CITY OF MIDDLETOWN
COMMON COUNCIL MEETING AGENDA
JANUARY 17, 2023

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL (COUNCIL CLERK)

3. APPROVAL OF MINUTES December 20, 2022

4. CORRESPONDENCE, COMMUNICATION AND REPORTS (COUNCIL CLERK)

5. FOR THE GOOD OF THE CITY (PUBLIC PARTICIPATION)
   Special Recognition: Orange County Youth Football Super Bowl Champions- Middletown Middies

6. REMARKS OF THE MAYOR

7. REMARKS OF DEPARTMENT HEADS

8. PUBLIC HEARINGS AND GRIEVANCES
   Proposed zoning amendment to Chapter 475 to allow two-family dwellings in OR-2 (Two-Family Owner-Occupied Residential Districts) zoning districts to permanently be non-owner-occupied if the dwelling was occupied as a two-family dwelling at the time this zoning district was created

9. PETITIONS AND COMPLAINTS (NOTHING THIS EVENING)

10. REMARKS OF THE ALDERMAN AND REPORTS OF COMMITTEES

11. UNFINISHED BUSINESS (NOTHING THIS EVENING)

12. NEW BUSINESS (RESOLUTIONS)

- Resolution Appointing Of Members To The Industrial Development Agency Board (IDA)
- Resolution Reappointing Fran Amelio To The Board Of Assessment Review
- Resolution appointing Jim Burtis To The Zoning Board Of Appeals (ZBA)
- Resolution Reappointing Members Of The Electrical Licensing Board
- Resolution Authorizing A Proposal From H2O To Renew Contracts For Services At The Water And Waste Water Treatment Plants
- Resolution Awarding Bids For Surplus Vehicles
- Resolution Authorizing The 2023 Perma Contract
- Resolution Authorizing An Agreement With ClaimDOC Services To Administer The City's Employer-Sponsored Employee Health Benefit Plan

CITY OF MIDDLETOWN
COMMON COUNCIL MEETING AGENDA
JANUARY 17, 2023

- Resolution Authorizing Authorizes The Sale & Compensating Use Tax Sharing Agreement With The County Of Orange
- Resolution Authorizing An Application For Round 7 Restore NY Funds For The O&W Building Restoration Project
- Resolution authorizing a Road Closure for the Winter Festival
- Resolution authorizing an Amendment to City Code Chapter 475, Zoning

13. LOCAL LAWS (NOTHING THIS EVENING)

14. AUDIT OF CLAIMS AND ACCOUNTS (FINANCE COMMITTEE CHAIR)

15. ADJOURNMENT

COMMON COUNCIL MEETING
CITY OF MIDDLETOWN
December 20, 2022 - Transcript
City Hall
16 James Street
Middletown, New York 10940

P R E S E N T

Miguel Rodrigues, President of Common Council
Ald. Gerald Kleiner
Ald. Paul Johnson
Ald. Kate Ramkissoon
Ald. Kevin Witt
Ald. Jude Jean-Francois
Ald. Andrew Green
Ald. Joseph Masi
Ald. Sparrow Tobin

Digitally Recorded Proceeding, transcribed by:
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1. Pledge of Allegiance

(Pledge of Allegiance)

2. Roll Call

PRESIDENT RODRIGUES: Roll.

Roll Call: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues.

RICHARD MCCORMACK, CITY CLERK: Forum is present.

3. Approval of Minutes.

PRESIDENT RODRIGUES: Approval of minutes.

RICHARD MCCORMACK, CITY CLERK: We have November 15th, 2022, please.

ALD. MASI: So moved.

PRESIDENT RODRIGUES: Motion by Mr. Masi, seconded by Mr. Green. All in favor?

ALDERMANS: Aye.

4. Correspondence, Communications and Reports

PRESIDENT RODRIGUES: Correspondence.

RICHARD MCCORMACK, CITY CLERK: We have a 30-day notice for an on-premises beverage license for El Punto Night -- Nightclub.

PRESIDENT RODRIGUES: Received and filed. Forwarded to the police department.

RICHARD MCCORMACK, CITY CLERK: We have a letter from the Orange County Department of Health for the completed works approval for the finished water Highliv (phonetic) Pump Station for the City of Middletown.

PRESIDENT RODRIGUES: Received and filed.

RICHARD MCCORMACK, CITY CLERK: That's it.

5. For the Good of the City

PRESIDENT RODRIGUES: Okay. For the Good of the City, anyone would like to address the Council please step forward.

(None this evening)

6. REMARKS OF THE MAYOR

PRESIDENT RODRIGUES: Remarks of the Mayor.

JOSEPH DESTEFANO, MAYOR: Good evening. I don't have much this evening other than the PBA contract. As you know, we've reached a agreement with the -- with the PBA before with the memorandums of agreement. We have a Resolution tonight that I'm asking your support on. Counsel had a draft copy of it and we had an executive session discussing it. And hopefully all the information is there to -- to move forward with that.

We also have reached a tentative agreement with the CSCA which we will be presenting at the next meeting in early January.

The -- Monday night we had a -- the menorah lighting at the Run for Downtown Park. It was well attended. I want to thank Rabbi Corbert for the -- and Temple Sinai for their participation once again. It was a well-attended event. And also it was attended by several school board members including the superintendent, members of the council, Alderman Tobin, Alderman Jean-Francois, Alderman Kleiner, Alderman Masi were there. I think Alderman Green was there also. And so I want to thank everyone for coming along with some department heads; Jacob Tawil, Maria Bruni, and Chief Ewanciw.

And I think that's all I have for tonight. I want to wish everyone a Merry Christmas, a Happy New Year. We won't be meeting again until the reorganization meeting. So if you have any questions, I'd be more than happy to address them.

PRESIDENT RODRIGUES: Any questions for the Mayor? Alderman Kleiner.

ALD. KLEINER: Thank you. Mayor, could you just give us a quick update on the O&W project --

JOSEPH DESTEFANO, MAYOR: Sure.

ALD. KLEINER: -- and the psych center.

JOSEPH DESTEFANO, MAYOR: Sure. The O&W is, you know, as you know, the -- the cost of the O&W have gone up a little bit, but so have the revenue source opportunities for us. We have retained a firm out of Westchester County to handle the reorganizing of the ownership structure which will be owned -- will be creating a local development corporation. By doing that that makes us eligible for state historic tax credits, federal historic tax credits, and new market tax credits. So the increased costs should be absorbed by these tax credit filings that we're making.

The state and federal historic tax credits are by right. So if we meet the criteria in the -- with the historic preservation folks, then we're -- we'll be in good shape.

The -- we also had a little stumbling block with the State Historic Preservation where the tower or the north -- I believe it's the north side tower that had fire damage. We -- it looks like we will not have to rebuild that in its entirety which was -- so there appears -- we're waiting for everything in writing, of course, that we will only have to rebuild the first floor of that. So that should have some significant savings in money.

So we're -- it's still on track. We're ready to, as I said, after the new year, Maria had a response from the attorney today that the LDC bylaws and all the paperwork should be ready after the new year. And hopefully in early January we'll get that formed by the Common Council will have to vote on that also. And the project will start moving very quickly. So we're -- we're still on board to move that project ahead.

PRESIDENT RODRIGUES: Alderman Witt.

ALD. WITT: Thank you. Mayor, do you anticipate, weather permitting, that people will be allowed to park on the street overnight during the holidays?

JOSEPH DESTEFANO, MAYOR: Yeah. That will be an option that the chief and Jacob could -- it's a good question. Once again, there's no snow, basically, no snow out there now, very little. I know Jacob and the -- and the Chief can get together. And -- and the Chief has a right to do it by -- by his own -- under his own authority. So it won't be any action necessary by the Council or by myself, but we would encourage him to once again do it if possible.

But people should sign up for Nixle. That would be the best way to become aware of it. And also the best way to become aware of a pending storm where you would have to remove your car. Even if we declare it, we always have the caveat that if we get bad weather, you still have to remove it. So -- so I would encourage people to sign up for Nixle and also keep an eye on our website. But I -- I would hope that Chief and Jacob -- I'm sure they will, do that once again.

PRESIDENT RODRIGUES: Anyone else? All right. Thank you, Mayor.

JOSEPH DESTEFANO, MAYOR: Thank you.

7. REMARKS OF DEPARTMENT HEADS

PRESIDENT RODRIGUES: All right. Department Heads; Economic Development.

MARIA BRUNI, ECONOMIC DEVELOPMENT: Good evening, everyone. Just looking for your support on a couple of Resolutions tonight. One is amendment to the architectural review design guidelines. The -- the Board has been working towards applying some new amendments. We worked with Alex Smith. You have the

Resolution before you regarding what's appropriate and what's inappropriate for the standards. Looking for your support on that.

And, also, an extension to the renovation of 84 Dorthea Dix by Fei Tian College.

And also to end our year at the Paramount, we are going to be getting the first run movie coming out Thursday night, the Whitney Houston *I Want To Dance With Somebody*. So we're looking forward to that movie at our -- at the Paramount Theatre.

Wishing everybody a Merry Christmas, happy holidays, and Happy New Year.

PRESIDENT RODRIGUES: Any questions for Maria? Thank you, Maria.

MARIA BRUNI, ECONOMIC DEVELOPMENT: Thank you.

PRESIDENT RODRIGUES: DPW Commissioner.

JACOB TAWIL, DPW COMMISSIONER: Good evening, all. We'll start with the last meeting I reported to you about the taste in our water and the finish water. And thank God we were able to handle it and we switched over to a different reservoir. And by now everybody should have noticed that the taste has gone from our water. Maybe some areas like in Vincent Drive, Sproat, they might have some residual in there because it's still in the tank and -- but it's being turned over. So we're -- we're very happy to report to you that that problem is over for now. And we can never relax in our water industry because we can be hit with something tomorrow for all we know. But we're trying our best to make sure that you continue to have the best water available in New York State delivered to your water tap.

Alderman Masi, the reservoir level is at 85 percent cumulative all between the three reservoirs.

Unfortunately, Monhagen Avenue's topped off right now and overflowing and we cannot use it because of the taste issue. We're using Highland Reservoir. And we're setting up very large pump that you approved for us to buy a few years ago in order to transfer water from the Shawangunk Reservoir to Highland Reservoir where it's needed now.

So we planned ahead. The pump is coming in handy right now. I believe we paid for it, like, $125,000 and it's been very, very helpful for us. And now we're going to be using to transfer water from one reservoir to another to continue to supply water that is suitable for our customers without any taste.

The traffic operations, as -- as I reported to you a couple of weeks ago, it's winding down. The contractor is finishing some work on North Street by placing the blue stone in there between the curb and the sidewalk. He's using winter weather conditions which is heating the water, heating the surface, heating the steel, heating everything that he's using. It's time consuming and expensive. So hopefully he'll be done very soon by securing the blue stone, so it's not tripping hazard anymore and then we'll resume in the spring.

Before you tonight, there's a very good news. Resolution requesting that you authorize the Mayor to sign the agreement with DOT basically cementing our share of the 15 percent that the state will subsidize the traffic operations. So the resolution says there's, like, 21 plus million dollars, $17 million of which is going to be funded by the federal government. Twenty percent would have been City's responsibility, but there is Monacelli (phonetic) Fund which means that the State will carry 15 percent of the City's responsibility, so we're -- we're only responsible for 5 percent which means we're responsible for only $1 million out of 1 million plus fraction out of the $21 million for this cost which is very good news, excellent news. This is what we've been waiting -- the Mayor and I have been waiting for that. And we weren't sure we were going to get it now. Now, we're sure we're going to get it. Once the Mayor signs it, you approve it, the Mayor signs it and then DOT will sign it and we'll be home free.

Any questions for me?

PRESIDENT RODRIGUES: Questions for Jacob? Alderman Tobin.

ALD. TOBIN: I have a question. The Playtogs development there, I don't have the plans. I know we had them a while back. I just -- I was just wondering -- I don't know if you have it in front like you can remember where the -- the trucks going to be coming in and out of the Playtogs Plaza? Is it going to be at the stop light there at ShopRite? Because to me it seems pretty steep to get into --

JACOB TAWIL, DPW COMMISSIONER: I remember it was addressed, but I don't remember the details. I'd have to look at -- I'd have to look at the plans.

ALD. TOBIN: Because I see they're changing their parking lot around, I was just curious.

UNIDENTIFIED SPEAKER: I -- I think it's by the traffic light, they have to come in by Dunkin Donuts.

JOSEPH DESTEFANO, MAYOR: There -- there were a couple of entrances. One, there was a proposed road going alongside the building where the pool store was. That's my recollection. But I think that project is changing again --

ALD. TOBIN: Oh, okay.

JOSEPH DESTEFANO, MAYOR: -- because the developer called yesterday and said that he had a -- a potential tenant which was unacceptable to me.

ALD. TOBIN: Oh, okay.

JOSEPH DESTEFANO, MAYOR: And I'm not allowed under zoning, so I did advise him of that. I said, well, what happened to the project you were approved for with the Planning Board and he said, well, I'm looking at other options.

So I don't know if that project as -- as approved at the

Planning Board is still in -- in place. So if they do change the plan, then they do have to go back to the Planning Board.

So -- but the -- the, you know, it's a light industrial zoning there which would prohibit residential. And that's why we left it light industrial. We didn't want to see any high density housing in that -- that location. But at the same time, you may get a request, I don't know. But I -- I told him the only way he could do that is to go to the Common Council and get a zoning request. And I don't think it would be well received.

So -- so he's looking for other opportunities there. So we'll -- we'll continue to keep an eye on it.

ALD. TOBIN: It looks like housing and warehouses are what people are interested in making money on.

JOSEPH DESTEFANO, MAYOR: Yeah, but on that commercial strip, there is -- we're trying to keep that commercial in -- in that section there. And if you guys wanted to change it to allow for, you know, housing, that would be one thing. But I wouldn't -- I wouldn't recommend it.

ALD. TOBIN: Thank you.

JOSEPH DESTEFANO, MAYOR: You're welcome.

JACOB TAWIL, DPW COMMISSIONER: About the traffic if I may. I think now the Mayor is talking about it, you're talking about it Alderman. I think when we met with them, we insisted that all, any traffic, any trailers that are turning into the campus, into that old Playtogs would have to use the traffic lights. They'd have to go through the signal traffic light by Dunkin Donuts across from ShopRite to get inside otherwise it will be like crazy in there. Imagine there's a traffic light by ShopRite and then you move ahead and then you have tractor trailers, they want to make a left-hand turn in front of KeyBank. And you have another traffic light by just a few hundred feet up the road by Republic Plaza. So that's -- that's only thing I remember it about it.

So we were against them making left-hand turn from Dolson Avenue into the -- into that complex without using the traffic lights.

PRESIDENT RODRIGUES: Okay. Police Chief.

JOHN EWANCIW, POLICE CHIEF: Good evening. You know, just some follow up in regards to the -- the parking. In the past we have suspended parking for the holiday weekends and we'd like to do that as well this year. We do have to watch the weather and we'll put something out on social media and through Nixle when we make that decision and just watch it.

We encourage people to utilize the off-street parking as much as possible. We also understand that during the holidays friends, family visiting. But we will assess that. Jacob and I will speak about it and then we'll put something out in the coming days.

This past week we had our second youth leadership graduation right here in this -- this chambers, Fifteen graduates. My -- my staff does an amazing job with it under the guidance of Sergeant Welch and the SROs. They identify youth in our -- our community that may benefit from the program. It's a 12-week program where there's, you know, many different layers of education and introduction to other members of the community and businesses and just opportunities. It's a great program and I could -- I appreciate the support that you have provided us to continue this. And I know some of you have attended them. And I appreciate that support as well.

Outstanding job and the kids always seem to be really in tune with it and really enjoy it, so thank you for that support.

Just a little -- little shout out and I can't really use their names or anything too specific, but our department for the last several years we adopt a family or two for the holiday and we get donations. And this year a group of students from Twin Towers who runs a little coffee group and they took their proceeds from their coffee group and donated them to the police department to provide for these families as well. So I thought it was outstanding, just what a great gesture from, you know, the youth of our community looking to help as well and found a great resource to give their -- their proceeds to. So I'd like to thank them.

I'd also like to thank all the members of the Council for their support throughout the year. I appreciate everything.

You're always supporting the department and you're out there for us.

And with that, I just want to wish everyone a happy holiday, Merry Christmas, Happy Hanukkah, happy and healthy New Year. And unless you have any other questions for me.

PRESIDENT RODRIGUES: Any questions for the police chief? Alderman Kleiner.

ALD. KLEINER: Thank you. Thank you, Chief. I wanted to congratulate you too on the Youth Leadership Academy. Seeing those young people and their families there with the officers, it's just really a great program and it's part of what keeps our community a community. And thank Sergeant Welch too.

But I also wanted to have you remind people about -- because I see the big local ads for the firework sales in Milford and across the border. And if you would remind people that fireworks of any kind are illegal in Middletown. So as we approach the new year, no, you can't be setting them off.

JOHN EWANCIW, POLICE CHIEF: I think you just said it perfect. None -- nothing is authorized here in Middletown.

ALD. KLEINER: Yes. Thank you.

PRESIDENT RODRIGUES: Anyone else?

Thank you, Chief.

JOHN EWANCIW, POLICE CHIEF: Thank you.

PRESIDENT RODRIGUES: Superintendent of Recreation.

RAELYNN BERTHOLF, SUPERINTENDENT RECREATION:

Good evening, everyone. Nothing to report tonight. Just a few Resolutions. If anyone has any questions on those.

PRESIDENT RODRIGUES: Any questions?

RAELYNN BERTHOLF, SUPERINTENDENT RECREATION: Any questions at all?

PRESIDENT RODRIGUES: Alderman Kleiner.

ALD. KLEINER: I just wanted to report because we did have the question asked at our constituents meeting about whether there would still be ice skating at Davidge Park. And you said the answer was definitely yes.

RAELYNN BERTHOLF, SUPERINTENDENT RECREATION: Yeah, they're still going to check it and monitor it like usual when it's frozen with the sign and plowing it if it snows and if it's still safe, yes.

ALD. KLEINER: Okay. And also I had a call from a constituent questioning or asking about possibilities for pickle ball in the coming year. So it's just something to think about and perhaps we can have it in our committee, but, you know.

RAELYNN BERTHOLF, SUPERINTENDENT RECREATION: Yeah, definitely something to think about. I know a handball court has been thrown around a lot also.

ALD. KLEINER: Yeah.

RAELYNN BERTHOLF, SUPERINTENDENT RECREATION: Just other things that are definitely on our radar. Being that there are already -- like the tennis courts does have currently the lines for it and there's not a huge overflow of tennis players, so there is a spot for them to go. But it's something that we could definitely look into.

ALD. KLEINER: Okay. Thank you.

PRESIDENT RODRIGUES: Any other questions? Thank you, Raelynn.

RAELYNN BERTHOLF, SUPERINTENDENT RECREATION: No? Thank you.

PRESIDENT RODRIGUES: City Clerk.

RICHARD MCCORMACK, CITY CLERK: Nothing this evening, but Merry Christmas.

PRESIDENT RODRIGUES: Any questions for the City Clerk? All right.

8. Public Hearing and Grievances:

(None this evening)

9. Petitions and Complaints

(None this evening)

10. Remarks of the Alderman

PRESIDENT RODRIGUES: Remarks of Alderman. Alderman Masi.

ALD. MASI: Thank you. Just wanted to report that I had the pleasure last Saturday with the Mayor and Maria Bruni to be with Senator Scoufis over at the library where, I guess, annually -- this is the first one in Middletown, but he's been doing it four or five years in other communities, hands out stuffed animals to the kids. If you had been there to see it, it was just unbelievable. It was really -- they just light up. They come up and they get a choice of five different stuffed animals. But the looks on their faces and the gratitude of the parents. I just wanted to thank the Senator for doing that.

And I wish everyone a Merry Christmas, a Happy Hanukkah, Happy Kwanza, and a happy and healthy New Year for everyone.

PRESIDENT RODRIGUES: Alderman Witt.

ALD. WITT: Thank you. I just would like to wish everybody a happy holiday season. And with this being the last meeting of the year, thank you to all of our volunteer Board and Committee Members who do this for nothing and play a big role in how our City operates. And a lot of people have done it for a long time and we're grateful. So thank you very much.

PRESIDENT RODRIGUES: Alderman Green.

ALD. GREEN: I'll keep it short and sweet to risk not sounding like a broken record. But Merry Christmas, Happy Hanukkah, Happy Holidays, happy and healthy New Year. It's been a wonderful 2022 in the City. I can't wait to see what we've got going on for 2023. I know there's some exciting things on tap, so we'll see you next year. Thank you.

PRESIDENT RODRIGUES: Thank you. Alderman Kleiner.

ALD. KLEINER: Thank you. I want to thank the people who did come out for our Second Ward constituents meeting, our holiday one. And we will not be having a meeting in January or February. We'll remind people of that in the new year unless something drastic happens.

As cold as it's going to be, I'll remind people you can go to the Middletownwarmingstation.com. They do need volunteers. And it's -- it's been some really brutal weather to be anyplace else, but in a shelter. So any -- anything you can do to help.

You know, thank you for the menorah lighting. It was a nice -- a nice presentation. And it's always a good event.

Rick, this is the end of your first year for City Clerk. And I want to thank you specifically for doing -- we didn't know how anyone could fill John Naumchik's shoes, but you had done an admirable job. And I like the very creative things that you're putting in, eliminating -- eliminating paperwork and taking us into the digital age. So thank you very much for that.

Tomorrow is the shortest day of the year. After that, as my wife always like to point out, it's going to get lighter a little later every day. So we're looking for that. So happy Winter Solstice, Happy Hanukkah, Merry Christmas, Happy New Year and we'll see you next year. Thank you.

PRESIDENT RODRIGUES: Alderwoman Ramkissoon.

ALD. RAMKISSOON: Good evening. I just wanted to wish everyone a safe and very joyous and happy holiday and New Year. We put another year on the books here in Middletown and I just want to say to all of our city employees and everyone who's a part of what makes Middletown a really fantastic place to live and raise a family. And thank you, thank you for what you do because everything we put together here is fantastic. When we do our tree lightings and our events and our police functions, I'm just -- I'm really proud of the city that we work for here. That's all I have. Have a good night.

PRESIDENT RODRIGUES: Alderman Johnson.

ALD. JOHNSON: Thank you. I agree with my colleagues. Everything we tally up 2022, the Mayor and all the department heads and your various venues, you've done remarkable jobs to move this forward for quality of life issues. And it does not happen by itself, so thank you all for that. And good holiday.

PRESIDENT RODRIGUES: Alderman Jean-Francois.

ALD. JEAN-FRANCOIS: Yes. Happy Kwanza, Merry Christmas, Happy Hanukkah and looking forward for a safe New Year to everyone. Thank you.

PRESIDENT RODRIGUES: Thank you. Alderman Tobin.

ALD. TOBIN: Ditto to what everybody else said and happy holidays.

11. Unfinished Business.

(None this evening)

12. New Business.

PRESIDENT RODRIGUES: All right. New business.

RICHARD MCCORMACK, CITY CLERK: We have a Resolution sponsored by Alderman Tobin authorizing agreement with Aquatic Analysts for an AquaMaster aeration fountain.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Tobin, seconded by Alderman Johnson. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Jean-Francois authorizing agreement with the Tri-State Geese Police.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Jean-Francois, seconded by Alderman Kleiner. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Johnson authorizing a $10,000 budget transfer within the Recreation Parks Department budget.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman

Johnson, seconded by Alderman Witt. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Ramkissoon authorizing agreement with Nearmap.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Ramkissoon, seconded by Alderman Kleiner. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Kleiner authorizing a $5,000 budget transfer within the Goldenarea Budget to cover the cost and repairs for the shuttle bus.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Jean-Francois, seconded by Alderman Kleiner. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Green to accept an award of $50,000 from the Department of Homeland Security State Homeland Security Grant Program.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Green, seconded by Alderman Witt. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Witt authorizing agreement with Next Request for a FOIL Management System.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Witt, seconded by Alderman Kleiner. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Masi authorizing an extension of Fei Tian College's economic development goals for the renovation and completion of 84 Dorthea Dix Drive.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Masi, seconded by Alderman Johnson. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Tobin authorizing budget and adjustments.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Tobin, seconded by Alderman Jean-Francois. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Jean-Francois authorizing a salary adjustment.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Jean-Francois, seconded by Alderman Kleiner. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Johnson approving the Assessment Collectors Warrant for 2023.

PRESIDENT RODRIGUES: Resolution sponsored by Johnson, seconded by Alderman Masi. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Ramkissoon authorizing a public hearing on allowing two family dwellings OR-2 zoning districts to permanently be non-owner occupied.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Ramkissoon, seconded by Alderman Johnson. Any discussion? Alderman Kleiner.

ALD. KLEINER: I just wanted to mention that this to allow grandfathering properties that were already non-owner occupied. Thank you.

PRESIDENT RODRIGUES: Anyone else? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored -- Resolution sponsored by Alderman Kleiner authorizing amendments to Architect Review Boards Design Review Guidelines.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Kleiner, seconded by Alderman Tobin. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Jean-Francois authorizing the implementation and funding in the first instance 100 percent of the federal aid and state program aid eligible costs of the transportation federal aid project and appropriating funds therefor.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman

Jean-Francois, seconded by Alderman Kleiner. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

ALD. MASI: Sorry.

RICHARD MCCORMACK, CITY CLERK: And a Resolution sponsored by Alderman Tobin approving a memorandum of agreement between the Middletown Police Benevolent Association and the City of Middletown.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Tobin, seconded by Alderman Masi. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

12. Local Laws

(None this evening)

13. Audit

PRESIDENT RODRIGUES: Okay. Audit.

ALD. MASI: Mr. President, I move the accounts be audited, the claims be adjusted, and the City Treasurer be authorized to issue warrant for their payment.

PRESIDENT RODRIGUES: Motion by Alderman Masi, seconded by Alderman Johnson. Any discussion? Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Ramkissoon, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

PRESIDENT RODRIGUES: No, thank you.

15. Adjournment

PRESIDENT RODRIGUES: All right. Move for adjournment.

ALD. MASI: So moved.

(PROCEEDING CONCLUDED)

CERTIFICATE

I, LISA KANE, certify the foregoing transcript of proceedings of the December 20, 2022 Middletown City Council meeting was prepared using the required electronic equipment and is a true and accurate record of the proceedings.

