CITY COUNCIL WORK SESSION – 4:30 PM – POLICE TRAINING ROOM – LOWER LEVEL

CITY COUNCIL BUSINESS MEETING – 5:30 PM – COUNCIL CHAMBERS – LOWER LEVEL

MOMENT OF MEDITATION/PLEDGE OF ALLEGIANCE TO THE FLAG/ROLL CALL

PUBLIC HEARING- Road Improvement Levy

CITIZEN COMMENTS

COUNCIL COMMENTS

CITY MANAGER REPORTS

CONSENT AGENDA...

CITY COUNCIL BUSINESS MEETING – 5:30 PM – COUNCIL CHAMBERS – LOWER LEVEL

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CITIZEN COMMENTS

COUNCIL COMMENTS

CITY MANAGER REPORTS

CONSENT AGENDA...

LEGISLATION

1. Ordinance No. 02020-30, an ordinance approving an agreement with Knust Properties, LLC providing for the expansion of a manufacturing facility as a development project and tax exemption pursuant to the State Urban Jobs and Enterprise Zone Program, and making a determination in connection therewith, and declaring an emergency.

2. Ordinance No. 02020-31, an ordinance establishing a procedure for and authorizing an amendment to a contract with Reliable Construction for the installation of a self-serve fueling system and declaring an emergency.

3. Ordinance No. 02020-32, an ordinance establishing a procedure for and authorizing a contract with NFP Corporate Services to be Agent of Record for health care services from August 1, 2020 thru July 31, 2023 and declaring an emergency.

4. Ordinance No. 02020-33, an ordinance authorizing the City Manager to enter into an agreement for a Small Business Economic Development Grant with White Dog Distilling Company. (Second Reading)

5. Ordinance No. 02020-34, an ordinance to impose an additional one-quarter percent (0.25%) income tax on and after January 1, 2021 for a period of ten (10) years to be used solely for the construction, repair, improvement and maintenance of streets and roads within the City, and appurtenances thereto, to amend Chapter 891 of the Codified Ordinances of the City of Middletown, as amended and to declare an emergency.
6. **Resolution No. R2020-21**, a resolution directing the Boards of Elections of Butler County and Warren County to place upon the ballot at the General Election to be held November 3, 2020 the question of approving an ordinance to enact Section 891.012.1 of the Codified Ordinances of the City of Middletown to impose an additional one-quarter of one percent (0.25%) income tax effective January 1, 2021 for a period of ten (10) years to be used solely for the construction, repair, improvement and maintenance of streets and roadways in the City and appurtenances thereto and declaring an emergency.

7. **Resolution No. R2020-22**, a resolution to make adjustments to appropriations for current expenses and other expenditures of the City of Middletown, Counties of Butler and Warren, State of Ohio, for the period ending December 31, 2020 and declaring and emergency. (General Fund)

8. **Resolution No. R2020-23**, a resolution supporting the Davidson Flexibility for States and Localities Act and declaring an emergency.

9. **Ordinance No. O2020-35**, an ordinance authorizing an amendment to the collective bargaining agreement with AFSCME Local 856 (Public Works) for July 1, 2019 through June 30, 2022, and declaring an emergency.

10. **Ordinance No. O2020-36**, an ordinance authorizing the City Manager to enter into an agreement for a Small Business Economic Development Grant with BAAB’S Kayaking, LLC. (First Reading)

11. **Ordinance No. O2020-37**, an ordinance authorizing the City Manager to enter into a forgivable loan agreement with Brent’s Smokin’ Butts & Grill LLC for Small Business Economic Development Assistance. (First Reading)

**EXECUTIVE SESSION**

Under the authority of O.R.C. 121.22 (G) (1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official.
WORK SESSION
PUBLIC HEARING
CITIZEN
COMMENTS
CITY MANAGER REPORTS
CONSENT

AGENDA
MIDDLETOWN CEMETERY BOARD
MINUTES
JANUARY 15, 2020

CEMETERY BOARD: Fred Tyson, Belinda Cox, Ken Blandford, Charlene Kiniyalocts, Beth Birch

COUNCIL REPRESENTATIVE: Mayor Nicole Condrey

STAFF: Donna Beauregard, Public Works Parks Leader – Parks & Grounds

MEETING: Called to order at 5:02 p.m.

ROLL CALL
Also present was City Staff Representative, Parks Leader, Donna Beauregard.

APPROVAL OF MINUTES
Ken Blandford made a motion to approve the October 16, 2019 Minutes, Fred Tyson seconded. Motion passed.

ELECTION OF OFFICERS
Donna Beauregard opened the floor for nominations for Chair for 2020. Charlene Kiniyalocts made the motion to nominate Ken Blandford for Chair. Beth Birch seconded. There were no other nominations. Donna then opened the floor for nominations for Vice-Chair for 2020. Ken made the motion to nominate Beth Birch for Vice-Chair. Charlene seconded. There were no other nominations. Both motions passed.

AUDIENCE COMMENTS

OLD BUSINESS

Financial Report:
Donna Beauregard distributed copies of the updated Financial Report. The fund raising function of the Board, as well as an explanation of how the funds are handled, was explained to the new Board member, Beth Birch. Donna explained that the funds in the Cemetery Account are held by the Finance Department and are used for the Cemetery, exclusively. The City cannot use them for General Fund items, or without the Board’s majority consent.

Vault Project
Charlene Kiniyalocts reported that the vault project has not been started. Donna Beauregard said she will contact Alex Webb again to make sure he understands he has the City’s okay to go ahead. Donna said she would make arrangements with him to give him a key to the vault. The Board hopes to use the vault in the future as a small museum.

New Revolutionary War Veterans Markers
Charlene Kiniyalocts shared a copy of the draft program for the event on April 19, 2020 she had received from Michael Gunn of the SAR (Sons of the American Revolution). Charlene said she would email the program to the members of the Board and to the new Council rep, Mayor Condrey. Donna Beauregard said she would email Beth’s and the Mayor’s email addresses to Charlene. Charlene stated she would be contacting the schools to see if students would like to attend the ceremony, maybe for extra credit. She will also contact the Mayor about speaking at the ceremony. Ken Blandford asked if Deb Morrison had submitted the invoice for the marker the Cemetery Board voted to purchase. Donna said she would contact Deb to find out.

NEW BUSINESS

Charlene Kiniyalocts reported the date of Keep Middletown Beautiful’s Earth Day Event this year is Saturday, April 18. This is the day before the Marker Ceremony. Donna Beauregard stated she would make sure any debris from Earth Day work done in the Cemetery would be removed that day. Charlene said she would be in contact with KMB and AK Steel volunteers to coordinate the work to be done in the Cemetery that day. She will email Board members with updates on the event as plans are made.

Schedule of Meeting for 2020
The Board members agreed to continue meeting four times a year, instead of monthly. The possibility of calling for an additional meeting, if needed, was discussed. Donna Beauregard requested a week’s notice to inform proper personnel, so that the public is notified. The dates of the Board meetings for the remainder of 2020 are April 15, July 15, and October 21.

Beth Birch asked who gives permission for trees to be removed from the Cemetery. Charlene Kiniyalocts responded that the AK Steel volunteers on Earth Day removed large conifers, at the request of the Board. Beth then asked who was responsible for eradicating the ground hogs. Donna Beauregard told her the City takes care of this when holes are discovered.

Ken Blandford asked what had been done regarding resurfacing the gravel roads in the Cemetery. Donna Beauregard reported that after the Board had voted to use the asphalt grindings from the City, Deb Morrison, via an
email to her, had expressed concerns about the Historical designation of the Cemetery, and whether the grindings would comply. Consequently, the project has been put on hold. Historical designation of the Cemetery was then discussed. The Cemetery has been designated a Historical site by the City, but not the State. Charlene Kiniyaloocts reported that the Tytus home on South Main is the only Nationally-registered structure in Middletown. She said to get Nationally registered, we would need to start with the State. Fred Tyson stated someone should contact the State and find out what the requirements are and what we would need to do to get designated by the State. Charlene said the historical designation would be advantageous to obtain grants. Ken suggested we might contact the City of Lebanon for information, because they have a Pioneer Cemetery also.

BOARD MEMBERS' COMMENTS

Ken Blandford welcomed new Board member, Beth Birch.

OTHER

Next Cemetery Board meeting will be April 15, 2020.

ADJOURN

Charlene Kiniyaloocts motioned to adjourn the meeting, Fred Tyson seconded, motion passed. Middletown Cemetery Board adjourned at 6:15 p.m.

[Signature]
Ken Blandford, Chair

[Signature]
Donna Beauregard, Secretary
June 26, 2020

TO: Susan Cohen, Acting City Manager

FROM: Ashley Combs, Planning Director

SUBJECT: Sawyer’s Mill Section 3 Final Record Plat

Request:
To have the City Council approve the Final Record Plat for Sawyer’s Mill Section 3

Background:
The Final Plat is a legal document to be filled with the Butler County Recorder which creates the building lots and dedicates the streets as public roads. The Final Plat also requires the approval of Middletown City Council and the City Engineer. Construction drawings for the road and bonds assuring the proper construction of the streets are also to be filed and approved by the City Engineer’s office as a part of the approval of the dedication plats.

Staff Comments:
The Final Plat meets the Amended Development Plan that was approved by the City Planning Commission in November 2019. The Final Plat conforms to the Middletown Development Code and review criteria to approve the Final Record Plat. Below is the review process per the Middletown Development Code. The City Engineer has reviewed the final plat and requires closure calculations and the performance/maintenance bonds prior to the City signing the plat.

Review Process per the Middletown Development Code:
Chapter 1226: Review Authority and Procedures:
1226.07: Major Subdivisions

Acceptance of Improvements by City Council
The City, through action by City Council, may accept public improvements made by a subdivider which meet the following conditions:

a. The public improvements have been made in accordance with the requirements of this code and City of Middletown Manual of Design for Public Improvements;

b. Installation of the public improvements has been completed in accordance with the applicable design standards;

c. All final inspections required by these regulations have been carried out by the City, and said public improvements were found to be acceptable by the City Engineer and the Development Code Administrator; and

d. After all public improvements have been installed to the satisfaction of the City, the applicant shall submit an original copy of as-built construction drawings
For the Business Meeting of July 21, 2020

(showing how all public improvements were actually installed) to the City Engineer in a format acceptable to the City.

e. After all public improvements have been installed in accordance with the construction agreement and these regulations and the subdivider has complied with this section, City Council may, by motion, accept the public improvements for maintenance with any applicable guarantee.

Disposition of Approved Plat and Recordation

a. After approval of the original drawing of the final plat by the Planning Commission, such final plat shall be transmitted to City Council or other appropriate public body for necessary acceptance of all public dedications.

b. After approval of the final plat and after acceptance of all land to be dedicated on the plat by City Council or other appropriate public bodies, the plat shall be filed with the applicable county’s recorder office in a format set by the county. The plat shall be filed within 60 days after date of final approval and after all necessary certifications have been noted thereon. Failure to record the approved final plat within the 60 days shall result in the final plat being considered void.

c. Upon recording of the final plat with the applicable county, the applicant shall return one original tracing for the City’s permanent records, the return of which shall demonstrate compliance with this section.

Review Criteria

In order to approve a major subdivision, the Planning Commission and City Council, as appropriate, shall determine the following:

1. That the major subdivision complies with all applicable provisions of the Middletown Development Code;
2. That the major subdivision does not conflict with other regulations, plans, or policies of the City;
3. That applicable review agencies have no objections that cannot be resolved by the applicant; and
4. That the final plat and construction drawings conform to the approved preliminary plat, if submitted and approved.

Alternatives:
None

Financial Impact:
None

Emergency/Non-Emergency
Consent Agenda

Recommendation
Approval of the Final Record Plat for Sawyer’s Mill Section 3

Attachments
Sawyer’s Mill Section 3 Final Record Plat
LEGISLATION
ITEM 1
ORDINANCE NO. O2020-30

AN ORDINANCE APPROVING AN AGREEMENT WITH KNUST PROPERTIES, LLC PROVIDING FOR THE EXPANSION OF A MANUFACTURING FACILITY AS A DEVELOPMENT PROJECT AND TAX EXEMPTION PURSUANT TO THE STATE URBAN JOBS AND ENTERPRISE ZONE PROGRAM, AND MAKING A DETERMINATION IN CONNECTION THEREWITH, AND DECLARING AN EMERGENCY.

WHEREAS, the State of Ohio has, pursuant to its Urban Jobs and Enterprise Zone Program, provided for the establishment of Urban Jobs and Enterprise Zones, and for the provision of tax incentives to private enterprise in order to promote and encourage development programs by private enterprise in such Enterprise Zones, and the creation and/or preservation of jobs and economic development in connection therewith; and

WHEREAS, pursuant to the Urban Jobs and Enterprise Zone Program, City Council passed Resolution No. R2001-31 on November 6, 2001, designating the geographic area described in said Ordinance as an Enterprise Zone and authorized and directed the City Manager to petition the Director of Development of the State Department of Development for certification of such area as an Enterprise Zone in accordance with Revised Code Sections 5709.61 through 5709.69, (the “Act”), and the State Director of Development has forwarded to the City his certification and approval of said area as an Enterprise Zone within the requirements of the Act; and

WHEREAS, City Council has received a proposal from Knust Properties, LLC proposing to enter into an Agreement with the City under the State Urban Jobs and Enterprise Zone Program, which Agreement would provide for the construction of two speculative buildings in an amount estimated to cost approximately $4,500,000.00 on property located at parcel number Q6542059000106 on Emerald Way in the Enterprise Zone (the “Construction Project”), and to provide for the approval of certain personal property and real property tax exemptions for such project, and as further detailed and described in the copy of the proposal and site plan attached hereto as Exhibit “A” (hereinafter “the Proposal”); and

WHEREAS, said Proposal has been reviewed and investigated by the City, and City Council has received oral or written reports and data relating to said Proposal for an agreement with Knust Properties, LLC under the State Urban Jobs and Enterprise Zone Program. Based on such review, investigation, reports and data, and City Council’s own information and knowledge, City Council has determined that it will be in the best interests of the City of Middletown and its citizens to enter into an Agreement with Knust Properties, LLC for the construction described in said Proposal and for the requested tax exemption therefore, and that such Agreement and Construction Project will carry out the purposes of the State Urban Jobs and Enterprise Zone Program and the Act, and will promote the economic
welfare of the City and its residents by creating or preserving jobs and employment opportunities.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Middletown, Butler and Warren Counties, Ohio:

**Section 1**

Based on the aforesaid review, investigation, reports and data, City Council hereby finds and determines that Knust Properties, LLC is qualified by financial responsibility and business experience to create and preserve employment opportunities in the Enterprise Zone heretofore designated by City Council and to improve the economic climate of the City. City Council further finds and determines that the aforesaid Proposal submitted by Knust Properties, LLC describing the proposed Construction Project complies with the requirements of the State Urban Jobs and Enterprise Zone Program and the Act, the project is satisfactory to the City, and the Proposal is hereby approved.

**Section 2**

City Council hereby finds and determines that the personal and real property tax exemptions requested by Knust Properties, LLC for said Construction Project described in its Proposal meets the requirements of the State Urban Jobs and Enterprise Zone Program and said state statutes, and City Council hereby approves the exemptions.

City Council further authorizes and directs the City Manager to enter into an Enterprise Zone Agreement with Knust Properties, LLC that provides for the construction of two speculative buildings as described in this Ordinance and the Proposal and granting the tax exemptions requested by Knust Properties, LLC (the “Agreement”). The Agreement shall be in form to be approved by the Law Director and City Manager, and at minimum include the following attachments and/or the information included in the attachments:

- **Exhibit A:** Proposal with site plan
- **Exhibit B:** Offer letter from City dated May 7, 2020
- **Exhibit C:** Renderings of the speculative buildings
- **Exhibit D:** Aerial Map.

The Agreement shall include any revisions and additional terms and conditions as may be required and as are consistent with the requirements of the State Urban Jobs and Enterprise Zone Program and any statutory requirements in the Act or otherwise. The Agreement shall be consistent with the Offer Letter from the City dated May 7, 2020, this ordinance and the materials currently on file with the City, the accuracy of which this Council has relied upon in the passage of this Ordinance. The approval of
the Agreement shall be conclusively evidenced by the execution of the Agreement by the Law Director and City Manager.

Section 3

City Council hereby authorizes and directs the City Manager, Law Director and Economic Development Director to take such additional steps, provide such information and certifications to the State or Knust Properties, LLC as is necessary and appropriate to carry out and implement the terms and conditions of the aforesaid Agreement, and the requirements and policies of the State Urban Jobs and Enterprise Zone Program.

Section 4

It is found and determined that all formal actions of City Council concerning and relating to the passage of this ordinance were adopted in an open meeting of City Council, and that all deliberations of City Council and any of its committees that resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Revised Code Section 121.22.

Section 5

This ordinance is declared to be an emergency measure, necessary for the immediate preservation of the public health, safety and general welfare of the City, to wit: the prompt approval of the Proposal of Knust Properties, LLC and authorization and execution of an Agreement with Knust Properties, LLC pursuant to said State Urban Jobs and Enterprise Zone Program, is necessary to expedite and permit the Construction Project to proceed during this construction season and to provide for the creation of jobs and employment opportunities within the City for the economic welfare of the City and its residents; and shall take effect and be in force immediately upon its adoption.

Nicole Condrey, Mayor

Adopted:___________

Attest:__________________
Clerk of City Council
EXHIBIT "A"

OHIO DEPARTMENT OF DEVELOPMENT

OHIO DEPARTMENT OF DEVELOPMENT
OHIO ENTERPRISE ZONE PROGRAM

PROPOSED AGREEMENT for Enterprise Zone Tax Incentives between the City of Middletown located in the Counties of Butler and Warren and

1a. Name of business, home or main office address, contact person, and telephone number (attach additional pages if multiple enterprise participants).

   Knust Properties               David Knust
   enterprise name                contact person
   513-319-3422                   11300 longwater Chase CT
   telephone number              Ft. Myers, FL 33908

1b. Project site:

   David Knust
   contact person
   4440 Emerald Dr
   address
   513-319-3422
   telephone number
   Middletown, Ohio 45044

2a. Nature of business (manufacturing, distribution, wholesale or other).

   Development and Leasing Industrial Property

2b. List primary 6 digit NAICS # _________________

   Business may list other relevant SIC numbers.

2c. If a consolidation, what are the components of the consolidation? (Must itemize the location, assets, and employment positions to be transferred)

   N/A
Form of business of enterprise (corporation, partnership, proprietorship, or other).

LLC

Name of principal owner(s) or officers of the business (attach list if necessary).

Susan Knust, David Knust, Andrew Knust, Eleanor Knust

Is business seasonal in nature? Yes _______ No ___

State the enterprise's current employment level at the proposed project site:

N/A

Will the project involve the relocation of employment positions or assets from one Ohio location to another? Note that relocation projects are restricted in non-distress based Ohio Enterprise Zones. A waiver from the Director of the Ohio Department of Development is available for special limited circumstances. The business and local jurisdiction should contact ODOD early in the discussions.

Yes _____ No _____  Unkown

If yes, state the locations from which employment positions or assets will be relocated and the location to where the employment positions or assets will be located:


State the enterprise's current employment level in Ohio (itemized for full and part-time and permanent and temporary employees):


State the enterprise's current employment level for each facility to be affected by the relocation of employment positions or assets:


What is the projected impact of the relocation, detailing the number and type of employees and/or assets to be relocated?


Has the Enterprise previously entered into an Enterprise Zone Agreement with the local legislative authorities at any site where the employment or assets will be relocated as a result of this proposal? Yes _____ No _____  Unknown

If yes, list the local legislative authorities, date, and term of the incentives for each Enterprise Zone Agreement:
7. Does the Enterprise owe:
   a. Any delinquent taxes to the State of Ohio or a political subdivision of the state?  
      Yes _____ No ___
   b. Any moneys to the State or a state agency for the administration or enforcement of  
      any environmental laws of the State?  Yes __ No ___
   c. Any other moneys to the State, a state agency or a political subdivision of the State  
      that are past due, whether the amounts owed are being contested in a court of law or  
      not.  Yes ___ No ___
   d. If yes to any of the above, please provide details of each instance including but not  
      limited to the location, amounts and/or case identification numbers (add additional  
      sheets if necessary).

