

CITY OF MIDDLETOWN
BOARD OF ESTIMATE AND APPORTIONMENT AGENDA
NOVEMBER 14, 2024 - 4:00 PM
COMMON COUNCIL CHAMBERS

1. ROLL CALL
2. APPROVAL OF MINUTES
 - 2.1. Accept the Minutes of 10/31/2024 and 11/04/2024
3. NEW BUSINESS
 - 3.1. 2025 Proposed General, Water, Sewer Budget Hearing
 - 3.2. Authorization to approve the additional \$10 million Amended Bond Resolution for the O & W Building Project.

Leonora Liz is requesting to approve the attached Amended Bond Resolution for the O&W Project in order to commit to the additional cost of the O&W building and renovation. The bond resolution is an amendment from the original Bond Resolution approved on April 17, 2024, Res # 66-24, for \$6 million. The amendment will be for an additional \$10 Million.
 - 3.3. Authorization to Transfer Funds within the Fire Department Budget to Cover overdrafts in the Fire Overtime line

Chief Brady is requesting to authorize the Treasurer to transfer funds in the following matter to cover the overdraft within the Fire Department Overtime Line:

FROM	AMOUNT	TO
A.3410.106	5,000.00	
OVERTIME-FIRE		
INSPECTOR		
A.3410.200	5,000.00	
OTHER EQUIPMENT		
A.3410.202	4,337.74	
PERSONAL PROTECTIVE		
EQUIPMENT		
A.3410.204	5,262.67	
RADIO SYSTEMS		
A.3410.207	10,000.00	
HOSE & APPLIANCE		
A.3410.220	1,000.00	
UNIFORMS		

A.3410.410	2,250.00	
UNIFORM ALLOWANCE		
A.3410.433	9,500.00	
PERSONNEL TRAINING		
A.3410.450	1,000.00	
MATERIALS & SUPPLIES		
A.3410.479	1,000.00	
FIRE DEPT.EQUIPMENT		
RENTAL		
A.3410.480	2,000.00	
OFFICE EXPENSE		
A.3410.491	3,000.00	
FIRE POLICE		
A.3410.493	1,000.00	
TRAINING FIELD		
IMPROVE		
A.3410.494	5,000.00	
PERSONNEL EDUC PAID		
MEN		
A.3410.496	6,000.00	
PERSONNEL TRAINING		
VOL		
A.3410.497	2,000.00	
FIRE PREVENTION		
PROGRAM		
A.3410.415	8,000.00	
LIGHT AND HEAT		
A.3420.450	<u>2,000.00</u>	
MATERIALS & SUPPLIES		
TOTAL	\$73,350.41	A.3410.103 FIRE OVERTIME

3.4. Authorization to approve the 2025 General, Water and Sewer Budget

Leonora Liz is requesting from the Board of Estimate to approve and submit an itemized statement in writing of the estimated revenue and expenditures of the General City Government, the Water Department and the Sewer Department other than amounts to be raised by taxation for County purposes, for fiscal year January 1, 2025 through December 31, 2025. Therefore, seeking from the Common Council to approve and adopt the 2025 Annual Budget as following:

Description:	General Fund	Water Fund	Sewer Fund
Revenue	\$26,500,287	\$7,910,444	\$6,301,940
Expense	\$50,536,831	\$7,910,444	\$6,301,940

Appropriation: 50,536,831

Estimated Revenue: 26,500,287

Tax Levy – General City Purpose 23,936,544

- 3.5. Authorization to approve the new three-year term Empress Agreement from 2025-2027 for Ambulance Services

Requesting approval for the three-year ambulance service agreement with Empress Ambulance Services from January 1st 2025 through December 31, 2027 and authorization for the Mayor to sign it. The cost of service will be as follow:

2025: \$60,178.36 per month

2026: \$63,187.27 per month

2027: \$66,346.64 per month

- 3.6. Authorization to award bids for surplus vehicles/equipment to Auctions International

Jacob Tawil is respectfully requestngt a resolution to award the following bids for surplus vehicles auctioned off through Auctions International:

Approximately 7800 Badge Water Meters - \$19,700.00

2010 Sweetwater Pontoon Boat (VIN #GDY1957TL910) - \$4,300.00

2001 Ingersoll Rand Air Compressor (MODEL #185W) - \$3,950.00

2006 Ford F250 Super Duty (VIN #1FTSX21556ED09629) - \$1,125.00

2010 Chevy Impala (VIN #2G1WA5EK5A1259239) - \$570.00

2000 JCB Loader (VIN #SLP45600XE0539181)- \$4,550.00

Total= \$34,195.00

- 3.7. Autorization to Re-Levy the 2023 Water & Sewer Delinquent Bills

Leonora Liz is requesting from the Board of Estimate authorization to re -levy 2023 water and sewer delinquent bills into the 2025 real property tax bills in the following amounts:

Unpaid Sewer: 493 Parcels = \$254,248.46

Unpaid Water: 493 Parcels = \$351,041.92

- 3.8. Resolution Presented on the Floor: Authorization to Implement and fund in the first instance 100% of the federal-aid and Sate "Marchiselli" Program -Aid eligible costs of transportation federal aid project and appropriating funds therefore,

SAMPLE RESOLUTION BY MUNICIPALITY

(Locally Administered Project)

RESOLUTION NUMBER: _____

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. 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 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 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 construction and construction inspection work for the Project or portions thereof; and it is further

RESOLVED, that the sum of **\$2,668,000** (\$24,476,203 minus the previous \$(21,808,203) is hereby appropriated from 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

4. WATER/SEWER/LAWN MAINTENANCE ADJUSTMENT
5. ADJOURNMENT



**CITY OF MIDDLETOWN
BOARD OF ESTIMATE AND APPORTIONMENT MINUTES
NOVEMBER 4, 2024**

Roll Call

New Business

Authorization to approve the CDM Smith Air Facility Proposal

Jacob Tawil is requesting to approve the CDM Smith proposal for Air Facility Renewal and authorize the mayor to sign it.

Motion by: Mayor DeStefano **Seconded by:** Council President Rodrigues

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Water/Sewer/Lawn Maintenance Adjustment

Adjournment



**CITY OF MIDDLETOWN
BOARD OF ESTIMATE AND APPORTIONMENT MINUTES
OCTOBER 31, 2024**

Roll Call

Present: Mayor DeStefano, Council President Rodrigues

Absent: Alderman Masi

Approval of Minutes

Accept the Minutes of 10/10/2024

Motion by: Council President Rodrigues **Seconded by:** Mayor DeStefano

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

New Business

Authorization to transfer from the General Fund Balance towards the cost of painting the City Court House*City Court Administration has requested that the City Court be painted. The City Court Administration will reimburse the City for this expense in September 2025. Jacob Tawil is respectfully requesting to authorize the City Treasurer to transfer from the General Fund Balance to 2024 Repairs to Building to cover Painting at the Court House.*

<i>FROM</i>	<i>TO</i>	<i>AMOUNT</i>
<i>GENERAL FUND BALANCE</i>	<i>\$11,640</i>	<i>A.1620.470</i>
		<i>REPAIRS TO BUILDING</i>

Motion by: Mayor DeStefano **Seconded by:** Council President Rodrigues

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Authorization to Transfer within the DPW 2024 budget to cover the cost of materials for the remainder of the year.*Jacob Tawil is respectfully requesting to authorize the Treasurer to transfer from 2024 Snow and Ice material and supplies to 2024 Traffic Paint and Signs to cover*

additional material needed for the remainder of the year.

