BUDGET, FINANCE & PERSONNEL

RESOLUTION NO. 2024224

RE: AMENDING THE 2024 ADOPTED COUNTY BUDGET AS IT PERTAINS TO THE APPROPRIATED FUND BALANCE AND AUTHORIZING THE COUNTY EXECUTIVE TO ENTER INTO AN AGREEMENT ON BEHALF OF DUTCHESS COUNTY

Legislators CASWELL, TRUITT, HOUSTON, POLASEK, and GORMAN offer the following and move its adoption:

WHEREAS, Dutchess County and First Transit were parties to an agreement (hereinafter referred to as the "Management Agreement") under which First Transit, through its subsidiary Transit Management of Dutchess County, Inc. (hereinafter referred to as "TMODC") provided certain management services for the County's public transit operations and employed public transit drivers, and

WHEREAS, First Transit advised Dutchess County that it desired not to renew the Management Agreement with Dutchess County upon its expiration on April 30, 2022, and

WHEREAS, Dutchess County arranged to continue public transit operations by providing such services directly effective May 1, 2022, and

WHEREAS, the Pension Fund Local 445 (hereinafter referred to as the "Pension Fund") provides retirement benefits to employees of employers that contribute to the Pension Fund, including former employees of TMODC, and

WHEREAS, in April 2024, the Pension Fund notified TMODC and the County of its determination that TMODC had withdrawn from the Pension Fund in a complete withdrawal within the meaning of Section 4203 of Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. § 1383 during the 2022 Plan Year because it ceased making payments to the Pension Fund when former TMODC employees became County employees, and

WHEREAS, the Pension Fund demanded payment of withdrawal liability in the amount of $7,967,971.00 payable in quarterly payments of $54,724.25 beginning June 18, 2024 and further demanded that TMODC and the County begin making quarterly payments, and

WHEREAS, pursuant to § 4219(b)(2)(A) of ERISA, 29 U.S.C. § 1399(b)(2)(A), TMODC and the County made a timely request for review of the Pension Fund's assessment of Withdrawal Liability in June 2024 and then initiated arbitration, and

WHEREAS, the County has paid to the Pension Fund $109,448.50 in interim payments of withdrawal liability (the "Interim Payments") as required by law, and

WHEREAS, upon the recommendation of the Commissioner of Finance and the County Attorney, the County has determined it is in the best interest of the County to satisfy its withdrawal

liability via a single lump sum payment under the terms and conditions of a Settlement Agreement and Release, attached hereto and made a part hereof, and

WHEREAS, it is necessary to amend the 2024 Adopted County Budget to transfer General Fund appropriations to the Enterprise Transportation Fund to meet the County's obligation in full satisfaction of all claims under the proposed Settlement Agreement between TMODC and the Pension Fund, now therefore, be it

RESOLVED, that the County Executive or her designee is hereby authorized and empowered to execute and deliver the Settlement Agreement and Release on behalf of the County, in substantially the same form and content as made a part hereof, and be it further

RESOLVED, that the Commissioner of Finance is authorized, empowered and directed to amend the 2024 Adopted County Budget as follows:

APPROPRIATIONS		
Increase		
ET.5680.8100.02	Pymts to Teamsters Pension	$2,385,808
A.9901.63.9850	ET Fund Contribution	$2,385,808
REVENUES		
Increase		
A.9998.95990.01	Appropriated Fund Balance	$2,385,808
ET.5680.50310	Interfund Transfer	$2,385,808

CA-140-24
CEB/rjw
G-1829
Fiscal Impact: See Attached

APPROVED
Susan J. Serino
SUSAN J. SERINO
COUNTY EXECUTIVE
Date 12-19-2024

STATE OF NEW YORK
ss:
COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess, have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 18th day of December 2024, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 18th day of December 2024.

DUTCHESS COUNTY SEAL

Leigh Wager

LEIGH WAGER, CLERK OF THE LEGISLATURE

FISCAL IMPACT STATEMENT

☐ NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS

(To be completed by requesting department)

Total Current Year Cost $ 2,385,808

Total Current Year Revenue $ _____
and Source

Source of County Funds *(check one)*: ☐ Existing Appropriations, ☐ Contingency,
☐ Transfer of Existing Appropriations, ☑ Additional Appropriations, ☐ Other *(explain)*.