8. Project Description (attach additional pages if necessary):

   Construction of 2 industrial buildings to lease
   Site Plan attached

9. Project will begin 2020 - June ___ and be completed  
   March ___, 2021 provided a tax exemption is provided.

10a. Estimate the number of new employees the business intends to hire at the facility that is  
     the project site (job creation projection must be itemized by full and part-time and  
     permanent and temporary): Estimate ___

10b. State the time frame of this projected hiring: ___ years

10c. State proposed schedule for hiring (itemize by full and part-time and permanent and  
     temporary employees):

11a. Estimate the amount of annual payroll such new employees will add (new annual payroll  
     must be itemized by full and part-time and permanent and temporary new employees).

   $ ____________________________  Full Time
   $ ____________________________  Part Time
   $ ____________________________  Permanent
   $ ____________________________  Temporary
11b. Indicate separately the amount of existing annual payroll relating to any job retention claim resulting from the project: $ _______________________

12. Market value of the existing facility as determined for local property taxation.
   $4,500,000

13a. Business's total current investment in the facility as of the proposal's submission.
   $ _______________________

13b. State the businesses' value of on-site inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year (stated in average dollar value per most recent 12 month period) in which the agreement is entered into (baseline inventory):
   $ _______________________

14. An estimate of the amount to be invested by the enterprise to establish, expand, renovate or occupy a facility:

   A. Acquisition of Land/Buildings: $300,000
   B. Additions/New Construction: $4,200,000
   C. Improvements to existing buildings:
   D. Machinery & Equipment: $3,000,000
   E. Furniture & Fixtures:
   F. Inventory: $500,000
   Total New Project Investment: $4,500,000

15a. Business requests the following tax exemption incentives (percent) for (years) covering real property as described above. Please use the area below for additional information.

15b. Business's reasons for requesting tax incentives (be quantitatively specific as possible)

We at Knust Properties build, own, manage, and lease industrial buildings. Potential tenants obviously consider all costs when looking at leasing one of our buildings, but there is a strong emphasis on the big three line items: lease rate, property taxes, and property insurance. If we can get the property tax reduced by abatement during the improvement portion, then we can offset some of the more uncontrollable expenses and have a better chance of leasing the buildings. Construction costs have been prohibitively expensive up until now, making this the best chance we've had in a while to expand our footprint on Emerald Way.
Submission of this application expressly authorizes the City of Middletown of Butler and Warren Counties to contact the Ohio Environmental Protection Agency to confirm statements contained within this application including item #7 and to review applicable confidential records. As part of this application, the business may also be required to directly request from the Ohio Department of Taxation or complete a waiver form allowing the Ohio Department of Taxation to release specific tax records to the local jurisdictions considering the incentive request.

Applicant agrees to supply additional information upon request.

The applicant affirmatively covenants that the information contained in and submitted with this application is complete and correct and is aware of the ORC Sections 9.66(C)(1) and 2921.13(D)(1) penalties for falsification which could result in the forfeiture of all current and future economic development assistance benefit as well as a fine of not more than $1,000 and/or a term of imprisonment of not more than six months.

Knute Properties LLC  3/30/2020
Name of Enterprise  Date

Signature  Typed Name and Title

* A copy of this proposal must be forwarded by the local governments to the affected Board of Education along with notice of the meeting date on which the local government will review the proposal. Notice must be given a minimum of fourteen (14) days prior to the scheduled meeting to permit the Board of Education to appear and/or comment before the legislative authorities considering the request.

** Attach to Final Enterprise Zone Agreement as Exhibit A

Please note that copies of this proposal must be included in the finalized Enterprise Zone Agreement and be forwarded to the Ohio Department of Taxation and the Ohio Department of Development within fifteen (15) days of final approval.
May 7, 2020

Mr. Dave Knust
KP Properties/Knust Properties
11300 Longwater Chase Court
Ft. Meyers, FL  33908

Re: Offer Letter for 4640 Emerald Way

Dear Dave:

The City of Middletown would like to first and foremost thank you for your interest in expanding your operations here in our community. The City of Middletown is actively seeking to grow its economic base and we are pleased to learn of KNUST PROPERTIES, LLC’s interest in our community.

Our understanding of the project details are:

**Project Site:** 4640 Emerald Way

**Building Size(s):** Building A-50,000 sq. ft.  Building B-56,000 sq. ft.

**New Jobs:** Speculative Building

**New Payroll:** N/A

**Speculative Building Requirements:**

1. Tenants must be engaged in manufacturing, research & development, warehousing or distribution activities
2. Buildings must be a minimum of 25,000 sq. ft. and constructed upon a site that is appropriately platted and zoned.
3. The project must obtain all required city approvals, including site plan review, building plan review, building permit and building inspections.
4. All building façades that face a street be constructed of the following materials: Stone, brick, wood, stucco, cultured stone, cement board, ceramic tile, ceramic block, or exterior insulation finish system (E.I.F.S.).
5. Architectural metal is permitted, provided that it occupies no more than 60 percent of the façade area and that all fasteners are concealed.

The City of Middletown would like to offer an Enterprise Zone (EZ) abatement as a means of assisting with your project. The 75% abatement will be applied to the improvements on parcel Q6542059000042. The abatement will run for 5 years. This project will be eligible for an
additional 5 year term if the owner secures a tenant with a minimum payroll of $750,000 (25 employees/average annual salary $30,000) before this incentive expires.

This incentive offer is contingent on the approval of Middletown City Council and the company entering into an Incentive Agreement with the City of Middletown. If KNUST PROPERTIES, LLC wishes to accept this offer, we ask that you respond on company letterhead via mail or email by Friday, June 5, 2020.

I look forward to working with you, if there is anything I can do to help facilitate the process, please feel free to contact me directly.

Best,

Chris Xeil Lyons
Economic Development Director
**BUILDING 'A'**

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**BUILDING 'B'**

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Exhibit D – Knust Properties LLC – Aerial Map

Location of new spec buildings

4640
DATE: June 11, 2020
TO: Susan Cohen, Acting City Manager
FROM: Chris Xeil Lyons, Economic Development Director,
prepared by Alaina Geres, Economic Development Program Manager

Knust Properties LLC Enterprise Zone Agreements

PURPOSE
To authorize an Enterprise Zone Agreement with Knust Properties LLC for the development of 2 speculative buildings on approximately 6 acres in the Greentree Industrial Park.

BACKGROUND and FINDINGS
David Knust of Knust Properties LLC owns several industrial buildings in Monroe, Ohio. In December of 2016, he purchased the property at 4640 Emerald Way, which had one existing building that he continues to rent to Ventilex USA, Inc. He has since split the original parcel into two. He wishes to invest $4.5M total ($2M/$2.5M per building) in the construction of two additional speculative buildings at 50,000 SF and 56,000 SF on parcel (Q6542059000106) – adjacent to the Ventilex parcel (Q6542059000042.) See site map.

The terms of the agreements are 5 years at 75%, and the project will be eligible for an additional 5-year term if the owner secures a tenant for each building with a minimum payroll of $750,000 (25 employees/average salary $30,000) before this incentive expires.

Per the terms of the agreement, the speculative building requirements are:
1. Tenants must be engaged in manufacturing, research & development, warehousing or distribution activities
2. Buildings must be a minimum of 25,000 sq. ft. and constructed upon a site that is appropriately platted and zoned.
3. The project must obtain all required city approvals, including site plan review, building plan review, building permit and building inspections.
4. All building façades that face a street be constructed of the following materials: Stone, brick, wood, stucco, cultured stone, cement board, ceramic tile, ceramic block, or exterior insulation finish system (E.I.F.S.).
5. Architectural metal is permitted, provided that it occupies no more than 60 percent of the façade area and that all fasteners are concealed.

ALTERNATIVES
No alternatives.

FINANCIAL IMPACT
Estimated Financial Impact - A reduction in real estate taxes at 75% for 5-years.
If payroll is over $1M/per building, the City of Middletown will be required to pay Middletown City Schools 33% of what they would have received, had the abatement not been in place.

**EMERGENCY/NON EMERGENCY**

2nd Reading Emergency – For economic development purposes. Mr. Knust would like to begin building now during construction season.
LEGISLATION
ITEM 2
ORDINANCE NO. O2020-31

AN ORDINANCE ESTABLISHING A PROCEDURE FOR AND AUTHORIZING AN AMENDMENT TO A CONTRACT WITH RELIABLE CONSTRUCTION FOR THE INSTALLATION OF A SELF-SERVE FUELING SYSTEM AND DECLARING AN EMERGENCY.

WHEREAS, City Council previously approved a contract with Reliable Construction for the installation of a self-serve fueling system in Ordinance No. O2019-100 on December 17, 2019; and

WHEREAS, while the work was being completed, it was determined that additional electrical infrastructure was needed for staging fuel trucks near the self-serve system and this led to additional plan review by the engineering consultants and Building Inspection;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

The City Manager, without complying with the procedures of Chapter 735 of the Ohio Revised Code, is hereby authorized to enter into an amendment of the contract with Reliable Construction to pay for Change Orders 1 and 2 for the installation of the self-serve fuel system. The change orders are attached hereto as Exhibits A and B.

Section 2

For said purposes the Finance Director is authorized and directed to expend a sum not to exceed $8,607.70 from the Airport Fund (Fund # 525).

Section 3

City Council hereby determines that the procedure to be followed in the award and execution of the aforesaid contract shall consist solely of the procedure set forth in this ordinance and the provisions of Chapter 735 of the Ohio Revised Code shall not be applicable to the award and execution of the aforesaid contract.

Section 4

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: so that the contractor can be paid for the additional expenses as soon as possible, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor
Professional services needed for stamp drawings for electrical permit for the city of Middletown performed by Diamond Z Engineering, Inc.

Middletown performed the following services:

<table>
<thead>
<tr>
<th>Cost Code</th>
<th>Cost Class</th>
<th>Activity</th>
<th>HOURS</th>
<th>RATE</th>
<th>TOTAL</th>
</tr>
</thead>
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<tr>
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Equipment:

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MATERIALS:

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<td>Electrical</td>
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<td>Stamped Electrical Drawings</td>
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<td>1996.50</td>
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<td>Electrical</td>
<td>3-general materials</td>
<td>Add for block heaters to drawing per Electrical Inspector for Middletown</td>
<td>1.0</td>
<td>727.50</td>
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SUBCONTRACTOR:

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<tr>
<td>5-SUBCONTRACTOR</td>
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<tr>
<td>5-SUBCONTRACTOR</td>
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MISCELLANEOUS:

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<td>Miscellaneous</td>
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<td>supplies</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
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<td>3-general materials</td>
<td>supplies</td>
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TOTAL COST: $2,724.00

Owner/Authorized Signature:______ Date: 6-10-2020
Reliable Construction Services:______ Date: 6-10-2020
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<tr>
<th>Task</th>
<th>Date</th>
<th># Personnel</th>
<th>Hours</th>
<th>Cost</th>
<th>Item</th>
<th>Quantity</th>
<th>Ext Cost</th>
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<tbody>
<tr>
<td>Dig trench for block heater outlets</td>
<td>4/20/2020</td>
<td>1</td>
<td>4</td>
<td>$254.80</td>
<td>4&quot; rigid for posts</td>
<td>1</td>
<td>$254.80</td>
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<tr>
<td>Run underground conduit and set posts for outlets</td>
<td>4/20/2020</td>
<td>2</td>
<td>10</td>
<td>$1,270.00</td>
<td>block heater wire (5 - #6 THHN)</td>
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<td>$1,270.00</td>
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<tr>
<td>Concrete outlet posts and backfill ditch</td>
<td>5/4/2020</td>
<td>3</td>
<td>8</td>
<td>$509.60</td>
<td>outlets, boxes, and covers</td>
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<td>$509.60</td>
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<tr>
<td>Pull wire from ground box to block heater outlets, install outlets and test, fill posts with concrete</td>
<td>5/13/2020</td>
<td>1</td>
<td>9</td>
<td>$673.30</td>
<td></td>
<td></td>
<td>$673.30</td>
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<tr>
<td>Start up dispenser and card reader system not in original quote</td>
<td>5/15/2020</td>
<td>1</td>
<td>10</td>
<td>$573.00</td>
<td></td>
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<td>$573.00</td>
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<tr>
<td>Install riser with cap for stick reader</td>
<td>??</td>
<td>1</td>
<td>2</td>
<td>$170.00</td>
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<td>Total Labor</td>
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**Equipment**

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<th>Cost</th>
<th>Item</th>
<th>Ext Cost</th>
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</thead>
<tbody>
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<td>Air Compressor (Ghr)</td>
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<tr>
<td>Caterpillar Breaker - hammer</td>
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<tr>
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<tr>
<td>Mini Excavator (Tracks)</td>
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<td>$0.00</td>
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<tr>
<td>Bobcat (bx)</td>
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<tr>
<td>Bobcat Hammer</td>
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<td>Total Subcontractor</td>
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<td>Bobcat Sweeper</td>
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<td>$0.00</td>
</tr>
<tr>
<td>Concrete Saw</td>
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<td></td>
<td>$0.00</td>
</tr>
<tr>
<td>Cost off Saw</td>
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<td>$0.00</td>
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<tr>
<td>Truck Mounted Crane</td>
<td></td>
<td></td>
<td>$0.00</td>
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</tr>
<tr>
<td>Dump Truck (single axle or stakebed)</td>
<td></td>
<td></td>
<td>$0.00</td>
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<tr>
<td>Dump Truck (tandem)</td>
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<td></td>
<td>$0.00</td>
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<tr>
<td>Water pump (2&quot; submersible)</td>
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<td></td>
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<td>Service truck</td>
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<td>Total Miscellaneous</td>
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<td>Total Invoice</td>
<td></td>
<td></td>
<td>$5,883.70</td>
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<td>$5,883.70</td>
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</tbody>
</table>

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Exhibit B
June 24, 2020

TO: Susan Cohen, Acting City Manager

FROM: Chris Xeil Lyons, Economic Development Director
Prepared by Matt Eisenbraun, Economic Development Asst. Director

PURPOSE

To approve Change Orders #1 and #2 of the contract for installation of the self-serve fuel system with Reliable Construction Services at Middletown Regional Airport.

BACKGROUND AND FINDINGS

In November of 2019, City Council approved the construction and installation of a self-serve fueling system at Middletown Regional Airport. The fueling unit was custom constructed to order and construction/placement approval from the Federal Aviation Administration (FAA) was received at that time.

During the interim period, the Middletown Fire Department clarified the standards for storage and use of fueling trucks; the sum of which directed additional infrastructure requirements (electrical) for staging fuel trucks near the self-serve system.

Furthermore, changes to the infrastructure/utility design then triggered the need for a new set of reviewed/stamped plans from the engineering consultants and acceptance from the Middletown Building Inspection office.

FINANCIAL IMPACT

CO#1 – New Drawings for additional infrastructure - $2,724.00
CO#2 – Construction/installation of new safety and infrastructure requirements - $5,883.70

525-525-54350 Equipment Purchase Total $8,607.70
EMERGENCY/NON-EMERGENCY

Second Reading Emergency

Cc: Law Director
    Finance Director

Attachments: CO #1, CO #2
LEGISLATION
ITEM 3
ORDINANCE NO. O2020-32

AN ORDINANCE ESTABLISHING A PROCEDURE FOR AND AUTHORIZING A CONTRACT WITH NFP CORPORATE SERVICES TO BE AGENT OF RECORD FOR HEALTH CARE SERVICES FROM AUGUST 1, 2020 THRU JULY 31, 2023 AND DECLARING AN EMERGENCY.

WHEREAS, the City issued an Request for Qualifications for an Agent of Record for health care services in June 2020 and received five responses; and

WHEREAS, the City’s Healthcare Committee reviewed all of the information submitted in response to the RFQ, and the committee unanimously voted to continue our relationship with NFP Corporate Services;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

The City Manager, without complying with the procedures of Chapter 735 of the Ohio Revised Code, is hereby authorized to enter into a contract with NFP Corporate Services (NFP) to be Agent of Record for health care services for the period August 1, 2020 through July 31, 2023. NFP has offered pricing as follows: August 1, 2020 - July 31, 2022 (2 years - $58,000/year), August 1, 2022 – July 31, 2023 (1 year - $62,000/year), with the option for three one-year renewals. The contract shall be in a form approved by the Law Director and City Manager.

Section 2

For said purpose the Finance Director is hereby authorized and directed to pay a sum not to exceed $178,000.00 from the Employee Benefits Fund (Fund # 661) over the term of the contract.

Section 3

City Council hereby determines that the procedure to be followed in the award and execution of the aforesaid contract shall consist solely of the procedure set forth in this Ordinance and the provisions of Ohio Revised Code Chapter 735 shall not be applicable to the award and execution of the aforesaid contract.
Section 4

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: to permit the new contract to be signed before the expiration of the current contract, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted: ______________

Attest: _______________________

Clerk of the City Council
June 22, 2020

TO: Susan Cohen, Acting City Manager
FROM: Samantha Zimmerman, Purchasing Agent

**Request for Contract for Agent of Record**

**PURPOSE**

To request a contract with NFP Corporate Services, of Independence, OH, for Agent of Record for our Health Care Services in the amount of $58,000 for the period of August 1, 2020 through July 31, 2022 and $62,000 for the period of August 1, 2022 through July 31, 2023.

**BACKGROUND and FINDINGS**

The City of Middletown currently utilizes an Agent of Record for health care services for its employees. Approximately 340 employees are covered under this benefit. The Agent provides ongoing plan monitoring of employee health care benefit programs, monitors health care related issues, and offers advice, as well as consulting services and specialized services for problems and questions as they arise. The Agent is tasked with identifying innovative approaches to health care administration and the creation of health plan options to control costs, while maintaining high quality and competitive health benefits. The Agent also assists the City in its efforts to be in compliance with all legal and regulatory requirements.

The City has been and continues to be a self-funded group, with a third party administrator. A Health Insurance Committee comprised of representatives from the City’s Union and Non-Union employees works with the Agent to provide the best solution possible for the employees of the City.

The City has worked successfully with NFP for several years. Although the City has been very satisfied with the work they have performed, Request for Qualifications were requested in June 2020 to make sure the City is still receiving value for the work NFP has been providing. Five firms responded to the RFQ. Based on information submitted in the RFQ’s, and our past experience with NFP, the committee unanimously recommended continuing our relationship with NFP. Three ‘one-year’ renewals are available on this contract.

**ALTERNATIVES**

1. Not be self-funded, and turn the health insurance over to an insurance company to handle all our claims, etc.
2. Select a different firm to be the City’s Agent of Record for Health Care Services against the recommendation of the City’s Health Care Committee.

FINANCIAL IMPACT

Funding is available in the budget to cover this expenditure.

EMERGENCY/NON EMERGENCY

2nd reading emergency – A 2nd reading emergency is requested in order for this to be effective before the start of the contract of August 1, 2020.

cc: Jacob Burton, Finance Director
    Susan Cohen, Administrative Services Director
    Brittany Grimes, Human Resources Specialist
    Megan Ellis, Human Resources Clerk
LEGISLATION
ITEM 4
ORDINANCE NO. O2020-33

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR A SMALL BUSINESS ECONOMIC DEVELOPMENT GRANT WITH WHITE DOG DISTILLING COMPANY.

WHEREAS, White Dog Distilling Company is operating a distillery at 1357 Central Avenue; and

WHEREAS, White Dog Distilling Company does not meet the requirements for the City’s Job Creation Incentive Grant program, but the City is interested in providing an incentive for the small business;

NOW, THEREFORE, BE IT ORDAINED, by City Council of the City of Middletown, Butler/Warren Counties, Ohio, that:

Section 1

The City Manager is hereby authorized to enter into an agreement for a Small Business Economic Development Grant with White Dog Distilling Company. The agreement shall be in a form substantially similar to Exhibit “A”, and is subject to approval by the City Manager and Law Director.

