

**CITY OF MIDDLETOWN**  
**COMMON COUNCIL MEETING AGENDA**  
**December 06, 2016**

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL (COUNCIL CLERK)
3. APPROVAL OF MINUTES November 01, 2016 Minutes  
November 15, 2016 Minutes
4. CORRESPONDENCE, COMMUNICATIONS AND REPORTS (COUNCIL CLERK)
5. FOR THE GOOD OF THE CITY (PUBLIC PARTICIPATION)
6. REMARKS OF DEPARTMENT HEADS
7. PUBLIC HEARINGS AND GRIEVANCES
  - Public Hearing for a four Lot Subdivision for 8, 10, 12-14 and 16 Houston Ave Extension.
8. PETITIONS AND COMPLAINTS (NOTHING THIS EVENING)
9. REMARKS OF THE MAYOR
10. REMARKS OF THE ALDERMAN AND REPORTS OF COMMITTEES
11. UNFINISHED BUSINESS (NOTHING THIS EVENING)
12. NEW BUSINESS (RESOLUTIONS)
  - Resolution to re-schedule a public hearing on Tuesday, December 20, 2016 to hear any and all persons wishing to be heard on a proposed lot line change for Heritage Restoration Properties, LLC.
  - Resolution to authorize the Treasurer to transfer \$2,000.00 within the 2016 DPW budget to cover the cost of the rental of a loader from Boyce Excavating.
  - Resolution to authorize the Treasurer to transfer \$2,000.00 within the Senior Center 2016 budget to complete repairs needed for the vehicle inspection on 2009 and 2007 shuttle buses.
  - Resolution to authorize the Treasurer to transfer \$7,500.00 within the Finance 2016 budget for replacement of carpet in the Finance office.
  - Resolution to authorize the Treasurer to transfer \$5,160.00 within the Fire Department 2016 budget to cover additional & enhanced firefighter physicals.
  - Resolution to authorize the Mayor to sign the Assessment Collector's Warrant for 2017.
  - Resolution to authorize the Mayor to sign a contract with the County of Orange for the STOP-DWI Enforcement Crackdown for 2016/2017.
  - Resolution to authorize the Mayor to sign an agreement with CDM Smith for engineering services providing wastewater treatment organics co-digestion and cogeneration.
  - Resolution to authorize the Treasurer to transfer a total of \$8,512.55 within the Senior Center 2016 budget to cover overages in personal services for the balance of the year.
  - Resolution to authorize the Mayor to sign a Northeast Association Management, Inc. (NEAMI) contract for Third Party Administrative Services.



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- Resolution to authorize the Mayor to sign a contract with Alpine Environmental Services for Mold Assessment and a Remediation Design Plan to be performed at the 53-45 North Street for the Rail Trail Commons Project.
- Resolution to authorize the Mayor to sign a contract with Netmanageit for the revised storage and Legacy services for 2017.
- Resolution to approve SEQRA for a four lot subdivision for property located at 8, 10, 12-14 and 16 Houston Avenue Ext.
- Resolution to approve a four lot subdivision for property located at 8, 10, 12-14 and 16 Houston Avenue Ext.
- Resolution to amend Chapter 475 Zoning, Section 475-6 Zoning Map to add the new map dated June 01, 2016.
- Resolution to authorize the Treasurer to transfer a total of \$6,104.47 within the 2016 budget to cover expenses that came in higher than anticipated.
- Resolution to approve and authorize the Mayor to sign an agreement with CPL for work needed to help in the current skimming operation at Indigot and transfer a \$28,500.00 from the Water Fund Balance to fund the work.
- Resolution to authorize the Treasurer to transfer a total of \$5,200.00 within the 2016 Paramount budget.
- Resolution to authorize the Mayor to sign all necessary documents pertaining to a Grant in the amount of \$10,000.00 provided by Assemblywoman Gunther to be applied toward the King Street Pedestrian Walkway.
- Resolution to approve the Sewer alternate realignment at the Drainage Culvert on Houston Avenue.
- Resolution for the execution of Payment in-Lieu of Tax (Pilot) Agreement for two subdivided parcels by and among the City of Middletown and the Bella Vista II housing Development Fund Company.
- Resolution to replace resolution ## 293-15 on September 15, 2015 determining that the Action is a Type II action under SEQRA for the Black Dirt Sewer.

13. LOCAL LAWS (NOTHING THIS EVENING)
14. AUDIT OF CLAIMS AND ACCOUNTS (FINANCE COMMITTEE CHAIR)
15. ADJOURNMENT

**The agenda is tentative and established on all accessible information at this time.  
Items may be eliminated at any time. Resolutions are added on an emergency basis.**





**Common Council  
Meeting  
City of Middletown  
November 1, 2016**

1. Pledge of Allegiance- Pres. Rodrigues asked all to rise for the pledge.
2. Roll Call: Present : Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-8 Absent: Ald. Sommers-1
3. Approval of Minutes

On motion of Ald. Masi seconded by Ald. Ramkissoon to accept Oct. 18, 2016 minutes as submitted.

All in favor.

4. Correspondence

John Naumchik-Nothing this evening.

5. For the Good of the City

Mrs. Madden- I am here well let's see. The last time I was here it was here about the brook and the stream and the City getting a grant for the project. My understanding from Mr. Mayfield who works...the City has received the grant and now we were wondering what is going to happen? Who is going to fix it? When is it going to happen?

Merritt Winner-I witnessed the depression in WWII and all the conflicts since. The last time we had unlimited conflict we ended up with 2 allies, Japan and Germany.

I have seen good presidents and bad presidents. I respected them all. I am going to have a really hard time respecting our current crop. We have 320 million people in

the United States and these are the best two we can come up? I don't think so. Our country is in real trouble if that is true.

US Constitution in my mind is a magical document. It is an entity, difficult and time consuming to amend.

Michael Diffenbach-Inquiring on the status of the speed abatement efforts on our street. I have some comments but I guess I can wait until you get to it.

## 6. Remarks of Dept. Heads

Jacob Tawil/DPW Commissioner-Update you with ongoing capital projects in the City.

Sterling St. Phase II-construction is moving very well. Most of it so far has been in people's backyards. Minimal construction in there because we are using precious technology, however, excavation has to take place for connecting the...into the sewer line. Minor complaints, contractor is attending to them as soon as they occur.

Amchir drainage-The City Water Dept. finished installing the culverts, replacing the culverts around the railroad tracks. That project is completed; we had to do some minor regrading for the swales around the railroad in the Amchir area.

12 inch transfer pipe that we had since 1980 has stopped working. We appreciate the Mayor and Common Council approval to purchase a new one for almost \$100,000. We immediately had to transfer water from different reservoirs, between reservoirs and especially from Indigot Reservoir and this new pump will be able to serve that purpose. Our guys are taking the old pump out, dismantling it to make room for the new pump to come in. It is portable pump so we can move it around to any reservoir that we want.

We started damming at Indigot Creek in there just to be safe, the draught condition that we are in we are hoping for the rain, hopefully we don't have to pump and supplement our reservoirs with water.

Woolworth building as you know there is a nice project taking place there. The bid opening has been delayed for weeks; bid opening is taking place on November 10<sup>th</sup>.

99 Wickham Ave. is in very poor shape and the City has taken over for non-payment of taxes. Finished asbestos abatement and we will be taking that whole house down and leveling the area. Very small lot. DPW will be doing that.

Transportation hub which is basically Coach and Shortline USA that project is moving very well. Construction to start early spring. Finally to the front burner because Coach USA is going to do everything, they hired the engineers and architects and now it is moving full speed ahead.

The Black Dirt Sewer that is another sewer line project there. We are working with EFC and in order to push that project forward, we are financing and funding it. As you know we got almost a \$million grant for that project. We are working with EFC now, Don Paris in our Finance Office and Richard Guertin to make sure all the payments are proper and then come to you for approval to proceed.

Solid Waste-Transfer station that we have at our Waste Water Treatment Plant the roof has collapsed on it. ...heavy storm and we are replacing it right now. The construction is moving along and it should be done in 2 weeks. Should have the fabric and roof on top of it.

Leaf pick up has started today. The arrangement is on the website and ads in the paper. Starting in the 4<sup>th</sup> Ward, 1, 2, 3. Once we pick up the City once, then we will go back again. If we miss you that is okay, keep it close to the curb as possible.

Construction project on Dolson Ave. between City line QuickChek and old Wiedy's furniture to our Waste Water Treatment Plant by ShopRite plaza. That work has been completed by CPV which is basically installing cooling water with power plant and the return line that will be coming to us with what is left of that cooling water. As you know they are utilizing our grey water or our Waste Water Treatment Plant ... in order to clean their generators at the power plant. So that project has been completed. Now we are debating whether we should do the painting, responsible for Dolson Ave. in that section for curbs and central line the road. We are trying to convince them, discussing it with them to leave it until the spring or they are looking into getting it done so they might do it this year. Hopefully it will be done in the spring.

NY Rising, we had a meeting with the committee and discussed the status of basically of NY Rising. Right now the Mayor, Richard Guertin and myself will be reviewing the agreement. Very much concerned about the high cost of the consultant, the Mayor has spoken to them back and forth and I'm not sure if there is a way out of this, I doubt it; the Mayor is trying. He is trying to lower the of the consultant so that we can get more construction.

I want to thank Chief Winner, NY Rising committee member who met with us and Ald. Kleiner as well.

Waste Water Treatment Plant we generated \$14,000 for last month out of septage haulers. Again updating you that is a great achievement. This is utilizing our infrastructure to generate revenue to pay our debt for expanding our Waste Water Treatment Plant. We keep looking for other revenues to generate from our infrastructure.

Tonight before you, you are going to have a resolution I hope increasing the tipping fee for the septage from \$.09 per gallon to \$.105 per gallon. Board of Estimate and Council President, Mayor and Ald. Masi they approved it and I hope you guys approve it.

Ald. Masi- Two things, I really didn't hear Mrs. Madden's question, I don't know if you answered it or not.

Commissioner Tawil-No I did not. I did not answer.

Ald. Masi addressed Commissioner Tawil did not hear either response.

Commissioner Tawil-No I did not answer because I had many other projects in there. That is one of them I did not. I can't answer it.

Yes we did receive a letter from Mr. Mayfield and I don't know what he said to her but we don't believe we got the grant. That is number one. The letter speaks for itself and we would be happy, I'm sure the Mayor would be happy to show it to her. There is no amount of funding that has been approved for the grant. If that happens and the Mayor is pushing he is calling Sen. Schumer's office, he is calling Congressman Maloney's office. I am sitting there listening to them to try to get this money allocated and last week as a matter of fact we met with Ms. Ingrassia in the Mayor's Office, she works for Congressman Maloney's office for that very reason. She came to our office and the Mayor called her in said what are we going to do? We need this money.

Issue #2 we are still working with Army Corp. of Engineers about fine tuning the design. We met with them years ago they came, visited the site, the Engineers came down from Manhattan they have concerns and comments. The engineering is not done yet. So I don't want to deceive anybody.

In my opinion the money is not there yet but the engineering and approval from the Army Corp. of Engineers is not there yet. So that is where we are.

Ald. Masi-Mike came up and spoke about Highland Ave. and I know he has called a number of us; is there an update, a possibility at some point to take the least expensive way, I am probably the only one on this board who thinks Stop signs will be effective or at least a way of trying it. Has there been any more talk of possibly doing that. Is there an update on the review for the raised sidewalk?

Commissioner Tawil-That is obviously I have to discuss it with the Mayor, I am not at liberty right now to discuss this in the open. I did however share with you all the Council members' typical questionnaire that you ...design these speed humps. A list of questions the designer must go through there to answer in the positive to make sure the solution is attainable or doable. That is before you guys, I don't know if speed humps with pedestrian crossing is the right answer but that is what you guys have to decide. I will give you my opinion; this is technical discussion I don't think I should bring it here especially when the Mayor is not here.

The County we are getting a grant in there so that we can have, we installed obviously pedestrian crossing warning signs in there that I think are very effective. The unfortunate thing is I don't know how long they are going to last. There are other things that can be done; will be happy to discuss it with you guys. We are also going to be experimenting with solar power pedestrian crossing flashing light there. Basically we can put this flashing light there if somebody wants to cross. You push a button and we have flashing lights indicating somebody is crossing. That is going to be done it is about \$7,000 fortunately we are going to get a grant from the County to give us this sign and we are going to see it. If it works out, I think it will work out and alert obviously a flashing light and it is solar power. Installation is not going to be that expensive. We can discuss this in much more detail.

Ald. Kleiner- Commissioner, the Downtown Revitalization Initiative is that meeting tomorrow, the next meeting for the downtown?

Commissioner Tawil- I think the Mayor is up there regarding. The Mayor is up in Albany that is why you don't see him here because of that grant.

Ald. Kleiner-Okay. The 2<sup>nd</sup> meeting of the committee which I assume is also a public meeting; I believe it is tomorrow at 7 at Thrall library.

Commissioner Tawil- I'm not sure to be honest with you.

Ald. Kleiner-It is the same time as the Planning Board meeting.

Commissioner Tawil-I don't know too much about it to be honest.

Ald. Kleiner-Asked John. The time.

Ald. Kleiner-From 5-7.

Commissioner Tawil-He is in Albany regarding the \$10 million grant.

Ald. Jean-Francois-Regarding Amchir are we ready to pave the roads yet?

Commissioner Tawil-I think we paved it.

Ald. Jean-Francois-No its not paved yet.

Commissioner Tawil-No. It should have been. We will make sure it is paved then.

Pres. Rodrigues-Construction on Wickham Ave. from O&R. Is it going to be done this year?

Commissioner Tawil-Yes. Yes, weather permitting. Again we made a special deal ad you know with your input with ...responsible for paving. That we can't talk about in public.

Pres. Rodrigues-We can talk about in public.

Commissioner Tawil-No, we are not suppose to. It is Orange and Rockland that hires them; they are working on it. We met with them as you know; we say we don't want to have death by a thousand cuts in there. In other words don't milk this project. Just finish replacing the cast iron pipe in the ground which is unsafe. Do it all at once.

Rich Guertin/Corp. Counsel- In my book Jerry it is 5-7 tomorrow the DRI.

Don Paris and I from my understanding we closed on the sale of tax liens in bulk to our bulk purchaser and I believe it brought in a very hefty sum to the City which is good. Not all tax liens were sold. So there will be a tax sale on December 10<sup>th</sup>, Saturday morning at 10 am in the Council Room. That will be for the liens that our bulk purchaser did not obtain. What will happen is the Charter requires certain notices to go out to people who owe money. We may get calls from someone, I got calls last year-will I lose my house? I explained no what is being sold is the lien on the house, you will have a period of time to redeem it; at least one year thereafter. Any questions please refer to Don Paris or myself.

Ald. Kleiner-We have the Frontier approval done on the agenda tonight. It says if passing with your approval. Are you satisfied that they have really addressed the Public Service Commission, will it address any further concerns or threats from Charter and Time Warner.

Rich Guertin-What this will do and I have seen the opposition from Time Warner which appears to be pretty vanilla. What this will do if you authorize this tonight again, I'm just making sure that our key is that we want them to give us what we are getting from Time Warner. That is really the key. I don't think we can ask more than that, but we can ask at least that; that is what I am seeing so far in the agreement. We want to let the process to continue to move on because this way it will allow them to go to the PSC and get their full authorization to being able to offer service in Middletown. Which I think would be a benefit to the citizens of Middletown they will have some options that they don't have now. This just allows the process to move forward in a positive way.

Ald. Jean-Francois-Asked Mr. Guertin if the City has list of what is available for the auction, before the auction?

Rich Guertin-There will be. It is not created yet they are in the process of doing that in the Finance Office. There will be a list; all the property owners have to get the notices.

John Naumchik/City Clerk-Tuesday is Election Day. All the polls in the City of Middletown will be open. If anybody needs to know where they vote and live in the City of Middletown they can call 845-346-4166.

7. Public Hearings & Grievances

John Naumchik- Nothing this evening.

8. Petitions & Complaints

John Naumchik- Nothing this evening.

9. Remarks of the Mayor

Mayor DeStefano is not here tonight.

10. Remarks of the Aldermen

Ald. Masi- March of 2017 I want to get this out as soon as possible. I know I mentioned it at the last meeting we had the Firefighters exam. Anyone that knows of anyone that is looking to take the Firefighters test that will be March of 2017. The announcement will probably come out sometime in December as soon as the State allows me to do that.

Next Council meeting which is the 15<sup>th</sup> at 7:30 prior to the Council meeting we will have a Finance Committee meeting dealing with the budget.

Next Friday the 11<sup>th</sup> is Veteran's Day and the Elk's Club always has a ceremony at 11am at the Elks Club. So obviously everyone is welcomed. If you get a chance please come up to it. Ceremony actually starts at 11 so be there by 10:30.

I promised Donna at the Senior Center they have a Craft Fair, this Saturday November 5<sup>th</sup> from 9-2.

We have a resolution tonight for the Blue Star Memorial. I gave that out to everyone. It is a wonderful idea, it is put on by Society, it is a national program. It is a monument that will be placed in Thrall Park; it won't be placed until next April. It is a

monument recognizing anyone who served in the military, anyone serving in the military now and anyone serving later. No cost to the City. Please vote in favor of it. Thank you very much.

Ald. Burr-Nothing this evening.

Ald. Ramkisson- Just a reminder that the Neighborhood Watch meeting which would normally fall next Tuesday, being that it is Election Day at the last meeting we decided that in the best interest to postpone that. So we will combining the Neighborhood Watch meeting with the 3<sup>rd</sup> Ward meeting. That will take place on Tuesday, November 22<sup>nd</sup>.

Ald. Johnson-A few meetings ago I articulated my frustration at how slowly things sometimes turn. It was perhaps somewhat misinterpreted as criticism of City Hall. I will rearticulate my frustration as it has nothing to do with City Hall.

As of January I will be sitting in this chair for 3 years and my fellow alderwoman has been here for 5 yrs. We have had the same conversation about the brook. It is disrespectful to our residents and elected officials. We had a press conference a long time ago. The only good thing about the draught is that the brook is dry. It is not right. It has nothing to do with City Hall. Whoever is in charge of this process neglected or disrespected and it's not right.

On a better note. I also had comments over the years when we have our new business portion of the meeting; people who attempt to watch it or are interested in it have remarked to me and I'm sure all of us that there doesn't seem to be a lot of discussion when we have these resolutions presented to us. I think this is an opportune time to remind anybody who is interested that all the committee meetings are public, they are not televised necessarily and they are not recorded for rebroadcast. If anybody is interested in these committee meetings everything is posted on the website. As an example tonight there are several resolutions for public hearings, you will not hear any discussion about these public hearings. This falls under the jurisdiction of my committee, these committee for instance met this evening at 7:30 and that will result in resolutions of the hearing. If anybody is interested in the process, whether it is Board of Estimate or any of these other committees. You have access to that; you will not hear about it these meetings under New Resolutions it is public and it is public information.

Ald. Witt- Just one thing, the 2<sup>nd</sup> Ward meeting will be held on November 14<sup>th</sup> at 7pm right here. Hope to see you.

Ald. Kleiner-Budget public hearing is Thursday at 6 pm Counsel Chambers. Of course the Record headlined it as Middletown hikes taxes. .69% is under the, it is under the .69% cap it does not even cover the increase in health care cost for the City. Congratulate the Board of Estimate, Don Paris, Mayor, Joe for this year's budget. If you have any questions come to the public hearing and voice your concerns. If you are listening to this I don't know why you're not watching the World Series; I will be shortly.

The IDA met this past week and they voted to hire to support the Business Accelerator. I think that is going to be a very exciting thing, it's been very successful in New Windsor and other places.

For helping startup businesses it is going to be great for the downtown Revitalization Initiative. I thank them and congratulate them.

I did stop by Quinnz Pinz, they re-did the outside of their building. So that it looked more like historically and what we are trying to do in Middletown. They've done a lot of work inside; I think they did a terrific job.

Veteran's Day please come, I haven't seen it listed in the paper yet. It doesn't appear there magically you have to send the information in. The 11<sup>th</sup> month, the 11<sup>th</sup> day at the 11<sup>th</sup> hour at the Elk's. It is a good cause.

Ald. Jean-Francois-We had a report from the Commissioner about the bus stop signs in the City. The Commissioner met with the County actually the project is moving forward. Once we receive the signs from the County they will be installed throughout the City of Middletown and also Town of Walkill.

Also heard from the Board of Examining Plumbers this evening about their concerns; but no specific action was taken at this time.

Commissioner I apologize the road was paved.

Pres. Rodrigues-Tonight we have a resolution Rich and Ald. Kleiner had touched on it. A resolution regarding Frontier application to the PSC. Myself and the Mayor's Office have received phone calls from workers, union workers and we hear their concerns, we welcome them. Moving forward I think it is a win/win for Frontier and the City of Middletown. It gives the residents here in the City of Middletown to pick another company and definitely create more jobs. I am totally in favor of it and I am glad to move forward.

#### 11. Unfinished Business

John Naumchik-Nothing this evening.

12. New Business

311.16 Resolution to transfer a total of \$13,000.00 within the Recreation & Parks Department

On motion of Ald. Burr seconded by Ald. Ramkissoon

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Treasurer to transfer a total of \$13,000.00 within the Recreation & Parks Department to cover cost of replacing tires on two trucks before winter, repairs to mowers, parts to repair ball cart and inspection and repairs to trucks.

<u>FROM</u>	<u>AMOUNT</u>	<u>TO</u>
<b>A.7180.100</b>	<b>\$6,000.00</b>	<b>A.7110.440</b>
Pools: Personal Services		Parks: Repair to Equipment

to cover cost of replacing tires on two trucks before winter, repairs to mowers, parts to repair ball cart and inspection and repairs to trucks.

<u>FROM</u>	<u>AMOUNT</u>	<u>TO</u>
<b>A.7180.100</b>	<b>\$4,000.00</b>	<b>A.7110.450</b>
Pools: Personal Services		Parks: Material & Supplies

To cover shortage in materials & supplies for facilities and maintenance needs

<u>FROM</u>	<u>AMOUNT</u>	<u>TO</u>
<b>A.7180.100</b>	<b>\$3,000.00</b>	<b>A.7180.441</b>
Pools: Personal Services		Pools: Repairs to Pools

For the installation of new filters at Maple Hill Pool.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-8

312.16 Resolution to transfer a total of \$13,540.00 within the Fire Department 2016 budget

On motion of Ald. Witt seconded by Ald. Masi

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Treasurer to transfer a total of \$13,540.00 within the Fire Department 2016 budget to cover fire hose replacement, Equipment Repairs thru year-end and Toshiba costs in the following manner:

From	Amount	To
A.3410.417 Gas & Oil	\$ 2,540.00	A.3410.207 Equipment - Hose
A.3410.417 Gas & Oil	\$10,000.00	A.3410.440 Repairs to Equipment
A.3410.417 Gas & Oil	\$ 1,000.00	A.3410.400 Contractual

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

313.16 Resolution to authorize the Mayor to sign an agreement with the Humane Society of Port Jervis/Deerpark, Inc for Animal Shelter Services from January 1, 2017 through December 31, 2017

On motion of Ald. Johnson seconded by Ald. Masi

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 attached agreement with the Humane Society of Port Jervis/Deerpark, Inc for Animal Shelter Services from January 1, 2017 through December 31, 2017 with no increases from last year.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

314.16 Resolution to authorize the Mayor to sign an agreement with B& L for grant application support for the Downtown Revitalization Initiative in the amount of \$5,664.73

On motion of Ald. Kleiner seconded by Ald. Jean-Francois

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 attached agreement with Barton & Loguidice for

grant application support for the Downtown Revitalization Initiative in the amount of \$5,664.73 and transfer from the General Fund to fund the work in the following manner:

FROM	AMOUNT	TO
General Fund Balance	\$5,664.73	A.1490.400 Contractual Services

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

315.16 Resolution to authorize a police escort for the St. Joseph's Procession on the Feast of Our Lady of Guadalupe on Sunday, December 11, 2016.

On motion of Ald. Masi seconded by Ald. Burr

Resolved; that the Common Council of the City of Middletown authorizes a police escort for the St. Joseph's Procession on the Feast of Our Lady of Guadalupe on Sunday, December 11, 2016 beginning at 12:00 PM and last until 1:00 PM.

Route: Leave the Church parking lot a turn left onto Cottage Street, then right onto Wisner, turn right onto Sproat Street and proceed on Wickham Avenue, from there turn left onto North Street, left onto East Main Street, left on Robert Street, and then right on Cottage and continue on Cottage to the Church.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

316.16 Resolution to authorize the Police Department to reassign a 1998 Ford Van to the City of Middletown Recreation and Park's Department.

On motion of Ald. Ramkissoon seconded by Ald. Burr

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Police Department to reassign the following police department vehicle to the City of Middletown Recreation and Park's Department which no longer serves our needs and the Recreation and Park's Department could benefit from the use of this vehicle of the following 1998 Ford Van:

1FDXE40FOWHA29371 1998 FORD VAN

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

317.16 Resolution to schedule a public hearing on Tuesday, November 15, 2016 on a proposed lot line change for Heritage Restoration Properties, LLC.

On motion of Ald. Johnson seconded by Ald. Ramkissoon

RESOLVED; that the Common Council of the City of Middletown hereby scheduled a public hearing on Tuesday, November 15, 2016 to close to 8:00PM as possible to hear any and all persons wishing to be heard on a proposed lot line change for Heritage Restoration Properties, LLC for Section 31 Block 4 Lot 1.1 and Section 31 Block 4 Lot 1.2.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

318.16 Resolution to schedule a public hearing on Tuesday, November 15, 2016 on a proposed lot line change for Keck Properties, LLC.

On motion of Ald. Johnson seconded by Ald. Masi

RESOLVED; that the Common Council of the City of Middletown hereby scheduled a public hearing on Tuesday, November 15, 2016 to close to 8:00PM as possible to hear any and all persons wishing to be heard on a proposed lot line change for Keck Properties, LLC for Section 17 Block 3 Lot 11.111 and Section 17 Block 3 Lot 11.112.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

319.16 Resolution to schedule a public hearing on Tuesday, November 15, 2016 on a proposed lot line changes for 14 & 16 Dolson Ave.

On motion of Ald. Johnson seconded by Ald. Ramkissoon

RESOLVED; that the Common Council of the City of Middletown hereby scheduled a public hearing on Tuesday, November 15, 2016 to close to 8:00PM as possible to hear any and all persons wishing to be heard on a proposed lot line changes for 14 & 16 Dolson Ave. for Section 39 Block 5 Lot 6 and Section 39 Block 5 Lot 7.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

320.16 Resolution to authorize the Treasurer to transfer a total of \$72,852.62 from the General Fund balance to cover the cost of repairs and for the cost of adding additional cameras to our camera project at 90 North Street and Thrall Park.

On motion of Ald. Masi seconded by Ald. Ramkissoon

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Treasurer to transfer a total of \$72,852.62 from the General Fund balance to cover the cost of repairs and for the cost of adding additional cameras to our camera project at 90 North Street and Thrall Park fibers/cameras that are in disrepair. The one time cost to repair these cameras is \$29,317.51 with an additional maintenance agreement cost of \$2,117.39 annually. The one time cost for these cameras is \$38,447.88 with an additional maintenance agreement cost of \$2,969.84 annually. The 4 different locations of the cameras are as follows:

Short Street and Linden Avenue  
 Halfway down Canal Street  
 Canal Street and Fulton Street  
 City of Middletown PD parking lot

From	Amount	To
Gen. Fund Balance	\$72,852.62	A.3120.200 Equipment

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

321.16 Resolution to transfer a total of \$1,480.00 within the Senior 2016 budget for unanticipated contractual cost and for tire replacement and heat on 2007 Senior Shuttle.

On motion of Ald. Masi seconded by Ald. Kleiner

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Treasurer to transfer a total of \$1,480.00 within the Senior 2016 budget for unanticipated contractual cost and for tire replacement and heat on 2007 Senior Shuttle in the following manner:

From	Amount	To
6772.401 Travel Expense	\$280.00	6772.400 Contractual Services
GA.5680.417 Gas & Oil	\$1,200.00	GA.5680.440 Repairs to equipment

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

322.16 Resolution to amend the City Code Chapter to increase the Septage rate from \$0.09 to \$0.105 per gallon as of December 1, 2016.

On motion of Ald. Masi seconded by Ald. Ramkissoon

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and amends the City Code of the City of Middletown Chapter A490 Fees, Section A490-1 Department of Public Works to increase the Septage rate from \$0.09 to \$0.105 per gallon and Leachate taking rate to be set at 0.105 per gallon as of December 1, 2016.

Replace:

Septage/leachate rates	Taking rate to be set at \$0.09 per gallon Leachate taking rate to be set at the range of \$0.055 to \$0.06 per gallon
------------------------	---

New Rate:

Septage/leachate rates	Taking rate to be set at \$0.105 per gallon Leachate taking rate to be set at \$0.105 per gallon
------------------------	---

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

323.16 Resolution to authorize the City Treasurer to transfer a total of \$68,000.00 within the 2016 budget to cover current overdrafts as well as anticipated expenses through the end of year.

On motion of Ald. Masi seconded by Ald. Ramkissoon

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the City Treasurer to transfer a total of \$68,000.00 within the 2016 budget to cover current overdrafts as well as anticipated expenses through the end of year in the following manner:

<u>FROM:</u>	<u>AMOUNT:</u>	<u>TO:</u>
A.1900.950 Taxes on City Owned Properties	53,000.00	A.1900.964 Refund & Cancellation-Txs
A.1900.950 Taxes on City Owned Properties	15,000.00	A.1900.910 Liability Ins.-Claims

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

324.16 Resolution to approve the application and proposed contract to allow Frontier to proceed with its application to the New York Public Service Commission subject to Corporation Counsel approval.

On motion of Ald. Jean-Francois seconded by Ald. Kleiner

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment for the approval of application and proposed contract to allow Frontier to proceed with its application to the New York Public Service Commission subject to Corporation Counsel approval.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

325.16 Resolution to accept a Blue Star Memorial marker honoring service men and women from the Middletown Garden Club to be placed in Thrall Park which will be at no cost to the City including future maintenance

On motion of Ald. Masi seconded by Ald. Burr

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment for the City to accept a Blue Star Memorial marker honoring service men and women from the Middletown Garden Club to be placed in Thrall Park which will be at no cost to the City including future maintenance.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

13. Local Laws  
John Naumchik-Nothing this evening.

14. Audit

On motion of Ald. Masi seconded by Ald. Burr

I move that the accounts be audited the claims be adjusted and the Treasurer be authorized to issue warrants for their payment.

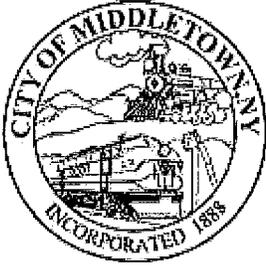
Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodriuges-8

15. Adjournment

There being no further business meeting adjourned at 8:40PM

Respectfully submitted,





**Common Council  
Meeting  
City of Middletown  
November 15, 2016**

1. Pledge of Allegiance- Pres. Rodrigues asked all to rise for the pledge
2. Roll Call: Present: Ald. Ramkissoo, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-9 Absent: Ald. Sommers-1
3. Approval of Minutes  
John Naumchik- Nothing evening.
4. Correspondence  
SLA for a new liquor license for 14-18 North St. - Corp. Counsel/Police Dept.
5. For the Good of the City

Presentation for Ralph Cheney World Pancreatic Cancer Day on 11/17/16

Mayor DeStefano asked Mr. Cheney and family to come forward.

We are here today; Ralph is a survivor of pancreatic cancer.

Mr. Cheney- 13 years.

Mayor DeStefano-Today is World Pancreatic Cancer Day, so we are issuing a proclamation.

