

ORDINANCE NO. 2023-21-OA^B

ORDINANCE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE ACQUISITION OF A PORTION OF BLOCK 392, LOTS 6 & 7 BY NEGOTIATION, PURCHASE, CONDEMNATION OR EMINENT DOMAIN

April 17, 2023

WHEREAS, N.J.S.A. 40:A12-5 and N.J.S.A. 20:3-1 et seq. authorize public entities to acquire real property or an interest in real property; and

WHEREAS, the Township Council of the Township of Berkeley has deemed it necessary to acquire a portion of the property being identified on the Official Tax Map of the Township of Berkeley as Block 392, Lots 6 & 7, that specific portion being identified in Schedule "A," attached hereto and made a part hereof; and

WHEREAS, the Township hereby approves the acquisition of the property for its fair market value, as determined by Township professionals, and hereby authorizes the Township Attorney to proceed with the required steps to purchase or condemn the property; and

WHEREAS, the Township Council has determined that the public's interest will be served by the acquisition of the property; and

WHEREAS, the Township Council desires to formally authorize the acquisition of the property and the institution of eminent domain proceedings if necessary in order to acquire said property; and

WHEREAS, the Mayor and Governing Body of the Municipality are authorized by the New Jersey State Constitution, N.J.S.A. 40A:12-5(a), N.J.S.A. 20:3-1 et seq., and/or any other provision of applicable law to proceed with acquiring certain property interests by condemnation/ eminent domain;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Governing Body of Township of Berkeley in the County of Ocean and State of New Jersey as follows:

1. **RECITALS INCORPORATED:** The above recitals are incorporated into this section of the Ordinance as if specifically set forth at length herein.

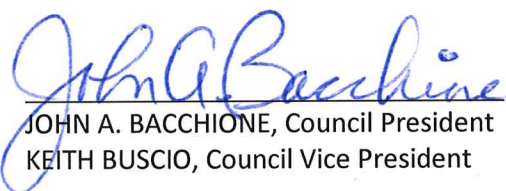
2. **SPECIFIC FINDINGS:** The Mayor and Governing Body of the Municipality find that acquiring that portion of Block 392, Lots 6 & 7, identified in Schedule "A," for public use is in the furtherance of a public use and purpose.
3. **AUTHORIZE CONDEMNATION:** The Mayor and Governing Body of the Municipality specially authorize any and all necessary and appropriate actions by Municipality officials including the Mayor, Municipal Clerk, Municipal Attorney, for the taking and obtaining title to that portion of Block 392, Lots 6 & 7 identified in Schedule "A" through negotiation, purchase, or condemnation/ eminent domain, including, but not limited to, the hiring of any experts, engaging the services of land surveyors, title insurance companies, appraisers, and any other professional whose services are necessary or appropriate to implement the purposes of this Ordinance, the making of any offer by the Municipality to the property owner(s) in the full amount of the appraised value of the property interest that the Municipality seeks to acquire in said property, and to negotiate in good faith with the record owner(s) of the property for its voluntary acquisition in accordance with N.J.S.A. 20:3-6, and in the event that the negotiations for the voluntary acquisition of the property interest are unsuccessful for any reason to commence a condemnation action by the filing of a Verified Complaint and Declaration of Taking, depositing the estimated just compensation with the Clerk of the Superior Court, filing a Lis Pendens, and taking any and all other actions of any administrative or other nature necessary to complete the process contemplated by this Ordinance.
4. **IDENTIFICATION OF PROPERTY:** The property for which a taking of property interests is authorized by negotiation, purchase, or condemnation/ eminent domain pursuant to this Ordinance is a portion of Block 392, Lots 6 & 7 located in the Municipality. The property interests to be acquired is a fee simple leasehold.
5. **OFFICIALS AUTHORIZED:** All appropriate officials of the Municipality, including, but not limited, to the Mayor, Municipal Clerk, Municipal Attorney, Special Condemnation Attorney, and any and all experts or others acting on behalf of the Municipality are authorized by this Ordinance to sign any and all documentation and take any and all action necessary to effectuate the purposes and intention of this Ordinance.
6. **PURCHASE OF PROPERTY:** If a determination is made that the purchase of the property rather than the obtaining said property interest through

condemnation/eminent domain, then all appropriate officials of the Municipality, including, but not limited to, the Mayor, Municipal Clerk and Municipal Attorney are authorized by this Ordinance to sign any and all documentation to effectuate the purchase of the property interests by the Municipality.

7. **REPEALER**: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.
8. **SEVERABILITY**: If any section, paragraph, subdivision, subsection, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause, or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.
9. **EFFECTIVE DATE**: This Ordinance shall take effect immediately upon final adoption and publication as required by law.



CARMEN F. AMATO, JR., Mayor



JOHN A. BACCHIONE, Council President
KEITH BUSCIO, Council Vice President

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Township Council of the Township of Berkeley, in the County of Ocean, State of New Jersey, held on April 17, 2023 and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the 15th day of May 2023, at 6:00 p.m., or as soon thereafter as this matter can be reached, at the meeting room of the Municipal Building located at 627 Pinewald-Keswick Road, Bayville, New Jersey, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.



BEVERLY M. CARLE, RMC
Township Clerk, Township of Berkeley

**LEGAL DESCRIPTION FOR A PORTION OF TAYLOR STREET
TOWNSHIP OF BERKELEY, OCEAN COUNTY, NEW JERSEY**

ALL that certain lot, parcel or tract of land situated and lying in the Township of Berkeley, County of Ocean and State of New Jersey and being more particularly bounded and described as follows:

BEGINNING at the point of intersection created by the northerly right of way line of Manhattan Avenue (55 feet wide), and the easterly right of way line of Taylor Street (50 feet wide), being the Point & Place of Beginning; thence

From said Point & Place of Beginning:

1. Along the Easterly line of Taylor Street, North 07 degrees 05 minutes 34 seconds West, a distance of 150.0, feet to a point; thence
2. North 82 degrees 54 minutes 26 seconds West, a distance of 25.00 feet to a point in the right of way line of Taylor Street; thence
3. Along the former center line of Taylor Street, South 07 degrees 05 minutes 34 seconds East, a distance of 150.00 feet to a point in the northerly line of Manhattan Avenue; thence
4. South 82 degrees 54 minutes 26 seconds East a distance of 25.00 feet to a point in the Easterly line of Taylor Street, said point being the Point & Place of Beginning

Subject to a 20 feet wide easement to BTMUA covering the existing water line and an easement to the Berkeley Township Sewerage Authority.