O-21-26

ORDINANCE OF THE BOROUGH OF WHARTON, COUNTY OF MORRIS, STATE OF NEW JERSEY AUTHORIZING THE ACQUISITION OF CERTAIN PROPERTY IDENTIFIED AS BLOCK 1313, LOT 7 ON THE OFFICIAL TAX MAP OF THE BOROUGH OF WHARTON BY INSTITUTING EMINENT DOMAIN PROCEEDINGS

WHEREAS, N.J.S.A. 40A:12-5 and N.J.S.A. 20:3-1 *et seq.* authorize public entities to acquire real property, or an interest in real property, by purchase, gift, devise, lease, exchange, condemnation, or installment purchase agreement; and

WHEREAS, the Borough Council of the Borough of Wharton (the "Borough") has deemed it necessary to acquire property known as North Main Street and identified on the official Tax Map of Wharton Borough as Block 1313, Lot 7, which is hereinafter referred to as "North Main Street (Block 1313, Lot 7)"; and

WHEREAS, the Borough Council finds and declares that acquisition of North Main Street (Block 1313, Lot 7) would be in the best interests of the Borough and its residents; and

WHEREAS, the Borough Council has engaged the owner of record to purchase North Main Street (Block 1313, Lot 7) in good faith negotiations but has been unable to finalize a sale of said property; and

WHEREAS, the Borough Council has further determined that the public interest will be served by the acquisition of North Main Street (Block 1313, Lot 7) for public use.

NOW THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Wharton, in the County of Morris, and State of New Jersey, as follows:

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

SECTION 2. The Mayor and Council find that it is in the best interests of the Borough to acquire North Main Street (Block 1313, Lot 7).

SECTION 3. The Mayor and Council specially authorize any and all necessary and appropriate actions by municipal officials including the Mayor, Municipal Clerk, the Municipal Attorney and such other officials, consultants, agents, employees, experts and/or professionals as may be necessary and appropriate to acquire North Main Street (Block 1313, Lot 7) through condemnation, pursuant to N.J.S.A. 40A:12-5 and N.J.S.A. 20:3-1 *et. seq.*, including the filing of a Declaration of Taking, the filing of a Condemnation Complaint, and all other proceedings related thereto.

SECTION 4. Any funding that may be required for the acquisition of North Main Street (Block 1313, Lot 7) will be subject to the appropriation and availability of funds for same. The Mayor and such other officials, consultants, agents, employees, and professionals as may be necessary and appropriate shall be, and are hereby authorized to, apply for funding from any and all appropriate sources to accomplish this acquisition.

SECTION 5. The Mayor, Council and such other officials, consultants, agents, employees, and professionals as may be necessary and appropriate shall be and are hereby authorized to enter into a professional services contract with an appraiser, if necessary, for purposes of establishing the fair market value of North Main Street (Block 1313, Lot 7) for purposes of said acquisition.

SECTION 6. The Mayor, Council and such other officials, consultants, agents, employees, and professionals as may be necessary and appropriate shall be and are hereby authorized to enter into a professional services contract with Inglesino Taylor for purposes of providing legal counsel to the Council in connection with the acquisition of North Main Street (Block 1313, Lot 7).

SECTION 7. In conjunction with said acquisition, Wharton Borough reserves and shall reserve any rights it may have had or may recover in any subsequent or pending action or by any administrative means, all costs of remediation and/or clean-up of condemnation and/or removal of solid waste and/or sanitary land fill closures that have been incurred or may be incurred in the future by reason of conditions that were in existence as of or prior to the date of vesting of title and possession of North Main Street (Block 1313, Lot 7) in the name of the Borough of Wharton.

SECTION 8. In conjunction with said acquisition, the Borough reserves and shall reserve the right to seek in its sole discretion any and all available legal, administrative, and equitable remedies to compel the record owners and/or responsible parties to remediate and/or clean up North Main Street (Block 1313, Lot 7) in accordance with applicable state and federal statutory and regulatory provisions or to remove solid waste or carry out closure of a sanitary landfill if located on North Main Street (Block 1313, Lot 7). The Borough is not and shall not be liable for the clean-up and removal costs of any discharge that occurred or began prior to the Borough's ownership of North Main Street (Block 1313, Lot 7).

SECTION 9. The Mayor, Council and such other officials, consultants, agents, employees, experts and professionals of the Borough as may be necessary and appropriate are hereby authorized and directed to take any and all actions necessary to effectuate the purposes of this Ordinance.

SECTION 10. All Borough ordinances or parts thereof that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

SECTION 11. If any section, paragraph, subsection, clause, provision or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such adjudication shall apply only to the section, paragraph, subsection, clause, provision or phrase held to be unconstitutional or invalid, and the remainder of the Ordinance shall remain in full force and effect and shall be deemed valid and enforceable.

SECTION 12. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

First Reading: November 9, 2026
Second Reading: November 23, 2026

BOROUGH OF WHARTON

ATTEST:

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WILLIAM J. CHEGWIDDEN, MAYOR

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Cheryl Muzzillo,
Borough Clerk