Mr. Cheney-First of all I would like to thank Mayor DeStefano, I would like to thank the Counsel and I would like to thank Josephine for supporting us. We've done this for about 5-6 years now where I come and just picked up the proclamation in the office. We decided, I think the Mayor decided that it would be a good idea this year if we did it at the Council meeting. Proclamations are a great powerful tool because they create awareness not only on an individual level, community level which is very important; also in the medical community. Myself being a 13 year survivor like it says in the

proclamation I am definitely in the minority. I have a message of hope for all those diagnosed and families affected by pancreatic cancer. When I was diagnosed the 5 year survival rate was 5% now it is up to 8%. Our goal is 2020 to double the survival rate. I think we are due to do that. In the time I have been cancer free since I had my operation in 2005. There has been a lot of progress in the course of treatment options for pancreatic cancer patients. Obviously the prognosis is not good; a lot of treatment options have come up, clinical trials, tumor related therapy. The problem is pancreatic cancer has no early detections; by the time the symptoms rear its ugly head it usually metastasize and gone to some other part of the body which renders the poor patient inoperable. So any kind of progress that we make is to make either to shrink the tumor so the person will have surgery which is best case scenario. Only 20% of us are eligible for surgery; 80% of the cancer community is living with this disease.

So I want to thank the City of Middletown for their continued support. I accept this proclamation on behalf of Pancreatic Cancer Community, on behalf of Pancreatic Cancer ...to those who will be diagnosed, those who are fighting a good fight right now. I just want to thank all of you for your continued support. Thank you very, very much.

Susan Depuy- It is with great pride I ask the Council, the Mayor and committee members to consider scheduling our Community Annual Pride Clean-up Day for Earth Day which is April 22<sup>nd</sup> Saturday. Residents who have helped us in the past please come out again, students and faculty from our school district, families who have helped us before and most of all people who haven't helped before.

I would ask the Council to consider doing one thing, to create a sign that says "Don't even think about littering in Middletown".

#### 6. Remarks of Dept. Heads

Maria Bruni/Economic Development-Good evening. We had a meeting of our Community Development Agency. The board approved going forward with the rehab of the three homes. We will be starting the rehab on Amchir, Harrison, Cottage St., hopefully this week. Those projects are underway.

Tomorrow the City's annual Christmas tree arrives in Festival Square. Be on the lookout tomorrow morning John Degnan will be up there with the crew, cutting the tree. Thanks to Jacob and his department will be assisting; along with JHM Tree Service who donates his time to cut the tree; also Regional Trucking will donate their services to bring the tree to Festival Square. This year the tree has been donated by Jillian Ye and we look forward to the holidays. Decorations are going up; our tree lighting is the day after Thanksgiving, holiday parade.

Ald. Jean-Francois-Asked where tree coming from?

Maria Bruni- It is coming from the Middletown Community Campus off of Ashley Ave.

Jacob Tawil/Commissioner DPW- Last meeting I did report on the progress of the projects we are doing.

Tonight I just want to reemphasize the recycling for our community. Please recycle; it does not take too much effort. It is the right thing to do.

Leaves are being picked up throughout the City. All wards have been picked up, 3<sup>rd</sup> Ward will start tomorrow. 4<sup>th</sup>, 1st, 2<sup>nd</sup> already have been picked up. After we finish the 3<sup>rd</sup> Ward we will go around the City again to pick up any leaves.

As far as the roof project in City Hall, has been completed. We have new carpet, tiles looks very nice.

Don Paris/Treasurer- Nothing this evening.

Chris Brinkerhoff/Superintendent Rec.-Sue, one message for you. I had some kids' interview yesterday as part of a class project. Their project was focusing on littering in the Middletown community and if it is getting better, worse and some of the solutions and how they can help, I did give them your name. As the project gets going you might be hearing from them. That is a great thing.

One of the things you will be voting on tonight is "Solution" funding from the County. The City this year will be getting just under \$50,000, collaboration between the Police Dept., Rec. Dept. and our School District. That helps fund our summer teen programs, teen center, summer leadership academy and also helps fund the new program that was started by Jackie Welch last year, Too Good for Violence, Too Good for Drugs. Run by Officer Kristin Beebe who is doing a great. You will be approving that contract and signed by the Mayor. It really helps us the County money to get positive youth development programs out there. Thank you to the County Exec. and Orange County Youth Bureau.

The Rec. Dept. is collecting e-mails from residents. So if residents so that they are not missing school registration, missing youth football registration and all the camps and all the clinics and programs we run. You can get on the e-mail list. Just another way to reach out to the parents.

This fall we have 2 Eagle Scouts doing projects for Middletown. One will be enhancing the walking trail which we started up behind Maple Hill Park. So that will be completed.

Another young man wanted to improve on the dog park; he has dimensions, donations to actually build a tunnel and ramp for the dogs to play with. So that is something we are looking forward to and working with foreman John Bianchi. Once again our youths are stepping up.

Winter registration is in full gear. Folks this is the time to sign up for our basketball program, cheerleading program, winter indoor soccer program, volleyball clinics and adult volleyball, toddlers in training. That is what is coming up this winter on top of all the other special events mixed in with the holidays. Maria mentioned some. Santa's sleigh box, we have letters to the North Pole, Polar Express, we have pictures with Santa and it just goes on and on. Gingerbread house building so please jump on the website, check Facebook or call us to get that information.

The other program is the Skate Park. The contract was signed with Spahn Ranch. They are actually going to be in town on November 30<sup>th</sup>, we will be doing a site walk through with them at 4pm and we are encouraging the public especially our youth. A lot has called us to meet us at the Recreation Dept. at 6pm and that will be the start of the design of the skate park with public input. So it is 6pm, November 30<sup>th</sup> at the Michael G. Perkins Community Center. We will have a design team.

Lastly I want to congratulate the youth football program the Division III has made it to the Super Bowl on Saturday in Newburgh at 4pm. Congratulations to them and their coaches.

Ald. Ramkissoo-Turkey Trot this weekend?

Chris Brinkerhoff- There is. The Turkey Trot is this weekend at the High School track at 10am. Once again with the help of the varsity athletes and the track team, Rec. Dept. and the Mayor's Youth Council we had about 60 some kids last year and we are expecting over 100 this year. The winners get turkeys donated by ShopRite and plaques and the kids have a wonderful time. Thank you to Kevin Hipsman and his track team.

Ald. Kleiner-Asked about the women's self-defense class go?

Chris Brinkerhoff-Actually didn't have enough people registered. We only had 6. We had a lot of people ask about it, inquire about it and it was very cheap. \$10.00 and we only had 6 people. So it wasn't enough to bring that instructor in.

Ald. Kleiner-Are you going to try next year?

Chris Brinkerhoff-We will try again.

Rich Guertin/Corp. Counsel- I was going to mention about the Skate Park. Chris mentioned that, it's a good thing and I think they are very excited about coming into Middletown and work with us.

There is a resolution tonight to accept donation of blue stone from Ald. Witt. When this first came up Commissioner Tawil asked me if there would be any conflict in Ald. Witt making this contribution to the City and I looked into that. The answer is no. I just want to put that on the record. I see no conflict, I advised Kevin to abstain from the vote. But it is certainly something we as a city can use and accepting of the donation certainly presents no conflict. I just wanted to put that on the record.

John Naumchik/City Clerk-Nothing this evening.

#### 7. Public Hearings & Grievances

John Naumchik-We have a public hearing for a lot line change for Heritage Restoration Properties.

Notice is hereby given that the City of Middletown will hold a public hearing on Tuesday, November 15, 2016 on or as near to 8:00 pm as possible, Common Council Chambers, 2<sup>nd</sup> floor, 16 James St., Middletown, NY to hear any and all persons wishing to heard on a proposed lot line change for Heritage Restoration Properties, LLC for Section 31, Block 4, Lot 1.1 and Section 31, Block 4, Lot 1.2.

A full copy of the lot line change plans is available in the City Clerk Office, Room 12 at City Hall 16 James St., Middletown, NY.

Any and all persons wishing to be heard will be given an opportunity to speak either for or against the lot line change.

By order of the Common Council

John C. Naumchik

Clerk of the Common Council

Publish: 11/9/16 & 11/10/16

City Website

Pres. Rodrigues declared public hearing open at 8:20 pm

No one is here for Restoration Properties.

John Naumchik-Asked Rich Guertin, there were no mailings that mean we cannot do the resolution, correct.

Rich Guertin-They haven't provided proof of mailing?

John Naumchik-No proof of mailing.

Rich Guertin-Not a valid public hearing. You might want to set it up for the next meeting for Council.

Meeting declared closed 8:21pm

John Naumchik read the 2<sup>nd</sup> public hearing notice

Public hearing for a lot line change for Keck Properties

Notice is hereby given that the City of Middletown will hold a public hearing on Tuesday, November 15, 2016 on or as near to 8:00 pm as possible, Common Council Chambers, 2<sup>nd</sup> floor, 16 James St., Middletown, NY to hear any and all persons wishing to heard on a proposed lot line change for Keck Properties, LLC for Section 17, Block 3, Lot 11.111 and Section 17, Block 3, Lot 11.12.

A full copy of the lot line change plans is available in the City Clerk Office, Room 12 at City Hall 16 James St., Middletown, NY.

Any and all persons wishing to be heard will be given an opportunity to speak either for or against the lot line change.

By order of the Common Council

John C. Naumchik

Clerk of the Common Council

Publish: 11/9/16 & 11/10/16

Website

Pres. Rodrigues opened the public hearing 8:23

John Naumchik-Asked Mr. Keck for proof of mailings.

Mr. Keck-Handed in the proof of mailings.

We actually had a site line change 3-4 years ago and I mistakenly didn't go far enough. So this is almost the same thing we just want to get the lines properly on the Catholic Charity building next door for future use possibly for expansion of our company or sale of either.

Pres. Rodrigues asked if anyone from the public would like to address Council.

Paula Dawkins- Asked for clarification. I am the last house next to the lot, next to Catholic Charities and I got this letter in the mail stating the lot line change. But I'm not sure what is going to be changed.

Mr. Keck showed Ms. Dawkins on the map. No change that you would ever notice. Very simple. If we do want to build ever or sell it puts the line where it should be.

Pres. Rodrigues asked if any members of the Council had questions.

Ald. Kleiner-I just want to explain, we did discuss these in the Planning/Economic Development Committee the Council has looked at these and we all thought pretty straight forward and didn't see any problem.

On motion of Ald. Masi seconded by Ald. Burr public hearing closed at 8:25pm

Pres. Rodrigues declared public hearing close.

John Naumchik read the 3<sup>rd</sup> public hearing

Public hearing for a lot line change for 14 & 16 Dolson Ave.

Notice is hereby given that the City of Middletown will hold a public hearing on Tuesday, November 15, 2016 on or as near to 8:00 pm as possible, Common Council Chambers, 2<sup>nd</sup> floor, 16 James St., Middletown, NY to hear any and all persons wishing to heard on a proposed lot line change for 14 & 16 Dolson Ave. for Section 39, Block 5, Lot 6 and Section 39 Block 5 Lot 7.

A full copy of the lot line change plans is available in the City Clerk Office, Room 12 at City Hall 16 James St., Middletown, NY.

Any and all persons wishing to be heard will be given an opportunity to speak either for or against the lot line change.

By order of the Common Council

John C. Naumchik

Clerk of the Common Council

Publish: 11/9/16 & 11/10/16

Website

John Naumchik asked for proof of mailings.

Mrs. Salamouras handed in proof of mailing.

Pres. Rodrigues asked for a brief summary

Mrs. Salamouras- I lost my husband 4 years ago, I ended up with the business and 6 houses. Wanted to change the lot line so that I can be able to sell two (2) of the houses because it is too much to handle.

On motion of Ald. Masi seconded by Ald. Ramkissoon to close public hearing

All in favor

Pres. Rodrigues declared public hearing closed at 8:27pm

All in favor.

8. Petitions & Complaints

John Naumchik-Nothing this evening.

9. Remarks of the Mayor

Mayor DeStefano-I would like to join our Rec. Commissioner and congratulate the Division III youth football going into the OC Super Bowl. I hope to attend.

Last night at the Senior Center we had another meeting of the DRI, Downtown Revitalization Initiative; this was the public input meet. The planning organization invites different groups or anyone from the public whether a Middletown resident or not to participate in breakout sessions discussing or identifying how people would like to see how people would like to see how that money spent. Talk about what concerns or issues they believe the City should be addressing. Pretty well attended but more impressively half the crowd was kids in High School and not only Middletown area from Warwick, I believe Chester, Goshen even some students not participating in the mentor program. There was a young man from Goshen; Jackson gave a lot insight, a lot of input into what he thought we should be doing. We thought the meeting was successful, I believe there is another committee meeting coming up in early December. The dates will be posted on our website whether it is a meeting of the committee or a public participation session. Each meeting does have public input. We welcome you to either send in your comments through e-mail or go on our website; I believe the questionnaire is either on or will be on. A survey that is going on by the planning company to see what the general public would like to see; we encourage anyone to go on our website and click on the DRI survey and give us your input. So we could properly spend the \$10million.

Last Wednesday we received an award from Patterns for Progress called the Urban Action Agenda Award. It was pretty well attended event in New Windsor and one of the reasons why we received it was I think Maria did distribute the Planning magazine which is a national planning magazine. I will read the first paragraph I think it is important and shows that we are getting national recognition for what we are doing and the reason why we are doing what we are.

Opens with pictures of the Woolworth building both old and new. "Unlike other small urban areas in its region, the City of Middletown, NY, has been gaining population and jobs. About 28,000 people live there, a nearly 10% increase since 2000. Among its centers of employment and vitality are a community college and a state university branch; a college of osteopathy, which opened in 2014 in a disused

hospital; and a satellite campus of an English-Chinese bilingual college that is moving into part of a former state psychiatric institution”.

This magazine is as I said is distributed nationally. Since this magazine due to others working in the area we have been approached by two technology companies that we will be discussing in Executive Session this evening; to look into relocate their startup businesses as we have been discussing Orange Accelerator program. This is exactly the target group we are trying to get. One is from Brooklyn and one is from New Jersey. People are taking notice of our activity, I think we are on the right path and as you see in Executive Session and hopefully we will be able to discuss it publicly in some point in the future.

CDA-Community Development Agency is a valuable program for us to create homeownership and the three projects that we are approving tonight is short term funding and all voted on in the CDA; but the public may not be aware. The resolution tonight is a just a bridge loan in order to renovate the homes to certain housing standards, we already have buyers for these homes. They have been pre-approved for mortgages; they have gone through mortgage counseling through Not for Profit. They are not selected by us, they are selected by the Not for Profit and we have no input who purchases these homes and there is a 10 year commitment in order to reap the benefit of this home ownership program. So we have more to go, we are hoping to have up and running within 6 months, the contractor is ready to move on it very quickly, CDA to approve it and we are hoping within the next 6 months we will have 3 more ribbon cuttings for 3 families to have some homeownership.

The budget took a lot of work; Don Paris deserves a lot of recognition for putting it all together for us. Of course the hard work of the Council Pres. and Finance Chairman certainly went a long way in getting it on time and early.

#### 10. Remarks of Aldermen

Ald. Jean-Francois- I had the opportunity to attend the Mayor's Award Ceremony, Congratulations Mayor.

Ald. Kleiner- I want to thank the Elk's for the Veteran's Day ceremony; the Mayor was there and Ald. Masi. They do a nice job. I hope we can pack the room next year and get more people out.

Reminder starting November 15<sup>th</sup> that would be today there is No Parking on the streets of Middletown from 2am-6am. We have been doing this for many, many years.

The Skate Park on November 30<sup>th</sup>, I hope people come out and get involved.

Also was I was at the Downtown Revitalization public meeting yesterday. I think they are doing a really good job of organizing on how it is coming together and getting input. It was nice to see so many young people there; I wish more of them would speak up. Eventually they did and offer some ideas. The next meeting of the committee is December 7<sup>th</sup> at 5pm at Thrall Library. The next public meeting again will be at the Mulberry Senior Center, December 15<sup>th</sup> at 7pm. If you have any ideas, input or suggestions on how you think that \$10million could best be used to move Middletown forward please come out and join in the conversation.

Ald. Witt-Nothing this evening.

Ald. Johnson-Congratulate the Mayor and company.

I want to give an update we did revitalize the TNR program for cats and on behalf of the City I want to thank those involved. Dwindling the cat population on Linden Ave.

Ald. Ramkissoo-Piggyback my congratulations to the Mayor, deserving of the award.

Next week, Tuesday the 22<sup>nd</sup> at 7pm will be the 3<sup>rd</sup> Ward meeting and Neighborhood Watch meeting. Will be combining for the month of November due to Election Day.

There was a 2 alarm fire last week on Wisner Ave. One of our firefighters suffered some injuries during that fire. I think it is a reminder the risk our firefighters undertake. I would like to thank him for his service and speedy recovery. As well as all the other firefighters who responded and Mutual Aid, thank you.

Ald. Burr-At the Finance meeting tonight I would like to thank Don, staff and all dept. heads. The budget seems to be getting easier and easier every year. Still staying under the tax cap which is very good.

My 1<sup>st</sup> Ward constituents please bring the leaves in a little off the curb. Our roads are very narrow and I appreciate it.

Wish everybody Happy Thanksgiving.

Ald. Masi-I want to thank the Elk's Club for a nice presentation for Veteran's Day.

Wish everyone Happy Thanksgiving.

Tonight we have 2 resolutions- one to pass the budget. I want to thank everyone who was involved in the budget process and Council. Hoping you will vote favorably.

Cherry Road we had a representative here tonight and he answered a number of our questions from the Council. I am hoping you vote on the resolution also.

#### 11. Unfinished Business

John Naumchik-Nothing this evening.

12. New Business

326.16 Resolution to authorize Corporation Counsel and the City Treasurer to hold a tax sale on Saturday, December 10, 2016 at City Hall.

On motion of Ald. Masi seconded by Ald. Johnson

RESOLVED, that the Common Council of the City of Middletown authorizes the Corporation Counsel and the City Treasurer to hold a tax sale on Saturday, December 10 2016, at 10 a.m. in the Common Council Chambers, Second Floor, City Hall, 16 James Street, to offer for sale all properties which have delinquent taxes, assessments, and/or water and sewer rents as of prior October 1, 2015.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-8

327.16 Resolution to authorize the Treasurer to transfer a total of \$2,000.00 within the Recreation & Parks Department to cover shortage of funds due to the increase of special events and longer seasonal use of ballfields by the public.

On motion of Ald. Witt seconded by Ald. Burr

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment and authorizes the Treasurer to transfer a total of \$ 2,000.00 within the Recreation & Parks Department to cover shortage of funds due to the increase of special events and longer seasonal use of ballfields by the public in the following manner:

<u>FROM</u>	<u>AMOUNT</u>	<u>TO</u>
<b>A.7140.100</b> Playgrounds/Personal Services	<b>\$2,000.00</b>	<b>A.7110.103</b> Parks/Overtime

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-8

328.16 Resolution to authorize the Mayor to sign a Workers Compensation Services agreement for a one year period from January 1, 2017 through December 31, 2017.

On motion of Ald. Ramkissoon seconded by Ald. Johnson

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 attached Workers Compensation Services agreement for a one year period from January 1, 2017 through December 31, 2017.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-8

329.16 Resolution to award the bid for Street Materials.

On motion of Ald. Jean-Francois seconded by Ald. Witt

WHEREAS, bids were opened by the Board of Estimate and Apportionment on October 11, 2016, for Street Materials, and

WHEREAS, the Board of Estimate and Apportionment referred the bids to the Commissioner of Public Works for his review and recommendation to the Common Council of the City of Middletown, and,

NOW THEREFORE BE IT RESOLVED; that the Common Council of the City of Middletown concurs with the Commissioner of Public Works and awards the bid for Street Materials to the following:

Ellenville Sand & Gravel, Route 209, 11 Spring Street, Ellenville, NY 12428:  
Screened & Washed Sand: Stockpile @ \$16.48/ton; Plant @ \$7.49/ton

Dick's Concrete Co., Inc., 1053 County Route 37, New Hampton, NY 10958:  
Screened Stone Sand: Stockpile @ \$16.95/ton; Plant @ \$14.95/ton  
N.Y.S. Item 304-2.02: Stockpile @ \$15.25/ton; Plant @ \$10.00/ton  
Crushed Stone: 3/8": Stockpile @ \$19.95/ton; Plant @ \$15.45/ton  
Crushed Stone: 5/8": Stockpile @ \$19.00/ton; Plant @ \$14.50/ton  
Crushed Stone: #2 Stockpile @ \$16.75/ton; Plant @ \$13.75/ton  
Crushed Stone: #3 Stockpile @ \$18.45/ton; Plant @ \$14.45/ton  
Run of Bank Gravel delivered to various locations @ \$13.45/cu. yd.  
Run of Bank Gravel loaded on City trucks @ \$10.00/cu. yd.

Callanan Industries, Inc., P. O. Box 15097, Albany, NY 12212-5097:  
(Plant in Bridgeville, Monticello)  
Asphalt pre-mix for cold patching: Stockpile @ \$117.00/ton; Plant @ \$110.00/ton

E. Tetz & Sons, Inc., 130 Crotty Rd., Middletown, NY 10941:  
NYS Item 403.16 Top Course Type 6 Plant @ \$60.00/ton-due to Plant close proximity  
NYS Item 403.18 T.C. Type 7 Plant @ \$61.00/ton-due to Plant close proximity  
NYS Item 403.14 A.C.B.C. Type 4 Plant @ \$59.00/ton  
NYS Item 403.13 A.C.B.C. Type 3 Plant @ \$59.00/ton-due to Plant close proximity  
NYS Item 403.11 B.C. Type 1 Plant @ \$58.00/ton-due to Plant close proximity  
NYS Item 403.12 B.C. Type 2 Plant @ \$58.00/ton-due to Plant close proximity

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi,  
Pres. Rodrigues-8

330.16 Resolution to schedule a public hearing on a proposed four lot subdivision for 8, 10, 12-14 and 16 Houston Avenue Extension.

On motion of Ald. Johnson seconded by Ald. Jean-Francois

RESOLVED; that the Common Council of the City of Middletown hereby scheduled a public hearing on Tuesday, December 06, 2016 to close to 8:00PM as possible to hear any and all persons wishing to be heard on a proposed four lot subdivision for 8, 10, 12-14 and 16 Houston Ave Extension, Section 43, Block 5, Section 5, 6, 7, and 51.1.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-8

331.16 Resolution to approve SEQRA for Heritage Restoration Properties LLC lot line change

On motion of Ald. Johnson seconded by Ald. Ramkissoon

#### **MOTION TO TABLE**

**WHEREAS**, Heritage Restoration Properties, LLC (“Heritage”) is the equitable owner of property known as 22 Cottage Street, Middletown, New York (a portion of the former Clemson Brothers building now known as the Clemson Bros. Brewery), also shown on the tax map of the City as Section 31 Block 4 Lots 1.1 and 1.2 (“the Property”), and

**WHEREAS**, Heritage has submitted a subdivision application and a proposed subdivision map to the Common Council to change the lot lines of the Property to encompass a “beer garden” area as part of the brewery complex located on the portion of the Property known as Section 31 Block 4 Lot 1.1 (“the Action”), and

**WHEREAS**, the engineer for Heritage has prepared and submitted a Short Environmental Assessment Form (“EAF”) pursuant to the New York State Environmental Quality Review Act (“SEQRA”) and the Regulations of the Commissioner of the Department of Environmental Conservation at 6 NYCRR Part 617 (“the Regulations”), and

**WHEREAS**, the Common Council is the Lead Agency as the sole Involved Agency in connection with the SEQRA review of the Action, and

**WHEREAS**, the Common Council, on November 15, 2016, held a public hearing on the Action and all persons who wanted to speak about the Action were able to do so.

**NOW, THEREFORE, BE IT RESOLVED** that the Common Council of the City of Middletown makes the following findings with respect to the potential environmental impact of the Action:

1. The Action includes proposed lot line changes for the Property to encompass a “beer garden” area as part of the brewery complex presently located on the portion of the Property known as

Section 31 Block 4 Lot 1.1.

2. The Action is an Unlisted Action pursuant to SEQRA.
3. The EAF regarding the Action has been filed with the Common Council.
4. The review of the Action is not a Coordinated Review.
5. Approval of the Action will allow the beer garden area to become part of the lot on which the existing brewery and restaurant already are located.
6. The Action will not have a significant negative impact on air or water quality, traffic or noise levels or erosion or drainage conditions.
7. The traffic impacts from the Action are minimal. There is sufficient existing parking in the area, the area is served by existing City streets, and there are plans by Orange County and the City of Middletown to extend the Heritage Trail in and around the area of the Property.
8. There will be limited, if any, effect on surface or subsurface water.
9. There is no evidence that the Action will pose a threat to any threatened or endangered species of plants or animals or the habitats of such species or have any adverse effect on migratory fish or wildlife species.
10. The Action does not appear to impair the character of any historical area or aesthetic resource or negatively impact the character of the neighborhood. The Action will not have a negative impact on the character or quality of the existing community or the character of the neighborhood.
11. No change in energy use will occur as a result of the Action.
12. The Action will not create any hazard to human health.
13. The use of the land will not be substantially changed by the Action and will be consistent with the existing zoning and use of the Property.
14. The Action will not result in demand for other actions that exhibits the impacts addressed by the Regulations.
15. There will be no changes to multiple elements of the environment that cumulatively would result in substantial adverse impacts.
16. There are no projects which have been approved by the Common Council or which are seeking approval from the Common Council which, when taken together with the Action, would cause a significant effect on the environment. In fact, approval of the Action would benefit existing and planned development and the economy of the area.

17. All of the criteria contained in 6 NYCRR Part 617 have been addressed to the satisfaction of the Common Council.

**BE IT FURTHER RESOLVED** that the Common Council of the City of Middletown makes the following determination:

The Common Council, as the Lead Agency and the sole Involved Agency, following its review of the EAF and the proceedings at the public hearing in connection with the Action, hereby determines that the Action will not have a significant impact on the environment and is, by this resolution, making a negative declaration of environmental impact as that term is defined under SEQRA and the Regulations, and the Common Council further directs the Commissioner of Public Works to issue, file and circulate a Notice of Determination of Non-Significance as the same may be required by the Regulations.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-8

332.16 Resolution to approve the lot line change for Heritage Restoration Properties LL

On motion of Ald. Johnson seconded by Ald. Ramkissoon

#### **MOTION TO TABLE**

Whereas, Heritage Restoration Properties LLC, has submitted a lot line change map for property, which property is shown on the tax map of the City of Middletown as Section 31 Block 4 Lot 1.1 & 1.2, and

Whereas, SJAR Reality LLC is seeking approval of the lot line change from the Common Council of the City of Middletown, and

Whereas, the Common Council of the City of Middletown held a public hearing on the lot line change application on November 15, 2016, and no one at the public hearing objected to the application, and

Whereas, the lot line change application and map and related SEQRA information was submitted to the City of Middletown and hereby determines that the Action will not have a significant impact on the environment and is, making a negative declaration of environmental impact as that term is defined under SEQRA and the Regulations, and

Now, therefore, be it resolved by the Common Council of the City of Middletown that the lot line change application and map submitted by Heritage Restoration Properties LLC is hereby approved for filing upon signatures by the appropriate City officials.

333.16 Resolution to approve SEQRA for Keck Properties LLC a lot line change.

On motion of Ald. Johnson seconded by Ald. Burr

**WHEREAS**, Keck Properties LLC (“Keck”) is the owner of property known as 307 North Street, Middletown, New York, also shown on the tax map of the City as Section 17 Block 3 Lots 11.111 and 11.112 (“the Property”), and

**WHEREAS**, Keck has submitted a subdivision application and a proposed subdivision map to the Common Council to change the lot lines of the Property to allow construction of a new storage building on a portion of the Property consistent with existing zoning, lot size and setback requirements (“the Action”), and

**WHEREAS**, Keck has prepared and submitted a Short Environmental Assessment Form (“EAF”) pursuant to the New York State Environmental Quality Review Act (“SEQRA”) and the Regulations of the Commissioner of the Department of Environmental Conservation at 6 NYCRR Part 617 (“the Regulations”), and

**WHEREAS**, the Common Council is the Lead Agency as the sole Involved Agency in connection with the SEQRA review of the Action, and

**WHEREAS**, the Common Council, on November 15, 2016, held a public hearing on the Action and all persons who wanted to speak about the Action were able to do so.

**NOW, THEREFORE, BE IT RESOLVED** that the Common Council of the City of Middletown makes the following findings with respect to the potential environmental impact of the Action:

1. The Action includes proposed lot line changes for the Property to allow construction of a new storage building on a portion of the Property consistent with existing zoning, lot size and setback requirements.
2. The Action is an Unlisted Action pursuant to SEQRA.
3. The EAF regarding the Action has been filed with the Common Council.
4. The review of the Action is not a Coordinated Review.
5. Approval of the Action will allow construction of a storage building on a portion of the Property consistent with existing zoning, lot size and setback requirements.
6. The Action will not have a significant negative impact on air or water quality, traffic or noise levels or erosion or drainage conditions, and if there is any impact, it will be limited and temporary in connection with construction activities.
7. The traffic impacts from the Action are minimal. There is sufficient existing parking in the area and the area is served by existing City streets.

8. There will be limited, if any, effect on surface or subsurface water.
9. There is no evidence that the Action will pose a threat to any threatened or endangered species of plants or animals or the habitats of such species or have any adverse effect on migratory fish or wildlife species.
10. The Action does not appear to impair the character of any historical area or aesthetic resource or negatively impact the character of the neighborhood. The Action will not have a negative impact on the character or quality of the existing community or the character of the neighborhood.
11. No change in energy use will occur other than normal increases associated with any proposed construction and renovation work as a result of the Action.
12. The Action will not create any hazard to human health.
13. The use of the land will not be substantially changed by the Action and will be consistent with the existing zoning and use of the Property.
14. The Action will not result in demand for other actions that exhibits the impacts addressed by the Regulations.
15. There will be no changes to multiple elements of the environment that cumulatively would result in substantial adverse impacts.
16. There are no projects which have been approved by the Common Council or which are seeking approval from the Common Council which, when taken together with the Action, would cause a significant effect on the environment. In fact, approval of the Action would benefit existing and planned development and the economy of the area.
17. All of the criteria contained in 6 NYCRR Part 617 have been addressed to the satisfaction of the Common Council.