Identify Line Items(s):
ET.5680.8100.02
A.9901.63.9850

Related Expenses: Amount $ _____
Nature/Reason:

Anticipated Savings to County: _____

Net County Cost (this year): $2,385,808
Over Five Years: _____

Additional Comments/Explanation:
To fund the settlement with Teamsters Local 445 Pension Fund. Proposed settlement and release agreement attached.

Prepared by: Heidi Seelbach Prepared On: 11-13-2024

Dut.pdf

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is entered into by and among the Board of Trustees (the "Trustees") of the Pension Fund Local 445 (the "Pension Fund"), Transit Management of Dutchess County, Inc. (the "Company") and Dutchess County, New York (the "County") effective on the last date that the Agreement is signed by all parties below ("Effective Date").

WHEREAS, the Pension Fund provides retirement benefits to employees of employers that contribute to the Pension Fund, including former employees of the Company; and

WHEREAS, by a letter dated April 23, 2024 (the "Demand Letter"), the Pension Fund notified the Company of its determination that the Company had withdrawn from the Pension Fund in a complete withdrawal within the meaning of Section 4203 of Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. § 1383 during the 2022 Plan Year; and

WHEREAS, the Demand Letter included a notice of withdrawal liability (the "Withdrawal Liability Notice") in the amount of $7,967,971.00 payable in interim payments of $54,724.25 beginning June 18, 2024 and a demand that the Company begin making quarterly payments with respect to its liability attributable to the occurrence of a withdrawal from the Pension Fund ("Withdrawal Liability"); and

WHEREAS, pursuant to § 4219(b)(2)(A) of ERISA, 29 U.S.C. § 1399(b)(2)(A) the Company made a timely request for review of the Pension Fund's assessment of Withdrawal Liability on June 24, 2024 (the "Request for Review"); and

WHEREAS, by letter dated July 11, 2024, the Pension Fund responded to the Request for Review; and

WHEREAS, the Company timely initiated arbitration on July 19, 2024 before Arbitrator Jason T. Brown, Esq., Case Number: 01-24-0006-5809 (the "Arbitration"); and

WHEREAS, the Company has paid to the Pension Fund $109,448.50 in interim payments of Withdrawal Liability (the "Interim Payments") as required by § 4219(c)(2) of ERISA, 29 U.S.C. § 1399(c)(2); and

WHEREAS, the Company is willing to satisfy its Withdrawal Liability via a single lump sum payment under the terms and conditions of this Agreement; and

WHEREAS, because such lump sum payment is advantageous to the Pension Fund and its participants and beneficiaries and the Company, the Trustees are willing to accept, and the Company is willing to pay, a single lump sum payment to satisfy the Company's Withdrawal Liability under the terms and conditions of this Agreement; and

NOW, THEREFORE, in consideration of the foregoing and the covenants set forth in this Agreement, the Parties hereby agree as follows:

1. In full and final satisfaction and settlement of any and all liabilities and obligations of any kind or any nature of the Company and the County to the Pension Fund in connection with the Withdrawal Liability Assessment, and without admission of liability or guilt, the Company will cause to be remitted to the Pension Fund **Two Million Three Hundred Eighty-Five Thousand Eight Hundred and Seven Dollars and Fifty Cents ($2,385,807.50)** (the "Settlement Payment"), which is in addition to the $109,448.50 in Interim Payments previously paid by the Company to the Pension Fund, for a total of Two Million Four Hundred Ninety-Five Thousand Two Hundred Fifty-Six Dollars and Zero Cents ($2,495,256.00) (the "Settlement Amount").

2. The County will be the payor of the Settlement Payment. The Settlement Payment will be in the form of a check made payable to the "Pension Fund Local 445" and will be forwarded to the Pension Fund at 15 Stone Castle Road, Rock Tavern, NY 12575 within 30 days of the Effective Date.