Signature: LISA KANE

Date: January 8, 2023

Agency: American Legal Transcription

11 Market Street, Suite 215

Poughkeepsie, New York 12601

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Tobin

Sec'd by Ald. Johnson

Date of Adoption 12.20.22

Index No: 287-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution authorizing an agreement with Aquatic Analysts, Inc for AquaMaster aeration fountain

RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment authorizes an agreement with Aquatic Analysts, Inc for the sale, delivery and installation of an AquaMaster aeration fountain at Fancher Davidge Park.

BE IT FURTHER RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Mayor to sign the agreement.

The Recreation Department recommends using Aquatic Analysts, Inc. for the purchase and installation of a new AquaMaster aeration fountain for Fancher Davidge Park Summit Pond. The proposal of $16,666.00 includes the sale, delivery, installation and 5-year warranty. Aquatic Analysts is our preferred vendor for the previous fountain at Fancher Davidge Park and the current fountain at Maple Hill Park.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Jean-Francois

Sec'd by Ald. Kleiner

Date of Adoption 12.20.22

Index No: 288-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution authorizing an agreement with Tri-State Geese Police

RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment authorizes an agreement Tri-State Geese Police Contract to control the Geese Population in Watts Memorial Park, Maple Hill Park, and Fancher Davidge Park and Davidge Park Expansion.

BE IT FURTHER RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Mayor to sign the agreement.

The Recreation Department's recommendation for Canadian Geese Control for 2023 is to continue with the Tri-State Geese Police. Tri-State Geese Police quote for 2023 is $365.00/week, which is $15.00 increase from last year. Their work last year met expectations in reducing the goose population in our parks.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Johnson

Sec'd by Ald. Witt

Date of Adoption 12.20.22

Index No: 289-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution authorizing a $10,000 Budget Transfer within the Recreation & Parks Department Budget

RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Treasurer to transfer $10,000, in the following manner, to cover the overdrawn account and 2 additional maintenance part-timers for the remainder of 2022.

FROM	AMOUNT	TO
A.7321.100	$10,000	A.7140.100
Special Programs– Personal Services		Playground – Personal Services.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Ramkissoon

Sec'd by Ald. Kleiner

Date of Adoption 12.20.22

Index No: 290-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution authorizing an agreement with Nearmap

RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes an agreement with Nearmap for use in the Assessor's Office.

BE IT FURTHER RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Mayor to sign the agreement.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Kleiner

Sec'd by Ald. Green

Date of Adoption 12.20.22

Index No: 291-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution authorizing a $5,000 Budget Transfer within the Goldenarea Budget to cover the cost of repairs for shuttle bus

RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Treasurer to transfer $5,000, in the following manner, Budget to cover the cost of repairs for shuttle bus needed for daily operations in remainder of 2022.

FROM	AMOUNT	TO
GA.5680.100 Personal Services	$5,000	GA.5680.440 Repairs to Equipment

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Green

Sec'd by Ald. Witt

Date of Adoption 12.20.22

Index No: 292-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution to accept an award of $50,000 Department of Homeland Security's State Homeland Security Grant Program

RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and accepts an award in the amount of $50,000 from the Department of Homeland Security's State Homeland Security Grant Program (SHSP) for the sustainment, maintenance, and enhancement of our explosive detection canine team assets, through equipment, training, exercise, and planning projects that support terrorism prevention activities in our jurisdiction.

The performance period for this grant is October 1, 2022, through August 31, 2023.

The funds for this account will be expended on line A.3135.200

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Witt

Sec'd by Ald. Kleiner

Date of Adoption 12.20.22

Index No: 293-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution authorizing an agreement with Next Request for a FOIL Management System

RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes an agreement with Next Request for a FOIL Management System.

BE IT FURTHER RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Mayor to sign the agreement.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Masi

Sec'd by Ald. Johnson

Date of Adoption 12.20.22

Index No: 294-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution authorizing an Extension of Fei Tian College's economic development goals for the renovation and completion of 84 Dorthea Dix Drive

RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes an Extension of Fei Tian College's economic development goals for the renovation and completion of 84 Dorthea Dix Drive as per attached letter dated 10/14/2022

Extension to be follows:
Phase 1: Completion by December 31,2023
Phase 2: Completion by December 31,2024
Phase 3: Completion by December 31,2025

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Tobin

Sec'd by Ald. Jean-Francois

Date of Adoption 12.20.22

Index No: 295-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution authorizing budget transfers and adjustments

RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Treasurer to make the following budget transfers and adjustments:

From	Amount	To
CD Fund Balance	$898.58	CD.8686.457 Program Elements

To cover overdrafts in the expense line for Community Development.

Increase A.2029 Special Program Revenue $3,816.55
Increase A.7321.450 Materials & Supplies $3,816.55

CDBG portion to cover the electric work for the Ice-Skating Rink.

FROM	AMOUNT	TO
ARPA A.4785	$2,200,000	H.908.02 Traffic Operations

To allocate the portion of the second tranche of the ARPA funds to the Traffic Operations project as per Resolution 146-21

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Jean-Francois

Sec'd by Ald. Kleiner

Date of Adoption 12.20.22

Index No: 296-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution authorizing a Salary Adjustment

RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes a salary adjustment for the Confidential Secretary to the Chief of Police in the Police Department in the amount of $5,000 effective January 1st, 2023.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Johnson

Sec'd by Ald. Masi

Date of Adoption 12.20.22

Index No: 297-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution approving the Assessment Collectors Warrant for 2023

RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and approves Assessment Collectors Warrant for 2023.

ASSESSMENT
COLLECTOR'S WARRANT
FOR 2023

STATE OF NEW YORK)
COUNTY OF ORANGE) SS.:
CITY OF MIDDLETOWN)

THE PEOPLE OF THE STATE OF NEW YORK TO **Leonora Liz**, COLLECTOR OF THE CITY OF MIDDLETOWN, IN SAID COUNTY, GREETING:

YOU ARE HEREBY REQUIRED AND COMMANDED TO COLLECT from the several persons named in the assessment roll, to which this warrant is annexed, the several sums mentioned in the total $22,310,967 column thereof opposite their respective name, together with your fees thereon as herein provided.

On all sums of taxes or assessments received or collected within thirty days after giving the notice required by law you are to collect no fees. After the expiration of thirty days, you are hereby authorized to add and collect two per centum on every dollar for collecting the same as your fees thereon.

YOU ARE FURTHER REQUIRED AND COMMANDED to pay over all monies so collected by you, (exclusive of your fees for collection), to the proper officer daily and return this warrant to me within ninety days from date.

If any person shall neglect or refuse to pay any tax imposed upon him, or the fees herein allowed, after giving the notice required by law and waiting the time specified in the statue, you are hereby authorized to levy the same by distress and sale upon any personal property in said County belonging to, or in possession of, such person and cause the same to be sold, at public auction or otherwise in accordance with the City Charter, for the payment of such tax and the fees and expenses of collection, and no claim of property to be made by any other person thereto shall be available to prevent such sale and for so doing this shall be your sufficient warrant.

IN WITNESS THEREOF, the Common Council of said City, at a regular session, held on 12/20/22 has authorized this warrant to be signed by the Mayor of said City, and the Seal of the City to be affixed thereto, by a resolution duly passed by a majority vote of said Council, and I, in pursuance of such authorization, have this 21st day of December in the year of our Lord Two Thousand Twenty two hereunto set my hand and caused the Corporate Seal of the City of Middletown to be affixed.

____
MAYOR

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Ramkissoon

Sec'd by Ald. Johnson

Date of Adoption 12.20.22

Index No: 298-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution authorizing a public hearing on allowing two-family dwellings in OR-2 zoning districts to permanently be non-owner-occupied

WHEREAS, the Common Council wishes to allow two-family dwellings in OR-2 (Two-Family Owner-Occupied Residential Districts) zoning districts to permanently be non-owner-occupied if the dwelling was occupied as a two-family dwelling at the time this zoning district was created.

WHEREAS, the Mayor is recommending this change to the Zoning Code

NOW THEREFORE BE IT RESOLVED that the Common Council of the City of Middletown will hold a public hearing on the proposed change on Tuesday, January 17, 2023, at or as near to 7:30 PM as possible in the Common Council Chambers, 16 James Street, 2nd Floor, Middletown, NY.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Kleiner

Sec'd by Ald. Tobin

Date of Adoption 12.20.22

Index No: 299-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution Authorizing Amendments to the Architect Review Boards Design Review Guidelines

WHEREAS, the City of Middletown Architectural Review Board has approved certain amendments to the Design Review Guidelines.

NOW THEREFORE BE IT RESOLVED by the Common Council of the City of Middletown that the Design Review Guidelines of the Architectural Review Board of the City of Middletown are hereby modified as follows:

III. STANDARDS FOR FAÇADE APPLICATIONS

FAÇADE TREATMENTS

Appropriate wall finishings include the following:

This Paragraph is amended by removing the fifth bullet, which states "Stucco".

AND IT IS FURTHER RESOLVED by the Common Council that the Design Review Guidelines of the Architectural Review Board of the City of Middletown are hereby further modified as follows:

III. STANDARDS FOR FAÇADE APPLICATIONS

FAÇADE TREATMENTS

Inappropriate wall finishings include the following:

This Paragraph is amended by adding a fifth bullet to read as follows: "Painting on any brick or stone façade unless approved in advance by the Architectural Review Board."

This paragraph is further amended by adding a sixth bullet to read as follow: "Stucco".

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Jean-Fancois

Sec'd by Ald. Kleiner

Date of Adoption 12.20.22

Index No: 300-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution Authorizing the implementation, and funding in the first instance 100% of the federal-aid and State "Marchiselli" Program-aid eligible costs, of a transportation federal-aid project, and appropriating funds therefore.

WHEREAS, a Project for the Middletown Traffic Operations, Stage 1 in the City of Middletown, Orange County, PIN 8757.07 (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, Resolution No. 208-20 adopted by the City of Middletown on November 2, 2020 approved and agreed to advance the Project by making a commitment of 100% of the non-federal share of the costs of preliminary engineering work.

WHEREAS, Resolution No. 214-21 adopted by the City of Middletown on October 19, 2021 approved and agreed to advance the Project by making a commitment of 100% of the non-federal share of the costs of construction and construction inspection work, and increased the federal and non-federal share of costs for the additional preliminary engineering work for the project.

WHEREAS, it was subsequently found necessary to undertake additional preliminary engineering, construction, and construction inspection work not contemplated in the original agreement authorized by the previous Resolution; and

WHEREAS, it has been found necessary to increase the federal and non-federal share of costs for the additional preliminary engineering, construction, and construction inspection work for the project; and

NOW, THEREFORE, the Middletown City Council, duly convened does hereby

RESOLVE, that the Middletown City Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Middletown City Council hereby authorizes the City of Middletown to pay in the first instance 100% of the federal and non-federal share of the cost of the additional preliminary engineering, construction and construction inspection work for the Project or portions thereof; and it is further

RESOLVED, that the sum of $9,212,000 ($21,808,203 minus the previous $12,596,203) is hereby appropriated from the Capital Fund, H.908.900 and made available to
cover the cost of participation in the above phases of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Middletown City Council shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the Mayor thereof, and it is further

RESOLVED, that the Mayor of the City of Middletown be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or applicable Marchiselli Aid on behalf of the City of Middletown with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that in addition to the Mayor, the following municipal titles: Commissioner of Public Works, City Engineer, and City Treasurer, are also hereby authorized to execute any necessary Agreements or certifications on behalf of the Municipality/Sponsor, with NYSDOT in connection with the advancement or approval of the project identified in the State/Local Agreement;

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately.

STATE OF NEW YORK COUNTY OF ORANGE
) SS:
I, Richard P. McCormack, Clerk of the City of Middletown, New York, do hereby certify that I have compared the foregoing copy of this Resolution with the original on file in my office and that the same is a true and correct transcript of said original Resolution and of the whole thereof, as duly adopted by said Common Council of the City of Middletown at a meeting duly called and held in the Common Council Chambers, City Hall, 16 James Street, Middletown, NY on Tuesday, December 20, 2022, by the required and necessary vote of the members to approve the Resolution.

WITNESS My Hand and the Official Seal of the City of Middletown, New York, this 20th Day of December 2022.

____
Clerk, City of Middletown

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Tobin

Sec'd by Ald. Masi

Date of Adoption 12.20.22

Index No: 301-22

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

Resolution approving the Memorandum of Agreement between the Middletown Police Benevolent Association and the City of Middletown

RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and approves the Memorandum of Agreement (MOA) between the Police Benevolent Association (PBA) and the City of Middletown, effective January 1st, 2023 through December 31, 2027

RESOLVED that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Mayor to sign the agreement.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Masi

Sec'd by Ald. Johnson

Date of Adoption 12.20.22

Index No:

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	9			

I MOVE THE ACCOUNTS BE AUDITED, THE CLAIMS ADJUSTED AND THE

TREASURER BE AUTHOIZIED TO ISSUE WARRENTS FOR THEIR PAYMENTS

CITY OF MIDDLETOWN
NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Middletown will hold a public hearing on Tuesday, January 17, 2023, on or as near to 7:30 p.m. as possible, Common Council Chambers, 2nd floor, 16 James Street, to hear any and all persons wishing to be heard on the proposed zoning amendment to Chapter 475 to allow two-family dwellings in OR-2 (Two-Family Owner-Occupied Residential Districts) zoning districts to permanently be non-owner-occupied if the dwelling was occupied as a two-family dwelling at the time this zoning district was created.

Any and all persons wishing to be heard will be given an opportunity to speak either for or against the proposed zoning amendment.

The complete proposed zoning amendment is available in the office of the Common Council Clerk, City Hall, 16 James Street, room 12, and on the City Website.

The Public Hearing shall be conducted in person and via video/tele-conference and live on Channel 20 for viewing.

https://middletown-ny.digitaltownhall.com/

For any person unable to participate at the time of the public hearing, email comments may be submitted in advance to rmccormack@middletown-ny.com

By the order of the Common Council.

Richard P. McCormack
Clerk of the Common Council

Publish: 1/11/23 & 1/12/23
City Website

LOCALiQ

Observer-Dispatch | Daily Messenger
Times Telegram | New Jersey Herald
Times Herald-Record

PO Box 631202 Cincinnati, OH 45263-1202

PROOF OF PUBLICATION

Middletown, City
NANCY T
Middletown, City
16 JAMES STREET
MIDDLETOWN NY 10940

STATE OF NEW YORK, COUNTY OF ORANGE

The Times Herald-Record, a daily newspaper distributed in the Orange, Ulster, Pike, PA and Sullivan Counties, published in the English language in the City of Middletown, County of Orange, State of New York printed and published and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issues dated on:

01/11/2023, 01/12/2023

and that the fees charged are legal.
Sworn to and subscribed before on 01/12/2023

Legal Clerk

Notary, State of WI, County of Brown 8.25.26

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PUBLIC NOTICE
CITY OF MIDDLETOWN
PUBLIC HEARING

Notice is hereby given that the City of Middletown will hold a public hearing on Tuesday, January 17, 2023, on or as near to 7:30 p.m. as possible, Common Council Chambers, 2nd floor, 16 James Street, to hear any and all persons wishing to be heard on the proposed zoning amendment to Chapter 475 to allow two-family dwellings in OR-2 (Two-Family Owner-Occupied Residential Districts) zoning districts to permanently be non-owner-occupied if the dwelling was occupied as a two-family dwelling at the time this zoning district was created.

Any and all persons wishing to be heard will be given an opportunity to speak either for or against the proposed zoning amendment.

The complete proposed zoning amendment is available in the office of the Common Council Clerk, City Hall, 16 James Street, room 12, and on the City Website.

The Public Hearing shall be conducted in person and via video/tele-conference and live on Channel 20 for viewing.
https://middletown-ny.digitaltownhall.com/

For any person unable to participate at the time of the public hearing, email comments may be submitted in advance to rmccormack@middletown-ny.com

By the order of the Common Council.
Richard P. McCormack
Clerk of the
Common Council

Jan. 11, 2023; Jan. 12, 2023

MARIAH VERHAGEN
Notary Public
State of Wisconsin

CITY OF MIDDLETOWN, NEW YORK

COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald.

Sec'd by Ald.

Date of Adoption 01.17.23

Index No: 27-23

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin				
Ald. Jean-Francois				
Ald. Johnson				
Ald. Wray				
Ald. Kleiner				
Ald. Green				
Ald. Witt				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

Resolution appointing of Members to the Industrial Development Agency Board (IDA)

RESOLVED that the Common Council of the City of Middletown concurs with the Mayor's appointment of the following individuals to the Industrial Development Agency (IDA) for a one (1) year term expiring on December 31, 2023.

Elizabeth Nemeth
Brian Seigerman

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald.

Sec'd by Ald.

Date of Adoption 01.17.23

Index No: 28-23

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin				
Ald. Jean-Francois				
Ald. Johnson				
Ald. Wray				
Ald. Kleiner				
Ald. Green				
Ald. Witt				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

Resolution reappointing Fran Amelio to the Board of Assessment Review

RESOLVED that the Common Council of the City of Middletown concurs with the Mayor's appointment of Fran Amelio to the Board of Assessment Review for a term expiring on September 30, 2027.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald.

Sec'd by Ald.

Date of Adoption 01.17.23

Index No: 29-23

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin				
Ald. Jean-Francois				
Ald. Johnson				
Ald. Wray				
Ald. Kleiner				
Ald. Green				
Ald. Witt				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

Resolution appointing Jim Burtis to the Zoning Board of Appeals (ZBA)

RESOLVED that the Common Council of the City of Middletown concurs with the Mayor's appointment of Jim Burtis, Zoning Board of Appeals (ZBA), replacing Don Luis, for a term expiring on December 31, 2025.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald.

Sec'd by Ald.

Date of Adoption 01.17.23

Index No: 30-23

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin				
Ald. Jean-Francois				
Ald. Johnson				
Ald. Wray				
Ald. Kleiner				
Ald. Green				
Ald. Witt				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

Resolution reappointing Members of the Electrical Licensing

RESOLVED that the Common Council of the City of Middletown concurs with the Mayor's reappointment of members of the electrical licensing board for a term expiring on December 31, 2023.

Jerry Caliendo
Tom Murtaugh
Walter Welch
Robert Metz
Mark Fellenzer

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald.

Sec'd by Ald.

Date of Adoption 01.17.23

Index No: 31-23

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin				
Ald. Jean-Francois				
Ald. Johnson				
Ald. Wray				
Ald. Kleiner				
Ald. Green				
Ald. Witt				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

Resolution authorizing a proposal from H2O to renew contracts for Services at the Water and Waste Water Treatment Plants

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment authorizing a proposal from H2O, dated January 6, 2023, requesting renewal of the contracts for monthly services at the Water Treatment Plant (WTP) and Waste Water Treatment Plant (WWTP).

The fee for services at the WTP for 2023 will be a total of $24,062.50 per month for 12 months. This is currently a budgeted item; however, a budget transfer will need to take place at a later date from the water and sewer balance to cover the difference. The fund transfer request will come from the City Treasurer.

DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

Date: January 11, 2023

To: Honorable Mayor DeStefano, Members of the Board of Estimate and Apportionment, Members of the Common Council

Cc: Leonora Liz, Treasurer and Richard McCormack, City Clerk

From: Jacob Tawil, Commissioner of Public Works

Re: Approval of Proposal from H2O for Services at the WTP & WWTP

We are hereby requesting you to consider and approve the enclosed proposal from H2O, dated January 6, 2023, requesting renewal of the contracts for monthly services at the WTP and WWTP.

The fee for services at the WTP for 2023 will be a total of $24,062.50 per month for 12 months. This is currently a budgeted item, but we are requesting a transfer from the Water Fund to cover the difference needed for the year.

FROM	AMOUNT	TO
Water Fund Bal.	$183,750	F.8330.400 Contractual Services

The fee for services, plus an additional full time 3A operator, at the WWTP for 2023 will be a total of $31,918.75 per month for 12 months. This is currently a budgeted item, but we are requesting a transfer from the Sewer Fund to cover the difference needed for the year.

FROM	AMOUNT	TO
Sewer Fund Bal.	$131,025	G.8130.400 Contractual Services

Thank you.

JT/kg

h2O Innovation
Trusted Utility Partners

January 6th, 2023

City of Middletown
16 James Street
Middletown, NY 10940

RE: City of Middletown
Water Treatment Systems
Professional Management Services

JCO Inc., now a fully owned subsidiary of H_2O Innovation Operation and Maintenance, LLC and operating as such, is pleased to have provided management services to the City of Middletown ("**City**") over the years and would like to thank the City for the opportunity to serve your community. We remain committed to continuing servicing the City with the same expertise, dependability and loyalty we have demonstrated over the years.

We are currently providing the following services to the City:

Service	Monthly Fee
WTP Chief Operator and consultancy	$24,062.50
WWTP Chief Operator	$21,000.00
Additional Full Time WWTP 3A Operator	$10,140.25

Although the Consumer Price Index is 5.9% for 2023, we would like to propose a 2.5% increase only on the Sewer services. The monthly fees for 2023 will be as follows:

Service	Current Fee	Net Change	New Monthly Fee
Water treatment plant consultancy	$24,062.50	N/A	24,062.50
Sewer Chief Operator	$21,000.00	$525	$21,525
Additional Full Time 3A Operator	$10,140.25	$253.50	$10,393.75

If you have any questions and/or comments, feel free to contact the undersigned.

Please sign this letter confirming your agreement and acceptance of the above new monthly fees as well as H_2O Innovation standard terms and conditions of operation attached hereto.

Respectfully,

Roy Rysinger
Vice President and Client Services Director
For the City of Middletown

Approved this ______ day of ____________ 2023,

____
Name :
Title :

Standard Terms and Conditions - H_2O Innovation Operation & Maintenance, LLC
Provision of Operation and Maintenance Services

1. ACCEPTANCE AND COMPLETE AGREEMENT. All references to "H_2O **Innovation**" shall mean H_2O Innovation Operation & Maintenance, LLC. All references to "**Client**" shall mean the customer named in a purchase order, quotation or proposal. Client shall either sign H_2O Innovation's Agreement (as defined herein), or alternatively, issue a non-conflicting purchase order containing all necessary information including, without limitation, price, payment terms and schedule, type, quantity or description of the products and/or services to be provided by H_2O Innovation (the "**Work**"), as well as delivery terms, schedule and instructions. All references to the "**Agreement**" shall mean any purchase order, quotation, proposal or agreement agreed upon by both parties, whether issued by H_2O Innovation or by Client.

2. TERMS AND CONDITIONS. The parties agree that these terms and conditions ("**Terms and Conditions**") are the exclusive and complete terms accompanying the Agreement and no other terms will be deemed relevant to explain or supplement these Terms and Conditions whether oral, written, based on usage of trade, or course of dealing or performance. In case of contradiction between the terms and conditions stated in the Agreement and these Terms and Conditions, the terms and conditions stated in the Agreement shall prevail.

3. PRICE AND PAYMENT. Client shall pay H_2O Innovation for the Work, in accordance with the fees, prices and payment terms detailed in the Agreement to which these Terms and Conditions apply. Payment terms are net thirty (30) days from the date of invoice. Any tax, fee, duty, tariff or other charge of any nature whatsoever, imposed by any governmental authority on or measured by any transaction between H_2O Innovation and Client, shall be paid by Client in addition to the prices quoted or invoiced. If H_2O Innovation were required to pay any such tax, fee, duty, tariff or other charge, Client shall forthwith reimburse H_2O Innovation. Prices are also subject to escalation to reflect price variations of parts, components, raw materials or transportation attributable to or resulting from (i) new tariffs, laws or regulations; (ii) inflation; or (iii) Force Majeure Events.

Additional local support, other than what is already provided for in the Agreement, can be provided by H_2O Innovation at additional cost to Client. Such additional local support includes, without limitation, additional travel costs and expenses as well as any related cancellation and/or rescheduling fees and penalties attributable to Client postponing or forestalling a scheduled visit. A change order or an additional purchase order will be required prior to scheduling such additional Work. Should Client have an outstanding balance due, H_2O Innovation reserves the right to refuse performing the requested Work until such payments are received in full. Client assumes full responsibility for the readiness of the jobsite. Risk of loss shall pass to Client as per the applicable delivery terms provided for in these Terms and Conditions. Ownership of the Work shall remain in H_2O Innovation 's name until the payment for the Work has been received in full by H_2O Innovation.

4. DELIVERY. Any required products are priced and shipped pursuant to the delivery terms stated in the Agreement. Delivery date for the Work shall be clearly stated in the Agreement.

H_2O Innovation shall not be liable for any delays in delivery which are caused by events beyond its control, including, but not limited to delays caused by Client's inaccurate or incomplete data, changes to the Client's order, delayed approval of the Work by Client, acts of Client or Client's agent, or delays in transportation.

5. PERFORMANCE OF WORK. H_2O Innovation will perform the Work in a professional manner, in accordance with good engineering, safety and industry practice and with that degree of care, skill and diligence normal in performing work of a similar nature.

6. CLIENT RESPONSIBILITIES. (1) Client shall, in a timely manner and at its own expense, provide to H_2O Innovation, before of the commencement of the Work and on a continuing basis thereafter, all information necessary for H_2O Innovation's performance of the Work or required in order to ensure that the Work is provided in a proper and complete manner. Client recognizes that all this information provided to or made available to H_2O Innovation pursuant to this Agreement is an essential basis to the contract between the parties and therefore warrants and guarantees to H_2O Innovation its quality, reliability and accuracy. Clients hereby grants H_2O Innovation the irrevocable right to use, copy and modify this information and any data related to the Work and to disclose it to any third party who needs to know such information in order to perform the Work. (2) Client shall provide H_2O Innovation with access to its premises, facilities or sites so as to permit H_2O Innovation to perform the Work under this Agreement. (3) Client is responsible for any penalties or any fines that may be imposed by any governmental authority related to an infringement of or general non-compliance related to the specifications of an operating permit, a license or any other required authorization related to the water treatment system for which H_2O Innovation is performing the Work unless the said penalty or fine imposed upon Client is attributable to H_2O Innovation's wilful misconduct or gross negligence.

7. COMPLIANCE WITH LAWS. To the best of H_2O Innovation's knowledge, the Work performed for Client complies with most laws, regulations and industrial practices; however, H_2O Innovation does not accept responsibility for any state, city or other local law not specifically brought to its attention. H_2O Innovation's liability attributable to noncompliance related to the applicable laws and regulations shall be limited to the price paid by the Client under the Agreement.