**BE IT FURTHER RESOLVED** that the Common Council of the City of Middletown makes the following determination:

The Common Council, as the Lead Agency and the sole Involved Agency, following its review of the EAF and the proceedings at the public hearing in connection with the Action, hereby determines that the Action will not have a significant impact on the environment and is, by this resolution, making a negative declaration of environmental impact as that term is defined under SEQRA and the Regulations, and the Common Council further directs the Commissioner of Public Works to issue, file and circulate a Notice of Determination of Non-Significance as the same may be required by the Regulations.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi,  
Pres. Rodrigues-8

334.16 Resolution to approve the lot line change for Keck Properties LLC.

On motion of Ald. Johnson seconded by Ald. Masi

Whereas, Keck Properties LLC, has submitted a lot line change map for property, which property is shown on the tax map of the City of Middletown as Section 17 Block 3 Lot 11.111 & 11.112, and

Whereas, Keck Properties LLC is seeking approval of the lot line change from the Common Council of the City of Middletown, and

Whereas, the Common Council of the City of Middletown held a public hearing on the lot line change application on November 15, 2016, and no one at the public hearing objected to the application, and

Whereas, the lot line change application and map and related SEQRA information was submitted to the City of Middletown and hereby determines that the Action will not have a significant impact on the environment and is making a negative declaration of environmental impact as that term is defined under SEQRA, and

Now, therefore, be it resolved by the Common Council of the City of Middletown that the lot line change application and map submitted by Keck Properties LLC is hereby approved for filing upon signatures by the appropriate City officials.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-8

335.16 Resolution to approve SEQRA for 14 & 16 Dolson Ave lot line change.

On motion of Ald. Johnson seconded by Ald. Jean-Francois

**WHEREAS**, Vicki Salamouras (“Salamouras”) is the owner of property known as 14 and 16 Dolson Avenue, Middletown, New York, also shown on the tax map of the City as Section 39 Block 5 Lots 6 and 7 (“the Property”), and

**WHEREAS**, Salamouras has submitted a subdivision application and a proposed subdivision map to the Common Council to change the lot lines of the Property to allow a preexisting accessory building on a portion of the Property to be consistent with existing zoning, lot size and setback requirements (“the Action”), and

**WHEREAS**, Salamouras has prepared and submitted a Short Environmental Assessment Form (“EAF”) pursuant to the New York State Environmental Quality Review Act (“SEQRA”) and the Regulations of the Commissioner of the Department of Environmental Conservation at 6 NYCRR Part 617 (“the Regulations”), and

**WHEREAS**, the Common Council is the Lead Agency as the sole Involved Agency in

connection with the SEQRA review of the Action, and

**WHEREAS**, the Common Council, on November 15, 2016, held a public hearing on the Action and all persons who wanted to speak about the Action were able to do so.

**NOW, THEREFORE, BE IT RESOLVED** that the Common Council of the City of Middletown makes the following findings with respect to the potential environmental impact of the Action:

1. The Action includes proposed lot line changes for the Property to allow a preexisting accessory building on a portion of the Property to be consistent with existing zoning, lot size and setback requirements.
2. The Action is an Unlisted Action pursuant to SEQRA.
3. The EAF regarding the Action has been filed with the Common Council.
4. The review of the Action is not a Coordinated Review.
5. Approval of the Action will allow a preexisting accessory building on a portion of the Property to be consistent with existing zoning, lot size and setback requirements.
6. The Action will not have a significant negative impact on air or water quality, traffic or noise levels or erosion or drainage conditions.
7. The traffic impacts from the Action are minimal. There is sufficient existing parking in the area and the area is served by existing City streets.
8. There will be limited, if any, effect on surface or subsurface water.
9. There is no evidence that the Action will pose a threat to any threatened or endangered species of plants or animals or the habitats of such species or have any adverse effect on migratory fish or wildlife species.
10. The Action does not appear to impair the character of any historical area or aesthetic resource or negatively impact the character of the neighborhood. The Action will not have a negative impact on the character or quality of the existing community or the character of the neighborhood.
11. No change in energy use will occur as a result of the Action.
12. The Action will not create any hazard to human health.
13. The use of the land will not be substantially changed by the Action and will be consistent with the existing zoning and use of the Property.

14. The Action will not result in demand for other actions that exhibits the impacts addressed by the Regulations.

15. There will be no changes to multiple elements of the environment that cumulatively would result in substantial adverse impacts.

16. There are no projects which have been approved by the Common Council or which are seeking approval from the Common Council which, when taken together with the Action, would cause a significant effect on the environment. In fact, approval of the Action would benefit existing and planned development and the economy of the area.

17. All of the criteria contained in 6 NYCRR Part 617 have been addressed to the satisfaction of the Common Council.

**BE IT FURTHER RESOLVED** that the Common Council of the City of Middletown makes the following determination:

The Common Council, as the Lead Agency and the sole Involved Agency, following its review of the EAF and the proceedings at the public hearing in connection with the Action, hereby determines that the Action will not have a significant impact on the environment and is, by this resolution, making a negative declaration of environmental impact as that term is defined under SEQRA and the Regulations, and the Common Council further directs the Commissioner of Public Works to issue, file and circulate a Notice of Determination of Non-Significance as the same may be required by the Regulations.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi,  
Pres. Rodrigues-8

336.16 Resolution to approve the lot line change for 14 & 16 Dolson Ave.

On motion of Ald. Johnson seconded by Ald. Kleiner

Whereas, Vicki Salamouras at 138 academy Avenue, has submitted a lot line change map for property located at 14 & 16 Dolson Avenue, which property is shown on the tax map of the City of Middletown as Section 39 Block 5 Lot 6 & 7, and

Whereas, Vicki Salamouras is seeking approval of the lot line change from the Common Council of the City of Middletown, and

Whereas, the Common Council of the City of Middletown held a public hearing on the lot line change application on November 15, 2016, and no one at the public hearing objected to the application, and

Whereas, the lot line change application and map and related SEQRA information was submitted to the City of Middletown and hereby determines that the Action will not have a significant impact on the environment and is making a negative declaration of environmental impact as that term is defined under SEQRA, and

Now, therefore, be it resolved by the Common Council of the City of Middletown that the lot line change application and map submitted by Vicki Salamouras is hereby approved for filing upon signatures by the appropriate City officials.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi,  
Pres. Rodrigues-8

3371.16 Resolution to close streets for the annual Tree Lighting Ceremony on November 25, 2016 at 6:00PM.

On motion of Ald. Kleiner seconded by Ald. Jean-Francois

RESOLVED; that the Common Council of the City of Middletown authorizes the Chief of Police and/or his designee or the Commissioner of Public Works and/or his designee to close streets at 6:00PM for the Annual Tree Lighting Ceremony to be held on Friday, November 25, 2016. The parade will start at 6:30PM and will continue down North Street where it intersects with West Main Street. At the West Main Street intersection the parade turns right past Festival Square and turns right into James Street in the James Street Parking Lot.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi,  
Pres. Rodrigues-8

338.16 Resolution to approve and adopt the 2017 Annual 2017 budget for the City of Middletown.

On motion of Ald. Masi seconded by Ald. Burr

Whereas, the Board of Estimate and Apportionment has approved and submitted an itemized statement in writing of the estimated revenues 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 the fiscal year January 1, 2017 through December 31, 2017, and,

Whereas, the estimates are entered in full in the minutes as attached to this resolution, and

Now, therefore, be it resolved and ordained that the Common Council of Middletown, NY does hereby approve and adopt the aforesaid amended annual budget presented as follows:

<u>Description:</u>	<u>General Fund:</u>	<u>Water Fund:</u>	<u>Sewer Fund:</u> <u>Fund:</u>	<u>Debt Service</u>
Revenue	\$19,499,049	\$6,952,326	\$5,106,727	
Expense	\$38,348,948	\$6,952,326	\$5,106,727	
Fund Balance	\$154,084	-	-	\$400,000
Appropriation:				
Estimated Revenue:	\$19,499,049			
Tax Levy – General City Purposes	\$18,695,815			

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-8

339.16 Resolution to amend and revise Chapter 104, Section 104-11 of the procurement procedures in the City Code to future CDBG-DR procurements.

On motion of Ald. Ramkissoon seconded by Ald. Kleiner

**WHEREAS**, the City of Middletown has entered into a subrecipient agreement with the Governor’s Office of Storm Recovery, an office of the New York State Housing Trust Fund Corporation, that provides funds for eligible Community Development Block Grant – Disaster Recovery (CDBG-DR) expenditures; and

**WHEREAS**, the subrecipient agreement requires procurement activities funded in whole or in part with CDBG-DR funds to be conducted in compliance with applicable United States Department of Housing and Urban Development (HUD) procurement regulations as well as applicable state and local law; and

**WHEREAS**, on December 26, 2013, the Office of Management and Budget (OMB) published (at 78 Federal Register 78608) the “2 CFR Part 200 Uniform Administrative

*Requirements, Cost Principles, and Audit Requirements for Federal Awards*” that superseded the HUD procurement provisions of 24 CFR Parts 84 and 85; and

**WHEREAS**, HUD has issued new procurement standards as set forth in Notice: SD-2015-01: Transition to 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance* and in Notice: CPD-16-04 Additional Transition and Implementation Guidance for Recipients of Community Planning and Development (CPD) Funds for 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*; and

**WHEREAS**, the City of Middletown desires to revise and amend its procurement procedures to be consistent with the HUD Notices on 2 CFR Part 200; and

**WHEREAS**, the City of Middletown desires to apply the amended and revised procurement procedures to future CDBG-DR procurements.

**NOW, THEREFORE BE IT RESOLVED** by the Common Council of the City of Middletown, on behalf of the City of Middletown, that for CDBG-DR procurement actions undertaken on or after January 1, 2017, the City of Middletown shall comply with the procurement standards as set forth in 2 CFR Parts 200.317 through 200.326, as the same may be amended from time to time. In the event of a conflict between State or local laws and regulations and the procurement requirements of 2 CFR Part 200, the more stringent requirements will apply.

**BE IT FURTHER RESOLVED** that Chapter 104: Procurement Policy of the Code of the City of Middletown shall be and is hereby amended by adding the following as a new Section 104-11, to read, in its entirety, as follows:

**Section 104-11 Standards for federal CDBG-DR Procurement Actions**

Notwithstanding anything else contained in this chapter to the contrary, eligible Community Development Block Grant – Disaster Recovery (CDBG-DR) expenditures and procurement actions undertaken on or after January 1, 2017, shall comply with the procurement standards as set forth in 2 CFR Parts 200.317 through 200.326, as the same may be amended from time to time. In the event of a conflict between State or local laws and regulations and the procurement requirements of 2 CFR Part 200, the more stringent requirements will apply.

**BE IT FURTHER RESOLVED** that this resolution shall take effect immediately.

Roll Call: Ayes: Ald. Ramkisson, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-8

340.16 Resolution for the City to guarantee a bridge loan totaling \$364,000.00 with Community Capital of New York to pay construction costs for the rehabilitation of three houses through the CDA.

On motion of Ald. Masi seconded by Ald. Johnson

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment for the City to guarantee a bridge loan totaling \$364,000.00 with Community Capital of New York to pay construction costs for the rehabilitation of three houses through the CDA at 6 Harrison Street, 182 Cottage Street, and 20 Amchir and authorize the Mayor to sign any and all paperwork related to the guarantee.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-8

341.16 Resolution for the City to accept miscellaneous pieces of blue stone as a donation from Kevin Witt with an estimated value of \$2,126.25 to be installed in a place to be determined.

On motion of Ald. Masi seconded by Ald. Kleiner

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment for the City to accept miscellaneous pieces of blue stone as a donation from Kevin Witt with an estimated value of \$2,126.25 to be installed in a place to be determined.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Kleiner, Burr, Masi, Pres. Rodrigues-7 Abstain-Ald. Witt

342.16 Resolution to authorize the Mayor to accept "Solutions" funding from the Orange County Youth Bureau and, following approval, to sign any and all necessary contracts on behalf of the City of Middletown.

On motion of Ald. Witt seconded by Ald. Burr

RESOLVED, that the Common Council of the City of Middletown, NY, does hereby authorize the Mayor to accept "Solutions" funding from the Orange County Youth Bureau and, following approval, to sign any and all necessary contracts on behalf of the City of Middletown.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-8

343.16 Resolution to approve the Cherry Road contract for 2017

**MOTION FROM THE FLOOR**

On motion of Ald. Johnson seconded by Ald. Ramkissoon

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 attached one year agreement with Cherry Road Technologies to manage the City's Data Processing effort starting Jan 1, 2017 which the total cost is \$327,876 of which \$55,000 is capital and \$20,000 is a contingency to be defined which is included in the City's 2017 budget and subject to Corporation Counsel approval.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-8

13. Local Laws  
John Naumchik-Nothing this evening.

14. Audit

On motion of Ald. Masi seconded by Ald. Ramkissoon

I move that the accounts be audited the claims be adjusted and the Treasurer be authorized to issue warrants for their payment.

Roll Call: Ayes: Ald. Ramkissoon, Johnson, Jean-Francois, Witt, Kleiner, Burr, Masi, Pres. Rodrigues-8

On motion of Ald. Johnson seconded by Ald. Kleiner to go into Executive Session contract discussions

In Executive Session at 8:45pm

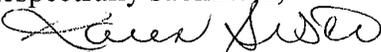
All in favor

On motion of Ald. Ramkissoon seconded by Ald. Johnson to come out of Executive Session 9:32pm

15. Adjournment

There being no further business meeting adjourned at 9:35pm

Respectfully submitted,

  
Karen Sisco



**Department of  
Public Service**

**Public Service Commission**  
**Audrey Zibelman**  
Chair

**Patricia L. Acampora**  
**Gregg C. Sayre**  
**Diane X. Burman**  
Commissioners

**Paul Agresta**  
General Counsel  
**Kathleen H. Burgess**  
Secretary

RECEIVED/FILED

**Office Locations**

**3 Empire State Plaza, Albany, NY 12223-1350**  
90 Church Street, 4<sup>th</sup> Floor, New York, NY 10007-2929  
295 Main Street, Suite 1050, Buffalo, NY 14203-2508  
125 East Bethpage Road, Plainview, NY 11803

[www.dps.ny.gov](http://www.dps.ny.gov)

November 2016

Dear Community Leader/Elected Official:

As the winter season approaches, many New Yorkers will face a difficult time managing their energy costs. This situation may be particularly hard on the elderly and those with fixed or low incomes. It is important that consumers are made aware of steps they can take, and the programs they can participate in, to reduce their energy use and help control energy bills this winter.

The New York State Department of Public Service's winter outreach and education campaign is designed to help consumers manage their energy bills while staying warm and safe during the cold weather months. We are encouraging consumers to take simple, low-cost energy savings measures to reduce energy use and to consider bill payment options and financial assistance programs to help with energy costs.

I am writing to ask for your assistance with our outreach and education effort. Enclosed is a list of available publications related to the upcoming winter season, which include topics such as the rights and protections of electric and natural gas customers, what to do if utility service is interrupted, and the actions consumers can take to manage their winter energy costs. We encourage you to distribute these publications by placing them in high traffic areas in your community.

Please contact Laura Flower of the Office of Consumer Services by phone at (212) 417-6174 or by e-mail at [Laura.Flower@dps.ny.gov](mailto:Laura.Flower@dps.ny.gov) if you have any questions, or would like to discuss ways we can work together to inform consumers about utility issues.

Sincerely,

**LuAnn Scherer**  
Acting Director  
Office of Consumer Services

Enc.

**Dear Community Leader:**

**This winter, help your community control heating costs by using this form to request our consumer education materials free of charge. Descriptions of the publications are on the reverse of this page.**

**Please fill in your contact information along with the quantity of each publication, and return the completed form to the New York State Department of Public Service.**

Organization: \_\_\_\_\_ Contact: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

County: \_\_\_\_\_ Telephone: (     ) \_\_\_\_\_

E-mail for organization: \_\_\_\_\_

Would you like to be added to our email list for future mailings?  yes  no

<b>Publication</b>	<b>English Quantity</b>	<b>Spanish Quantity</b>
<i>Take the Chill Out of Your Winter Energy Bills</i> brochure		
<i>New York's Natural Gas Outlook</i> factsheet		
<i>Your Rights &amp; Protections</i> brochure		
<i>Household Electricity Use &amp; Energy Saving Tips</i> booklet		
<i>Utility Service Interruptions</i> brochure		
<i>Guide to Filing Complaints About Your Utility Service</i> brochure		

**Return completed form via:**

<p><i>Mail:</i></p> <p><b>NYS Department of Public Service Attn: Office of Consumer Services, 4<sup>th</sup> Floor 90 Church Street, New York, NY 10007</b></p>	<p><i>Fax:</i></p> <p><b>(212) 417-2223</b></p>	<p><i>Email:</i></p> <p><b>consumer.outreach@dps.ny.gov</b></p>
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Please allow 2-3 weeks for fulfillment.

OFFICE OF THE  
**ORANGE COUNTY DISTRICT ATTORNEY**

40 MATTHEWS STREET  
GOSHEN, NEW YORK 10924  
TEL: 845-291-2050 • FAX: 845-291-2085  
www.orangecountygov.com



**DAVID M. HOOVLER**  
*District Attorney*

RECEIVED/FILED

November 21, 2016

Clerk John Naumchik  
City of Middletown  
16 James Street  
Middletown, NY 10940

RECEIVED  
NOV 28 2016  
City Clerk  
City of Middletown

RE: Immigrant Affairs Initiative

Dear Clerk Naumchik:

In August, 2016, I launched my Office's Immigrant Affairs Initiative, in an effort to assist immigrant victims in dealing with the criminal justice system, by providing a single point of contact between them and the District Attorney's Office. As a result, the Initiative seeks to encourage immigrant victims to report crimes committed against them; to assist immigrant victims to understand what is happening in their cases; and to achieve more just outcomes in criminal cases where immigrants have been victimized.

I invite you to attend one of two public information sessions, designed to provide Orange County's immigrants and community leaders with information about the Immigrant Affairs Initiative. The two sessions will be held at:

Newburgh Free Library  
124 Grand Street  
Newburgh, New York  
December 6, 2016, at 6:30 p.m.

NOTE: This session is being co-sponsored by the Newburgh Free Library.

The Gilman Center, SUNY Orange, Middletown Campus  
South Street and East Conkling Avenue  
Middletown, New York  
December 7, 2016 at 6:30 p.m.

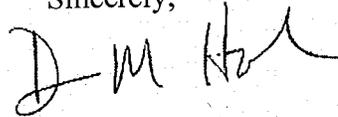
NOTE: This session is being co-sponsored by the SUNY Orange Criminal Justice Department.

Please pass this invitation along to anyone that you feel might benefit from this valuable information, especially those who work with the immigrant population in your area.

For further details about the Immigrant Affairs Initiative or about the upcoming public forums, please contact Robert Conflitti, Counsel to the District Attorney and Immigrant Affairs Coordinator, or Darlene De Jesus, Community Affairs Coordinator, at (845) 615-3640 or by email to [DAImmigration@orangecountygov.com](mailto:DAImmigration@orangecountygov.com).

I hope to see you at one of the sessions. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "D M Hoovler". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

David M. Hoovler  
District Attorney

**John Naumchik**

---

**From:** Alex Smith <asmith22@hvc.rr.com>  
**Sent:** Friday, November 18, 2016 10:56 AM  
**To:** John Naumchik  
**Cc:** 'Joseph DeStefano'; 'J Tawil'  
**Subject:** Chapter 296 - Amend the penalty provision  
**Attachments:** Penalties - Chapter 296.docx

**FORWARD TO  
LEGISLATION COMMITTEE**

John,

Please give the attached resolution to the Council. The penalty provision for the boardinghouse/multiple dwelling permits needs to be updated. No public hearing is required.

Alex

**RECEIVED  
NOV 18 2016  
City Clerk  
City of Middletown**

**RESOLUTION**

WHEREAS, the Common Council seeks to update the penalty provisions of Article III of Chapter 296.

NOW THEREFORE BE IT 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 296, Housing, as adopted July 27, 1959, and as amended thereafter, be and is hereby amended by replacing Section 296-25 (Penalties for offenses) to read as follows:

A person who shall violate a provision of this article shall be guilty, upon conviction, of an offense punishable by a fine not less than \$250 nor more than \$1,000 or by imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment. Each day that a violation is permitted to exist shall constitute a separate offense.

Section 2 - This resolution and ordinance shall take effect immediately

RECEIVED  
NOV 18 2015  
City Clerk  
City of Middletown

**BOARD OF TRUSTEES  
OF THE  
MIDDLETOWN FIRE DEPARTMENT  
81 EAST MAIN STREET  
MIDDLETOWN, NY 10940**

November 16, 2016

Middletown Fire Department Board of Trustee's  
81 East Main Street  
Middletown, N.Y. 10940

Chief Sam Barone  
81 East Main Street  
Middletown, N.Y. 10940

Chief Barone:

The subject of changing the Annual Fire Department Inspection Parade from every year to once every three years to honor the out going Chief was brought to the attention of the Board at their Quarterly meeting held in November 2016.

The members discussed this subject and wanted to let you know that their feeling is to keep it as an Annual Fireman's Inspection Parade.

1- This would also keep the Fire Department in the public view each year, and help with recruitment.

2 - Keep the comradery going between the members of the Department.

3 - Keep the members involved in all three facets of the competitions parade weekend.

4 - When a company is celebrating what ever anniversary they have can be done in the year it happens.

5 - It would also still let the members who only are able to see each other at the parade continue to do so, also including invited guest fire departments.

The Middletown Fire Department Board of Trustee's hope that you will think about the above listed thoughts in your decision on this matter.

Respectfully yours,

Members of the Middletown Fire Department Board of Trustee's

cc: Mayor Destefano  
Members of the Council  
Assistant Chiefs  
All Seven Fire Companies  
File

Received

NOV 30 2016

Common Council Clerk  
City Of Middletown

**CITY OF MIDDLETOWN**

**NOTICE OF PUBLIC HEARING**

Notice is hereby given that the City of Middletown will hold a public hearing on Tuesday, December 06, 2016 on or as near to 8:00 p.m. as possible, Common Council Chambers, 2<sup>nd</sup> floor, 16 James Street, to hear any and all persons wishing to be heard on a proposed four Lot Subdivision for 8, 10, 12-14 and 16 Houston Ave Extension, Section 43, Block 5, Section 5, 6, 7, and 51.1

A full copy of the lot line change plans is available in the City Clerk Office, Room 12 at City Hall 16 James Street, Middletown, New York.

Any and all persons wishing to be heard will be given an opportunity to speak either for or against the lot line change.

By the order of the Common Council

John C. Naumchik  
Clerk of the Common Council  
Publish: 11/21/16 & 11/22/16  
City Website

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16 \_\_\_\_\_

Index No: \_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown hereby scheduled a public hearing on Tuesday, December 20, 2016 to close to 8:00PM as possible to hear any and all persons wishing to be heard on a proposed lot line change for Heritage Restoration Properties, LLC for Section 31 Block 4 Lot 1.1 and Section 31 Block 4 Lot 1.2.

**CITY OF MIDDLETOWN**  
**NOTICE OF PUBLIC HEARING**

Notice is hereby given that the City of Middletown will hold a public hearing on Tuesday, December 20, 2016 on or as near to 8:00 p.m. as possible, Common Council Chambers, 2<sup>nd</sup> floor, 16 James Street, to hear any and all persons wishing to be heard on a proposed lot line change for Heritage Restoration Properties, LLC for Section 31 Block 4 Lot 1.1 and Section 31 Block 4 Lot 1.2.

A full copy of the lot line change plans is available in the City Clerk Office, Room 12 at City Hall 16 James Street, Middletown, New York.

Any and all persons wishing to be heard will be given an opportunity to speak either for or against the lot line change.

By the order of the Common Council

John C. Naumchik  
Clerk of the Common Council  
Publish: 12/12/16 & 12/13/16  
City Website

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16 \_\_\_\_\_

Index No: \_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to authorize the Treasurer to transfer \$2,000.00 within the 2016 DPW budget to cover the cost of the rental of a loader from Boyce Excavating for the removal of leaves City wide in the following manner:

FROM	AMOUNT	TO
A.8170.440	\$2,000.00	A.5110.479
Street Cleaning Repairs		Street Rental

# DEPARTMENT OF PUBLIC WORKS

## MEMORANDUM

RECEIVED

NOV 18 2016

City Clerk  
City of Middletown

Date: November 18, 2016  
To: Honorable Mayor DeStefano, Honorable Members of the Board of Estimate and Apportionment, Members of the Common Council, Don Paris-Treasurer  
From: Jacob Tawil-Commissioner of Public Works  
Re : Transfer of Funds for Loader Rental

The following transfer is necessary to cover the cost of the rental of a loader from Boyce Excavating for the removal of leaves City wide.

A transfer is required as follows:

FROM	AMOUNT	TO
A.8170.440 Street Cleaning Repairs	\$2,000.00	A.5110.479 Street Rental

Thank you.

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16  
\_\_\_\_\_

Index No:  
\_\_\_\_\_

NAMES                      AYES                      NOES                      ABSTAIN                      ABSENT

Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to authorize the Treasurer to transfer \$2,000.00 within the Senior Center 2016 budget to complete repairs needed for the vehicle inspection on 2009 and 2007 shuttle buses in the following manner:

From  
T-86-Donation Acct.

Amount  
\$2,000.00

TO  
GA.5680.440  
Repairs to Equipment

**John Naumchik**

---

**From:** Donald Paris  
**Sent:** Thursday, November 17, 2016 11:00 AM  
**To:** John Naumchik  
**Subject:** FW: BOE Request

RECEIVED  
NOV 18 2016  
City Clerk  
City of Middletown

Donald J. Paris  
Treasurer  
(845) 346-4153  
(845) 343-1101 Fax  
[dparis@Middletown-NY.com](mailto:dparis@Middletown-NY.com)

---

**From:** Julisa Sierra  
**Sent:** Tuesday, November 15, 2016 4:36 PM  
**To:** Donald Paris  
**Subject:** BOE Request

I am requesting that the following transfer be honored to assume repairs needed for vehicle inspection on 2009 and 2007 shuttle buses.

<b>From</b>	<b>Amount</b>	<b>TO</b>
T-86-Donation Acct. Equipment	\$2,000.00	GA.5680.440 Repairs to

*Julisa Sierra*  
Senior Citizen Director  
City OF Middletown,  
Mulberry House Senior Center  
62-70 West Main St.  
Middletown, NY 10940

Ph: (845) 346-4075  
Fax: (845) 346-4072  
Email: [julisa.sierra@middletown-ny.com](mailto:julisa.sierra@middletown-ny.com)

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16

Index No: \_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to authorize the Treasurer to transfer \$7,500.00 within the Finance 2016 budget to building maintenance for replacement of carpet in the Finance office which was the lowest of three quotes in the following manner:

FROM  
A.1325.100  
Personal Services

AMOUNT  
\$7,500.00

TO  
A.1620.470  
Building Maintenance

## John Naumchik

---

**From:** Donald Paris  
**Sent:** Friday, November 18, 2016 8:33 AM  
**To:** John Naumchik  
**Cc:** J Tawil  
**Subject:** FW: Carpet

From:	Amount	To
A.1325.100	\$7,500.00	A.1620.470
Personal Services		Building Maintenance

RECEIVED  
NOV 18 2016  
City Clerk  
City of Middletown

Donald J. Paris  
Treasurer  
(845) 346-4153  
(845) 343-1101 Fax  
[dparis@Middletown-NY.com](mailto:dparis@Middletown-NY.com)

---

**From:** Jacob Tawil [<mailto:jtawil14@yahoo.com>]  
**Sent:** Friday, November 18, 2016 8:05 AM  
**To:** Donald Paris  
**Cc:** Janet Gallo; Bonnie Masci  
**Subject:** Re: Carpet

Thanks Don. Please proceed as discussed, and transfer the funds (as much as you can) from your training line to DPW referenced line so that we don't scramble at end of year to cover building repairs.  
Regards  
Jacob

Sent from my iPhone  
Please excuse any typographical errors.

On Nov 10, 2016, at 10:55 AM, Donald Paris <[dparis@middletown-ny.com](mailto:dparis@middletown-ny.com)> wrote:

Jacob,

We got three quotes for carpet \$12,000, \$9,400 and \$7,500 all the same brand and model.

May I use account A.1620.470? There is about \$10K available. If this runs short by the end of the year we can move some money from the finance department et-al to replace it.

Thanks,  
Don

Donald J. Paris  
Treasurer  
(845) 346-4153  
(845) 343-1101 Fax  
[dparis@Middletown-NY.com](mailto:dparis@Middletown-NY.com)

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16

Index No: \_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to authorize the Treasurer to transfer \$5,160.00 within the Fire Department 2016 budget to cover additional & enhanced firefighter physicals in the following manner:

FROM	AMOUNT	To
A.3410.204	\$ 5,160.00	A.3410.500
Radio System		Physical Exams

**MIDDLETOWN FIRE DEPARTMENT**  
81 East Main Street  
Middletown NY 10940

November 16, 2016

**RECEIVED**  
NOV 18 2016  
City Clerk  
City of Middletown

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 WITHIN the 2016 Fire Department Operating Budget:

<u>From:</u>		<u>To:</u>
A.3410.204 Radio System	\$ 5,160.	A.3410.500 Physical Exams

To cover additional & enhanced firefighter physicals.

Sincerely,



Sam Barone  
Fire Chief

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16 \_\_\_\_\_

Index No: \_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED, that the Common Council of the City of Middletown does hereby authorize the Mayor to sign the attached Assessment Collector's Warrant for 2017.

ASSESSMENT  
COLLECTOR'S WARRANT  
FOR 2017

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

THE PEOPLE OF THE STATE OF NEW YORK TO DONALD J. PARIS,  
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 \$18,695,815.00 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 statute, 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 12/06/16 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 6th day of December in the year of our Lord Two Thousand Sixteen hereunto set my hand and caused the Corporate Seal of the City of Middletown to be affixed.

---

MAYOR

ASSESSMENT  
COLLECTOR'S WARRANT  
FOR 2016

12/1/15

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

THE PEOPLE OF THE STATE OF NEW YORK TO DONALD J. PARIS, 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 \$18,452,270.00 column thereof opposite their respective name, together with your fees thereon  
as herein provided. 18,695,815

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 statute, 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 12/01/15  
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 2nd day of December in the year of our Lord Two Thousand ~~Fifteen~~  
hereunto set my hand and caused the Corporate Seal of the City of Middletown to be affixed.

6TB  
\_\_\_\_\_  
MAYOR

12/6/16  
S. J. Teer

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16 \_\_\_\_\_

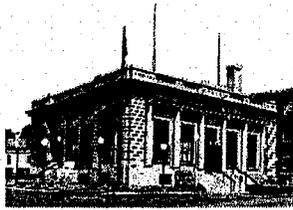
Index No: \_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to authorize the Mayor to sign the attached contract with the County of Orange for the STOP-DWI Enforcement Crackdown for 2016/2017 to accept funding for \$2,100.00 to reduce alcohol-related traffic injuries and fatalities by increasing policy efforts during peak holiday periods.

LET IT BE FURTHER RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to authorize the Treasurer to add the funding to the current STOP-DWI Enforcement Crackdown budget line of A.3126.103.

RAMON BETHENCOURT JR.  
CHIEF OF POLICE



TELEPHONE  
845-343-3151  
FAX NUMBER  
845-343-2660

**CITY OF MIDDLETOWN POLICE DEPARTMENT**

2 JAMES STREET  
MIDDLETOWN, NEW YORK 10940  
ESTABLISHED 1888

November 21, 2016

Mayor Joseph DeStefano  
Members of the Common Council  
And Board of Estimate  
City of Middletown  
16 James Street  
Middletown, New York 10940

RECEIVED  
NOV 22 2016  
City Clerk  
City of Middletown

Dear Mayor DeStefano and Members,

Attached please find the contract with the County for our STOP-DWI Enforcement Crackdown for 2016/2017. The total amount of the award is \$2100 and is to be used in an effort to reduce alcohol-related traffic injuries and fatalities by increasing policing efforts during peak holiday periods.

Please be kind enough to prepare a resolution authorizing the Mayor to sign the agreement and allow us to accept the funding for its intended use.

This contract must be signed in **blue ink**. Once the contract is signed, please return the original to us for forwarding to the County.

In addition, I kindly request that this funding be added to our current STOP-DWI Enforcement Crackdown budget line of A.3126.103.

Thank you.

Very truly yours,

Ramon Bethencourt  
Chief of Police

Enclosure  
RB:ccd

ORANGE COUNTY, NEW YORK



Steven M. Neuhaus  
County Executive

Coordinator  
Craig Cherry  
Deputy Commissioner  
Police Liaison Services

Administrator  
Christina Hale

**STOP-DWI / Traffic Safety Programs**  
22 Wells Farm Road  
Goshen, New York 10924  
845-615-0575



**TO:** City of Middletown  
**FROM:** Craig Cherry, Orange County Stop-DWI Coordinator  
**SUBJECT:** 2016/2017 Crackdown Campaign  
**DATE:** November 14, 2016

Enclosed is your Department's contract for the 2016/2017 STOP-DWI Enforcement Crackdown Campaigns for Thanksgiving Day and Memorial Day Campaigns. Please review the attached Schedule A of the contract for Campaign dates and reimbursement requirements.

