



BATAVIA CITY COUNCIL CONFERENCE MEETING

**City Hall - Council Board Room
One Batavia City Centre
Monday, April 23, 2018 at 7:00 PM**

AGENDA (Revised)

- I. Call to Order
- II. Invocation – Councilperson Tabelski
- III. Pledge of Allegiance
- IV. Public Comments
- V. Council Response to Public Comments
- VI. Communications
- VII. Council President Report
 - a. Announcement of the next regular City Council Business meeting to be held on Monday, May 14, 2018 at 7:00 p.m. at the City Hall Council Board Room, 2nd Floor, City Centre
- VIII. Appoint Members to Various City Committees/Boards
- IX. Surplus of Weapons for Trade-in
- X. Surplus of Vehicles for Disposal
- XI. Preventive Maintenance Resurfacing Project
- XII. TIP Project, Preventive Maintenance of Six Streets Supplemental Agreement #2
- XIII. BBID State Audit
- XIV. NYSDOT/City of Batavia to Enter into Supplemental to the Arterial Agreement
- XV. Install Fencing at MacArthur Park
- XVI. Executive Session...Real Property
- XVII. Adjournment

#-2018

A RESOLUTION TO APPOINT MEMBERS TO VARIOUS CITY COMMITTEES/ BOARDS

Motion of Councilperson

WHEREAS, certain vacancies exist on various City Committees/Boards.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the following appointments be made:

Community Garden

Matthew Gray

December 31, 2021

**Seconded by Councilperson
and on roll call**

DRAFT



City of Batavia

Memorandum

To: Matt Worth, Interim City Manager

From: Shawn Heubusch, Police Chief

Date: April 16, 2018

Subject: Surplus of weapons for trade-in

Per the City of Batavia Purchasing Manual all firearms must be declared surplus by resolution of City Council prior to being disposed of.

The attached draft resolution calls for the surplus of several firearms by the Police Department with the intent on trading the weapons in for new firearms in order to maintain properly functioning and safe equipment.

Please advise if you should have any questions or concerns regarding this MEMO.

Thank you

Police Department
10 Main Street
Batavia, New York 14020



Phone: 585-345-6350
Fax: 585-344-1878
Records: 585-345-6303
Detective Bureau: 585-345-6370
www.batavianewyork.com

#-2018

**A RESOLUTION TO DECLARE POLICE DEPARTMENT EQUIPMENT SURPLUS FOR THE
PURPOSE OF DISPOSAL**

Motion of Councilperson

WHEREAS, The Police Department has declared the equipment listed below surplus;
and

WHEREAS, the City of Batavia requires a surplus declaration of property to be made prior
to disposal or sale of equipment; and

WHEREAS, the Police Department desires to use the proceeds from trading in the
equipment listed below in order to purchase additional guns.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the
City Manager be and hereby is authorized to declare the following as surplus for the purpose of
disposal:

- Glock model 22 handgun, serial number WHY135
- Glock model 22 handgun, serial number LPB801
- Glock model 22 handgun, serial number LPB800
- Glock model 22 handgun, serial number STS441
- Glock model 22 handgun, serial number MSA124
- Glock model 22 handgun, serial number PAW419
- Glock model 22 handgun, serial number LPB799
- Glock model 22 handgun, serial number LPB802
- Glock model 22 handgun, serial number PAW416
- Colt model XM15E2S, serial number L402692
- Colt model AR-15A3, serial number LBD012331
- Colt model AR-15A3, serial number LBD002644
- Colt model AR-15A3, serial number LBD012333
- Colt model AR-15A3, serial number LBD002363
- Colt model AR-15A3, serial number LBD002281
- Colt model AR-15A3, serial number LBD012304
- Stag Arms model 3NY, serial number 323746

NOW, BE IT FURTHER RESOLVED, by the Council of the City of Batavia that the
Interim City Manager is hereby authorized to make the following budget amendment for the
18/19 City Budget:

Increase revenue 001.0001.2665	Sale of Equipment	\$5,720
Increase expense 001.3120.0201	Small Equipment	\$5,720

Seconded by Councilperson
and on roll call



City of Batavia

Memorandum

To: Matt Worth, Interim City Manager

From: Shawn Heubusch, Police Chief

Date: April 16, 2018

Subject: Surplus of vehicles for disposal

Per the City of Batavia Purchasing Manual property valued over \$1000 must be declared surplus by resolution of City Council prior to being disposed of.