The parties shall comply with all applicable laws and regulations including, without limitation, environmental and anti-bribery laws relating to bribery, extortion, kickbacks and any other illegal or unfair method of doing business, whether direct or indirect. Each party shall be obligated to reasonably cooperate with the other party in any claim or legal proceeding and to indemnify the other party for any act or omission in connection therewith.

8. DATA PROTECTION. Any and all personal data which is processed by the either party in connection with this Agreement shall be handled and protected pursuant to all applicable data protection laws and regulations which may be in force from time to time relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by any competent supervisory authority, and the equivalent of any of the foregoing in any relevant jurisdiction. Each party shall, and shall procure that its employees, agents and sub-contractors shall: (i) comply with its obligations under any applicable data protection law, and shall not, by act or omission, put the other party in breach of, or jeopardize any registration under, any such data protection law; (ii) promptly and fully notify the other party in writing of any notices received by it relating to the processing of any personal data, including subject access requests, complaints and/or correspondence from any regulatory body and provide such information and assistance as the other party may reasonably require in relation to such notice (at no cost to the other party); (iii) promptly and fully notify the other party in writing if it suspects or becomes aware of any actual, threatened or potential breach of security of personal data; and (iv) obtain appropriate consent from all data subjects to whom it relates, to pass their personal data to the other party for the purposes for which the other party intends to use it.

9. MODERN SLAVERY. Both parties agree to put in place policies and procedures to minimize the risks of modern slavery or human trafficking in their respective supply chain, and to comply fully with any modern slavery, human trafficking or similar applicable laws.

10. WARRANTY. The Work is warranted for a period of sixty (60) days from the date that the Work is completed. In the event a notice of defect is given by Client, H_2O Innovation shall perform the Work again to Client's satisfaction. All Products provided by H_2O Innovation will be new and of the best quality in every respect. Products will be in sufficient size and capacity and of proper material so as to fulfill in all respects such operating and maintenance conditions specified by the Client. The warranty period shall be twelve (12) months from the date of delivery to Client's facility, only when such Products are or have been used in normal conditions of operation and in accordance with the operating instructions specified by H_2O Innovation and/or the manufacturer. This warranty does not cover disposable items, such as fuses, lamps, probes, sensors, filters, cartridges or other disposable items that must be replaced periodically under the normal and eseeable operating conditions of the products, parts or components ..arranted hereby. CLIENT DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, SUCH AS WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PURPOSE.

11. INDEMNITY. Each party shall indemnify, defend, and hold harmless the other from and against any and all demands, claims, losses, damages or causes of action of every kind and nature, arising out of or related to this Agreement, including but not limited to liabilities attributable to personal injury, death, loss of use, or property damage and resulting from such party actions or negligence or breach of any of its obligations under this Agreement.

12. INSURANCE. Prior to commencement of the Work and at all time during the term of the Agreement, H_2O Innovation shall obtain and maintain, at its own cost, sufficient insurance coverage for commercial general liability, automobile liability, workers compensation liability and employer's liability. Proof of insurance shall be provided to the Client upon demand.

13. HEALTH AND SAFETY. H_2O Innovation shall at all times conduct its operation under the Agreement in a manner to avoid the risk of endangerment to health and bodily harm to persons. H_2O Innovation shall comply with all applicable health and safety laws and regulations.

14. PROPERTY DAMAGES. H_2O Innovation shall protect the property or the site where the Work is executed from damage which may arise as a result of its operations. H_2O Innovation shall, at all times, conduct operations under the Agreement in a manner to avoid risk of loss, theft, or damage by vandalism, sabotage, or by any other means, to any equipment, material, work or property.

15. TERM. Unless otherwise determined in the Agreement, the term of Agreement shall commence as of the effective date stated therein and shall continue thereafter for a period of one (1) year. At the end of the initial term and of any subsequent term, this Agreement shall be automatically renewed for additional periods of one (1) year, unless either party delivers notice in writing, to the other party, of its intention not to renew the Agreement at least thirty (30) days prior to the expiration of the then current term.

16. TERMINATION FOR DEFAULT. The agreement may be terminated by H_2O Innovation, without notice, upon the occurrence of an event of default, each of the following constitutes an event of default for the purposes of the Agreement:

i. Client is adjudged bankrupt, or a receiver is appointed on account of its insolvency or it enters into an arrangement for the benefit of its creditors,
ii. Client persistently fails to pay for the Work and/or Products as required and as per the payment terms of the Agreement, or
iii. Client otherwise fails to perform or comply with any material term, condition or covenant of the Agreement, being understood and agreed that in case of termination for default, H_2O Innovation shall be entitled to receive compensation in an amount equal to one hundred percent (100%) of Work already completed and/or Products already delivered upon the date of termination including the attributable portion of reasonable overhead and profit as well as all costs and expenses incurred by H_2O Innovation as a result of the Termination.

17. TERMINATION. Unless otherwise agreed in the Agreement, following the initial term of 1 year, either party may terminate the Agreement at any time, by giving the other party sixty (60) days' written notice of termination, being understood and agreed that in such case of termination, H_2O Innovation shall receive payment for the Work already completed and/or Products already delivered upon the date of nination including the attributable portion of reasonable overhead and profit.

18. FORCE MAJEURE. Subject to Section 3 of these Standard Terms and Conditions, neither party shall be responsible for delays resulting from events or circumstances beyond the control of such party. Such events may include, without limitation, acts of God, riots, acts of war, epidemics or pandemics, governmental acts, orders or regulations, border restrictions, fires, communication line failures, power failures and earthquakes. ("**Force Majeure Events**"). Inability to pay moneys or financial hardship shall not, however, constitute Force Majeure Events.

19. CONFIDENTIALITY AND OWNERSHIP OF DOCUMENTS. Each party agrees and commits to maintain all confidential information to which it has access in the scope of Work as confidential, to not disclose it to others and to use it solely for the intended purpose of the Agreement. These obligations of confidentiality shall continue for the term of the Agreement and shall survive indefinitely thereafter. All documents, including drawings, specifications, reports and other data, prepared or furnished by either party are instruments of service in connection with the Work and as such are the exclusive property of such party and shall be used exclusively in connection with the Work. H_2O Innovation is entitled to make copies of the documents for information and reference purposes, only in connection with the Work.

20. ASSIGNMENT. Neither party may assign the Agreement, without prior written consent of the other party. However, H_2O Innovation may assign the Agreement to any of its affiliates or any other entity, that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under the common or shared control, with H_2O Innovation.

21. LIMITATION OF LIABILITY. The total liability of either party for all claims arising out of or relating to this Agreement shall not exceed the annual contract value of the Agreement. Notwithstanding any other provision herein, neither party shall be liable for any special, indirect, consequential, incidental or punitive damages, including without limitation, loss of profit, loss of use or loss of revenues.

22. CHANGE ORDER AND AMENDMENT. The parties acknowledge and agree that the Work is subject to change. The estimate of costs and time for completion of the Work may be modified subject to changes and is contingent upon factors beyond the control of H_2O Innovation. No supplement, modification, or change of the Agreement shall be binding unless executed in writing by the parties to be bound thereby. No waiver of any of the provisions of this agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

23. GOVERNING LAWS. The Agreement shall be governed by and construed in accordance with the laws of the State where the project is located. The parties hereby consent to such jurisdiction and waive all others.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald.

Sec'd by Ald.

Date of Adoption 01.17.23

Index No: 32-23

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin				
Ald. Jean-Francois				
Ald. Johnson				
Ald. Wray				
Ald. Kleiner				
Ald. Green				
Ald. Witt				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

Resolution awarding bids for Surplus Vehicles

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and award the following bids for surplus vehicles auctioned off through Auctions International:

2003 Ford Crown Vic (VIN#2FAHP71W53X173468) - $590.00
2004 Ford Crown Vic (VIN#2FAHP71W04X138872) - $1,075.00
2004 Chevy Silverado (VIN#1GCHK23U84F250418) - $600.00
2005 Ford Crown Vic (VIN#2FAHP71W35X126779) - $590.00
2005 Mack Garbage Truck (VIN#1M2B225C65M005104) - $14,900.00
1986 HMMWV Military Troop Carrier- $10,600.00

Department of Public Works

Memorandum

To: Honorable Mayor DeStefano, Honorable Members of the Board of Estimate and Apportionment, Members of the Common Council

CC: Richard McCormack-City Clerk and Leonora Liz- Treasurer

From: Jacob Tawil, P.E. Commissioner of Public Works

Date: January 11, 2023

Re: Resolution needed to award bids for surplus vehicles auctioned off through Auctions International

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I respectfully request a resolution to award the following bids for surplus vehicles auctioned off through Auctions International:

2003 Ford Crown Vic (VIN#2FAHP71W53X173468) - $590.00

2004 Ford Crown Vic (VIN#2FAHP71W04X138872) - $1,075.00

2004 Chevy Silverado (VIN#1GCHK23U84F250418) - $600.00

2005 Ford Crown Vic (VIN#2FAHP71W35X126779) - $590.00

2005 Mack Garbage Truck (VIN#1M2B225C65M005104) - $14,900.00

1986 HMMWV Military Troop Carrier- $10,600.00

Total $28,355

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald.

Sec'd by Ald.

Date of Adoption 01.17.23

Index No: 33-23

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin				
Ald. Jean-Francois				
Ald. Johnson				
Ald. Wray				
Ald. Kleiner				
Ald. Green				
Ald. Witt				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

Resolution authorizing the 2023 Perma Contract

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the 2023 Perma Contract.

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes switching from paying installments throughout the year to paying the account in full at the beginning of the year, in order to receive a discount, the amount of the contract is $724,515, with the discount it is $710,785.

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Mayor to sign the agreement.

PERMA WORKERS' COMPENSATION AND EMPLOYERS LIABILITY COVERAGE DOCUMENT
Information Page

Public Employer Risk Management Association, Inc.
P.O. Box 12250
Albany, NY 12212-2250

COVERAGE NUMBER:	WC 0001224-44
PRIOR COVERAGE NUMBER:	WC 0001224-43

1. Named Member:
City of Middletown
16 James Street
Middletown, New York 10940

Broker of Record:
Marshall & Sterling-Middletown
420 East Main Street
Middletown, New York 12601

Other Work Places:
See WCE107

Federal ID Number: 14-6002297
NYS Unemployment IERN:

Legal Entity:
Other

2. COVERAGE PERIOD: The Coverage Period Is From: 1/1/2023 To 12/31/2023 — 11:59 P. M. Standard Time at The Member's Mailing Address

3. COVERAGE:

A. Workers Compensation Coverage: Part One of the coverage document applies to the Workers Compensation Law of the states listed here: NY
B. Employers Liability Coverage: Part Two of the coverage document applies to work in each state listed in item 3A. The limit of our liability under Part Two is: Unlimited per occurrence
C. Other States Coverage: Part Three of the coverage document applies to the states, if any, listed here:
D. This coverage document includes the endorsements and schedules listed on form **PERMA WC01-F (Ed. 08-03) Schedule of Endorsements Extension**

4. CONTRIBUTION:

The contribution for this coverage will be determined by our Manuals of Rules, Classifications, Rates and Rating Plans.
All information required on the attached extension of Information Page is subject to verification and change by audit.

Total Estimated Contribution:	$686,517	Total Estimated Coverage Cost:	$724,515
Additional Fees (See WC01 Extension):	$37,998	Minimum Contribution: $500	

Countersigned By: Alfred G. Campus

Issue Date: 1/3/2023

Signed for the above Company as provider for any section of this coverage by:

President

PERMA WC01 (ED. 06-10)

THIS SCHEDULE FORMS A PART OF THE COVERAGE DOCUMENT TO WHICH IT IS ATTACHED.

PERMA
WORKERS' COMPENSATION AND EMPLOYERS LIABILITY COVERAGE DOCUMENT
Extension of Information Page

Coverage No: WC 0001224-44
Coverage Term: 1/1/2023 to 12/31/2023

NAMED MEMBER: City of Middletown
LOCATION NAME: City of Middletown

Workers' Compensation and Employers Liability: **Rating Period:** 1/1/2023 to 12/31/2023

Class Code	Description	Estimated Exposure	Estimated Contribution
5506	Street Maintenance-Paving	$875,000	$104,185
7520	Waterworks	$1,100,000	$52,726
7580	Sewer Plant	$575,000	$15,403
7710	Fire Department	$2,500,000	$95,851
7720	Police Department	$8,500,000	$264,596
8392	Parking Garage	$70,000	$1,512
8394	Bus/Ambulance Drivers	$63,000	$2,760
8810	Clerical Office	$4,250,000	$5,832
8820	Attorneys	$150,000	$206
8831	Animal Control Officers	$42,000	$446
9015	Lifeguards/Beaches	$55,000	$884
9026	Building Operations, Custodial	$160,000	$5,485
9063	Recreation	$260,000	$2,214
9101	Schools: All Others	$60,000	$1,364
9102	Parks Maintenance	$690,000	$16,213
9402	Street Cleaning	$145,000	$5,894
9403	Refuse Collection	$875,000	$75,024
9410	Municipal Employees	$590,000	$35,922
	Subtotals:	$20,960,000	$686,517

All Volunteers - Secondary Medical Coverage: **Included**

Volunteer Firefighters Benefit Law (VFBL): **No Coverage Elected**

Volunteer Ambulance Workers Benefit Law (VAWBL): **No Coverage Elected**

Total Contribution:	**$686,517**
New York State Assessment:	**$37,998**
Total Contribution & Assessment:	**$724,515**
Coverage Cost due PERMA:	**$724,515**

Please note that the promulgated Experience Modification Factor for the City of Middletown is 0.82.

Workers Compensation and Employers Liability Coverage Document

(Schedule of Endorsements)

Member: City of Middletown		
Coverage No: WC 0001224-44	**Coverage Period:** 1/1/2023 to 12/31/2023	**Issue Date:** 1/3/2023

This coverage document includes these endorsements and schedules

Form Number	Form Name
PERMA WC01	Coverage Documents
PERMA WC01-F	Schedule of Endorsements
PERMA PS01	Payment Schedule
PERMA WC04	Workers' Compensation & Employers Liability Coverage Agreement
PERMA WC05	Foreign Voluntary Compensation and Employers Liability Coverage Agreement
PERMA WC06	Endemic Disease and Repatriation Endorsement
PERMA WC18	Medical Coverage for Volunteer Endorsement

PERMA Payment Plan

Member: City of Middletown			
Coverage No: WC 0001224-44	**Coverage Period:** 1/1/2023 To 12/31/2023		**Issue Date:** 1/3/2023

Payment Schedule

Installment #	Amount Due	Due Date
Annual Installment	$724,515.00	1/1/2023
Total	$724,515.00	

Please refer to your billing statement for additional details. (Sent previously under separate cover)

Public Employer Risk Management Association
9 Cornell Road
Latham, New York 12110

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY COVERAGE AGREEMENT

In consideration of the payment of the contribution and subject to the limits of liability, exclusions, conditions and other terms of this agreement, the Public Employer Risk Management Association ("PERMA") agrees with the member or members, named on the Declaration Page which is a part of this agreement, as follows:

GENERAL SECTION

A. The Agreement

This agreement includes at its effective date the Declaration Page and all endorsements and schedules listed on the Declaration Page. It is an agreement between you (the member named on the Declaration Page) and us (PERMA). The only agreements between you and us relating to this coverage are stated in this agreement and the Membership Agreement. The terms of this agreement may not be changed or waived except by endorsement issued by us to be part of this agreement.

B. Nature of this Program

This program is designed to provide statutory workers' compensation coverage and employers' liability coverage as described in this agreement.

C. Who Is Covered

You are covered if you are an employer named on the Declaration Page.

D. Locations

This agreement covers all of your usual workplaces in the State of New York at or from which operations covered by this agreement are conducted. Coverage afforded by this agreement is extended to cover employees who are employed and regularly engaged in your operations in the State of New York, or who may be temporarily outside this state in connection with operations within New York State. With regard to such employment, if you or any injured employee is deemed subject to the law for "damages" or the workers' compensation law of a state not named in this agreement, the laws of that state will apply and any loss, compensation, or other benefits will be payable under this agreement in accordance with those laws.

E. Definitions

For purposes of this agreement, the following definitions apply:

1. "Allocated loss adjustment expense" means claims expenses that we directly allocate to a particular claim, including any penalty that we are required to pay because you failed to submit a form required by the Workers' Compensation Board and the cost of any litigation arising from a claim.

2. "Damages" means money damages you are legally obligated to pay in your capacity as employer or otherwise. Where permitted by law, "damages" includes damages:

   (i) for which you are liable to a third party by reason of a claim or suit against you by that third party to recover the damages claimed against such third party as a result of injury to your employee;

   (ii) for care and loss of services; and

   (iii) for consequential bodily injury to a spouse, child, parent, brother or sister of the injured employee.

3. "Injury" means injury, sickness or disease as defined by the Workers' Compensation Law of the State of New York, sustained by a person, including death resulting from any of these at any time, but only if:

   (i) the "injury" arises out of and in the course of the injured employee's employment by you;

   (ii) the injured employee's employment is necessary or incidental to your work in the State of New York; and

   (iii) the "injury" occurs during the agreement period; or, if the employee's "injury" is a sickness or disease, that sickness or disease is caused or aggravated by the conditions of your employment and the employee's last exposure to the conditions causing or aggravating such disease occurs during the agreement period.

4. "Occurrence" means an event, including continuous or repeated exposure to substantially the same general harmful conditions, which event causes "injury" to one or more employees.

5. "Workers' Compensation Law" means the Workers' Compensation Law of the State of New York, including any amendments to that law which are in effect during the agreement period, but not the provisions of any law that provides non-occupational disability benefits, any federal workers' compensation law or occupational disease law.

6. If you are a county self-insurance plan established under Article 5 of the Workers' Compensation Law, "you" as used in Section F of this Part, all of Part Four and Sections A, B and C of Part Six means the county and each participant in the plan.

F. Your Duties

1. You must provide us with the information we request to help determine coverage under this agreement and the risk you pose to us.
2. You must actively subscribe to our philosophy of reducing costs by minimizing losses through meaningful loss control and prevention measures.
3. You must cooperate in instituting any and all reasonable safety regulations that we may recommend to you for the purpose of eliminating or minimizing hazards that would contribute to injuries and follow any plan of loss control that we provide to you for the purpose of reducing losses.
4. You must provide to us, upon request, a copy of your safety manual.
5. You must institute and/or continue a safety committee which has regular, documented meetings and you must, upon request, allow our representative to attend at least one meeting of that committee each year.

PART ONE – WORKERS' COMPENSATION COVERAGE

A. How this Coverage Applies

We will pay promptly when due the benefits required of you by the Workers' Compensation Law because of "injury" to your employees.

B. Our Duty to Defend

We have the right and duty to defend at our expense any claim or proceeding against you for benefits payable by this coverage. We have the right to investigate and settle these claims or proceedings.

We have no duty to defend a claim or proceeding that is not covered by this agreement. We also have no duty to defend or continue to defend after we have paid an amount equal to the applicable limit of our liability under this agreement.

C. Our Duty to Pay

We will also pay these costs, in addition to other amounts payable under this coverage, as part of any claim or proceeding we defend:

1. reasonable expenses incurred at our request, but not loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the amount payable under this coverage;

3. litigation costs taxed against you;
4. interest on an award as required by law until we offer the amount due under this coverage; and
5. expenses we incur.

D. Other Insurance

We will not pay more than our share of benefits and costs covered by this agreement and other insurance you may maintain. Subject to any limits of liability that may apply, all shares will be equal until the loss is paid. If any coverage or self-insurance is exhausted, the shares of all remaining sources of recovery, including self-insurance, will be equal until the loss is paid.

E. Other Payments You Must Make

In addition to the payments required by Part Five of this agreement, you are responsible for any payment in excess of the benefits regularly provided by the Workers' Compensation Law including those required because:

1. of your serious and willful misconduct;
2. you knowingly employ an employee in violation of law;
3. you fail to comply with a health or safety law or regulation; or
4. you discharge, coerce or otherwise discriminate against any employee in violation of the Workers' Compensation Law.

You must also make any payments required to be made by you under General Municipal Law § 207-a or § 207-c.

If we make any payments in excess of the benefits regularly provided by the Workers' Compensation Law on your behalf, you will reimburse us promptly.

F. Recovery from Others

We have your rights, and the rights of persons entitled to the benefits of this coverage, to recover our payments from anyone liable for the injury. You will do everything necessary to protect those rights for us and to help us enforce them.

G. Statutory Provisions

These statements apply where they are required by law.

1. As between an injured worker and us, we have notice or knowledge of the injury when you have notice or knowledge.
2. Your default, bankruptcy or insolvency will not relieve us of our obligations under this agreement after an injury occurs.

3. We are directly and primarily liable to any person entitled to the benefits payable by this agreement. Those persons may enforce our duties; so may an agency authorized by law. Enforcement may be against us or against you and us.
4. Jurisdiction over you is jurisdiction over us for the purposes of the Workers' Compensation Law. We are bound by decisions against you under that law, subject to the provisions of this agreement that are not in conflict with that law.
5. This agreement conforms to the parts of the Workers' Compensation Law that apply to:
   a. benefits payable by this agreement;
   b. payments into security or other special funds, and assessments payable by us under that law.
6. Terms of this agreement that conflict with the Workers' Compensation Law are changed by this statement to conform to that law.

Nothing in these paragraphs relieves you of your duties under this agreement.

PART TWO – EMPLOYERS' LIABILITY COVERAGE

A. How this Coverage Applies

We will pay all sums you legally must pay to third parties as "damages" because of "injury" to your employees caused by an "occurrence" during the agreement period, provided the original suit against you and any related legal actions for "damages" for "injury" is brought within the United States of America, its territories or possessions, or Canada.

B. Exclusions

This agreement does not cover:

1. liability assumed under a contract, but this exclusion does not apply to a warranty that your work will be done in a workman-like manner;
2. punitive or exemplary damages;
3. any obligation imposed by the Volunteer Ambulance Workers' Benefits Law, the Volunteer Firefighters' Benefits law, any workers' compensation law or occupational disease law, unemployment compensation law or disability benefits law, no-fault law, civil rights law, or any similar law;
4. damages arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any employee, or any personnel practices, policies, acts or omissions;

5. "injury" to an employee while employed by you with actual knowledge, or the actual knowledge of any of your executive officers, that the employment or engagement is in violation of law;
6. "injury" intentionally caused or aggravated by you;
7. "injury" occurring outside the State of New York, but this exclusion does not apply to "injury" sustained by your regular New York employees while temporarily outside the State of New York;
8. any obligation imposed by a workers' compensation or occupational disease law including the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950), the Defense Base Act (42 USC Sections 1651-1654), the Non-Appropriated Fund Instrumentalities Act (5 USC Sections 8171- 8173), the Outer Continental Shelf Lands Act (43 USC Sections 1331-1356), the Federal Coal Mine Health and Safety Act (30 USC Sections 901-945), any other federal workers' compensation law or other federal occupational disease law, or any amendments to these Acts or laws;
9. "injury" to a master or member of the crew of any vessel;
10. "injury" to any person whose work is not subject to the Workers' Compensation Law;
11. "injury" to any person engaged in work subject to the Federal Employers Liability Act (45 USC Sections 51-60), any other federal laws obligating an employer to pay damages to any employee due to injury arising out of or in the course of employment, or any amendment to that Act or those laws;
12. "damages" payable under the Migrant and Seasonal Agricultural Worker protection Act (29 USC Sections 1801-1872) and under any other federal law awarding damages for violation of these laws or regulations issued thereunder, or any amendment to that Act or those laws; and
13. fines or penalties imposed for violation of federal or state law.

C. We Will Defend

We have the right and duty to defend, at our expense, any claim, proceeding or suit against you for "damages" payable by this agreement. We have the right to investigate and settle these claims, proceedings and suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this agreement. We have no duty to defend or continue defending after we have paid our applicable limit of liability under this agreement.

D. We Will Also Pay

We will also pay, in addition to other amounts payable under this agreement, as part of any claim, proceeding or suit we defend:

1. reasonable expenses incurred at our request, but not loss of earnings;

2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the amount payable under this coverage;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this coverage; and
5. expenses we incur.

E. Other Insurance

We will not pay more than our share of damages and costs covered by this agreement and other insurance or self-insurance the member may maintain. Subject to any limits of liability that may apply, all shares will be equal until the loss is paid. If any coverage or self-insurance is exhausted, the shares of all remaining sources of recovery, including self-insurance, will be equal until the loss is paid.

F. Limits of Liability

Our limits of liability are shown in Item 3.B. of the Declaration Page. They apply as explained below:

1. Per Occurrence. The limit shown is the most we will pay for all "damages" you are legally obligated to pay for all "injuries" arising from a single "occurrence," irrespective of the number of employees injured by said "occurrence."
2. We will not pay any claims for "damages" after we have paid the applicable limit of our liability under this agreement.

G. Recovery from Others

We have your rights to recover our payment from anyone liable for an injury covered by this agreement. You will do everything necessary to protect those rights for use and to help us enforce them.

H. Actions against Us

There will be no right of action against us under this agreement unless:

1. you have complied with all terms of this agreement; and
2. the amount you owe has been determined with our consent or by actual trial and final judgment.

This agreement does not give anyone the right to add us as a defendant in an action against you to determine your liability. The bankruptcy or insolvency of you or your estate will not relieve us of our obligations under this Part after an injury occurs while this agreement is in force for you.

PART THREE – OTHER STATES' INSURANCE

A. How This Coverage Applies

1. This other states insurance applies only if one or more states are shown in Item 3.C. of the Declaration Page.
2. If you begin work in any one of those states after the effective date of this agreement and are not insured or self-insured for such work, all provisions of this agreement will apply as though that state were listed in Item 3.A. of the Declaration Page.
3. We will reimburse you for the benefits required by the workers' compensation law of that state if we are not permitted to pay the benefits directly to the person entitled to them.
4. If you have work on the effective date of this agreement in any state not listed in Item 3.A. of the Declaration Page, coverage will not be afforded for that state unless we are notified within 30 days.

B. Notice

You must tell us at once if you begin work in any state listed in Item 3.C. of the Declaration Page.