This contract has an award an aggregate amount of **\$2100** as identified in Schedule A for all of the events you choose to participate in from the NYS STOP-DWI Foundation which your municipality received through the County. Enclosed are two forms that the Foundation requires for reimbursement purposes, the PS-1 and the Crackdown Grant Summary Sheet. Please use these current forms as they have the correct grant number and categories listed on them. Also, please make sure when filling out the PS-1s that you **DO NOT** request amounts greater than your total allocation for the year as it creates a problem with reimbursement with the Foundation.

Please sign and return this contract to the above address at your earliest convenience to insure that your Department can participate. **Please note this contract requires a Board Certified Resolution outlining the acceptance of these funds as well as the authorized designated official(s) in your municipality who can execute the contract.** If you have any questions, please do not hesitate to contact me.

Your officers are the front line of defense in keeping our roadways safe from impaired and intoxicated drivers. On behalf of County Executive, Steven Neuhaus and Orange County STOP-DWI, thank you and your officers for your commitment to patrolling and protecting our County.



## INTER-MUNICIPAL AGREEMENT

**THIS INTER-MUNICIPAL AGREEMENT** ("IMA") is entered into as of the 1st day of October, 2016, by and between the **COUNTY OF ORANGE**, a County of the State of New York, with its principal offices at 255-275 Main Street, Goshen, New York, by and through its Department of Emergency Services ("COUNTY"), and City of Middletown, a City of the State of New York, with its principal offices at 2 James Street, Middletown, NY 10940, by and through its Police Department ("MUNICIPALITY").

### ARTICLE 1. SCOPE OF AGREEMENT

The COUNTY, by and through its Department of Emergency Services, is the recipient of DWI Enforcement Crackdown grants funds from the New York State STOP-DWI Foundation, Inc. ("FOUNDATION") for the purpose of administering a STOP-DWI Crackdown Enforcement Program for the municipalities in the County of Orange in an effort to reduce alcohol-related traffic injuries and fatalities by increasing policing efforts during peak holiday periods. As a recipient of STOP-DWI Crackdown Enforcement Program funds, the COUNTY is responsible for dispersing such funds to those municipalities located within the bounds of County of Orange who wish to conduct additional crackdown police patrol enforcement campaigns during peak holiday seasons.

It is the intention of the COUNTY, in order to carry out the goals of the STOP-DWI Crackdown Enforcement Program, to award to the MUNICIPALITY funds in the manner set forth on Schedule A to be used solely to reimburse the MUNICIPALITY for man-hours dedicated to enforcement campaigns during the applicable crackdown enforcement periods as more particularly described on Schedule A. The expenditure of these funds and all activity of the MUNICIPALITY relating to such funds, shall be in full compliance with the terms and conditions of this IMA and federal, State of New York ("State"), and local laws.

### ARTICLE 2. TERM OF AGREEMENT

The term of this IMA shall commence on October 1, 2016 and end September 30, 2017.

### ARTICLE 3. PROCUREMENT OF AGREEMENT

The MUNICIPALITY represents and warrants that no person or selling agency has been employed or retained by the MUNICIPALITY to solicit or secure this IMA

upon an agreement for, or upon an understanding of, a commission, percentage, a brokerage fee, contingent fee or any other compensation. The MUNICIPALITY further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. The MUNICIPALITY makes such representations and warranties to induce the COUNTY to enter into this IMA and the COUNTY relies upon such representations and warranties in the execution hereof.

For a breach or violation of such representations or warranties, the COUNTY shall have the right to annul this IMA without liability, entitling the COUNTY to immediately recover the funds paid hereunder from the MUNICIPALITY. This remedy, if effected, shall not constitute the sole remedy afforded the COUNTY for such falsity or breach, nor shall it constitute a waiver of the COUNTY's right to claim damages or to take any other action provided for by law or pursuant to this IMA.

### ARTICLE 4. CONFLICT OF INTEREST

The MUNICIPALITY represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have an interest, and shall not acquire an interest, directly or indirectly which would or may conflict in any manner or degree with the performance of this IMA. The MUNICIPALITY further represents and warrants that in the performance of this IMA, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the COUNTY, nor any person whose salary is payable, in whole or in part, by the COUNTY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this IMA or in the proceeds thereof, unless such person (1) is required by the Orange County Ethics Law, as amended from time to time, to submit a Disclosure form to the Orange County Board of Ethics, amends such Disclosure form to include his/her interest in this IMA, or (2) submits such a Disclosure

form and (a) discloses his/her interest in this IMA, or (b) seeks a formal opinion from the Orange County Ethics Board as to whether or not a conflict of interest exists.

For a breach or violation of such representations or warranties, the COUNTY shall have the right to annul this IMA without liability, entitling the COUNTY to recover the funds. This remedy, if elected, shall not constitute the sole remedy afforded the COUNTY for such falsity or breach, nor shall it constitute a waiver of the COUNTY's right to claim damages or otherwise refuse payment to or to take any other action provided for by law in equity or, pursuant to this IMA.

## **ARTICLE 5. ASSIGNMENT AND SUBCONTRACTING**

No party shall assign any of its rights, interest, or obligations under this IMA, or enter into a sub-contract relating to the funds, without the prior written consent of the COUNTY.

## **ARTICLE 6. BOOKS AND RECORDS**

The MUNICIPALITY agrees to maintain separate and accurate books, records, documents and other evidence and accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this IMA.

The MUNICIPALITY shall, within five (5) business days written notice from the COUNTY, have all records associated with the funds awarded and the enforcement campaigns available for a physical inspection and/or audit by the COUNTY.

## **ARTICLE 7. RETENTION OF RECORDS**

MUNICIPALITY agrees to retain all books, records and other documents relevant to this IMA for six (6) years after the funds are delivered. The COUNTY, or any State and/or Federal auditors, and any other persons duly authorized by the COUNTY, shall have full access and the right to examine any of said materials during said period.

## **ARTICLE 8. AUDIT BY THE COUNTY AND OTHERS**

All claimant certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said claimant's certification forms or invoices are based are subject to audit by the COUNTY. The MUNICIPALITY shall submit any and all documentation and justification in support of

expenditures or fees under this IMA as may be required by the COUNTY, so that it may evaluate the reasonableness of the charges, and the MUNICIPALITY shall make its records available to the COUNTY upon request. All books, claimant's certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the COUNTY, the State, the federal government, and/or other persons duly authorized by the COUNTY. Such audits may include examination and review of the source and application of all funds whether from the COUNTY and State, the federal government, private sources or otherwise. The MUNICIPALITY shall not be entitled to any interim or final payment under this IMA if any audit requirements and/or requests have not been satisfactorily met.

## **ARTICLE 9. INDEMNIFICATION**

The MUNICIPALITY agrees to defend, indemnify and hold harmless the COUNTY, its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including reasonable attorney fees and costs of litigation and/or settlement) arising out of any act or omission of the MUNICIPALITY, its employees, representatives, subcontractor, assignees, or agents, relating to this IMA or the funds.

## **ARTICLE 10. TERMINATION**

The COUNTY may, by written notice to the MUNICIPALITY, effective upon mailing, terminate this IMA in whole or in part at any time (i) for the COUNTY's convenience, (ii) upon the failure of the MUNICIPALITY to comply with any of the terms or conditions of this IMA, or (iii) upon the MUNICIPALITY becoming insolvent or bankrupt.

Upon termination of this IMA, the MUNICIPALITY shall comply with any and all COUNTY closeout procedures, including, but not limited to, (i) accounting for and refunding to the COUNTY within thirty (30) days, any unexpended funds which have been paid and/or transferred to MUNICIPALITY pursuant to this IMA; and (ii) furnishing within thirty (30) days an inventory to the COUNTY of all equipment, appurtenances and property purchased by MUNICIPALITY through or provided under this IMA, and carrying out any COUNTY directive concerning the disposition thereof.

Notwithstanding any other provision of this IMA, the MUNICIPALITY shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of the MUNICIPALITY's breach of this IMA or failure to perform in accordance with applicable standards.

Any rights and remedies of the COUNTY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or this IMA.

**ARTICLE 11. GENERAL RELEASE**

The acceptance by the MUNICIPALITY, or its assignees, of the funds and of the terms of this IMA, shall constitute, and operate as a general release in favor of the COUNTY, from any and all claims of the MUNICIPALITY arising out of the performance of this IMA.

**ARTICLE 12. SET-OFF RIGHTS**

The COUNTY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the COUNTY's right to withhold for the purposes of set-off any monies otherwise due to the MUNICIPALITY (i) under any other agreement or contract with the COUNTY, including any agreement or contract commencing prior to or after the term of this IMA, or (ii) from the COUNTY by operation of law.

**ARTICLE 13. GOVERNING LAW**

**IN WITNESS THEREOF**, the parties hereto have executed this IMA as of the date set forth above.

**COUNTY OF ORANGE**

By: \_\_\_\_\_  
Stefan M. ("Steven") M. Neuhaus  
County Executive

DATE: \_\_\_\_\_

This IMA shall be governed by the laws of the State of New York. The MUNICIPALITY shall utilize the funds in accordance with this IMA and applicable provisions of all federal, State, and local laws, rules, and regulations.

**ARTICLE 14. ENTIRE AGREEMENT**

The rights and obligation of the parties and their respective agents, successors and assignees shall be subject to and governed by this IMA, including Schedule A and each award letter, which supersedes any other understandings or writings between or among the parties.

**ARTICLE 15. MODIFICATION**

No amendment or modification of any of the terms and/or conditions of this IMA shall be valid unless reduced to writing and signed by both parties. The COUNTY shall not be bound by any changes made to this IMA that is not made in compliance with the above, and which imposes on the COUNTY any financial obligation. Unless otherwise specifically provided for therein, the provisions of this IMA shall apply with full force and effect to any such amendment, modification or change order.

**MUNICIPALITY**

By: \_\_\_\_\_  
Name:  
Title:

DATE: \_\_\_\_\_

**SCHEDULE A**  
**STOP-DWI CRACKDOWN ENFORCEMENT GRANT**

**STOP-DWI CRACKDOWN ENFORCEMENT GRANT**

The FOUNDATION was awarded a STOP-DWI Crackdown Enforcement Grant from the New York Governor's Traffic Safety Committee. The grant, HS1-2017-NYS STOP DWI Found.-00183-(088) ("Grant") covers the fiscal year October 1, 2016 through September 30, 2017. Certain municipalities in Orange County have been allocated a not-to-exceed aggregate of EIGHTEEN THOUSAND TWO HUNDRED FORTY EIGHT SEVEN DOLLARS AND 00/100 (\$18,248.00), which funds are payable to certain of those municipalities from the FOUNDATION through the COUNTY.

From the Grant, MUNICIPALITY is eligible for an award not-to-exceed the sum of **TWO THOUSAND ONE HUNDRED AND 00/100 DOLLARS (\$2100)** for enforcement details to support the following crackdown enforcement campaigns periods for 2016/2017:

Thanksgiving: November 23, 2016 through and including November 27, 2016

Memorial Day Holiday Weekend: May 26, 2017 through and including May 29, 2017

Each campaign coincides with New York State and national enforcement campaign efforts.

*MUNICIPALITY acknowledges that the not-to-exceed sum stated above for crackdown enforcement campaigns is **NOT** a guaranteed sum, but instead the maximum amount it could potentially be awarded based on MUNICIPALITY's performance during previous enforcement campaigns as calculated by the COUNTY in its sole and absolute discretion based on MUNICIPALITY's data submittals.*

**DATA SUBMITTAL.**

MUNICIPALITY agrees to deliver to the COUNTY such enforcement activity data in the form required by the FOUNDATION, no later than ten (10) calendar days after the end of each enforcement period.

**AWARD OF FUNDS.**

The award of funds under the Grant are data driven and determined based upon the Grant criteria and the data submitted by the MUNICIPALITY to the COUNTY for enforcement activities occurring during the enforcement periods set forth above.

Provided that MUNICIPALITY has performed in accordance with the terms of this IMA and such terms, conditions, and guidelines required by the FOUNDATION and the Grant for distribution of funds under the Grant, the COUNTY, on behalf of the FOUNDATION, to the extent that funds are appropriated and made available to the COUNTY by the FOUNDATION, will make an award of the Grant funds within ninety (90) calendar days of the close of the last enforcement campaign.



**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16  
\_\_\_\_\_

Index No: \_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to authorize the Mayor to sign the attached agreement with CDM Smith for engineering services providing wastewater treatment organics co-digestion and cogeneration.

LET IT BE FURTHER RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment that only \$50,000.00 be approved for this project for exploratory work on the condition that this amount will be funded by ESG as an advance payment of Phase II.

## John Naumchik

---

**From:** Bonnie Masci  
**Sent:** Friday, November 18, 2016 1:05 PM  
**To:** Donald Paris; John Naumchik; Jacob Tawil  
**Subject:** FW: Middletown - Support letter for CDM Smith review  
**Attachments:** 2016-09-19 ESG Middletown Proposal Review Support Review Letter.pdf

Don,

Please include this e-mail with the previous e-mail I sent for the Nov. 30<sup>th</sup> BOE Meeting.

Thanks

Bonnie

RECEIVED

NOV 18 2016

City Clerk

City of Middletown

---

**From:** Smith, David C. [<mailto:smithdc@cdmsmith.com>]  
**Sent:** Friday, November 18, 2016 12:50 PM  
**To:** Bonnie Masci  
**Subject:** FW: Middletown - Support letter for CDM Smith review

Here is the letter from ESG.

Dave  
732 672-1722

---

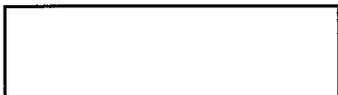
**From:** Dennis Clough [<mailto:dclough@energysystemsgroup.com>]  
**Sent:** Monday, September 19, 2016 3:15 PM  
**To:** Jacob Tawil ([JTawil@middletown-NY.com](mailto:JTawil@middletown-NY.com)) <[JTawil@middletown-NY.com](mailto:JTawil@middletown-NY.com)>  
**Cc:** Smith, David C. <[smithdc@cdmsmith.com](mailto:smithdc@cdmsmith.com)>; David Newman (ECG Engineering) <[dnewman@ecgengineers.com](mailto:dnewman@ecgengineers.com)>; Andrew Miller <[amiller@energysystemsgroup.com](mailto:amiller@energysystemsgroup.com)>; Lawrence Roth <[LROTH@energysystemsgroup.com](mailto:LROTH@energysystemsgroup.com)>; Tony Prelec <[tprelec@energysystemsgroup.com](mailto:tprelec@energysystemsgroup.com)>; Dennis Clough <[dclough@energysystemsgroup.com](mailto:dclough@energysystemsgroup.com)>  
**Subject:** Middletown - Support letter for CDM Smith review

Jacob,

As requested, attached is a letter stating that ESG will reimburse the city for \$55k for the first step of CDM Smith's review of our proposed project at the wastewater treatment plant. I hope this meets your needs.

Thank you.

Dennis Clough  
Project Development, Sustainable Infrastructure



**Energy Systems Group**  
1099 Winterson Road, Suite #110  
Baltimore, Maryland 21090  
C: 443-909-9642 | F: 812-492-8801

Email | Website | News



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1099 Winterson Road,  
Suite 110  
Baltimore, MD 21090

Tel (443) 909-9642  
Fax (812) 492-8801

September 16, 2016

Mr. Jacob Tawil, P.E.  
Commission of Public Works  
City of Middletown, New York  
16 James Street  
Middletown, NY 10940

RECEIVED  
NOV 18 2016  
City Clerk  
City of Middletown

RE: Funding for Project Review by CDM Smith

Dear Mr. Tawil,

On September 2, 2016 we met to discuss the review of ESG's proposal for improvements at the City's Wastewater Treatment Plant. As a result of that conversation, Energy Systems Group agrees to reimburse the City for up to \$55,000 to cover the costs of Task 1A –IGA Preliminary Review, as referenced, in CDM Smith's Proposal for Professional Engineering Services, Wastewater Treatment Plant Organics Co-digestion and Cogeneration Project, which is attached to this letter. CDM Smith has agreed to focus on the legal and contractual aspects of our proposal first, and when agreement is reached, will then move onto the technical aspects of the proposal.

We look forward to serving you on this important project. Please feel free to contact me at (443) 909-9642 if you have any questions.

Respectfully,

A handwritten signature in black ink that reads "Dennis W. Clough". The signature is written in a cursive style with a horizontal line underneath.

Dennis Clough, Project Director

cc: Andrew Miller, General Manager, Northeast Region, Energy Systems Group  
Lawrence Roth, Senior Vice President, Energy Systems Group

**STANDARD FORM OF AGREEMENT  
BETWEEN  
OWNER AND ENGINEER  
WWTP ORGANICS CO-DIGESTION AND COGENERATION PROJECT**

THIS IS AN AGREEMENT made as of September 20, 2016 between CITY OF MIDDLETOWN ("OWNER") and CAMP DRESSER MCKEE & SMITH (CDM SMITH) ("ENGINEER").

OWNER's Project is generally identified as follows WWTP ORGANICS CO-DIGESTION AND COGENERATION PROJECT (the "Project").

OWNER and ENGINEER, in consideration of their mutual covenants herein, agree in respect of the performance or furnishing of services by ENGINEER to the Project and the payment for those services by OWNER as set forth below. Execution of this Agreement by ENGINEER and OWNER constitutes OWNER's written authorization to ENGINEER to proceed on the date first above written with the Services described in Article 1 below. This Agreement will become effective on the date first above written.

**ARTICLE 1 – SCOPE OF SERVICES**

- 1.1 ENGINEER agrees to perform, or cause to be performed, for OWNER services as described in Exhibit A (hereinafter referred to as "Services") in accordance with the requirements outlined in this Agreement.

**ARTICLE 2 – TIMES FOR RENDERING SERVICES**

- 2.1 Specific time periods and/or specific dates for the performance of ENGINEER's Services are set forth in Exhibit A.
- 2.2 If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- 2.3 If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- 2.4 Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services. If ENGINEER's services are delayed or suspended in whole or in part by OWNER for more than three months through no fault of ENGINEER, ENGINEER shall be entitled to equitable adjustment of the schedule and of rates and amounts of compensation provided for elsewhere in this Agreement to reflect, among other things, reasonable costs incurred by ENGINEER in connection with such delay or suspension and reactivation.

**ARTICLE 3 – OWNER'S RESPONSIBILITIES**

OWNER shall:

- 3.1 Pay the ENGINEER in accordance with the terms of this Agreement.
- 3.2 Designate in writing a person to act as OWNER's representative with respect to the services to be performed or furnished by ENGINEER under this Agreement. Such person will have complete authority to transmit instructions, receive information, interpret, and define OWNER's policies and

decisions with respect to ENGINEER's services for the Project.

- 3.3 Provide all criteria and full information as to OWNER's requirements for the Project, including, as applicable to the Services, design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.
- 3.4 Be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- 3.5 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or time of performance or furnishing of ENGINEER's Services or any relevant, material defect or nonconformance in ENGINEER's Services or in the work of any Contractor employed by Owner on the Project.
- 3.6 Bear all costs incident to compliance with the requirements of this Article 3.

#### **ARTICLE 4 – PAYMENTS TO ENGINEER FOR SERVICES**

##### 4.1 Methods of Payment for Services of ENGINEER.

- 4.1.1 OWNER shall pay ENGINEER for Services performed or furnished under this Agreement or as described in Exhibit A. The amount of any excise, VAT, or gross receipts tax that may be imposed shall be added to the compensation shown in Exhibit A. If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional taxes in addition to the compensation to which Engineer is entitled.
- 4.1.2 Invoices for Services will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER at least monthly. Payments are due within 30 days of receipt of invoice.
- 4.1.3 If OWNER fails to make any payment due ENGINEER for services and expenses within thirty days after receipt of ENGINEER's invoice therefor, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and, in addition, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses and charges. Payments will be credited first to interest and then to principal. In the event of a disputed or contested billing, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

OWNER agrees to pay ENGINEER all costs of collection including but not limited to reasonable attorneys' fees, collection fees and court costs incurred by ENGINEER to collect properly due payments.

## ARTICLE 5 – GENERAL CONDITIONS

### 5.1 Standard of Care

The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar conditions at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.

### 5.2 Technical Accuracy

Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

### 5.3 Opinions of Probable Construction Cost

Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

### 5.4 Compliance with Laws and Regulations, and Policies and Procedures

5.4.1 Engineer and Owner shall comply with applicable Laws and Regulations.

5.4.2 This Agreement is based on Laws and Regulations procedures as of the Effective Date. Changes after the Effective Date to Laws and Regulations may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.

5.4.3 Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.

5.4.4 Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.

5.4.5 Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.

5.4.6 Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.

- 5.4.7 Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- 5.4.8 Engineer's services do not include providing legal advice or representation.
- 5.4.9 Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- 5.4.10 While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

## 5.5 Termination

The obligation to provide further services under this Agreement may be terminated:

### 5.5.1 For cause,

- a. by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
- b. by Engineer:
  - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
  - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern.
  - 3) Engineer shall have no liability to Owner on account of such termination.
- c. Notwithstanding the foregoing, this Agreement will not terminate for cause if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

### 5.5.2 For convenience, by Owner effective upon Engineer's receipt of notice from Owner.

### 5.5.3 Effective Date of Termination: The terminating party under Paragraph 5.5.1 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

5.5.4 Payments Upon Termination:

- a. In the event of any termination under Paragraph 5.5, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 5.6.
- b. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 5.5.4.a, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs.

5.6 Use of Documents

- 5.6.1 All Documents created by or on behalf of the ENGINEER in connection with the Project, and any and all copyrights and other intellectual property rights therein shall be deemed for all purposes to be the property of OWNER upon receipt of full payment due and owing for all Services. Notwithstanding any provision to the contrary contained in this Agreement, ENGINEER shall retain sole ownership to its preexisting information including but not limited to computer programs, software, standard details, figures, templates and specifications.
- 5.6.2 If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- 5.6.3 Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer shall jointly develop such protocols. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.
- 5.6.4 OWNER acknowledges that Project Documents are not intended or represented to be suitable for use on the Project unless completed by ENGINEER, or for use or reuse by OWNER or others on extensions of the Project or on any other project without written verification or adaptation by ENGINEER. Any such use or reuse of the Documents prepared by ENGINEER under this Agreement for other than their specific intended purpose will be at the sole risk of the user and without liability or legal exposure to the ENGINEER or ENGINEER's Consultants.
- 5.6.5 If ENGINEER at OWNER's request verifies or adapts the Documents for extensions of the Project or for any other project, then OWNER shall compensate ENGINEER at rates or in an amount to be agreed upon by OWNER and ENGINEER.

5.7 Controlling Law

This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.

5.8 Mutual Waiver of Consequential Damages

Notwithstanding any other provision of this Agreement to the contrary, neither party including their officers, agents, servants and employees shall be liable to the other for lost profits or any special, indirect, incidental, or consequential damages in any way arising out of this Agreement however caused under a claim of any type or nature based on any theory of liability (including, but not limited to: contract, tort, or warranty) even if the possibility of such damages has been communicated.

5.9 Limitation of Liability

In no event shall ENGINEER's total liability to OWNER and/or any of the OWNER's officers, employees, agents, contractors or subcontractors for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to this agreement from cause or causes, including, but not limited to, ENGINEER's wrongful act, omission, negligence, errors, strict liability, breach of contract, breach of warranty, express or implied, exceed the total amount of fee paid to ENGINEER under this agreement or \$500,000, whichever is greater.

5.10 Successors and Assigns

5.10.1 OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 5.10.2 the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

5.10.2 Neither OWNER nor ENGINEER may assign, sublet or transfer any rights under or interest (including, but without limitation, moneys that may become due or moneys that are due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

5.10.3 Unless expressly provided otherwise in this Agreement:

- a. Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by ENGINEER to any Constructor, other person or entity, or to any surety for or employee of any of them, or give any rights in or benefits under this Agreement to anyone other than OWNER and ENGINEER.
- b. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.

5.11 Notices

Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears on the signature page to this Agreement (as modified in writing from time to time by such party) and given personally, by registered or certified mail, return receipt requested, by facsimile, or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.

5.12 Severability

Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

5.13 Changed Conditions

If concealed or unknown conditions that affect the performance of the Services are encountered, which conditions are not ordinarily found to exist or which differ materially from those generally recognized as inherent in the Services of the character provided for under this Agreement or which could not have reasonably been anticipated, notice by the observing party shall be given promptly to the other party and, if possible, before conditions are disturbed. Upon claim by the ENGINEER, the payment and schedule shall be equitably adjusted for such concealed or unknown condition by change order or amendment to reflect additions that result from such concealed, changed, or unknown conditions.

5.14 Environmental Site Conditions

It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to Constituents of Concern, as defined in Article 6. If ENGINEER or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern as defined in Article 6, then ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern, and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.

If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of ENGINEER's services under this Agreement, then the ENGINEER shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days' notice.

OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, so defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with ENGINEER's activities under this Agreement.

5.15 Insurance

ENGINEER shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property.

5.16 Discovery

ENGINEER shall be entitled to compensation on a time and materials basis when responding to all requests for discovery relating to this Project and to extent that ENGINEER is not a party to the lawsuit.

5.17 Nondiscrimination and Affirmative Action

In connection with its performance under this Agreement, ENGINEER shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or

mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. ENGINEER shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. Such actions shall include recruiting and hiring, selection for training, promotion, fixing rates or other compensation, benefits, transfers and layoff or termination.

5.18 Force Majeure

Any delays in or failure of performance by ENGINEER shall not constitute a default under this Agreement if such delays or failures of performance are caused by occurrences beyond the reasonable control of ENGINEER including but not limited to: acts of God or the public enemy; expropriation or confiscation; compliance with any order of any governmental authority; changes in law; act of war, rebellion, terrorism or sabotage or damage resulting therefrom; fires, floods, explosions, accidents, riots; strikes or other concerted acts of workmen, whether direct or indirect; delays in permitting; OWNER's failure to provide data in OWNER's possession or provide necessary comments in connection with any required reports prepared by ENGINEER, or any other causes which are beyond the reasonable control of ENGINEER. ENGINEER's scheduled completion date shall be adjusted to account for any force majeure delay and ENGINEER shall be reimbursed by OWNER for all costs incurred in connection with or arising from a force majeure event, including but not limited to those costs incurred in the exercise of reasonable diligence to avoid or mitigate a force majeure event.

5.19 Waiver

Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

5.20 Headings

The headings used in this Agreement are for general reference only and do not have special significance.

5.21 Subcontractors

ENGINEER may utilize such ENGINEER's Subcontractors as ENGINEER deems necessary to assist in the performance of its Services.

5.22 Coordination with Other Documents

It is the intention of the parties that if the ENGINEER's Services include design then the Standard General Conditions will be used as the General Conditions for the Project and that all amendments thereof and supplements thereto will be generally consistent therewith. Except as otherwise defined herein, the terms which have an initial capital letter in this Agreement and are defined in the Standard General Conditions will be used in this Agreement as defined in the Standard General Conditions. The term "defective" will be used in this Agreement as defined in the Standard General Conditions.

5.23 Purchase Order

Notwithstanding anything to the contrary contained in any purchase order or in this Agreement, any purchase order issued by OWNER to ENGINEER shall be only for accounting purposes for OWNER and the pre-printed terms and conditions contained on any such purchase order are not incorporated herein, shall not apply to this Agreement, and shall be void for the purposes of the Services performed by ENGINEER under this Agreement.

5.24 Dispute Resolution

In the event of any dispute between the parties arising out of or in connection with the contract or the services or work contemplated herein; the parties agree to first make a good faith effort to resolve the dispute informally. Negotiations shall take place between the designated principals of each party. If the parties are unable to resolve the dispute through negotiation within 45 days, then either party

may give written notice within 10 days thereafter that it elects to proceed with non-binding mediation pursuant to the commercial mediation rules of the American Arbitration Association. In the event that mediation is not invoked by the parties or that the mediation is unsuccessful in resolving the dispute, then either party may submit the controversy to a court of competent jurisdiction. The foregoing is a condition precedent to the filing of any action other than an action for injunctive relief or if a Statute of Limitations may expire.

Each party shall be responsible for its own costs and expenses including attorneys' fees and court costs incurred in the course of any dispute, mediation, or legal proceeding. The fees of the mediator and any filing fees shall be shared equally by the parties.

## ARTICLE 6 – DEFINITIONS

Whenever used in this Agreement the following terms have the meanings indicated which are applicable to both the singular and the plural.

6.1 Agreement

This Agreement between OWNER and ENGINEER for Professional Services including those exhibits listed in Article 7.

6.2 Constituent of Concern

Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to [a] the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); [b] the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; [c] the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); [d] the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; [e] the Clean Water Act, 33 U.S.C. §v1251 et seq.; [f] the Clean Air Act, 42 U.S.C. §§7401 et seq.; and [g] any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

6.3 Construction Cost – ♦

The total cost to OWNER of those portions of the entire Project designed or specified by ENGINEER. Construction Cost does not include ENGINEER's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties, or OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to Article 3. Construction Cost is one of the items comprising Total Project Costs.

6.4 Constructor

Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.

---

♦ This provision is applicable for projects where ENGINEER provides Design, Bidding and/or Construction Phase Services.

- 6.5 Contractor - ♦  
The person or entity with whom OWNER enters into a written agreement covering construction work to be performed or furnished with respect to the Project.
- 6.6 Documents  
As applicable to the Services, the data, reports, drawings, specifications, record drawings and other deliverables, whether in printed or electronic media format, provided or furnished by ENGINEER to OWNER pursuant to the terms of this Agreement.
- 6.7 ENGINEER's Subcontractor.  
A person or entity having a contract with ENGINEER to perform or furnish Services as ENGINEER's independent professional subcontractor engaged directly on the Project.
- 6.8 Reimbursable Expenses.  
The expenses incurred directly in connection with the performance or furnishing of Services for the Project for which OWNER shall pay ENGINEER as indicated in Exhibit A.
- 6.9 Resident Project Representative - ♦  
The authorized representative of ENGINEER who will be assigned to assist ENGINEER at the site during the Construction Phase. The Resident Project Representative will be ENGINEER's agent or employee and under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are set forth in Exhibit B, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative" ("Exhibit B").
- 6.10 Standard General Conditions - ♦  
The Standard General Conditions of the Construction Contract (No.       ) of the Engineers Joint Contract Documents Committee.
- 6.11 Total Project Costs - ♦  
The sum of the Construction Cost, allowances for contingencies, the total costs of design professional and related services provided by ENGINEER and (on the basis of information furnished by OWNER) allowances for such other items as charges of all other professionals and consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided by others to OWNER under Article 3.
- 6.12 Work - ♦  
The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.

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♦ This provision is applicable for projects where ENGINEER provides Design, Bidding and/or Construction Phase Services.

**ARTICLE 7 – EXHIBITS AND SPECIAL PROVISIONS**

7.1 This Agreement is subject to the provisions of the following Exhibits which are attached to and made a part of the Agreement:

**EXHIBIT A - TO AGREEMENT BETWEEN OWNER AND ENGINEER**

This Agreement (consisting of Pages 1 to 11 inclusive), and the Exhibits identified above constitute the entire agreement between OWNER and ENGINEER and supersede all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.