<i>FROM</i>	<i>AMOUNT</i>	<i>TO</i>
<i>A.5142.450</i>	<i>\$15,000</i>	<i>A.1620.477</i>
<i>SNOW AND ICE-MATERIALS</i>		<i>TRAFFIC PAINT& SIGNS</i>
<i>& SUPPLIES</i>		

Motion by: Council President Rodrigues **Seconded by:** Mayor DeStefano

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Authorization to transfer funds to cover the cost of Street Department Overtime*Jacob Tawil is requesting to authorize the Treasurer to transfer funds from the Sanitation Personal Service line, A.8160.100, into the Street Department Overtime account, A.5110.103, to cover a recent overdraft and anticipated overtime for the remainder of the year.*

<i>FROM</i>	<i>AMOUNT</i>	<i>TO</i>
<i>A.8160.100</i>		<i>A.5110.103</i>
<i>PERSONAL SERVICES -</i>	<i>\$16,000</i>	<i>OVERTIME - STREET DEPT</i>
<i>SANITATION DEPT</i>		

Motion by: Council President Rodrigues **Seconded by:** Mayor DeStefano

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Authorization to transfer funds for DPW Administration Over time*Jacob Tawil is respectfully requesting to authorize the Treasurer to transfer funds from the Sanitation Personal Service line, A.8160.100, into the Public Works Administration Overtime account, A.1490.103, to cover anticipated overtime for the remainder of the year.*

<i>FROM</i>	<i>AMOUNT</i>	<i>TO</i>
<i>A.8160.100</i>	<i>\$10,000</i>	<i>A.1490.103</i>
<i>PERSONAL SERVICES -</i>		<i>OVERTIME - PUBLIC</i>
<i>SANITATION DEPT</i>		<i>WORKS ADMIN</i>

Motion by: Mayor DeStefano **Seconded by:** Council President Rodrigues

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Authorization to approve the \$750,000 grant from the Office of Aileen Gunther administered through NYS DASNY towards various City projects

Maria Bruni is requesting approval for Grant #27682 in the amount of \$750,000 from

Assemblywomen Aileen Gunther administered through NYS DASNY and to authorize the Mayor as the sole signatory:

The grant will be used towards the following various projects:

Creation of a Splash Pad for a Maple Hill Neighborhood Park, Installation of Security Cameras at Recreation Center, City Hall, and Senior Center, also to be Installed on Various Downtown Streets, Renovation of Building on MPC Campus for Police Evidence Storage and Fire/Police Offices as well as Installation of New LED Spotlights and New Dolby IMS Server.

Motion by: Mayor DeStefano **Seconded by:** Council President Rodrigues

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Authorization to accept a \$200 donation from Robin and Fran Wittman in memory of Richard Wolslayer

BE IT RESOLVED; that the Common Council of the City of Middletown, NY, concurs with the Board of Estimate and Apportionment and accepts a \$200.00 donation from Robin and Fran Wittman in Memory of Richard Wolslayer.

The Recreation Department requests to authorize the Treasurer to deposit this donation into account A.2705.50 Gifts and Donations and increase budget line A.7321.450 Special Programs Material and Supplies. These funds will be used towards the purchase of shoulder pads for youth football.

Motion by: Council President Rodrigues **Seconded by:** Mayor DeStefano

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Authorization to transfer funds within the Police Department budget Chief Ewanciw is requesting that the City of Middletown Common Council approve and authorize the Treasurer to transfer within the Police Department 2024 budget lines to cover the following costs:

<i>FROM</i>	<i>AMOUNT</i>	<i>TO</i>
<i>A.3120.110</i>	<i>\$15,700</i>	<i>A.3120.200</i>
<i>PART TIME OFFICERS</i>		<i>EQUIPMENT</i>

For the purchase of an additional public camera to add to the rail trail, a set of scales for commercial vehicles enforcement, and needed range equipment.

<i>FROM</i>	<i>AMOUNT</i>	<i>TO</i>
<i>A.3120.110</i>	<i>\$4,000</i>	<i>A.3120.410</i>
<i>PART-TIME OFFICER</i>		<i>UNIFORM ALLOWANCE</i>

For the purchase of uniforms and equipment for the Honor Guard detail

<i>FROM</i>	<i>AMOUNT</i>	<i>TO</i>
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A.3120.100 \$2,000
Personal Services
For the purchase of FARO Equipment

A.3120.200
Other Equipment

FROM AMOUNT
PART-TIME OFFICER \$2,500

TO
A.3120.433
TRAINING EXPENSE

A.3120.110 \$1,500
PART-TIME OFFICER

A.3120.406
CANINE CARE

A.3120.110 \$2,300
PART-TIME OFFICER

A.3120.440
REPAIRS TO EQUIPMENT

A.3120.100 \$7,700
PERSONAL SERVICES
To cover shortages within the 2024 Budget

A.3120.440
REPAIRS TO EQUIPMENT

Motion by: Mayor DeStefano **Seconded by:** Council President Rodrigues

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Authorization to Transfer within the Recreation Department to overdrafts. BE IT RESOLVED; that the Board of Estimate and Apportionment authorizes the Treasurer to transfer \$11,110.09, in the following manner to cover overdraft accounts within the Department of Recreation

<i>FROM</i>	<i>TO</i>	<i>AMOUNT</i>
<i>A.7200.100 Camp Personnel</i>	<i>A.7020.103 General Recreation Overtime</i>	<i>\$5,000</i>
<i>A.7200.100 Camp Personnel</i>	<i>A.7020.210 General Recreation Office Equipment</i>	<i>\$1.77</i>
<i>A.7200.100 Camp Personnel</i>	<i>A.7020.408 General Recreation Footware</i>	<i>\$3,612.80</i>
<i>A.7200.100 Camp Personnel</i>	<i>A.7020.481 General Recreation Telephone Expense</i>	<i>\$240</i>
<i>A.7200.100 Camp Personnel</i>	<i>A.7180.103 Pools Overtime</i>	<i>\$116.54</i>
<i>A.7200.100 Camp Personnel</i>	<i>A.7200.103 Camp Overtime</i>	<i>\$1,883.98</i>
<i>A.7200.100 Camp Personnel</i>	<i>A.7321.103 Special Programs Overtime</i>	<i>\$255</i>

Motion by: Council President Rodrigues **Seconded by:** Mayor DeStefano

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Authorization to accept a donation from Middletown Kiwanis in the amount of \$600
BE IT RESOLVED; that the Common Council of the City of Middletown, NY, concurs with the Board of Estimate and Apportionment and accepts a \$600.00 donation from Middletown

*Kiwanis for the Maple Tree honoring Mayor DeStefano and funds be deposited in A.2705.04
Misc Donations*