PART FOUR – YOUR DUTIES IF INJURY OCCURS

A. What You Must Do

If an injury occurs, you must:

1. tell us immediately if "injury" occurs that may be covered by this agreement, but (i) notice given by or on behalf of the insured, or written notice by or on behalf of the injured person or any other claimant, to any licensed agent of the insurer in this state, with particulars sufficient to identify the insured, shall be deemed notice to the insurer; (ii) the failure to give any notice required to be given by this agreement within the time prescribed will not invalidate any claim made by the insured, an injured person or any other claimant if it is shown not to have been reasonably possible to give such notice within the prescribed time and that notice was given as soon as was reasonably possible thereafter; and (iii) the failure to give any notice required to be given by this agreement within the time prescribed will not invalidate any claim made by the insured, injured person or any other claimant unless the failure to provide timely notice has prejudiced us;
2. provide for immediate medical and other services required by the Workers' Compensation Law;

3. give us or our agent the names and addresses of the injured persons and of witnesses, and other information we may need;
4. promptly give us all notices, demands and legal papers related to the injury, claim, proceeding or suit; and
5. cooperate with us and assist us, as we may request, in the investigation, settlement or defense of any claim, proceeding or suit.

B. What You May Not Do

If an injury occurs, you may not:

1. do anything after an injury occurs that might interfere with our right to recover from others; and
2. voluntarily make payments, assume obligations or incur expenses, except at your own cost, but, for the purposes of this provision, the term "voluntary payments" does not mean any wages or other amounts you are required to pay pursuant to General Municipal Law §§ 207-a or 207-c or any collective bargaining agreement, as long as you notify us of those amounts.

PART FIVE – PAYMENTS YOU MUST MAKE

A. Contribution

You will pay a contribution in the amount shown on the Declaration Page, schedules and endorsements when due. You will pay that contribution even if part or all of the Workers' Compensation Law is not valid. You will also pay any assessment or other charge that the Workers' Compensation Board may impose with respect to you, without regard to whether you or we are required to pay that amount. Your contribution may be adjusted as a result of increased benefit levels mandated by amendments to the Workers' Compensation Law or by increases in Workers' Compensation Board assessments.

B. How Your Contribution is Determined

The amount of the contribution for the coverage provided under this agreement will be determined by our manuals of rules, rates, rating plans and classifications. We will update these manuals and our guidelines periodically and apply the changes to this coverage.

1. We may apply credits or debits to individual classification code rates for the coverage that are in excess of or less than manual rates. Variations of manual rates will be determined by us according to our appraisal of you and your business operations as a risk. The credits and debits may be adjusted by us at the time of the final audit, if the contribution as determined by the audit is deemed excessive or insufficient for the losses originally anticipated.

2. The Declaration Page shows the employee classification codes, payroll and estimated contribution by classification. These classifications were assigned based on an estimate of the exposures you would have during the agreement period. You agree that if we request you to do so, you will execute authorization forms permitting us and our designee to obtain the information and data necessary to determine your experience rating modification. If your actual exposures are not properly described by those classifications, we will assign proper classifications, rates and contribution basis by endorsement to this agreement. If there was a misrepresentation of the payroll and classification codes you provided to us, and that information was used to develop the experience modification factor for the coverage period, then, regardless of whether the misrepresentation or discrepancy was intentional, we will revise the experience modification factor based on the new, corrected information and apply that revised experience modification factor in determining the contribution due as a result of the final audit.

3. The base contribution for each work classification is determined by multiplying a rate by a contribution basis. Remuneration is the most common contribution basis. The contribution basis includes payroll and all other remuneration paid or payable during the agreement period for the services of:

   a. all your officers and employees engaged in work covered by this agreement; and

   b. all other persons engaged in work that could make us liable under Part One (Workers' Compensation Coverage) of this agreement. If you do not have payroll records for these persons, the contract price for their services and materials may be used as the contribution basis. This paragraph will not apply if you give us proof that we deem sufficient to establish that the employers of these persons have lawfully secured their workers' compensation obligations.

C. Assessments

You must also pay any assessment or other charge that the Workers' Compensation Board may impose with respect to you, without regard to whether you or we are required to pay that amount.

D. Adjustments

Your contribution may be adjusted as a result of increased benefit levels mandated by amendments to the Workers' Compensation Law or by increases in Workers' Compensation Board assessments.

E. Final Contribution

The contribution shown on the Declaration Page, schedules, and endorsements, where applicable, is an estimate. The final contribution may be determined at the end of the agreement period by using the actual, not the estimated, contribution basis and classifications as determined by our auditor and the rates that we apply to the business and work covered by this agreement. If the final audit reveals a significant discrepancy between the payroll and classification codes originally represented to us and the payroll and classification codes determined by the audit, and that information was used to develop the experience modification factor for the coverage period, then, regardless of whether the misrepresentation or discrepancy was intentional, we will revise the experience modification factor based on the new, corrected information and apply that revised experience modification factor in determining the contribution due as a result of the final audit.

If the final contribution is more than the estimated contribution you paid to us, you will pay us the difference within 30 days of the date on which we give you written notice of that difference. If the final contribution is less than the estimated contribution you paid us, we will refund or credit the difference to you, as you may elect. The final contribution will not be less than the highest minimum contribution for the classifications covered by this agreement. Any member whose estimated annual contribution is greater than $200,000 will pay a final contribution which is not less than 95 percent of the estimated annual contribution. This minimum may be waived only by the PERMA Executive Director, with the approval of the PERMA Management Committee, and only in the event ofan unexpected elimination of a major hazard group for the member.

If this agreement is cancelled, your final contribution will be determined pursuant to Section F(4) of Part Six.

PART SIX – CONDITIONS

A. Inspection

We have the right, but are not obligated, to inspect your workplaces at any time. Our inspections are not safety inspections. They relate only to the coverage eligibility of the facilities and the contributions to be charged. We may give you reports on the conditions we find. We may also recommend changes. While these reports and recommendations may help reduce losses, we do not undertake to perform the duty of any person to provide for the health or safety of your employees or the public. We do not warrant that your facilities are safe or healthful or that they comply with laws, regulations, codes or standards. Insurance rate service organizations have the same rights we have under this provision.

B. Records

You will keep records of information needed to compute contributions. You will provide us with copies of those records when we ask for them.

C. Audit

You may be selected for an audit. If you are, you will let us examine and audit all your records that relate to this coverage, whether these records pertain to the current agreement period or to any previous agreement period. These records include ledgers, journals, registers, vouchers, contracts, tax reports, payroll and disbursement records, and programs for storing and retrieving data. We may conduct the audits during regular business hours during the agreement period and within one year after the agreement period ends. The information developed by the audit will be used to determine your final contribution. It will also assist us with coding and future rating, in providing to our excess insurance partners with information and in furthering our loss control initiatives and analytics.

If you have a dispute with any of the information included in the final audit, you must notify us in writing within 60 days of receiving the audit invoice. If you do not notify us within that period, the audit will be considered closed and no further adjustments will be made to the contribution for the period to which the audit related.

D. Renewal

This agreement renews automatically and continues in full force after the expiration of the original period of coverage for succeeding periods of 12 months or such other period as may be stipulated by endorsement, unless either of us provides the other with written notice of its intent not to renew this agreement in accordance with the requirements for written notice set forth in Section D of this Part. If we provide you notice of non-renewal, that notice will not be effective until 30 days after we have mailed the notice to you by certified or registered mail at the mailing address set forth on the Declaration Page, which is the address you have told us is your place of business, and we have filed that notice in the office of the Chair of the Workers' Compensation Board. Any notice of intent not to renew provided by you less than 30 days prior to the renewal date will be ineffective as a notice of non-renewal under this section but will be deemed, to the extent otherwise valid, a notice of cancellation by you under Section F(4) of this Part.

You are liable for the contribution for each succeeding agreement period. Each renewal contribution is payable by you at the beginning of each new period when you are notified of the amount.

E. Transfer of Your Rights and Duties

Your rights or duties under this agreement may not be transferred without our written consent. But if your rights and duties are transferred to a legal representative, that representative may act within the scope of the representative's duties with respect to this agreement.

F. Cancellation

This agreement may be cancelled other than at its renewal date as follows:

1. We may cancel this agreement if you fail or refuse to make any payment required by this agreement. Cancellation for non-payment will be effective on the date specified in the notice, which will be not less than 10 days after (a) we give you written notice of cancellation by mailing the notice to you by certified or registered mail at the mailing address set forth on the Declaration Page, which is the address you have told us is your place of business, and (b) we file that notice in the office of the Chair of the Workers' Compensation Board. However, (i) if you make the required payment prior to the expiration of that 10 day period, this agreement will be re-instated, and (ii) if you secure benefits for your employees in another manner that complies with the Workers' Compensation Law which become effective prior to the expiration of the time stated in the notice, the cancellation will be effective as of the date on which that other coverage is effective. Contribution payments received by us after cancellation is effective will not reinstate this agreement. Such payments will be credited to your account to cover any balance due on the final contribution.

2. We may cancel this agreement for other cause, including but not limited to your failure to comply with the terms of this agreement, or the rules, regulations or by-laws of PERMA. Cancellation for reasons other than non- payment will be effective on the date specified in the notice, which will be not less than 30 days after (a) we give you written notice of cancellation by mailing the notice to you by certified or registered mail at the mailing address set forth on the Declaration Page, which is the address you have told us is your place of business, and (b) we file that notice in the office of the Chair of the Workers' Compensation Board. However, if you secure benefits for your employees in another manner that complies with the Workers' Compensation Law which become effective prior to the expiration of the time stated in the notice, the cancellation will be effective as of the date on which that other coverage becomes effective.

3. You may cancel this agreement if you secure benefits for your employees in another manner that complies with the Workers' Compensation Law. In order to cancel on this basis, you must send us written notice, by certified mail, specifying the date on which you propose that the cancellation will take effect. Notwithstanding the date you specify, cancellation will not take effect until thirty days after the date notice is received by us including 10 days for filing of notification in the office of the chair of the Workers' Compensation Board.

4. If coverage is cancelled pursuant to subparagraph 1 or 3 of this section, you will pay the contribution owed for the period preceding cancellation, computed using the New York Compensation Insurance Rating Board Short Rate Cancellation Table, including the procedure accompanying such Table. The final contribution will not be less than the minimum contribution.

   In the event coverage is otherwise cancelled, your final contribution will be calculated pro rata based on the time this agreement is in effect. In that case, the final contribution will not be less than the pro rata share of the minimum contribution.

5. If any of these provisions that conflicts with a law that governs the cancellation of the coverage provided pursuant to this agreement, the law will control.

G. Effect of Declaration and Application Documents

By accepting this agreement, you agree that the statements on the Declaration Page and the application documents are your agreements and representations, that this agreement is issued in reliance upon the truth of those representations and that this agreement embodies all of the agreements existing between you and us and any of our agents relating to this agreement.

In witness whereof, PERMA has caused this agreement to be executed and attested, but this agreement will not be valid unless countersigned by a duly authorized representative of PERMA.

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Public Employer Risk Management Association
9 Cornell Road
Latham, NY 12110

FOREIGN VOLUNTARY COMPENSATION AND EMPLOYERS LIABILITY COVERAGE ENDORSEMENT

In consideration of the payment of additional contribution and in reliance upon the statements in the declarations and any other related application documents and subject to the limit of liability, exclusions, conditions and other terms of this agreement, this endorsement adds Foreign Voluntary Compensation Coverage to the agreement.

Part One - Workers Compensation Coverage is modified as

A. **How This Coverage Applies** is replaced by the following.

We will pay an amount equal to the benefits that would be required of you because of "injury" to your employees caused by an "occurrence" during the agreement period if you and your employees described in the Schedule were subject to the New York Workers Compensation Law. We will pay those amounts to the persons who would be entitled to them under the law.

B. **Recovery From Others** is replaced by the

If we make a recovery from others, we will keep an amount equal to our expenses of recovery and the benefits we paid. We will pay the balance to the persons entitled to it. If the persons entitled to the benefits of this coverage make a recovery from others, they must reimburse us for the benefits we paid them.

C. **Before We Pay** is added:

Before we pay benefits to the persons entitled to them, they must:

1. Release you and us, in writing, of all responsibility for injury or death.
2. Transfer to us their right to recover from others who may be responsible for injury or death.
3. Cooperate with us and do everything necessary to enable us to enforce the right to recover from others.

If the persons entitled to the benefits of this coverage fail to do those things, our duty to pay ends at once. If they claim damages from you or from us for the injury or death, our duty to pay ends at once.

Part Two - Employers Liability Coverage is modified as

A. **How This Coverage Applies** is replaced by the following.

We will pay all sums you legally must pay to third parties as "damages" because of "injury" to your employees caused by an "occurrence" during the agreement period, provided the originally suit against you and any related legal actions for "damages" for "injury" is brought within the United States of America, its territories or possessions, or Canada. The "injury" must be sustained by an employee included in the group of employees described in the Schedule. The "injury" must occur in the United States of America, its territories or possessions, or Canada, and may occur elsewhere if the employee is a United States or Canadian citizen temporarily away from those places.

A. **Exclusions** is changed by adding exclusion 17.

This agreement does not cover:

17. Bodily injury arising from any direct or indirect consequence of war, invasion, act of foreign enemy, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.
No current or subsequent endorsement to this agreement will override or waive this limitation.

B. **Recovery From Others** is replaced by the following:

If we make a recovery from others, we will keep an amount equal to our expenses of recovery and the benefits we paid. We will pay the balance to the persons entitled to it. If the persons entitled to the benefits of this coverage make a recovery from others, they must reimburse us for the benefits we paid them.

C. **Before We Pay** is added:

Before we pay benefits to the persons entitled to them, they must:

1. Release you and us, in writing, of all responsibility for injury or death.
2. Transfer to us their right to recover from others who may be responsible for injury or death.
3. Cooperate with us and do everything necessary to enable us to enforce the right to recover from others.

If the persons entitled to the benefits of this coverage fail to do those things, our duty to pay ends at once. If they claim damages from you or from us for the injury or death, our duty to pay ends at once.

SCHEDULE

All employees of the member or members hired within New York State while they are traveling or temporarily residing outside the United States of America, its territories or possessions, or Canada for a period no longer than ninety days.

Public Employer Risk Management Association
9 Cornell Road
Latham, NY 12110

ENDEMIC DISEASE AND REPATRIATION ENDORSEMENT

A. Endemic

This endorsement changes the Foreign Voluntary Compensation and Employers Liability Coverage Endorsement and the general coverage agreement. The word "injury" as used in that endorsement includes any endemic diseases. The coverage applies as if endemic diseases were included in the provisions of the New York Workers Compensation Law.

B. Repatriation

We agree to reimburse the employer for such additional expenses as reasonably may be incurred over and above normal transportation costs for repatriation of injured, sick or deceased employees as a result of "injury" covered by this agreement from locations of operations outside the country to a destination in the United States of America, if in the case of injury, the injury make repatriation necessary in the opinion of competent medical authorities.

Our reimbursement shall be limited as follows:

1. To the amount by which expenses exceed the normal cost of returning the employee if in good health, or

2. In the event of death, to the amount by which such expenses exceed the normal cost of returning the employee if alive and in good health, but

3. In no event shall our reimbursement exceed $150,000 as respects any one such employee whether dead or alive.

Public Employer Risk Management Association
9 Cornell Road
Latham, NY 12110

MEDICAL COVERAGE FOR VOLUNTEERS ENDORSEMENT

It is hereby understood and agreed that, effective 1/1/2023, to expiration of 12/31/2023 this agreement is subject to the following endorsement.

At your discretion, you may elect, in accordance with the New York Workers' Compensation Law, to make a volunteer subject to the law, but only with respect to payment of medical expenses for work-related injury, and subject to the following limitations.

1. The injured volunteer will be reimbursed directly for medical expenses that they would (a) be eligible to have paid under Workers' Compensation Benefits Law and (b) of which they have incurred ("out of pocket" expenses).

2. Coverage does not apply to any volunteer whose injury makes them eligible for Volunteer Firefighters' Benefits Law or Volunteer Ambulance Workers Benefits Law.

3. This coverage will not reimburse the volunteer for medical bills that are otherwise reimbursable under any other insurance policy.

4. If the named insured is eligible for experience rating, losses paid under this endorsement will be applied in the same manner as losses of paid employees.

5. In no event will reimbursements claimed under this coverage endorsement exceed __$5,000__ for any one occurrence.

6. If we make a recovery from others, we will keep an amount equal to our expense of recovery and the benefits we paid. We will pay the balance to the persons entitled to it. If the persons entitled to the benefits of this coverage make a recovery from others, they must reimburse us for the benefits we paid them.

7. Before we pay benefits to the persons entitled to them, they must:

- **A.** Transfer to us the right to recover from others who may be responsible for injury or death to the extent that we render payment.
- **B.** Cooperate with us and do everything necessary to enable us to enforce the right to recover from others.

8. If the person entitled to the benefits of this coverage fails to do those things, our duty to pay ends at once. If they claim damages from you or from us for the injury or death, our duty to pay ends at once.

PERMA

Public Employer Risk Management Association
9 Cornell Road, Latham, NY 12110

Invoice

Page 1 of 1
Invoice 20230589
Date 1/3/2023

Payments please reference invoice #

Bill To: **City of Middletown**
16 James Street
Middletown, NY 10940

Electronic Payments:
Contact billing@PERMA.org for updated account information

Check Payments mail to:
PERMA
PO Box 293
Canajoharie, NY 13317-9993

Broker: 2350-4
Marshall & Sterling-Middletown

Inquiries	Coverage Term	Member ID	Due Date
billing@PERMA.org or (518) 220-1111	1/1/2023-12/31/2023	WC 0001224-44	1/1/2023

Description	
Estimated Annual - Contribution	$686,517.00
Estimated Annual - New York State Assessment	$37,998.00

Amounts shown are subject to audit.

Total:	$724,515.00
Payments Received:	$0.00
Current Amount Due:	$724,515.00

You may take a 2% discount on the contribution portion for payment in full.

Contribution in full (after discount):	$672,787.00
Plus Full New York State Assessment:	$37,998.00
Total amount due by 1/1/2023 after taking advantage of the discount:	$710,785.00

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald.

Sec'd by Ald.

Date of Adoption 01.17.23

Index No: 34-23

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin				
Ald. Jean-Francois				
Ald. Johnson				
Ald. Wray				
Ald. Kleiner				
Ald. Green				
Ald. Witt				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

Resolution authorizing an agreement with ClaimDOC Services to administer the City's Employer-sponsored employee health benefit plan

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes an agreement with ClaimDOC Services to administer the City's Employer-sponsored employee health benefit plan.

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes a Stop Loss Insurance Policy "capping" how much the City will have to contribute each year towards the plan premium.

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Mayor to sign both of the agreements.

The City would like to offer a dual option health insurance plan to eligible employees alongside with NYSHIP. The City would like to use ClaimDOC Services to administer the City's Employer-sponsored employee health benefit plan (an ERISA Self – Fund Health plan). This optional plan has the potential to offer significant savings in health insurance premium by using reference-based pricing on health claims. In addition to processing claims, ClaimDoc will provide appropriate language for the Explanation of Benefits (EOB), resolve all legal action/defense if needed, provide education/enrollment services for employees enrolling into the plan and implement a "Pave the Way" program that provides a member advocate to assist with any concerns the employee may have. The agreement will be for a three-year term, with an annual renewal.

Agreement for Claims Review, Audit, and Negotiation Services

AGREEMENT by and between Claim DOC, LLC, ("CD"), a Iowa Limited Liability Company, and City of Middletown ("Client"), a New York governmental entity, on behalf of its employer-sponsored employee health benefit plan (collectively, the "Parties" and individually, "Party") effective as of February 1, 2023 ("Effective Date").

WHEREAS, Client sponsors an employee health benefit plan (the "Plan"), an ERISA self-funded health plan for qualifying employees and dependents (hereinafter "Client" may also be referred to as "Plan Sponsor"); and

WHEREAS, CD offers various Reference-based Pricing ("RBP") services, healthcare cost management programs and proprietary applications in an integrated suite of services ("Claim Review Services") to health plans, healthcare payers, third party administrators, trust funds, providers, and other intermediaries contracting on behalf of healthcare payers; and

WHEREAS, Plan Sponsor desires to use CD for such Claim Review Services; and

WHEREAS, Plan Sponsor and CD desire to accept such engagement pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions and other agreements set forth herein, Plan Sponsor and CD hereby agree as outlined below:

ARTICLE I: PURPOSE

The purpose of this Agreement is to describe the terms in which CD shall provide Claims Review Services to the Plan, as well as define the relationship between the Parties.

ARTICLE II: CLAIM REVIEW SERVICES

II.1. Scope of Work. CD will perform Claim Review Services for claims for medical and pharmacy services incurred by members covered by the Plan ("Covered Members") as described in this Article.

II.2. Description of Claim Review Services.

II.2.1. "Reference-Based Pricing" or "RBP Services" are quantitative, objective and systematic analyses of facility and physician claims whereby multiple databases are used to evaluate each submitted claim on an individual basis utilizing pricing technologies to determine reasonable and allowed payments pursuant to the Plan language. RBP Services may include the negotiation of charges whereby the provider executes a Letter of Agreement (or similar document) accepting a specific reimbursement as payment-in-full prior to or subsequent to the Covered Service(s) performed (also known as pre-service negotiation). RBP Services may be performed utilizing Diagnostic Related Groups ("DRG") or Ambulatory Payment Classifications (APC) or at the revenue center level. RBP Services include: (a) DRG/APC validation (i.e., verification that the diagnostic group/payment classification is billed appropriately for the service rendered); (b) review and analysis of charges for multiple billing, unbundling, data errors, and upcoding of procedures with no fee Schedule values; (c) separation of charges not related to the injury or illness; and (d) cost shifting of revenue and/or CPT codes (also known as an audit).

II.2.2. Reference-based pricing and Medicare Rates means applying the Medicare Allowable Pricing or Cost Pricing using reference databases that include The US Government, Centers for Medicare &

Medicaid (CMS), and other generally accepted industry sources that are deemed to be authoritative and objective pricing and coding reference data sources. CMS collects data on providers' charges and cost by facility, zip code, county and state and the procedure and diagnosis codes that include but are not limited to, Medicare Prospective Payment System, CMS Cost-to-Charge filings, Medicare Provider Reimbursement Manual.

II.3. Duties of CD. In providing such Claim Review Services, CD shall:

II.3.1. Process eligible, compensable claims ("Referred Health Claim") sent to CD by the Third-Party Administrator ("TPA" or "Plan Administrator") contracted with and working on behalf of the Plan. A Referred Health Claim will be sent to CD via industry-standard acceptable data standards after initial determinations of eligibility and coverage are made by the Plan Administrator. Each Plan receiving Claim Review Services must utilize a Plan Administrator approved by CD (approval will not be unreasonably withheld) that will utilize CD's preferred data specifications in order to efficiently process Referred Health Claims. The use of agreed upon data specifications is necessary for (a) the electronic matching of the provider on the claim to the providers in CD's reference databases; and (b) the accurate and automated re-pricing of the claim to the applicable provider. All Health Claims must be referred to CD as Referred Health Claims unless otherwise outlined in the Joinder Agreement. CD shall not be responsible for determining questions of eligibility or coverage under each Plan; the designated Plan Administrator shall be responsible for such determinations.

II.3.2. In the performance of Claim Review Services for a Referred Health Claim, CD shall utilize the Plan Document adopted by the Plan to implement and operate the Claim Audit and Review Program covering the Plan as the basis for the claim review and audit determinations to assist Plan Sponsor in determining the appropriate reimbursement amount for claims by the Plan. In the event CD is providing legal defense services as described herein, the Plan language being utilized to perform claim Review Services on behalf of a Plan must be approved by CD. CD shall use its best commercially reasonable efforts to complete the Claim Review Services with respect to a Referred Health Claim and return results to the designated Plan Administrator with any adjustments to identified overcharges or inappropriate charges. In performing the Claim Review Services, CD may perform the following duties depending on the form and status of the Referred Health Claim:

II.3.3. Negotiate with providers at the time of precertification (i.e., preservice) of a Covered Service for a reimbursement amount within the discretion of CD, so long as the reimbursement amount is within scope of the Plan language;

a. Negotiate with providers at the time of precertification (i.e., preservice) of a Covered Service for a reimbursement amount within the discretion of CD, so long as the reimbursement amount is within scope of the Plan language;

b. Conduct a full audit as described in Paragraph 2.2 (hereinafter "Audit") within CD's discretion on any claim, consistent with the claims criteria agreed upon by the Parties and identified in the applicable Joinder Agreement with the Plan Administrator;

c. Provide a written audit report for each Audited claim, along with appropriate legal and other references to support the determination to the designated Plan Administrator;

d. Provide appropriate language to be utilized by the Plan in the Explanation of Benefits to the provider and member in connection with a claim, as well as send the appropriate fulfillment documentation concerning the claim determination, the appeals process, and procedures to be followed if a provider does not accept the reimbursement for the claim as determined by an Audit, where applicable and necessary under controlling state and federal regulations and/or the Plan language;

e. On becoming aware of any compliance or other legal issues during the review, advise the designated TPA and make recommendations to properly address any issues or problems;

f. For those Referred Health Claims that receive Claim Review Services, determine an Appeal ("Referred Appeal") filed by a provider or member disputing the recommended reimbursement level by CD in accordance with the Plan's appeal provisions, if applicable;

g. For those Referred Health Claims that receive Claim Review Services, address Balance Bills filed by providers and arrange for and provide at no cost to the Plan or patient a legal defense against non-patient responsibility charges in Balance Bills subject to any limitations provided for herein;

h. Determine appropriate healthcare provider reimbursement strategy which may involve the coordination, negotiation, and execution of certain direct to provider reimbursement agreements. These agreements shall be for the benefit and use of the Plan and its member beneficiaries and reimbursement to the applicable provider shall be based on the terms of the executed agreement.

II.3.4. In the performance of its Claim Review Services, CD may utilize subcontractors. CD represents and warrants that it and its subcontractors shall possess the requisite education, skills, and experience to provide Claim Review Services.

II.3.5. In the performance of its duties, CD is acting as a fiduciary as defined by the Employee Retirement Income Security Act for the scope of the services defined herein. As such, the Client specifically authorizes CD access to all claims information necessary to perform these duties, including but not limited to information created by the Plan Administrator and/or precertification vendor during the adjudication process of Health Claim(s).

II.3.6. Pave the Way is a proprietary program of active and, mostly, pre-emptory advocacy provided by CD. The initial purpose of Pave the Way is to educate healthcare providers about the CD program and the Client's health plan with the primary purpose of establishing access to non-contracted providers.

