Safety, and plans to include the properties in its Affordable Housing program; and

Whereas the Township plans to demolish the remaining properties, to wit: 1744 and 1760 through 1770 East State Street, and plans to include the properties in its Affordable Housing program; and

Whereas 1766 East State Street (Block 1637 Lot 7) and 1768 East State Street (Block 1637 Lot 6) are owned by separate entities; and

Whereas the Township obtained appraisals of both 1766 and 1768 East State Street by Richard J. Carabelli, Jr., MAI and Beth Ogilvie, SCCREA, MBA of Martin Appraisal Associates, Inc. The Market Value for each property is One Hundred Twenty-Five Thousand Dollars (\$125,000); and

Whereas the New Jersey Supreme Court and the New Jersey Legislature have recognized and mandated in *So. Burl. Co. NAACP v. Mount Laurel*, 92 N.J. 158 (1983) ("Mount Laurel II") and the Fair Housing Act, N.J.S.A. 52:29D-301, et seq. ("FHA") that every municipality in New Jersey has an affirmative obligation to facilitate the provision of low and moderate income housing; and

Whereas because these properties will be included in the Township Affordable Housing program, the Township has therefore determined that the acquisition of Block 1637, Lot 6 and 7 is in the public interest and will enable the Township to satisfy its Constitutional

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obligation to provide affordable housing, and will further the goals of the Township as set forth in its Master Plan, (see, *Twp. of Robbinsville v. Mercer MHC, LLC, NO. A-5655-17T3 (App. Div. March 25, 2019) certif. denied, 207 A.3d 757 (N.J. 2019)*); and

Whereas the Township is authorized pursuant to N.J.S.A. 40A:12-1 et seq., to acquire properties for the public purposes set forth herein; and

Whereas the Township may acquire Block 1637 Lots 6 and 7 either through voluntary, arms-length negotiations or through condemnation pursuant to the Eminent Domain Act, N.J.S.A. 20:3-1, et seq.; and

Whereas the Township prefers to acquire Lots 6 and 7 of Block 1637 through voluntary negotiations and desires at this time to pursue negotiations with the property owners with a view towards achieving a negotiated agreement that takes into account the reasonable objectives and interests of both parties and that ensures that the properties' owners receive fair and just compensation for the properties; and

Whereas passage of the within ordinance is a legal prerequisite to initiating formal negotiations with the respective owners of the two properties; and

Whereas the Eminent Domain Act provides procedures for a municipality to engage in formal negotiations and, in the even such negotiations are unsuccessful, to file a condemnation action and to secure a determination as the price to be paid as just compensation in advance of the filing of a declaration of taking;

Now Therefore, Be It Ordained by the Township Council of the Township of Hamilton in the County of Mercer, State of New Jersey, as follows:

1. The Township is hereby authorized to initiate proceedings pursuant to the Eminent Domain Act, N.J.S.A. 20:3-1 et seq., to acquire for public use, by voluntary conveyance or by condemnation, a fee simple or lesser titled interest in the land and improvements, if any, located at 1766 East State Street designated as Block 1637, Lot 7 and 1768 East State designated as Block 1637, Lot 8 on the Tax Map of the Township of Hamilton and in the land and improvements, and in connection therewith to do such acts as are required by law to acquire the referenced properties.
2. Adopt the Appraisals dated October 17, 2023 of above-referenced properties by Richard J. Carabelli, Jr., MAI and Beth Ogilvie, SCCREA, MBA of Martin Appraisal Associates, Inc.
3. The Township, through its appropriate staff, employees and officials is hereby authorized and directed to take all such steps as may be advisable or necessary pursuant to N.J.S.A. 40A:12-1, et seq. and N.J.S.A. 20:3-1, et seq. to acquire the above-referenced properties, including but not limited to, obtaining surveys, title searches, and appraisals, and the making of an offer of compensation to the

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owners of the subject properties in an amount not less than the amount of such appraisals as may be approved by Township Council by resolution.

4. The Mayor, Business Administrator, Township Clerk and the Director of Law, and other staff and professionals, are hereby authorized and directed to execute and file any and all such actions and documents and undertake any and all such further actions as may be necessary to accomplish the purposes hereof.
5. The determination to complete the acquisitions upon acceptance of the respective offers by the respective owners of the properties or to file a declaration of taking of one or both properties shall abide the enactment of a further action authorizing same and providing funding for the acquisition.

PRESIDENT

MUNICIPAL CLERK

RECORD OF VOTE													
First Reading							Second Reading						
COUNCIL	AYE	NAY	NV	AB	ORD	SEC	COUNCIL	AYE	NAY	NV	AB	ORD	SEC
PASQUALE "PAT" PAPERIO, JR.	✓						PASQUALE "PAT" PAPERIO, JR.						
NANCY PHILLIPS	✓				✓		NANCY PHILLIPS						
CHARLES F. WHALEN	✓					✓	CHARLES F. WHALEN						
RICHARD L. TIGHE, JR.	✓						RICHARD L. TIGHE, JR.						
ANTHONY P. CARABELLI, JR.	✓						ANTHONY P. CARABELLI, JR.						

X - Indicates Vote A.B. - Absent N.V. - Not Voting ORD. - Moved SEC. - Seconded

REJECTED _____

JEFFREY S. MARTIN, MAYOR

DATE

APPROVED _____

RECONSIDERED BY COUNCIL _____

OVERRIDE VOTE

AYE _____

NAY _____