Motion by: Mayor DeStefano **Seconded by:** Council President Rodrigues

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Authorization to transfer within the 2024 City Budget to cover overdrafts and costs for the remainder of 2024
Leonora Liz is requesting approval and authorization to within the 2024 Citywide Budget to cover overdrafts and costs for the remainder of the year:

<i>FROM</i>	<i>AMOUNT</i>	<i>TO</i>
<i>A.1210.400</i>	<i>\$1,500</i>	<i>A.1210.401</i>
<i>Mayor's Office</i>		<i>Mayor's Office Travel</i>
<i>Contractual</i>		<i>Expense</i>
<i>Services</i>		
<i>To cover the cost of unanticipated travel cost during 2024</i>		

<i>A.1900.950</i>	<i>\$9,700</i>	<i>A.1325.460</i>
<i>Taxes on City</i>		<i>Finance Collection</i>
<i>Property</i>		<i>Agreement</i>
<i>To cover the cost of parking ticket collection costs for the remainder of 2024</i>		

<i>A.9000.893</i>	<i>\$13,500</i>	<i>A.1362.900</i>
<i>Disability</i>		<i>Tax Sale Expenses</i>
<i>Insurance</i>		
<i>To cover the additional postage cost for the 2024 Bulk Lien Tax Sale</i>		

<i>A.1900.910</i>	<i>\$5,000</i>	<i>A.1325.100</i>
<i>Liability</i>		<i>Finance Personal</i>
<i>Insurance</i>		<i>Services</i>
<i>To cover the cost of the fiscal assistant in payroll for the remainder of the year. Project-based assistance in NYS Enhanced Reporting Implementation, Timeclock Implementation and Year-end reporting.</i>		

<i>A.4785</i>	<i>\$3,200</i>	<i>A.1325.100</i>
<i>ARPA</i>		<i>Finance Personal</i>
		<i>Services</i>
<i>To cover the cost of Don Paris APRA Consulting for 2024</i>		

<i>A.9000.09</i>	<i>\$100,000</i>	<i>A.9000.840</i>
<i>Worker's Comp -</i>		<i>Worker's comp</i>
<i>tail claims</i>		
<i>To adjust worker's premium versus worker's tail claim costs</i>		

A.9000.861	\$24,000	A.9000.858
NYSHIP Health		MVP Health Insurance
Insurance Retiree		Retiree

To cover the cost of MVP health insurance -retirees for the remainder of 2024

A.9000.860	\$150,000	A.9000.859
NYSHIP Health		MVP Health Insurance
Insurance		

F.9000.860	\$28,800	F.9000.859
NYSHIP Health		MVP Health Insurance
Insurance		

G.9000.860	\$2,300	G.9000.859
NYSHIP Health		MVP Health Insurance
Insurance		

To cover the cost of MVP health insurance for the remainder of 2024

A.8010.900	\$400	A.1420.479
Zonng Board		Corp Counsel Equipment
Appeals		Rental

To cover the cost of the Toshiba paper copier overages

Motion by: Council President Rodrigues **Seconded by:** Mayor DeStefano
AYES: Mayor DeStefano, Council President Rodrigues
NAYS: None
ABSTAIN: None

Authorization to approve the CherryRoad Security Gap Assessment Proposal
Leonora Liz is requesting approval of the CherryRoad Security Gap Proposal and authorization to transfer \$50,000 in the following matter to cover the cost in 2024

FROM	AMOUNT	TO
A.1900.950	\$50,000	A.1331.900
Taxes on Property		Data Processing

Motion by: Council President Rodrigues **Seconded by:** Mayor DeStefano
AYES: Mayor DeStefano, Council President Rodrigues
NAYS: None
ABSTAIN: None

Authorization to post the 2025 Proposed General, Water and Sewer Budget
Leonora Liz is requesting from the Board of Estimate to approve the posting of the Proposed 2025 General, Water and Sewer Budget and setting a public hearing for November 14th, 2024 at 4pm.

Description:	General Fund	Water Fund	Sewer Fund
Revenue	\$26,500,287	\$7,910,444	\$6,301,940
Expense	\$50,437,330	\$7,910,444	\$6,301,940

Appropriation: \$50,437,330

Estimated Revenue: \$26,500,287

Tax Levy – General City Purpose \$23,936,544

Motion by: Mayor DeStefano **Seconded by:** Council President Rodrigues

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Authorization to transfer funds within the Senior Center Budget

<i>FROM</i>	<i>AMOUNT</i>	<i>TO</i>
<i>A.6772.401 Travel Expense</i>	<i>\$50.00</i>	<i>A.6772.440 Repairs to Equipment</i>
<i>A.6772.401 Travel Expense</i>	<i>\$200.00</i>	<i>A.672.495 Misc.</i>
<i>A.2705.04 Senior Donations</i>	<i>\$4,610.54</i>	<i>A.6772.450 Material & Supplies</i>
<i>A.2351 Senior Trip Revenue</i>	<i>\$5,910</i>	<i>A.6772.467 Senior Trip Expenses</i>

Motion by: Council President Rodrigues **Seconded by:** Mayor DeStefano

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Amend to remove \$2,000 from donations to A.6772.450 TO A.6772.200 other equipment for T.V purchase

Motion by: Mayor DeStefano **Seconded by:** Council President Rodrigues

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Authorization to Transfer within the Economic and Community Development

Department *Maria Bruni is requesting to authorize the Treasurer for a budget transfer/adjustment within the Economic & Community Development Department.*

Budget Transfer

<i>FROM</i>	<i>AMOUNT</i>	<i>TO</i>
<i>CD FUND BALANCE</i>	<i>\$8,000</i>	<i>CD.9500.900</i>
		<i>INTERFUND TRANSFER - GENERAL</i>

Budget Adjustment

<i>Increase A.5031 Interfund Transfer</i>	<i>\$8,000</i>
<i>Increase A.6200.400 Economic Development Contractual Service</i>	<i>\$8,000</i>

This transfer and adjustment are needed to pay for architectural services regarding Round 2 - DRI Façade Improvement Program.

Motion by: Mayor DeStefano **Seconded by:** Council President Rodrigues

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Authorization to approve the Young Explosives Fireworks Exhibition agreement.

Maria Bruni is requesting the approval of Young Explosives Fireworks Exhibition agreement and to authorize the Mayor to sign the 2025 agreement. The 2025 fireworks display will be held on Wednesday, July 2, 2025 at Fancher Davidge Park. This is a budgeted item. Upon consultation with our corporation counsel Mr. Smith this service is deemed as a professional service.

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Motion by: Council President Rodrigues **Seconded by:** Mayor DeStefano

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Resolution introduced on the floor, Authorization to approve the 207A/C Administration Contract with Marshall and Sterling

Requesting to approve the 2025 Contract with Marshall and Sterling for the the 207A/C administration in the amount of \$53,000 and authorization for the mayor to sign.