OWNER:

ENGINEER:

\_\_\_\_\_  
By: Joseph M. DeStefano  
Title: City Mayor  
Date: September 20, 2016

\_\_\_\_\_  
By: Thomas R. Schoettle  
Title: Partner  
Date: September 20, 2016

Address for giving notices:  
16 James Street  
Middletown, NY 10940

Address for giving notices:  
110 Fieldcrest Avenue, #8  
6th Floor  
Edison, NJ 08837

**EXHIBIT A  
TO AGREEMENT BETWEEN  
OWNER AND ENGINEER  
WWTP ORGANICS CO-DIGESTION AND COGENERATION PROJECT**

This is an exhibit attached to and made a part of the Agreement dated September 20, 2016, between the CITY OF MIDDLETOWN (OWNER) and CAMP DRESSER MCKEE & SMITH (CDM SMITH) (ENGINEER) for professional services.

**1.0 ENGINEER'S SERVICES**

Scope of Services shall be as defined in the letter proposal prepared by CDM Smith dated August 4, 2016, attached.

**2.0 OWNER'S RESPONSIBILITIES**

2.1 Furnish to ENGINEER, as requested by ENGINEER for performance of Services as required by the Contract Documents, the following:

2.1.1 The services of an independent testing laboratory to perform all inspections, tests and approvals of samples, materials and equipment;

2.1.2 Appropriate professional interpretation of all of the foregoing;

2.1.3 Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to the Project, the site and adjacent areas;

2.1.4 Field surveys for design purposes and property, boundary, easement, right-of-way, topographic and utility surveys or data, including relevant reference points;

2.1.5 Property descriptions;

2.1.6 Zoning, deed and other land use restrictions; and

2.1.7 Other special data or consultations not covered in Article 2.

OWNER shall be responsible for, and ENGINEER may rely upon, the accuracy and completeness of all reports, data and other information furnished pursuant to this paragraph. ENGINEER may use such reports, data and information in performing or furnishing services under this Agreement.

2.2 Provide access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under this Agreement.

2.3 Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by ENGINEER (including obtaining advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate with respect to such examination) and render in writing decisions pertaining thereto.

2.4 Furnish to ENGINEER data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER and other costs so that ENGINEER may make the necessary calculations to develop and periodically adjust ENGINEER's opinion of Total Project Costs.

2.5 Bear all costs incident to compliance with the requirements of the OWNER's Responsibilities.

3.0 TIME PERIOD FOR PERFORMANCE

The time periods for the performance of ENGINEER's services as set forth in Article 2 of said Agreement are as follows:

The period for the performance of Engineering Services shall be as defined in the letter proposal prepared by CDM Smith dated August 4, 2016.

4.0 METHOD OF PAYMENT

The method of payment for Services rendered by ENGINEER shall be as set forth below:

Compensation shall be on a time and materials basis for as outlined in CDM Smith's letter proposal dated August 4, 2016.



110 Fieldcrest Avenue, #8  
6<sup>th</sup> Floor  
Edison, New Jersey 08837  
tel: 732-225-7000  
fax: 732-225-7851

August 4, 2016

Mr. Jacob Tawil, P.E.  
Commissioner of Public Works  
City of Middletown  
16 James Street  
Middletown, NY 10940

RECEIVED  
NOV 18 2016  
City Clerk  
City of Middletown

Subject: Proposal for Professional Engineering Services  
Wastewater Treatment Plant Organics Co-digestion and Cogeneration Project

Dear Commissioner Tawil:

In follow up to our recent discussion, we are pleased to submit this revised proposal to provide engineering support services to the City of Middletown (City) for above referenced project. It is our understanding that that the City will communicate its desire to proceed with this scope directly with its energy service provider, ECG Engineering, P.C. (ECG). We will of course be happy to support any follow up discussions with ECG or other project stakeholders.

**Project Understanding**

It is our understanding that the City is considering moving forward with the importation and treatment of third party waste materials including, but not limited to, municipal wastewater biosolids, fats, oils, grease (FOG), and other food waste. Importation of these materials is intended to generate a long term revenue stream for the City from tipping/disposal fees specified in yet to be negotiated agreements with one or more third party hauling and disposal contractors.

Receiving and treatment of third party waste materials will require modifications of the existing treatment plant and will result in increased operations and maintenance of the facility. The City is pursuing an alternative delivery method for the plant modifications. Under this approach, the City intends to develop a partnership with the project developer, Energy Systems Group (ESG), to design and construct the improvements and provide ongoing organics marketing and codigestion operations support services.



On May 12, 2016, ESG with the support of ESG's project engineer, HDR Engineers, prepared an Investment Grade Audit (IGA) for the project. This 222-page document describes ESG's offering and will eventually serve as the basis for ESG's contract with the City. The IGA includes financials, scope of services, WWTP improvement plans, organics agreements, energy calculations, etc. An overview of the proposed improvements, as described in the IGA, is noted below.

1. Anaerobic Digester Improvements:
  - a. Removal of the existing cover on third digester and install new floating steel cover
  - b. Mixing system for the third digester
  - c. Miscellaneous valve and piping modifications
  
2. Thickened Sludge Building
  - a. Demolition of the existing building
  - b. New masonry building
  - c. FOG receiving station (wet well, etc.) and control panel
  - d. Two (2) new gravity belt thickeners, control panels, piping, walkways, valves, and appurtenances
  - e. Motor control center
  - f. New equipment including belt filter press pumps, digester feed pumps, HSW storage tank feed pump, recuperative thickened sludge pump, thickened sludge pump, gravity belt thickener pumps and swing spare pump
  - g. Odor control system
  - h. Mixing system (with controls, valves and appurtenances) common to HSW wet well, HSW storage tank, and digestate storage tank
  - i. HMI control panel with new Allen Bradley PLC
  - j. Various plumbing, communications and lighting improvements
  
3. Biogas cleaning & Engine
  - a. Hydrogen Sulfide removal system with sump, piping, valves and appurtenances
  - b. Gas conditioning system
  - c. 450 kW biogas engine in enclosure with 480-volt switchgear on new concrete slab
  - d. Miscellaneous piping and electrical improvements
  
4. Operations Building
  - a. Removal of existing flare
  - b. 8" biogas flare on stand and concrete foundation
  - c. Natural gas boiler with capacity to match existing units
  - d. Removal of one existing belt filter press pumps
  - e. Pump and piping for heat recovery from biogas engine
  
5. Digestate Storage Tank
  - a. Demo existing clarifier internals and repurpose as digestate storage.
  - b. Mixing system piping and connect to thickener building
  - c. Aluminum steel cover
  - d. Odor-control piping
  - e. Piping from digester No. 1, 2 and 3 to digestate tank

6. HSW Storage Tank
  - a. 180,000-gallon storage tank
  - b. Mixing system piping and connect to thickener building
  - c. Mixing system and connect to thickener building
  - d. Odor control system connection
  
7. SCADA Integration

The City has requested a proposal from CDM Smith to serve as the City's consultant throughout the course of this project. A proposed scope of services for this effort is provided below.

## **Scope of Services**

### **Task 1: IGA Review**

#### *Task 1A: IGA Preliminary Review*

CDM will provide a feasibility review of the IGA document and supporting materials prepared by ESG on May 12, 2016. The focus of this review will be to determine the viability of project and potential risk the project may pose to the City. The focus of this task will be to provide the City with an independent review of of the proposed modifications and new revenue source including;

- Basis of Design for general conformance to standard engineering practice and compliance with governing standards and codes.
- Scope of Work
- Project Description
- Process Description
- Financial pro forma
- Performance Guarantee, and Measurement and Verification Plan
- Process Calculations
- Energy Calculations
- Food Waste/FOG Sourcing
- Operations/Maintenance review to assess the impacts of the proposed modifications on day to day operations and maintenance of the wastewater treatment facility and to render an opinion on the underlying O&M related cost assumption included in the project's financial pro forma and/or Investment Grade Energy Audit.

Mr. Jacob Tawil  
August 4, 2016  
Page 4

Upon completion of our review, CDM will prepare and submit a draft technical memorandum to the City of Middletown summarizing recommendations and concerns. We will meet with City representatives to discuss the draft memorandum in detail. We have assumed one (1) meeting will be held with the City during the completion of Task 1A. Preparation of workshop meeting minutes are included.

*Task 1B: IGA Final Review*

CDM will provide a comprehensive, final review of the IGA document's proposed design and supporting materials prepared by ESG on May 12, 2016. The final review will cover the following:

- Project Schedule
- Plant Data
- Mass Balance
- Drawings (constructability assessment will be completed)
- Equipment Data Sheets and Vendor Selection
- Preventive Maintenance, Support Services, Training and Warranty
- Review Industrial Pretreatment Program (IPP) impacts

Upon completion of our review, CDM will prepare and submit a draft technical memorandum to the City of Middletown summarizing our recommendations and concerns. We will meet with City representatives to discuss the draft memorandum in detail. We have assumed one (1) meeting will be held with the City during the completion of Task 1B. Preparation of workshop meeting minutes are included.

**Task 2: Contract Review and Support**

It is our understanding that the City will enter into an agreement with ESG upon acceptance of the IGA. The agreement with ESG will establish a partnership whereas both the City and ESG will share responsibilities during the design, construction and operational phases of the project. Under Task 2, CDM Smith will provide a technical review the draft and final contracts between the City and ESG and will provide comments to the City for their consideration. CDM Smith's Task 2 efforts are not intended to serve as a legal review. Legal services are outlined in Task 4 of this proposal.

Included as part of the Task 2 scope of work, CDM Smith will attend and prepare meeting minutes for two (2) contract review meetings.

### **Task 3: Implementation Phase Services**

Based on information gathered during the May 12, 2016 project meeting, ESG proposes an alternative delivery method for the implementation of this project. Under this alternative approach, the design and construction aspects of the work will be performed concurrently under one "Implementation Phase" of the work. To support the City during this phase of work, we offer the following services:

- Meeting Workshop /Attendance/Site Visits
- Preparation and attendance of up to three (3) meetings with regulators
- Review of detailed design drawings
- Review of O&M Manual for completeness
- Review of Contractor's Regulatory Permit Plan
- Twelve (12) hours of miscellaneous consultation with City representatives
- Quality Assurance Audit to confirm that the engineer of record has prepared the design with a reasonable focus of quality assurance and quality control
- Monthly updates of the status of construction activities
- Monitor Contractor's schedule compliance
- Interface with design team to provide guidance on resolution of design issues
- Interface with plant operations staff on a periodic basis during equipment start-up and testing
- Construction inspection services. We have allocated up to forty (40) inspections during construction.
- Processing contractor monthly payment applications
- Co-certification that construction has been executed in accordance with the approved plans and specifications

### **Task 4: Legal Services**

CDM Smith will subcontract Hawkins Delafield & Wood LLP to assist the City with the development, negotiation and finalization of the primary project agreement that will reflect ESG's design, permitting, construction, start-up, acceptance testing, post-construction, optimization, feedstock sourcing and guaranteed benefits/savings obligations. Due to the complex nature of the services to be provided and the importance for all parties to have a clear and firm understanding of each

Mr. Jacob Tawil  
August 4, 2016  
Page 6

party's material rights and obligations early in the process, we propose that this Task be separated into three tasks described below.

*Task 4A: Comprehensive Term Sheet Preparation*

Task 4A will result in the preparation of a comprehensive Term Sheet that reflects the parties' mutual understanding of the fundamental points of the transaction. Task 4A Legal Services will include:

- A review of existing documentation including the Investment Grade Audit
- Initial Meeting Workshop/Site Visit
- Preparation of Transaction Issues List for Internal Discussion
- Meeting with City to discuss Transaction Issues List
- Preparation of first draft of the Comprehensive Term Sheet based on review of documents and discussions with City
- Review comments from ESG on draft Term Sheet
- Conference call with City to discuss ESG comments
- Meeting with ESG to discuss and resolve comments
- Conference call or meeting to finalize Term Sheet
- Preparation of Final Term Sheet

*Task 4B: Design-Build-Optimization Contract*

Upon completion of Task 4A, it is presumed that the City will enter into a Design-Build-Optimization (DBO) Contract with ESG. The City has expressed the need for legal services in support of the DBO contract preparation, negotiation and finalization. At this juncture in the project, it is difficult to provide a specific scope and pricing for Task 4B because of several currently unknown variables including (a) whether the scope will include the preparation, negotiation and finalization of the Design-Build-Optimization Contract or the review and negotiation of a contract prepared by ESG, (b) whether and to what extent optimization and feedstock sourcing will ultimately be including in ESG's scope of services, (c) ESG's negotiation posture, strategy and responsiveness, as well as many other factors.

We believe that it is the City's interest for the City to prepare the first draft of the contract and to maintain control of the document. In any event having a clear, agreed upon Term Sheet to serve as the basis of the contract will result in a more efficient and cost effective contract development process. Once fundamental responsibilities are identified, we will provide a cost estimate for this phase of work.

*Task 4C: Miscellaneous Legal Support*

CDM Smith subcontract Hawkins Delafield & Wood LLP, to provide miscellaneous legal services to the City for this project (i.e. review of waste disposal agreements, etc.). We have allocated an allowance of \$10,000 for miscellaneous legal services.

Proposal Assumptions/Clarifications:

1. CDM Smith's co-certification will provide verification that the construction has been executed in accordance with the approved plans and specifications only. Our certification does not guarantee the process or performance of the improvement project that responsibility will rest with the engineer of record.
2. During the Implementation Phase, CDM Smith anticipates that we will complete reviews of plans and specifications at 60% and final design.
3. The budget developed to complete the proposed scope of services is based on the schedule presented in the ESG's May 12, 2016 IGA. In the event the project duration increases, additional budget may be required.
4. Third party legal services described in Task 4 will be invoiced as a pass-through expense on a time and materials basis.

**Schedule**

Based on recent discussions with ECG, the project will most likely proceed with the completion of Tasks 1A and 4A, initially. CDM Smith anticipates the preparation of the Draft Preliminary IGA Review Technical Memorandum and Draft Comprehensive Term Sheet within eight (8) weeks upon notice to proceed. CDM Smith will prepare the final memorandum and term sheet within two (2) weeks following receipt of review comments.

CDM Smith will prepare a Draft Final IGA Review Technical Memorandum within eight (8) weeks upon receipt of written authorization to proceed with Task 1B. Following Draft Technical Memorandum review meeting, CDM Smith will finalize the technical memorandum within two (2) weeks.

The completion services outlined in Task 3 is expected to follow the project duration that is illustrated on ESG's schedule found in the May 12, 2016 IGA document.

Mr. Jacob Tawil  
August 4, 2016  
Page 8

### Cost of Services

CDM Smith proposes to complete the scope outlined above for a budgetary fee of \$ 405,000 as outlined in the following table.

Task	Dollars
Task 1A -IGA Preliminary Review	\$ 55,000
Task 1B -IGA Final Review	\$ 53,000
Task 2 - Contract Review and Support	\$ 15,000
Task 3 - Implementation Phase Services	\$ 243,000
Task 4A - Comprehensive Term Sheet Preparation	\$ 29,000
Task 4B - Design-Build-Optimization Contract	TBD
Task 4C - Miscellaneous Legal Support	\$ 10,000
Total	\$ 405,000

Invoices will be submitted on a time a materials basis. It is our understanding that funding for this assignment will be provided by ECG through an escrow account with disbursements made by the City of Middletown. Our contract will be with the City of Middletown and will consist of CDM Smith's standard terms and conditions (see Attached Agreement and Exhibit A).

Thanks again for this opportunity to work with the City of Middletown. Please feel free to contact me or Mr. David Smith if you have any questions regarding this proposal. Mr. Smith can be reached at (732) 590-4647 or via email at [smithdc@cdmsmith.com](mailto:smithdc@cdmsmith.com), should you require any further information.

Very truly yours,



Thomas R. Schoettle, P.E., BCEE  
Partner  
Camp Dresser McKee & Smith

Cc: D. Newman, ECG Engineering, P.C.  
D. Smith, CDM Smith  
T. Laustsen, CDM Smith

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16  
\_\_\_\_\_

Index No: \_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to authorize the Treasurer to transfer a total of \$8,512.55 within the Senior Center 2016 budget to cover overages in personal services for the balance of the year partially due to unexpected unemployment insurance expense in the following manner:

From	Amount	To
GA.5680.417	\$1050.00	GA.5680.100
Gas & Oil		Personal Services
GA.5680.481	\$1,875.00	GA.5680.100
Telephone Exp.		Personal Services
GA.9000.850	\$4,646.00	GA.5680.100
Unemployment Insurance		Personal Services
GA.4089 (Raise Revenue)	\$941.55	GA.5680.100
Other Gov't Aid		Personal Services

**John Naumchik**

---

**From:** Donald Paris  
**Sent:** Monday, November 28, 2016 9:51 AM  
**To:** John Naumchik  
**Subject:** FW: BOE Agenda Item

Donald J. Paris  
Treasurer  
(845) 346-4153  
(845) 343-1101 Fax  
[dparis@Middletown-NY.com](mailto:dparis@Middletown-NY.com)

---

**From:** Julisa Sierra  
**Sent:** Monday, November 21, 2016 4:38 PM  
**To:** Donald Paris  
**Subject:** BOE Agenda Item

1. I am requesting the following budget transfers within Golden Area Budget to assume Personal Services for 2016 as follows:

<u>From</u>	<u>To</u>	<u>Amount</u>
GA.5680.417 Gas&Oil	GA.5680.100	\$1050.00
GA.9000.850 Unemployment Ins.	GA.5680.100	\$4646.00
GA. 5680.481 Telephone Exp.	GA.5680.100	\$1875.00
GENERAL FUND	GA.5680.100	<u>\$941.55</u>
		\$8512.55

2. I am requesting the following budget transfer within Senior Center line to assume telephone expenses:

<u>From</u>	<u>To</u>	<u>Amount</u>
A.6772.440 Repairs to Equipment	A.6772.481 Telephone Exp.	\$1,000.00

*Julisa Sierra*  
Senior Citizen Director  
City OF Middletown,  
Mulberry House Senior Center  
62-70 West Main St.  
Middletown, NY 10940

Ph: (845) 346-4075  
Fax: (845) 346-4072

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16  
\_\_\_\_\_

Index No:  
\_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to authorize the Mayor to sign the attached Northeast Association Management, Inc. (NEAMI) contract for Third Party Administrative Service workers compensation tail claims for the City of Middletown for 2017.

**Northeast Association Management, Inc. (NEAMI)**  
**Program Agreement for Third Party Administration Services**

THIS AGREEMENT dated as of \_\_\_\_\_ is entered into by and between Northeast Association Management, Inc. ("NEAMI") and **The City of Middletown, N.Y.** (the "Customer") for administrative services to be provided by NEAMI in connection with the Customer's obligation to secure and provide worker's compensation for and to its employees.

WITNESSETH:

WHEREAS, the Customer desires to engage NEAMI to provide Worker's Compensation Law claims administration services for certain "tail claims" that have arisen prior to **March 15, 2008**;

WHEREAS, this Agreement does not apply to claims arising after **March 15, 2008**;

WHEREAS, this Agreement is not a contract of insurance;

NOW THEREFORE, the parties hereby agree as follows:

- (1) **Term.** This agreement shall be effective **January 1, 2017** and shall continue in force for one year, unless earlier terminated.
- (2) **Services.** During the term of this Agreement, NEAMI shall provide the Customer with third-party claims administration services with respect to all existing indemnity and medical worker's compensation claims and all Worker's Compensation Board awards that have arisen prior to **March 15, 2008** (collectively, "Tail Claims"). To that end, NEAMI will, as appropriate:
  - a. Process Tail Claims and the disbursement of "Benefit Payments" (as defined below) pursuant to such claims to claimants and providers entitled to such payments from the Customer within the timeframe required by the Worker's Compensation Law;
  - b. Contract with CorVel Corporation or another third party for review of medical bills and with PMSI or another third party for pharmacy benefit management services, at the sole cost and expense of the Customer;
  - c. Pay Worker's Compensation Board awards within the timeframe required by the Worker's Compensation Law, provided that the Customer advances the funds required and approves such payments in accordance with the requirements of Section 6 below;

- d. Promptly advise the Customer of Worker's Compensation Board decisions related to each Tail Claim;
- e. Recommend to the Customer whether to request a modification, rescission or review of an award or decision of the Worker's Compensation Board, a panel of the Board, an Administrative Law Judge issued after a hearing and after the exhaustion of administrative remedies, recommend whether to file a judicial appeal. For other administrative decisions approved by an Administrative Law Judge, NEAMI may initiate a challenge if it reasonably believes necessary;
- f. in the event of a factual error in an administrative decision, NEAMI may seek correction without the Customer's prior approval
- g. Cause all required forms to be prepared and filed;
- h. Contact the injured employee or employees, as appropriate;
- i. retain and supervise legal counsel on behalf of and at the sole cost and expense of the Customer necessary for the prosecution or defense of any litigation. Choice of counsel is subject to the prior approval of the Customer, which approval shall not be unreasonably withheld or delayed;
- j. Attend compensation hearings.

(3) **Fees.** For each Tail Claim, the Customer shall pay an annual fee as set forth in Schedule A, attached hereto (the "Administration Fee"). In addition to the Administrative Fee, the Customer shall pay all costs and expenses related to the administration of Tail Claims, including, but not limited to the fees of CorVel Corporation and PMSI, attorney fees and disbursements, court reporter services and transcripts, deposition charges and transcripts, fees for service of process, court costs, courier/express mail, appeal bonds, printing costs related to trials and appeals, witness and expert fees, medical examinations and review, laboratory costs, engineering fees, independent adjuster fees, surveillance, photography and similar costs and expenses reasonably incurred and related to the investigation and defense of claims or the protection and collection of subrogation rights of the Customer (collectively, the "Allocated Loss Adjustment Expenses").

(4) **Payment of Benefit Payments.** In addition to paying the Administration Fee and the Allocated Loss Adjustment Expenses, the Customer shall be responsible for the payment of all benefits to claimants, providers and other vendors related to all Tail Claims (the "Benefit Payments").

(5) **Invoicing and Processing of Payments.**

- a. **Administration Fee.** The Administration Fee shall be billed for each Tail Claim on an annual basis and shall be due in full within thirty (30) days of issuance.
- b. **Allocated Loss Adjustment Expenses.** See Section 6 below.

c. Benefit Payments. See Section 6 below.

(6) **Customer Benefit Payments and Allocated Loss Adjustment Expenses.** The Customer shall select and notify NEAMI in writing whether it will fund its obligations by wire transfer or cash advance as follows:

- a. If paying by wire transfer, upon execution of this Agreement, the Customer shall wire to NEAMI the sum of **\$56,000**, representing the estimated sum of Benefit Payments and Allocated Loss Adjustment Expenses to be made during a 30 day period (the "Deposit"). NEAMI will maintain the Deposit in a bank account. At any time during the term of this Agreement, NEAMI may adjust the amount required for the Deposit. In the event of an increase in the Deposit, or if any of the Deposit is used to cover the Customer's obligations contained in this Agreement, the Customer shall promptly replenish the Deposit by wire transfer. In the event of a decrease in the estimated Deposit, NEAMI shall return the excess to the Customer.
  - i. Approval and Processing of Benefit Payments and Allocated Loss Adjustment Expenses. Not less than seventy-two (72) hours prior to the deadline for mailing checks and not less than forty-eight (48) hours prior to actual mailing, NEAMI shall provide the Customer with a check register for each check run drawn on such bank account. Within 48 hours, the Customer shall review the check register and notify NEAMI of its approval in writing. If satisfactory to the Customer, the Customer shall wire to NEAMI sufficient funds to cover all payments reflected in the register. NEAMI will not make any payment unless the Customer has approved and deposited sufficient funds to cover such payments. If the Customer is unable to timely advance such funds to NEAMI, NEAMI will draw on the Deposit to cover the Customer's obligations. The Customer shall be identified on each check as the insurer.
- b. If paying by cash advance, upon execution of this Agreement, the Customer shall deposit with NEAMI the sum of **\$168,000**, representing the estimated sum of Benefit Payments and Allocated Loss Adjustment Expenses to be made during the first 90 days of this Agreement. That sum shall be deposited in a separate bank established by NEAMI. At any time during the term of this Agreement, NEAMI may adjust the estimated sum of Benefit Payments and Allocated Loss Adjustment Expenses to be made during a ninety (90) day timeframe. In the event of an increase in such estimate, the Customer shall promptly forward such difference to NEAMI. In the event of a decrease in such estimate, NEAMI will hold the excess funds to be applied to future Benefit Payments and Allocated Loss Adjustment Expenses, and future contributions of the Customer will be reduced accordingly. On a monthly basis, the Customer shall advance to NEAMI a sum equal to one-third of the then current 90 day Benefit Payment and Allocated Loss Adjustment Expenses estimate.

- i. Approval and Processing of Benefit Payments and Allocated Loss Adjustment Expenses. Not less than seventy-two (72) hours prior to the deadline for mailing checks and not less than forty-eight (48) hours prior to actual mailing, NEAMI shall provide the Customer with a check register for each check run drawn on such bank account. The Customer will then have forty-eight (48) hours to notify NEAMI of its approval in writing. NEAMI will not make any payment unless the Customer has approved and has deposited sufficient funds to cover such payments.

- (7) **Customer Compliance with Worker's Compensation Law.** In entering this Agreement, the Customer does not assign or delegate any responsibility it has under the Worker's Compensation Law, including without limitation, its obligation to provide compensation to its employees and all reporting and record retention obligations it may have. NEAMI neither accepts nor assumes any such responsibility in whole or in part. The Customer is responsible for all fines and penalties issued in connection with its obligations under the Worker's Compensation Law.
- (8) **Settlement of Tail Claims.** All settlements require Customer approval unless otherwise agreed to in writing by the Customer and NEAMI.
- (9) **Indemnification.** NEAMI shall not incur any liability with respect to any of the Customer's obligations. The Customer hereby indemnifies, defends and holds harmless NEAMI, its subcontractors and their respective affiliates, owners, partners, members, officers, directors, shareholders, agents and employees from and against any and all claims, liabilities, damages and expenses of any kind, including reasonable attorney's fees and disbursements (collectively, "Losses") except to the extent such Losses are solely caused by NEAMI's gross negligence or willful misconduct. The Customer's obligations under this paragraph shall survive the expiration or earlier termination of this Agreement.
- (10) **Obligations of Customer.** The Customer shall cooperate fully by supplying any information needed or helpful to defend any action and any other information NEAMI may request. If another servicer is currently holding Customer funds related to its Worker's Compensation obligations, the Customer shall direct such servicer to either refund such funds, or advance such funds directly to NEAMI. Upon request of NEAMI, the Customer shall attend hearings and trials, and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses, and in the conduct of all suits or proceedings. The Customer shall arrange so that all claims and all related inpatient and outpatient provider bills of any type, as well as all other correspondence that is received relating to Tail Claims are sent directly to NEAMI. Any costs and expenses incurred by the Customer in the fulfillment of these obligations shall be the direct responsibility of the Customer. The obligations contained in this paragraph shall survive the expiration or earlier termination of this Agreement.

- (11) **Electronic Data Interchange and File Transfers.** The parties acknowledge that the Worker's Compensation Board has adopted Claims Electronic Data Interchange Release 3.0, (the "EDI"). Upon execution of this Agreement and continuing for the term thereof, the Customer shall promptly provide to NEAMI or direct any third party to provide to NEAMI all records required by EDI and any other information required by the Worker's Compensation Board. Information shall be provided at the sole cost and expense of the Customer in a form reasonably acceptable to NEAMI. The Customer shall be solely responsible for any fines and penalties incurred as a result of its failure to provide the requested information.
- (12) **Termination of Agreement.** Either party may terminate this Agreement on thirty (30) days' notice to the other party. In the event of nonpayment by the Customer of any amount owed NEAMI; NEAMI may terminate this Agreement immediately upon notice to the Customer. Upon termination, all outstanding invoices rendered by NEAMI shall become immediately payable by the Customer and invoices in respect of services provided prior to termination but for which an invoice has not been submitted shall be payable immediately upon submission of an invoice by NEAMI.
- (13) **Notices.** The parties agree that notices under this Agreement shall be sent by electronic mail or facsimile to the designated contact at the email or facsimile number shown below. Notice sent to the Customer's contact shall constitute notice to the Customer.

If to the Customer:

**Attn: Donald Paris**  
**Fax: 845-343-1101**  
**Email: dparis@cityofmiddletown-ny.com**  
**Phone: 845-346-4150**

If to NEAMI:

**Attn: Paul Jahn**  
**Fax: 1-877-737-6232**  
**Email: pjahn@neami.com**  
**Phone: 518-220-1111**

- (14) **Not a Contract of Insurance.** Under no circumstances will NEAMI advance its own funds on behalf of the Customer. NEAMI is not in any way to be deemed an insurer, underwriter or guarantor with respect to any benefits payable under the Customer's Worker's Compensation program.
- (15) **Applicable Law.** The parties agree that this Agreement shall be construed under and governed by the laws of the State of New York.
- (16) **Force Majeure.** NEAMI shall not be responsible for nonperformance or defective or late performance of its obligations hereunder to the extent and for such periods of time as such nonperformance, defective or late performance is due to causes beyond its control and occurring without its fault or negligence, including without limitation, acts of God,

strikes, war (including civil war), acts of any state or government, fire, explosions, the elements, epidemics, quarantine restrictions, blackout, embargo or unusually severe weather.

- (17) **Third Parties.** This Agreement is not intended and shall not be construed to create any rights in any third party.
- (18) **Amendment of Agreement.** This Agreement may not be modified or amended except in writing signed by both parties.
- (19) **Severability.** If any provision of this Agreement is held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect the remainder of the Agreement, which shall be in full force and effect and enforceable in accordance with its terms.
- (20) **Entire Agreement; Waiver.** This Agreement constitutes the entire agreement between the parties and supersedes all prior understandings between the parties. No waiver or discharge of any breach of this Agreement shall be effective unless it is in writing signed by the party granting such waiver or discharge. Any waiver of any breach of any provision of this Agreement shall not be deemed a waiver of any subsequent breach of any provision of this Agreement.
- (21) **Counterparts.** This Agreement may be executed in multiple counterparts, but all such counterparts shall together constitute a single, complete and fully executed document.

**[Signatures Appear on Next Page]**

**IN WITNESS WHEREOF**, the Customer and NEAMI have duly executed this Agreement as of the day and year first above written

**Northeast Association Management, Inc.**

**By:**

---

**City of Middletown, N.Y.**

**By:**

---

**Schedule A**

**Fees**

Indemnity Tail Claims ..... \$0 per year per claim

Medical Tail Claims ..... \$0 per year per claim

The above referenced fees are in addition to those costs and expenses referred to in the Agreement.

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16 \_\_\_\_\_

Index No: \_\_\_\_\_

NAMES                      AYES                      NOES                      ABSTAIN                      ABSENT

Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to authorize the Mayor to sign the attached contract with Alpine Environmental Services for Mold Assessment and a Remediation Design Plan to be performed at the 53-45 North Street for the Rail Trail Commons Project in the amount of \$2,500.00.



November 28, 2016

Jacob Tawil  
City of Middletown  
Commissioner of Public Works  
16 James St.  
Middletown, NY 10940

RECEIVED  
NOV 29 2016  
City Clerk  
City of Middletown

Re : Proposal Mold Assessment, Remediation Design Plan, and One Clearance Inspection needed to facilitate the renovation of 53-45 North Street Building in Middletown, NY (Former Woolworths)- Proposal #11282016-CP3

Jacob,

Thank you for the opportunity to quote. As per my conversation with Joe Thompson of Degraw Dehaan Architects, I have prepared the following proposal for Mold Consulting to be performed at the 53-45 North Street, Middletown, NY.

**Conditions:**

1. All work is to be performed under Alpine's current and standard insurance policy.
2. No mold samples are included in this scope, as their need is not anticipated.