Section 2

For said purposes, the Finance Director is hereby authorized to pay a sum not to exceed $10,000.00 from the Property Development Fund (Fund # 499).

Section 3

This ordinance shall take effect and be in force at the earliest time permitted by law.

Nicole Condrey, Mayor

1st Reading: July 7, 2020
2nd Reading: 
Adopted: 
Effective: 

Attest: 
  Clerk of the City Council
Exhibit “A”

SMALL BUSINESS ECONOMIC DEVELOPMENT
GRANT AGREEMENT

This agreement is made and entered into by and between the CITY OF MIDDLETOWN, OHIO, a municipality, with its main offices located at One Donham Plaza, Middletown, Ohio 45042 (hereinafter “the City”) and WHITE DOG DISTILLING COMPANY, LLC, whose business address is located at

WHEREAS, the City of Middletown has encouraged the creation of new jobs in the City by establishing a Job Creation Incentive Grant Program; and

WHEREAS, there are smaller business enterprises creating new jobs within the City, but do not create sufficient new jobs to qualify for the Job Creation Incentive Grant Program, such as Grantee; and

WHEREAS, the Grantee operates a distillery at 1357-1361 Central Avenue (formerly Liberty Spirits) (the “Property”) and has entered into a land installment contract to purchase the Property from the current owner; and

WHEREAS, Grantee currently has one full-time employee and two part-time employees, and intends to hire two additional full-time employees by December 31, 2023; and

WHEREAS, the Grantee has requested economic assistance from the City; and

WHEREAS, the City’s Economic Development Incentive Team has investigated the request and has recommended to the Middletown City Council that the Grantee be provided a Small Business Economic Development Grant in accordance with the terms and conditions herein;

WHEREAS, the Small Business Economic Development Grant to Grantee will further the public purposes of job creation and preservation within the City and improve the economic welfare of the people of the City;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

1. Grantee intends to continue investing in its operations within the City of Middletown, including the purchase of its current location at 1357-1361 Central Avenue (the “Property”).

2. Grantee shall receive a one-time Small Business Economic Development Grant in the amount of $10,000.00 (the “Grant”) to be used towards the purchase of the Property, which is expected to be complete in 2023.
3. Grantee shall provide to the City any information reasonably required by the City to evaluate Grantee’s compliance with the Agreement, including, but not limited to:
   a. Annual payroll at the project site
   b. Number of employees working at the project site
   c. Total money invested at the project site.

4. If (a) Grantee materially fails to complete the purchase of the property by December 31, 2023, or (b) the City determines that the certification as to delinquent taxes required by this agreement is fraudulent, the City of Middletown may terminate or modify this agreement in writing. If the City moves forward with termination, the Grantee must repay the full amount of the Grant within 90 days of receipt of the notice of termination.

5. Grantee hereby certifies that at the time this agreement is executed, Grantee does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which Grantee is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, Grantee currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against Grantee. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes.

6. Grantee affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio or a political subdivision of the State; (2) any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State; and (3) any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.

7. Grantee and the City of Middletown acknowledge that this agreement has been approved by formal action of the Middletown City Council, Ordinance No. O2020-____. This agreement takes effect upon the signature of both parties. This agreement is not transferrable or assignable without the express, written approval of the City of Middletown.

8. The City of Middletown has developed a policy to ensure recipients of Small Business Economic Development Grants tax benefits practice non-discriminating hiring in its operations. By executing this agreement, Grantee is committing to following non-discriminating hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.
9. Grantee affirmatively covenants that it has made no false statements to the City in the process of obtaining approval for this Grant. If any representative of Grantee has knowingly made a false statement to the City to obtain the Grant provided herein, Grantee shall be required to immediately return all benefits received under this Agreement and shall be ineligible for any future economic development assistance from the City. Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to R.C. 2921.13(A)(4), which is punishable by a fine of not more than $1,000.00 and/or a term of imprisonment of not more than six months.

IN WITNESS WHEREOF, the parties have executed this agreement on the day written below their signatures.

CITY OF MIDDLETOWN

By: __________________________
   Jim Palenick
   City Manager

Date: _________________________

Approved as to form:

______________________________
Law Director

WHITE DOG DISTILLING COMPANY, LLC

By: __________________________
   Name: _______________________
   Title: _________________________

Date: _________________________
DATE: June 11, 2020

TO: Susan Cohen, Acting City Manager

FROM: Chris Xeil Lyons, Economic Development Director,
prepared by Alaina Geres, Economic Development Program Manager

---

**White Dog Distilling Company Small Business Economic Development Grant**

**PURPOSE**
To authorize a Small Business Economic Development Grant for White Dog Distilling Company to be used towards the purchase of the building at 1357 Central Avenue in Middletown, Ohio – parcel number Q6532004000030.

**BACKGROUND and FINDINGS**
The White Dog Distilling Company wishes to purchase the building they have been operating out of at 1357 Central Avenue – previously occupied by Liberty Spirits. They are currently under land contract to purchase the building by 2023.

They have been a great community partner and have pivoted their business operations during this Covid-19 pandemic to produce hand sanitizer and have sold it to many businesses and individuals in the community.

We are providing them a one-time grant of $10,000 to be paid immediately after execution of the agreement to go towards the land acquisition.

Per the terms of the proposed grant agreement, they will be required to complete the purchase by December 31, 2023. If the acquisition is not complete by that date, then the agreement will state the grant dollars will be returned to the City of Middletown.

Additionally, they will create an additional 2 FT employees. They currently have 1 FT and 2 PT employees. By the end of December 31, 2023, they will employee 3 FT and 2 PT employees.

**ALTERNATIVES**
No alternatives.

**FINANCIAL IMPACT**
Estimated Financial Impact - $10,000

**EMERGENCY/NON EMERGENCY**
Non-emergency
LEGISLATION

ITEM 5
ORDINANCE NO. O2020-34

AN ORDINANCE TO IMPOSE AN ADDITIONAL ONE-QUARTER PERCENT (0.25%) INCOME TAX ON AND AFTER JANUARY 1, 2021 FOR A PERIOD OF TEN (10) YEARS TO BE USED SOLELY FOR THE CONSTRUCTION, REPAIR, IMPROVEMENT AND MAINTENANCE OF STREETS AND ROADS WITHIN THE CITY, AND APPURTEANCES THERETO, TO AMEND CHAPTER 891 OF THE CODIFIED ORDINANCES OF THE CITY OF MIDDLETOWN, AS AMENDED AND TO DECLARE AN EMERGENCY.

BE IT ORDAINED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

Subject to the approval of the electors of the City of Middletown as provided in §718.01 of the Ohio Revised Code, effective January 1, 2021, Chapter 891 of the Codified Ordinances of the City of Middletown, as amended, is further amended, in part, as follows:

1. Section 891.012.1 is enacted to read in full as set forth in Exhibit “A”, attached hereto and incorporated herein by reference.

Section 2

This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: to permit this Ordinance to be submitted to the Butler County and Warren County Board of Elections in a timely fashion to be placed on the November 3, 2020 ballot, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted:_________

Attest:_____________________

Clerk of the City Council
891.012.1 PURPOSES OF TAX; RATE

Effective January 1, 2021, in addition to the tax imposed by Section 891.012, there is levied an additional tax of one-quarter of one percent (0.25%) for a period of ten (10) years for the sole purpose of construction, repair, improvement and maintenance of streets and roads in the city and appurtenances thereto.
LEGISLATION
ITEM 6
RESOLUTION NO. R2020-21

A RESOLUTION DIRECTING THE BOARDS OF ELECTIONS OF BUTLER COUNTY AND WARREN COUNTY TO PLACE UPON THE BALLOT AT THE GENERAL ELECTION TO BE HELD NOVEMBER 3, 2020 THE QUESTION OF APPROVING AN ORDINANCE TO ENACT SECTION 891.012.1 OF THE CODIFIED ORDINANCES OF THE CITY OF MIDDLETOWN TO IMPOSE AN ADDITIONAL ONE-QUARTER OF ONE PERCENT (0.25%) INCOME TAX EFFECTIVE JANUARY 1, 2021 FOR A PERIOD OF TEN (10) YEARS TO BE USED SOLELY FOR THE CONSTRUCTION, REPAIR, IMPROVEMENT AND MAINTENANCE OF STREETS AND ROADWAYS IN THE CITY AND APPURTENANCES THERETO AND DECLARING AN EMERGENCY.

BE IT RESOLVED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

City Council hereby authorizes and directs the Boards of Elections of Butler County and Warren County to place upon the ballot at the general election to be held November 3, 2020, the question of approving Ordinance No. O2020-35, attached hereto as Attachment 1 and incorporated by reference herein, to impose an additional one-quarter of one percent (0.25%) income tax effective January 1, 2021 for a period of ten (10) years (until December 31, 2030), to be used solely for the purpose of construction, repair, improvement and maintenance of streets and roadways in the City of Middletown and appurtenances thereto.

Section 2

The proposed ordinance to be submitted to the electors of the City for their consideration shall be as set forth in Ordinance No. O2020-35.

Section 3

The form of the ballot to be used at the election on the question shall be as follows:

“Shall Ordinance No. O2020-35, providing for an additional one-quarter of one percent (0.25%) levy on income effective January 1, 2021 for a period of ten (10) years to be used solely for the purpose of construction, repair, improvement and maintenance of streets and roadways in the City of Middletown and appurtenances thereto, be passed?”

FOR THE INCOME TAX AMENDMENT
AGAINST THE INCOME TAX AMENDMENT
Section 4

The Clerk of Council is hereby directed to file a certified copy of Ordinance No. O2020-35, together with a certified copy of this Resolution with the Butler County Board of Elections and the Warren County Board of Elections at least ninety (90) days prior to the date of the election set forth in Section 1 hereof.

Section 5

This resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: to permit the ordinance to be submitted to the Butler County and Warren County Boards of Elections in a timely fashion to be placed on the November 3, 2020 ballot, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted:___________

Attest:________________________
   Clerk of City Council

H:\Law\leg\2020 Leg\leigh Street Levy Ballot Language
LEGISLATION
ITEM 7
RESOLUTION NO. R2020-22

A RESOLUTION TO MAKE ADJUSTMENTS TO APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF MIDDLETOWN, COUNTIES OF BUTLER AND WARREN, STATE OF OHIO, FOR THE PERIOD ENDING DECEMBER 31, 2020 AND DECLARING AN EMERGENCY. (GENERAL FUND)

BE IT RESOLVED by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

The following sums are hereby appropriated from the General Fund of the City to accounts of the City for the purposes herein described as follows:

FROM: Unappropriated General Fund (Fund #100) $150,000.00
TO: Accounts of 150 (100.150.52410) $100,000.00
    Accounts of 164 (100.164.52410) $50,000.00
TOTAL GENERAL FUND $150,000.00

Section 2

The Finance Director is hereby authorized to draw his warrants on the City Treasurer for payments from any of the foregoing appropriations upon receiving proper certificates and vouchers therefor, approved by the Board of Officers authorized by law to approve the same, or an ordinance or resolution of the City Council to make expenditures provided that no warrants shall be drawn or paid for salaries or wages except to persons employed by authority of and in accordance with law or ordinance.

Section 3

All legislation inconsistent herewith is hereby repealed.

Section 4

This resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: in order to pay outstanding invoices as soon as possible, and shall be in full force and effect from the date of its adoption.

Nicole Condrey, Mayor

Adopted:________

Attest: __________________________
Clerk of City Council
DATE: July 14, 2020

TO: Jim Palenick, City Manager

FROM: Susan Cohen, Administrative Services Director

SUPPLEMENTAL APPROPRIATION FOR LEGAL SERVICES

PURPOSE

The objective of this staff report is to request a supplemental appropriation from City Council for the outside legal services budgets of the Law Division and Economic Development Department in the amount of $150,000.00.

BACKGROUND AND FINDINGS

The legal services budgets for the Law Division and Economic Development Department have been depleted due to on-going projects and litigation. These projects and litigation have been over and above the Law Director services provided by Ben Yoder/Frost Brown Todd. I am requesting a supplemental appropriation to 100.150.52410 (Law) in the amount of $100,000.00 and to 100.164.52410 (Economic Development) in the amount of $50,000.00.

FINANCIAL IMPACT

The supplemental appropriation will come from the unappropriated funds in the General Fund.

EMERGENCY/NON EMERGENCY

Emergency legislation is requested in order to get the funds appropriated to pay the invoices already received in a timely manner.
LEGISLATION
ITEM 8
RESOLUTION NO. R2020-23

A RESOLUTION SUPPORTING THE DAVIDSON FLEXIBILITY FOR STATES AND LOCALITIES ACT AND DECLARING AN EMERGENCY.

WHEREAS, the City of Middletown has experienced significant loss of revenue related to the impact of the Coronavirus pandemic; and

WHEREAS, the US Government, in response to the Coronavirus pandemic, passed the CARES Act and associated measures to support entities that suffered loss as a result of the Coronavirus pandemic; and

WHEREAS, the CARES Act funding restricted how State and Local agencies spent the funding and did not allow for flexibility to offset loss of revenue and associated budget shortfalls; and

WHEREAS, the Davidson Flexibility for States and Localities Act would allow local governments to utilize their remaining funding to offset budgetary shortfalls related to Coronavirus; and

WHEREAS, this would be welcome news for the City of Middletown and for all local governments in the State of Ohio in order to continue to provide services and support to citizens in a time of large funding shortfalls due to Coronavirus.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio, that:

Section 1

City Council having reviewed the CARES Act and associated measures as well as the Davidson Flexibility for States and Localities Act, does urge and support the passage of the Davidson Flexibility for States and Localities Act. This Act is necessary and will provide critical flexibility for the City of Middletown and many other municipalities. The City urges all appropriate elected officials to pass this legislation.

Section 2

This resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: to provide City Council’s support of this measure prior to it being voted on, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor
Adopted:________________

Attest:_________________
   Clerk of City Council

H:/Law/leg/2020 Leg'h Support of Davidson Flexibility Act
July 15, 2020

TO: Jim Palenick, City Manager

FROM: Susan Cohen, Administrative Services Director

RESOLUTION OF SUPPORT FOR DAVIDSON FLEXIBILITY FOR STATES & LOCALITIES ACT

PURPOSE

To provide a show of City support for the Davidson Flexibility for States and Localities Act to ease restrictions on how local governments spend money allocated under the Federal CARES Act.

BACKGROUND AND FINDINGS

In response to the COVID-19 pandemic, the US Government passed the CARES Act and related measures. This provided relief funding to state and local agencies to address the COVID-19 response. However, this funding has been tied to particular operations and are not allowed to be used to supplement loss of revenue necessary to maintain municipal services.

Congressman Warren Davidson has proposed the Davidson Flexibility for States and Localities Act that would amend a portion of the CARES Act to allow funds remaining from the Coronavirus Relief Fund to be used to offset state or local budgetary shortfalls that are directly related to coronavirus. This amendment could be critically important to Middletown to be able to utilize those funds to maintain services that would otherwise be underfunded because of coronavirus related budget shortfalls.

This resolution would provide support for Congressman Davidson’s efforts to pass this legislation on the Federal Level and show the importance of this issue to municipalities in Ohio.

ALTERNATIVES

Council could choose not to support this regulation. If not passed, the City will attempt to utilize all available funds for the reduced list of eligible expenses. Any utilized funds would ultimately be returned to the funding sources within the Federal government.

FINANCIAL IMPACTS

As of June 30, 2020, the City has experienced reductions in tax receipts in the amount of $3.59 million dollars when compared to 2019. Many of these reductions can be traced to the economic downturn in response to COVID-19 concerns. Currently, we have been awarded approximately $1.0 million in COVID-19 response funding.
Emergency legislation is necessary in order to have the information considered immediately and allow input to be considered as legislation is being debated on the federal level.
Coronavirus costs in states and localities abound. The Congress has responded to the government-induced economic shutdown by providing generous relief through the CARES Act and related measures.

However, much of this relief funding is tied to particular operations that do not necessarily reflect the needs in particular localities. Consequently, some funds may be left unspent or higher priorities may be left underfunded.

In response to calls from state officials to provide increased flexibility in spending, the Davidson Flexibility for States and Localities Act would amend section 5001(a) from the CARES Act to allow funds remaining from the $150 billion Coronavirus Relief Fund to be used to offset state or local budgetary shortfalls that are directly related to coronavirus.

The legislation keeps in place all longstanding taxpayer protections on funding, and it contains language to ensure the funding is not misallocated toward non-coronavirus-related budgetary challenges. The act simply gives states and localities more flexibility on how to spend CARES funds on various coronavirus needs.
LEGISLATION

ITEM 9
ORDINANCE NO. O2020-35

AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE COLLECTIVE BARGAINING AGREEMENT WITH AFSCME LOCAL 856 (PUBLIC WORKS) FOR JULY 1, 2019 THROUGH JUNE 30, 2022, AND DECLARING AN EMERGENCY.

WHEREAS, the City previously entered into a collective bargaining agreement with AFSCME Local 856 effective July 1, 2019; and

WHEREAS, the City has been in contract negotiations with a separate AFSCME bargaining unit (Local 856-A) for the full-time bus drivers in the Transit Division since September 2019; and

WHEREAS, during the negotiations with Local 856-A, the units have agreed to combine Local 856 (Public Works) and 856-A (Transit) under the AFSCME 856 collective bargaining agreement which necessitates adding several provisions specific to full-time bus drivers;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

The amendment of the collective bargaining agreement for July 1, 2019 through June 30, 2022, between the City and AFSCME Local 856 (Public Works) is hereby approved and shall now include the position of full-time bus driver. The City Manager is authorized to execute said agreement in a form substantially similar to Exhibit “A”, attached hereto.

Section 2

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: in order to allow the collective bargaining agreement to be implemented immediately, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted: ________________

Attest: _______________________

Clerk of City Council
CONTRACT BETWEEN
THE CITY OF MIDDLETOWN
AND
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME)
LOCAL #856, AFL CIO
July 1, 2019 – June 30, 2022
(Amended July, 2020)
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WORKING POLICY AGREEMENT

Between the City of Middletown and AFSCME Ohio Council #8, Local 856, AFL-CIO (AFSCME).

ARTICLE 1 – PREAMBLE

The following Agreement, by and between the City of Middletown, Ohio, hereinafter referred to as the City, and AFSCME Ohio Council #8, Local 856, AFL-CIO, hereinafter referred to as the Union, is recorded in written form to meet the requirements as set forth in Section 4117.09(A) in the Ohio Collective Bargaining Law.

ARTICLE 2 – UNION SECURITY

A. The Union, American Federation of State, County and Municipal Employees, Ohio Council #8, Local 856, AFL-CIO, is hereby recognized as the sole and exclusive collective bargaining representative for employees, in those classifications listed in Appendix 1, which is made part of this agreement, in all matters pertaining to wages, hours, or other terms and conditions of employment and the continuation, modification, or deletion of an existing provision of this collective bargaining agreement. These items are subject to collective bargaining between the City and the Union.

B. The City will not recognize any other Union or Union-like organization as the representative for any AFSCME, Local 856 bargaining unit employees.

C. There shall be no change and/or modification of negotiated items herein provided without prior negotiation with the Union.

D. Members shall be permitted to pay regular dues, initiation fees and assessments on a weekly basis through payroll deduction in accordance with the terms and procedures of the authorization card signed by the employee.

E. The Union will indemnify and save the City harmless from any action growing out of deductions hereunder commenced by an employee against the City or the City and the Union jointly.

F. Time Off for Local President. Effective July 1, 2008, and every year thereafter, the President of the Local shall receive five hundred (500) hours of Union release time for the purpose of conducting union business. Any unused time carry into the next year to a maximum of six-hundred (600) hours. The banked time in paragraph H of this Article shall be exhausted prior to any carryover. Every Wednesday afternoon for four (4) hours, the Local President shall be in the Union Office. The four (4) hours or any additional time needed in the Union Office, shall be deducted from the five hundred (500) hours of union release time. Joint Committee Meetings such as Health, Safety, or Training Meetings shall not be charged to Union release time.
G. Any banked time previously accumulated prior to August 1, 2005 shall remain for the Local’s use for the purpose of attending AFSCME sponsored meetings, conferences and/or conventions.