The attached draft resolution calls for the surplus of two vehicles by the Police Department with the intent on trading the vehicles in towards the purchase of new vehicles.

Please advise if you should have any questions or concerns regarding this MEMO.

Thank you

Police Department
10 Main Street
Batavia, New York 14020



Phone: 585-345-6350
Fax: 585-344-1878
Records: 585-345-6303
Detective Bureau: 585-345-6370
www.batavianewyork.com

#-2018

**A RESOLUTION TO DECLARE POLICE DEPARTMENT EQUIPMENT SURPLUS FOR THE
PURPOSE OF DISPOSAL**

Motion of Councilperson

WHEREAS, The Police Department has declared the equipment listed below surplus;
and

WHEREAS, the City of Batavia requires a surplus declaration of property to be made prior
to disposal or sale of equipment;

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the
City Manager be and hereby is authorized to declare the following as surplus for the purpose of
disposal:

- 2014 Ford Police Interceptor Utility VIN – 1FM5K8AR5EGC60884
- 2014 Ford Police Interceptor Utility VIN – 1FM5K8AR7EGC60885

**Seconded by Councilperson
and on roll call**



City of Batavia

Memorandum

To: Honorable City Council

From: Matt Worth, Interim City Manager

Date: April 16, 2018

Subject: Preventive Maintenance Resurfacing Project

After receiving all necessary approvals, the City of Batavia advertised for bids for the “City of Batavia Preventative Maintenance Project” which is a Federal Aid project with a 20% City share. Streets to be improved are Liberty St, South Liberty St, Swan St, East Ave, Vine St, and Clinton St. Bids were opened on Tuesday April 18th with an apparent low bid of \$2,088,790.90 by D+H Excavating.

The City’s consulting engineer, Erdman Anthony Associates, is reviewing the bids and checking for errors and compliance with the bid documents. It is expected that a formal letter of award recommendation will be provided at the Council Business meeting scheduled for May 14th.

It should be noted that the apparent low bid is approximately \$47,000 over the budgeted program amount. I will be working with our consultant and NYSDOT to secure the additional funding approvals through Federal Aid. It is recommended that the 20% City share will be supported through the City’s CHIPS allocation funds.

Supporting Documentation:
Bidder Summary
Draft Resolution

#-2018
A RESOLUTION TO ENTER INTO AN AGREEMENT WITH
D & H EXCAVATING FOR
THE CONSTRUCTION OF
HIGHWAY PREVENTIVE MAINTENANCE PROJECT
PIN 4761.16

Motion of Councilperson

WHEREAS, a project for the preventive maintenance of six streets Clinton Street from Routes 5/33 to City Line, East Avenue from Clinton Street to Ross Street, Liberty Street from NYS Route 63 to NYS Route 5/33, South Liberty Street from South Jackson Street to NYS Route 63, Swan Street from NYS Route 63 to NYS Route 5/33, and Vine Street from NYS Route 5/33 to Bank Street, City of Batavia, Genesee County, P.I.N. 4761.16 (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% Federal funds and 20% non-Federal funds; and

WHEREAS, the City of Batavia has previously agreed to advance the Project by administering the work; and

WHEREAS, a competitive bid was made by D & H Excavating for the value of \$2,088,790.90 to construct the project.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that the City Council President is hereby authorized on behalf of the City to execute an agreement with D & H Excavating for the Highway Preventative Maintenance Project.

