

ORDINANCE NO. 2018-3218

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH**

**ORDINANCE ESTABLISHING FAIR MARKET VALUE AND AUTHORIZING AND
DIRECTING THE ACQUISITION OF PROPERTY LOCATED IN THE TOWNSHIP OF
MIDDLETOWN DESIGNATED AS BLOCK 276, LOT 48 (COMPTON STREET) BY
PURCHASE OR EMINENT DOMAIN**

WHEREAS, J. Compton, Inc., is the owner of certain real property consisting of 10.11 +/- acres of wetlands located in Compton Creek, near the Campbell Avenue Bridge at the end of Compton Street in the Belford section of the Township of Middletown, and designated as Block 276, Lot 48 on the official Tax Map of the Township of Middletown, County of Monmouth, State of New Jersey (the “Property”); and

WHEREAS, under public law 113-2, the Disaster Relief Appropriation Act of 2013, Chapter 4, the United States Army Corps of Engineers (“USACE”) conducted an investigation and identified areas located in the Township of Middletown that were subject to significant coastal storm damage and tide-induced flooding; and

WHEREAS, pursuant to that investigation, the USACE implemented the Raritan Bay and Sandy Hook Bay, Port Monmouth, New Jersey Flood Risk Management Program (the “Program”) which provides for hurricane and storm damage reduction and calls for certain improvements on the Property, including, but not being limited to a pump station and related work; and

WHEREAS, the Property has been identified as a necessary component under the Program’s Phase II Contracts; and

WHEREAS, the Township of Middletown (the “Township”) recognizes that coastal storm damage and tide-induced flooding in the Port Monmouth section of the Township is a significant concern that threatens safety, of life and property, of the Township, its residents and all of the citizens of the State; and

WHEREAS, the Township intends to acquire the Property from the Owner in order to facilitate the Program; and

WHEREAS, the Township engaged Gagliano & Company, a qualified appraiser (the “Appraiser”), to conduct an independent appraisal of the Property; and

WHEREAS, the Appraiser has estimated the fair market value is \$75,000.00 pursuant to its appraisal report dated July 12, 2016; and

WHEREAS, the Township recognizes that pursuant to current law it must enter into good faith negotiation with the Owner; and

WHEREAS, the Township needs to acquire the Property in as expeditious a manner as possible to facilitate the implementation of the Program.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middletown in the County of Monmouth, State of New Jersey that the Code of the Township of Middletown be and is hereby amended and supplemented as follows:

Section 1. AUTHORIZATION TO ACQUIRE PROPERTY

Pursuant to the provisions of the "Local Lands and Building Laws," N.J.S.A. 40A:12-1 et. seq., and N.J.S.A. 40:61-11, the Township of Middletown is hereby authorized and directed to acquire by purchase or gift, the hereinafter described real property provided that the owner of record expresses the desire to convey the said real property to the Township or, in the alternative, the Township is hereby authorized to take, or condemn the real property herein after described pursuant to the provisions of the "Eminent Domain Act of 1971", N.J.S.A. 20:3-1 et. seq., as follows:

Tax Block 276, Lot 48 on the official Tax Map of the Township of Middletown, County of Monmouth, State of New Jersey owned by J. Compton, Inc. and consisting of approximately 10.11 +/- acres of wetlands located in Compton Creek, near the Campbell Avenue Bridge at the end of Compton Street in the Belford section of the Township of Middletown, for the dedication to the United States Army Corps of Engineering Raritan Bay and Sandy Hook Bay, Port Monmouth, New Jersey Flood Risk Management Program.

Section 2. AUTHORITY OF AGENTS

The Mayor, Township Administrator, Township Attorneys and such other officials, employees and agents of the Township of Middletown, 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 other acts necessary to negotiate in good faith or take, condemn (including the institution of any necessary legal action to acquire the real property including but not limited to action to gain necessary access to the real property for related purposes) or to acquire title to the real property for dedication to the Raritan Bay and Sandy Hook Bay, Port Monmouth, New Jersey Flood Risk Management Program and the Mayor and Township Clerk are hereby authorized and directed to execute any and all documents necessary for the acquisition of said real property; however, no settlement figure, purchase price or stipulation to purchase in excess of the Cost of Acquisition set forth in Section 3 of this Ordinance shall be binding on the Township of Middletown or its agents until the Mayor and Township Committee of the Township of Middletown approves such figure or price by resolution.

Section 3. COST OF THE ACQUISITION

The appropriate disbursing officers of the Township of Middletown are hereby authorized and directed to pay the purchase price and/or fair and just compensation to the owner of record in the amount of \$75,000 as valued by that certain appraisal report issued by Gagliano & Company dated July 12, 2016, as well as to pay the Township's share of costs connected with title reports, appraisal reports, attorney's fees, professional consultant's fees, and other costs necessary for the general acquisition of acquisition by way of condemnation of the real property.

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.