H. Employees, through Local President, must obtain permission from the supervisor to meet with the Local President. Contacts between the President and the bargaining unit employees shall be made during non-productive times whenever possible. If such time is not possible, then sufficient time during normal work hours shall be permitted for such contacts, with every effort being made to schedule such contacts during the last hour of the workday.

I. If the Local President makes a request for more than two (2) members to attend Union-sponsored meetings, conferences and/or conventions, Union release time or banked time can be used with prior approval from the Department Head.

ARTICLE 3 – MANAGEMENT RIGHTS

AFSCME Local 856 recognizes the rights of the City to operate and manage its affairs in all respects, in accordance with its responsibilities and the powers or authority which the City has not abridged, delegated or modified by this Contract and such powers or authority are retained by the City.

These management rights include, but are not limited to the following:

A. To utilize all personnel, methods, procedures, and means in the most appropriate and efficient manner possible.

B. To manage and direct all its employees.

C. To hire, schedule, promote, transfer, assign, train or re-train all employees.

D. To suspend, demote, discharge, or take other appropriate disciplinary action against employees for just cause.

E. To determine the size and composition of the work force and to lay off employees.

F. To determine the shift schedules, days and starting and quitting times.

G. To determine the mission of the City and the methods and means necessary to efficiently fulfill the mission including: the transfer, alteration, curtailment, or discontinuance of any services; the establishment of acceptable standards of job performance; the purchase and utilization of equipment for the performance of services.
H. The City has the right to schedule overtime as required in the manner most advantageous to the City and consistent with the requirements of municipal employment in the public interest.

I. It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described. Nevertheless, it is intended that all such duties shall be performed by the employee.

J. Contracting and Subcontracting. AFSCME Local 856 recognizes the City has statutory rights and obligations in contracting for matters relating to municipal operations. The right of contracting or subcontracting is vested exclusively in the City. If operations are contracted or subcontracted, then the City shall negotiate the effects of the contracting or subcontracting upon Local 856 members. City Commission adopted a Managed Competition Policy on June 9, 1998. Prior to implementing any change in this policy, the City shall provide the Union with notice at least twenty (20) days prior to implementation of the change. Nothing herein is intended to require the parties to bargain any change in the policy, except as is otherwise provided by law.

K. The City retains the right to establish reasonable rules, regulations, and rules of conduct. Rules, regulations, and rules of conduct which are specifically cited by provisions of this contract may not be changed without negotiations and agreement of AFSCME Local 856.

L. The above rights of Management are not all inclusive but indicate the type of matter or rights which belong to and are inherent to Management. Any of the rights, powers, or authority the City has prior to the signing of this Contract are retained by the City, except those abridged, delegated, or modified by this Contract.

ARTICLE 4 – NO DISCRIMINATION

There shall be no discrimination, restraint or coercion against any bargaining unit employee because of race, religion, national origin, sex, disability or membership or non-membership in the Union.

ARTICLE 5 – REPRESENTATIVES

A. The Union shall have the right to elect in each of the following divisions the agreed upon number of stewards (stated in parenthesis) to represent the employees in such matters that may arise in the division.

Division of Streets (1)
Division of Sewer Maintenance (1)
Division of Parks & Grounds Maintenance (1)
Division of Garage (1)
Division of Water Maintenance (1)
Division of Storm Water (1)
Division of Transit (1)

The City will be informed in writing by the Union of the name of the steward that has been elected in each division within ten (10) days after the election of representatives. This individual will be treated by the City as the steward for the division for all matters concerning this contract.

B. The Union shall select up to a total of five (5) Negotiating Committee representatives from its members, which include any officer of the Union on the Negotiating Committee.

C. The Union Negotiating Committee shall be accompanied by the Business Agent and/or Officers of the International Union in their meetings with Management representatives.

D. In order to keep work interruptions to a minimum, stewards shall attempt to investigate and handle grievances during nonproductive and off time, provided that where this is not reasonable, sufficient time during work hours will be permitted for such matters. No Union business shall be conducted on City time or City property without prior approval of the City.

E. Committee members and stewards shall be afforded such time off with pay during regular working hours as may be required to attend scheduled meetings with Management. Such meetings shall be scheduled to keep interference with departmental operations to a minimum.

ARTICLE 6 – DISCIPLINE

A. Any employee may be disciplined for just cause.

Possible disciplinary actions are as follows: Spoken reprimand, written reprimand, suspension without pay, reduction of pay, demotion to lower classification, loss of vacation, or dismissal.

B. (1) No employee shall be suspended without pay, demoted, or dismissed (except for failure to pass probation), without a pre-disciplinary hearing in accordance with paragraph (2) below.

(2) Suspensions without pay, demotions or dismissals (except failure to pass probation) require:

   (a) Written notice be given to the employee of the charges against him and the evidence upon which they are based within ten (10) working days
of the conclusion of management’s initial investigation of the alleged incident. Management’s initial investigation (criminal investigations excluded) shall be concluded with thirty (30) days.

(b) A reasonable amount of time before the hearing so the employee can prepare a defense or explanation.

(c) A pre-disciplinary hearing be conducted before the Department Head or designee. The employee shall be afforded, at the hearing, a fair opportunity to be heard in opposition to the charges against him including the right to question witnesses.

(d) The employee has a right to have with him Union representation.

(e) The employee shall be informed of the department head’s decision and the reasons for it in writing.

C. The employee has the right to appeal disciplinary action through the Grievance Procedure. A grievance based on disciplinary action shall be initiated at Step 3 of the Grievance Procedure.

D. In cases of dismissal, the employee may request all monies due him within five (5) working days after his supervisor and department head certify in writing that all City property has been properly returned and just debts paid to the City.

E. For the sole purposes of discipline, grievance and arbitration procedure, spoken and written reprimands shall be removed from the employee’s file after twelve months and all other disciplinary action shall be removed from such consideration after thirty six (36) months, provided that in each of the above the employee has not had a reoccurrence of the problem.

ARTICLE 7 – GRIEVANCE PROCEDURE

A. A grievance is defined as a violation of this Agreement. Each written grievance must state the section of the Agreement where the violation has occurred and the remedy requested to settle the grievance.

Step 1. When an employee has, or group of employees have, a grievance (he or they) and their steward must present it orally to their Superintendent (or Supervisor in the case of Middletown Transit employees) or his designee within three (3) work days of knowledge of the occurrence of the facts upon which the grievance is based, and in no case later than five (5) work days from the date of occurrence of such facts. The Superintendent (or Supervisor in the case of Middletown Transit employees) shall reply to the grievant within three (3) working days
following the initial discussion with said grievant. If the Superintendent (or Supervisor in the case of Middletown Transit employees) fails to orally answer within three (3) working days or his answer is unacceptable to the grievant, the grievant may proceed with Step 2.

When a group of employees have a grievance, a class action grievance may be filed. In the case of a Class Action grievance, one representative of the class aggrieved shall be elected to be present at all hearings, except Step 4, for the purpose of presentation of the grievance to the City. At the Step 4 level, in certain cases, other aggrieved employees may also be in attendance at the meetings after union notification to the employer of the names of the employees. With the prior mutual agreement of the Union and the City, other aggrieved employees may be permitted in Steps 1, 2 and 3.

Step 2. The grievance shall be reduced to writing, signed by the aggrieved employee and the Union President if he so desires, and presented to the employee’s Department Head no later than three (3) work days after the response of the Superintendent (or Supervisor in the case of Middletown Transit employees). If the grievance is not so presented, it will not be further considered. A copy will be forwarded to the Manager of the Division of Human Resources.

The Department Head shall write his disposition of the grievance and return it no later than three (3) working days following the presentation of the grievance before him. Within three (3) working days after the receipt of an unacceptable decision rendered at this Step, or within five (5) working days without response from the Department Head, the grievance shall be considered resolved if the aggrieved employee does not refer the grievance in writing to Step 3.

Step 3. If not resolved by the Department Head pursuant to the procedure of Step 2, the grievance shall be presented, in writing, to the City Manager or his/her Designee. Every reasonable effort shall be made to schedule a meeting within ten (10) working days. The City Manager or his/her designee shall respond within five (5) working days after the meeting.

Step 4. If the matter is not resolved by the City Manager or Designee in the preceding step, the Parties may, by mutual agreement, submit the grievance to mediation with a third party mediator within five (5) days of the answer at the preceding step. The process for selection of the mediator shall be by mutual agreement of the parties.

Step 5. If the grievance is not satisfactorily settled at Step 3 or Step 4, if applicable, the Union may, within fifteen (15) working days after the
receipt of the Step 3 answer or the conclusion of the mediation process, submit the grievance to the City Manager for arbitration.

The Union shall contact the American Arbitration Association (AAA) or the Federal Mediation & Conciliation Service (FMCS) for a list of seven (7) arbitrators. The parties shall use the alternate strike method. The Union shall strike a name first, the other party shall then strike one (1) name. The process will be repeated and the remaining person shall be the Arbitrator.

(1) The parties understand and agree that in making this Contract they have received for its term all bargaining issues which were or which could have been made the subject of discussion. The arbitral forum here established is intended to resolve disputes between the parties only over the interpretation or application of the matters which are specifically covered in this Contract.

(2) The arbitrator shall have no power to add to or subtract from or modify any of the terms of this Contract or addendum to this Contract nor to rule on any matter except which this Contract is in full force and effect between the parties.

In the event a case is appealed to an arbitrator and he finds that he has no power to rule on such case the grievance will be denied.

(3) The award of an arbitrator shall be based exclusively on evidence presented at the arbitration hearing.

(4) The expenses of the arbitrator shall be shared equally by the parties. Each party shall make arrangements for and pay the expenses of witnesses which are called by the arbitrator, with the exception of City employees.

(5) The arbitrator's decision shall be final and binding on AFSCME Local 856, on all Bargaining Unit Employees, and on the City.

(6) In cases of alleged errors in pay, the City shall not be required to pay back wages for pay periods prior to the time the employee seeks to have the error adjusted. The employee must seek such an adjustment during the pay period immediately following the pay period in which the alleged error occurred. In order to have any pay dispute resolved by the grievance procedure, the employee must file his grievance at the Department Director's office within three (3) working days after receipt of the pay on which the error was to be adjusted or within three (3) working days of written notification that no adjustment would be made.

B. Any step in the grievance procedure outlined above may be skipped on any grievance by written mutual consent.
C. By mutual written agreement of the parties, the time limits as set forth in the grievance procedure may be extended.

D. Grievances may be initiated, within the prescribed time limits of step one, at the step which corresponds to the level of supervision where the alleged violation of the agreement occurred.

E. The City is authorized to pay grievance settlements.

F. Union representation at Steps 2, 3, and 4 of the Grievance Procedure shall be done by the Local President or designee and/or AFSCME Business Agent.

G. A grievance may be withdrawn by the Union at any time during any step of the Grievance Procedure, and the withdrawal of any such grievance shall not preclude the filing of a similar grievance in the future based on a new occurrence.

H. Filing a grievance by an employee or the Union under this Article concerning any matter otherwise appealable to the Civil Service Commission shall be deemed an election by the employee and the Union to use the provisions of this agreement rather than appeal to the Civil Service Commission, as the sole and exclusive remedy for reduction of the said grievances or complaint.

I. All money due employees from grievance settlements, mistakes in payroll, clothing reimbursement and any other reimbursement of any kind outside regular and overtime pay, which exceeds $50.00, shall be drafted on a separate check.

ARTICLE 8 – SENIORITY

A. Employment seniority shall be defined as length of service from starting date of employment with the City.

   When an employee has ended his service with the City as described in Article 8(C), and returns, he shall have his employment seniority adjusted to reflect prior service with the City. All hours of service prior to an employee’s most recent date of hire, for which payroll has been posted, shall be considered in determining an employee’s adjusted employment seniority date. Provided, however, that all non-productive time, i.e., any time for which an employee is compensated but not required to work, and any time for which an employee is in a non-pay status, including for example, sick leave, vacation, injury leave, leave of absence, military leave, holidays, jury duty, compensatory time, and dock time, shall not be considered in determining an employee’s employment seniority date.

B. Classification seniority shall be defined as the uninterrupted length of service in any one classification within the Department. If two or more employees have the same classification seniority, employment seniority shall be used to establish seniority among
those employees. The length of any temporary demotion shall be excluded from the length of service of that employee for purposes of calculating classification seniority.

C. Seniority shall be broken, i.e., interrupted, when an employee:

(1) resigns, unless reinstated within one (1) year;
(2) is discharged for just cause;
(3) is laid off and not recalled within the time limits.

D. (1) The City shall establish and post a seniority list as needed and such list shall be effective upon posting, which shall contain the following:

(a) names of bargaining unit members;
(b) division;
(c) classification;
(d) date of original City hiring;
(e) date of classification appointment.

(2) Employees shall have the right to challenge their seniority listing for 30 days after the date of posting. Thereafter, they shall remain unchanged until the next posting.

(3) A copy of the list shall be given to the Union President on the date of posting.

E. Seniority shall govern the dispensing of all privileges provided by and listed as governed by seniority in this Agreement. Any new privilege which arises during the life of this Agreement shall be referred to the Labor/Management Committee for determination of the applicability of seniority prior to the granting of the privilege.

F. When management deems a vacancy occurs in any job classification, in which bargaining unit employees are employed, the employees in that job classification shall be given the opportunity to transfer to the vacancy within the job classification, by requesting, in writing, a lateral transfer within three (3) working days of the posting of the vacancy. Only the employee with the most classification seniority requesting the transfer shall be given the opportunity to transfer to the vacancy as described in this section. If no employee chooses to transfer to the vacancy, the vacancy shall be filled in a manner consistent with law. If the employee with the most classification seniority chooses to transfer to the vacancy, he/she shall be placed in the vacancy for ten (10) working days. By the end of the ten (10) working days the employee may elect to return to his/her former assignment, or the City may elect at its sole discretion to return the employee to his/her former assignment. The decision of the employee or the City, to return the employee to his/her former assignment is not grievable under Article 7 of this Agreement by either party. The City and the employee may, by mutual agreement, waive this trial period and agree to the lateral transfer. Nothing in this section is intended to create any right to the permanent appointment of any employee to any vacancy. Nothing in this section is
intended to interfere or limit the management right to hire, schedule, promote, transfer and assign employees.

**G. Transit Employees Proviso.** If the daily operations of the Middletown Transit System of twelve (12) hours is increased, the Employer shall meet with the Employee organization to bargain the effects of such increase in operations on the Employee’s terms and conditions of employment.

**ARTICLE 9 – PROMOTIONS**

The provisions governing promotions will be as follows:

A. Vacancies in positions in the classified service shall be filled insofar as practicable by promotions. The Division of Human Resources shall provide for keeping a record of efficiency for each employee in the classified service, and for making promotions in the classified service on the basis of merit, to be ascertained as far as practicable by promotional examinations, by conduct and capacity in office, and by seniority in service, and shall provide that vacancies shall be filled by promotion in all cases where, in the judgment of the City, it is for the best interest of the service.

B. All examinations for promotions shall be competitive and include a written portion. In promotional examinations, efficiency and seniority in service shall be added to the examination grade, but no credit for seniority, efficiency, or any other reason shall be added to an examination grade unless the applicant achieves at least the minimum passing score on the examination without counting such extra credit. Credit for seniority shall equal, for the first four years of service, one per cent of the total grade attainable in the promotion examination, and for each of the fifth through fourteenth years of service, six-tenths per cent of the total grade attainable.

The City may, at its sole discretion, include as part of the promotional examination for the position of Equipment Operator a pass/fail assessment of the candidate’s ability to operate various pieces of equipment that an Equipment Operator would be expected to operate. If the candidate does not pass this assessment, he/she would not be certified to an eligibility list for the promotion to Equipment Operator. The assessment would be conducted and scored by a three person team selected by the Director of Public Works & Utilities. The team shall include a Public Works Superintendent, a Public Works Leader and an Equipment Operator. The candidate shall pass the assessment unless at least two of the three person team agrees that the candidate’s performance establishes that he/she cannot operate at least two pieces of the equipment involved in the assessment in a safe and efficient manner. Equipment to be used for the assessment shall be made reasonably available to potential candidates during downtimes.

In all cases where vacancies are to be filled by promotion, the Division of Human Resources shall certify to the appointing authority only the names of the five persons having the highest rating. The method for giving examinations for promotions, the manner
of giving notice thereof, and the rules governing the same shall accord with the state law as adopted by the rules of the Middletown Civil Service Commission. If at any point during the promotion process a candidate indicates he/she is not willing to accept the promotion, his/her name will be removed from the list and the person having the next highest rating will be added to the list of five (5) candidates.

C. Any employee accepting a promotion shall be placed in the next step classification that is at least 4.7% greater than his/her current salary.

ARTICLE 10 – LAYOFF/RECALL

A. Layoff. In the event the City should decide to lay off bargaining unit personnel, the following procedure shall be followed:

(1) The employee(s) with the least classification seniority shall be laid off first from that classification.
(2) The employee to be laid off from a classification shall then have the right to bump down into the next lower classification based upon his employment seniority.
(3) This bumping procedure shall continue until no lower classifications exist. Then the least senior employee in the lowest classification shall be laid off.

In the event an employee is laid off, he shall receive payment for earned but unused vacation and/or holiday (to include current calendar year), sick leave conversion, with his termination pay. Before a bargaining unit employee is laid off from a division all seasonal, part-time and government funded program employees shall be laid off from that division. The City will not negate this provision by transferring seasonal, part-time and government funded program employees to other divisions prior to laying bargaining unit employees off in a division.

B. Displacement Rights. Bargaining unit employees on layoff shall have the option of displacing seasonal and part-time employees working in similar classifications or in positions for which they have adequate training and/or education in other divisions covered by this bargaining agreement within the Public Works and Utilities Department.

C. Recall. Employees who are on layoff shall be placed on a recall list by classification for a period of eighteen months and shall be recalled in reverse order of their layoff by position with the last employee laid off being the first to be called back and continuing in like manner until the required number of employees has been obtained.

D. Recall Notification. No new employee shall be hired in a classification until all employees who have been laid off in that classification in the previous eighteen months have been given the opportunity to return to work. Laid off employees will be notified by registered mail at their last known address to return to work within twenty-one (21)
calendar days. Failure to report within the time limit removes them from the recall lists. In
addition, no seasonal, part-time, or government funded program employees shall be hired
in the affected division until all employees on the layoff list have been recalled or until
after the eighteen month recall period expires.

E. Layoff/Termination. An employee who is on layoff for a period of eighteen months
is automatically terminated and loses all seniority.

ARTICLE 11 – HOURS OF WORK

A. Work Week. The normal work week for hourly personnel shall be forty (40) hours,
Monday through Friday. For pay purposes, the work day shall begin at 12:01 A.M. and
end at 12:00 midnight, and shall consist of eight (8) hours per day as scheduled by the
Division or Department Head. For pay purposes, the work week shall start at 12:01 a.m.
on Sunday and end at 12:00 midnight on Saturday.

B. Overtime.

(1) Employees working in excess of forty (40) hours in one week, as defined by
the Fair Labor Standards Act, shall, at the employee’s option, either be paid at time
and one-half the regular rate of pay or receive compensatory time on the basis of
one and one-half hours off for each hour of overtime worked. Only straight-time
hours actually worked, injury leave, funeral leave and holidays go toward the forty
(40) hour break-over point for overtime; except when an employee uses vacation
leave or compensatory time in a work week prior to actually working or being
notified that they will be asked to work hours outside their regular schedule, in
which case that vacation time or compensatory time will be counted toward the
break-over point for overtime.

Employees who are held over beyond their regular shift shall be paid at one
and one half times their regular rate for those hours held over, provided they have
actually worked a full eight hour shift.