II.4. Duties of Client Relating to Claim Review Services. In utilizing CD as its vendor for Claim Review Services, Client agrees:

II.4.1. To provide education regarding the Plan program at each enrollment period and throughout the year. Upon request by CD, to perform training sessions for key employees of the Plan Sponsor who will be assisting Covered Members with the understanding of their health plan. The Client agrees to distribute all member communications as is reasonably recommended by CD at its own expense.

II.4.2. To coordinate with CD to arrange for all necessary vendors to the Plan for services not provided directly by CD but necessary for the performance of Claim Review Services, such as precertification/medical management and third party administration, with the approval of CD as to each vendor which shall not be unreasonably withheld. Client shall provide CD a regularly updated list of all Plan vendors. Further, Client agrees to reasonably cooperate with CD and advocate on behalf of CD in the event a vendor is performing its duties in a way that prevents CD from performing its duties hereunder and/or negatively affects the ability to perform CD's duties hereunder to the best of its ability. A Joinder Agreement shall be entered into between CD, Client, and the Third Party Administrator to ensure the proper flow of Referred Health Claims in substantial conformance with the Joinder attached herein as Exhibit B.

II.4.3. To implement and adopt the necessary program language within the Summary Plan Document as provided by CD, as well as include CD's logo and required language on the ID Card for all participants. Language included in the Explanation of Benefits, including comment code descriptions and other information related to a Referred Health Plan must be approved by CD. Copies of all Plan Documents shall be provided to CD and any deviations from CD-provided language must be approved by CD in advance.

II.4.4. To provide all necessary Plan documents, stop loss policies, member communications including open enrolment documents and benefit guides, and any other documentation specific to the program necessary for CD to perform its duties hereunder prior to beginning Claim Review Services prior to initiation of such services.

II.4.5. To name CD as fiduciary and Decision Maker to the Plan in the Summary Plan Description and other relevant Plan documents; pay Referred Health Claims in accordance with CD determinations under the SPD; comply with provider contracts executed by CD; and to fulfill all fiduciary duties under the plan including timely funding Referred Health Claims and paying fees in accordance with this Agreement.

II.5. Amount of Liability. In providing legal representation to a Plan and/or its members regarding any collection or legal action stemming from the Claim Review Services resulting in a Balance Bill or Appeal described herein, CD shall be responsible for all Damages; provided, however, that CD's liability for Damages is limited to the Limit of Liability. The Parties agree that responsibility for any Damages in excess of the Limit of Liability shall be that of the Plan Sponsor and/or the Plan.

II.6. Exclusions. CD shall not be liable for any Damages incurred by the Plan Sponsor and/or the Plan or its members in connection with any Referred Health Claim, if and to the extent that such Damages are (a) the result of negligence, recklessness or willful misconduct by the Plan Sponsor, the Plan Administrator, the Plan, and/or any other Plan vendor in performing its duties under this Agreement, including but not limited to failure to adhere to the workflow as established in the Joinder Agreement; (b) the result of language in the Plan Documents which is not in compliance with applicable law or which otherwise is unenforceable except to the extent that such language was provided by CD; or (c) the result of the Plan Sponsor's failure to provide timely funding necessary to pay a Referred Health Claim as recommended by CD; or (d) claim determinations inconsistent with CD's decision.

II.7. Plan Sponsor and/or Plan Administrator Disagreement. With respect to determinations of a Referred Appeal, in the event the Plan Sponsor, Plan Administrator, or Member does not agree with CD's determination regarding a Referred Appeal and elects to override such determination, then all obligations of CD under this Agreement with respect to such Referred Appeal may terminate. More specifically, CD may have no obligation to indemnify or hold the Plan, the Plan Sponsor, the Member and/or the Plan Administrator harmless with respect to such Referred Appeal. Plan Sponsor, Member and/or Plan Administrator shall be fully responsible with respect to the outcome of any litigation related to the Referred Appeal, including Damages. With respect to settlement of a Referred Appeal or Balance Bill, in the event that the Plan Sponsor and/or the Plan Administrator and/or the Member does not agree with the terms of any such settlement as recommended by CD, CD's responsibility for Damages ends as of the date of the settlement rejection for any legal fees moving forward.

II.8. Defined Terms. Capitalized terms as used herein, the following terms shall be defined as follows:

II.8.1. "Balance Bill" shall mean a bill or invoice received by a patient directly from a provider or facility in an attempt to collect an amount denied by the Plan as exceeding the allowable claim limit per the

Plan language as determined by CD. A Balance Bill for the purposes of this Agreement does not include those amounts actually owed by the patient under the Plan, including but not limited to copay, deductible, coinsurance, or non-covered services. CD may only assist with a Balance Bill if the claim has been submitted and processed through the Plan and an allowable claim limit was determined.

II.8.2. "Referred Appeal" shall mean any appeal of a Referred Health Claim under the Plan stemming from the determination of payment through the Claims Review Services performed by CD, which shall be referred to CD by the Plan Administrator. "Referred Appeal" shall not mean any appeals of Pre-service Urgent Care Claims (as defined in 29 C.F.R. § 2560.503-1 (the "DOL Claims Processing Regulations")), an appeal of a determination of ineligibility, or an appeal related to a benefits decision of noncoverage unrelated to the Claim Audit and Review Program as defined in the Plan Document; these appeals shall be the sole responsibility of the Plan Administrator and/or any other person or entity to whom the Plan may delegate such responsibility.

II.8.3. "Health Claim" shall mean a claim for benefits filed by a Covered Member in the Plan or filed by a Provider of services to a Covered Member in the Plan through a valid assignment of benefits, where the request for approval of treatment or services or the rendering of services or supplies occurred during a Plan Year applicable under the term of this Agreement. A "Referred Health Claim" is a Health Claim that has been sent to CD and undergone Claim Review Services.

II.8.4. "Limit of Liability" as applicable to Damages shall mean an amount equal to One Million Dollars ($1,000,000) per Referred Health Claim.

II.8.5. "Plan Administrator" or "Third Party Administrator" shall mean the Company which is acting as the administrator to the Plan to provide certain claims processing and other ministerial services to the Plan at the time of the request for approval of services or the rendering of services that comprises a Health Claim.

II.8.6. "Plan Document(s)" shall mean the documents establishing and governing, and setting forth the benefits of the Plan, including the controlling Plan Document and the Summary Plan Description or, in the event of a Health Claim arising prior to the effective date of the Plan Document(s), the Plan Documents in effect at the relevant time.

II.8.7. "Damages" shall mean, subject to limitations identified in this Agreement, in relation to defense of a Referred Health Claim in an action brought by a medical provider against the Plan, Plan Sponsor, and/or Covered Member: (i) all attorneys' fees incurred by CD in connection with a Referred Health Claim related to a Referred Appeal or Balance Bill, if such attorneys are designated by CD; (ii) all attorneys' fees incurred by the Plan Sponsor, and/or the Plan in connection with a Referred Health Claim, if such attorneys are designated by CD; (iii) all other fees, costs and expenses resulting from the investigation, adjudication, and defense (including any appeal) of a Referred Health Claim incurred by CD or, with prior written consent of CD, by the Plan Sponsor, the Member and/or the Plan; and (iv) any compensatory damages awarded against a Covered Member related to a Referred Health Claim if said damages are the result of Claim Review Services. "Damages" shall not mean sanctions; fines; penalties; taxes; multiple, exemplary or punitive damages; or the amount of any Referred Health Claim unless CD elects in its discretion to pay all or a portion of a Referred Health Claim itself, as part of a settlement in accordance with this Agreement.

II.9. Fees. CD shall invoice the Plan Administrator for performing Claim Review Services. The Plan Administrator, on behalf of each Plan, shall pay the rates specified in Exhibit A – CD Compensation on behalf of the Plan through its normal claims funding process. CD shall be entitled to collect interest on Fees which are not paid within thirty (30) days of the date of invoice.

ARTICLE III: CONFIDENTIALITY

III.1. Confidential Information.

III.1.1. Definition. "Confidential Information" or "Proprietary Information" shall mean all information, data and know-how, whether written, oral or computer readable, technical or non-technical, of each Party, including, without limitation, medical information concerning individually identifiable health information, software architecture, technology, algorithms, database creation, translation, standardization, enhancement, templates, formats, logic flows, methods and processes, software tools, distribution and retrieval programs, proprietary provider data sets, health data analysis techniques, profiling methods, products, services and customers and materials which have been or in the future developed or acquired by either Party.

III.1.2. Privacy. The Parties acknowledges that Confidential Information may include data that constitutes or contains "protected health information" ("PHI Data") as such term is defined in 45 CFR Section 164.501 of the regulations promulgated by the U.S. Department of Health and Human Services under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), and Health Information Technology for Economic and Clinical Health Act, as amended from time to time (HITECH) and Parties shall comply with the obligations with respect to such PHI Data. A Business Associate Agreement shall be executed between CD and Plan Sponsor on behalf each Covered Entity serviced under this Agreement.

III.1.3. Non-Disclosure. Each Party acknowledges that it will be receiving Confidential Information from the other in furtherance of the terms of this Agreement ("Intended Purpose"), and each Party agrees that: (a) it will hold the Confidential Information of the other Party in strict confidence and use and disclose such Confidential Information only as may be necessary in the course of performing duties, receiving services or exercising rights under this Agreement, (b) its officers, employees, service partners or consultants to whom Confidential Information is disclosed shall first have acknowledged the confidential nature thereof and have agreed to be bound by the terms of this Agreement, (c) it will obtain all authorizations necessary to release any Confidential Information to the other Party required by this Agreement, (d) it will not use Confidential Information to diminish the value of the services provided by this Agreement or to directly compete with the other Party using said Information (e) it shall not disclose or otherwise use Confidential Information in any manner that would be contrary to law, including the privacy provisions of HIPAA, (f) it shall comply with HIPAA regulations as required and work with the other Party to execute a HIPAA Business Associate Agreement, and (g) the terms of this Section shall survive any termination of this Agreement.

III.1.4. Confidentiality. The Parties each recognize the highly competitive nature of technologically oriented businesses and the importance of maintaining the confidentiality of Proprietary Information. They further recognize that each Party will rely upon the other Party's compliance with this Agreement when entrusting the other with the Proprietary Information. Therefore, for so long as the Proprietary Information is not in the public domain, each Party agrees:

To only use or disclose the Proprietary Information solely for the Intended Purpose, to keep the Proprietary Information in absolute confidence, and not to disclose it to any third party except as provided herein. In no event shall either Party use the Proprietary Information to the detriment of the other, or for any purpose other than the Intended Purpose. To take all commercially reasonable measures to enforce the secrecy, confidentiality, and use limitations contained herein, which efforts shall be at least equal to those used to protect its own Proprietary Information including safe storage, precautions against copying, examination, or use of the Proprietary Information not authorized by this Agreement.

To bind itself, its parent companies, subsidiaries, affiliates, employees, agents, and related others to all confidentiality obligations contained herein, each of which shall survive the termination of this Agreement.

To disclose the Proprietary Information internally only to those having a specific "need to know", including affiliates and representatives in the performance of work exclusively for the Intended Purpose.

Not to disclose to any third person the fact that Proprietary Information is being exchanged or that discussions are taking place between the Parties or the status thereof without the other Party's prior written consent unless such disclosure is legally required in the ordinary course of reporting as a publicly traded company.

To notify promptly, to the extent practicable, the Disclosing Party if the Receiving Party is confronted with legal action to disclose Proprietary Information received under this Agreement, so that the Disclosing Party may, at its option, seek a protective order or other appropriate relief or remedy and/or waive compliance with the terms of this Agreement. The Receiving Party shall, to the extent practicable, provide the court order and/or regulatory mandate to the Disclosing Party to facilitate securing a protective order either preventing discovery or requiring that any portion of the Proprietary Information required to be disclosed be used only for the limited purpose for which a government authority issues an order or for such other purposes as required by law. If the Receiving Party is, in the opinion of its legal counsel, legally compelled to disclose the Proprietary Information in the ordinary course of its business as a publicly held company or in any legal or regulatory proceeding, the Receiving Party may disclose such Proprietary Information for that limited purpose without liability hereunder but will also cooperate actively in assisting the Disclosing Party in obtaining confidential treatment thereof.

To return to Disclosing Party within thirty (30) days after receipt of written notice requesting the return of all Proprietary Information any and all Proprietary Information including any and all copies. The Receiving Party may retain a copy of any Proprietary Information, including summaries, compilations or analyses thereof to the extent: (i) required by applicable law. Any Proprietary Information retained pursuant to subsections (i) shall continue to be treated as Confidential Information subject to the restrictions set forth in this Agreement, notwithstanding any termination or expiration hereof for a period of three (3) years after the return of Proprietary Information. The return or destruction of Proprietary Information shall not relieve the Receiving Party of its obligations set forth in this Agreement for such three (3) year period.

III.1.5. Trademarks and Copyrights. Each Party acknowledges the other Party's sole and exclusive ownership of its respective trade names, commercial symbols, trademarks and service marks, whether presently existing or later established (collectively, "Marks"). Neither party shall use the other party's Marks in advertising or promotional materials or otherwise without the owner's prior written consent. Consent is assumed if the Party provides said materials to the receiving Party with said Marks included. Any materials utilizing a Mark shall not be edited in any or presented as the other Party's materials without the prior written consent of the owner. It shall be considered a breach of this Paragraph to make revisions to materials protected by this Paragraph that are immaterial in an attempt to avoid liability herein. All uses of any Mark shall inure exclusively to the benefit of the Mark's owner. Each party reserves the right to terminate any consent previously given for the use of a Mark by providing the other party with written notice of such termination. In no event shall the party's use of the other party's Mark continue after termination of this Agreement. Each party acknowledges that any use of the other party's Mark without the consent of such other party would cause the owner of such Mark irreparable injury, entitling it to obtain injunctive relief and such other remedies from the infringer as may be appropriate. In the event either Party provides materials including its Marks, the other Party shall not remove, recreate, or edit said materials without the prior consent of the Party owning said materials.

ARTICLE IV: TERM AND TERMINATION

Term and Grounds for Termination. The term of this Agreement shall begin as of the Effective Date and shall continue for a Three (3) year term ("Initial Term") and thereafter automatically renew on the anniversary of the Effective Date for a period of one (1) year ("Renewal Term"). Either Party may terminate this Agreement without cause to be effective upon expiration of the then current term by providing written notice of nonrenewal to the other Party at least ninety (90) days prior to the expiration of such Term in effect. Either Party may terminate this Agreement upon written notice if the other Party fails to cure a material breach of this Agreement within thirty (30) days after receipt of written notice of material breach by the non-breaching Party. A material breach is a breach that goes to the essence of the contract. A material breach does not include a minor breach that can be easily corrected by the breaching party while still meeting most of its obligations under the contract. In the event CD fails to receive payment of fees within thirty (30) days of invoice (or submitted companion claim), CD has the right to terminate services hereunder immediately upon written notice by CD of its intent to do so. If CD terminates services due to Client's failure to timely pay Fees or other material breach, CD is entitled to liquidated damages in the amount of the greater of the average monthly Fees billed for the period prior to termination multiplied by the number of months eligible for service under the Term of the Agreement, including any run-out period as indicated by the Plan's stop-loss policy period; or $90 per employee per month, calculated as the number of employees enrolled in the Plan as of the effective date of the Agreement multiplied by the number of months eligible for service under the Term of the Agreement, including any run-out period as indicated by the Plan's stop-loss policy period.

IV.1. Rights and Duties Upon Termination. As of the date of termination of this Agreement, all rights and obligations of the Parties shall terminate, except that (a) CD shall continue to perform its obligations under this Agreement with respect to completion of Audit services for a Referred Health Claim provided that the Plan Sponsor continues to use the Plan Administrator for a determined run-out period as agreed upon by the Parties, not to exceed one year; and (b) the Plan Administrator, shall pay on behalf of and with funds provided by the Plan Sponsors, all fees which are due and owing under this Agreement as of the date of termination and agrees to continue to pay fees through the run-out period. In the event fees are not paid during the run-out period, CD shall terminate services immediately.

IV.1.1. Run Out: All Referred Health Claims incurred prior and up to Client's effective Plan termination date shall be processed by CD and paid in accordance with this Agreement, including any applicable provider agreements. CD may request a separate run-out agreement to be entered following notification of termination. In the absence of a run-out agreement, the terms herein shall be binding against both Parties for the duration of the run-out and the Client agrees to continue to use CD for run-out services for the same period of time that it enters into run-out with the TPA.

IV.1.2. Termination without notice: In the event of termination by Client without proper notice as defined in Paragraph 4.1, CD's obligations under Article 2 of this Agreement may terminate as of the effective date of termination within CD's discretion, including but not limited to any legal representation or liability for Damages provided for under this Agreement. In the event the Client terminates this Agreement without proper notice, CD also retains the right to refuse to perform run-out services. In the event Client desires run-out services beyond the effective termination date, CD may require an administrative fee during the run-out period.

ARTICLE V: GENERAL TERMS AND CONDITIONS

V.1. LIABILITY; INDEMNIFICATION; REMEDIES.

V.1.1. No Liability for Claim Decisions or Claims Payments. CD shall not be liable for any claims decisions, or for the payment of any claims for healthcare services. CD shall not have any liability for the breach of any contract by a provider. CD shall not be an insurer, guarantor or underwriter or otherwise have any responsibility or liability to provide benefits under any benefit plan.

V.1.2. Disclaimer of Warranties. CD and its agents, contractors and employees, and the Services provided by them, shall comply with the terms of this Agreement, the specifications agreed upon by the Parties in writing from time to time, applicable industry standards and applicable law. Neither CD nor Client makes any warranty, representation or promise not expressly set forth in this Agreement.

V.1.3. Limitation on Liability. Notwithstanding anything to the contrary in this Agreement, neither Party shall be liable to the other Party for loss of prospective profits, or special, indirect, consequential or punitive damages in connection with this Agreement.

V.1.4. Indemnification. Without limiting each Party's obligations under this Agreement including each Party's responsibility for Damages, each Party shall hold harmless, indemnify, and defend the other Party for its fraudulent or willful misconduct related to performance under this Agreement against any and all losses, claims, expenses (including reasonable attorneys' fees), sanctions, fines, penalties, taxes, damages including, but not limited to, multiple, exemplary or punitive damages, judgments or liabilities whatsoever ("Liabilities") except to the extent such Liabilities are caused by the non-indemnifying Party's breach of this Agreement or its fraud or willful misconduct with respect to its obligations under this Agreement. Without limiting the foregoing, the Plan and/or Plan Sponsor specifically agrees to hold harmless, indemnify, and defend CD for any decisions it makes related to Referred Health Claims that are not consistent with CD's determination for that Referred Health Claim, including but not limited to consequences associated with stop loss coverage or participant appeals or actions against the Plan and/or Plan Sponsor.

V.2. SEVERABILITY. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions herein shall remain in full force and effect and shall in no way be affected, impaired, or invalidated as a result of such decision.

V.3. INDEPENDENT CONTRACTORS. Any work performed by either Party and any other performance by either Party under this Agreement shall be in that Party's capacity as an independent contractor and nothing contained in this Agreement shall be construed to place either Party in the relationship of partners, joint venturers, principals, agents, employers or employees of the other Party. No Party shall have the power to obligate or bind any other Party whatsoever, except as expressly provided in this Agreement

V.4. NOTICES. Any notice required or permitted to be given pursuant to this Agreement shall be in writing and either shall be personally delivered or sent by registered or certified mail with the United States Postal Services, return receipt requested, postage prepaid, electronic mail or facsimile, addressed to such Party at the following address or such other address as may be provided in writing to the other Party:

CD:	Client:
Claim DOC, LLC	City of Middletown
PO Box 42155	16 James Street
Urbandale, IA 50323	Middletown, NY 10940
Attn: Amy Pellegrin	Attn:

V.5. INTEGRATION. As to the subject matter of this Agreement, the Parties expressly agree that the terms of this Agreement comprise the entire Agreement between the Parties and that no other Agreement or understanding, oral or otherwise, exists between the Parties at the time of execution. This Agreement supersedes all prior oral and written agreements between the Parties. This Agreement shall not be subject to rescission, modification, or waiver except as defined in a subsequent written instrument executed by both Parties and as specifically provided by the terms of this Agreement.

V.6. REMEDIES. Each Party agrees that the breach or attempted breach by the other Party of its obligations under this Section would cause irreparable injury to the non-breaching Party and that any remedy at law would be inadequate. Both Parties therefore agree, in addition to any other relief, that each Party will be entitled to seek injunctive relief and other provisional remedies in case of any such breach or attempted breach.

V.7. ASSIGNMENT. This Agreement shall benefit and be binding upon the Parties and their respective successors and assignees including any change in control or ownership.

V.8. WAIVER. The waiver by either Party of one or more defaults or breaches by the other shall not be construed to operate as a waiver of any subsequent defaults or breaches.

V.9. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Agreement. The headings and section titles contained herein are for convenience only and shall not affect the meaning of, or be used to construe, the remainder of this Agreement.

V.10. GOVERNING LAW. This Agreement shall be governed and construed in accordance with the laws of the state of New York. Disputes shall be negotiated in good faith for at least sixty (60) days. Unresolved disputes shall be submitted to non-binding mediation prior to either Party filing an action in any state or federal court..

V.11. JURISDICTION AND VENUE. Any civil action or legal proceeding arising out of or relating to this Agreement shall be brought only in the courts of records in the State of New York in Orange County or the United States District Court, Southern District, of New York. Each Party consents to the exclusive jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court and/or the right to bring an action or proceeding in any other court. Service of any court paper may be affected on such Party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws, rules of procedures or local rules.

V.12. AUTHORIZATION. Each Party represents to the other that it is authorized to enter into this

Agreement and that its entry into this Agreement does not and will not violate the terms of any judgment, decree or ruling or any contract with any third party.

City of Middletown	Claim DOC, LLC
Signature:	Signature:
Signatory Name:	Signatory Name:
Signatory Title:	Signatory Title:

Exhibit A – CD COMPENSATION

CD shall receive a fee ("Services Fee"), as compensation for services as described in this Agreement. It is the responsibility of Client to enter into a Joinder Agreement between CD and the applicable Plan Administrator to submit payment in accordance with this Exhibit A on behalf of the Plan. The Services Fee is as follows:

1. Pre-service Negotiated Claims. Plan shall pay ten percent (10%) of the Billed Charge received to the Plan for pre-service negotiated claims. "Billed Charge" is defined as the total, gross charge submitted by the provider or facility for the claim prior to any discounts or other reductions. The Service Fee for pre-service negotiated claims shall be capped at $25,000 per claim. Fees are subject to this Paragraph if an approved Reimbursement Form is received by a provider/facility prior to rendering services.
2. Contracted Claims. In the event CD enters into a direct contract used to determine the amount for a claim distinct from its Pre-Service Negotiation program, the Services Fee shall be six percent (6%) of the Billed Charge. The Services Fee for Contracted, Pre-Service Negotiated Claims shall be capped at $25,000 per Claim. For all other Contracted Referred Health Claims that are not part of the Pre-Service Negotiation Program, the Service Fee shall not exceed a total fee of $50,000 per claim.
3. All Other Referred Health Claims. For all other Referred Health Claims that are not part of the Pre-Service Negotiation program or the result of a direct contract with CD, Plan shall pay an amount equal to ten percent (10%) of the Billed Charge. The Services Fee shall not exceed a total fee of $50,000 per claim.
4. Dialysis. For all Health Claims containing dialysis services only, Plan shall pay an amount equal to the lesser of ten percent (10%) of the Billed Charge or $1,000 per Referred Health Claim. Without limiting the foregoing but for clarity purposes only, excluded from this Paragraph are inpatient facility claims in which dialysis services are a part of the global claim.

CD agrees not to charge the above-described fees for a "duplicate" claim. A "duplicate" is a claim submitted to CD by the provider or the TPA for the same date of service and treatments for a particular member as has been previously submitted for processing. If a "duplicate" is knowingly submitted to CD, TPA will clearly identify the claim as a "duplicate." CD does not collect a Services Fee for claims submitted on a HCFA Form 1500 that receive repricing-only services. In the event the Plan Administrator sends a Health Claim to CD that is ineligible or noncovered after Claim Review Services are performed, CD shall still receive a fee in accordance with this Exhibit. In the event the Plan Sponsor enters into a direct contract or settlement agreement with a provider/facility outside of this Agreement, CD shall not be obligated to refund previously paid fees to CD as a result of this arrangement unless specifically agreed to in advance by CD.

Services Fees shall be invoiced by CD to the Plan Administrator or submitted by companion claim electronically. Fees shall be considered a part of the claims cost to the Plan. If the fees are submitted by invoice, the Plan Administrator shall pay within fifteen (15) days of receipt. If fees are submitted by companion claim, fees shall be paid through the normal claims funding process at the next earliest funding. In the event the Plan Administrator fails to pay the fees timely, CD shall notify the Client and Client shall be obligated to pay the fees directly within fifteen days of notice. In the event Client fails to pay timely, CD reserves the right to cease services until Client becomes current on fees owed. By ending services for this period, CD does not waive its right to terminate in accordance with this Agreement for failure to pay.

EXHIBIT B – TEMPLATE FOR JOINDER AGREEMENT WITH THIRD PARTY ADMINISTRATOR

Joinder Agreement

This Agreement, effective __day of ______ , 20__,by and among, a ______ ("Plan Sponsor"),("Plan Administrator"), a ______, and **Claim DOC, LLC** ("CD"), a Iowa Limited Liability Company (individually, "Party" and collectively, "Parties").

WHEREAS, Plan Sponsor has adopted a health benefit plan ("Plan") for its employees and their eligible dependents under which such persons are entitled to certain health service benefits ("Covered Services");

WHEREAS, Plan Administrator is engaged in the business of providing claims management and administration services to customers such as Plan Sponsor;

WHEREAS, Plan Sponsor has contracted with Plan Administrator to perform administrative services ("Administrative Services Agreement") for its Plan;

WHEREAS, Plan Sponsor has contracted with CD ("CD Services Agreement") to offer Claim Review Services ("Claim Services") for the Plan;

WHEREAS, the Claim Services will be provided by CD in coordination and conjunction with Plan Administrator's Services, and the Parties desire to enter into this Agreement to allocate and coordinate the responsibilities between CD and Plan Administrator in order to provide services under the Administrative Services Agreement and the CD Services Agreement to Plan Sponsor.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and received, and in consideration of the promises and mutual covenants contained herein, it is hereby agreed as follows:

1. Plan Administrator agrees to act as the third party administrator to handle all of the ministerial/back office requirements necessary to administer all of the Plan Sponsors' claims in accordance with the Administrative Services Agreement.
2. Plan Sponsor agrees and authorizes Plan Administrator to do the following: (i) provide access to all claims data being processed by Plan Administrator to CD in order to fulfill its duties under the CD Services Agreement properly; and (ii) authorizes Plan Administrator to share all of the data files generated with each Plan with CD in order for CD to do the same. Specifically, Plan Sponsor directs Plan Administrator to provide access to the following information for each Plan: (a) Benefits and Coverage (current medical plan and effective date), (b) claims history (claims status, adjudication details, and EOB/EOPs), and (c) Benefits Used (accumulators). Plan Administrator agrees to allow access to the Plan Sponsor's claim adjudication information necessary to perform its Claims Services, including but not limited to EOBs, claim status information, precertification records, and any other available information related to a Health Claim. In the event Plan Administrator has a portal which provides direct access to said information, Plan Administrator agrees to provide reasonable access to the portal for the same to ensure the most efficient services to Plan Sponsor as is reasonable. In the event the Plan Administrator provides services including verification of benefit inquiries, Plan Administrator agrees to provide reasonable training to its employees and representatives to ensure accurate information related to Claim Services.