**Project Scope Specifics**

This scope includes the preparation of a mold assessment to determine scope and quantities (one site visit), a mold remediation plan (DOL), and Mold Clearance Inspection (one site visit, no samples needed). Also included will be a review of all submittals by contractor.



53-45 North Street

**Mold Consulting**

1. **Mold Consulting** **\$2,500**  
Price includes one mold assessment, mold remediation plan, contractor submittal review and one clearance inspection

All services are to be requested 24 hours (weekdays) in advance.

These rates are valid for six months.

Payment terms are net 37 days. The client agrees to pay a finance charge of one and one half percent (1 ½%) per month, or the maximum rate allowed by law. The client will be liable for all court costs, disbursements, and reasonable attorneys' fees incurred by Alpine Environmental Services, Inc. The undersigned agrees to the terms, conditions, and costs outlined in this proposal.

\_\_\_\_\_  
SIGNATURE  
\_\_\_\_\_  
TITLE

\_\_\_\_\_  
PRINTED NAME  
\_\_\_\_\_  
DATE

Names of Additional Insureds, if required: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Do not hesitate to contact me with any questions at (518) 250-4047 ext. 313.

Sincerely,  
**Alpine Environmental Services, Inc.**



Craig Petreikis, PE, CIH,  
Director of Operations

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16  
\_\_\_\_\_

Index No:  
\_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to authorize the Mayor to sign the attached contract with Netmanageit for the revised storage and Legacy services for 2017 outlined by Cherry Road and included in their recently approved contract for a cost of \$849.00 per month which will be reviewed annually.

## John Naumchik

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**From:** Donald Paris  
**Sent:** Monday, November 28, 2016 3:10 PM  
**To:** John Naumchik  
**Subject:** BOE  
**Attachments:** City of Middletown Support Agreement.pdf

I will add

Donald J. Paris  
Treasurer  
(845) 346-4153  
(845) 343-1101 Fax  
[dparis@Middletown-NY.com](mailto:dparis@Middletown-NY.com)

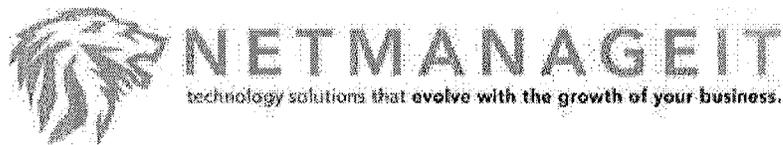
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**From:** Herb Bender [<mailto:hbender@netmanageit.com>]  
**Sent:** Monday, November 28, 2016 3:00 PM  
**To:** George Weissner  
**Cc:** Donald Paris  
**Subject:** Re: Quotes

Don, see attached revised contract. This is the same format as the previous contract, with only the services we agreed upon. I changed the pricing to reflect those services and updated dates. We can order the new backup appliance toward the end of this month so we can have it in place by Jan 1, 2017. Please review and if there are no questions, please sign.

We appreciate your business,

Herb Bender  
[Hbender@netmanageit.com](mailto:Hbender@netmanageit.com)  
P- 315-652-0287 x 111  
M- 315-491-0779  
F - 315-652-5954



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**From:** George Weissner <[GWeissner@cherryroad.com](mailto:GWeissner@cherryroad.com)>  
**Date:** Friday, October 21, 2016 at 3:44 PM  
**To:** Herb Bender <[hbender@netmanageit.com](mailto:hbender@netmanageit.com)>  
**Cc:** "[dparis@middletown-ny.com](mailto:dparis@middletown-ny.com)" <[dparis@middletown-ny.com](mailto:dparis@middletown-ny.com)>  
**Subject:** RE: Quotes

Hi Herb,  
Just to confirm our previous conversations. We will look to upgrade the Datto device for 2017. This will be the cost of the device \$2,299 plus \$749/Mo for Business Continuity.

We will be dropping the Remote Help desk and 24 x 7 Server Monitor and keeping the Legacy support.

Don mentioned that we have a self-renewing contract that is up for renewal . Do you want to draft up a new contact or add an amendment?

Let me know.

Thanks,  
George

George Weissner | IT Specialist  
CherryRoad Technologies Inc.  
[GWeissner@cherryroad.com](mailto:GWeissner@cherryroad.com)



---

**From:** Herb Bender [<mailto:hbender@netmanageit.com>]  
**Sent:** Wednesday, September 07, 2016 3:13 PM  
**To:** George Weissner  
**Cc:** [dparis@middletown-ny.com](mailto:dparis@middletown-ny.com)  
**Subject:** Quotes

Hi George – see attached quotes for revised services.

Herb Bender  
NetManageIT  
P- 315-652-0287 x 111  
F- 315-652-5954  
[hbender@netmanageit.com](mailto:hbender@netmanageit.com)



**Managed Service - Proactive Support Plan Agreement**

This Managed Support Services Agreement (hereinafter referred to as "Agreement") is made and entered into as of the 1st day of **January, 2017 (the "Effective Date"** by and between NetManagelT hereinafter referred to as "Service Provider" and **City of Middletown** (hereinafter referred to as "Client") having its principal place of business at **16 James St, Middletown, NY**. Under this agreement, Service Provider will provide client with services as defined.

**Agreement Acceptance**

**1. Included Schedules**

This Agreement includes the following schedules which are incorporated in this Agreement by reference and made part of this Agreement:

- Schedule A – Services and Pricing Schedule
- Schedule B – Service Level Agreement

**2. Acceptance of Service Agreement**

This Service Agreement covers only those services and equipment listed in "Schedule A." RESELLER must deem any equipment/services Client may want to add to this Agreement after the effective date acceptable. Schedule A can be amended to reflect any adjustments agreed upon by both service provider and client to this Agreement.

Client represents he / she has the authority to enter into this Agreement.

As authorized agents of the parties entering into this Agreement, the undersigned acknowledge full contents of said agreement as acceptable and binding.

Accepted by:

---

Authorized Signature	Client	Date
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Authorized Signature	Service Provider	Date
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**Schedule A – Services and Pricing Schedule**

Description of Monthly Service	Monthly Cost
Business Continuity Solution 3 TB On-Site Storage Storage Craft Shadow Snap Licenses Unlimited 1 Year off-site Storage	749.00
Legacy Data Application Support for Tax Billing, Water, IFMS and Payroll	100.00
**** ON-SITE work or project work to be billed at 125.00 per hour. **** Travel time billed as additional expense	
<b>Total</b>	<b>849.00</b>

## Special Considerations

**Data Safety And Backup** – NetManageIT is providing a Server/Desktop Backup Disaster Recovery solution as outlined in Schedule A. The Client ultimately has full responsibility for their data and proper data safety procedures. Service Provider, its affiliates and employees are not liable for loss of data or client information.

**Remote support** - Remote support is defined as an attempt to solve and direct a solution to an immediate problem over the telephone in conjunction with Remote Control Management tools. In the event that resolution cannot be made remotely then a technician will be dispatched or scheduled for on-site remediation.

## Billing Terms and Conditions

**Term** - This Agreement will remain in effect for one year unless terminated or canceled as provided herein. Thereafter the agreement shall automatically renew for successive one (1) year periods unless either party gives notice of its intent not to renew at least thirty (30) days prior to the renewal date

**Monthly Fee** -The monthly fee pursuant to this Agreement is premised upon many contributing factors including but not limited to total employees supported, total systems supported and total hours of support. As these variables increase in size there will be a commensurate increase in time, materials and labor and therefore an increase in the fee will become necessary. The Agreement will be reviewed quarterly in order to determine the need to increase or decrease the amount due based upon increased or decreased numbers as referenced herein. Such an increase or decrease will be implemented by Client signing an amendment to this Agreement.

**Termination and Cancellation** - This Agreement and any work assignment in progress may be terminated by Client at any time, with or without cause upon thirty (30) days prior written notice to Service Provider; provided however, in the event of any such termination, Client shall pay an early termination fee which will be the equivalent of the total amount of the monthly recurring fees as defined in Schedule A for the balance of the Agreement Term. All of these sums shall become immediately due and payable on the effective date of the termination, i.e. thirty days (30) from the date of written notice of the same.

### Other Bases for Termination

**Mutual Termination.** This agreement may be terminated by mutual agreement of both Parties at any time.

**Material Breach.** Either party may terminate this Agreement upon written notice to the other party if the other party breaches any material term or condition of this Agreement, and such breach is not cured to the non-breaching party's satisfaction within thirty (30) days of written notice specifying the breach.

**Insolvency.** This Agreement will terminate automatically in the event that: (a) a receiver is appointed for Service Provider or Client or its property; (b) Service Provider or Client makes an assignment for the benefit of its creditors; (c) any proceedings are commenced by, for or against Service Provider or Client under any bankruptcy, insolvency, or debtor's relief law for the purpose of seeking a reorganization of Client's debts, and such proceeding is not dismissed within sixty (60) calendar days of its commencement; or (d) Client is liquidated or dissolved.

**Payment of Charges** - Monthly payments will be invoiced in advance on the first of each month with payment due within thirty (30) days of invoice date. The first months billing will be due upon start date of agreement, the second months billing will be invoiced at the start date of the agreement with payment due within thirty (30) days of invoice date. Refer to Schedule A for pricing and services covered by the monthly fee under the terms of this Agreement.

**Warranty** - Service Provider does not offer any warranty service on products sold or resold. Any and all product issues requiring warranty service or resolution will be referred to the individual product manufacturers. Whether the equipment problem or product issue is referred to Service Provider by the Client or discovered as part of unrelated services Service Provider may be providing, Service Provider will charge for any and all labor involved. When necessary, Service Provider will assist Clients by providing contact information for the product manufacturers so that Service Provider can resolve any warranty issues that may arise with the manufacturer.

**General Terms and Conditions**

**Non-Solicitation Agreement** - Both parties agree that without prior written consent, neither party shall directly or indirectly solicit for employment, employ, or otherwise retain the staff of the other party during the term of this Agreement, nor for a period of one (1) year after termination of this Agreement or termination of the employee. Service Provider or Client recognizes that the employees and contractors of Service Provider or Client are critical to the servicing of its Clients. Should Service Provider or Client violate the terms of this section, Service Provider or Client agrees to immediately pay Service Provider or Client liquidated damages of an amount equal to two times the employee's or contractors annual salary. In the case of a contractor, the annual salary shall be \$95,000.00 dollars US. Service Provider or Client shall have the right to obtain injunctive relief, without bond, for violating of the terms of this section and the terms of this section shall survive the term of this Agreement.

**Non-disclosure by Service Provider** - All knowledge and information which Service Provider may acquire from the Client, its employees or consultants, including information about inventions, designs, methods, systems, improvements, and other private matters gained while on the premises will be regarded as strictly confidential and shall not be directly or indirectly disclosed by Service Provider to any person or persons other than Service Provider employees without Client's written permission.

**Non-disclosure by Client** - Client agrees that the method by which Service Provider has implemented the services and goods requested are Confidential and Proprietary of Service Provider. These services include the Service Provider Run Book and Best Practices services. Client agrees that the method used shall be for all time and for all purposes regarded as strictly confidential and shall not be directly or indirectly disclosed by Client to any person without the prior written permission of Service Provider.

**Limitation of Remedy** - Service Provider shall not be liable for any damages caused by the delay in furnishing services or other performance under the Agreement. The sole and exclusive remedy for any breach of warranty, express, or implied, including services furnished under this agreement and all other performance by Service Provider under or pursuant to this contract shall be limited to replacement of defective service provided by Service Provider and shall in no event include any incidental or consequential damages.

**Limitation of Liability** - Service Provider or Client agrees to indemnify and save harmless Service Provider or Client, its officers, agents and employees from and against any and all claims and liabilities (including expenses) for injury or death to persons, or loss of or damage to property, or fines and penalties which may result, in whole or in part by reason of the buying, selling or use of any of the services purchased or provided under this Agreement.

In no event, including gross negligence, shall either party's liability for breach or alleged breach of this Agreement exceed the total monthly price for services rendered shown on this Agreement.

**Waiver** - Any waiver by either party of a breach of any provision of this Agreement will not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Agreement. Any waiver must be in writing. Failure by either party to insist upon strict adherence to any term of this Agreement on one or more occasions will not be considered a waiver or deprive such party of the right to insist upon strict adherence to that term or any other term of this Agreement.

**Severability** - If any provision of this Agreement is held unenforceable or invalid under any applicable law or is so held by applicable court decision, such unenforceability or invalidity will not render this Agreement unenforceable or invalid as a whole, and such provision will be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or court decision.

**Force Majeure** - If either party is unable to perform any of its obligations under this Agreement because of natural disaster, actions or decrees of governmental bodies, communications line failure not the fault of the affected party, or other event beyond the reasonable control of the affected party (a "Force Majeure Event"), the party who has been so affected will immediately give notice to the other party and will do everything possible to resume performance. Upon receipt of such notice, all obligations under this Agreement will be immediately suspended for the duration of the Force Majeure Event.

**Notices** - All notices, consents, and other communications provided for hereunder will be in writing and will be delivered by hand, sent by express courier or delivery service that guarantees delivery within forty-eight (48) hours (such as Federal Express or DHL) to the address of the party set forth below or to such other address as the party may designate in writing, expenses prepaid. Copies of notices and communications will be sent in like fashion. Such notices and communications will be deemed to have been received by the addressee upon receipt, but in no event later than forty-eight (48) hours after the notice or communication is delivered to a courier or delivery service that guarantees delivery within forty-eight (48) hours. The parties' current addresses are as follows:

If to Service Provider	If to Client
NetManageIT	City of Middletown
4050 Bel Harbor Dr	16 James St.
Liverpool, NY 13090	Middletown, NY 10940
Attn: Herb Bender	Attn: Donald PARIS
Tel: 315-652-0287	Tel: 845-346-4153

**Miscellaneous –**

This Agreement shall be governed by the laws of the State of New York. It constitutes the entire Agreement between Client and Service Provider.

A good faith (realistic) effort must be made by both parties to rectify disputes regarding service prior to pursuit of other avenues of resolution including but not limited to litigation. Failure to exercise this good faith effort and document the same shall result in that party's losing the right to have attorney's fees and costs awarded to them in the event that they were successful in such dispute.

No action, regardless of form, arising out of this Agreement, may be brought by either party more than two (2) years from the last date of payment.

This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement;

All of the terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective transferees, successors, assigns and heirs, unless otherwise specifically provided herein;

The warranties, representations and covenants of each of the parties hereto shall be true and correct as of the date of this Agreement and shall survive the date of the within Agreement.

If any party brings any action or proceeding to enforce, protect or establish any right or remedy under this Agreement or with respect to the transaction contemplated hereby, the prevailing party shall be entitled to recover actual attorney's fees and costs.

**Schedule B – Service Level Agreement**

**Severity Levels**

All Calls will be classified into the following severity levels		
Severity	Definitions	Notes
Severity 1	Down Managed System: The ability to conduct business or service the customer has stopped.	Escalate to On-site Technician for Level 2 Support
Severity 2	Any other incident.	Level 1 Support

**Hours of Coverage and Response**

Service Offering	Hours of Coverage	Priority Level	Response Time
	<b>Normal Business Hours Defined as: 8:00 AM to 5:00 PM M-F</b>		
<b>Help Desk Phone Support</b>	Normal Business Hours	2	Attendant
- Voice Mail Response	Normal Business Hours	2	Within 1 hour
- Email Response	Normal Business Hours	2	Within 1 Hour
<b>Onsite Support</b>	Normal Business Hours	2	Scheduled
<b>System Monitoring</b>	24 hours per day – 7 days per week	1	See below
- Remote Response	Normal Business Hours	1	Within 1 Hour
	Outside normal business hours	1	N/A
- Onsite Response *	Normal Business Hours	1	Scheduled
	Outside normal business hours	1	N/A
* On-Site time will be billed at 125.00 per hour plus travel time			

**General Inclusions and Exclusions:**

<b>Includes:</b>
Telephone and Remote Support During Normal Business Hours
Quarterly Meetings and Consulting on Technology – 1 Meeting per Quarter
Services Described in Schedule A
<b>Exclusions Billed at Time and Materials:</b>
Work that requires an emergency service call or consumes time in the maintenance cycle repair and replacement of components and hard drives on systems out of manufacturer warranty is not covered. Virus repairs to systems and networks when the customer does not have proper protection in place on systems and/or network.
Modifications to Applications or Web Sites
New Application Development or Enhancements (can quoted as separate project)
Installation of New Equipment
Technology Upgrades or new projects (can quoted as separate project)
Training on Microsoft Office Products (can quoted as separate project)
Third Party Application Support

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16 \_\_\_\_\_

Index No: \_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoo				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

WHEREAS, MJB Realty LLC and The Prince & Princess USA, Inc. (collectively, “the Applicant”) have submitted an application for a resubdivision of lots in a subdivision located at 8, 10, 12-14 and 16 Houston Avenue Extension, Middletown, New York (Section 43 Block 6 Lots 5, 6, 7 and 51.1), all of which, collectively, are referred to as “the Property,” and the resubdivision application itself is referred to as “the Action,” and

WHEREAS, the Applicant has prepared a Short Environmental Assessment Form (“EAF”) pursuant to the New York State Environmental Quality Review Act (“SEQRA”) and the Regulations of the Commissioner of the Department of Environmental Conservation at 6 NYCRR Part 617, and the EAF describes the Action in detail and addresses the potential environmental impacts, if any, of the Action, and

WHEREAS, the Common Council of the City, on behalf of the City, acknowledges receipt of the EAF, and the Common Council, on behalf of the City, would be the Lead Agency as the sole Involved Agency in connection with the SEQRA review of the Action, and

WHEREAS, the Common Council held a public hearing on the Action on December 6, 2016, at which time all persons wanting to be heard on the Action were given an opportunity to speak about the Action, including the environmental impacts, if any, of the Action.

NOW, THEREFORE, BE IT RESOLVED that the Common Council makes the following findings with respect to the Action and the potential environmental impact of the Action:

1. The Action is the resubdivision of lots in a subdivision located at 8, 10, 12-14 and 16 Houston Avenue Extension, Middletown, New York (Section 43 Block 6 Lots 5, 6, 7 and 51.1).

2. The EAF regarding the Action has been filed with the Common Council.

3. The Action is an Unlisted Action pursuant to SEQRA, and the Common Council is the Lead Agency and the sole Involved Agency in order to make an environmental determination regarding the Action.

4. The review of the Action is not a Coordinated Review.

5. Approval of the Action will allow the applicant to reconfigure the lots so that the resubdivided lots will be larger and will conform to the requirements of the current zoning law of the City.

6. The Action will not conflict with the City's land use plan or zoning regulations; will not result in a change in the use or intensity of use of land; will not impair the character or quality of the community; will not have any significant impact on existing levels of traffic, the use of energy, public water supplies and wastewater treatment facilities or utilities (and if there is any impact, it will be limited and temporary in connection with development activities); will not result in an adverse change to natural resources such as wetlands, air quality, flora and fauna; will not result in an increase in the potential for erosion, flooding or drainage problems; and will not create a hazard to environmental resources, Critical Environmental areas or human health.

7. The EAF, in item 17, states that the Action will create storm water discharge, but storm water discharges will not flow to adjacent properties and such discharges will be directed to established conveyance systems.

8. The Action will not result in a demand for other actions that exhibit impacts addressed by the Regulations.

9. There will be no changes to multiple elements of the environment that cumulatively would result in substantial or significant adverse impacts.

10. There are no projects which have been approved by the Common Council or which currently are seeking approval from the Common Council which, when taken together with the Action, would cause a significant effect on the environment.

11. All of the criteria contained in 6 NYCRR Part 617 have been addressed to the satisfaction of the Common Council.

BE IT FURTHER RESOLVED that the Common Council of the City of Middletown makes the following determination with respect to the Action:

The Common Council, as the Lead Agency, following its review of the EAF in connection with the Action, hereby determines that the Action will not have a significant impact on the environment and is, by this resolution, making a Negative Declaration of environmental impact as that term is defined under SEQRA and the Regulations, and the Common Council further directs the Commissioner of Public Works and/or his agents to issue, file and circulate a Notice of Determination of Non-Significance as the same may be required by the Regulations.

# Short Environmental Assessment Form

## Part 1 - Project Information

### Instructions for Completing

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
Name of Action or Project: MBJ Realty LLC & The Prince & Princess USA, Inc. Lot Line Change			
Project Location (describe, and attach a location map): Houston Ave. Extension, SBLs 43-6-4,5,6,7,51.1			
Brief Description of Proposed Action: Lot line change from 5 lots to 4.			
Name of Applicant or Sponsor: James Gallant (MBJ Realty, Inc.)		Telephone: 914-490-0429	
		E-Mail: jadegallant@gmail.com	
Address: 2198 Greenville Tpk.			
City/PO: Port Jervis		State: NY	Zip Code: 12771
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input checked="" type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: City Council approval Planning Board approval			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		_____ 1.2 +/- acres	
b. Total acreage to be physically disturbed?		_____ 0 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		_____ 1.2 +/- acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland			



<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ _____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ _____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ _____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p><b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b></p>		
<p>Applicant/sponsor name: Karen H. Emmerich, AICP *</p>		<p>Date: 3-14-16</p>
<p>Signature: <u><i>Karen H. Emmerich</i></u></p>		

Project:

Date:

**Short Environmental Assessment Form  
Part 2 - Impact Assessment**

**Part 2 is to be completed by the Lead Agency.**

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Project:

Date:

### **Short Environmental Assessment Form Part 3 Determination of Significance**

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	
<input checked="" type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.	
Common Council <small>Name of Lead Agency</small>	12/06/16 <small>Date</small>
MIGUEL ROSALES <small>Print or Type Name of Responsible Officer in Lead Agency</small>	Council President <small>Title of Responsible Officer</small>
<small>Signature of Responsible Officer in Lead Agency</small>	<small>Signature of Preparer (if different from Responsible Officer)</small>

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16

Index No: \_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoo				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

Whereas, MBJ Reality, LLC, has submitted a four lot subdivision map for property located at 8, 10, 12-14 and 16 Houston Avenue Ext., which property is shown on the tax map of the City of Middletown as Section 43 Block 6 Lot 5,6,7 & 51.1, and

Whereas, MBJ Reality, LLC is seeking approval of the four lot subdivision located at 8, 10, 12-14 and 16 Houston Avenue Ext., from the Common Council of the City of Middletown, and

Whereas, the Common Council of the City of Middletown held a public hearing on the lot line change application on December 6, 2016, and no one at the public hearing objected to the application, and

Whereas, the lot line change application and map and related SEQRA information was submitted to the City of Middletown and hereby determines that the Action will not have a significant impact on the environment and is, making a negative declaration of environmental impact as that term is defined under SEQRA and the Regulations, and

Now, therefore, be it resolved by the Common Council of the City of Middletown that the four lot subdivision application and map submitted by MBJ Reality, LLC, is hereby approved for filing upon signatures by the appropriate City officials and approval of Corporation Counsel.



4. Proposed uses. List the number of proposed lots and uses, which are to be created by this subdivision if approved. Additional sheets may be attached if more space is required.

Residential use, one single-family home per lot

5. Zoning. In the space provided list all lots or areas which would require a re-zoning of any zoning district. List all factors dealing with the requested re-zoning. Additional sheets may be attached if more space is required.

N/A

6. Non Compliance of Zoning. In the space provided list all lots, which are not in compliance with the zoning regulations of the City of Middletown. Provide all information from the zoning ordinance in which the lot is non compliant and the reasons therefore. Additional sheets may be attached if more space is required.

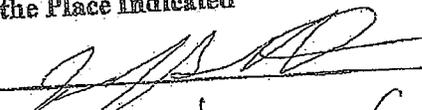
N/A

7. Sign at the Place Indicated

Signature

Printed Name and Title

Date

  
James Callahan, member  
10/16/16

Signature :

Michael Weiser

Printed Name & Title:

Michael Weiser, member

Date:

October 16, 2016

## John Naumchik

---

**From:** Karen Emmerich <karen@lehmangetz.com>  
**Sent:** Friday, October 14, 2016 2:48 PM  
**To:** John Naumchik  
**Subject:** RE: Houston Avenue Extension subdivision

Hi, John,  
I spoke to Richard Guertin, and he said that as long as both parties signed the subdivision application form, we can proceed. I've sent the form to James Gallant for signature, and he will have the other owner sign the application as well. I also asked him to have it notarized.

I hope to have this next week, as well as the check. Will this allow us to make the Nov. Agenda?

Thanks,  
Karen

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**From:** John Naumchik [<mailto:jnaumchik@middletown-ny.com>]  
**Sent:** Friday, October 14, 2016 11:02 AM  
**To:** Karen Emmerich  
**Subject:** RE: Houston Avenue Extension subdivision

Karen,

Please call me when you get a chance about the properties being subdivided.

John

## John C. Naumchik

City Clerk, Registrar/Clerk of the Common Council  
Records Management Officer

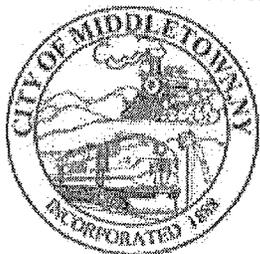
City of Middletown, New York 10940

(845)346-4168 (desk)

(845)344-5428 (fax)

[jnaumchik@middletown-ny.com](mailto:jnaumchik@middletown-ny.com)

Please visit our website @ [www.middletown-ny.com](http://www.middletown-ny.com)



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**From:** Karen Emmerich [<mailto:karen@lehmangetz.com>]  
**Sent:** Thursday, October 13, 2016 3:10 PM

## John Naumchik

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**From:** Martina Tu  
**Sent:** Tuesday, October 11, 2016 3:27 PM  
**To:** karen@lehmangetz.com  
**Cc:** John Naumchik  
**Subject:** Houston Avenue Extension subdivision

Hi Karen,

Just a gentle reminder that the above matter needs to be submitted to Common Council for their approval. Please contact John Naumchik, the City Clerk at 845-346-4168 in order to get on the agenda. Thank you,

Martina

**CITY OF MIDDLETOWN, N.Y.  
PLANNING BOARD  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Paul Thorn

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Sec'd by Anthony Capozella

---

Date of Adoption 10/05/2016

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NAMES	AYES	NOES	ABSTAIN	ABSENT
RISDAL	X			
CAPOZELLA	X			
HIGBIE	X			
HEWSON				X
SISCO	X			
NAUMCHIK	X			
THORN	X			
TOTAL	6			1

WHEREAS, James Y. Gallant Const. Corp. filed an application for Subdivision located at Houston Avenue Extension involving Lots 5, 6, 7 and 51.1. (Section 43, Block 6).

WHEREAS, after due notice a hearing was held by the Planning Board on October 5, 2016 at 7:00 p.m. in the Common Council Chambers, City Hall, Middletown, New York, and

WHEREAS, all testimony has been carefully considered.

WHEREAS, at said hearing the Planning Board voted to recommend that the Common Council look favorably on this application.

Filed with the Clerk of the City of Middletown

on: 10/2/16

  
John C. Naumchik  
Clerk of the Common Council

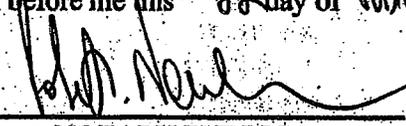
OWNERS ENDORSEMENT

RECEIVED  
OCT 13 2016  
City Clerk  
City of Middletown

COUNTY OF ORANGE  
STATE OF NEW YORK

MICHAEL WEISER being duly sworn, deposes and  
says that he/she resides at 20 TOKAY LN, MONSEY, N.Y. 10952  
in the County of Rockland and State of New York and that he is the  
owner in fee or \_\_\_\_\_ of the \_\_\_\_\_  
**OFFICIAL TITLE**  
The Prince & Princess USA Corporation which is the owner  
in fee of the premises described in the foregoing application and that he has authorized  
Karen Emmerich, AICP to make the foregoing application for  
approval as described herein.

Sworn before me this 22 day of February 2014

  
\_\_\_\_\_  
NOTARY PUBLIC

ROBERT S. NEUHAUS  
Notary Public, State of New York  
No. 01NE4948039  
Qualified in Rockland County  
Commission Expires March 6, 2015

  
\_\_\_\_\_  
OWNERS SIGNATURE

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. Johnson

---

Sec'd by Ald. Jean-Francois

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Date of Adoption 11-15-16

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Index No: 330-16

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NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon	X			
Ald. Johnson	X			
Ald. Jean-Francois	X			
Ald. Sommers				X
Ald. Witt	X			
Ald. Kleiner	X			
Ald. Burr	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	8			1

RESOLVED; that the Common Council of the City of Middletown hereby scheduled a public hearing on Tuesday, December 06, 2016 to close to 8:00PM as possible to hear any and all persons wishing to be heard on a proposed four lot subdivision for 8, 10, 12-14 and 16 Houston Ave Extension, Section 43, Block 5, Section 5, 6, 7, and 51.1.

## **CITY OF MIDDLETOWN**

### **NOTICE OF PUBLIC HEARING**

Notice is hereby given that the City of Middletown will hold a public hearing on Tuesday, December 06, 2016 on or as near to 8:00 p.m. as possible, Common Council Chambers, 2<sup>nd</sup> floor, 16 James Street, to hear any and all persons wishing to be heard on a proposed four Lot Subdivision for 8, 10, 12-14 and 16 Houston Ave Extension, Section 43, Block 5, Section 5, 6, 7, and 51.1

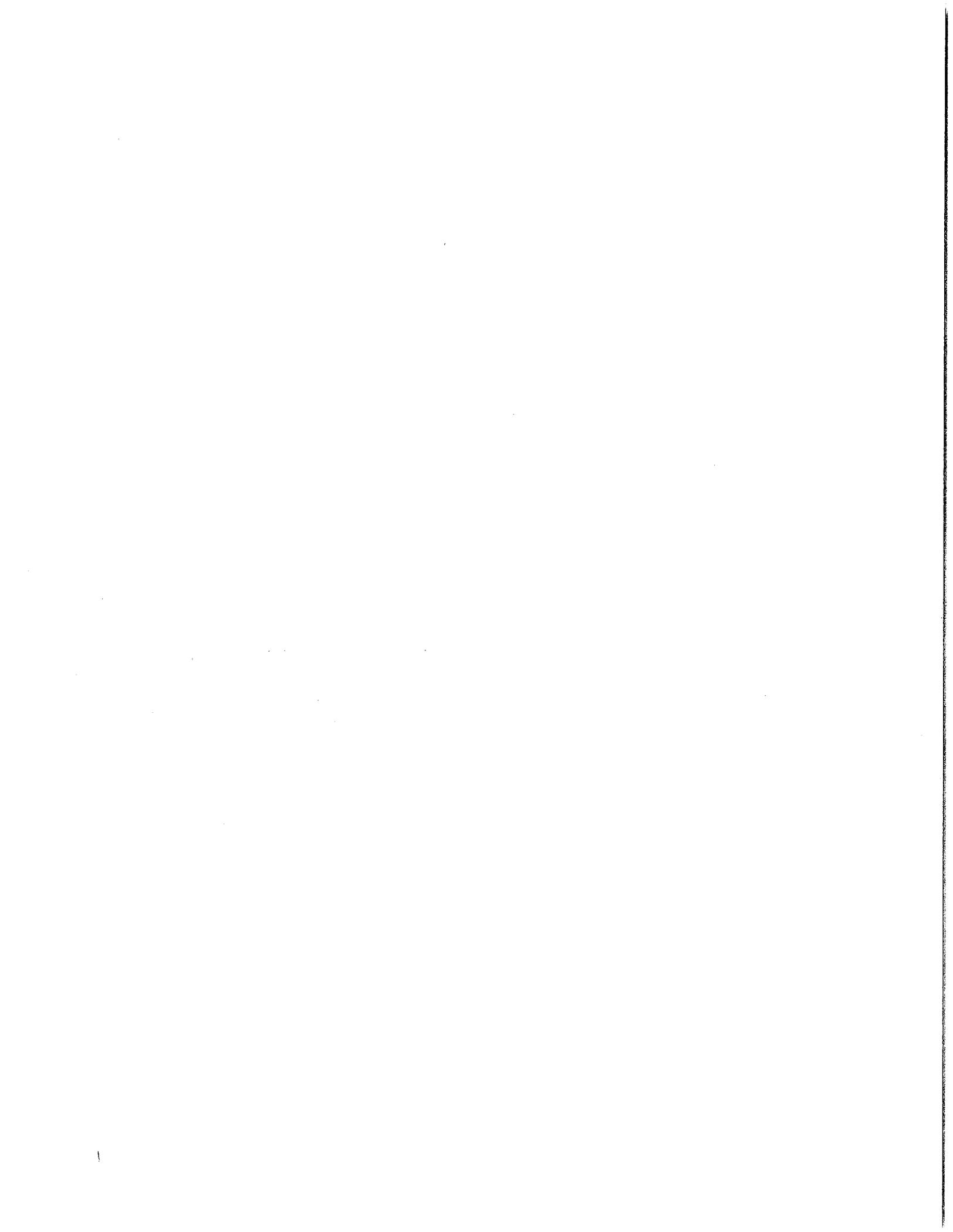
A full copy of the lot line change plans is available in the City Clerk Office, Room 12 at City Hall 16 James Street, Middletown, New York.