Time off to use earned compensatory time will normally be granted within
thirty (30) days of the request made by the Employee or with written permission
granted by the Employee’s supervisor. When compensatory time is used, it shall
not count as hours worked during the applicable work period for purposes of
determining overtime. No Employee shall be permitted to accrue more than two
hundred (200) hours of unused compensatory time and any Employee who has
accrued unused compensatory time to the two hundred (200) hour limit shall be
paid in cash for additional overtime worked. However, employees who accrued
balances greater than two hundred (200) hours prior to July 1, 2008 shall be
permitted to maintain such balances until such balance is reduced pursuant to the
pay in lieu of accrual provisions of this paragraph. If an Employee is paid in cash
for accrued compensatory time, he/she shall be paid at the Employee’s regular
rate at the time of payment. Upon termination of employment, unused compensatory time shall be paid at the Employee’s average regular rate for the last three (3) years of employment or the Employee’s final regular rate, whichever is higher. In the case of a personal emergency, an employee who has accrued compensatory time may, upon written request from the employee, be paid up to forty (40) hours or their accrued balance of compensatory time, whichever is less. A personal emergency includes a family illness or a financial emergency. On November 1 of each year all bargaining unit employees shall be entitled to up to forty (40) hours compensatory time with a written two-week notice to the employee’s Superintendent.

(2) It is the intention of the parties, for reasons of efficiency and economy, that the Employer be permitted to utilize work scheduling and compensatory time to minimize its overtime liability.

(3) For the purpose of overtime: When an employee with regularly pre-scheduled weekend duties has notified his supervisor of vacation leave or compensatory leave and has been approved, it shall count toward the break-over point for overtime to be paid at one and one-half times his regular rate of pay. This shall be effective as long as prescheduled weekend duties have been assigned and performed.

C. Overtime Procedure. The working of overtime is voluntary on the part of all employees, except as otherwise provided in this Article. Any work assigned to a specific job classification on a regular basis shall normally be performed by persons in that classification during call outs and overtime whenever possible except as otherwise provided in this Article.

(1) Call-out.

(a) All overtime and call out assignments shall be offered to bargaining unit employees in the following manner

(1) The bargaining unit employees in the required job classifications within the division;

(2) The bargaining unit employees in the next lower job classification within the division;

(3) The bargaining unit employees in the next higher job classification with the division; and

(4) At management’s discretion, the other bargaining unit employees within the division; or, the bargaining unit employees in the required job classification in other divisions, in accordance with the job classification seniority list.
Each division shall keep a list of employees who are interested in call-out assignments. These lists shall be updated as needed.

If the employer has followed the procedure set forth in paragraphs (1)-(4) above, the employer may then require any bargaining unit employee to perform the work.

(b) As an exception to (C)(1)(a)(1) above, where equipment requires two bargaining unit employees during normal hours, the call-out will be staffed by an equipment operator and a maintenance worker as follows:

If after being contacted by the management personnel requesting call-outs, the maintenance worker within the division where the call-out is needed refuses or does not respond, management shall contact maintenance worker(s) in the related division (water and sewer are related divisions and grounds, parks, storm water and streets are related divisions).

If the employer has followed the procedure set forth above, the first line supervisor can perform the maintenance worker’s duties or then follow the procedures in (C)(1). See example:

“The first line supervisor needs an employee for a sewer back-up and the Vac truck is needed. The first line supervisor will proceed to call-out an operator and a maintenance worker. If the maintenance workers in the sewer division refuse or do not respond to the call-out, the first line supervisor will then contact the maintenance workers in the water division. If the maintenance workers in the water division refuse or do not respond to the call-out, the first line supervisor would perform the duties of the maintenance worker rather than calling the maintenance worker(s) in the parks and/or streets division(s).”

(2) **Holdover.** Any person or persons that are bargaining unit members that have worked with a crew or on a job that has incidentally become an overtime situation, shall, at their choice, complete said job. This applies only in situations when overtime is not foreseen when the job is started. If overtime is anticipated, the low person should be used on the crew in an effort to equalize overtime. At any time that the Union or the City believes that this practice is being abused by either party and can show proof of two or more incidents, then this practice may be cancelled by the Union or the City without argument and/or grievance.

(3) **Scheduled Overtime.** If overtime is scheduled, regular full-time employees shall have the priority for such overtime over temporary or seasonal employees. Temporary Reclassification: If the Employer temporarily reclassifies an employee
to a lower position, that employee will continue to receive his/her regular rate of pay. For the purposes of this agreement, the Equipment Operators in the Street Department will be equalized for all overtime all year round.

Employees should be notified at the earliest possible time of scheduled overtime. Any employee who has been notified to report for work outside his normal scheduled shift, shall, unless he has been properly notified not to report for work, receive three (3) hours work or pay in lieu thereof. All call-outs shall be paid for at the time and one-half rate. It is understood that if work is performed one (1) hour or less, prior to the start of the regular work shift, the employee will receive only two (2) hours of call-out pay at the time and one half rate. If the work continues into the regular shift, the pay rate shall revert to straight-time at the start of the regular shift and shall continue at that rate for eight (8) working hours. For an employee who is scheduled and works on his sixth (6th) or seventh (7th) day in any one work week, he shall receive a minimum of two hours work or pay in lieu thereof. If an employee has worked through the night on an overtime situation he may have the right of working his next regularly assigned shift.

(4) Snow & Ice Overtime. This procedure is intended to be used in the event of overtime for snow and ice removal. The provisions of the contract relating to shift differential do not apply to such overtime. In order to maintain a high level of safety and efficiency, breaks will be taken by employees working extended shifts as per their regular shifts.

Assignments for snow and ice removal shall be made by seniority within each division in the following order:

(a) equipment operators and maintenance workers in the street division;
(b) equipment operators and maintenance workers in the related divisions (grounds, parks and storm water) (signed up)
(c) equipment operators in all other divisions (signed up);
(d) maintenance workers in all other divisions (signed up);
(e) equipment operators in all divisions (not signed up);
(f) maintenance workers in all divisions (not signed up);
(g) all other bargaining unit employees with a CDL (not signed up);
(h) all bargaining unit employees without a CDL;
(i) city employees outside the bargaining unit and contractors.
The City will make sign-up sheets available for each division except streets. The employees in the street division are automatically signed up. Employees who wish to be considered for overtime for snow and ice removal shall sign up on or before October 1 of each year. These employees will be called out first for snow or ice removal in the order listed herein. Employees who do not sign up for call-out will not be contacted until all bargaining unit members who did sign up have been contacted, and there is still a need for additional employees, in the sole discretion of the City. Employees who agree to report for call-out shall report to work within one (1) hour of being contacted and understand that by agreeing to report, they agree to work up to a minimum of three (3) hours at the City’s discretion. Upon reporting to work, the employee shall not leave without providing a supervisor with at least two (2) hours notice prior to leaving, or receiving permission from a supervisor to leave. If an employee who has been called out agrees at the end of the initial call-out period to return to work at a later time, the employee shall report for such additional work, unless they report off as they would from regularly scheduled work hours.

Supervisors retain the right to send employees home, if in the supervisor’s discretion, the employee appears too tired to continue working safely. An employee who is sent home must be off at least 8 hours.

(5) Mechanic positions cannot be filled by any other bargaining unit member that is not a certified mechanic. It is understood that those that sign the Overtime List can only work the positions that they carry the proper CDL’s for. Those members that do not have CDL’s will be at the bottom of the list for overtime. Those members that have been assigned outside their Department shall be the last to be called.

(6) Equalization of Overtime. Overtime shall be equalized as much as possible within each division. The parties agree that when bargaining unit employees work overtime in divisions other than his/her regular division, then those hours of overtime worked are to be figured into the employee’s overtime hours in his/her regular division for the purpose of equalizing the overtime within the division.

(a) Employees shall be required to provide one (1) telephone number in order to be contacted for call-out assignments. Employees at their option may provide a second telephone number at which to be contacted. However, failure to provide a second number shall not be considered a loss and/or denial of an overtime opportunity.

(b) Failure to respond and a refusal to any call-out/overtime opportunity shall be charged against the employee as if worked.

(c) Employees who respond to the call/out overtime and actually work shall be charged for hours worked.
(d) Employees who are off work due to vacation, compensatory time, sick leave for someone other than themselves or light duty (providing the call-out assignment is consistent with the applicable light duty restrictions), shall at their choice be available for call-out situations. If the employee chooses to work the call-out, he/she will be charged the overtime worked. Also, an employee who is off due to military service is considered not available for overtime and shall not be charged overtime hours.

Employees transferring to a different division shall receive for purposes of overtime equalization the average amount of overtime worked that the existing personnel within the division and classification possess at the time of transfer in order to equalize overtime under Article 11.

For the purposes of this Agreement, any refusal of overtime in other divisions will be charged to the employee in his/her regular division as if he/she had actually worked those hours, in accordance with Article 12(E) (Temporary Reassignments).

D. The supervisor will determine clean up time. Employees shall receive a thirty (30) minute paid lunch break and the time of such break shall vary with the job assignments. There will be one fifteen (15) minute break in the morning and one fifteen (15) minute break in the afternoon, which shall be at mid-point during each four (4) hour shift; however such breaks may vary with job assignments.

E. In order to handle matters involving an emergency declared by the City Manager, the City reserves the right to reschedule all personnel within the work day or work week on a temporary basis, to best meet existing conditions. The City Manager may suspend Articles 7, 8, 11, 12 and 19 during the declared emergency. Employees identified as essential personnel who work during the period of declared emergency shall be paid at two times their regular rate of pay. The employee may, at his option, choose to have the time credited as compensatory time, rather than receive pay for such time. If an essential employee is injured on the way to or from work, during a declared emergency, the injury will be treated as “on the job” for purposes of injury leave under this Agreement. If an essential employee is required to remain at work during the declared emergency, they shall be paid for all hours they are required to remain, including rest hours at straight time. The City shall, at its sole discretion identify the essential personnel to be working during a declared emergency. The provisions will also apply if an emergency is declared in the City by the designee of the City Manager, the Governor of the State of Ohio or the President of the United States.

F. Transit Employees: The provisions of Article 11 shall apply to Transit Employees, with the following exceptions:

(1) The workweek for Transit Employees will be forty (40) hours per week with work schedules and starting times to remain flexible based on the needs of the Employer.
(2) An Employee whose regularly scheduled workday consists of 10-1/4 hours or less, and who works in excess of their regularly scheduled shift in one day or an Employee working in excess of forty (40) hours in one week, as defined by The Fair Labor Standards Act, as amended, provided that holidays, funeral leave and injury leave for which the Employee is paid shall be counted in the forty (40) hours, shall, as determined by the Employee, either be paid time and one-half his regular rate or receive compensatory time off on the basis of one and one-half hours off for each hour of overtime worked.

(3) An Employee who has been scheduled to work a split shift shall be entitled to work the second four hours, if those hours become available, before a part-time replacement is called in. An Employee who works a split shift shall receive a split shift premium of $0.60/hour for all hours worked on the second portion of the split shift.

(4) When the assignment of overtime becomes necessary, as decided by the City in its sole discretion, the City shall equalize those assignments among the various members of the bargaining unit. The City may require any bargaining unit employee to perform overtime work. The Division of Transit shall keep a list of Employees and amount of overtime hours worked. All refused overtime hours will be charged as if worked. This list shall be available at the appropriate work site January 1 of each year and updated weekly thereafter.

(5) Transit Employees shall have free parking privileges at a City owned parking lot near the bus terminal.

(6) Transit Employees working a twelve (12) hour shift shall receive an additional thirty (30) minute paid break.

(7) Any Transit Employee who has been notified to report to work outside his regularly scheduled shift shall, unless he has been properly notified not to report, receive three (3) hours works or pay in lieu thereof. All call-outs shall be compensated at the time and one half rate.

(8) Transit Employees may trade days or shifts (1 shift equals 4 hours) as long as the supervisor has been notified of the trade at least one (1) day in advance. Transit Employees may trade routes at any time. A Transit Employee not reporting on a day or shift that he has agreed to cover as a result of a trade, except for approved absences, will not be paid for the time he agreed to cover and may be disciplined for such. The City reserves the right to deny any trades in the case of an emergency. All Transit Employees will be required to drive each route once each month.
ARTICLE 12 – TEMPORARY REASSIGNMENT

A. All bargaining unit employees shall be required to perform any and all temporarily assigned duties of which they are capable, either within their assigned division, or in another temporarily assigned division, regardless of their usual or customary duties or job assignments.

B. A temporary reassignment to another division shall not exceed sixty (60) working days. Time limits may be extended by mutual written agreement between the employee and his supervisor with written copy to the Union President.

C. When an employee is temporarily reassigned to substitute in the same classification, or in a job classification with a rate of pay lower than his own, he shall receive his regular rate of pay. In assigning a temporary reassignment, the supervisor shall offer it to the most senior qualified employee in the required job classification, if the reassignment is refused by all qualified employees within the division, the least senior qualified employee shall be selected.

D. A temporarily assigned employee can work overtime only in the area to which he or she has been temporarily assigned, except that they will go to the bottom of the overtime list in their respective departmental classification.

E. Equalization of Overtime. The parties agree that when bargaining unit employees work overtime in divisions other than his/her regular division, then those hours of overtime worked are to be figured into the employee’s overtime hours in his/her regular division for the purpose of equalizing the overtime within the division.

For the purposes of this agreement, any refusal of overtime in other divisions will be charged to the employee in his/her regular division as if he/she had actually worked those hours.

ARTICLE 13 – HOLIDAYS

A. Holidays. The following days shall be celebrated as paid holidays by all regular full-time employees:

- New Year’s Day
- Good Friday Day
- Memorial Day
- Independence Day
- Labor Day
- Employee’s Birthday
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Eve Day
- Christmas Day
- Martin Luther King Day
- President’s Day
A full-time employee working a regular schedule shall be excused from work on the above days unless otherwise scheduled by the Department Head.

B. **Day Celebrated.** If any of these holidays fall on a Saturday, the preceding Friday will normally be granted as a day off with pay in lieu of the actual holiday. If the holiday falls on a Sunday, the following Monday will normally be granted as a day off with pay in lieu of the actual holiday.

C. **Loss of Holiday.** An employee who is off without pay because of an unexcused absence either the work day before or the work day after a holiday, or, if scheduled, on the holiday itself, shall forfeit holiday pay. An unexcused absence is an absence not covered by approved vacation, accumulated sick leave (unless accompanied by a doctor’s certificate), approved leave with pay or approved leave without pay. In addition, holiday pay ceases during any period an employee is not being paid his regular salary or wage.

D. **During Vacation.** If a holiday falls during an employee’s vacation period, it shall not be charged to vacation time, except where department or division policy is to grant additional vacation time in lieu of granting regular holidays off.

E. **Holiday Pay.**

   (1) Hourly employees who are scheduled to work on a holiday, other than their birthday, or day celebrated as a holiday (not both), and do work, shall receive one and one-half times the pay in addition to the regular holiday pay with no compensatory time off, except as provided in (E)(2) below.

   (2) **Excluding Transit Employees,** employees who work on the actual day of New Year’s Day, Memorial Day, Independence Day, Thanksgiving Day, Christmas Eve and Christmas Day shall receive double their regular rate of pay in addition to the regular holiday pay.

(F) Effective July 1, 1990, all employees covered by this contract shall be granted one (1) personal day each year. Employees shall receive such leave upon providing 48 hours notice to their supervisor. All requests for personal leave which are made any time less than 48 hours prior to the leave requested shall be granted solely at the discretion of the department head or his designee.

(G) In the event the City grants an additional scheduled holiday to non-union employees, this Article shall be reopened at the request of either party solely for the purpose of discussing granting the new holiday to bargaining unit employees.

(H) **Transit Employees:** The provisions of Article 13 shall apply to Transit Employees, with the following exceptions:
(1) Transit Employees may take the Employee’s Birthday holiday on their birthday, or at any time during the year with the approval of the head of the department.

(2) Holiday Rotation. Drivers shall be assigned to work on holidays on a rotating basis by inverse order of seniority. It is the intent of the parties that the holidays off will be equally distributed among the drivers.

(3) Christmas Day. The normal operating hours of the transit system on the Christmas Eve holiday will be six hours. If the City determines that additional hours of operation are necessary, it shall provide evidence of increased demand for the increased hours of operation. The City may, at its sole discretion, reduce these normal operating hours.

ARTICLE 14 – VACATION

A. Eligibility. Only permanent, full-time employees are eligible for vacation. Vacation in this regulation encompasses regular vacation credit, converted sick leave credit, and terminal vacation credit. Vacation preferences for the year shall be made known by March 31 of that year.

B. Effective January 1, 2020, each permanent full-time employee will receive vacation/longevity credit as follows:

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Days of Vacation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 – 4 years</td>
<td>10</td>
</tr>
<tr>
<td>5 – 9 years</td>
<td>13</td>
</tr>
<tr>
<td>10 – 14 years</td>
<td>18</td>
</tr>
<tr>
<td>15 – 19 years</td>
<td>20</td>
</tr>
<tr>
<td>20 – 24 years</td>
<td>25</td>
</tr>
<tr>
<td>25+ years</td>
<td>28</td>
</tr>
</tbody>
</table>

C. New employees may take vacation after they have been employed by the City for 90 days in accordance with the schedule below. Scheduling of vacation during the year of hire will be at the discretion of the supervisor.

<table>
<thead>
<tr>
<th>Month of Hire</th>
<th>Days of Vacation</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>9</td>
</tr>
<tr>
<td>February</td>
<td>8</td>
</tr>
<tr>
<td>March</td>
<td>7</td>
</tr>
<tr>
<td>April</td>
<td>6</td>
</tr>
<tr>
<td>May</td>
<td>5</td>
</tr>
<tr>
<td>June</td>
<td>4</td>
</tr>
</tbody>
</table>
D. (1) First Full Year of Service. On January 1st of the first full calendar year of employment, employees will be deemed to have earned their vacation credit in accordance with this provision, in full, which may be scheduled at any time during such first full year of employment in accordance with the terms of this agreement. If an employee terminates their employment with the City prior reaching January 1st of the first full calendar year of employment no terminal pay will be made for such vacation time.

(2) Subsequent Years of Service. On January 1st of an eligible employee's second year of service and in each year thereafter, employees shall receive vacation credit in accordance with the schedule set forth herein, based upon the length of service to be obtained in that year. Vacation credit will be deemed to have been earned in the employee’s prior year of service. Upon termination or retirement, or in the case of leave without pay, vacation shall be pro-rated on the basis of monthly accrual. When calculating vacation credit earned in the present year for purposes of terminal leave, the credit earned will be based on the employee’s date of hire.

(3) Non-Accrual. Employees on leave without pay for any reason except injury on the job shall not accrue vacation benefits. However, Transit Employees on leave without pay for more than two (2) consecutive weeks in any calendar month for any reason shall not accrue vacation benefits for that month.

E. Scheduling. Vacations shall be scheduled on a seniority basis with the approval of the Department or Division Head. In general, Department and Division Heads shall give as much consideration as possible to the employee’s preference, while at the same time maintaining the staff necessary to meet operational requirements. Vacations may be taken in increments of not less than one-half of a full day. Vacation credit should be used by year-end. Any unused portion must be approved by the City Manager in writing in order to be deferred to the next year.

F. Sick Leave Conversion Provisions. Employees may convert sick leave credit to vacation on the following basis:

(1) Over 280 Hours Sick Leave Credit. An employee with more than 280 sick leave hours credit may convert all those hours over 280 hours to vacation credit, at the ratio of 24 sick leave hours for one vacation day, providing that not more than 96 sick leave hours are so converted in any one vacation year; or
(2) **Over 800 Hours Sick Leave Credit.** An employee with more than 800 sick leave hours credit may convert all those hours over 800 to vacation credit at the ratio of eight sick leave hours for eight vacation hours, provided that not more than 32 sick leave hours are so converted in any one vacation year.

The employee must have accumulated these hours prior to January 1 of the year in which these days are to be converted and must have sufficient hours at the time of conversion.

**G. Terminal Vacation Provisions.** The right to vacation upon separation from the City service shall be as follows:

1. **Resignation.** An employee who voluntarily resigns and who gives reasonable notice shall receive vacation credit earned in the previous and present year and not yet taken. Any question with regard to the number of days or amount to be paid will be determined by the Manager of the Division of Personnel after a meeting with the employee. Total vacation must be calculated to the nearest full day.