3. All Parties hereto acknowledge that Plan Sponsor is responsible for the payment of any PPO access fee, if any, and such amounts as may be due to Providers for medical and pharmacy claims for Covered Services rendered to its Covered Members as determined by CD in performance of its Claim Services. Plan Sponsor further acknowledges that it has arranged for processing payments for Covered Services to Providers through its agreement with Plan Administrator, including those claims that have been reviewed, audited and/or negotiated pursuant to the CD Services Agreement. Additionally, Plan Sponsor acknowledges and agrees that it is responsible for the payment of Services Fees to CD attached hereto and marked as Exhibit A. Plan Sponsor agrees to pay the Services Fee to CD as set forth herein, and payment to CD shall be processed by Plan Administrator. In the event of a Plan Sponsor's failure to provide adequate sums due for Claims Services, Plan Administrator shall notify CD of such event, and access by Plan Sponsor's Plan participants to the Claim Services hereunder shall terminate after Plan Sponsor has been notified by CD and has been provided with a reasonable cure period and such cure period has expired. Plan Administrator is not the insurer, guarantor, or underwriter of the liability of the Plan Sponsor to provide such benefits to its Covered Members or to pay Providers or CD.

4. In administering claims for CD's Claim Services for Plan Sponsor, Plan Administrator agrees to follow the Claim Audit Routing Workflow ("Workflow"). This Workflow is reflected in Exhibit B attached hereto and incorporated by this reference. Plan Administrator acknowledges and agrees that, in order for CD to properly perform its duties under its Services Agreement with the Plan Sponsor, the Workflow must be adhered to by both Plan Administrator and CD.

5. Independent Contractors. The relationship between Plan Sponsor, Plan Administrator and CD is an independent contractor relationship. None of the provisions of this Agreement are intended to create nor shall be deemed or construed to create any relationship between CD, Plan Administrator, and Plan Sponsor other than that of independent entities contracting with each other hereunder solely for the purpose of servicing the Plan Sponsor through the CD Services Agreement and Administrative Services Agreement, as applicable. None of the parties hereto, nor any of their respective employees shall be construed to be the agent, employer or representative of either or both of the others, except to the extent otherwise explicitly provided for herein or under the Services Agreement.

6. Plan Administrator acknowledges and agrees that it shall indemnify, hold harmless, and defend CD against any and all liabilities that are attributable Plan Administrator's acts or omissions that constitute fraud, willful misconduct or negligence. Furthermore, without limiting the generality of the foregoing, Plan Administrator shall indemnify and hold CD harmless against any liability arising out of or related to any act or omission CD has taken or omitted to be taken at the explicit written request, direction, or approval of the Plan Administrator. CD agrees to indemnify, hold harmless, and defend Plan Administrator against any and all liabilities attributable to CD's acts or omissions that constitute a Breach of Standard, fraud, or willful misconduct. For purposes of this section, the term "Breach of Standard" shall mean the failure to (i) satisfy the standard of care as defined in ERISA Section 404(a)(1)(b) in relation to any fiduciary functions performed by Plan Administrator and (ii) perform in a prudent manner and in accordance with industry standards in relation to ministerial functions performed by Plan Administrator.

7. In the event the agreement between Plan Sponsor and Plan Administrator terminates prior to the expiration of the current plan year of Plan Sponsor's Plan and any run-out period under the applicable Stop Loss Policy, CD shall continue to provide services to Plan Sponsor's Plan in accordance with its

CD Services Agreement so long as Plan Sponsor utilizes another third party administrator integrated with CD for purposes of EDI exchange and CD agrees to continuing such services in writing.

8. All notices hereunder shall be in writing and shall be sent via personal delivery, courier service, United States mail (postage pre-paid, return receipt requested), express mail courier, electronic mail, or fax and addressed as follows, or to such other individual or address as a party may later direct:

Plan Sponsor

Plan Administrator

Attn:

Claim DOC, LLC

PO Box 42155

Urbandale, IA 50323

Attn: Amy Pellegrin, Senior Vice President and Chief Legal Officer

9. Confidentiality

Plan Administrator and CD acknowledge that there will be the exchange of Confidential Information (also referred to as Proprietary Information) through the mutual service of the Client and that the sole purpose of the exchange is for those services ("Intended Purpose"). "Confidential Information" (or "Proprietary Information") is defined as all information, data, and know-how, whether written, oral, or computer readable, technical or non-technical, of each party, including without limitation, software architecture, copyright and written materials, technology, business rules, protocols, database creation, standardization, enhancement, templates, formats, logic flows, methods and processes, software tools, distribution and retrieval programs, proprietary provider data sets, health data analysis techniques, profiling methods, products, services, and customers, and materials which have been or in the future developed or acquired by each Party.

Each Party acknowledges that it will be receiving Confidential Information from the other, and each Party agrees that: (a) it will hold the Confidential Information of the other Party in strict confidence and use and disclose such Confidential Information only as may be necessary in the course of performing duties, receiving services or exercising rights under this Agreement, (b) its officers, employees, service partners or consultants to whom Confidential Information is disclosed shall first have acknowledged the confidential nature thereof and have agreed to be bound by the terms of this Agreement, (c) it will obtain all authorizations necessary to release any Confidential Information to the other Party required by this Agreement, (d) it will not use Confidential Information to diminish the value of the services provided by this Agreement or to directly compete with the other Party using said Information (e) it shall not disclose or otherwise use Confidential Information in any manner that would be contrary to law, including the privacy provisions of HIPAA, (f) it shall comply with HIPAA regulations as required and work with the other Party to execute a HIPAA Business Associate Agreement, and (g) the terms of this Section shall survive any termination of this Agreement.

The Parties each recognize the highly competitive nature of technologically oriented businesses and the importance of maintaining the confidentiality of Proprietary Information. They further recognize that each Party will rely upon the other Party's compliance with this Agreement when entrusting the other with the Proprietary Information. Therefore, for so long as the Proprietary Information is not in the public domain, each Party agrees:

9.1. To only use or disclose the Proprietary Information solely for the Intended Purpose, to keep the Proprietary Information in absolute confidence, and not to disclose it to any third party except as provided herein. In no event shall either Party use the Proprietary Information to the detriment of the other, or for any purpose other than the Intended Purpose. To take all commercially reasonable measures to enforce the secrecy, confidentiality, and use limitations contained herein, which efforts shall be at least equal to those used to protect its own Proprietary Information including safe storage, precautions against copying, examination, or use of the Proprietary Information not authorized by this Agreement.

9.2. To bind itself, its parent companies, subsidiaries, affiliates, employees, agents, and related others to all confidentiality obligations contained herein, each of which shall survive the termination of this Agreement.

9.3. To disclose the Proprietary Information internally only to those having a specific "need to know", including affiliates and representatives in the performance of work exclusively for the Intended Purpose.

9.4. Not to disclose to any third person the fact that Proprietary Information is being exchanged or that discussions are taking place between the Parties or the status thereof without the other Party's prior written consent unless such disclosure is legally required in the ordinary course of reporting as a publicly traded company or a part of the Intended Purpose.

9.5. To notify promptly, to the extent practicable, the Disclosing Party if the Receiving Party is confronted with legal action to disclose Proprietary Information received under this Agreement, so that the Disclosing Party may, at its option, seek a protective order or other appropriate relief or remedy and/or waive compliance with the terms of this Agreement. The Receiving Party shall, to the extent practicable, provide the court order and/or regulatory mandate to the Disclosing Party to facilitate securing a protective order either preventing discovery or requiring that any portion of the Proprietary Information required to be disclosed be used only for the limited purpose for which a government authority issues an order or for such other purposes as required by law. If the Receiving Party is, in the opinion of its legal counsel, legally compelled to disclose the Proprietary Information in the ordinary course of its business as a publicly held company or in any legal or regulatory proceeding, the Receiving Party may disclose such Proprietary Information for that limited purpose without liability hereunder but will also cooperate actively in assisting the Disclosing Party in obtaining confidential treatment thereof.

9.6. To return to Disclosing Party within thirty (30) days after receipt of written notice requesting the return of all Proprietary Information any and all Proprietary Information including any and all copies. The Receiving Party may retain a copy of any Proprietary Information, including summaries, compilations or analyses thereof to the extent: (i) required by applicable law. Any Proprietary Information retained pursuant to subsections (i) shall continue to be treated as Confidential Information subject to the restrictions set forth in this Agreement, notwithstanding any termination or expiration hereof for a period of three (3) years after the return of Proprietary Information. The return or destruction of Proprietary Information shall not relieve the Receiving Party of its obligations set forth in this Agreement for such three (3) year period.

Trademarks and Copyrights. Each Party acknowledges the other Party's sole and exclusive ownership of its respective trade names, commercial symbols, trademarks and service marks, whether presently existing or later established (collectively, "Marks"). Neither party shall use the other party's Marks in advertising or promotional materials or otherwise without the owner's prior written consent. Consent is assumed if the Party provides said materials to the receiving Party with said Marks included. Without limiting the foregoing, each Party agrees not to alter, revise, or replicate in part or in whole, any materials that include a Mark of the other Party without prior consent. Replicating material provided by a Party with immaterial changes in an attempt to avoid liability under this Paragraph shall constitute a breach of this Paragraph. All uses of any Mark shall inure exclusively to the benefit of the Mark's owner. Each party reserves the right to terminate any consent previously given for the use of a Mark by providing the other party with written notice of such termination. In no event shall the party's use of the other party's Mark continue after termination of this Agreement. Each party acknowledges that any use of the other party's Mark without the consent of such other party would cause the owner of such Mark irreparable injury, entitling it to obtain injunctive relief and such other remedies from the infringer as may be appropriate. In the event either Party provides materials including its Marks, the other Party shall not remove, recreate, or edit said materials without the prior consent of the Party owning said materials.

10. General.

  a. The recitals are incorporated into this Agreement and made a part hereof.

  b. This Agreement may be executed in three or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages by e-mail transmission shall constitute effective execution and delivery of this Agreement and may be used in lieu of the original for all purposes. Signatures of the Parties transmitted by e-mail shall be deemed to be their original signatures for all purposes.

  c. Each party represents to the others that it is authorized to enter into this Agreement and that its entry into this Agreement does not and will not violate the terms of any judgment, decree or ruling or any contract with any third party.

  d. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors and assigns. A Party may not assign this Agreement or the services required herein without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed, except that either party may assign this Agreement to an affiliate or subsidiary company, or a successor in interest by acquisition or merger provided that such succeeding company shall assume all rights and obligations under this Agreement.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date indicated below.

, Plan Sponsor	Claim DOC, LLC
By:______________________	By:______________________
Title: ______________________	Title: ______________________
Date: ______________________	Date: ______________________

, Plan Administrator

By: ______________________

Title: ______________________

Date: ______________________

EXHIBIT A TO JOINDER AGREEMENT

CD shall receive a fee ("Services Fee"), as compensation for services as described in this Agreement. It is the responsibility of Client to enter into a Joinder Agreement between CD and the applicable Plan Administrator to submit payment in accordance with this Exhibit on behalf of the Plan. The Services Fee is as follows:

1. Pre-service Negotiated Claims. Plan shall pay ten percent (10%) of the Billed Charge received to the Plan for pre-service negotiated claims. "Billed Charge" is defined as the total, gross charge submitted by the provider or facility for the claim prior to any discounts or other reductions. The Service Fee for pre-service negotiated claims shall be capped at $25,000 per claim. Fees are subject to this Paragraph if an approved Reimbursement Form is received by a provider/facility prior to rendering services.

2. Contracted Claims. In the event CD enters into a direct contract used to determine the amount for a claim distinct from its Pre-Service Negotiation program, the Services Fee shall be six percent (6%) of the Billed Charge. The Services Fee for Contracted, Pre-Service Negotiated Claims shall be capped at $25,000 per Claim. For all other Contracted Referred Health Claims that are not part of the Pre-Service Negotiation Program, the Service Fee shall not exceed a total fee of $50,000 per claim.

3. All Other Referred Health Claims. For all other Referred Health Claims that are not part of the Pre-Service Negotiation program or the result of a direct contract with CD, Plan shall pay an amount equal to ten percent (10%) of the Billed Charge. The Services Fee shall not exceed a total fee of $50,000 per claim.

4. Dialysis. For all Health Claims containing dialysis services only, Plan shall pay an amount equal to the lesser of ten percent (10%) of the Billed Charge or $1,000 per Referred Health Claim. Without limiting the foregoing but for clarity purposes only, excluded from this Paragraph are inpatient facility claims in which dialysis services are a part of the global claim.

CD agrees not to charge the above-described fees for a "duplicate" claim. A "duplicate" is a claim submitted to CD by the provider or the TPA for the same date of service and treatments for a particular member as has been previously submitted for processing. If a "duplicate" is knowingly submitted to CD, TPA will clearly identify the claim as a "duplicate." CD does not collect a Services Fee for claims submitted on a HCFA Form 1500 that receive repricing-only services. In the event the Plan Administrator sends a Health Claim to CD that is ineligible or noncovered after Claim Review Services are performed, CD shall still receive a fee in accordance with this Exhibit. In the event the Plan Sponsor enters into a direct contract or settlement agreement with a provider/facility outside of this Agreement, CD shall not be obligated to refund previously paid fees to CD as a result of this arrangement unless specifically agreed to in advance by CD.

Services Fees shall be invoiced by CD to the Plan Administrator or submitted by companion claim electronically. Fees shall be considered a part of the claims cost to the Plan. If the fees are submitted by invoice, the Plan Administrator shall pay within fifteen days of receipt. If fees are submitted by companion claim, fees shall be paid through the normal claims funding process at the next earliest funding. In the event the Plan Administrator fails to pay the fees timely, CD shall notify the Client and Client shall be obligated to pay the fees directly within fifteen days of notice. In the event Client fails to pay timely, CD reserves the right to cease services until Client becomes current on fees owed. By ending services for this period, CD does not waive its right to terminate in accordance with this Agreement for failure to pay.

EXHIBIT B TO JOINDER AGREEMENT

CLAIMS AUDIT ROUTING WORKFLOW

I. Basic Operating Specifications

A. All claims (EDI and Paper) will be received by the Plan Administrator.

B. Plan Administrator will manage front-end claim screening workflow.

C. Claims that meet the CD Selection Criteria (as outlined in Section II of this Exhibit) are pended for external audit and routed to CD, within 48 hours of receipt by the Plan Administrator, i.e., all UBs and HCFA.

   i. Pended claims are routed by EDI.

   ii. Claims should include the Plan Administrator assigned Claim Number.

   iii. At CD, claims are received into inventory and assigned an Audit ID and aged from the date received.

   iv. At CD, claims are audited and re-priced line by line. Ineligible Reason and/or Ineligible Dollar Amounts are reflected in the appropriate fields. (This excludes in-patient claims calculated by DRG; one-line item is returned back to the Plan Administrator for the allowable of the entire claim.)

   v. Completed Claim Audits are returned to the Plan Administrator in the same delivery format in which the claims were received, within 5 days of receipt by CD. Each claim data set includes line-by-line Ineligible Amounts and reason codes. (This excludes in-patient claims calculated by DRG; one-line item is returned back to the Plan Administrator for the allowable of the entire claim.)

II. Claim Selection Criteria

A. Claims that meet the Claim Selection Criteria for Audit include the following:

   i. HCFA claims greater than $2,000 in total Billed Charges;

   ii. All Free Standing Facility Claims billed on UB or HCFA over $2,000 in Billed Charge;

   iii. All UB Hospital Facility Claims billed on UB;

   iv. All diagnostic, Lab and Radiological Claims billed on a UB or HCFA over $2,000.

B. Claims that meet the Claim Selection Criteria for Repricing Services Only include:

   i. HCFA claims under $2,000 in total Billed Charges

C. In submitting Claims that meet the criteria set forth above, the TPA should:

   i. Note the Plan Administrator Claim Number on the claim

   ii. Note the Plan Administrator Date Received on the claim

   iii. Include all attachments including Itemized Bills and Operative Notes for In-patient Claims and Out-patient Claims >$10,000.00

III. Routing Claim Data Files

A. The process by which the Plan Administrator should deposit claim data files on the CD FTP Server includes the following:

   i. Using your FTP Client Software:

      a) Submit the batch claim file to the CD SFTP site using the following credentials:

         1. ftp://transfer.claim-doc.com with explicit TLS
         2. Username: *to be provided in separate secure email*
         3. Password: *to be provided in separate secure email*

   ii. Navigate to the incoming folder, then upload (transfer) the claim batch file from your local system to the remote CD system.

   iii. CD will establish an Audit Reference ID to each claim and associate it with the Plan Administrator Claim Number.

B. CD will return claims in a format to include the Plan Administrator provided claim number and will return in the same format received.

IV. Audited Claims

A. The Plan Administrator processes and pays the audited claim using existing processing and payment procedures.

B. CD will forward the audit documents directly to the facility by way of USPS Proof of Delivery certified mail.

C. Audited claims are packaged and stored with the following documents sent to the provider as part of the fulfillment process by CD.

   i. 1 copy of the Claim Audit Report

   ii. 1 copy of the Notice of Adverse Benefit Determination addressed to the Provider

   iii. 1 copy of the First Notice to Patient sent to Patient

D. The fulfillment process does not replace the Explanation of Payment process initiated by the TPA which shall also include appropriate comment codes as provided by CD as well as instructions on appeal.

V. Managing Requests for Additional Information from the Provider

A. Certain claims will require additional information from the billing provider, usually in the form of an itemized bill that makes up the summary of the Uniform Bill claim.

   i. CD will PEND the claim to audit

   ii. CD will contact the provider to request the additional information.

   iii. CD may contact the Plan Administrator and request the claim be pended at the Plan Administrator.

   iv. The claim will be held for 35 days (20 days + 15 days' mail time)

Nationwide Life Insurance Company

Home Office: Columbus, Ohio

APPLICATION FOR STOP LOSS INSURANCE COVERAGE ("APPLICATION")

☒ New ☐ Renewal

Application is hereby made to **Nationwide Life Insurance Company** ("Company") for Aggregate and/or Specific Stop Loss Insurance. This Application must be accepted and approved by the Company prior to the Contract being in effect.

1. Full Legal name of Policyholder City of Middletown
2. Main contact at Policyholder Leonora Liz
3. Address 16 James Street
4. City, State, ZIP Code Middletown, NY 10940
5. Subsidiary or affiliated companies (companies under common control through stock ownership, contract or otherwise with access to the Plan) that are to be included. List legal names and addresses of such companies.

   N/A
6. Other locations. Include city, state and ZIP code.

   N/A
7. Nature of Policyholder's Business

   9199: General Government, NEC

   ☐ Corporation ☐ Partnership ☐ Proprietorship ☒ Other ______
8. Has the Policyholder ever voluntarily applied for relief in the Bankruptcy Court?

   ☐ Yes ☒ No If yes, explain
9. Enter the full name of the Policyholder's Plan
10. Name and address of Policyholder's Third Party Administrator

    Trustmark/CoreSource, Inc.

    1280 North Plum Street, Lancaster, PA 17608
11. Name of Utilization Review Provider and/or Preferred Provider Organization(s).

    PPO = ClaimDoc RBP (125% of Medicare for facilities and physicians), using ClaimDoc for repricing (% of billed)

    UR = Trustmark
12. Proposed Effective Date 02/01/2023

13. Total eligible Covered Persons ________________ Estimated initial enrollment 394
14. Are retirees covered? ☒ Yes ☐ No
15. Deposit premium $ ________________
16. Policyholder's writing agent or broker Joe Giardina of North Castle Insurance Agency

    Social Security No. or Tax ID ________________

    Address 364 Adams Street, Bedford Hills, NJ 10507
17. Where is the Stop Loss Contract and other correspondence to be mailed (name and address, if other than listed above?

    Email to Samuel Apland of ClaimDoc - sapland@claim-doc.com

Persons to be covered under the Stop Loss Contract: Covered Units who meet the eligibility requirements as set forth under the Policyholder's underlying Plan, except an individual or dependent who is listed in the Special Conditions and/or Limitations section of this Application or who is required to be disclosed in the Stop Loss Disclosure Statement - unless the individual is named on the Stop Loss disclosure statement and approved by the Company.

SCHEDULE OF STOP LOSS

Coverage under the Stop Loss Contract is applicable only during the Contract Period from 02/01/2023 to 01/01/2024, and is further subject to all the terms and conditions of the Contract, unless specified below.

A. Aggregate Stop Loss ☒ Yes ☐ No

Benefit Period: Eligible Plan Losses

Incurred from 02/01/2023 through 12/31/2023, and

Paid from 02/01/2023 through 12/31/2023

Losses Incurred prior to the Effective Date will be limited to n/a.

Coverages applying to Aggregate Stop Loss include:

☒ Medical ☒ Prescription Drug Card Program

☐ Dental Care ☒ Mail Order Prescription Drug Card Program

☐ Vision Care ☐ Weekly (Disability) Income

☐ Other ________________

Aggregate Percentage Reimbursable 100%
(excess of Attachment Point)

Monthly Aggregate Factors:

	Single	Family		
	$922.99	$2,447.69		

All coverages are combined for determination of Aggregate Stop Loss liability under the terms of the Contract.

Maximum Aggregate Benefit per Benefit Period 1,000,000
(Excess of Annual Aggregate Attachment Point)

Maximum Plan Losses per person per Benefit Period 200,000

Minimum Annual Aggregate Attachment Point 7,690,013

Aggregate Premium per month:
Composite $6.00

B. Specific Stop Loss ☒ **Yes** ☐ **No**

Benefit Period: Eligible Plan Losses
Incurred from 02/01/2023 through 12/31/2023, and

Paid from 02/01/2023 through 12/31/2023

Losses Incurred Prior to the Effective Date will be limited to n/a per person.

Coverage applying to Specific Stop Loss include (check all that apply):

☒ Medical ☒ Prescription Drug Card Program
☐ Dental Care ☒ Mail Order Prescription Drug Card Program
☐ Vision Care ☐ Weekly (Disability) Income
☐ Other ____________________

Specific Deductible (per person) 200,000

Alternate Specific Deductible for the following persons.

None

Aggregating Specific Deductible amount 150,000

Specific Percentage Reimbursable (excess of deductible) 100%

Lifetime Maximum Specific Benefit $ Unlimited
(per person in excess of the Specific Deductible)

Specific Premium per month:
Single $87.56
Family $233.57

Minimum Annual Specific Premium N/A

C. SPECIAL CONDITIONS AND/OR LIMITATIONS:

-Actively At Work is waived for those claimants disclosed.
-Rates and factors shown above assume the current schedule of benefits.

-All documentation provided for Disclosure is on file with AccuRisk Solutions, LLC.
-Rx rebates will be reduced from all aggregate reimbursement, regardless of how the plan appropriates them.

-PPO=ClaimDoc RRB 125% of Medicare for facilities and physicians, using ClaimDoc for repricing (% of billed). The Stop Loss Policy will allow for Plan authority to settle any claim up to RBP 200%. Settlement of any claim greater than RBP 200% will be allowed subject to notice and acceptance by the carrier.

-Specific Rates include Specific TLO

-AGGREGATE TLO : If Aggregate TLO is purchased and enacted:Revised Annual Aggregate Attachment Point: The Annual Aggregate Attachment Point will be adjusted for the increased Benefit Period exposure by multiplying it by a factor of 135%

-Under NY Health Care Reform Act reimbursement will only be based on the surcharge in effect during the term of this treaty. Under Massachusetts Act C.47 reimbursement will only be based on the surcharge in effect during the term of this treaty. These surcharges are for self-funded plans only and no other surcharges, fees or taxes will be reimbursed under these acts.

-LCM Company: Trustmark
-Pre-cert Company: Trustmark
-Rx Company: Pillow PH

D. RIDERS ATTACHED TO AND MADE PART OF THE CONTRACT AT EFFECTIVE DATE OR AS OTHERWISE SPECIFIED:

Advanced Funding Rider	☒ Yes ☐ No	Effective Date: 02/01/2023	Premium: n/a
Monthly Aggregate Accommodation Rider	☒ Yes ☐ No	Effective Date: 02/01/2023	Premium: $2.50 per Covered Unit per month
Aggregate Terminal Run-Out Rider	☒ Yes ☐ No	Effective Date: 02/01/2023	Premium: $1.50 per Covered Unit per month
Specific Terminal Run-Out Rider	☒ Yes ☐ No	Effective Date: 02/01/2023	Premium: Included in Specific Rates per Covered Unit per month

GENERAL CONDITIONS

It is understood and agreed that the following conditions must be satisfied prior to the approval of this Application:

- The Policyholder is financially sound, with sufficient capital and cash flow to accept the risks inherent in sponsoring the Plan;
- The Third Party Administrator, if any, retained by the Policyholder will be considered the Policyholder's agent and not the Company's agent;
- All documentation requested by the Company must be submitted prior to any approval of this Application and must be received by the Company within thirty (30) days prior to the Effective Date;

- The Company will evaluate the Policyholder's risk, and may require adjustments of rates, factors and or special limitations to accommodate for abnormal risks;
- Premiums are not considered paid until the premium check is received by the Company and at the rates set forth in the Schedule of Stop Loss.
- If the Policyholder has more than one business location, a representative of the Policyholder knowledgeable of the Covered Persons at each location has reviewed and completed the Stop Loss disclosure statement.

In making this Application, the Policyholder represents that such information accurately reflects the true facts and that the undersigned has authority to bind the Policyholder to the Contract. Accordingly, this Application, including the disclosure statement, will be a part of the Stop Loss Contract if accepted by the Company.