Motion by: Mayor DeStefano **Seconded by:** Council President Rodrigues

AYES: Mayor DeStefano, Council President Rodrigues

NAYS: None

ABSTAIN: None

Water/Sewer/Lawn Maintenance Adjustment

Adjournment

@ 4:18

Motion by: Council President Rodrigues **Seconded by:** Mayor DeStefano

AYES: Council President Rodrigues

NAYS: None

ABSTAIN: None



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November 8, 2024

Via E-Mail (lliz@middletown-ny.com)

Ms. Leonora Liz
Treasurer
City of Middletown
16 James Street
Middletown, NY 10940

Thomas E. Myers

E tmyers@orrick.com

D +1 212 506 5212

F +1 212 506 5151

Re: City of Middletown, Orange County, New York
O&W Railroad Station Rehabilitation - – Additional \$10,000,000
Orrick File: 42347-2-508

Dear Leonora:

In accordance with your recent request, we have prepared and enclose herewith a draft form of bond resolution relating to the above matter for adoption by the Common Council.

Please see that this resolution is adopted by the affirmative vote of at least two-thirds of the entire voting strength of the Common Council. After adoption, the summary Legal Notice of Estoppel of the resolution, a form of which is enclosed herewith for your convenience, should be published once in the official newspaper of the City.

When available kindly furnish us with a certified copy of the enclosed resolution, together with an original printer's affidavit of publication of the Legal Notice of Estoppel thereof.

Please do not hesitate to call if you have any questions.

With best wishes,

Very truly yours,

Tom

Thomas E. Myers
TEM/es
Enclosures

ADDITIONAL MONEY BOND RESOLUTION
(O&W Railroad Station Rehabilitation)

At a regular meeting of the Common Council of the City of Middletown, Orange County, New York, held at the Common Council Chambers, City Hall, in Middletown, New York, in said City, on the 18th day of November, 2024, at _____ o'clock P.M., Prevailing Time.

The meeting was called to order by _____, and upon roll being called, the following were

PRESENT:

ABSENT:

The following resolution was offered by Councilman _____, who moved its adoption, seconded by Councilman _____, to-wit:

BOND RESOLUTION DATED NOVEMBER 18, 2024.

A RESOLUTION AUTHORIZING THE ISSUANCE OF AN ADDITIONAL \$10,000,000 BONDS OF THE CITY OF MIDDLETOWN, ORANGE COUNTY, NEW YORK, TO PAY COSTS IN CONNECTION WITH THE O&W RAILROAD STATION REHABILITATION, IN AND FOR SAID CITY.

BE IT RESOLVED, by the affirmative vote of **not less than two-thirds of the total voting strength** of the Common Council of the City of Middletown, Orange County, New York, as follows:

Section 1. For the specific object or purpose of paying costs in connection with the O&W Railroad Station rehabilitation, in and for the City of Middletown, Orange County, New York, including incidental expenses in connection therewith, there are hereby authorized to be issued an additional \$10,000,000 bonds pursuant to the provisions of the Local Finance Law. Said specific object or purpose is hereby authorized at a new maximum estimated cost of \$16,000,000.

Section 2. The plan for the financing of such \$16,000,000 maximum estimated cost is as follows:

- a) By the issuance of the \$6,000,000 bonds of said City heretofore authorized to be issued therefor pursuant to a bond resolution dated April 12, 2024; and
 - b) By the issuance of the additional \$10,000,000 bonds of said City herein authorized;
- provided, however, that the amount of obligations ultimately to be issued will be reduced by any State and/or Federal grants-in-aid to be received by said City for said purpose.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is twenty-five years, pursuant to subdivision 12(a)(1) of paragraph a of Section 11.00 of the Local Finance Law.

Section 4. The faith and credit of said City of Middletown, Orange County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. There shall annually be levied on all the taxable real property of said City, a tax sufficient to pay the principal of and interest on such obligations as the same become due and payable.

Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the City Treasurer, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Treasurer, consistent with the provisions of the Local Finance Law.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the City of Middletown, Orange County, New York, by the manual or facsimile signature of the City Treasurer and a facsimile of its corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the City Clerk.

Section 7. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the City by the facsimile signature of the City Treasurer, providing for the manual countersignature of a fiscal agent or of a designated official of the City), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the City Treasurer. It is hereby determined that it is to the financial advantage of the City not to impose and collect from registered owners of such serial bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the City Treasurer shall determine.

Section 8. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or

- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 9. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 10. This resolution, which takes effect immediately, shall be published in summary form in the official newspaper, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

_____	VOTING	_____
_____	VOTING	_____
_____	VOTING	_____
_____	VOTING	_____
_____	VOTING	_____
_____	VOTING	_____
_____	VOTING	_____

The resolution was thereupon declared duly adopted.

* * * * *

CERTIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF ORANGE)

I, the undersigned Clerk of the City of Middletown, in the County of Orange, New York (the "Issuer"),
DO HEREBY CERTIFY:

1. That a meeting of the Issuer was duly called, held and conducted on the 18th day of November, 2024.
2. That such meeting was a **special regular** (circle one) meeting.
3. That attached hereto is a proceeding of the Issuer which was duly adopted at such meeting by the Common Council of the Issuer.
4. That such attachment constitutes a true and correct copy of the entirety of such proceeding as so adopted by said Common Council.
5. That all members of the Common Council of the Issuer had due notice of said meeting.
6. That said meeting was open to the general public in accordance with Section 103 of the Public Officers Law, commonly referred to as the "Open Meetings Law".
7. That notice of said meeting (***the meeting at which the proceeding was adopted***) was caused to be given **PRIOR THERETO** in the following manner:

PUBLICATION (here insert newspaper(s) and date(s) of publication - should be a date or dates falling prior to the date set forth above in item 1)

POSTING (here insert place(s) and date(s) of posting- should be a date or dates falling prior to the date set forth above in item 1)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Issuer this _____
day of _____, 2024.

City Clerk

(CORPORATE SEAL)

LEGAL NOTICE OF ESTOPPEL

The bond resolution, summary of which is published herewith, has been adopted on November 18, 2024, and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the City of Middletown, Orange County, New York, is not authorized to expend money, or if the provisions of law which should have been complied with as of the date of publication of this notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of publication of this notice, or such obligations were authorized in violation of the provisions of the Constitution.

A complete copy of the resolution summarized herewith is available for public inspection during regular business hours at the Office of the City Clerk for a period of twenty days from the date of publication of this Notice.

Dated: Middletown, New York,

_____, 2024.

/s/ Richard McCormack
City Clerk

BOND RESOLUTION DATED NOVEMBER 18, 2024.

A RESOLUTION AUTHORIZING THE ISSUANCE OF AN ADDITIONAL \$10,000,000 BONDS OF THE CITY OF MIDDLETOWN, ORANGE COUNTY, NEW YORK, TO PAY COSTS IN CONNECTION WITH THE O&W RAILROAD STATION REHABILITATION, IN AND FOR SAID CITY.