2. **Retirement.** An employee who retires shall receive vacation credits earned in the previous year and in the present year and not yet taken. Total vacation credit must be calculated to the nearest full day.

3. **Dismissal.** Employees who are not permanently appointed at the end of their probationary periods are not entitled to terminal vacation benefits.

**H.** If any other group of employees, during the life of this contract, receives additional vacation greater than what is provided in this agreement, it shall be cause for this agreement to be reopened to negotiate Article 14(B) only. This provision does not apply to vacation negotiated by groups covered by collective bargaining agreements in effect prior to the effective date of this contract.

**ARTICLE 15 – SICK LEAVE**

A. **Eligibility.** Each full-time employee is credited with 10 hours of sick leave for each full calendar month of service. The accrual of such sick leave will be shown on the first check of the following month. No credit is earned for any month in which an employee is without pay for the entire month.

B. **Probationary Employees.** Probationary employees who have not been given permanent status are entitled to sick leave in accordance with the provisions of this regulation.

C. **Accumulation.** Sick leave credit accumulation shall be unlimited.
D. Approval of Usage. Employees may use sick leave, upon approval of the responsible administrative officer of the employing unit, for absence due to illness, injury, exposure to contagious disease which could be communicated to other employees, and for illness or death in the employee’s immediate family. In no event will an employee on sick leave be paid for more than eight (8) hours in any 24-hour period, unless his normal work period is more than eight (8) hours, in which case he shall be paid for the actual number of hours. If an employee is scheduled to work on a holiday, and reports sick, the employee will receive regular holiday pay, and it will not be charged against his sick leave. If an employee is absent more than four (4) consecutive work days, the City may require a doctor’s note or other evidence of the cause of absence. An employee shall be charged for sick leave usage on an hour-for-hour basis in increments of not less than one-half hour.

E. Attendance Policy. When an employee’s record reflects more than sixty (60) hours of sick leave used within a twelve (12) month period, then that employee’s sick leave record shall be pulled and reviewed by the Department. Injuries and appropriate doctor’s statements will not be considered as part of the sixty hour break-over point. At this time, the employee may be placed on Doctor’s Notice.

The Doctor’s Notice shall state more than “The individual was under my care.” Each notice shall state that, “The employee was under my care and unable to perform his/her work duties” or something similar. Additionally, if an employee brings in a Doctor’s Notice for caring for a member of their family, the notice must state that it was necessary for the employee to be at home caring for the family member.

An original doctor’s statement is required upon an employee’s return to work in order for the sick leave hours to not count toward the sixty (60) hour break–over point referred to in this paragraph E. An original statement is also needed once an employee has been placed on doctor’s notice. Once the original doctor’s statement is verified by the appropriate personnel in the Public Works and Utilities Department, a copy of the employee’s file can be made and the original returned to the employee upon their request.

If an employee who is required to turn in a Doctor’s Notice fails to do so upon his return to work, that employee shall be docked for the time he was off.

If an employee was not able to obtain a Doctor’s Notice, then his pay will remain docked unless he obtains a Doctor’s Notice pertaining to that absence during that pay period. Any time docked under this provision will be considered as an unexcused absence.

Employee records shall be reviewed at twelve months to check progress and improvement. If after twelve months the employee has less than 60 hours (excluding long illnesses and injuries) sick leave used, he shall be removed from the Doctor’s Notice.

Transit Employees. Section E does not apply to Transit Employees.
F. **Authorized Uses for Sick Leave.** Sick leave credit may be used, with the approval of the Department or Division Head, in any of the following instances:

   (1) Sickness or off-duty injury to the employee.

   (2) Sickness or disability in the immediate family (limited to father, mother, sister, brother, husband, wife, or child of the employee). Department and Division Heads may require a certificate of the attending physician before certifying approval of payment under this provision. Time off under this provision must be limited to that which is absolutely necessary and shall not exceed three days for any one illness without the written approval of the City Manager.

   (3) Quarantine because of contagious disease. A certificate of quarantine from the attending physician must be presented to qualify for sick leave under this provision.

G. **Reporting Off Sick.** Sick leave will be paid only when the employee or a member of his immediate family notifies his Public Works Superintendent or other designated person of his absence prior to his starting time either directly or by leaving a message on the Public Works Superintendent’s voice mail. **Transit Employees shall call-in one (1) hour before the shift.**

H. **Conversion to Vacation Credit.** Sick leave credit may be converted to vacation in accordance with the provisions of Article 14(F). No employee is required to convert sick leave credit to vacation days. However, each employee entitled to convert sick leave to vacation shall be required to state his intentions whether or not to use it within a time limit set by the Department or Division Head. This provision may be waived in departments which have no vacation or scheduling problems.

I. **Conversion to Terminal Leave.** Upon the death or retirement of an employee, regardless of age or years of service, all unused sick leave credit will be converted to terminal leave pay on the basis of 24 sick leave hours for one day’s pay, to a maximum of six (6) weeks’ pay (30 working days).

   Upon the death or retirement of an employee with twenty-five or more years’ service unused sick leave credit will be converted to terminal leave pay on the basis of 16 sick leave hours for one day’s pay, to a maximum of twelve (12) weeks pay (60 working days).

   Upon the resignation of an employee, regardless of age or years of service, all unused sick leave credit in excess of 280 hour, will be converted to termination pay on the basis of 24 hours sick leave for 8 hours pay, to a maximum of five (5) weeks pay (25 working days).
Upon the resignation of an employee with 25 or more years of service, all unused sick leave credit in excess of 280 hours will be converted to termination pay on the basis of 16 hours sick leave for 8 hours pay, to a maximum of ten (10) weeks pay (50 working days).

In the event the City modifies this benefit for any other City employee, excluding the City Manager, pursuant to City ordinance or collective bargaining agreement employees covered by this Agreement shall be entitled to a “me too” clause as to this benefit.

J. Supplemental Sick Leave Regulations. Each Department and Division Head shall establish regulations to supplement those set forth above. Such regulations should include the following point:

(1) **Certificate.** In cases of illness in the employee’s family requiring him to be at home, the employee may be required to submit a certificate from the attending physician attesting to the fact, before sick leave will be allowed.

K. Sick Leave Transfer. With approval of the director of the department, employees that run out of sick leave may have up to forty (40) hours of sick leave transferred to them from other employees. One (1) employee may only transfer eight (8) hours per year to an employee in need.

L. Hours left over after the conversion of sick leave, in paragraph I may at the option of the employee leaving the service of the City, be banked to be available for use for a member who suffers a catastrophic illness and whose sick leave time has run out. Catastrophic illness is defined as an unusual serious health disorder or injury of an expected duration of three months or more. In no event shall these banked hours be available to any member who has used or has available twelve (12) months or more of sick leave. The use of the catastrophic bank shall be at the discretion of the Department Director. As hours are used from or added to the Catastrophic Illness Bank, a report of the available balance of hours shall be given to the union president or their designee.

**ARTICLE 16 – INJURY LEAVE**

A. In addition to sick leave as provided by this Agreement, an Employee shall receive job incurred injury leave as follows:

(1) In the event an employee is injured on the job and unable to perform either his regularly assigned duties or those duties which may be assigned by the head of the department, such employee shall receive, as injury leave compensation, his regular base pay for the first consecutive one hundred twenty (120) work days of time off resulting from the on-the-job injury, provided, however, at the time of the injury and in no event later than one (1) day following the occurrence that gave rise to the injury, the employee
notifies an appropriate supervisor of the injury and, unless hospitalized within five (5) work days of the occurrence, provides the employer a physician’s statement stating the nature of the injury, limitations on the employee’s ability to work, and, an expected date of return to work. The first five (5) working days the employee is absent as the result of an on-the-job injury shall be charged to sick leave. If the employee is absent more than five (5) working days as a result of the on-the-job injury, the first five (5) days shall be returned to the employee’s sick leave balance and counted as injury leave. Employees that are off due to an injury that returns to work and is not able to do the job assigned to him, shall be able to continue the remainder of the one hundred twenty (120) work days of injury leave. Those employees returning to work from injury leave, that have not used the one hundred twenty (120) work days of injury leave, and return to their doctor for follow-up or continuous treatment as a result of the injury, shall be paid injury leave for these doctor visits as long as a doctor’s statement is provided the City by the employee for said visits. All doctor’s statements shall state that the treatment was required and was related to the injury.

(2) If an Employee is hospitalized immediately following the injury he shall submit the physician’s statement within five days after his dismissal from the hospital to the Employer.

(3) If the supervisor is notified and fails to acknowledge the injury, the first five (5) days off will also be charged as injury leave.

(4) If the Employee does not notify the Employer, as provided above, the first five (5) days off work because of the on-the-job injury shall be charged as sick leave.

B. (1) An Employee claiming the right to receive, or who is receiving injury leave compensation, may be required by the Employer from time to time to submit himself for a medical examination by a licensed physician, selected by the Employer. The Employer will pay any legitimate cost for examination that the Employee’s medical insurance or Workers’ Compensation does not cover, including travel expenses.

(2) If an Employee refuses to submit to a medical examination, or if the report from the physician conducting the medical examination provides that the Employee is either not injured or is able to return to work, further injury leave compensation may be suspended or denied.

(3) If the report from the physician selected by the City is in conflict with the report submitted by the member’s physician regarding the nature of the injury, limitations on the member’s ability to work or the expected date of return to work, the member shall be examined by a third physician selected by the employer from
a list of physicians to be mutually agreed to by the parties. The opinion of said third physician shall be determinative.

(4) A medical report may not be discredited by management.

C. No injury leave will be granted to an Employee who is off work because of any medical condition that existed prior to the Employee’s original hire date, including an aggravation or re-injury, off the job, of any such pre-existing condition.

ARTICLE 17 – BEREAVEMENT LEAVE

A. (1) In the event of the death of a parent, spouse, child or member of the employee’s immediate family, an employee shall qualify for bereavement leave with pay for participation in funeral services or arrangements as follows:

<table>
<thead>
<tr>
<th>Relationship to Employee</th>
<th>Work Days/Hours of Leave</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parent, Spouse or Child</td>
<td>Up to 5 days (40 hours)</td>
</tr>
<tr>
<td>Immediate Family</td>
<td>Up to 3 days (24 hours)</td>
</tr>
</tbody>
</table>

(2) For the purpose of this section, “immediate family” is defined as “step-child, grandchild, step-parent, grandparent, brother, sister, parents or step-parents of spouse, and grandparents of spouse.”

B. (1) Funeral pay will be provided to accommodate absences occurring only on regularly scheduled work days at the employee’s base rate of pay. Funeral leave will not be granted for any period during which the employee is already in a paid or unpaid leave status (unpaid leave status is interpreted as being military leave, disciplinary suspension, voluntary unpaid leave, absence without leave.)

(2) Eligibility is further conditioned upon submission by the employee of a certificate as to the purpose and validity of leave usage.

(3) Leave requests meeting the conditions of these sections will be approved by the employee’s immediate supervisor, and if requested, the employee shall further submit proof of death and relationship.

(4) Bereavement leave may be taken within seven (7) calendar days of the date of death or the date of any funeral or memorial services for the decedent. Requests for bereavement leave with pay may be split between date of bereavement and date of memorial service at a later date as long as total number of days does not exceed time granted by this provision.

(5) Bereavement leave in excess of three (3) days may be charged against accumulated sick leave or vacation. Any sick leave used for this purpose will not
count toward the sixty (60) hours for purposes of doctor’s notice in Article 15(E) of this Agreement.

C. (1) In the event of the death of a relative in other than the immediate family, as defined above, leave time with pay of up to one (8) hour work day may, at the sole discretion of the director of the department, be taken for participation in funeral or memorial services.

(2) Bereavement leave in addition to that provided in (C)(1) will be charged against vacation credits.

ARTICLE 18 – UNIFORMS

A. With the exception of Transit Employees, the City shall provide at no cost to the employee eleven (11) uniforms, thirteen (13) for garage attendants. Uniforms will be cleaned on a weekly basis by the City. The City reserves the right to determine the manner in which this clothing is provided, to select the uniform rental service, and to select the style and color of the work clothing. These uniforms will be delivered and picked up at each work facility.

B. The City agrees to pay employees up to the following amounts per year for the purchase of work clothing and OSHA approved safety shoes:

$600.00 in 2020

On January 15th and July 15th of each year, employees shall receive equal installments of $300.00 each. All monetary allowances under this Article shall be prorated with no allowance paid for periods prior to hire, after resignation, retirement, death, or dismissal, and during leave of absence without pay and disability leaves of absence.

All new employees will receive a uniform allotment of $150.00 after satisfactorily completing 90 days of employment with the City.

All outer garments shall be in City-approved colors. These items shall be maintained by each employee.

Mechanics may use this reimbursement to purchase tools for work purposes.

C. Requirements. Hourly employees are required to wear these uniforms during working hours and shall adhere to requirements established by the City.

(1) Uniforms and other apparel shall be kept neat and clean at all times to the extent possible under respective working conditions.
(2) Items constituting a complete uniform shall be worn as a complete uniform, subject to the determination by the Department Head of the type of, and standards for, a complete uniform.

(3) Items of apparel that are available for special work conditions, for example rain gear and boots, shall be used only while working under such special conditions and subject to the standards set forth by the Department Head.

(4) Wearing apparel required to be worn by the City shall not be worn during off-duty hours except en route to and from the job and during lunch periods. Such apparel shall not be used at any time while conducting personal affairs.

D. Safety Apparel & Equipment Foul-Weather Apparel. The City will provide safety equipment on a checkout basis consistent with the work requirements. Protective clothing such as rubber gloves, suits, and boots will be furnished, and shall be worn, for protection of the eyes, skin, or regular clothing where the working conditions require working with either acid or strong alkali material or similar corrosive materials. Examples are: rubber gloves and rubber footwear for electrical work, face shields or goggles for grinders, rubber aprons and gloves for meter cleaning operations or using corrosive materials for cleaning. Hard hats are to be furnished to those workers who work where falling objects are a hazard.

Since all work by personnel within the scope of this policy involves a potential hazard to the eyes or hands; safety lens for eyeglasses and non-rubber gloves are highly recommended for all employees, but will not be paid for by the City.

The City will furnish, on a checkout basis, foul-weather gear which shall be worn consisting of a hat, cap, hooded raincoat or rainsuit and knee boots, arctics, or hip boots to those employees who are regularly required to work outside in inclement weather (rain or snow). No items will be furnished by the City that are used for cold weather protection (these items of wearing apparel are to be furnished by the employee). Rubber knee boots, hip boots, waders, or arctics will be furnished to those employees who are required to work in trench areas or other job situations which involve working in water.

E. Failure to wear the complete uniform and safety shoes may result in disciplinary action.

F. An employee shall be exempt from the OSHA approved safety shoe requirement upon presentation of a doctor’s statement which describes the medical reason(s) the employee cannot wear the OSHA approved safety shoes and the length of time the exemption will be necessary.

G. Transit Employees. The City will furnish any patches required to be worn as part of the wearing apparel required for Transit Employees, for any new unit Transit Employee, and will exchange patches for other unit Transit Employees on a one for
one basis as worn or damaged patches are turned in. No insignia which has not been authorized by the Employer shall be worn on Employee apparel.

ARTICLE 19 – TEMPORARY RECLASSIFICATIONS

A. The Employer may temporarily assign employees to perform the duties of a position classification in an equal, lower or higher salary pay grade on the same or different shift, including a position classification outside the collective bargaining unit.

B. When it is necessary to temporarily fill a higher classification, for any reason, with an employee from a bargaining unit classification, and when that employee is assigned and satisfactorily performs the complete duties of the higher level position for a continuous period of one (1) hour or more, except for training, such employee shall be compensated, during the entire period of continuous temporary assignment, at the beginning step of the higher classification, calculated on an hourly basis, or at a rate of 4.7% greater than the regular step of the employee, whichever is greater. This increased compensation is to be paid when the supervisor or leadman specifically assigns the employee to ‘step-up’ into the higher classification. It is the intent of the parties that this clause will not be abused by intentionally altering lower classification employees to avoid the higher rate of pay.

C. A continuous temporary reclassification is the total number of continuous regular work hours performed in a higher classified position for which an employee is eligible to receive higher compensation. When an employee, working a temporary reclassification, is relieved of the assignment and returned to his permanent position during regular work hours, the higher compensation shall cease and that particular temporary reclassification shall be terminated.

D. When an employee assigned to a temporary reclassification is called out or required to perform overtime work in his regular position, his status in the temporary reclassification shall not be affected unless such overtime work is continued into the regular work hours of his normal position. Such overtime work shall be compensable at the normal rate of pay for the employee and not at the rate for the higher classified position. When an employee performs overtime work in the temporarily reclassified capacity, compensation shall be made accordingly.

E. Temporary reclassification to higher positions, as outlined herein, does not count in any way toward regular or permanent status in such higher positions.

F. Temporary reclassification within the bargaining unit shall be done on a rotating schedule within the job classification within the division.

G. Temporary reclassification to management positions shall be done on a rotating schedule. Only bargaining unit employees from the Equipment Operator job classification, or higher, shall be available for temporary reclassification to a management position. Temporary reclassification to management shall be voluntary on the part of the bargaining
unit member. If all bargaining unit members on the rotation list refuse the temporary reclassification, then the employer may step-up any other bargaining unit member. An updated rotation list will be posted within the division.

H. **Seasonal Employees.** It is the intent of the parties that seasonal employees will not be assigned higher-rated jobs, including truck driver jobs, when the senior classified employee may, consistent with reasonable operation requirements, be upgraded for sustained hourly periods to the higher-rated jobs.

I. **Only temporary reclassifications within hourly bargaining unit classifications will be mandatory.**

J. **All equipment, excluding the Dump Truck and smaller vehicles and any basic hand powered tools that do not require special training, shall be operated by Equipment Operators.**

**ARTICLE 20 – HEALTH & LIFE INSURANCE**

A. **Members shall be entitled to participate in the City’s health insurance program as recommended by the Health Care Committee and described in the documents on file in the Finance Department.**

(1) The City agrees to maintain a City Health Care Committee for the purpose of regularly reviewing employee health care needs, and implementing a health care program for its employees. The Committee shall act in accordance with the Final Report of the Health Care Task Force Report dated July 10, 2006, and further amendments by the Committee. If the Committee is not maintained by the City, the City will provide the health care benefits in place at the time of the dissolution of the Committee for the remainder of the Agreement.

(2) The Union agrees to participate in the City Health Care Committee and to adhere to the recommendations of the Committee regarding all aspects of health issues, including, but not limited to, the selection of carrier, determination of coverage and determination of co-payments, deductibles, and employee contributions. The City agrees to adhere to recommendations of the Committee as such recommendations apply to the members. The Union shall have one (1) designee that serves on the Committee and may exercise voting rights on behalf of the Union. Any member appointed as the Union’s designee shall be paid for attending the Committee meetings. Any overtime incurred by a member while attending meetings of the committee shall be paid at one and one-half times their regular rate of pay.

(3) All coverage shall be subject to the insurance company’s requirements and eligibility.
(4) The City shall not be required to contribute any premium amount toward health insurance for any employee who is absent or on leave without pay for ten (10) days.

B. The City shall provide $15,000 group life insurance coverage with double indemnity to each full-time employee effective with the signing of this contract, at no cost to the employee, in addition to any group life insurance coverage he is eligible to carry at his own expense.

Employees retiring after January 1, 1972, will receive $5,000 life insurance coverage paid by the City, without double indemnity, subject to the insurance company’s requirements.

C. The City of Middletown shall contribute $63.75 per month to the Ohio AFSCME Care Plan for each full-time employee in the bargaining unit for insurance and health care benefits provided by the fund effective the earlier of either October 1, 2005, or ratification of the contract by both parties.

ARTICLE 21 – NO STRIKE/NO LOCKOUT

The Union agrees that there shall be no work interruptions, nor shall there be any slow-down or other interference with services, for the duration of this agreement.

Management agrees that there shall be no lock-out of Union employees for the duration of this Agreement.