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

Dated at Middletown, NY __________ this ___ day of ____________________, 2023

Policyholder City of Middletown ____________________

Authorized Officer/Partner ____________________

Type or Print

Title ____________________

Signature ____________________

Tax ID # 14-6002297 ____________________

Witness ____________________

AccuRisk SOLUTIONS

SOLD CASE RATE NOTIFICATION
CITY OF MIDDLETOWN (NY)
EFFECTIVE 2/1/2023

Specific	
Single	$87.56
Family	$233.57

Aggregate	
Composite	$6.00

NW Accom	
Composite	$2.50

Agg TLO	
Composite	$1.50

Stop Loss Disclosure Statement

HIPAA Privacy permits the release of Protected Health Information (PHI) for the purpose of evaluating and accepting risk associated with the Plan Sponsor as a part of "health care operations". The Company/MGU shall use the information provided solely for the purpose of evaluating the acceptability of this risk and shall not disclose any PHI collected except in performing this risk evaluation.

The Company will rely upon the information provided on this disclosure statement ("Disclosure Statement"), which will become part of the Application for stop loss coverage. Please note that previously or subsequently submitted documentation (eg. a "50% notice") will not satisfy underwriting disclosure requirements unless you receive written notice from the Company to the contrary. The purpose of the Disclosure Statement is to allow the Company to take underwriting action on all known risks in the categories listed below. Disclosure of all of the information described in the categories below and on page 2 of this Disclosure Statement is material to the Company's acceptance of the risk. It is the Plan Sponsor's responsibility, either directly or through their designated representative, to accurately report all risks known as of the date the Disclosure Statement is completed and delivered to the Company by making a thorough review of all applicable records. Such records shall include historical claims reports, disability records, current information from administrators, insurers, utilization management companies, managed care companies, and any agent/broker of the Plan Sponsor. In exchange, the Company will accept the liability for any unknown risks. The Disclosure Statement must be completed and signed by the appropriate parties no more than thirty (30) days prior to the proposed Effective Date of stop loss coverage unless otherwise agreed to by the Company in writing and received by the Company within five (5) days of completion. Application and Binder Check, if applying for first year of coverage, should be submitted with the Disclosure Statement. If the Application and Binder Check, if applying for the first year coverage, is submitted after the date of the Disclosure Statement, the Plan Sponsor shall notify the Company of any known changes to the risks described herein as of the date that such Application, and Binder Check, if applicable, is submitted to the Company. Notice to the Company must be in the same format as the Disclosure Statement and submitted to the individual underwriter listed on the Stop Loss Insurance Proposal.

Upon receipt of the completed Disclosure Statement, the Company will assess all data provided within or clearly marked as an attachment to the Disclosure Statement. The Company will inform the producer in writing within fifteen (15) business days of any changes to the rates, factors or terms of coverage. The Company reserves the right to rescind the proposal in its entirety based upon a review of all information submitted during the proposal process.

Provide on page 2 of the Disclosure Statement (or in an attachment to the Disclosure Statement clearly marked as a part of the Disclosure Statement) all information required therein for all individuals known to:

1. Be currently disabled, confined to a medical facility, or have been precertified within the last three months. For employees, disabled means absent from work and/or on Family and Medical Leave Act (FMLA) benefits due to his or her medical condition; for dependents, disabled means unable to perform his or her normal functions of a person of like age.
2. Have received medical services during the last 12 months the cost of which exceeds the lesser of, 50% of the lowest specific retention amount applied for or $30,000, and for which bills have been received by the claims administrator and entered into its claims system.
3. Have been identified as a candidate for case management and have the potential to exceed, during the policy period, the lesser of 50% of the lowest specific retention amount applied for or $30,000.

Plan Sponsor Initials ________

4. Have received medical services or been diagnosed, during the last 12 months, for/with a condition represented by any of the ICD-9 codes contained in the attached list.
5. Have met or exceeded a lifetime limit under the employee benefit plan, regardless of the number of years the individual is/was eligible under the employee benefit plan. References to the employee benefit plan include all prior employee benefit plans sponsored by the Plan Sponsor, as well as the plan in effect as of the date of this Disclosure Statement.

If the Plan Sponsor fails to disclose in this Disclosure Statement or, if required above, in updated information submitted in the same format as this Disclosure Statement and to the individual underwriter as described above, accurate or complete information or omits any information required on page 2 of this Disclosure Statement for any individual known to fall into one of the above categories, either intentionally or unintentionally, then the Company will have no liability for claims incurred by such individual.

Stop Loss Disclosure Statement

Risk Identifier	DOB	Sex	EE, Sp or Ch	(A)ctive, (C)OBRA, (R)etiree, FMLA or (T)ermed	Term Date	Diagnosis(es)/Procedure(s) (see attached ICD-10 Code List)	Most Recent Date of Service	Indicate all that apply: (D)isabled (H)ospital Confined (C)andidate for Case Management (P)recertified w/in Last 3 Months	Expenses Incurred This Plan Year (indicate paid, pending and/or denied)

Plan Sponsor Initials ____________

The Plan Sponsor named below represents that the above list and/or attachments clearly marked as a part of the Disclosure Statement completely and accurately discloses all potentially catastrophic risks in accordance with this Disclosure Statement and that it is the result of a diligent search in accordance with this Disclosure Statement. If there are no risks to report which meet the disclosure criteria in this Disclosure Statement, please check this box. ☐

Plan Sponsor: ______________________ Claims Administrator: ______________________ Agent/Broker ______________________

Authorized Officer/Partner

Signature: ______________________ Signature: ______________________ Signature: ______________________

Plan Sponsor Initials ____________

ICD-10 Codes for Disclosure Notification

Please list all individuals who have been diagnosed with or treated for any of the codes listed below during the current Benefit Period:

A00-B99	***Certain Infectious and Parasitic Diseases***
A40	Streptococcal Sepsis
A41	Other Sepsis
B15-B19	Viral Hepatitis
B20	Human Immunodeficiency Virus (HIV) Disease
C00-D49	***Neoplasms***
C00-C96	Malignant Neoplasms
D46	Myelodysplastic Syndromes
D50-D89	***Diseases of the Blood and Blood-Forming Organs & Disorders involving the Immune Mechanism***
D57	Sickle-Cell Disorders
D59	Acquired Hemolytic Anemia
D60-D64	Aplastic and Other Anemias
D65-D69	Coagulation Defects, Purpura, and Other Hemorrhagic Conditions
D70-D77	Other Diseases of Blood and Blood-Forming Organs
D80-D89	Certain Disorders involving the Immune Mechanism
E00-E89	***Endocrine, Nutritional and Metabolic Diseases***
E10-E13	Diabetes Mellitus
E15-E16	Other Disorders of Glucose Regulation and Pancreatic Internal Secretion
E65-E68	Obesity and Other Hyper Alimentation
E70-E89	Metabolic Disorders
F01-F99	***Mental, Behavioral and Neurodevelopmental Disorders***
F10.1	Alcohol Abuse
F11.1	Opioid Abuse
F20	Schizophrenia
F31	Bipolar Disorder
F32.3	Major Depressive Disorder, single episode, severe with psychotic feature
F33.1-F33.3	Major Depressive Disorder, recurrent
F84.0	Autistic Disorder
F84.2	Rett's Syndrome
F84.5	Asperger's syndrome
G00-G99	***Diseases of the Nervous System***
G00	Bacterial Meningitis
G04	Encephalitis Myelitis and Encephalomyelitis
G06-G07	Intracranial and Intraspinal Abscess and Granuloma
G12.21	Amyotrophic Lateral Sclerosis
G35	Multiple Sclerosis
G36	Other Acute Disseminated Demyelination
G37	Other Demyelinating Disease of Central Nervous System
G82.5	Quadraplegia
G83.4	Cauda Equina Syndrome
G92	Toxic Encephalopathy
G93.1	Anoxic Brain Injury
I00-I99	***Diseases of the Circulatory System***
I20	Angina Pectoris
I21.09-I22	Acute Myocardial Infarction
I24	Acute and Subacute Ischemic Heart Disease
I25	Chronic Ischemic Heart Disease
I26	Pulmonary embolism
I27	Other Pulmonary Heart Disease
I28	Other Diseases of Pulmonary Vessels
I33	Acute and Subacute Endocarditis

I34-I38	Heart Valve Disorders
I42-I43	Cardiomyopathy
I44-I45	Conduction Disorders
I46	Cardiac Arrest
I47-I49	Cardiac Dysrhythmias
I50	Heart Failure
I60-I61	Subarachnoid / Intracerebral Hemorrhage
I63	Cerebral infarction
I65.8-I66	Occlusion of Cerebral Arteries
I67	Other Cerebrovascular Disease
I70	Atherosclerosis / Aortic Aneurysm

J00-J99	***Diseases of the Respiratory System***
J40-J44	Chronic Obstructive Pulmonary Disease (COPD)
J84.10-J84.89	Postinflammatory Pulmonary Fibrosis
J98.11-J98.4	Pulmonary Collapse / Respiratory Failure

K00-K95	***Diseases of the Digestive System***
K22	Esophageal obstruction
K25-K28	Ulcers
K31	Other Diseases of Stomach & Duodenum
K50	Crohn's Disease
K51	Ulcerative colitis
K55-K64	Diseases of Intestine
K65-K68	Diseases of Peritoneum & Retroperitoneum
K70-K77	Diseases of Liver
K83	Diseases of Biliary Tract
K85-K86	Diseases of Pancreatitis
K90-K95	Other Diseases of Digestive System/Complications of Bariatric Procedures

M00-M99	***Diseases of the Musculoskeletal System and Connective Tissue***
M15-M19	Osteoarthritis
M32	Systemic Lupus Erythematosus
M34	Systemic Sclerosis
M41	Scoliosis
M43	Spondylosis
M50	Cervical Disc Disorders
M51	Thoracic, Thoracolumbar & Lumbosacral Intervertebral Disc Disorders
M72.6	Necrotizing Fasciitis
M86	Osteomyelitis

N00-N99	***Diseases of the Genitourinary System***
N00-N01	Acute and Rapidly Progressive Nephritic Syndrome
N03	Chronic Nephritic Syndrome
N04	Nephrotic Syndrome
N05-N07	Nephritis and Nephropathy
N08	Glomerular Disorders classified elsewhere
N17	Acute Kidney Failure
N18	Chronic Kidney Disease (CKD)
N19	Renal Failure, Unspecified

O00-O9A	***Pregnancy, Childbirth and the Puerperium***
O09	High Risk Pregnancy
O11	Pre-Existing Hypertension with Pre-Eclampsia
O14-O15	Pre-Eclampsia and Eclampsia
O30	Multiple Gestation
O31	Other Complications Specific to Multiple Gestations

P00-P96	***Certain Conditions Originating in the Perinatal Period***
P07	Disorders of Newborn related to Short Gestation and Low Birth Weight
P10-P15	Birth Trauma
P19	Fetal distress
P23-P28	Other Respiratory Conditions of Newborn
P29	Cardiovascular Disorders Originating in the Perinatal Period
P36	Bacterial Sepsis of Newborn
P52-P53	Intracranial Hemorrhage of Newborn
P77	Necrotizing Enterocolitis of Newborn

P91	Other Disturbances of Cerebral Status Newborn

Q00-Q99	***Congenital Malformations, Deformations and Chromosomal Abnormalities***
Q00-Q07	Congenital Malformations of the Nervous System
Q20-Q26	Congenital Cardiac Malformations
Q41-Q45	Congenital Anomalies of Digestive System
Q85	Phakomatoses, not classified elsewhere
Q87	Congenital Malformation Syndromes affecting Multiple Systems
Q89	Other Congenital Malformations

R00-R99	***Symptoms, Signs, and Abnormal Clinical and Laboratory Findings, not elsewhere classified***
R07.1-R07.9	Chest Pain
R40-R40.236	Coma
R57-R58	Shock, Hemorrhage
R65.2-R65.21	Severe Sepsis

S00-T88	***Injury, Poisoning and Certain Other Consequences of External Causes***
S02	Fracture of Skull and Facial Bones
S06	Intracranial Injury
S07	Crush Injury to Head
S08	Avulsion and Traumatic Amputation of Part of Head
S12-S13	Fracture and Injuries of Cervical Vertebra and Other Parts of Neck
S14.0-S14.15	Injury of Nerves and Spinal Cord at Neck Level
S22.0	Fracture of Thoracic Vertebra
S24	Injury of Nerves and Spinal Cord at Thorax Level
S25	Injury of Blood Vessels of Thorax
S26	Injury of Heart
S32.0-S32.2	Fracture of Lumbar Vertebra
S34	Injury of Lumbar and Sacral Spinal Cord and Nerves
S35	Injury of Blood Vessels at Abdomen, Lower Back and Pelvis
S36-S37	Injury of Intra-abdominal Organs
S48	Traumatic Amputation of Shoulder and Upper Arm
S58	Traumatic Amputation of Elbow and Forearm
S68.4-S68.7	Traumatic Amputation of Hand at Wrist Level
S78	Traumatic Amputation of Hip and Thigh
S88	Traumatic Amputation of Lower Leg
S98	Traumatic Amputation of Ankle and Foot
T30-T32	Burns and Corrosions of Multiple Body Regions
T81.110T81.12	Postprocedural Cardiogenic and Septic Shock
T82	Complications of Cardiac and Vascular Prosthetic Devices, Implants and Grafts
T83-T85	Complications of Prosthetic Devices, Implants and Grafts
T86	Complications of Transplanted Organs and Tissue
T87	Complications to Reattachment and Amputation

Z00-Z99	***Factors Influencing Health Status and Contact with Health Services***
Z37.5-Z37.6	Multiple Births
Z38.3-Z38.8	Multiple Births
Z48-Z48.298	Encounter for Aftercare following Organ Transplant
Z49	Encounter for Care involving Renal Dialysis
Z94	Transplanted Organ and Tissue Status
Z95	Presence of Cardiac and Vascular Implants and Grafts
Z98.85	Transplanted Organ Removal Status
Z99.1	Dependence on Respirator
Z99.2	Dependence on Dialysis

ClaimDOC
Fair Payment Solutions for Health Plans

HIPAA BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Associate Agreement ("Agreement") is made as a part of business negotiations by and between City of Middletown ("Client") acting on behalf of its employee Health Plan (collectively the "Covered Entity") and Claim DOC, LLC, an Iowa Limited Liability Company with its principal place of business at 3200 Westown Parkway, West Des Moines, IA 50266 (the "Business Associate"), and is effective as of January 1, 2023 (the "Effective Date").

RECITALS

WHEREAS, Business Associate has been retained to perform functions or activities that require that Business Associate have access to Protected Health Information in relation to the Covered Entity; and

WHEREAS, Pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Business Associate and Client desire to execute this Agreement to comply with the terms of the Privacy Rule and Security Rule and the HITECH Act under the American Recovery and Reinvestment Act of 2009 (as defined below).

WHEREAS, this Agreement has been drafted to incorporate the provisions required by the final regulations issued by the Department of Health and Human Services on January 25, 2013 implementing the HITECH Act; and

WHEREAS, Business Associate acts in the capacity of an independent contractor in relation to the services provided to Covered Entity and Client under the Service Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties hereto agree as follows:

AGREEMENT

1. RECITALS The above recitals are incorporated herein by reference.

2. DEFINITIONS

Terms used but not otherwise defined in the Agreement shall have the same meaning as those terms in the Privacy Rule and Security Rule.

a. **"Breach"** shall have the meaning given to it by 45 CFR Section 164.402.

b. **"Breach Notification Rule"** shall mean the Standards for Breach Notification for Unsecured **Protected** Health Information under HIPAA that is codified at 45 CFR Parts 160 and 164, subparts A and D.

c. **"Business Associate"** shall mean Claim DOC, LLC.

d. **"Covered Entity"** shall mean the employee Health Plan(s) sponsored by a Client.

e. "**Deidentified** Data" shall have the same meaning as the term "deidentified data" in 45 CFR Section 164.514.

f. **"Designated Record Set"** shall mean a group of records maintained by or for a Covered Entity that is: (i) the medical records and billing records about Individuals maintained by or for a covered health care provider; (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for the Covered Entity to make decisions about Individuals. For purposes of this definition, the term "record" means any item, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for a Covered Entity.

g. "**Health Care Operations**" shall have the same meaning as the term "Health Care Operations" in 45 CFR Section 164.501.

h. "**HITECH Act**" shall mean the provisions of Title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009. Any reference to a section of the HITECH Act shall also include any HITECH Regulations related thereto.

i. "**HITECH Regulations**" shall mean any guidance issued relating to the HITECH Act by the Department of Health and Human Services, including the Breach Notification Rule.

j. "**Individual**" shall have the same meaning as the term "individual" in 45 CFR Section 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.502(g).

k. "**Privacy Officer**" shall mean the person designated by the Covered Entity to serve as its privacy official within the meaning of 45 CFR 164.530(a) and any person to whom the Privacy Officer has delegated any of his or her duties or responsibilities.

l. "**Privacy Rule**" shall mean the Standards for Privacy of Individually Identifiable Health Information that is codified at 45 CFR Parts 160 and 164, subparts A and E.

m. "**Protected Health Information**" or "PHI" shall mean any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under 45 CFR Section 160.103. Protected Health Information shall be limited to the information created or received by Business Associate from or on behalf of Client and Covered Entity.

n. "**Required By Law**" shall have the same meaning as the term "required by law" in 45 CFR Section 164.103.

o. "**Secretary**" shall mean the Secretary of the Department of Health and Human Services or his or her designee.

p. "**Security Rule**" shall mean the Security Standards for the Protection of Electronic Protected Health Information under HIPAA that is codified at 45 CFR Parts 160 and 164, subparts A and C.

q. "**Unsecured PHI**" shall mean Protected Health Information that is not secured through the use of a technology or methodology that renders such Protected Health Information unusable, unreadable or indecipherable to unauthorized individuals, as specified in guidance issued pursuant to Section 13402(h) of the HITECH Act, including the Breach Notification Rule.

3. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.

a. **Permitted Uses and Disclosures.** Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this Agreement or as Required By Law. Business Associate recognizes that the Protected Health Information is and shall remain the Covered Entity's property except as set forth in the Service Agreement. Business Associate agrees that it acquires no title or rights to the Protected Health Information as a result of this Agreement.

Business Associate shall not use or disclose Protected Health Information in any manner that violates the Privacy Rule or the HITECH Act.

To the extent required by the Privacy Rule, Business Associate shall only request, use and/or disclose the minimum amount of Protected Health Information necessary to accomplish the purpose of the request, use and/or disclosure. The determination of what constitutes the minimum necessary amount of Protected Health Information shall be determined in accordance with the provisions of the Privacy Rule, as amended by Section 13405(b) of the HITECH Act.

Business Associate shall not use or disclose Protected Health Information that is genetic information for underwriting purposes, as set forth in the regulations issued pursuant to Section 105 of the Genetic Nondiscrimination Act of 2008. Business Associate will comply with all provisions of GINA as are applicable to Covered Entity.

b. **Safeguards**. Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Protected Health Information, in electronic or any other form, that it creates, receives, maintains or transmits under this Agreement, in accordance with the Privacy Rule and the Security Rule to prevent the use or disclosure of Protected Health Information other than as provided for by this Agreement. Business Associate shall fully comply with the Security Rule with regard to electronic Protected Health Information.

c. **Reporting of Improper** Use or Disclosure. Business Associate agrees to report to the Covered Entity's Privacy Officer in writing within ten (10) days of discovery of any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware. Business Associate shall also report any security incident (as defined at 45 CFR 164.304) of which it becomes aware to Covered Entity within ten (10) days of discovery. The term "security incident" shall not include inconsequential incidents that occur on a daily basis, such as scans, "pings" or other unsuccessful attempts to penetrate computer networks or servers containing electronic Protected Health Information. To the extent that such use or disclosure or security incident also constitutes a Breach of Unsecured PHI or a suspected Breach of Unsecured PHI, the provisions of Section 6 shall apply.

d. **Mitigation. Business** Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement. Business Associate agrees to document in writing any steps taken under this section and provide any such documentation to Covered Entity upon request.

e. **Agents and Subcontractors.** Business Associate agrees to require that any agents or subcontractors that create, receive, maintain or transmit Protected Health Information on behalf of Business Associate in relation to Covered Entity agree in writing (in the form of a business associate contract) to at least as restrictive conditions and requirements that apply through this Agreement to Business Associate with respect to such information, including the implementation of reasonable and appropriate measures for safeguarding Protected Health Information.

f. **Access to Individuals.** Within 10 days of receipt of a request from the Covered Entity, Business Associate agrees to provide access to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR Section 164.524. Further, if an Individual requests a copy of Protected Health Information in a specific electronic format, Business Associate shall comply with such request, if readily producible, in accordance with the requirements of 45 CFR Section 164.524.

g. **Amendments to Protected Health Information**. Within 10 days of receipt of a request from the Covered Entity, Business Associate agrees to make any reasonable amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR Section 164.526 at the request of Covered Entity or an Individual.

h. **Access by Covered Entity**. Within 10 days of receipt of a request from the Covered Entity, Business Associate agrees to make internal practices, books and records including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity or to the Secretary for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

i. **Disclosure Documentation**. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR Section 164.528. Within 10 days of receipt of a request from the Covered Entity, Business Associate agrees to provide to Covered Entity or an Individual information collected in accordance with this subsection to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR Section 164.528.

j. **Training**. Business Associate agrees to train its workforce members who handle Covered Entity's Protected Health Information about the Business Associate's obligations and permitted uses and disclosures under this Agreement. Business Associate also agrees to train its workforce members as to Business Associate's obligations and duties under the HITECH Act, including the Breach Notification Rule.

k. **Compliance with the HITECH Act.** To the extent not already referenced in this Agreement, the requirements applicable to Business Associate under the HITECH Act are hereby incorporated by reference into the Agreement. Business Associate agrees to comply, as of the applicable effective dates of each such HIPAA obligation, with the requirements imposed by the HITECH Act and HITECH Regulations.

   Business Associate acknowledges that it is directly subject to the Security Rule and applicable provisions of the Privacy Rule and the Breach Notification Rule and Business Associate agrees to comply with its duties under such provisions of HIPAA.

l. **Delegated Obligations.** To the extent Business Associate is to carry out one or more of Covered Entity's obligations under Subpart E of 45 CFR Part 164, Business Associate agrees to comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligations.

4. PERMITTED USES BY BUSINESS ASSOCIATE.

a. **Service Agreement.** Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Service Agreement, provided that such use or disclosure would not violate the Privacy Rule or Security Rule if done by Covered Entity.

b. Other Permitted Usage. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate. In addition, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 45 CFR Section 164.504(e)(2)(i)(B).

5. OBLIGATIONS OF COVERED ENTITY.

a. Change in Privacy Practices. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR Section 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.

b. Change in right to use Protected Health Information. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use and disclosure of Protected Health Information.

c. Change in Restrictions Regarding Protected Health Information Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information. Business Associate will implement a similar restriction provided such restriction is reasonable and does not impact its ability to perform under the Service Agreement.

d. Covered Entity Representative. Covered Entity shall notify Business Associate of those employees of Covered Entity who are authorized to receive Protected Health Information from Business Associate.

6. PERMISSIBLE REQUESTS BY COVERED ENTITY

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

7. DUTIES OF BUSINESS ASSOCIATE UPON BREACH OF UNSECURED PHI

a. Timing for Business Associate to Notify Covered Entity of Breach. Upon Business Associate's discovery of a Breach of Unsecured PHI or a suspected Breach of Unsecured PHI, Business Associate shall provide written notice of the Breach to the Covered Entity's Privacy Officer as soon as administratively practicable (and in no case later than ten (10) business days after such discovery). The content of such written notice of the Breach shall comply with the requirements of 45 CFR Section 164.410(c). In any case requiring urgency because of possible imminent misuse of Unsecured PHI, Business Associate shall notify the Privacy Officer by telephone within 24 hours after discovery of the Breach. Business Associate shall coordinate an appropriate course of action with the Privacy Officer. Business Associate shall apply the provisions of 45 CFR Section 164.410 in determining when a Breach is treated as discovered.

b. Cooperation. Upon notifying Covered Entity of the discovery of a Breach of Unsecured PHI that is attributable to Business Associate (or an agent or subcontractor of Business Associate) in accordance with 6(a) above, Business Associate shall cooperate fully with Covered Entity in determining the details of the Breach and in notifying all appropriate parties as required by the Breach Notification Rule. Further, Business Associate shall cooperate fully with Covered Entity in determining whether a suspected Breach that is attributable to Business Associate (or an agent or subcontractor of Business Associate) requires notice under the Breach Notification Rules, including participation in the risk assessment process if requested by Covered Entity.

c. **Documentation Requirement.** Business Associate shall maintain written records relating to (i) each Breach of Unsecured PHI and (ii) each suspected Breach which is later determined to not constitute a Breach of Unsecured PHI for a period of the lesser of eight (8) years or the duration of this Agreement. Business Associate shall maintain records relating to actual or suspected Breaches (even if it is determined that no notice is required under the Breach Notification Rules), including all risk assessments for determining risk of harm to affected individuals and all analyses of whether the Breach Notification Rules are implicated by an actual or suspected Breach. Business Associate shall also maintain all records relating to actions taken in response to a Breach of Unsecured PHI, including all notices provided in accordance with the Breach Notification Rule, all steps to mitigate harm caused by the Breach and all corrective action steps taken to prevent a future similar Breach. Upon termination of the Agreement, Business Associate shall provide to Covered Entity all such documentation for the previous eight (8) year period (or for the period in which this section is in effect, if shorter).

d. **Log of Small Breaches.** If a Breach of Unsecured PHI involves less than 500 individuals, the Business Associate shall maintain a log or other documentation of the Breach which contains the information required to report such Breach to the Secretary in accordance with the requirements of 45 CFR Section 164.408(c). Business Associate shall provide such log to the Covered Entity (i) within three (3) business days of the Covered Entity's request and (ii) no later than January 31st of each year the Agreement is in place.

e. **Notification Requirements.** Covered Entity, in its discretion, may require Business Associate to prepare and provide individual notices (as required under 45 CFR Section 164.404) and media notice (as required under 45 CFR Section 164.406). Covered Entity may also require Business Associate to assist in providing notice to the Secretary, in accordance with 45 CFR Section 164.408(b) and (c). Prior to providing any such notice, Business Associate shall provide the Covered Entity's Privacy Officer with an opportunity to review and revise any notice. Business Associate shall obtain Covered Entity's approval of any notification prior to sending such notification to any individual or entity. Covered Entity shall either approve Business Associate's draft of any notification or provide Business Associate with a revised version of the notification without unreasonable delay. Alternatively, Covered Entity may elect to draft any required notification for review by Business Associate.