3. Effective upon the Pension Fund's receipt, deposit, and bank clearance of the full Settlement Payment and the discontinuation of the Arbitration, the Pension Fund and its respective Trustees, directors, and administrators, in their representative capacities, and each of their predecessors, heirs, successors and assigns (collectively, the "Pension Fund Releasors"), hereby release and discharge the Company and the County and their officers, directors, employees, and each of their predecessors, heirs, successors and assigns, and attorneys (the "Company Released Parties") from any and all liabilities, obligations, claims, causes of action, losses, fees, expenses and charges, relating to, arising out of, or in connection with the Company's Withdrawal Liability from the Pension Fund in Plan Year 2022 (the "Company Released Claims").

4. Effective upon the Pension Fund's execution of the Settlement Agreement, the Company and the County and its officers, directors, employees and each of their predecessors, heirs, successors and assigns hereby releases and discharges the Pension Fund and its past, present or future Trustees, directors, administrators, fiduciaries, officers, members, participants, and attorneys and each of their predecessors, heirs, beneficiaries, successors and assigns (the "Fund Released Parties") from any and all liabilities, obligations, claims or causes of action, losses, fees, expenses and charges, relating to, arising out of or in connection with the Company's Withdrawal Liability from the Pension Fund in Plan Year 2022 (the "Fund's Released Claims").

5. This Agreement is binding upon and inures to the benefit of the parties to this Agreement and their heirs, beneficiaries, and legal representatives, the Pension Fund Releasors, the Company Released Parties, the Fund Released Parties, and assigns. No provision of this Agreement gives any legal or equitable right, remedy or claim to any person not a party to this Agreement (other than the Company Released Parties and the Fund Released Parties), including, without limitation, any participant in or beneficiary of the Pension Fund.

6. This Agreement contains the complete and exclusive statement of the agreement and understanding among the Parties hereto, and supersedes all prior agreements, understandings, commitments, representations, communications, and proposals, oral or written, among the Parties

hereto relating to the subject matter of this Agreement. This Agreement may not be amended except by an instrument in writing executed by the Parties to the Agreement.

7. The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any person, entity, or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefore by a court for the Parties to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision, and (b) the remainder of this Agreement shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

8. Except to the extent otherwise provided under ERISA, this Agreement will be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed in the State of New York without giving effect to the principles thereof relating to the conflict of laws. Any action to enforce or interpret this Agreement will be brought only in a state court in the State of New York or in the United States District Court for the Southern District of New York.

9. The language used in this Agreement is deemed to be the language chosen by the Parties to express their mutual intent. No rule of strict construction will be applied against any Party, and no deference will be provided to any Party with respect to the interpretation of this Agreement.

10. Except for the representations and warranties stated in this Agreement, each party to this Agreement acknowledges that it has made its own independent inquiry as to any and all matters, facts and circumstances material to the Agreement. Each party to this Agreement further acknowledges that it has been represented by its own counsel, and that they have had the opportunity to have this Agreement fully explained to them by their attorneys, Barnes, Iaccarino & Shepherd, counsel for the Pension Fund, and Fox Rothschild, counsel for the Company and the County, and that said lawyers have been competent in their legal representation in connection with this settlement. The Parties, having had such a fair and reasonable opportunity, voluntarily and knowingly execute this Agreement with full understanding of its contents and legal import because this settlement is in its own best interest. Each party has relied on its own attorneys with respect to legal matters and representations.

11. Each person or entity executing this Agreement on behalf of any other person or entity does hereby personally represent and warrant that he, she, or it has the authority to execute this Agreement on behalf of, and to fully bind, each principal that such person or entity represents or purports to represent. By signing this Agreement, each Party acknowledges and declares: (a) that the Party has fully and carefully read the Agreement; (b) that the Party clearly understands that the Agreement is a complete and final settlement; (c) that the Party clearly understands the meaning, purpose, and intent of each provision of the Agreement, and that each provision is clear and definite; (d) that the Party has not relied upon any representation of another Party in agreeing

to the terms of this Agreement; and (e) that the Party has been represented by competent legal counsel with respect to negotiating, explaining, and entering into this Settlement Agreement.

12. No breach of any provision hereof can be waived unless done in writing. Waiver of any one breach shall not be deemed a waiver of any other breach of the same or other provisions of this Agreement.

13. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. In pleading or proving any provision of this Agreement, it shall not be necessary to produce more than one of each counterpart. Delivery of an executed counterpart of this Agreement by facsimile or portable document format shall be equally as effective as delivery of a manually executed counterpart of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

PENSION FUND LOCAL 445

By: _____

Dated: _____

TRANSIT MANAGEMENT OF DUTCHESS COUNTY, INC.

By: _____
Carrie Tillman

Title: Director

Dated: _____

PAYOR:

DUTCHESS COUNTY

By: _____

Title: _____

Dated: _____

SUE SERINO
COUNTY EXECUTIVE

HEIDI SEELBACH
COMMISSIONER

DUTCHESS COUNTY GOVERNMENT
DEPARTMENT OF FINANCE

MEMORANDUM

To: Jessica White
Budget Director

From: Heidi Seelbach (HS)
Commissioner of Finance

Date: November 13, 2024

Re: Resolution request – Settlement of ET Fund Pension Liability to Teamsters Local 445

Attached please find a resolution request authorizing that the General Fund transfer $2,385,808 to the Enterprise Transportation ("ET") fund for the ET fund to pay this amount to Teamsters Local 445 Pension Fund. This is a settlement payment to satisfy the withdrawal liability assessment associated with the termination of the agreement between the County and First Transit Management. The proposed settlement agreement and release is attached.

Budget, Finance, and Personnel Committee Roll Call

District	*Name*	*Yes*	*No*
District 7 - Hyde Park and Pleasant Valley	Truitt*	✓	
District 25 - Amenia, Washington, Pleasant Valley & Millbrook	Houston*		
District 3 - LaGrange	Polasek*		
District 16 - Fishkill and Beacon	Valdés Smith*		
District 9 - City of Poughkeepsie	Atkins*		
District 2 - LaGrange, Pleasant Valley & Town of Poughkeepsie	Travelpiece (VC)		
District 5 - Town of Poughkeepsie	D'Aquanni		
District 8 - City and Town of Poughkeepsie	Brendli		
District 10 - City of Poughkeepsie	Johnson	Absent	
District 12 - East Fishkill	Metzger	Absent	
District 17 - Town and Village of Fishkill	McHoul		
District 21 - East Fishkill	Caswell (C)		

Present: 10 Resolution: ✓ Total : 10 0

Absent: 2 Motion: ___ Yes No

Vacant: 0 Abstentions: 0

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DECEMBER 18, 2024

Roll Call Sheets

District	Last Name	YES	NO
District 7 - Hyde Park and Pleasant Valley	Truitt	✓	
District 25 - Amenia, Washington, Pleasant Valley & Millbrook	Houston		
District 3 - LaGrange	Polasek		
District 16 - Fishkill and Beacon	Valdés Smith		
District 9 - City of Poughkeepsie	Atkins		
District 1 - Town of Poughkeepsie	Gorman		
District 2 - LaGrange, Pleasant Valley & Town of Poughkeepsie	Travelpiece		
District 4 - Hyde Park and Town of Poughkeepsie	Lawler		
District 5 - Town of Poughkeepsie	D'Aquanni		
District 6 - Town of Poughkeepsie	Kaul		
District 8 - City and Town of Poughkeepsie	Brendli		
District 10 - City of Poughkeepsie	Johnson	Absent	
District 11 - Clinton, Pleasant Valley, and Rhinebeck	Kearney		
District 12 - East Fishkill	Metzger	Absent	
District 13 - East Fishkill and Wappinger	Paoloni		
District 14 - Wappinger and Town of Poughkeepsie	Versaci		
District 15 - Wappinger	Faust		
District 17 - Town and Village of Fishkill	McHoul		
District 18 - City of Beacon and Fishkill	Page	Absent	
District 19 - North East, Stanford, Pine Plains, Milan & Red Hook	Drago	Absent	
District 20 - Red Hook, Tivoli, and Rhinebeck	Munn		
District 21 - East Fishkill	Caswell		
District 22 - Beekman and Union Vale	Garito		
District 23 - Pawling, Beekman and East Fishkill	Rolison	Absent	
District 24 - Dover and Pawling	House		

Present: 20 **Absent:** 5 **Vacant:** 0

Resolution: ✓ **Motion:** ____

Total : 20 **Yes** 0 **No**

Abstentions: 0

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DECEMBER 18, 2024