Specific object or purpose:	O&W Railroad Station Rehabilitation
Period of probable usefulness:	25 years
New maximum estimated cost:	\$16,000,000
Obligations previously authorized:	\$6,000,000
Amount of additional obligations to be issued pursuant to this resolution:	\$10,000,000 bonds to reduced by grants received in connection therewith

81 East Main Street
Middletown, NY 10940
www.MiddletownFireDept.com



Phone: 845-344-5003
Fax: 845-344-5031
Facebook.com/MiddletownFireDept

November 12, 2024

Board of Estimate
City of Middletown
16 James Street
Middletown, NY 10940

The Fire Department respectfully requests the Board of Estimate recommend and the Common Council approve a resolution to transfer the following monies into the 2024 Fire Department Operating Budget:

FROM	AMOUNT	TO
A.3410.106 OVERTIME-FIRE INSPECTOR	5,000.00	
A.3410.200 OTHER EQUIPMENT	5,000.00	
A.3410.202 PERSONAL PROTECTIVE EQUIPMENT	4,337.74	
A.3410.204 RADIO SYSTEMS	5,262.67	
A.3410.207 HOSE & APPLIANCE	10,000.00	
A.3410.220 UNIFORMS	1,000.00	
A.3410.410 UNIFORM ALLOWANCE	2,250.00	
A.3410.433 PERSONNEL TRAINING	9,500.00	
A.3410.450 MATERIALS & SUPPLIES	1,000.00	
A.3410.479 FIRE DEPT.EQUIPMENT RENTAL	1,000.00	

Robert Brady, Fire Chief
Randy MacLean, 1st Asst. Chief • Nick Elia, 2nd Asst. Chief • Drew Manis, 3rd Asst. Chief
Andrew Green, Secretary, William R. Kelder, Treasurer
Monhagen Eagle Excelsior McQuoid Phoenix Ontario Waalkill IAFF Local 1027

81 East Main Street
Middletown, NY 10940
www.MiddletownFireDept.com



Phone: 845-344-5003
Fax: 845-344-5031
Facebook.com/MiddletownFireDept

A.3410.480 OFFICE EXPENSE	2,000.00	
A.3410.491 FIRE POLICE	3,000.00	
A.3410.493 TRAINING FIELD IMPROVE	1,000.00	
A.3410.494 PERSONNEL EDUC PAID MEN	5,000.00	
A.3410.496 PERSONNEL TRAINING VOL	6,000.00	
A.3410.497 FIRE PREVENTION PROGRAM	2,000.00	
A.3410.415 LIGHT AND HEAT	8,000.00	
A.3420.450 MATERIALS & SUPPLIES	<u>2,000.00</u>	
TOTAL	\$73,350.41	A.3410.103 FIRE OVERTIME

Sincerely,

Robert Brady
Chief Engineer, City of Middletown Fire Department
81 East Main Street
Middletown, NY 10940
Cell: (845) 742-1228
Email: mfdchiefbrady@middletownny.gov

Robert Brady, Fire Chief
Randy MacLean, 1st Asst. Chief • Nick Elia, 2nd Asst. Chief • Drew Manis, 3rd Asst. Chief
Andrew Green, Secretary, William R. Kelder, Treasurer
Monhagen Eagle Excelsior McQuoid Phoenix Ontario Waalkill IAFF Local 1027



DEPARTMENT OF FINANCE

City Of Middletown

Leonora Liz
Treasurer

16 James Street
Middletown, NY 10940
Tel: (845) 346-4150
Fax: (845) 343-1101

October 2024

To: The Board of Estimate

From: Leonora Liz, Treasurer

1. Leonora Liz is requesting from the Board of Estimate to approve and submit an itemized statement in writing of the estimated revenue and expenditures of the General City Government, the Water Department and the Sewer Department other than amounts to be raised by taxation for County purposes, for fiscal year January 1, 2025 through December 31, 2025. Therefore, seeking from the common council to approve and adopt the 2025 Annual Budget as following:

Description:	General Fund	Water Fund	Sewer Fund
Revenue	\$26,500,287	\$7,910,444	\$6,301,940
Expense	\$50,536,831	\$7,910,444	\$6,301,940

Appropriation: 50,536,831

Estimated Revenue: 26,500,287

Tax Levy – General City Purpose 23,936,544

AMBULANCE SERVICE AGREEMENT

AGREEMENT made as of the ____ day of _____, 2024 by and between the City of Middletown (the “CITY”), with its offices located at 16 James Street, Middletown, New York 10940 (the “City’s Notice Address”), and Empress Ambulance Service with its principal place of business located at 722 Nepperhan Ave, Yonkers, New York 10703, hereinafter referred to as “CONTRACTOR.”

WITNESSETH:

WHEREAS, the CONTRACTOR is fully authorized to do business in the State of New York and duly authorized and licensed by the State of New York to provide ambulance services in Orange County; and

WHEREAS, the CITY desires to contract for the provision of ambulance services; and

WHEREAS, the CITY desires to engage the CONTRACTOR for such ambulance services, and the CONTRACTOR desires to be so engaged by the CITY; and

WHEREAS, the CITY and the CONTRACTOR desire to define the terms of the CONTRACTOR’S engagement by the CITY.

NOW THEREFORE, in consideration of the mutual covenants, promises and agreements herein set forth, and the payments to be made as hereinafter specified, the parties do covenant and agree as follow:

1. **Recitations Incorporated.** The recitations above set forth are incorporated in this Agreement as if fully set forth and adopted herein.
2. **Definitions.** In this Agreement, the following terms shall have the meanings set forth below:
 - a. “Advanced Emergency Medical Technician” means an emergency medical technician who has satisfactorily completed an advanced course of training approved by the State Council under regulations pursuant to section 3002 of the Public Health Law and is currently certified by New York State to provide Advanced Life Support Care.
 - b. “Advanced Life Support Care” (ALS) means definitive acute medical care provided, under medical control, by advanced emergency medical technicians with advanced life support systems.
 - c. “Advanced Life Support System” means an organized acute medical care system to provide advanced life support care on site or in route to, from or between general hospitals or other health care facilities.
 - d. “Advanced Life Support Mobile Unit” means an ambulance or

advanced life support first response vehicle to provide advanced life support services.

- e. “Ambulance Service” means the provision of emergency medical care and the transportation of sick or injured persons to, from, or between general hospitals or other health care facilities. “Ambulance Service” includes the provision of Advanced Life Support Care (“ALS”) and Basic Life Support Care (“BLS”) as such terms are defined herein.
- f. “Ambulance Service Certificate” means a valid certificate issued by New York State Department of Health authorizing an ambulance service to operate within a given geographical area. Certificates must be renewed every two (2) years per NYS PHL Article 30 Section 3005.
- g. “Agreement” means this Agreement by and among the parties hereto as amended, modified or supplemented from time to time.
- h. “Basic Life Support Care” (BLS) means the provision of such medical care as control of bleeding, splinting, fractures, treatment of shock, delivery of babies, and cardio-pulmonary resuscitation (CPR).
- i. “Contract Term” means the period beginning with the Effective Date on January 1, 2025 through December 31, 2027 unless terminated as described below.
- j. “Effective Date” means 12:00am., Wednesday, January 1, 2025.
- k. Medical Control means Physician-level support of established treatment guidelines (protocols) within an advanced life support system. Medical control is provided via two-way communication with the physician at the receiving or medical control hospital. Medical Control protocols are established and governed via Regional Medical Advisory Committees as per NYS PHL Article 30 section 3004-A.