If Covered Entity determines that Business Associate shall distribute any notifications described above for a Breach attributable to Business Associate (or an agent or subcontractor of Business Associate), Business Associate shall comply with all timeframes for providing such notices in accordance with the requirements of the Breach Notification Rule. Further, the content, form and delivery of each of the notices shall comply with the requirements of the Breach Notification Rule and all guidance published by the Secretary for complying with the Breach Notification Rule.

f. **Expenses Associated with a Breach.** If a Breach of Unsecured PHI is attributable to Business Associate (or an agent or subcontractor of Business Associate), Business Associate shall be liable for and pay all costs associated with preparing and providing the notices required by the Breach Notification Rule, including but not limited to labor costs, postage, expenses relating to substitute notice and any other direct or indirect expenses. Business Associate shall also bear all costs for (i) mitigating potential harm to affected individuals by providing credit monitoring and identity theft restoration services when appropriate under the circumstances, (ii) setting up and manning a hotline when required, (iii) Business Associate's attorney's fees, (iv) expenses associated with any type of media notice, and (v) penalties assessed against the Covered Entity on account of the Breach by any entity authorized to enforce HIPAA's provisions if a Breach of Unsecured PHI is attributable to Business Associate (or an agent or subcontractor of Business Associate).

8. TERM AND TERMINATION

a. Term. This Agreement will begin on the Effective Date, and will continue until terminated in accordance herein.

b. Termination.

1) **Termination for Cause**. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall provide not less than 30 (thirty) days written notice of its intent to terminate the Agreement if Business Associate does not cure such material breach no later than the end of the written notice period. A material breach is a breach that goes to the essence of the contract. A material breach does not include a minor breach that can be easily corrected by the breaching party while still meeting most of its obligations under the contract. If Business Associate does not cure the breach within such time, then Covered Entity may, in its sole discretion, immediately terminate this Agreement.

2) **Termination without Cause and Termination of the Service Agreement**. Either party may terminate this Agreement effective upon 90 (ninety) days advance written notice to the other party given with or without any reason if Business Associate no longer performs services for Covered Entity requiring the use or disclosure of protected health information. This Agreement will immediately terminate if the Service Agreement terminates. The effective date of such termination will be the same as the effective date that the Service Agreement terminates.

c. Effect of Termination. As of the date of termination of this Agreement, all rights and obligations of the Parties shall terminate, except that (a) CD shall continue to perform its obligations under this Agreement and the Service Agreement with respect to a determined run-out period, as defined Section IV.1.1 of the Service Agreement, and as agreed upon by the Parties, not to exceed one year. Except as provided in the next paragraph, upon termination of this Agreement for any reason, Business Associate shall return or, with the Covered Entity's express permission, destroy all Protected Health information received from the Covered Entity, or created or received by Business Associate on behalf of Covered Entity. If the Protected Health Information is destroyed, Business shall provide Covered Entity with appropriate evidence of destruction. Business Associate shall retain no copies of the Protected Health Information, except in cases of actual or threatened litigation or if required by law. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate.

In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon Business Associate's determination that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health

Information.

In the event this Agreement is terminated for any reason, the Service Agreement will also terminate. The effective date of the Service Agreement termination will be the same as the effective date that this Agreement terminates.

9. MISCELLANEOUS

a. **Regulatory References.** Any reference in this Agreement to a section in the Privacy Rule, Security Rule, Breach Notification Rule or HITECH Act means the section as in effect or as amended.

b. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule, Security Rule, the Breach Notification Rule or any other requirements of the HITECH Act.

c. **Survival.** The respective rights and obligations of Business Associate under Section 6, 7(c) and 9(l) shall survive the termination of this Agreement.

d. **Interpretation; Conflict.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule, Security Rule, the Breach Notification Rule or any other requirements of the HITECH Act. In addition, to the extent this Agreement, only as it relates to the Privacy Rule, the Security Rule, the Breach Notification Rule or any other requirements of the HITECH Act and Protected Health Information, is inconsistent with the terms of the Service Agreement, the terms of this Agreement shall govern. To the extent the Service Agreement conflicts with the terms of this Agreement unrelated to the Privacy Rule, the Security Rule, the Breach Notification Rule or any other requirements of the HITECH Act and Protected Health Information, the terms of the Service Agreement shall govern. All terms of the Service Agreement not in conflict with this Agreement remain in full force and effect.

e. **No Third-Party Beneficiaries.** Except as set forth in this Agreement or as expressly provided for under HIPAA, this Agreement is entered into by and among the parties hereto solely for their benefit. The parties have not created or established any third-party beneficiary status or rights in any person or entity not a party hereto including, but not limited to, any individual, provider, subcontractor, or other third-party, and no such third-party will have any right to enforce any right or enjoy any benefit created or established under this Agreement.

f. **Force Majeure.** The obligations of any party under this Agreement will be suspended for the duration of any force majeure applicable to that party. The term "force majeure" means any cause not reasonably within the control of the party claiming suspension, including, without limitation, an act of God, industrial disturbance, war, riot, weather-related disaster, earthquake and governmental action. The party claiming suspension under this Section will take reasonable steps to resume performance as soon as possible without incurring unreasonably excessive costs.

g. **Entire Agreement; Amendments; Facsimile.** This Agreement including any riders, attachments or amendments hereto, constitutes the entire agreement among the parties with respect to the Privacy Rule, the Security Rule, the Breach Notification Rule and any other requirements of the HITECH Act. This Agreement supersedes any prior agreement or understandings pertaining to HIPAA obligations between the parties, whether oral or written, and may be amended only by a writing executed by authorized representatives of both parties. A facsimile or other reproductive type copy of this Agreement, so long as signed by all parties, will be considered an original and will be fully enforceable against all parties.

h. Choice of Law. This Agreement is made in and will be governed by, and construed in accordance with, the laws of the State of New York (to the extent not preempted by federal law) without regard to principles of conflict or choice of law.

i. Assignment and Delegation. No party may assign its rights or duties under this Agreement without the prior written consent of the other. This Agreement is binding upon and will inure to the benefit of the respective parties hereto and their successors and permitted assigns.

j. Headings. All headings are for convenience only and may not be deemed to limit, define or restrict the meaning or contents of the Sections.

k. Unenforceable Provisions. If any provision of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remaining provisions will remain in effect and the illegal or unenforceable provision will be modified so as to conform to the original intent of this Agreement to the greatest extent legally permissible. Notwithstanding the foregoing, if any such modification causes a material change in the obligations or rights of any party, upon written notice from one parry to the other of the adverse effect thereof upon such notifying party, and then if the parties are not able to mutually agree as to an amendment hereto, any party may terminate this Agreement upon 30 days written notice to the other parties.

l. Indemnity. Business Associate will indemnify, defend and hold harmless Client and Covered Entity and any of their affiliates, officers, directors, employees, volunteers, representatives or agents from and against any claim, demand, loss, cause of action, liability, damages (including direct, special, incidental, consequential, exemplary and punitive damages), cost or expense, including attorney's fees and court or proceeding costs, arising from or relating to the acts or omissions of Business Associate or any of its directors, officers, subcontractors, employees, affiliates, agents and representatives in connection with Business Associate's performance under this Agreement, without regard to any limitation or exclusion of damages provision otherwise set forth in this Agreement or any other service agreement between the parties.

m. Notices. Any notice required pursuant to this Agreement must be in writing and sent by registered or certified mail, return receipt requested, by fax with proof of delivery, or by a nationally recognized private overnight carrier with proof of delivery, to the addresses of the parties set forth below in this Agreement. The date of notice will be the date on which the recipient receives notice or refuses delivery. All notices must be addressed as follows or to such other address as a party may identify in a notice to the other party:

CD:	Client:
Claim DOC, LLC	City of Middletown
PO Box 42155	16 James Street
Urbandale, IA 50323	Middletown, NY 10940
Attn: Amy Pellegrin	Attn:

n. Waiver. A waiver of a breach or default under this Agreement is not a waiver of any other or subsequent breach or default. A failure or delay in enforcing compliance with any term or condition of this Agreement does not constitute a waiver of such term or condition unless it is expressly waived in writing.

o. Negotiated Agreement. Each party acknowledges that this Agreement resulted from negotiations by and among all parties, and therefore any rule of construction requiring ambiguities to be construed against the drafter of an agreement will not apply to any provision of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and date first above written by their duly authorized officers for and on behalf of said entity.

City of Middletown	Claim DOC, LLC
Signature:	Signature:
Signatory Name:	Signatory Name:
Signatory Title:	Signatory Title:

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald.

Sec'd by Ald.

Date of Adoption 01.17.23

Index No: 35-23

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin				
Ald. Jean-Francois				
Ald. Johnson				
Ald. Wray				
Ald. Kleiner				
Ald. Green				
Ald. Witt				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

Resolution authorizing a Sale & Compensating Use Tax Sharing Agreement with the County of Orange

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Sale & Compensating Use Tax Sharing Agreement with the County of Orange from March 1st, 2023 through February 28, 2026.

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Mayor to sign the agreement.

THE COUNTY OF ORANGE SALES & COMPENSATING USE TAX SHARING AGREEMENT

THIS AGREEMENT is made this ____ day of January 2023, by and among THE COUNTY OF ORANGE, and THE CITY OF NEWBURGH, THE CITY OF MIDDLETOWN AND THE CITY OF PORT JERVIS (the three cities are collectively referred to herein as the "CITIES"), all municipal corporations organized and existing by virtue of the laws of the State of New York.

WHEREAS, Article 29 of the Tax Law of the State of New York authorizes certain municipalities to impose certain taxes on retail sales and other similar transactions and compensating use taxes as therein specified, to be administered by the New York State Tax Commission, and further provides certain priorities and preemptive rights, and

WHEREAS, THE COUNTY OF ORANGE, by virtue of New York State law, including, but not limited to, NY Tax Law §1210(i)(35), has imposed a sales and compensating use tax that, as of the time of this Agreement, is three and three-quarters percent (3¾%), and

WHEREAS, over many years there have been a series of agreements among the parties hereto to provide for the sharing of the net sales and compensating use tax monies received by THE COUNTY OF ORANGE among the three cities as parties to such agreements, as well as the various Towns and Villages not parties to such agreements (receiving same as third-party beneficiaries to such agreements), the last of such agreements expiring by its terms on February 28, 2023, and

WHEREAS, the parties hereto agree that for due and sufficient consideration acknowledged by them, they desire to enter into and execute this Agreement and be bound by the terms hereof, and

WHEREAS, by resolutions duly adopted by the governing bodies of each party hereto, the parties have agreed upon a plan whereby THE COUNTY OF ORANGE will share with the CITIES the net sales and compensating use taxes it receives in such proportions as set forth below and agreed upon by the respective elective governing bodies of the parties, as provided and authorized in NY Tax Law § 1262(c), and

WHEREAS, the Charters, laws and resolution adopted by the governing bodies of each of the parties hereto authorizes the Chief Elected Official or the Chief Executive Officer of their respective municipalities to execute this Agreement on behalf of each of them,

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto mutually covenant and agree as follows:

1. THE COUNTY OF ORANGE, during the term of this Agreement, shall continue to impose the taxes described in NY Tax Law § 1210(a), to the extent it is authorized by New York State to do so, at a rate of three percent (3%) or at a greater rate that may be authorized by the State of New York (presently three and three-quarters percent [3¾ %]), subject to the terms herein below.
2. The term of this Agreement shall commence on March 1, 2023 and terminate on February 28, 2026.
3. The implementation of the distribution formula contained herein and the distribution of the respective portion of the net sales and compensating use taxes received by THE COUNTY OF ORANGE with the municipalities as set forth herein are contingent upon the CITIES, and each of them, hereby agreeing to and actually forbearing from preempting the sales and compensating use taxes imposed by THE COUNTY OF ORANGE during the period of this Agreement. By entering into this Agreement each

of the CITIES agrees to refrain from imposing any sales and compensating use taxes otherwise authorized by NY Tax Law § 1210, or elsewhere, except that the CITIES can impose sales taxes described in NY Tax Law § 1105(b) and related compensating use taxes in NY Tax Law § 1110, as authorized by NY Tax Law § 1210(b), which a city has a prior right to impose pursuant to NY Tax Law § 1224(b)(1).

4. The CITY OF NEWBURGH has, by Charter, law and/or by resolution, duly adopted by the Common Council of the City of Newburgh, authorized its City Manager to execute this Agreement and has also agreed not to preempt the sales and compensating use taxes imposed by THE COUNTY OF ORANGE during the term of this Agreement. The CITY OF MIDDLETOWN has, by Charter, law and/or by resolution, duly adopted by the Common Council of the City of Middletown, authorized its Mayor to execute this Agreement and has also agreed not to preempt the sales and compensating use taxes imposed by THE COUNTY OF ORANGE during the term of this Agreement. The CITY OF PORT JERVIS has, by Charter, law and/or by resolution, duly adopted by the Common Council of the City of Port Jervis, authorized its Mayor to execute this Agreement and has also agreed not to preempt the sales and use taxes imposed by THE COUNTY OF ORANGE during the term of this Agreement. Notwithstanding the foregoing, each of the CITIES is empowered to preempt the sales and compensating use tax by imposing the sales taxes described in NY Tax Law §1105(b) and related compensating use taxes in NY Tax Law § 1110, as authorized by NY Tax Law § 1210(b), which a city has a prior right to impose pursuant to NY Tax Law § 1224(b)(1).
5. The distributions to be made by the County hereunder are to be based upon the sales and compensating use tax monies received by THE COUNTY OF ORANGE (presently

at the rate of three and three-quarters [3¾%]), less the expenses of the Commissioner of Taxation and Finance for administration and collection and amounts withheld for refunds. The expenses of the Commissioner of Taxation and Finance and amounts withheld for refunds shall be deducted from the gross receipts prior to the payment to THE COUNTY OF ORANGE by the New York State Comptroller, pursuant to NY Tax Law § 1261 or other applicable law, and the remainder shall be the "net collections" of THE COUNTY OF ORANGE as such term is defined in NY Tax Law § 1262(f).

6. For the term of this Agreement, the net collections of the sales and compensating use taxes imposed by THE COUNTY OF ORANGE shall be retained by THE COUNTY OF ORANGE or allocated and disposed of as follows:

   A. THE COUNTY OF ORANGE shall retain for purposes of THE COUNTY OF ORANGE seventy-three and six hundred sixteen thousandths percent (73.616%) of the above described net collections.

   B. THE COUNTY OF ORANGE shall allocate and distribute twenty-six and three hundred eighty-four thousandths percent (26.384%) of the above described net collections to the CITIES, Town and Villages as follows:

      1. Thirty-two and five hundred twenty-five thousandths percent (32.525%) thereof to the CITIES as provided below.

      2. Sixty-seven and four hundred seventy-five thousandths percent (67.475%) thereof to the Towns and Villages as provided below.

   C. For the term of this Agreement, the amount to be distributed to the three CITIES (32.525% of the 26.384% of net collections of sales and compensating use taxes received by THE COUNTY OF ORANGE) shall be divided among them according to the following percentages of the noted 32.525%:

NEWBURGH	42.451%
MIDDLETOWN	44.640%
PORT JERVIS	12.909%

D. Said percentages, as they relate to the relative populations as reflected in the 2020 Census, have been confirmed by the Finance Department of THE COUNTY OF ORANGE. It has been agreed to among the CITIES, and consented to by THE COUNTY OF ORANGE, that the above percentages for each of the CITIES shall be adjusted in future years and future agreements in accordance with the relative adjustments in the population of each of the CITIES, as evidenced in each of the future United States decennial census population data or special population census taken pursuant to NY General Municipal Law § 20 completed and published prior to the end of the quarter for which the allocation is made, which special census must include the entire area of THE COUNTY OF ORANGE..

E. The monies allocated to the Towns located within THE COUNTY OF ORANGE shall be divided among them based upon their respective populations, determined in accordance with the latest decennial federal census or special population census taken pursuant to NY General Municipal Law § 20 completed and published prior to the end of the quarter for which the allocation is made, which special census must include the entire area of THE COUNTY OF ORANGE. Provided, where a village located within THE COUNTY OF

ORANGE elects a direct cash payment provided for in NY Tax Law § 1262(c), the amount to be paid to such village shall be determined by the ratio that the population of such village or portion thereof within a town in which such village is located bears to the total population of the entire town, determined in accordance with the latest decennial federal census or special population census taken pursuant to NY General Municipal Law § 20 completed and published prior to the end of the quarter for which the allocation is made, which special census must include the entire area of THE COUNTY OF ORANGE, except that if the Village of Highland Falls elects a direct cash payment as provided in the second to last unnumbered paragraph of NY Tax Law § 1262(c), the amount to be paid to it shall be determined by the ratio that the full valuation of real property in the Village bears to the full valuation of the entire Town of Highlands.

7. The amounts to be allocated to the CITIES, Towns and Villages shall be calculated quarterly during the term of the Agreement, based upon the net amount of sales and compensating use tax revenue as described herein and received by THE COUNTY OF ORANGE during the previous quarter.
8. The distributions to the municipalities under this Agreement will be made on or about the 30th day of January, April, July and October of each year covered by this Agreement. The first such payment shall be made on or about April 30, 2023.
9. It is the present intention of the parties hereto that they renegotiate a continuation of this Agreement in the future. The parties therefor agree to commence negotiations for a new agreement on or about November 1, 2024. In the event a renegotiated agreement

or such other agreement is not reached on or before June 1, 2025, then any of the CITIES that are parties to this Agreement shall notify THE COUNTY OF ORANGE pursuant to NY Tax Law § 1223 of its intention to adopt legislation imposing a City Sales Tax as permitted by law, such tax to become effective as of March 1, 2026. The purpose of this clause is to enable the CITIES to collect a continuous stream of revenue from THE COUNTY OF ORANGE to the end of the term of this Agreement with minimal interruption.

10. The parties are aware, as set forth above, that the present sales and compensating use tax rate is three and three-quarter percent (3¾%). Notwithstanding anything to the contrary provided elsewhere in this Agreement, if the present 3¾% sales and compensating use tax rate ("rate") is ever changed, then the reduced or increased rate shall be immediately substituted for the 3¾% rate presently in effect (or any rate then presently in effect) and the sharing formula set forth in paragraph "6" above shall be adjusted to reflect the new rate. For example, if the rate were reduced from the present 3¾% to 3%, then the CITIES and Towns would receive 26.384% of the net collections, as noted above, from the 3% rate, and if the rate increased from the present 3¾% rate to 4%, then the CITIES and Towns would receive 26.384% of net collections, as noted above, from the 4% rate, all less any administrative or other costs as described above. Villages may receive their respective shares as otherwise provided for herein and in applicable State law. Net collections from such additional or lesser rates that are not required to be paid to the CITIES, Town and Villages as described herein shall be retained by THE COUNTY OF ORANGE for its own purposes.

11. In the event New York State assumes responsibility for funding or paying out of State funds THE COUNTY OF ORANGE's Medicaid expenses, or in the event there is any other action taken by the State of New York whereby the State assumes a responsibility and an expense of THE COUNTY OF ORANGE and in exchange therefore the State retains a portion of THE COUNTY OF ORANGE's net collections that are the subject of this Agreement, the rights of the parties will be affected pursuant to the terms of this paragraph. If the expense of THE COUNTY OF ORANGE for any program taken over by the State of New York equals or exceeds the amount such net collections of THE COUNTY OF ORANGE retained by the State of New York, then THE COUNTY OF ORANGE shall continue to distribute to the other municipalities the same 26.384% of the sales tax revenue generated by the three percent (3%) tax even though THE COUNTY OF ORANGE may no longer be receiving its 76.616% of the original amount of such revenues. If THE COUNTY OF ORANGE's expense for any such program taken over by the State is less than the amount of THE COUNTY OF ORANGE's net collections retained by the State of New York, then the net loss suffered by THE COUNTY OF ORANGE shall be shared by THE COUNTY OF ORANGE, the CITIES and the Towns and Villages in the same proportion as that by which the revenues are retained and distributed.
12. In the event that any of the CITIES or a Town or a Village incurs a monetary debt or obligation to THE COUNTY OF ORANGE, and said debt or obligation remains outstanding for one year after it has become due and owing to THE COUNTY OF ORANGE following good faith discussions with THE COUNTY OF ORANGE to satisfy the debt or obligation, then THE COUNTY OF ORANGE is authorized herein

to deduct an amount equal to such outstanding amount of such debt or obligation, to include statutory interest and penalties, if applicable, from that municipality's share of the net collections of THE COUNTY OF ORANGE due that municipality as provided in this Agreement. Such deductions shall be from the payment(s) scheduled to be made next following the above-referenced one year anniversary of the date the debt or obligation accrued, and from each successive share otherwise due to the municipality until the debt or obligation has been paid in full. A municipality may request that the payments be paid in installments for a period not to exceed three years, which request shall not be unreasonably denied.

13. The parties desire to express their intent to continue the terms of the prior agreement to this Agreement (the one in existence at the time this Agreement is entered into) and in the event an interpretation of this Agreement is necessary, the prior agreement reference in the third "WHEREAS" clause of this Agreement shall be used to interpret the intentions of the parties hereto, to the extent necessary and with the understanding that some of the terms of this Agreement may have been intentionally modified by the parties to have a different intent than the prior agreement. The changes to this Agreement in comparison to the prior agreement are intended to recognize, among other things, THE COUNTY OF ORANGE's current sales and compensating use tax rate of 3¾%, *i.e.*, the rate of THE COUNTY OF ORANGE, not including the New York State rate or the rate imposed as a result of being in the Metropolitan Commuter Transportation District. The changes in this Agreement are also intended to develop a continency in the event THE COUNTY OF ORANGE rate ever changes (either by increase or decrease) from the present rate of 3¾% to ensure that the parties respective

percentage shares of the rate, whatever that may be, and whatever such rate actually is, are continued as the same percentage of any new rate, except as otherwise provided in this Agreement.

14. The parties further agree to submit this Agreement for any necessary approvals by the State of New York or any officer, agency, or department thereof, and if it is not so approved the parties shall expeditiously renegotiate this Agreement to the extent necessary, leaving as is any provision of this Agreement which would be valid, or which was not disapproved, as being to continue in full force and effect for a period of one year pending such renegotiation.
15. This Agreement may be signed in counterparts, and facsimile signatures shall be considered valid and binding.

IN WITNESS HEREOF, the parties have hereunto set their hands, and seals if so affixed, on the day and year as set forth below.

THE COUNTY OF ORANGE

BY: ________________________________
Hon. Steven M. Neuhaus, County Executive

CITY OF NEWBURGH

BY: ________________________________
Hon. Todd Venning, City Manager

CITY OF MIDDLETOWN

BY: ________________________________
Hon. Joseph M. DeStefano, Mayor

CITY OF PORT JERVIS

BY: ________________________________
Hon. Kelly B. Decker, Mayor

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald.

Sec'd by Ald.

Date of Adoption 01.17.23

Index No: 36-23

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin				
Ald. Jean-Francois				
Ald. Johnson				
Ald. Wray				
Ald. Kleiner				
Ald. Green				
Ald. Witt				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

Resolution authorizing an application for Round 7 Restore NY funds for the O&W Building Restoration Project

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes an application for Round 7 Restore NY funds for the O&W Building Restoration Project, in the amount of $2 million. The proposed project will go toward the rehabilitation of the former O&W Train Station.

The City of Middletown finds that the proposed project is consistent with the municipality's local revitalization or urban development plan; that the proposed financing is appropriate for the specific project; that the project facilitates effective and efficient use of existing and future public resources so as to promote both economic development and preservation of community resources; and the project develops and enhances infrastructure and/or other facilities in a manner that will attract, create, and sustain employment opportunities where applicable.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. ______________________

Sec'd by Ald. ______________________

Date of Adoption 01.17.23

Index No: 37-23

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin				
Ald. Jean-Francois				
Ald. Johnson				
Ald. Wray				
Ald. Kleiner				
Ald. Green				
Ald. Witt				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

Resolution authorizing a Street Closure for the Winter Festival

RESOLVED; that the Common Council of the City of Middletown authorizes the closure of Union Street on Saturday, February 4, 2023 (Snow Day Saturday, February 18, 2023) from 10AM-5PM for the Winter Festival.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. ____________________

Sec'd by Ald. ____________________

Date of Adoption 01.17.23

Index No: 38-23

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin				
Ald. Jean-Francois				
Ald. Johnson				
Ald. Wray				
Ald. Kleiner				
Ald. Green				
Ald. Witt				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

Resolution authorizing an Amendment to City Code Chapter 475, Zoning

WHEREAS, the Common Council wishes to allow two-family dwellings in OR-2 (Two-Family Owner-Occupied Residential Districts) zoning districts to permanently be non-owner-occupied if the dwelling was occupied as a two-family dwelling at the time this zoning district was created.

Resolved, and be it Ordained, by the Common Council of the City of Middletown, New York, as follows:

Section 1 - The Code of the City of Middletown, N.Y., Chapter 475, Zoning, be and is hereby amended by replacing Paragraph 3 of Subsection A (Permitted Uses), of Section 475.11, OR-2 Two-Family Owner-Occupied Residential Districts, to read as follows:

(3). Two-family owner-occupied dwelling constructed or converted from a single-family usage after the effective date of this Section, not to exceed one dwelling building on each lot. One of the two dwelling units must be occupied by the owner of the property.

Section 2 - The Code of the City of Middletown, N.Y., Chapter 475, Zoning, be and is hereby amended by adding a new Paragraph 4 to Subsection A (Permitted Uses), of Section 475.11, OR-2 Two-Family Owner-Occupied Residential Districts, to read as follows:

(4). Two-family non-owner-occupied dwelling, not to exceed one dwelling building on each lot, provided that the property was occupied as a two-family dwelling on the effective date of this Section.

Section 3 - This ordinance shall take effect immediately.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Masi

Sec'd by Ald.

Date of Adoption 01.17.23

Index No:

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin				
Ald. Jean-Francois				
Ald. Johnson				
Ald. Wray				
Ald. Kleiner				
Ald. Green				
Ald. Witt				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

I MOVE THE ACCOUNTS BE AUDITED, THE CLAIMS ADJUSTED AND THE TREASURER BE AUTHOIZIED TO ISSUE WARRENTS FOR THEIR PAYMENTS