Any and all persons wishing to be heard will be given an opportunity to speak either for or against the lot line change.

By the order of the Common Council

John C. Naumchik  
Clerk of the Common Council  
Publish: 11/21/16 & 11/22/16  
City Website

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8/12-14/16 Houston Ave Ext, 43-6-5/7/51.1

330900 43-6-38  
Adrienne & Nancy Jennings  
17 Beers Dr  
Middletown NY 10940

330900 43-5-33  
Arlene Heitzmann  
2 Beers Dr  
Middletown NY 10940

330900 43-6-36  
Aymee Minya  
13 Beers Dr  
Middletown NY 10940

330900 43-7-12  
Bansyman & Marjorie Barnaby  
17 Houston Ave Ext  
Middletown NY 10940

330900 43-6-39  
Barbara & Lionel Evans  
19 Beers Dr  
Middletown NY 10940

330900 43-5-37  
Beatriz & Antonia Casiano  
10 Beers Dr  
Middletown NY 10940

330900 43-6-27  
Bernard Kelly  
20 Beth Pl  
Middletown NY 10940

330900 43-6-51.2  
Brian Demott  
18 Houston Ave Ext  
Middletown NY

330900 43-8-10  
Carmen & Jason Scarlett  
4 Beth Pl  
Middletown NY 10940

330900 43-6-33  
Chester & Barbara Dybski  
7 Beers Dr  
Middletown NY 10940

330900 43-6-30  
Christopher & Kisha Burgos  
1 Beers Dr  
Middletown NY 10940

330900 43-6-1  
Citimortgage Inc  
1000 Technology Dr  
O'Fallon MO 63368

330900 43-7-13  
City of Middletown  
16 James St  
Middletown NY 10940

330900 43-6-2  
Cong Yesocher Berish  
P.O. Box 368  
Tallman NY 10982

330900 43-6-28  
Craig & Linda Curcio  
18 Beth Pl  
Middletown NY 10940

330900 43-6-50  
David & Dora Whittaker  
2 Danielle Ct  
Middletown NY 10940

330900 43-6-4  
Deborah Gallant  
2198 Greenville Tpke  
Port Jervis NY 12771

330900 43-7-3  
Donald & Marcia Lamendola  
9 Wilson St  
Middletown NY 10940

330900 43-6-26  
Elisa Street  
22 Beth Pl  
Middletown NY 10940

330900 43-6-47  
Eric Holder  
7 Danielle Ct  
Middletown NY 10940

330900 43-8-5  
Ernest & Eula Bollin  
Box 181  
Napanoch NY 12458

330900 43-7-2  
Francine & William Reynolds  
11 Wilson St  
Middletown NY 10940

330900 43-7-6  
Francisco Vidal  
Columba Coria  
3 Wilson St  
Middletown NY 10940

330900 43-7-1.11  
Frank & Janet Severino  
15 Wilson St  
Middletown NY 10940

330900 43-7-1.12  
Frank & Janet Severino  
P.O. Box 165  
Middletown NY 10940

330900 43-8-7  
Garfield & Aria Hanson  
10 Beth Pl  
Middletown NY 10940

330900 43-8-4  
Garret & Cindy Brady  
19-21 Wilson St  
Middletown NY 10940

330900 43-5-10  
James Gallant  
2198 Greenville Tpke  
Port Jervis NY 12771

330900 43-7-7  
JMS01 Realty LLC  
P.O. Box 368  
Tallman NY 10982

330900 43-5-36  
John & Karolin Shoeman  
8 Beers Dr  
Middletown NY 10940

330900 43-6-49  
John & Melanie Bilancione  
4 Danielle Ct  
Middletown NY 10940

330900 43-8-9  
Joseph & Bonnie Sadicario  
6 Beth Pl  
Middletown NY 10940

330900 43-6-31  
Manuel & Carmen Rodriguez  
3 Beers Dr  
Middletown NY 10940

330900 43-8-8  
Michael & Lourdes Dox  
8 Beth Pl  
Middletown NY 10940

330900 43-6-35  
Nelcy Rivera & Victor Marte  
11 Beers Dr  
Middletown NY 10940

330900 43-6-41  
Peng Zhen  
Heung Wan Cheng  
25 Beers Dr  
Middletown NY 10940

330900 43-7-4.1  
Richard & Cynthia Lacatena  
5-7 Wilson St  
Middletown NY 10940

330900 43-6-6  
The Prince & Princess USA INC  
P.O. Box 368  
Fallman NY 10982

330900 43-6-40  
John & Pattie Marie Hopper  
23 Beers Dr  
Middletown NY 10940

330900 43-6-44  
Lance & Brenda Ramsey  
1 Danielle Ct  
Middletown NY 10940

330900 43-6-48  
Mary Truesdel  
6 Danielle Ct  
Middletown NY 10940

330900 43-8-6  
Nancy Laguerre  
140 Benchley Pl 24M  
Bronx NY 10475

330900 43-6-46  
Nicolette Simons  
Rubelena Maragh  
5 Danielle Ct  
Middletown NY 10940

330900 43-6-37  
Phillip & Sanelisiwe Hall  
15 Beers Dr  
Middletown NY 10940

330900 43-5-35  
Rolando Gomez  
6 Beers Dr  
Middletown NY 10940

330900 43-6-29  
Vernon Richards  
James Sardegna  
16 Beth Pl  
Middletown NY 10940

330900 43-7-8.2  
Jose & Gladys Mendoza  
23-25 Houston Ave Ext  
Middletown NY 10940

330900 43-6-45  
Magaly Hernandez  
3 Danielle Ct  
Middletown NY 10940

330900 43-6-3  
MBJ Realty, LLC  
2198 Greenville Tpke  
Port Jervis NY 12771

330900 43-6-34  
Natasha Blas  
9 Beers Dr  
Middletown NY 10940

330900 43-5-34  
Patricia Hayla Myers  
4 Beers Dr  
Middletown NY 10940

330900 43-7-10  
Rafael Figueroa  
19 Houston Ave Ext  
Middletown NY 10940

330900 43-6-32  
Ronald Dutton  
5 Beers Dr  
Middletown NY 10940

# TIMES HERALD-RECORD

P.O. Box 2046, 40 Mulberry Street  
Middletown, NY 10940-6357

## LEGAL ADVERTISING VOUCHER

Fed. No. 14-1513238

RECEIVED

NOV 28 2016

City Clerk  
City of Middletown

MIDDLETOWN, COMMON COUNCI  
16 JAMES STREET

MIDDLETOWN, NY 10940

Billed Acct #	Start	Stop	Description	PO#	Times Run	Ad #
500094215	11/21/2016	11/22/2016	CITYOFMIDDLETOWNNOTICEO	PH - Lot Line Change Hol	2	0000467631
				<b>Total Charges</b>	<b>Total Paid</b>	<b>Total Due</b>
				\$88.16		\$88.16

Dates Appeared

11/21/2016

11/22/2016

**This is not an invoice. Please retain this voucher to reconcile to your monthly invoice/statement.**

# TIMES HERALD-RECORD

P.O. Box 2046, 40 Mulberry Street, Middletown, NY 10940

State of New York:

County of Orange: ss:

Megan Kessler

Being duly sworn deposes and says that the Local Media Group, Inc. is organized under the last of the State of New York and is, at all the times hereinafter mentioned, was the printer and publisher of the Times Herald-Record, a daily newspaper distributed in the Orange, Ulster, Rockland, Dutchess, Pike, PA, Delaware and Sullivan, Counties, published in the English language in the City of Middletown, County of Orange, State of New York, that deponent is the

Legal Advertising Rep.

of said The Times Herald-Record acquainted with the facts hereinafter stated, and duly authorized by said Corporation to make this affidavit; that the

Public Notice

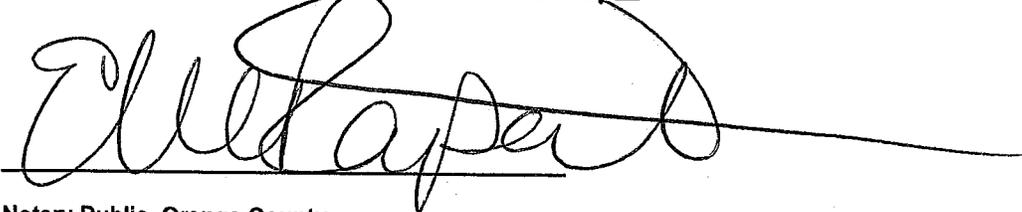
a true printed copy of which is attached, has been duly and regularly published in the manner required by law in said The Times Herald-Record in each of its issues published upon each of the following dates, to with: In its issues of:

11/21/2016

11/22/2016

  
Signature of Representative:  
Megan Kessler

Sworn to before me this 22 Day of Nov 2016



Notary Public, Orange County

ELIZABETH MARTHA RAPALO  
Notary Public - State of New York  
No. 01RA6344907  
Qualified in Orange County  
My Commission Expires 07/11/2020

**CITY OF MIDDLETOWN**

**NOTICE OF PUBLIC HEARING**

Notice is hereby given that the City of Middletown will hold a public hearing on Tuesday, December 06, 2016 on or as near to 8:00 p.m. as possible, Common Council Chambers, 2nd floor, 16 James Street, to hear any and all persons wishing to be heard on a proposed four Lot Subdivision for 8, 10, 12-14 and 16 Houston Ave Extension, Section 43, Block 5, Section 5, 6, 7, and 51.1

A full copy of the lot line change plans is available in the City Clerk Office, Room 12 at City Hall 16 James Street, Middletown, New York.

Any and all persons wishing to be heard will be given an opportunity to speak either for or against the lot line change.

By the order of the Common Council

John C. Naumchik  
Clerk of the Common Council  
Publish: 11/21/16 & 11/22/16  
City Website

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16  
\_\_\_\_\_

Index No:  
\_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED, that the Common Council of the City of Middletown does hereby amend Chapter 475 Zoning, Article II Establishment of Districts, Section 475-6 Zoning Map to the following:

The locations and boundaries of said districts are hereby established as shown on the Zoning Map of the City of Middletown, New York, dated June 01, 2016. Said map, as may be amended, and all notations, references and designations as shown thereon shall be as much a part of this chapter as if the same were all fully described and set forth herein. The fee for a copy of the zoning regulations shall be set in accordance with the requirements of the New York Freedom of Information Law; the fee for a copy of the Zoning Map shall be \$15.

City of Middletown, NY  
Tuesday, November 29, 2016

## Chapter 475. Zoning

### Article II. Establishment of Districts

#### § 475-6. Zoning Map; fee for copy of map and regulations.

[Amended 12-22-2008; 6-21-2011; 4-3-2012; 11-2-2015]

The locations and boundaries of said districts are hereby established as shown on the **Zoning Map** of the City of Middletown, New York, dated March 2012. Said map, as may be amended, and all notations, references and designations as shown thereon shall be as much a part of this chapter as if the same were all fully described and set forth herein.<sup>[1]</sup> The fee for a copy of the zoning regulations shall be set in accordance with the requirements of the New York Freedom of Information Law; the fee for a copy of the **Zoning Map** shall be \$15.

[1] *Editor's Note: The **Zoning Map** is on file in the City offices and may also be accessed on the City's website through eCode 360®.*

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16  
\_\_\_\_\_

Index No: \_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to authorize the Treasurer to transfer a total of \$6,104.47 within the 2016 budget to cover expenses that came in higher than anticipated in the following manner:

<u>FROM:</u>	<u>AMOUNT:</u>	<u>TO:</u>
A.1325.433 Finance-Training	167.00	A.1325.104 Finance-Longevity
F.8310.480 Water Admin.-Office Exp.	164.00	F.8310.104 Water Admin.-Longevity
G.8110.480 Sewer Admin.-Office Exp.	164.00	G.8110.104 Sewer Admin.-Longevity
A.1620.417 Maintenance-Gas & Oil	1,440.00	A.3010.408 Safety-Boot Allowance
A.9000.850 Employee Benefits-Unemployment	252.14	A.9000.890 Employee Benefits-Welfare Fund
A.9730.900 BAN-General Exp.	767.00	A.9730.702 BAN-Debt Principle
F.1900.990 Special Items-Contingency	3,150.33	F.1900.950 Special Items-Taxes on City Property



*FROM THE OFFICE OF THE  
CITY TREASURER  
CITY OF MIDDLETOWN NY*

WWW.MIDDLETOWN-NY.COM

Email: [jgallo@middletown-ny.com](mailto:jgallo@middletown-ny.com)

1888 --- 2013

*125<sup>th</sup> City of Middletown Celebration*

MEMO TO: Board of Estimate & Apportionment  
FROM: Janet E. Gallo, Deputy City Treasurer  
DATE: October 26, 2016  
SUBJECT: Budget Transfers

RECEIVED  
NOV 30 2016  
City Clerk  
City of Middletown

I respectfully request the following budget transfers:

<u>FROM:</u>	<u>AMOUNT:</u>	<u>TO:</u>
A.1325.433 Finance-Training	167.00	A.1325.104 Finance-Longevity
F.8310.480 Water Admin.-Office Exp.	164.00	F.8310.104 Water Admin.-Longevity
G.8110.480 Sewer Admin.-Office Exp.	164.00	G.8110.104 Sewer Admin.-Longevity
A.1620.417 Maintenance-Gas & Oil	1,440.00	A.3010.408 Safety-Boot Allowance
A.9000.850 Employee Benefits-Unemployment	252.14	A.9000.890 Employee Benefits-Welfare Fund
A.9730.900 BAN-General Exp.	767.00	A.9730.702 BAN-Debt Principle
F.1900.990 Special Items-Contingency	3,150.33	F.1900.950 Special Items-Taxes on City Property

The above transfers are needed to cover expenses that came in higher than anticipated.

16 James Street  
Middletown, NY 10940

Phone 845-346-4155  
Fax 845-343-1101

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16  
\_\_\_\_\_

Index No: \_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to approve and authorize the Mayor to sign a agreement with CPL for work needed to help in the current skimming operation at Indigot, as well as the Indigot agreement with the County as a part of a site plan and transfer a \$28,500.00 from the Water Fund Balance to fund the agreement in the following manner:

From	Amount	To
Fund Balance Water	\$28,500.00	F.8310.400
		Water Contractual



**Clark  
Patterson  
Lee**

November 30, 2016

Jacob S. Tawil, PE, Commissioner  
Department of Public Works  
16 James Street  
Middletown, NY 10940

**RE: Proposal for Indigo Creek Pump Channel Topo**

Dear Jacob:

Clark Patterson Lee (CPL) proposes to provide land surveying services for the partial topographic survey of a portion of the Indigo Creek Channel utilized for pumping by the City of Middletown Water Department. Due to remote and limited access and swamp conditions we propose to employ a variation of survey techniques to minimize project costs including: Aerial Photogrammetric Mapping; GPS survey as well as traditional land surveying techniques when required.

Our proposed survey parameters include subcontracting to Robinson Aerial Surveys, Inc. (RAS) to provide an aerial survey consisting of 1 foot contours, 750 feet either side of the of the stream channel section designated by the City. We will provide for: GPS survey of ten (10) aerial survey control points designated by (RAS), additional topographic survey to correlate elevations between the weir with stop logs (the downstream end) and the pump inlet structure (upstream end); Center line stream channel topo shots from 100 – 200 foot intervals as field and stream conditions allow; office computations, volumetric channel calculations, mapping, data reduction and general AUTO CADD drafting services.

*Fee:*

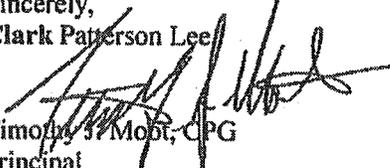
Item 1:	Robinson Aerial Survey	Lump Sum	\$ 8,500
Item 2:	CPL Field Survey Services	Hourly Not to Exceed	\$12,000
Item 3:	CPL Office Services	Hourly Not to Exceed	\$ 7,000
Item 4:	Reimbursables	Estimated Not To Exceed	\$ 1,000

**TOTAL ESTIMATED NOT TO EXCEED \$28,500**

If this conforms to your understanding of what is needed, and if this proposal is acceptable, please provide an authorized signature in the designated space below, and return one copy to us.

Please contact me with any questions.

Sincerely,  
Clark Patterson Lee

  
Timothy J. Mott, CPG  
Principal

Authorized by: \_\_\_\_\_

ARCHITECTURE  
ENGINEERING  
PLANNING

# ROBINSON AERIAL SURVEYS, INC.

Aerial Photography & Photogrammetric Mapping Services

November 29, 2016

Jim McKeough  
Clark Patterson Lee  
900 Corporate Blvd.  
Newburgh, New York 12550

Re: P-#19721- Photogrammetric Mapping of a portion of Mount Hope, NY

Dear Mr. McKeough:

As requested, Robinson Aerial Surveys, Inc. (RAS) is pleased to provide the following proposal for photogrammetric mapping of the actual stream channel (a length of approximately 6,000 ft.) Robinson will map 750' each side of stream. The project encompasses the area delineated in your email dated November 29, 2016. We are pleased to offer the following quotation for your consideration. RAS will:

- Obtain new aerial photography **\$2,650.00**
- Compile a planimetric map at 1"=50' with 1 ft. contours and DTM **\$4,300.00**

**Total Lump Sum Cost: \$6,950.00**

Options:

- RAS will produce a digital ortho image at .25 ft. per pixel for an additional fee of \$900.00

We understand that your firm will be responsible for setting the ten (10) required ground control points, three (3) of which will need to be pre-targeted in the field.

The maps will conform to National Map Accuracy Standards. In open areas, the vertical accuracy for 90% of the spot elevations and points on the solid contour lines will be within one-half the contour interval. For areas where the ground is obscured, the contour lines will be shown as dashed lines and shall be plotted to the best of our ability from the stereo model making use of photogrammetric spot elevations where the ground is visible. However, the dashed contour lines may not meet the above-mentioned accuracy standards, and additional field survey may be necessary.

As for the horizontal accuracy; 90% of clearly identified features shall be within 1/40" of their true positions relative to the nearest grid intersection at the above stated map compilation scale. (There will be a 5" grid on the maps.)

Responsibility, with regard to the aforementioned accuracies, is limited to the correction of the digital file and/or inked drafted sheets. No other guarantees, expressed or implied, are valid.



RAS requests a retainer in the amount of \$3,000.00 prior to beginning work. Payment of the balance is due upon completion of stated services. Payment will be made by addressee of this contract and will not be dependent upon receiving payment from a third party not directly under contract with ROBINSON AERIAL SURVEYS, INC.

We shall consider an appropriately executed copy of this letter as our formal authorization to proceed. The foregoing proposal is valid for a period of 60 days.

We sincerely appreciate the opportunity you have given us to submit this proposal and we look forward to working with you on this project.

Very truly yours,

ROBINSON AERIAL SURVEYS, INC.

Kurt J. Lutz  
Director of Operations

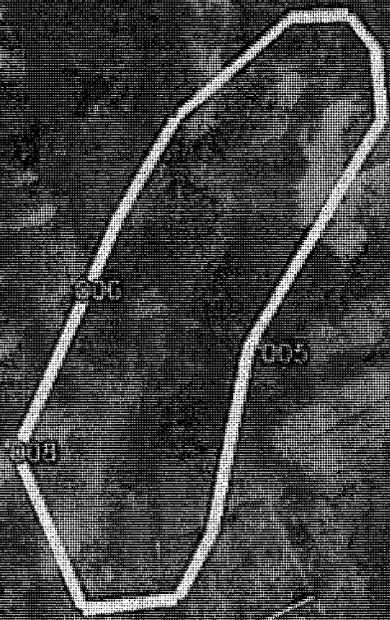
We approve and accept this proposal for a contract price of \$ \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_.

By \_\_\_\_\_ Title: \_\_\_\_\_ a duly authorized officer of \_\_\_\_\_ who is responsible for payment as stated in this contract.

**RAS P19721 Clark Patterson Lee  
Mount Hope NY Mapping Limits  
& Control Diagram**

**Legend**

-  P19721 Area to be flown
-  P19721 Stream 8039 ft



**Typical Mapping - Detail Plotted at 1"= 50' or Larger**

Mapping Detail Areas	Included
Roads/Edge of Pavement	X
Curbs	X
Shoulders	X
Railroads	X
Bridges	X
Drainage Swales	X
Buildings	X
Ruins	X
Foundations	X
Rivers/Streams	X
Lakes/Ponds	X
Swamps	X
Orchards	X
Walls	X
Parking Areas	X
Foot Bridges	X
Fences	X
Stone Walls	X
Catch Basins/Inlets	X
Utility Poles	X
Traffic Signals	X
Manholes	X
Hydrants	X
Signs	X
Mailboxes	X
Pools	X
Towers	X
Culverts/Headwalls	X
Piping	X
Silos	X
Golf Courses	X
Dams	X
Driveways	X
Sidewalks	X
Decks	X
Patios	X
Steps	X
Trees	X
Brush	X
Shrubs	X
Hedges	X
Guardrails	X
Trails	X

Traffic/Parking Painted Lines ARE NOT Included

## John Naumchik

---

**From:** J Tawil <jtawil14@yahoo.com>  
**Sent:** Wednesday, November 30, 2016 12:17 PM  
**To:** Donald Paris; Joseph DeStefano; J Miguel Rodrigues; Joseph Masi Yahoo  
**Cc:** John Naumchik; Kate Zahorchak; Bonnie Masci; Tim Moot  
**Subject:** Fw: Fwd: Proposal for Indigo Creek Pump Channel Topo  
**Attachments:** Proposal for Indigo Creek Pump.pdf; ATT00001.htm

Hi Don,

Please include the enclosed proposal from CPL on today's Board of Estimates Agenda. This work is needed for us to help in the current skimming operation at Indigot, as well as the Indigot agreement with the County as a part of a site plan. Should the Honorable Board of Estimates members approve the work, then we would request the funding to be transferred from Water Fund Balance to water contractual...

Tim,

You are welcome to attend the meeting. Thanks for the prompt proposal and the site visit.

Regards  
Jacob

**Jacob S. Tawil, P.E.**  
Commissioner  
Department of Public Works  
City of Middletown  
16 James Street  
Middletown, New York 10940  
Tel: 845-343-3169  
Fax: 845-343-4014

 Please consider the environment before printing this email.

On Wednesday, November 30, 2016 11:53 AM, Tim Moot <[TMoot@ClarkPatterson.com](mailto:TMoot@ClarkPatterson.com)> wrote:

Hi Jacob

Please see attached, confirm receipt. Perhaps I should attend meeting with you to explain at 430?

Short window of time to fly this. Need to fly prior to 12/21 and no snow on the ground.

Added cost of \$500 so flight will cover phase 2 area.

Please call to discuss.

Begin forwarded message:

**From:** Kari Messler <[KMessler@ClarkPatterson.com](mailto:KMessler@ClarkPatterson.com)>  
**Date:** November 30, 2016 at 11:32:16 AM EST  
**To:** Tim Moot <[TMoot@ClarkPatterson.com](mailto:TMoot@ClarkPatterson.com)>  
**Subject:** **Proposal for Indigo Creek Pump Channel Topo**

Please see attached.

**Kari M. Messler**  
Direct: 845.522.5788

**Clark Patterson Lee**  
Office: 800.274.9000  
[www.clarkpattersonlee.com](http://www.clarkpattersonlee.com)

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16  
\_\_\_\_\_

Index No:  
\_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to authorize the Treasurer to transfer a total of \$5,200.00 within the 2016 Paramount budget in the following manner:

From	Amount	To
A.7010.448	\$4,000.00	A.7010.443
Promoters & Sponsors		Rental Fee-Movie Reels
A.7010.448	\$1,200.00	A.7010.481
Promoters & Sponsors		Telephone

# OECD

**Paramount Theatre  
17 South Street  
Middletown, New York 10940**

RECEIVED  
NOV 30 2016  
City Clerk  
City of Middletown

November 23, 2016

City of Middletown  
Board of Estimate  
16 James Street  
Middletown, New York 10940

**RE: Paramount Theatre**

Dear Members:

I am requesting the following transfers within the 2015 Paramount Budget.

From	Amount	To
A.7010.448 Promoters & Sponsors	\$4,000.00	A.7010.443 Rental Fee-Movie Reels
A.7010.448 Promoters & Sponsors	\$ 1,200.00	A.7010.481 Telephone

Thank you for your attention to this matter.

Maria Bruni, Director  
Economic & Community Development  
City of Middletown

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16  
\_\_\_\_\_

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Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to authorize the Mayor (as the sole authorized signatory) to sign all necessary documents pertaining to Grant #TM61256, and to accept the grant in the amount of \$10,000.00. These funds have been provided by Assemblywoman Gunther through the NYS Department of State to be applied toward the King Street Pedestrian Walkway.

CITY OF MIDDLETOWN  
Office of Economic & Community Development

November 23, 2016

City of Middletown  
Board of Estimate  
16 James Street  
Middletown, New York 10940

RECEIVED  
NOV 30 2016  
City Clerk  
City of Middletown

**RE: King Street Project - Grant # TM61256**

Dear Members:

I am requesting authorization for the Mayor (as the sole authorized signatory) to sign all necessary documents pertaining to Grant #TM61256, and to accept the grant in the amount of \$10,000.00. These funds have been provided by Assemblywoman Gunther through the NYS Department of State to be applied toward the King Street Pedestrian Walkway.

Thank you for your attention to this matter.

Maria Bruni, Director  
Economic & Community Development

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16  
\_\_\_\_\_

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Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

RESOLVED; that the Common Council of the City of Middletown concurs with the Board of Estimate and Apportionment to approve the Sewer alternate realignment at the Drainage Culvert on Houston Avenue as per the attached work by Sun Up Enterprises, Inc. and McGoey, Hauser and Edsall Consulting Engineers, D.P.C. which the funding of \$120,820.00 is in the account for this work.

## Kate Zahorchak

---

**From:** Ethan Mindrebo <EMindrebo@mhepc.com>  
**Sent:** Wednesday, November 30, 2016 3:47 PM  
**To:** J Tawil  
**Cc:** Kate Zahorchak; Chris Gross; Jacob Tawil; Norbert Andryszak  
**Subject:** RE: Houston Ave Revised Work Proposal  
**Attachments:** Houston Realignment Estimates - Budget.pdf; Contingency Fund summary.pdf; Sun Up Houston Quote Revised 20161129.pdf

Jacob,

See attached everything I believe you need for a final review of the additional work on Houston Ave.

1. Sun Up's revised quote for the culvert crossing
2. Our estimate of the area if constructed per design vs the proposed realignment.
3. And then a status of current contract contingency funds and other contingency funds that were included in the EFC budget at time of financing.

Please let me know if you have any questions.

Thank you

Ethan Mindrebo, PE  
*McGoey, Hauser and Edsall*  
*Consulting Engineers, D.P.C.*  
111 Wheatfield Drive, Suite 1  
Milford, PA 18337  
p: 570.296.2765  
c: 914.805.0920  
f: 570.296.2767

**From:** Ethan Mindrebo  
**Sent:** Wednesday, November 30, 2016 3:42 PM  
**To:** 'J Tawil' <[jtawil14@yahoo.com](mailto:jtawil14@yahoo.com)>; Erik Allgauer <[erikest@sunup1.com](mailto:erikest@sunup1.com)>  
**Cc:** Kate Zahorchak <[kzahorchak@middletown-ny.com](mailto:kzahorchak@middletown-ny.com)>; Chris Gross <[cgross@middletown-ny.com](mailto:cgross@middletown-ny.com)>  
**Subject:** RE: Houston Ave Revised Work Proposal

Jacob,  
I believe everything was sent to you yesterday afternoon in regards costs. I will send everything over to you in one separate email:

1. Sun Ups Revised quote for the work crossing the box culvert
2. Our review of the cost difference and the project budget forms.

Ethan Mindrebo, PE  
*McGoey, Hauser and Edsall*  
*Consulting Engineers, D.P.C.*  
111 Wheatfield Drive, Suite 1  
Milford, PA 18337  
p: 570.296.2765  
c: 914.805.0920  
f: 570.296.2767

**From:** J Tawil [mailto:jtawil14@yahoo.com]

**Sent:** Wednesday, November 30, 2016 2:26 PM

**To:** Ethan Mindrebo <EMindrebo@mhepc.com>; Erik Allgauer <erikest@sunup1.com>

**cc:** Kate Zahorchak <kzahorchak@middletown-ny.com>; Chris Gross <cgross@middletown-ny.com>

**Subject:** Houston Ave Revised Work Proposal

Gentlemen,

Are you going to send me one complete submittal for the referenced CO for my meeting today at 4:30 pm.

Thanks

**Jacob S. Tawil, P.E.**

Commissioner

Department of Public Works

City of Middletown

16 James Street

Middletown, New York 10940

Tel: 845-343-3169

Fax: 845-343-4014

 Please consider the environment before printing this email.