ARTICLE 22 – WAGES

A. Hourly wage rates.

(1) Employees will receive wage increases as follows:

July 1, 2019 – 2.5%  July 1, 2020 – 2.5%  July 1, 2021 – 2.5%

For Transit Employees only:

October 1, 2019 – 2.5%  July 1, 2020 – 2.5%  July 1, 2021 – 2.5%

(2) (a) Members hired prior to or on the date of CBA adoption by City Council (September 17, 2019) shall follow wage scale A1, attached hereto as Exhibit A.

(b) Members hired after September 17, 2019 shall follow wage scale A2, attached hereto as Exhibit B.
(c) Transit employees shall follow the wage scale attached hereto as Exhibit C.

(3) Members shall participate in the “Performance-Based Compensation” set forth in the Pay & Benefits Ordinance, as adopted by the City Council of Middletown each year.

(4) Members will receive a contract signing bonus on the date of executing this agreement of $500.00 per member. The members will receive an additional bonus of $500.00 per member payable on or about July 1, 2020.

B. Salary Adjustment. The salary of each employee shall be reviewed every year by the director of the department for the purpose of determining which employee shall be entitled to a step increase. All of the employee’s personnel records, performance and length of service shall be considered in making recommendations with major emphasis placed on the evaluation of services rendered. On the recommendation of the department head, the City Manager may advance an employee at the time of such review until the maximum step has been reached.

C. Members agree that all payroll payments will be direct deposited in an account of their choice in compliance with the guidelines established by the City of Middletown Finance Department.

D. Shift Differential. Excluding Transit Employees, for any shift commencing between the hours of 3:00 p.m. and 4:00 a.m. of the following day, differential pay shall be as follows:

(1) For any shift starting at 3:00 p.m. or after, but not later than 10:59 p.m. $0.30/hour.

(2) For any shift starting at 11:00 p.m. or after, but not later than 4:00 a.m. $0.35/hour.

Employees working outside their regular shift in overtime situations will not be entitled to shift differential pay.

When there is a need to work an employee on a different shift other than his regular shift, it shall be offered to the senior employee within the classification needed first then the next senior, etc. If all refuse then the least senior shall be assigned.

E. All hourly employees shall be paid on a weekly basis.

ARTICLE 23 – LONGEVITY
A. Hourly employees will receive longevity pay in accordance with the following scheduled percentages of their existing base salary as of November 30 of the year in which longevity is to be paid:

10 years or more of service    1%
15 years or more of service    2%
20 years or more of service    3%

B. Payment of Longevity.

(1) Longevity will be paid in a lump sum in December of each year.

(2) In order to receive longevity payments, an employee must be on the payroll when such payment is made, except as provided herein.

C. Death or Retirement. In the event of the death or retirement of an employee, longevity due for that year will be paid through the date of death or retirement on a pro-rata basis through that date. It will not be paid on any terminal pay, but will be paid as a lump sum with any earned terminal pay.

ARTICLE 24 – NO VERBAL STATEMENT

This Working Policy Agreement constitutes an entire Agreement between the parties and no verbal statement shall supersede any of its provisions.

ARTICLE 25 – MISCELLANEOUS

A. Performance Evaluation. A copy of employee’s performance report shall be given to the employee at the time of report.

B. (1) Health and Safety. The Union President will be entitled to be a member of the City Safety Committee along with two other hourly employees. Meetings will be scheduled at the request of the Union President. The Union President may raise issues of health and safety before the Committee. The Committee is not required to take any action to resolve or correct the issue, but will review the issue and determine if further action is necessary.

(2) Compliance With Laws. In order to have a safe place to work, the City agrees to comply with all laws applicable to its operations concerning the safety of employees covered by this Agreement. All such employees shall comply with all safety rules and regulations established by the City.

(3) Unsafe Conditions. If an employee has justifiable reason to believe that his safety and health are in danger due to an alleged unsafe working condition, or
alleged unsafe equipment, he shall inform his supervisor who shall have the responsibility to determine what action, if any, should be taken, including whether or not the job should be shut down.

C. Labor–Management Discussion Meetings. There shall be a monthly Labor–Management meeting scheduled to discuss problems of concern of the parties in the Labor–Management area.

The Labor–Management Committee is to consist of no more than the five (5) designated committee members and business agent from the Union and no more than five (5) representatives and Manager of the Division of Personnel from Management.

The monthly discussion meeting of one (1) hour’s duration will be set by the parties at a mutually agreeable time as follows:

Either party shall submit a proposed agenda in writing to the other at least five (5) working days prior to the scheduled meeting. At the same time the Union shall notify the Manager of the Division of Personnel of the names of those Committee men who will be in attendance.

The parties shall consider alternately the consecutively placed items from both lists.

The parties are encouraged to present their items expeditiously and terminate the meeting at the end of one (1) hour.

Those items are considered during the Labor–Management discussion meeting may be resubmitted in writing for agendas of subsequent meetings.

D. Copies of this Agreement will be printed by the City and shall be distributed by the Union to each person covered by this Agreement.

E. Injury Report. In case of an on-the-job injury, a copy of the injury report shall be forwarded to the Union President.

F. Union Office. The President of Local 856 will be provided office space at a location to be mutually agreed upon by both parties. If the parties cannot agree on a different location, the Union Office shall remain at the current location.

G. The City shall furnish the Union President of Local No. 856 a copy of all correspondence that is presented to any hourly employee within the bargaining unit.

H. Damage or Loss of Personal Property. An employee whose personal property is damaged or stolen while in the performance of his/her duties shall be reimbursed in accordance with Administrative Regulation II-40 for the cost of repair or replacement of
the item. This includes tools left on City property by mechanics. The mechanics will supply
the City with an inventory list of all tools and update this list from time to time.

I. **Outside Employment.** Employees will be permitted to engage in outside
employment provided they first notify their supervisor. All such outside employment shall
be subject to the restrictions set forth in Chapter 106 (Ethics and Conflict of Interest) of
the Policy and Procedures Manual.

J. The employer will not require employees to work outdoors in heavy or continuous
storms, or excessively cold temperatures, or extreme heat, except as deemed necessary
by the City. During heavy or continuous storms, extreme heat, or excessively cold
temperatures, employees will be assigned work on projects that can be done indoors.

K. **Transit Employees.**

   (1) The City shall furnish the Union President a copy of all
correspondence that is presented to any Transit Employee within the
bargaining unit except the Employee’s performance evaluation.

   (2) A mobile 2-way radio for communication to other drivers,
dispatchers and supervisors will be provided to all Transit Employees.

ARTICLE 26 – TOTAL AGREEMENT, HEADINGS AND GENDERS

A. The provisions of this Agreement constitute the entire written Agreement between
the City and the Union. Neither party shall be bound by prior written or verbal agreements.

B. It is understood and agreed that the use of headings before Articles is for
convenience only and that no heading shall be used in the interpretation of said Article
nor affect any interpretation of such Article.

C. Whenever the context so requires, the use of words herein in the singular shall be
construed to include the plural, and words in the plural, the singular and words whether
in the masculine, feminine or neuter genders shall be construed to include all of said
genders. By the use of either masculine or feminine genders it is understood that said use
is for convenience purposes only and is not to be interpreted to be discriminatory by
reason of sex.

ARTICLE 27 – EMBODIMENT

The two parties to this Contract jointly and separately agree that this Contract
embodies all applicable provisions relating to employees covered.
The City and AFSCME Local 856 each certify without reservation that an adequate opportunity has been afforded its bargaining representatives to propose and vigorously advocate all negotiable subject matter during the course of collective negotiations preparatory to the signing of this Contract.

ARTICLE 28 – TERMINATION

This working policy shall become effective July 1, 2019 and shall remain in force until June 30, 2022, pursuant to the stipulations contained herein, and provided that either party desirous of making changes or modifications in any item must notify the other party at least 60 days prior to the expiration date of said policy. In the event that neither party wishes to request changes, the working policy shall continue in effect.

ARTICLE 29 – WITNESS/JURY DUTY

A. A leave of absence with pay may be granted when an employee is called for jury duty or subpoenaed as a witness.

B. Procedure. An employee must submit an application to his immediate supervisor, stating reasons for a leave. The department head will act upon requests for a leave of three days or less. The final decision for a leave of more than three days must be approved by the City Manager.

C. Conditions. Approval of leave must be given in writing with a copy to the Division of Personnel. The City will compensate for the difference between an agency payment and the employee’s regular salary.

ARTICLE 30 – OTHER LEAVES

A. Family and medical leaves shall be granted in accordance with the FMLA of 1993 and Policy and Procedure Manual of the City of Middletown.

B. The following provisions apply only to Transit Employees:

   (1) Maternity Leave. A Transit Employee may take sick leave for pregnancy, childbirth, and related medical conditions. Sick leave shall be used only for that period in which the Transit Employee is unable to work because of her pregnancy, recovery from childbirth, or related medical conditions. Upon request of the Employer, the Transit Employee shall provide a statement by her attending physician stating that the Transit Employee is unable to work and the projected date on which she will be able to return to work. In addition, the Transit Employee may use any accrued vacation leave, compensatory time,
sick days or holidays. An additional leave for parental or child care leave without pay must be requested under the provisions of (C) below.

(2) **Military Leave.** Leaves of absence with or without pay, for the performance of duty with the United States Armed Forces or with a Reserve component thereof, shall be granted in accordance with applicable law.

(3) **Other Leaves.** Leaves of absence with or without pay or benefits for other reasons may be granted at the sole discretion of the Employer.

(4) When a Transit Employee returns to work following an approved leave of absence, he shall be returned to his former classification without loss of seniority, consistent with Civil Service law, rules and regulations, and with all across the board wage increases, unless otherwise provided in this Agreement.

(5) Benefits and insurance will not accrue during any period of unpaid leave exceeding two (2) consecutive weeks, unless otherwise provided in this agreement except that during such leave of absence, upon the Transit Employee’s request, the Employer will continue group health insurance coverage at the expense of the Transit Employee, subject to the health insurance carrier’s restrictions.

(6) A Transit Employee desiring to apply for a leave of absence without pay must submit an application to his immediate supervisor outlining the reason for the request. Leave requests of five (5) days or less will be acted upon by the department head. Leave requests exceeding five (5) days will be forwarded to the City Manager by the department head, together with his recommendations. Approval of all such leaves of absence without pay will be in writing with a copy to the Transit Employee and the Personnel Manager.

(7) (a) At the request of the Union, a leave of absence without pay may, at the sole discretion of the City, be granted to any Transit Employee selected for Union office, required to attend a Union convention or meeting necessitating a suspension of active employment, or for any other reason acceptable to the City. Seniority and fringe benefits shall continue during such a leave of absence. The City shall be reimbursed, in advance, by the Union for the total, i.e., City and Transit Employee’s, cost of all fringe benefits paid for the Transit Employee on an extended leave of absence for Union business reasons.
(b) Requests for the above leaves of absence are to be made to the City Manager by at least ten (10) working days prior to the effective date of the leave.

(c) Approvals for such leaves of absence for Union business, if any, shall be granted in writing by the City Manager or his designated representative.

(8) If the City determines not to run bus routes due to inclement weather, each Transit Employee shall at his/her option, either; a) stay home or go home from work, in which case the Transit Employee will not be paid (unless he/she uses available paid leave), or b) report to work or stay at work, in which case the City will assign the Transit Employee alternate work assignments, which may include training. These assignments will be at the discretion of the City.

ARTICLE 31 – TRAINING AND SEMINARS

The expenses for bargaining unit employees who are required by the employer to attend training schools, seminars, or other educational programs shall be paid by the City. The City shall also pay costs for any examinations it requires the employee to take. The employees shall be paid for attending such schools, seminars, programs or examinations in accordance with the Fair Labor Standards Act. Tuition reimbursement, as provided by the Administrative Regulations, shall be available to the employees for authorized programs not required by the City.

The City agrees to reimburse employees required to maintain a commercial driver’s license for the renewal of such CDL to the extent it exceeds the cost of a regular operator’s license, upon providing receipt of payment. This applies only to required periodic renewals, and not to costs for loss, suspension, etc.

All members, except those in the job classification of Building Cleaner/Service Worker and Grounds Technician shall be required to hold a Class A CDL. Any present employee required by this Article to possess a Class A CDL who does not presently possess a Class A CDL shall obtain a Class A CDL on or before July 1, 2012. If any present employee fails to obtain a Class A CDL on or before July 1, 2012, the employee shall not be eligible for promotion to any position in the bargaining unit.

Transit Employees shall be required to hold a Class B CDL with Air Brake and Passenger Endorsements.

The City shall provide employee(s) with CDL study materials and assist in training. The City will provide the equipment, time and driver for the actual testing procedure. After the employee obtains a CDL, he/she will be reimbursed for the first actual license.
It is understood that those who sign the Overtime List can only work the positions for which they carry the proper CDL. Those members who do not have CDL’s will be at the bottom of the list for overtime.

**ARTICLE 32 – MECHANIC CERTIFICATIONS AND ALLOWANCES**

A. (1) All mechanics hired after September 1, 2011 shall be required to obtain and retain certain certifications in order to receive the salary adjustments set forth in Article 22(B). In addition to the requirements set forth in Article 22(B), all mechanics hired after September 1, 2011 must obtain and maintain the following certifications in order to receive salary adjustments under that section:

The certifications listed are the Core Certifications necessary:

Freon/Refrigerant certification

**ASE Certifications:**
- A1 – Auto: Engine Repair
- A4 – Auto: Suspension and Steering
- A5 – Auto: Brakes
- A6 – Auto: Electrical/Electronic System
- A7 – Auto: Heating and Air Conditioning
- A8 – Auto: Engine Performance
- T2 – Med/Heavy Truck: Diesel Engines
- T4 – Med/Heavy Truck: Brakes
- T8 – Med/Heavy Truck: Preventative Maintenance

Employees may obtain the certifications in any order after they have obtained the required Freon/Refrigerant certification during their probationary period.

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<th>CERTIFICATION NECESSARY</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Freon/Refrigerant certification*</td>
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</table>
| B    | ASE certifications  
Must have (4) Core Certifications |
| C    | ASE certifications  
Must have (6) Core Certifications |
| D    | ASE certifications  
Must have (8) Core Certifications |
| E    | ASE certifications  
Must have (10) Core Certifications |
*(2) If a probationary employee fails to obtain their certification in Freon/Refrigerant during their probationary period, they will be deemed to have failed their probation and shall be terminated from their employment.

(3) Any mechanic hired after September 1, 2011 who fails to maintain a certification after initially obtaining it shall not receive the tool allowance provided in section (F) below for the following year in which the certification is not maintained. The tool allowance in section (F) will not be reinstated until the required certification renewals are obtained.

B. Any mechanic who obtains all of the certifications required to advance to a step under paragraph (A) of this Article shall receive an additional tool allowance of fifty dollars ($50.00) for each group of certifications obtained in each year after they obtain those certifications so long as they maintain those certifications. Mechanics hired after September 1, 2011 will receive this additional tool allowance after they receive their step increase and each year thereafter so long as they remain eligible for the step increase. The tool allowance shall be paid in accordance with Article 32(F).

C. There shall be an additional $25.00 tool allowance for each Core Certification obtained prior to the required certifications necessary for a step increase. Current mechanics hired after September 1, 2011 who have obtained more Core Certifications than required for a step increase, shall receive a lump sum payment for the Core Certifications they have completed beyond those they have already been compensated for.

    Mechanics will also be compensated an additional $25.00 in tool allowance for up to (5) five approved certifications or re-certifications not listed in the Core Certifications in the year in which the certification or re-certification is obtained.

D. The City shall maintain training materials for the required ASE certifications.

E. The City will reimburse an employee for the cost of any tests for a required certification which the employee passes.

F. Tool allowance is provided for each Auto Mechanic on January 15th of each year as follows:

    January 15, 2020 $600.00

G. Mechanics may also use the clothing reimbursement to purchase tools for work purposes as described in Article 18 – Uniforms.
ARTICLE 33 – DRUG & ALCOHOL TESTING

A. General. In accordance with the Omnibus Transportation Employee Testing Act of 1991, and the federal regulations issued thereunder by the United States Department of Transportation and the Federal Highway Administration (49 C.F.R., Parts 40 and 382), the parties hereby agree that members of this bargaining unit will be subject to drug testing in accordance with Chapter 77 (CDL Drug & Alcohol Policy) of the Policy and Procedure Manual of the City of Middletown.

B. Transit Specific Provisions

(1) Purpose and Policy of Drug Testing Program.

(a) The City of Middletown has an obligation to provide its passengers and customers with the safest possible service and its Employees with a safe work environment by insuring that its Employees have the physical stamina and emotional stability to perform their assigned duties. A requirement of employment must be an Employee who is free from drug dependency and illegal drug use.

(b) Where there is sufficient evidence to conclude that the use of illegal drugs and/or drug abuse severely impairs an Employee’s performance and general physical and mental health. The illegal use of drugs by City Transit Employees (therefore, possession) is a crime in this jurisdiction. Therefore, the City of Middletown hereby adopts the policy that:

   (i) An Employee may not perform a sensitive safety function while that Employee has a prohibited drug in his or her system;

   (ii) If an Employee performing a sensitive safety function refuses to take a drug test authorized under this article or is tested for drugs under this article and does not pass the drug test, that Employee shall be relieved of his or her sensitive safety duties immediately. Employees failing a random first time urine drug test will be referred to the EAP Program;

   (iii) An Employee who refuses to take a drug test authorized under this article or does not pass a drug test administered under this article may not return to a sensitive safety function until the Employee has passed a return to duty drug test required under this Article;
(iv) An Employee must report to work free from drugs or other job-impairing substances. Thus, reporting to work under the influence of a drug not medically authorized or any other substance which impairs job performance or poses a hazard to the safety and welfare of the Employee, the public or other Employees is strictly prohibited and will result in discipline up to and including termination;

(v) The illegal use, sale, distribution or possession of drugs, while on the job or on City property is prohibited and will result in discipline up to and including termination. Any illegal substances will be turned over to the appropriate law enforcement agency and may result in criminal prosecution. The sale, distribution, or possession with intent to distribute a prohibited drug resulting in a criminal conviction will be cause for immediate discharge;

(vi) Subject to state and federal regulations, an Employee will be allowed to use a prohibited drug when taken as prescribed by a licensed medical practitioner who is familiar with the Employee’s medical history and assigned duties. It is the Employee’s responsibility to prove through clear and convincing evidence that his/her use of the prohibited drug was as prescribed by the licensed medical practitioner;

(vii) Recognizing its commitment to its Employees and the public, the City of Middletown Transit Employees will be required to submit to a urine test for the presence of drugs in their system based on reasonable cause except as specified in other areas of this policy. Test results of an individual may be released by the Employer only with written consent of the individual; and

(viii) Because of its commitment to its Employee’s welfare, the City of Middletown maintains the Employee Assistance Program (EAP) which can provide access to professional services to aid the Employee who has a chemical dependency problem. The EAP maintains confidentiality of its contacts and Employees are encouraged to utilize the program.

(2) General Rules.
(a) City Transit Employees shall not take any prohibited drug or narcotic unless prescribed by a person licensed to practice medicine. Employees who are required to take prescription medicine shall notify their immediate supervisor if the medication prescribed would impair their job performance.

(b) All property belonging to the City, including the entire premises of the City, is subject to inspection at any time without notice as there is no expectation of privacy.

(i) Property includes, but is not limited to, City owned vehicles, desks, files, and storage lockers.

(ii) Lockers that may be assigned to Transit employees (including those that may be locked by the Employee) are subject to inspection by the Employee’s supervisor after reasonable advance notice (unless the requirement for notice is waived by the Department Director) and the inspection is in the presence of the Employee.

(c) All Transit Employees who have a reasonable basis to suspect that another Employee is illegally using drugs or narcotics, shall immediately report the facts and circumstances of such use to their supervisor.

(d) Failure of any Transit Employee to comply with the intent or provisions of this general order constitutes grounds for disciplinary action, including dismissal, or other action determined appropriate by the Department Director. Refusal by a Transit Employee to take a required drug test will result in immediate relief from sensitive safety duties and/or general transit duties pending disposition of any administrative personnel action.