Seconded by Councilperson
and on roll call

BIDDER SUMMARY

DATE: April 17, 2018

PIN 4761.16

BATAVIA PREVENTATIVE PAVEMENT MAINTENANCE PROJECT

CITY OF BATAVIA

[illegible]



City of Batavia

Memorandum

To: Honorable City Council

From: Matt Worth, Interim City Manager

Date: April 18, 2018

Subject: TIP Project, Preventative Maintenance of Six Streets Supplemental Agreement #2

New York State Department of Transportation has issued Supplemental Agreement #2 to the City of Batavia that confirms and authorizes additional funds for the construction aspects of the Pavement Preventative Maintenance Project. The Supplemental Agreement is the formal contract authorizing reimbursement of funds for this project between the City and NYSDOT.

The project consists of preventative maintenance milling and paving of Vine St, Swan St, Liberty St, South Liberty St, East Ave, and Clinton St. and is administered through the New York State Department of Transportation.

Supporting Documentation
Draft Resolution

#-2018
A RESOLUTION AUTHORIZING AGREEMENT WITH
NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR
PE/DESIGN, AND CONSTRUCTION/CI/CS FOR THE
CITY OF BATAVIA, HIGHWAY PREVENTIVE MAINTENANCE (SIX STREETS)

Motion of Councilperson

WHEREAS, a project for the preventive maintenance of six streets Clinton Street from Routes 5/33 to City Line, East Avenue from Clinton Street to Ross Street, Liberty Street from NYS Route 63 to NYS Route 5/33, South Liberty Street from South Jackson Street to NYS Route 63, Swan Street from NYS Route 63 to NYS Route 5/33, and Vine Street from NYS Route 5/33 to Bank Street, City of Batavia, Genesee County, P.I.N. 4761.16 (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% Federal funds and 20% non-Federal funds; and

WHEREAS, the City of Batavia desires to advance the Project by making a commitment of 100% of the non-Federal share of the costs of PE/Design, and Construction/CI/CS; and

NOW THEREFORE, the City Council, duly convened does hereby resolve that the above-referenced Project is approved; and

BE IT FURTHER RESOLVED, that the City Council hereby authorizes the payment in the first instance 100% of the Federal and non-Federal share of the cost of PE/Design, and Construction/CI/CS for the Project or portions thereof; and

BE IT FURTHER RESOLVED, that the sum of \$2,665,250 is hereby appropriated and made available to cover the cost of participation in the above phase of the Project; and

BE IT FURTHER RESOLVED, that in the event the full Federal and non-Federal share of the Project costs exceeds the amount appropriated above, the City Council shall convene as soon as possible to appropriate said excess amount immediately upon notification by the New York State Department of Transportation thereof; and

BE IT FURTHER RESOLVED, that the Council President be and is hereby authorized to execute all necessary agreements, and the Director of Public Works is authorized to execute certifications or reimbursement requests for Federal aid on behalf of the City Council with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of Project costs and permanent funding of the local share of Federal aid and State aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and

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

Seconded by Councilperson
and on roll call



City of Batavia

Memorandum

To: Honorable City Council

From: Matt Worth, Interim City Manager

Date: April 18, 2018

Subject: NY State Comptroller's Office Audit Report

The City of Batavia Clerk's office has received the Audit Report 2017M-283 from the New York State Comptroller's Office. Per GML-Section 35 the Audit Report is to be provided to the Council at the next regularly scheduled meeting of the body.

The Audit Report focuses primarily on operations within the Business Improvement District (BID) and the City's financial actions associated with it. City representatives are scheduled to meet with the BID leadership on Friday, April 20th in an effort to begin the dialog as to what the audit report indicates and the measures that the City will be taking to come into compliance with the State's requirements. It should be noted that many of the items called out have already been implemented, and it is expected that compliance with other outstanding items can be addressed in a timely manner without significant impact to the City or BID.

I will provide an update at the Council meeting as to the outcomes of the April 20th meeting with the BID.

Supporting Documentation:
Audit Report

City of Batavia

Business Improvement District

APRIL 2018



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

City of Batavia

Audit Objective

Determine whether City officials properly accounted for and monitored the Business Improvement District's (BID) financial operations.