3. Scope of Services.

The CONTRACTOR shall provide general ambulance services (including “ALS” and “BLS”) as defined in §3001 of the Public Health Law for the purpose of transporting all sick or injured persons found within the boundaries of the City of Middletown. The CONTRACTOR shall transport such persons to any such hospital specified by the person, or in the absence of instruction or specification, to the nearest available and suitable hospital.

4. **Ambulance Service Certificate.** The CONTRACTOR further agrees to keep in force its Ambulance Service Certificate and to maintain compliance with the applicable requirements of Article 30 of the Public Health Law and State Emergency Medical Services Code. The CONTRACTOR shall be capable of furnishing Advanced Life Support Service and the CONTRACTOR will provide sufficiently trained and experienced personnel to maintain, operate and administer the ambulance and emergency health services required under this agreement.

5. **Dispatch Through 9-1-1.** The CONTRACTOR shall respond to calls for emergency medical services only when dispatched by the 9-1-1 Operations Center or the City of Middletown Fire or Police and shall transport sick or injured persons found within the boundaries of the City needing emergency care to a hospital of their choosing, and medically appropriate by protocol, unless requested by “medical control” to deliver him or her to another hospital.

6. **Equipment, Facilities and Personnel.** The CONTRACTOR shall provide, maintain and store, at its own cost and expense, State certified Advanced Life Support Mobile Units and ambulances, crew and equipment necessary and incidental to provide comprehensive ambulance and emergency health service within the City. The CONTRACTOR shall, at a minimum, provide one (1) ALS ambulance and crew, twenty-four (24) hours per day, seven (7) days per week, and one (1) BLS ambulance and crew, twenty-four (24) hours per day, seven (7) days per week. The ambulances and crew shall be located in the City.

7. **Standby Coverage.** The CONTRACTOR will provide “standby coverage” at all serious fire emergencies that may occur within the City, or to which they are called to by the 911 Operations Center. Any additional standby coverage that the CONTRACTOR has to dedicate additional resources to cover the event will be billed an hourly rate as follows:

ALS Unit - \$250.00/HR

BLS Unit - \$150.00/HR

8. **Mutual Aid.** The Empress unit will respond, as available, to all mutual aid calls received from Orange County 9-1-1 pursuant to the Orange County Mutual Aid Agreement.

9. **Training and Education.** The CONTRACTOR agrees to provide training and continuing education to its employees including such certification and re-certification as may be required by law. In addition, the CONTRACTOR shall participate in necessary drills at times to be mutually agreed upon, as well as, provide community training, educational programs and seminars to educate the community in emergency health practices.

10. **Contract Amount.** The CITY shall pay to the CONTRACTOR for the above services a monthly payment as outlined in schedule “A” attached. The CONTRACTOR will submit vouchers for such payment on a monthly basis.

11. **Anti-Kick Back Statute.** Both parties represent to the best of their knowledge that this Contract complies with 42 USC 1320a-7b(B) commonly known as the “Anti-Kick Back Statute”. Both parties agree to periodically review the Contract, at least on an annual basis, for the purposes of determining that this Contract is in compliance with the Anti-Kick Back Statute. Both parties agree to exchange such information as will be necessary to determine compliance therewith.

12. **Relationship of the Parties.** The CONTRACTOR’S relationship to the CITY shall be that of an independent CONTRACTOR. Nothing in this Agreement shall be construed to create a principal-agent, employer-employee or master-servant relationship. The CONTRACTOR, at all times, shall be solely responsible for all salaries and other employee remuneration as well as the payment of all applicable federal, state or local withholding or similar taxes and provision or workers' compensation and disability insurance for any person employed by it. The CONTRACTOR will comply with General Municipal Law §105 (Workman’s Compensation).

13. **Term.**

A. This Agreement shall continue in effect from the date of this Agreement through December 31, 2027 unless otherwise terminated subject to the right of either party to terminate this Agreement as hereinafter provided.

B. Notwithstanding anything to the contrary contained in this Agreement, the CITY shall have the right, at its option, to terminate this Agreement at any time, without cause, upon giving the CONTRACTOR sixty (60) days’ notice in writing. The CITY shall have the right, on ten (10) days written notice to CONTRACTOR, to terminate this Agreement for cause. Cause shall be deemed repeated failure to comply with the terms and conditions of this Agreement or if the CONTRACTOR fails to comply with applicable laws, statutes or ordinances or is otherwise guilty of a substantial violation of any provision of this Agreement. The CONTRACTOR shall have the right, at its option, to terminate this Agreement at any time, without cause, upon giving the CITY sixty (60) days’ notice in writing.

14. **Insurance.**

A. At all times during the Term, the CONTRACTOR, at its own cost and expense, shall keep in full force and effect, (i) a comprehensive general liability insurance policy or policies with combined single limit coverage of not less than One Million (\$1,000,000.00) Dollars, (ii) a professional liability insurance policy or policies of standard form in the State of New York, covering itself and each professional it employs or contracts with for the provision of professional services, with limits of not less than One Million (\$1,000,000.00) Dollars per occurrence.

- B. Automobile insurance. Symbol “1”, covering all automobiles including hired and non-owned vehicles is required with a combined single Liability limit of \$1,000,000.00 for each accident for bodily injury and property damage.
- C. Excess Umbrella or Excess Liability coverage with a limit of \$5,000,000.00 per occurrence or aggregate. Umbrella or Excess Liability coverage must be provided (at a minimum) on a following form basis over the primary Auto Liability, CGL (including Professional Liability) and Employers Liability. These liability limits can be accompanied by a combination of primary and excess policies, if needed.
- D. Workers’ Compensation and Employer’s Liability coverage covering all employees in amounts as required by New York State law. Waiver of Subrogation shall be included.
- E. Said policy or policies shall be primary and non-contributory to any policies of insurance available to the CITY. Notwithstanding and terms, conditions or provisions, in any other writing between the parties, the CONTRACTOR hereby agrees to effectuate the naming of the CITY as an unrestricted additional insured on the CONTRACTOR’S insurance policies, with the exception of Workers’ Compensation. The policy or policies naming the CITY as an additional insured shall state that the CONTRACTOR’S coverage shall be primary coverage for the CITY. The CONTRACTOR shall self-insure any applicable deductibles, and the CONTRACTOR shall also agree to indemnify the CITY for any applicable deductibles or self-insured retentions.
- F. All insurance coverage required herein shall be endorsed that the Insurer providing such coverage shall provide the CITY thirty (30) days written notice of non-renewal or ten (10) days notice of cancellation for non-payment. In the event the Insurer is unable to provide such endorsement, the CONTRACTOR agrees that it is its responsibility to provide such notice to the CITY as soon as practically possible but in no event more than seven (7) days from when they receive notice of the non-renewal or cancellation. In the event any of the required policies or coverages are cancelled, notification pursuant to policy terms and conditions shall be sent to the CITY.
- G. CONTRACTOR shall furnish the CITY with satisfactory proof of all insurance coverages required pursuant to this paragraph on or before the effective date of this Agreement. The certificate of insurance shall be signed by an employee or the insurer(s) providing coverage, or an agent, with the authority to bind the insurer(s) stating that no less than the minimum limits stated in the contract will be met.

