



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

THE FOLLOWING WAS PRESENTED

By: Alderman Witt
 Seconded by: Alderman Johnson
 Date of Adoption: March 19, 2024
 Index No: 54-24

I hereby certify that the attached is a true copy of a Resolution and/or Local Law adopted by the City of Middletown Common Council.

Richard P. McCormack
 Clerk to the Common Council

Names	Ayes	Noes	Abstain	Absent
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Wray	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues				X
Total	8			1

I hereby approve the attached Resolution/Local Law.

 Joseph M. DeStefano, Mayor

 Date

Authorization to Amend City Code as it Pertains to Procurement

RESOLUTION

WHEREAS, at the recommendation of the Mayor and Corporation Counsel, the Common Council wishes to amend the City of Middletown's procurement code.

NOW, therefore, be it RESOLVED AND ORDAINED by the Common Council of the City of Middletown as follows:

Section 1. Chapter 104 of the Code of the City of Middletown, Procurement Policy, is hereby amended by replacing Section 104-6, Exceptions, to read as follows:

Section 104-6. Exceptions. Exceptions to the above procurement processes are to be allowed in purchases or public work contracts which involve any of the following situations:

- A. Emergencies;
- B. True leases;
- C. Sole source purchases;

- D. Professional services, as defined and described in Section 104-12 of this Chapter;
- E. Best-value analysis, as defined and described in Section 104-10 of this Chapter;
- F. State contracted items; and
- G. Purchases through Preferred Sources, as described in the posting of the New York State Office of General Services.

In all of the above situations, the responsible department head or other City official engaging in the procurement process must:

- (1) Document the circumstances allowing the exception to the above procurement processes;
- (2) Abide by all relevant State and City ethics laws and codes;
- (3) Attempt to achieve the best value for the City; and
- (4) Should, whenever possible, attempt to make purchases and secure public works contracts at the lowest possible cost to the extent possible under the circumstances.

Section 2. Chapter 104 of the Code of the City of Middletown, Procurement Policy, is hereby amended by adding a new Section 104-12, Professional Services, to read as follows:

Section 104-12. Professional Services. Professional services are defined in New York case law and Comptroller opinions. Generally, professional services require specialized or technical skills or expertise, training, licensing or certifications, exercise of judgment or discretion, a high degree of creativity and/or a relationship of personal trust and confidence. Examples of professional services include, but are not limited to, those provided by physicians, nurses, therapists, engineers, surveyors, attorneys, artists, designers, photographers, publicity agents, laboratories, and insurance or financial service firms. Procurement of professional services does not require competitive bidding as long as there is an inextricable integration of scientific and technical skills.

Section 3. Chapter 104 of the Code of the City of Middletown, Procurement Policy, is hereby amended by replacing Section 104-11, Standards for federal CDBG-DR procurement actions, to read as follows:

Section 104-11. Standards for federal award procurement. All federal awards, including funds received through New York State pass-through entities and funds under federal CDBG-DR grants, must comply with the provisions of 2 CFR Part 200, subparts A through F. There shall be no contracting with, or awards made to, parties that are suspended or debarred pursuant to federal regulations. A suspension/disbarment clause must be included in all written contracts in which (1), the vendor must certify that it is not suspended or debarred, and (2) the vendor must promise to notify the City if it/they become suspended or debarred. The City must evaluate the recipient's risk of noncompliance in accordance with 2 CFR 200.213.

Section 4. This ordinance shall take effect immediately.

Prepared by:
Paul Johnson, Alderman

Attachments:

None