(3) Drug Testing. All members shall be subject to drug and alcohol testing in accordance with the Transit Drug & Alcohol Policy adopted by City Council as set forth in Ordinance No. 02008-58, and any subsequent amendments and modifications to the policy thereto. The City shall provide notice to the union within thirty (30) days of the City’s knowledge of any amendments or modifications to be made to the policy and shall provide such approved amendments and modifications to the union and Council 8 within 30 days of such approval.

(4) Freedom of Action. Nothing in this Article shall be interpreted to require the City to rehabilitate any Employee who has failed a urine drug test except in the case of a first-time positive test, resulting from random testing procedure; require the City to continue the employment of any Employee
who has failed a drug test or restrict or interfere with the City’s right to
discipline, (including termination) any Employee who has failed a drug test. Employees who have been found to be using an illegal drug and disciplinary
action is contemplated, shall be provided a pre-disciplinary hearing as
outlined in Article 6 of the Agreement.

APPENDIX #1

A. Class Titles
   Inventory Clerk       Mechanic
   Automotive Partsperson Equipment Operator
   Maintenance Worker    Grounds Technician
   Water Meter Service Worker Garage Attendant
   Garage Attendant Trainee Building Cleaner/Service Worker
   Bus Driver

B. Entry level Maintenance Workers will be hired in Step A and shall move to Step B once the employee has successfully passed a 6 month probation period and has obtained a valid Class A CDL.

   An employee hired as a Maintenance Worker who fails to obtain a Class A CDL during his/her six (6) month probation period shall have his/her probation period extended by operation of this Agreement to one year. If the employee fails to obtain a Class A CDL before the end of the extended probationary period shall be deemed to have failed his/her probation and shall be terminated from employment.

   Employees in the classification of Maintenance Worker shall not be eligible to move to a higher step in such classification until the employee obtains a valid Class A CDL. Employees in the classification of Maintenance Worker shall not be eligible test for the classification of Equipment Operation until such employee has held the classification of Maintenance Worker for one year and obtained a valid Class A CDL.

   Employees who held the classification of MEO II prior to the July 1, 2008 Reclassification that do not hold a valid Class A CDL shall not be eligible to move to a higher step in the Equipment Operator classification until a valid Class A CDL is obtained.

SIGNATURES

AFSCME LOCAL #856, AFL-CIO  CITY OF MIDDLETOWN

____________________________  ____________________________
Noland Fivecoate      Jim Palenick
President, Local 856    City Manager
<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
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<tbody>
<tr>
<td>Carolyn Park</td>
<td>Staff Representative</td>
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<td></td>
<td>AFSCME Ohio Council 8</td>
</tr>
<tr>
<td>Alexander Ewing</td>
<td>Attorney, Chief Negotiator and on behalf of</td>
</tr>
<tr>
<td></td>
<td>the Law Director</td>
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<tr>
<td>Gary Schul</td>
<td>Member, Bargaining Committee</td>
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<tr>
<td>Scott Tadych</td>
<td>Public Works &amp; Utilities Director</td>
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<td>Bargaining Committee Member</td>
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<td>Roderick A. Banks</td>
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<td>Charlie Anderson</td>
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<td>Robert A. Diacont</td>
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<td>Joe French</td>
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<td>Timothy S. Haney II</td>
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<td>Duane Retherford</td>
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|                      | Step A   |          |          |          |          |          |          |          |
|                      | 7/1/2019 | $21.95   |          |          |          |          |          |          |
|                      | 7/1/2020 | $22.49   |          |          |          |          |          |          |
|                      | 7/1/2021 | $23.06   |          |          |          |          |          |          |
## WAGE SCALE A2 - EMPLOYEES HIRED ON OR AFTER SEPTEMBER 17, 2019

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<th>Position</th>
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**EXHIBIT "B"**
### Exhibit C

**Wage Scale for Transit Employees**

2.5% increase in each year

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<tr>
<th>Effective Date</th>
<th>A</th>
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<td>$16.25</td>
<td>$16.63</td>
<td>$17.07</td>
<td>$17.85</td>
<td>$18.58</td>
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<td>$16.17</td>
<td>$16.66</td>
<td>$17.05</td>
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LETTER OF UNDERSTANDING

BETWEEN CITY OF MIDDLERTOWN

AND

AFSCME LOCAL 856

Effective May 29, 2008 AFSCME Council 8 Local 856 agrees that between the months of November 1 of each year to April 1 of each year the assigned snow routes will be frozen during this period. The assignment of such snow routes is not grievable under Article 7.

For the Union

Ed Howard, President

Debbie Garcia, Staff Representative
AFSCME Ohio Council 8

For the City of Middletown

Judy Gilleland, City Manager

Approved:
Law Department

Dated

Ron Phelps

2008

Ginger L Smith

8/15/08

Dated
LETTER OF UNDERSTANDING
CITY OF MIDDLETOWN
AND
AFSCME, LOCAL 856

Whereas, the City of Middletown and AFSCME, Local 856 have established certain working policies regarding overtime work in Article 11 of the Collective Bargaining Agreement (hereinafter “CBA”); and,

Whereas, the parties have implemented and wish to use a modified process in the water division of the Department of Public Works & Utilities (hereinafter the water division);

Now, therefore, the parties hereby acknowledge that the following process for the call-out of overtime may be used in the water division:

1. **Call-outs for issues related to water distribution**: The equipment operators and maintenance workers who are regularly scheduled to check, repair, etc. water lines are divided into teams. The teams rotate call-outs on a weekly basis. The team or individuals on the team designated as available for work related to the water lines during that week shall be called out first.

2. **Call-outs for issues related to water meter service**: Water turn-on, turn-off, or call-outs Sunday through Saturdays shall normally be performed by employees performing such work during that week. Those employees working on a weekly rotation list (Friday 3:00 p.m. to Friday 3:00 p.m.) shall be first offered the opportunity to work any and all call-outs for turn-on, turn-off, or meter repair or replacement and any other normally performed functions of said classification. Those employees shall be called in order of the weekly rotation list. If an Employee accepts the call-out he/she shall be required to perform the work. If those employees cannot be reached or all refuse the call, the Supervisor shall determine the manner in which the work shall be performed.

The lists of employees assigned to call-outs for the work to be performed under paragraphs one (1) and two (2) above shall be developed and maintained by the City. The Supervisor may change the lists as needed to reflect the assignment of the employees. All employees in the water division shall be placed on one, but not more than one, of these lists.

CITY OF MIDDLETOWN

Judith Gilliland, City Manager

Approved as to form:

Leslie S. Landen, Law Director

AFSCME, LOCAL 856

David Berry, President

Taurean Johnson, AFSCME Council 8
LETTER OF UNDERSTANDING
BETWEEN CITY OF MIDDLETOWN
AND
AFSCME LOCAL 856

Whereas, the City of Middletown and AFSCME, Local 856 have established certain working policies regarding scheduled overtime work in Article 11, specific to: C. Overtime Procedure section (3) Scheduled Overtime of the Collective Bargaining Agreement; and,

Whereas, the parties have implemented and wish to use a modified process in the Parks Division of the Department of Public Works & Utilities;

Now, therefore, the parties hereby acknowledge that the following process for schedule overtime may be used in the Parks Division:

1. Scheduled Overtime for issues related to the Parks Division: Beginning May 1st and ending at the City's discretion, Sunday through Saturday, the scheduled overtime for opening, closing and cleaning of the parks restrooms shall be as follows: Employees should be notified at the earliest possible time of scheduled overtime. Any employee who has been notified to report for work outside his/her normal scheduled shift, shall (unless they have been properly notified not to report for work) receive (2) hours work or pay in lieu thereof. This scheduled overtime will be paid at the time and one-half rate.

2. All other Scheduled Overtime related to the Parks Division: If there is any other scheduled overtime in the Parks Division not related to item (1) above, the current contract language for Scheduled Overtime will be followed.

CITY OF MIDDLETOWN

[Signature]
Judith A. Gilleland, City Manager

Approved as to form:

[Signature]
Leslie S. Landen, Law Director

AFSCME, LOCAL 856

[Signature]
David Berry, President

[Signature]
Taurean Johnson, AFSCME Council 8
Purpose

The objective of this staff report is to present to City Council amendments to the collective bargaining agreement between the City of Middletown and AFSCME.

Background and Findings

The City entered into the current collective bargaining agreement (CBA) with AFSCME Local 856 in 2019. Later that year, the City entered negotiations for a new CBA with AFSCME Local 856-A, the unit for bus drivers in the Transit Division. For the past several years, the parties have entered into one year agreements with 856-A. The number of members in 856-A went from 4 members to one member.

During the negotiations, the parties discussed merging the two AFSCME units into one unit. The City was initially represented during the negotiations by Susan Cohen and later by Alex Ewing of Frost Brown Todd. The parties have been actively negotiating the terms of the new contract since last fall. Notable language being added specific for the position of bus driver, includes:

1. Article 11(F) – Hours of Work. Transit operates outside of the typical Monday thru Friday, 8:00 a.m. – 5:00 p.m. workday. These provisions address those differences.

2. Article 13 – Holidays. Due to the need for different hours of work, there are some exceptions for holidays that apply to the bus driver position.

3. Article 18 – Uniforms. Increase of $100.00 (previously $500.00 annually).

4. Article 22 – Wages. Increase of 2.5% for each year of the contract.

5. Article 30(B) – Other Leaves. Transit had specific leave language in their prior contract which is being incorporated here.
(6) Article 33(B) – Drug & Alcohol Testing. Transit had specific testing language in their prior contract which is being incorporated here. Public Works employees follow the policy in the City Policy and Procedure Manual.

**RECOMMENDATION**

City Staff recommends that City Council approve this tentatively agreed upon collective bargaining agreement which will merge Locals 856 and 856-A, and authorize the City Manager to enter into this amended agreement.

**ALTERNATIVES**

City Council could choose not to approve the agreement. In that case, the parties would need to resume negotiations in an attempt to reach another tentative agreement.

**FINANCIAL IMPACT**

The wages for the proposed collective bargaining agreements are consistent with the 2020 budget. There will be back pay to October 1, 2019, plus an additional $100.00 for the uniform increase.

**EMERGENCY/NON-EMERGENCY LEGISLATION**

The present contract for Transit expired September 30, 2019. Emergency legislation is requested so that the new contract can be signed and back pay can be issued as quickly as possible.
LEGISLATION
ITEM 10
ORDINANCE NO. O2020-36

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR A SMALL BUSINESS ECONOMIC DEVELOPMENT GRANT WITH BAAB’S KAYAKING, LLC.

WHEREAS, BAAB’s Kayaking, LLC is operating a kayaking and livery service at 2401 Carmody Boulevard; and

WHEREAS, BAAB’s Kayaking, LLC does not meet the requirements for the City’s Job Creation Incentive Grant program, but the City is interested in providing an incentive for the small business;

NOW, THEREFORE, BE IT ORDAINED, by City Council of the City of Middletown, Butler/Warren Counties, Ohio, that:

Section 1

The City Manager is hereby authorized to enter into an agreement for a Small Business Economic Development Grant with BAAB’s Kayaking, LLC. The agreement shall be in a form substantially similar to Exhibit “A”, and is subject to approval by the City Manager and Law Director.

Section 2

For said purposes, the Finance Director is hereby authorized to pay a sum not to exceed $5,000.00 from the Property Development Fund (Fund # 499).

Section 3

This ordinance shall take effect and be in force at the earliest time permitted by law.

Nicole Condrey, Mayor

1st Reading: __________
2nd Reading: __________
Adopted: __________
Effective: __________

Attest: __________________
   Clerk of the City Council

H:\Law\leg\2020 Leg\O BAAB’s Small Business Economic Development Grant
EXHIBIT “A”

SMALL BUSINESS ECONOMIC DEVELOPMENT
GRANT AGREEMENT

This agreement is made and entered into by and between the CITY OF MIDDLETOWN, OHIO, a municipality, with its main offices located at One Donham Plaza, Middletown, Ohio 45042 (hereinafter “the City”) and BAAB’S KAYAKING, LLC, whose business address is located at 2401 Carmody Boulevard, Middletown, Ohio 45042 (hereinafter “Grantee”).

WHEREAS, the City of Middletown has encouraged the creation of new jobs in the City by establishing a Job Creation Incentive Grant Program; and

WHEREAS, there are smaller business enterprises creating new jobs within the City, but do not create sufficient new jobs to qualify for the Job Creation Incentive Grant Program, such as Grantee; and

WHEREAS, the Grantee operates a kayaking and livery service at 2401 Carmody Boulevard. Grantee currently has food available with plans to add a bar and bike rentals; and

WHEREAS, the Grantee has requested economic assistance from the City; and

WHEREAS, the City’s Economic Development Incentive Team has investigated the request and has recommended to the Middletown City Council that the Grantee be provided a Small Business Economic Development Grant in accordance with the terms and conditions herein;

WHEREAS, the Small Business Economic Development Grant to Grantee will further the public purposes of job creation and preservation within the City and improve the economic welfare of the people of the City;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

1. Grantee intends to continue investing in its operations within the City of Middletown at its current location.

2. Grantee shall receive a one-time Small Business Economic Development Grant in the amount of $5,000.00 (the “Grant”).

3. Grantee shall provide to the City any information reasonably required by the City to evaluate Grantee’s compliance with the Agreement, including, but not limited to:
   a. Annual payroll at the project site
   b. Number of employees working at the project site
   c. Total money invested at the project site.
4. If the City determines that the certification as to delinquent taxes required by this agreement is fraudulent, the City of Middletown may terminate or modify this agreement in writing. If the City moves forward with termination, the Grantee must repay the full amount of the Grant within 90 days of receipt of the notice of termination.

5. Grantee hereby certifies that at the time this agreement is executed, Grantee does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which Grantee is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, Grantee currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against Grantee. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes.

6. Grantee affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio or a political subdivision of the State; (2) any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State; and (3) any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.

7. Grantee and the City of Middletown acknowledge that this agreement has been approved by formal action of the Middletown City Council, Ordinance No. O2020-____. This agreement takes effect upon the signature of both parties. This agreement is not transferrable or assignable without the express, written approval of the City of Middletown.

8. The City of Middletown has developed a policy to ensure recipients of Small Business Economic Development Grants practice non-discriminating hiring in its operations. By executing this agreement, Grantee is committing to follow non-discriminating hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

9. Grantee affirmatively covenants that it has made no false statements to the City in the process of obtaining approval for this Grant. If any representative of Grantee has knowingly made a false statement to the City to obtain the Grant provided herein, Grantee shall be required to immediately return all benefits received under this Agreement and shall be ineligible for any future economic development assistance from the City. Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to R.C. 2921.13(A)(4), which is punishable by a fine of not more than $1,000.00 and/or a term of imprisonment of not more than six months.
IN WITNESS WHEREOF, the parties have executed this agreement on the date written below their signatures.

CITY OF MIDDLETOWN

By:____________________________
Jim Palenick
City Manager

Date:________________________

Approved as to form:

________________________________
Law Director

BAAB’s

By:____________________________
Rob Richardson
Owner

Date:________________________

By:____________________________
Karen Richardson
Owner
DATE: July 1, 2020
TO: Jim Palenick, City Manager
FROM: Chris Xeil Lyons, Economic Development Director, prepared by Alaina Geres, Economic Development Program Manager

Purpose
To authorize Small Business Entrepreneurial Assistance for BAAB’s.

Background and Findings
Entrepreneurs Rob and Karen Richardson have purchased the building at 2401 Carmody Blvd in Middletown, along the Great Miami River and State Route 4 with plans to renovate it into a bar and bistro. They will also operate a second business out of that location - a kayaking and livery service, with plans to add bike rentals in the future.

We have offered them $5,000 entrepreneurial assistance for startup costs.

We feel this project is very important to improve the quality of life, tourism, and perception of Middletown, Ohio. Canoes and kayaks had a 279% growth in registrations from 2006-2018. The City of Middletown alone has 909 active hand-powered boats registered to 598 Middletown residents. On the first Saturday in May, just up north in Germantown, Twin Creek Kayaking and Livery ran 150 boats down Twin Creek. Owners of the gas station where he sets up reported an increase in business from normal operations of $3-5K to $15K on Saturday alone! This business has the potential to serve our community and bring visitors to Middletown.

They have met all of the requirements of our small business entrepreneurial assistance:
√ Business Plan
√ Site Visit
√ Pre-development Meeting

Alternatives
No alternatives.

Financial Impact
Estimated Financial Impact - $5,000
499.990.52811 – CRA Payments

Emergency/Non Emergency
Non-emergency
LEGISLATION
ITEM 11
ORDINANCE NO. O2020-37

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A FORGIVABLE LOAN AGREEMENT WITH BRENT’S SMOKIN’ BUTTS & GRILL, LLC FOR SMALL BUSINESS ECONOMIC DEVELOPMENT ASSISTANCE.

WHEREAS, Brent’s Smokin’ Butts & Grill, LLC is a successful food truck that is opening a brick and mortar location at 1206 Central Avenue; and

WHEREAS, Brent’s Smokin’ Butts & Grill, LLC does not meet the requirements for the City’s Job Creation Incentive Grant program, but the City is interested in providing an incentive for the small business; and

NOW, THEREFORE, BE IT ORDAINED, by City Council of the City of Middletown, Butler/Warren Counties, Ohio, that:

Section 1

The City Manager is hereby authorized to enter into a forgivable loan agreement for small business economic development assistance with Brent’s Smokin’ Butts & Grill, LLC. The agreement shall be in a form approved by the City Manager and Law Director, and include the terms listed in Exhibit “A”, attached hereto.

Section 2

For said purposes, the Finance Director is hereby authorized to pay a sum not to exceed $6,000.00 from the Property Development Fund (Fund # 499).

Section 3

This ordinance shall take effect and be in force at the earliest time permitted by law.

Nicole Condrey, Mayor

1st Reading:__________
2nd Reading:__________
Adopted:__________
Effective:__________

Attest:__________________
Clerk of the City Council
The City of Middletown will provide a no interest loan of $6,000.00 to Brent’s Smokin’ Butts and Grill, LLC to be used for kitchen equipment and/or signage. The funds will be provided after evidence of a signed lease for 1206 Central Avenue is received.

Loan payments of $2,000.00 will be due at the end of Project Year 1 (1/1/2021 – 12/31/2021), Project Year 2 (1/1/2022 – 12/31/2022) and Project Year 3 (1/1/2023 – 12/31/2023). If the business has been in operation throughout the Project Year, the payment due will be forgiven, no repayment required. The determination of payment forgiveness being appropriate will be at the sole discretion of the Economic Development Director.

If the business does not begin operating after receiving the loan, full repayment of the $6,000.00 loan is required. If the business begins operating and later closes during Project Years 1, 2 or 3, loan repayment will be pro-rated.
DATE: June 29, 2020

TO: Jim Palenick, City Manager

FROM: Chris Xeil Lyons, Economic Development Director, prepared by Alaina Geres, Economic Development Program Manager

**Brent’s Smokin’ Butts & Grill LLC Small Business Entrepreneurial Assistance**

**PURPOSE**
To authorize Small Business Entrepreneurial Assistance for Brent’s Smokin’ Butts & Grill LLC.

**BACKGROUND and FINDINGS**
Entrepreneurs and Middletown natives, Brent and Kelly Dalton, owners of Brent’s Smokin’ Butts & Grill LLC have owned and operated a successful food truck business since 2016. They are now opening a brick and motor restaurant at 1206 Central Avenue in Middletown, Ohio with plans to serve both lunch and dinner.

They plan to invest $60,000 into the facility, equipment, and payroll. They have been able to operate debt free up to this point.

We have offered them a $6,000 3-year forgivable loan to be used for startup costs. We will waive $2,000/year for each year they are in operation.

A requirement of this assistance is meeting with the Butler County Small Business Development Center and developing a business plan, which they have completed.

**ALTERNATIVES**
No alternatives.

**FINANCIAL IMPACT**
Estimated Financial Impact - $6,000
499.990.52811 – CRA Payments

**EMERGENCY/NON EMERGENCY**
Non-emergency
EXECUTIVE SESSION