15. **Non-exclusivity.** The CONTRACTOR may provide Ambulance Services to other persons or entities.

16. **Non-Assignability.** In accordance with the provisions of §109 of the General Municipal Law, the CONTRACTOR is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this agreement or of its right, title or interest in this Agreement, or its power to execute this Agreement to any other person or corporation without the previous consent in writing of the CITY.

17. **Compliance with Omnibus Reconciliation Act of 1980.** It is hereby understood that if the CONTRACTOR is determined to be a "subcontractor" under the provision of subparagraph (i) of S1861(V)(1) of the Social Security Act as amended by Section 952 of the Omnibus Reconciliation Act of 1980, or regulations adopted pursuant thereto, the CONTRACTOR will, until the expiration of four (4) years after furnishing of services under any previous agreement between the CITY and the CONTRACTOR and under this Agreement and any amendment thereto, make available upon the request of the Secretary of Health and Human Services or the Comptroller General or its representatives, any such agreement and any amendment thereto.

18. **Third Party Reimbursement/Rate Review.** This Agreement shall be construed so as to be in accordance with federal and state statutes and Medicare, Medicaid and intermediary carrier rules, regulations, principles and interpretations.

19. **Indemnification.** The CONTRACTOR will defend, indemnify and hold harmless the CITY from and against all claims, costs, expenses, legal costs or their charges arising out of or related to the acts of the CONTRACTOR, its agents, servants or employees and/or arising out of or related to the services to be provided by the CONTRACTOR under this Agreement, and, the CONTRACTOR shall defend the CITY at the expense of the CONTRACTOR, against any such claim, demand, assertion of liability or other cause occasioned thereby. This provision shall survive the termination of this Agreement.

20. **Provisions Deemed Inserted.** Each and every provision required by law to be inserted into this Agreement, specifically including 42 USC 1320a-7b(B) (the Anti-Kick Back Statute), General Municipal Law §§ 106-b, 108 and 109, Labor Law §§220-e, 222-a and 220(2) as well as Executive Law §§291-299 and Civil Rights Law, shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein and, in the event any such provision is not inserted or is not correctly inserted, then, upon the application of either party, this Agreement shall forthwith be physically amended to make such insertion or correction.

21. **Invalidity.** If any provision of this Agreement or the application of any provision hereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons and circumstances shall not be affected unless the invalid provision substantially impairs the benefits of the remaining portion of this Agreement. In the case of such invalidity which substantially impairs the benefits of the Agreement, the parties will endeavor in good faith to modify this agreement so as to preserve the benefits of this Agreement in a manner which complies with applicable laws.

22. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

23. **Entire Agreement.** This Agreement sets forth the entire agreement and understanding between the Parties as to the matters contained herein, and merges and supersedes all prior agreements and understandings of every kind and nature among them.

24. **Amendment of Agreement.** This Agreement shall not be changed, modified or amended except by writing signed by the Parties.

25. **Binding Effect.** This Agreement shall be binding upon, and inure to the benefit of the Parties hereto and their respective legal representatives, trustees, receivers and successors.

26. **Notices.** Any notices required to be given pursuant to the terms of this Agreement shall be in writing and shall be deemed to have been given at the time when personally delivered, or mailed first class, addressed to the Parties as follows or such other address as such Party may have fixed by notice, provided, however, that any change of address shall be effective only upon receipt:

To the CITY:
City of Middletown
16 James Street
Middletown, New York 10940
Attention: Mayor

To the CONTRACTOR:
Empress Ambulance Service
722 Nepperhan Avenue
Yonkers, New York 10703
Attention: Michael Minerva, President

27. **Headings.** The headings of the sections hereof are inserted for convenience only and in no way define, limit or prescribe the intent of this Agreement.

IN WITNESS WHEREOF, this Agreement was signed this _____ day of _____, 2024.

City of Middletown

Empress Ambulance Service

BY: _____

BY: _____

Date: _____

Date: _____

Schedule “A”

Agreement Amount

2025 Monthly Rate: \$60,178.36

2026 Monthly Rate: \$63,187.27

2027 Monthly Rate: \$66,346.64

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: November 12, 2024

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

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

Approximately 7800 Badge Water Meters - \$19,700.00

2010 Sweetwater Pontoon Boat (VIN #GDY1957TL910) - \$4,300.00

2001 Ingersoll Rand Air Compressor (MODEL #185W) - \$3,950.00

2006 Ford F250 Super Duty (VIN #1FTSX21556ED09629) - \$1,125.00

2010 Chevy Impala (VIN #2G1WA5EK5A1259239) - \$570.00

2000 JCB Loader (VIN #SLP45600XE0539181)- \$4,550.00

Total= \$34,195.00



DEPARTMENT OF FINANCE

City Of Middletown

Leonora Liz
Treasurer

16 James Street
Middletown, NY 10940
Tel: (845) 346-4150
Fax: (845) 343-1101

November 2024

To: The Board of Estimate

From: Leonora Liz, Treasurer

I am requesting from the Board of Estimate authorization to re -levy 2023 water and sewer delinquent bills into the 2025 real property tax bills in the following amounts:

Unpaid Sewer: 493 Parcels = \$254,248.46

Unpaid Water: 493 Parcels = \$351,041.92

Sponsor: **City of Middletown**
 PIN: **8757.07** BIN: **N/A**
 Comptroller's Contract No. **D035608**
 Supplemental Agreement No. **4**
 Date Prepared: **11/7/2024** By: **GC**
 Initials

Press F1 for instructions in the blank fields:

SUPPLEMENTAL AGREEMENT No. 4 to D035608 (Comptroller's Contract No.)

This Supplemental Agreement is by and between:

the New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Road, Albany, NY 12232, on behalf of New York State ("State")
 and

City of Middletown (the Sponsor)
 Acting by and through the **Mayor**
 with its office at **16 James Street, Middletown, NY 10940.**

This amends the existing Agreement between the parties in the following respects only:

Amends a previously adopted Schedule A by (check as applicable):

- ☐ amending a project description
- ☒ amending the contract end date
- ☐ amending the scheduled funding by:
 - ☐ adding additional funding (check and enter the # phase(s) as applicable):
 - ☐ adding phase _____ which covers eligible costs incurred on/after / /
 - ☐ adding phase _____ which covers eligible costs incurred on/after / /
 - ☒ increasing funding for a project phase(s)
 - ☐ adding a pin extension
 - ☐ change from Non-Marchiselli to Marchiselli
 - ☐ deleting/reducing funding for a project phase(s)
 - ☐ other (_____)

- ☐ Amends a previously adopted Schedule "B" (Phases, Sub-phase/Tasks, and Allocation of Responsibility)
- ☒ Amends a previously adopted Agreement by replacing the Appendix A dated October 2019 with the Appendix A dated June 2023.
- ☐ Amends a previously adopted Agreement by adding:
 - ☐ Appendix B M/WBE/SDVOB.
 - ☐ Retention Exhibit.
 - ☐ Other: _____

- ☐ Amends the text of the Agreement as follows (insert text below):

Sponsor: City of Middletown
 PIN: 8757.07 BIN: N/A
 Comptroller's Contract No. D035608
 Supplemental Agreement No. 4
 Date Prepared: 11/7/2024 By: GC
 Initials

Press F1 for instructions in the blank fields:

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

SPONSOR:

SPONSOR ATTORNEY:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

STATE OF NEW YORK

)ss.:

COUNTY OF ORANGE

On this _____ day of _____, 20____ before me personally came _____ to me known, who, being by me duly sworn did depose and say that he/she resides at _____; that he/she is the _____ of the Municipal/Sponsor Corporation described in and which executed the above instrument; (except New York City) that it was executed by order of the _____ of said Municipal/Sponsor Corporation pursuant to a resolution which was duly adopted on _____ and which a certified copy is attached and made a part hereof; and that he/she signed his/her name thereto by like order.