Houston Ave. Alternate Alignment - **DESIGN**

Item #	Description	Est Qty	Unit	Unit Price Bid	Extended Price
9	12" CIPP		98 LF	\$ 269.50	\$ 26,411.00
6	18" PVC		63 LF	\$ 192.50	\$ 12,127.50
					<u>\$ 38,538.50</u>

Houston Ave. Alternate Alignment - **PROPOSED**

Item #	Description	Est Qty	Unit	Unit Price Bid	Extended Price
3	8" PVC		76 LF	\$ 204.00	\$ 15,504.00 *
5	15" PVC		12 LF	\$ 214.50	\$ 2,574.00
6	18" PVC		137 LF	\$ 192.50	\$ 26,372.50
ADD1	Culvert Xing		1 EA	\$ 120,820.00	\$ 120,820.00 **
					<u>\$ 165,270.50</u>

Houston Ave. Alternate Alignment difference \$ 126,732.00

C-1	Test Pit Excavations	100	CY	\$ 183.00	\$ 18,300.00
C-2	Rock Excavation	25	CY	\$ 275.00	\$ 6,875.00
C-3	Additional Roadway Subbase	50	CY	\$ 55.00	\$ 2,750.00
C-4	Additional Crushed Stone Foundation Material	100	CY	\$ 66.00	\$ 6,600.00
C-5	Additional Select Borrow Backfill	50	CY	\$ 55.00	\$ 2,750.00
C-6	Additional Class 3 Concrete	25	CY	\$ 880.00	\$ 22,000.00
C-7	4" PVC Gravity Sewer Lateral Connection	5	EA	\$ 3,740.00	\$ 18,700.00
C-8	4" PVC Gravity Sewer Lateral	100	LF	\$ 79.00	\$ 7,900.00
C-9	Concrete Roadway Deck Replacement	10	SY	\$ 825.00	\$ 8,250.00
C-10	8" Sewer Point Repair of Existing	2	EA	\$ 2,750.00	\$ 5,500.00
C-11	12" Sewer Point Repair of Existing	2	EA	\$ 3,300.00	\$ 6,600.00
C-12	15" Sewer Point Repair of Existing	2	EA	\$ 3,520.00	\$ 7,040.00
C-13	Additional Run-Of-Trench Borrow Backfill	100	CY	\$ 55.00	\$ 5,500.00
C-14	Asphalt Driveway Replacement	50	SY	\$ 148.50	\$ 7,425.00
C-15	Concrete Driveway Replacement	50	SY	\$ 176.00	\$ 8,800.00
C-16	Heavy Pipe Cleaning	205	LF	\$ 8.80	\$ 1,804.00
C-17	Precast Concrete Doghouse Sewage Manhole (4' Dia.)	2	EA	\$ 5,500.00	\$ 11,000.00
C-18	Pavement Truing and Leveling	0	TON	\$ -	\$ -
C-19	Abandonment of Jack and Bore Process, 24" Steel	0	LF	\$ -	\$ -
C-20	6" Watermain Offset	2	EA	\$ 8,250.00	\$ 16,500.00
C-21	6" Dia. DI Watermain	50	LF	\$ 143.00	\$ 7,150.00
C-22	8" Watermain Offset	5	EA	\$ 9,350.00	\$ 46,750.00
C-23	8" Dia. DI Watermain	50	LF	\$ 154.00	\$ 7,700.00

**Total Contract Contingency Items                    \$ 225,894.00**

**Used or anticipated Quantities**

C-1	Test Pit Excavations	100	CY	\$ 183.00	\$ 18,300.00
C-21	6" Dia. DI Watermain	20	LF	\$ 143.00	\$ 2,860.00
C-23	8" Dia. DI Watermain	20	LF	\$ 154.00	\$ 3,080.00
C-10	8" Sewer Point Repair of Existing	2	EA	\$ 2,750.00	\$ 5,500.00
C-6	Additional Class 3 Concrete	10	CY	\$ 880.00	\$ 8,800.00

**Total Estimate of items to be used                    \$ 38,540.00**

Remaining Contract Contingency	<b>\$ 187,354.00</b>
Additional budgeted for Grant St. Lining	<b>\$ 80,000.00</b>
Additional EFC Budget Contingency	<b>\$ 160,000.00</b>
<b>Total Potential Construction Contingency Remaining for Base Bid</b>	<b><u>\$ 427,354.00</u></b>

# SUN UP ENTERPRISES, INC.

Drainage • Site Work • Excavating • Waterlines  
Asphalt Paving • Concrete Work • Sanitary Sewers

~~November 28, 2016~~ 11-29-16

Mr. Ethan Mindrebo  
McGoey, Hauser and Edsall  
Consulting Engineers, D.P.C.  
111 Wheatfield Drive, Suite 1  
Millford, PA 18337

Email: [emindrebo@mhpe.com](mailto:emindrebo@mhpe.com)

Re: City of Middletown  
Houston Ave. Sewer Alignment at Drainage Culvert

### Scope of Work Breakdown

- Install sand bag bulkheads inside culvert and 3" by-pass pump \$20,820.00
- Excavate and expose existing concrete culvert \$4,250.00
- Provide access and support for concrete saw cutter \$3,600.00
- Saw cut concrete culvert floor, walls, roof \$13,950.00
- ~~Concrete thickness not to exceed 4 inches \$0.00~~
- Remove 8'-0" concrete culvert section \$14,240.00
- Furnish and install manhole 204B \$11,560.00
- ~~Furnish and install 24" steel casing pipe 20'-0" section \$4,180.00~~ ✓
- Furnish and install 18" CL-52 D.I.P., connect to 18" SDR-35 with MJ solid sleeve. \$6,200.00
- Drill and dowel #5 bars 12" O.C. in existing culvert \$4,300.00
- Prep subgrade for precast culvert \$2,200.00
- Set 6'-0" precast culvert section (4'x10'x6') 8" walls, roof, base \$15,450.00
- Core existing culvert roof slabs 30" diameter \$3,565.00 ✓
- Install (2) 30" frame and grates for confined space entry and exit to the interior of culvert \$2,700.00 ✓
- Form and pour concrete closure between precast and existing culvert \$12,385.00
- Backfill structure \$5,600.00

Price for the above work is ~~\$125,000.00~~ \$120,820.00

Please see letter dated November 18, 2016 for exclusions.

Very truly yours,

SUN UP ENTERPRISES, INC.

  
Erik J. Algaier  
Project Manager

C:\Diana\My Documents\Middletown\_Sewer\Houston\_Sewer\_Breakdown

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16

Index No: \_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

**WHEREAS**, the City of Middletown (the "City") desires to encourage a sufficient supply of adequate, safe and sanitary dwelling accommodations properly planned for families and senior citizens with low incomes; and

**WHEREAS**, the City by resolution adopted November 2, 2015, approved and authorized the execution of that certain Agreement for Payment in Lieu of Taxes (PILOT) by and among the City of Middletown, Bella Vista Housing Development Fund Company, Inc. and Bella Vista Limited Partnership dated November 12, 2015 (the "Original PILOT"), which Original PILOT covered 10.3+/- acres located at 48-66 County Highway 78 (Section 53, Block 6, Lot 11) (the "Bella Vista Campus") prior to the subdivision thereof into Lots 11.1 and 11.2 and anticipated a total of one-hundred sixty four (164) units would be constructed on the Bella Vista Campus; and

**WHEREAS**, the organizers of THII-BVI Housing Development Fund Company, Inc. a New York not-for-profit corporation organized under Article XI of the New York Private Housing Finance Law (the "BVI HDFC"), and THII-BVI Limited Partnership), a New York limited partnership (the "BVI Partnership"), have identified property located at 54-66 County Route 78, City of Middletown, County of Orange, State of New York, identified as Section 53, Block 6, Lot 11.1 (the "BVI Land"), which BVI Land is part of the Bella Vista Campus, for the purpose of construction on the BVI Land of a housing project for persons of low income, said project to consist of: (i) the acquisition of the BVI Land; (ii) the construction thereon of seventy-six (76) units of housing in two buildings for persons of low income to be known as Bella Vista I Apartments (the "BVI Improvements"); and (iii) the acquisition and installation therein and thereon of certain machinery, equipment, furniture, fixtures and other tangible personal property (the "BVI Equipment", and collectively with the BVI Land and the BVI Improvements, the "Bella Vista I Project"); and

**WHEREAS**, the organizers of the Bella Vista II Housing Development Fund Company, Inc., a to be formed New York not-for-profit corporation organized under Article XI of the New York Private Housing Finance Law ("BVII HDFC"), and Bella Vista II Limited Partnership, a to be formed New York limited partnership (the "BVII Partnership") have identified property located at 48-52 County Route 78,

City of Middletown, County of Orange, State of New York, identified as Section 53, Block 6, Lot 11.2 (the "BVII Land"), which BVII Land is part of the Bella Vista Campus, for the purpose of construction on the BVII Land of a housing project for persons of low income, said project to consist of: (i) the acquisition of the BVII Land; (ii) the construction thereon of eighty-eight (88) units of housing in two buildings for persons of low income to be known as Bella Vista II Apartments (the "BVII Improvements"); and (iii) the acquisition and installation therein and thereon of certain machinery, equipment, furniture, fixtures and other tangible personal property (the "BVII Equipment", and collectively with the BVII Land and the BVII Improvements, the "Bella Vista II Project"); and

**WHEREAS**, both the BVI HDFC and the BVII HDFC have been formed for the purpose of providing residential rental accommodations for persons of low-income; and

**WHEREAS**, the BVI HDFC will acquire fee title to the BVI Land, as nominee for the BVI Partnership, and will convey its equitable and beneficial interests in the BVI Land to the BVI Partnership in furtherance of the development of the Bella Vista I Project; and

**WHEREAS**, the BVI HDFC's and the BVI Partnership's plan for the use of the BVI Land constitutes a "housing project" as that term is defined in the Private Housing Finance Law of the State of New York ("PHFL"); and

**WHEREAS**, similarly, the BVII HDFC will acquire fee title to the BVII Land, as nominee for the BVII Partnership, and will convey its equitable and beneficial interests in the BVII Land to the BVII Partnership in furtherance of the development of the Bella Vista II Project; and

**WHEREAS**, the BVII HDFC's and the BVII Partnership's plan for the use of the BVII Land constitutes a "housing project" as that term is defined in the PHFL; and

**WHEREAS**, the BVI HDFC and the BVII HDFC are each a "housing development fund company" as the term is defined in Section 572 of the PHFL and Section 577 of the PHFL authorizes the Council Members to exempt the Bella Vista I Project and the Bella Vista II Project from real property taxes; and

**WHEREAS**, the BVI Partnership and the BVI HDFC, and the BVII Partnership and the BVII HDFC, respectively, will each be willing to enter into a PILOT Agreement whereby they will make annual payments in lieu of taxes to the City as set forth in the respective PILOT Agreements presented to the Council Members for approval;

**NOW THEREFORE, BE IT RESOLVED** that the Council Members hereby exempt the Project from real property taxes to the extent authorized by Section 577 of the PHFL and approve the proposed PILOT Agreement by and among the City of Middletown, the BVI Partnership and the BVI HDFC and the proposed PILOT Agreement by and among the City of Middletown, the BVII Partnership and the BVII HDFC, in substantially the form presented at this meeting, providing for annual payments as set forth in such agreements; and it is

**FURTHER RESOLVED**, that the Mayor of the City is hereby authorized and directed to execute and deliver the foregoing PILOT Agreements on behalf of the City; and it is

**FURTHER RESOLVED**, that this resolution shall take effect immediately.

**AGREEMENT FOR PAYMENT IN LIEU OF TAXES (PILOT)  
BY AND AMONG THE CITY OF MIDDLETOWN,  
BELLA VISTA II HOUSING DEVELOPMENT FUND COMPANY, INC.  
AND BELLA VISTA II LIMITED PARTNERSHIP**

**THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES** (the "Agreement"), dated \_\_\_\_\_, 2016, is made by and among the **CITY OF MIDDLETOWN, NEW YORK**, a New York incorporated municipality, having its principal office located at 16 James Street, Middletown, New York 10940 (the "City"), and **BELLA VISTA II HOUSING DEVELOPMENT FUND COMPANY, INC.**, a to-be-formed Article XI New York private housing finance law corporation and a New York not-for-profit corporation, having its principal office located c/o Warwick Properties, Inc., 2 Liberty Court, Suite 3, Warwick, New York 10990 (the "HDFC"), which HDFC will hold title to the Property (as hereinafter defined) for the benefit of **BELLA VISTA II LIMITED PARTNERSHIP**, a to be formed New York limited partnership, having its principal office located c/o Warwick Properties, Inc., 2 Liberty Court, Suite 3, Warwick, New York 10990 (the "Partnership").

**WHEREAS**, the HDFC is, or will become, the bare legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner, of certain real property located at 48-52 County Highway 78 in the City of Middletown, County of Orange, State of New York (Section 53, Block 6, Lot 11.2), as more particularly described in Exhibit A attached hereto (the "Property"); and

**WHEREAS**, the HDFC will be a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law and Article XI of the Private Housing Finance Law ("PHFL"); and

**WHEREAS**, the HDFC will be the co-general partner of the Partnership; and

**WHEREAS**, the HDFC will be formed and the Partnership will be formed for the purpose of providing residential rental accommodations for persons of low income; and

**WHEREAS**, the Partnership will develop, own, construct, maintain and operate a housing project for persons of low income at the Property, anticipated to consist of eighty-eight (88) residential rental units for persons of low income (the "Project"); and

**WHEREAS**, the HDFC's and the Partnership's plan for the use of the Property constitutes a "housing project" as that term is defined in the PHFL; and

**WHEREAS**, the HDFC will be a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

**WHEREAS**, pursuant to PHFL Section 577, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

**WHEREAS**, the Common Council of the City of Middletown, New York, by resolution adopted \_\_\_\_\_, 2016, approved and authorized the execution of this Agreement;

**NOW, THEREFORE**, it is agreed as follows:

1. Pursuant to Section 577 of the PHFL, the City hereby exempts from local and municipal taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Property, including both land and improvements. "Local and Municipal Taxes" shall mean any and all real estate taxes levied by Orange County ("County"), the City of Middletown ("City"), the School District ("School District") or other taxing jurisdiction (collectively, the "Taxing Jurisdictions").

2. This tax exemption will operate for a period of forty (40) years from the HDFC's acquisition of the Property. This Agreement shall not limit or restrict the HDFC's or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

3. So long as the exemption hereunder continues, commencing thirty (30) days after issuance of a certificate of occupancy for the Property, the Partnership shall make annual payments in lieu of taxes in the amount of Two Hundred and 00/100 Dollars (\$200.00) per dwelling unit for each such fiscal year (pro rated for the year in which said certificate of occupancy is issued). So long as the tax exemption remains in effect, tenant rental charges shall not exceed the maximum established or allowed by law, rule or regulation, and the Property shall be operated in conformance with the provisions of Article XI of PHFL. Payments shall be mailed via First Class mail through the United States Postal Service or personally delivered to the City of Middletown, Attention Tax Collector, 16 James Street, Middletown, New York 10940, or such other address as the City may specify in writing.

4. The tax exemption provided by this Agreement will continue for the term described above provided that (a) the Property continues to be used as housing facilities for persons of low income, and (b) any of the following occur (i) the HDFC and the Partnership operate the Property in conformance with Article XI of the PHFL; or (ii) the HDFC assumes sole legal and beneficial ownership of the Property and operates the Property in conformance with Article XI of the PHFL; or (iii) in the event an action is brought to foreclose a mortgage upon the HDFC, and the legal and beneficial interest in the Project shall be acquired at the foreclosure sale or from the mortgagee, or by a conveyance in lieu of such sale, by a housing development fund corporation organized pursuant to Article XI of the PHFL, or by the Federal government or an instrumentality thereof, or by a corporation which is, or by agreement has become subject to the supervision of the superintendent of banks or the superintendent of insurance, such successor in interest, such successor in interest shall operate the property in conformance with Article XI of the PHFL.

5. The failure to make the required payment will be treated as failure to make payment of taxes and will be governed by the same provisions of law as apply to the failure to make payment of taxes, including but not limited to enforcement and collection of taxes to the

extent permitted by law. In the event the City commences a proceeding to enforce the provisions of this Agreement, then, in addition to the remedies to which the City shall be entitled, it shall have the right to award reasonable attorney's fees. Notwithstanding the above, the City may terminate this Agreement, and the tax exemption shall thereupon terminate, pursuant to Section 6 hereof.

6. This Agreement and the exemption granted hereunder shall terminate pursuant to Section 5 above or in an event of default as follows:

(a) Failure to pay in full any payment due under this Agreement within thirty (30) days of mailing of written notice by the City stating that said payment is past due.

(b) Failure to comply with or perform any provision of this Agreement if such failure continues in whole or in part for more than thirty (30) days after mailing of written notice by the City of such failure to comply or perform.

In the event of a default hereunder, in addition to the termination of this Agreement and the tax exemption, the City may exercise any and all rights or remedies permitted by law.

7. All notices and other communications hereunder shall be in writing and shall be sufficiently given when delivered to the applicable address stated above (or such other address as the party to whom notice is given shall have specified to the party giving notice) by registered or certified mail, return receipt requested or by such other means as shall provide the sender with documentary evidence of such delivery.

8. This Agreement shall inure to the benefit of and shall be binding upon the City, the Partnership, the HDFC and their respective successors and assigns, including the successors in interest of Partnership and the HDFC. There shall be no assignment of this Agreement except with consent of the other party, which consent shall not be unreasonably withheld.

9. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

10. This Agreement may be executed in any number of counterparts with the same effect as if all the signing parties had signed the same document. All counterparts shall be construed together and shall constitute the same instrument.

11. This Agreement constitutes the entire agreement of the parties relating to payments in lieu of taxes with respect to the above-described property and supersedes all prior contracts, or agreements, whether oral or written, with respect thereto.

12. Each of the parties individually represents and warrants that the execution, delivery and performance of this Agreement, (i) has been duly authorized and does not require any other consent or approval, (ii) does not violate any article, by-law or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound, and (iii) will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a party. Each party represents that this Agreement shall constitute the legal, valid and binding agreement of the parties enforceable in accordance with its terms.

*Remainder of page intentionally left blank.*

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed in their respective names by their duly authorized representatives and their respective seals to be hereunder affixed, all as of the date above-written.

DATED: \_\_\_\_\_, 2016

CITY OF MIDDLETOWN, NEW YORK

By: \_\_\_\_\_

Name: Joseph M. DeStefano

Title: Mayor

DATED: \_\_\_\_\_, 2016

BELLA VISTA II HOUSING DEVELOPMENT  
FUND COMPANY, INC.

By: \_\_\_\_\_

Name: Jonah Mandelbaum

Title: President

DATED: \_\_\_\_\_, 2016

BELLA VISTA II LIMITED PARTNERSHIP

By: Bella Vista II Associates, LLC,  
its Managing General Partner

By: \_\_\_\_\_

Name: Jonah Mandelbaum

Title: Manager

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

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2016, before me personally appeared Joseph M. DeStefano, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

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

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2016, before me personally appeared Jonah Mandelbaum, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

**AGREEMENT FOR PAYMENT IN LIEU OF TAXES (PILOT)  
BY AND AMONG THE CITY OF MIDDLETOWN,  
THII-BVI HOUSING DEVELOPMENT FUND COMPANY, INC.  
AND THII-BVI LIMITED PARTNERSHIP**

**THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES** (the "Agreement"), dated \_\_\_\_\_, 2016, is made by and among the **CITY OF MIDDLETOWN, NEW YORK**, a New York incorporated municipality, having its principal office located at 16 James Street, Middletown, New York 10940 (the "City"), and **THII-BVI HOUSING DEVELOPMENT FUND COMPANY, INC.**, an Article XI New York private housing finance law corporation and a New York not-for-profit corporation, having its principal office located c/o Access: Supports for Living Inc., 15 Fortune Road West, Middletown, New York 10941 (the "HDFC"), which HDFC will hold title to the Property (as hereinafter defined) for the benefit of **THII-BVI LIMITED PARTNERSHIP**, a New York limited partnership, having its principal office located c/o Warwick Properties, Inc., 2 Liberty Court, Suite 3, Warwick, New York 10990 (the "Partnership").

**WHEREAS**, the HDFC is, or will become, the bare legal or record owner, and the Partnership is, or will become, the beneficial and equitable owner, of certain real property located at 54-66 County Highway 78 in the City of Middletown, County of Orange, State of New York (Section 53, Block 6, Lot 11.1), as more particularly described in Exhibit A attached hereto (the "Property"); and

**WHEREAS**, the HDFC is corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law and Article XI of the Private Housing Finance Law ("PHFL"); and

**WHEREAS**, the HDFC will be the co-general partner of the Partnership; and

**WHEREAS**, the HDFC and the Partnership were formed for the purpose of providing residential rental accommodations for persons of low income; and

**WHEREAS**, the Partnership will develop, own, construct, maintain and operate a housing project for persons of low income at the Property, anticipated to consist of seventy-six (76) residential rental units for persons of low income (the "Project"); and

**WHEREAS**, the HDFC's and the Partnership's plan for the use of the Property constitutes a "housing project" as that term is defined in the PHFL; and

**WHEREAS**, the HDFC is a "housing development fund company" as the term is defined in Section 572 of the PHFL; and

**WHEREAS**, pursuant to PHFL Section 577, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local improvements, to the extent of all or a part of the value of the property included in the completed project; and

**WHEREAS**, the Common Council of the City of Middletown, New York, by resolution adopted \_\_\_\_\_, 2016, approved and authorized the execution of this Agreement;

**NOW, THEREFORE**, it is agreed as follows:

1. Pursuant to Section 577 of the PHFL, the City hereby exempts from local and municipal taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Property, including both land and improvements. "Local and Municipal Taxes" shall mean any and all real estate taxes levied by Orange County ("County"), the City of Middletown ("City"), the School District ("School District") or other taxing jurisdiction (collectively, the "Taxing Jurisdictions").

2. This tax exemption will operate for a period of forty (40) years from the HDFC's acquisition of the Property. This Agreement shall not limit or restrict the HDFC's or the Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement.

3. So long as the exemption hereunder continues, commencing thirty (30) days after issuance of a certificate of occupancy for the Property, the Partnership shall make annual payments in lieu of taxes in the amount of Two Hundred and 00/100 Dollars (\$200.00) per dwelling unit for each such fiscal year (pro rated for the year in which said certificate of occupancy is issued). So long as the tax exemption remains in effect, tenant rental charges shall not exceed the maximum established or allowed by law, rule or regulation, and the Property shall be operated in conformance with the provisions of Article XI of PHFL. Payments shall be mailed via First Class mail through the United States Postal Service or personally delivered to the City of Middletown, Attention Tax Collector, 16 James Street, Middletown, New York 10940, or such other address as the City may specify in writing.

4. The tax exemption provided by this Agreement will continue for the term described above provided that (a) the Property continues to be used as housing facilities for persons of low income, and (b) any of the following occur (i) the HDFC and the Partnership operate the Property in conformance with Article XI of the PHFL; or (ii) the HDFC assumes sole legal and beneficial ownership of the Property and operates the Property in conformance with Article XI of the PHFL; or (iii) in the event an action is brought to foreclose a mortgage upon the HDFC, and the legal and beneficial interest in the Project shall be acquired at the foreclosure sale or from the mortgagee, or by a conveyance in lieu of such sale, by a housing development fund corporation organized pursuant to Article XI of the PHFL, or by the Federal government or an instrumentality thereof, or by a corporation which is, or by agreement has become subject to the supervision of the superintendent of banks or the superintendent of insurance, such successor in interest, such successor in interest shall operate the property in conformance with Article XI of the PHFL.

5. The failure to make the required payment will be treated as failure to make payment of taxes and will be governed by the same provisions of law as apply to the failure to make payment of taxes, including but not limited to enforcement and collection of taxes to the

extent permitted by law. In the event the City commences a proceeding to enforce the provisions of this Agreement, then, in addition to the remedies to which the City shall be entitled, it shall have the right to award reasonable attorney's fees. Notwithstanding the above, the City may terminate this Agreement, and the tax exemption shall thereupon terminate, pursuant to Section 6 hereof.

6. This Agreement and the exemption granted hereunder shall terminate pursuant to Section 5 above or in an event of default as follows:

(a) Failure to pay in full any payment due under this Agreement within thirty (30) days of mailing of written notice by the City stating that said payment is past due.

(b) Failure to comply with or perform any provision of this Agreement if such failure continues in whole or in part for more than thirty (30) days after mailing of written notice by the City of such failure to comply or perform.

In the event of a default hereunder, in addition to the termination of this Agreement and the tax exemption, the City may exercise any and all rights or remedies permitted by law.

7. All notices and other communications hereunder shall be in writing and shall be sufficiently given when delivered to the applicable address stated above (or such other address as the party to whom notice is given shall have specified to the party giving notice) by registered or certified mail, return receipt requested or by such other means as shall provide the sender with documentary evidence of such delivery.

8. This Agreement shall inure to the benefit of and shall be binding upon the City, the Partnership, the HDFC and their respective successors and assigns, including the successors in interest of Partnership and the HDFC. There shall be no assignment of this Agreement except with consent of the other party, which consent shall not be unreasonably withheld.

9. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.

10. This Agreement may be executed in any number of counterparts with the same effect as if all the signing parties had signed the same document. All counterparts shall be construed together and shall constitute the same instrument.

11. This Agreement constitutes the entire agreement of the parties relating to payments in lieu of taxes with respect to the above-described property and supersedes all prior contracts, or agreements, whether oral or written, with respect thereto.

12. Each of the parties individually represents and warrants that the execution, delivery and performance of this Agreement, (i) has been duly authorized and does not require any other consent or approval, (ii) does not violate any article, by-law or organizational document or any law, rule, regulation, order, writ, judgment or decree by which it is bound, and (iii) will not result in or constitute a default under any indenture, credit agreement, or any other agreement or instrument to which any of them is a party. Each party represents that this Agreement shall constitute the legal, valid and binding agreement of the parties enforceable in accordance with its terms.

*Remainder of page intentionally left blank.*

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed in their respective names by their duly authorized representatives and their respective seals to be hereunder affixed, all as of the date above-written.

DATED: \_\_\_\_\_, 2016 CITY OF MIDDLETOWN, NEW YORK

By: \_\_\_\_\_  
Name: Joseph M. DeStefano  
Title: Mayor

DATED: \_\_\_\_\_, 2016 THII-BVI HOUSING DEVELOPMENT  
FUND COMPANY, INC.

By: \_\_\_\_\_  
Name: Amy Anderson-Winchell  
Title: President and Chief Executive  
Officer

DATED: \_\_\_\_\_, 2016 THII-BVI LIMITED PARTNERSHIP

By: THII-BVI Associates, LLC,  
its Managing General Partner

By: \_\_\_\_\_  
Name: Jonah Mandelbaum  
Title: Manager

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

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2016, before me personally appeared Joseph M. DeStefano, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

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

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2016, before me personally appeared Jonah Mandelbaum, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

## John Naumchik

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**From:** Richard Guertin  
**Sent:** Friday, December 02, 2016 11:02 AM  
**To:** John Naumchik  
**Cc:** Joseph DeStefano  
**Subject:** FW: Bella PILOTS  
**Attachments:** PILOT Resolution V01.doc; PILOT Ag BVI V01.doc; PILOT Ag BVII V01.doc

John –

Here's the proposed resolution splitting up the PILOT over the two subdivided parcels. The two new PILOT agreements are also attached. I looked over the resolution and the two PILOT agreements and all are essentially the same as what was approved in November 2015 (this new resolution just splits the original PILOT over the two new subdivided parcels which, before the subdivision, were all one parcel and which was the subject of the original PILOT). Please add this resolution to the Council agenda for Tuesday.

Richard J. Guertin

Corporation Counsel  
City of Middletown  
16 James Street  
Middletown, NY 10940  
(845) 346-4140

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**From:** Kadan M. Sample [<mailto:ksample@chwattys.com>]  
**Sent:** Monday, November 28, 2016 3:06 PM  
**To:** Richard Guertin  
**Cc:** '<Unnamed>' ([jonah@mjjcorp.com](mailto:jonah@mjjcorp.com)); Steven S. Heyman; Nancy A. Barkley; Eamon J. Kelleher; Maureen Crush ([maureen@cylawgroup.com](mailto:maureen@cylawgroup.com)); Amy Anderson-Winchell ([aawinchell@asfl.org](mailto:aawinchell@asfl.org))  
**Subject:** FW: Bella PILOTS

Hi Rich,  
Following up on our phone call with Jonah, attached you will find the form resolution to split the PILOT into 2 separate ones as well as PILOT Agreements for Bella Vista I (which we are closing with financing sources on 12/14/16) and for Bella Vista II (which Jonah is applying for NYSDHCR for tax credit awards on 12/7/16).

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. \_\_\_\_\_

Sec'd by Ald. \_\_\_\_\_

Date of Adoption 12-06-16

Index No: \_\_\_\_\_

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

Resolution to replace resolution ## 293-15 on September 15, 2015

WHEREAS, the City of Middletown (“the City”) is going to replace the aged Black Dirt Sewer from Elm Street / Monhagen Avenue intersection to Clemson Park ( Presidential Park Elementary School Sanitary Sewer Service Lateral) which is 15’ Sanitary Sewer (approximately 3,870 LF), with 16’ and 18’ ductile iron & PVC sewer pipe (“the Action”).

WHEREAS, the City has composed a Full Environmental Assessment Form (“EAF”) pursuant to the New York State Environmental Quality Review Act (“SEQRA”) and the Regulations of the Commissioner of the Department of Environmental Conservation at 6 NYCRR Part 617 (“the Regulations”), which EAF was prepared by the Commissioner of Public Works, and which EAF has an attachment further describing the Action in detail, and

WHEREAS, the Common Council wants to classify the Action.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Middletown makes the following findings with respect to the Action: determining that the Action is a Type II action under SEQRA pursuant to 6 NYCRR Part 617.5(c) (2) (replacement-in-kind SEQRA Type II exemption) and therefore the action is exempt from further SEQRA review.

## John Naumchik

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**From:** Richard Guertin  
**Sent:** Friday, December 02, 2016 11:17 AM  
**To:** John Naumchik  
**Subject:** replacement resolution  
**Attachments:** DOC120216-002.pdf

John –

We have twice already adopted a SEQRA resolution for the Black Dirt Sewer pipe. Now the state EFC is saying I cited the wrong sections (617.5 (c) (1) and (11)) instead of 617.5 (c) (2). Ay yi yi. I've scanned in the latest with the changes. I don't have it on my computer but figure you might have it. Can you modify and put on Tuesday's agenda? If you don't have it I'll do it. Thanks.

Richard J. Guertin

Corporation Counsel  
City of Middletown  
16 James Street  
Middletown, NY 10940  
(845) 346-4140

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**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. Johnson

Sec'd by Ald. Jean-Francois

Date of Adoption: 09-15-15

Index No 293-15

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Kleiner	X			
Ald. Witt	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Sommers	X			
Ald. Jean-Francois	X			
Ald. Burr	X			
Ald. Masi				X
Pres. Rodrigues	X			
TOTAL	8			1

293-15

Resolution to replace resolution # ~~89-15~~ on ~~March 3, 2015~~ *September 15, 2015*

**WHEREAS**, the City of Middletown ("the City") is going to replace the aged Black Dirt Sewer from Elm Street / Monhagen Avenue intersection to Clemson Park ( Presidential Park Elementary School Sanitary Sewer Service Lateral) which is 15' Sanitary Sewer (approximately 3,870 LF), with 16' and 18' ductile iron & PVC sewer pipe ("the Action").

**WHEREAS**, the City has composed a Full Environmental Assessment Form ("EAF") pursuant to the New York State Environmental Quality Review Act ("SEQRA") and the Regulations of the Commissioner of the Department of Environmental Conservation at 6 NYCRR Part 617 ("the Regulations"), which EAF was prepared by the Commissioner of Public Works, and which EAF has an attachment further describing the Action in detail, and

**WHEREAS**, the Common Council wants to classify the Action.

**NOW, THEREFORE, BE IT RESOLVED** that the Common Council of the City of Middletown makes the following findings with respect to the Action: determining that the Action is a Type II action under SEQRA pursuant to 6 NYCRR Part ~~617.5 C(1) & Part 617.5 C(11)~~ and therefore the action is exempt from further SEQRA review.

*617.5(c)(2) (replacement-in-kind SEQRA Type II exemption)*

**CITY OF MIDDLETOWN, NEW YORK  
COMMON COUNCIL  
RECORD OF VOTE**

THE AUDIT OF THE COMMON COUNCIL

By Alderman Masi

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Sec'd by Alderman

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Date of Adoption: 12-06-16

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NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Ramkissoon				
Ald. Johnson				
Ald. Jean-Francois				
Ald. Sommers				
Ald. Witt				
Ald. Kleiner				
Ald. Burr				
Ald. Masi				
Pres. Rodrigues				
TOTAL				

**I MOVE THE ACCOUNTS BE AUDITED, THE CLAIMS ADJUSTED AND THE TREASURER  
BE AUTHORIZED TO ISSUE WARRANTS FOR THEIR PAYMENT.**