 Notary Public

APPROVED FOR NYSDOT:

APPROVED AS TO FORM:
 STATE OF NEW YORK ATTORNEY GENERAL

BY: _____

 For Commissioner of Transportation

Agency Certification: In addition to the acceptance of this contract I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

By: _____
 Assistant Attorney General

Date: _____

COMPTROLLER'S APPROVAL:

By: _____
 For the New York State Comptroller
 Pursuant to State Finance Law ' 112

SCHEDULE A – Description of Project Phase, Funding and Deposit Requirements
NYSDOT/ State-Local Agreement - Schedule A for PIN 8757.07

OSC Contract #: <u>D035608</u>	Contract Start Date: <u>2/16/2017</u> (mm/dd/yyyy) Contract End Date: <u>9/30/2028</u> (mm/dd/yyyy) ☒ Check, if date changed from the last Schedule A
Purpose: ☐ Original Standard Agreement ☒ Supplemental Schedule A No. 4	
Agreement Type: ☒ Locally Administered Municipality/Sponsor (Contract Payee): City of Middletown Other Municipality/Sponsor (if applicable): _____ ☐ State Administered <i>List participating Municipality(ies) and the % of cost share for each and indicate by checkbox which Municipality this Schedule A applies.</i> ☐ Municipality: _____ % of Cost share ☐ Municipality: _____ % of Cost share ☐ Municipality: _____ % of Cost share	
Authorized Project Phase(s) to which this Schedule applies: ☒ PE/Design ☒ ROW Incidentals ☐ ROW Acquisition ☒ Construction/CI/CS	
Work Type: HWY INTERSECTION IMP County (If different from Municipality): Orange County	
(Check, if Project Description has changed from last Schedule A): ☐ Project Description: City of Middletown Traffic Operations, Stage 1, City of Middletown, Orange County	
Marchiselli Eligible ☒ Yes ☐ No	

A. Summary of Participating Costs FOR ALL PHASES For each PIN Fiscal Share below, show current costs on the rows indicated as "Current". Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.

PIN Fiscal Share	"Current" or "Old" entry indicator	Funding Source (Percentage)	TOTAL Costs	FEDERAL Funds	STATE Funds	LOCAL Funds	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
8757.07.121	Current	STP (80%)	\$1,600,203.00	\$1,280,162.00	\$240,030.00	\$80,011.00	\$0.00
	Old	STP (80%)	\$1,600,203.00	\$1,280,162.00	\$240,030.00	\$80,011.00	\$0.00
8757.07.221	Current	STP (80%)	\$15,000.00	\$12,000.00	\$2,250.00	\$750.00	\$0.00
	Old	STP (80%)	\$15,000.00	\$12,000.00	\$2,250.00	\$750.00	\$0.00
8757.07.321	Current	STP (80%)	\$15,752,000.00	\$12,601,600.00	\$2,362,800.00	\$787,600.00	\$0.00
	Old	STP (80%)	\$13,724,000.00	\$10,979,200.00	\$2,058,600.00	\$686,200.00	\$0.00
8757.07.322	Current	CMAQ (80%)	\$6,966,000.00	\$5,572,800.00	\$1,044,900.00	\$348,300.00	\$0.00
	Old	CMAQ (80%)	\$6,326,000.00	\$5,060,800.00	\$948,900.00	\$316,300.00	\$0.00
8757.07.122	Current	CMAQ (80%)	\$143,000.00	\$114,400.00	\$0.00	\$28,600.00	\$0.00
	Old	CMAQ (80%)	\$143,000.00	\$114,400.00	\$0.00	\$28,600.00	\$0.00
. .	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
. .	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
. .	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
. .	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
. .	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$24,476,203.00	\$19,580,962.00	\$3,649,980.00	\$1,245,261.00	\$ 0.00

NYS DOT/State-Local Agreement – Schedule A PIN 8757.07

B. Local Deposit(s) from Section A:	\$ 0.00
Additional Local Deposit(s)	\$0.00
Total Local Deposit(s)	\$ 0.00

C. Total Project Costs <i>All totals will calculate automatically.</i>			
Total FEDERAL Cost	Total STATE Cost	Total LOCAL Cost	Total ALL SOURCES Cost
\$19,580,962.00	\$3,649,980.00	\$1,245,261.00	\$24,476,203.00
		Total FEDERAL Cost	\$19,580,962.00
		Total STATE Cost	\$3,649,980.00
SFS TOTAL CONTRACT AMOUNT			\$23,230,942.00

D. Point of Contact for Questions Regarding this Schedule A (Must be completed)	Name: <u>Giselle Conrad</u> Phone No: <u>845-431-5731</u>
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See Agreement (or Supplemental Agreement Cover) for required contract signatures.

Footnotes (FN): (See [LPB's](#) SharePoint for link to sample footnotes)

- Description Continued: Stage 1 - Project includes the upgrade of 17 intersections on City Arterial County Route 67 (West and East Street) and on City Arterial Route 17M (Do[son Avenue, Fulton Avenue, and Monhagen Avenue) and two (non-signalized) intersections within the City of Middletown. The project will include new signals, controllers, actuators, turning lanes and pedestiran controls to improve the level of service at each intersection. Work to also include pavement resurfacing; as well as, curb, curb ramps, sidewalks, crosswalks, signage and drainage as needed.
- This Schedule A adds additional construction and construction inspection funds

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, “the contract” or “this contract”) agree to be bound by the following clauses which are hereby made a part of the contract (the word “Contractor” herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State’s previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller’s approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor’s business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State’s prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER’S APPROVAL. In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller’s approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller’s approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

4. WORKERS’ COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers’ Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor’s employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in

accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records

must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "(a), (b) and (c)" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not

apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this

law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business and Technology Development
625 Broadway
Albany, New York 12245
Telephone: 518-292-5100

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue 33rd Floor
New York, NY 10017
646-846-7364
email: mwbusinessdev@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public

Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §§ 899-aa and 899-bb and State Technology Law § 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual

employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a “procurement contract” as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: <https://ogs.ny.gov/iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions,

seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.