Key Findings

- The Council did not enter into a written agreement with the district management association (DMA) or monitor the manner in which the DMA used BID funds.
- City officials did not maintain adequate records to properly account for BID funds.
- BID charges exceeded the statutory limit for 11 of the past 13 years by a total of approximately \$464,000 or an average of \$42,000 each year.

Key Recommendations

- Enter into a written agreement with the DMA.
- Monitor BID financial operations especially the manner in which the DMA uses BID funds.
- Levy BID charges in compliance with the statutory limit.

City officials generally agreed with our recommendations and indicated they planned to initiate corrective action. Appendix B includes our comment on an issue raised in the City's response letter.

Background

The City of Batavia (City) is located in Genesee County. The City is governed by its charter, New York State laws and local laws and ordinances.

The City's nine-member elected City Council (Council) appoints a City Manager responsible for managing operations and finances. The City's Clerk-Treasurer is responsible for the City's financial records.

The Council created the BID in 1997. The BID is a geographic area in which a charge is imposed upon benefited properties for improvements, operation and maintenance costs and other services such as advertising and promoting BID activities.

The DMA is a not-for-profit entity governed by its own board of directors, which performs many BID day-to-day management functions.

Quick Facts

2017-18 General Fund Appropriations	\$16.5 million
2017-18 BID Charge	\$55,742
Benefited Properties	175
City Population	15,465

Audit Period

April 1, 2015 – September 14, 2017.
We extended our audit period back to April 1, 2005 to review BID charges.

Business Improvement District

New York State General Municipal Law (GML) requires that the governing board of the local government which established a BID adopt a written BID Plan (Plan). The original Plan adopted in 1997 in connection with the establishment of the BID, described planned capital improvements, their estimated total cost and the proposed financing sources. The Plan was amended in December 2004 when the BID boundaries were extended, to provide for additional improvements. The Plan was amended again in 2016 and in 2017.

How Should BID Operations Be Monitored and Overseen?

City officials are responsible for managing and controlling the BID's finances and safeguarding BID resources. The Plan serves as the framework for establishing, managing and overseeing the BID and must include, among other things, the total amount proposed to be expended for improvements, maintenance and operation and the proposed sources of funding.

Although the DMA carries out many functions in connection with the BID's day-to-day management, City officials are ultimately responsible for ensuring BID activities are consistent with the Plan and GML and that BID funds are used appropriately in compliance with the Plan and GML.

A written agreement between the City and DMA should be in place before City officials make lump-sum disbursements of BID funds to the DMA. Such an agreement is essential for defining the exact nature of activities to be carried out by the DMA, the manner in which BID funds may be used by the DMA, the timeframe for completing activities and the records or reports the DMA must submit to the City to demonstrate compliance. A written agreement should also specify or provide a way to measure and evaluate performance.

The BID's primary sources of revenue are derived from charges levied on benefited properties located within the BID. City officials are ultimately responsible for safeguarding these funds and should closely monitor the manner in which the DMA uses them. BID charges are City funds and must be held by the Clerk-Treasurer and disbursed in accordance with the same cash disbursement procedures prescribed for all other City expenditures. Those procedures would include an appropriate claims audit and compliance with competitive bidding requirements established for the purchase of goods and services.¹

In addition, GML requires that the charge on benefitted properties be imposed as provided in the Plan and that the annual BID charge, exclusive of debt service may not exceed 20 percent of the total general municipal taxes levied in that year against the taxable real property in the BID. Further, BID charges can only be used for the purposes prescribed in the Plan and in accordance with GML.

¹ GML §980-I

Adequate Oversight of BID Operations Was Not Provided

City officials did not properly monitor BID financial operations. The Council did not enter into a written agreement with the DMA and the Plan did not provide sufficient detail to allow City officials to adequately monitor the DMA's use of BID funds.

Although the Plan provides a general description of the activities the DMA will carry out on the City's behalf, the Plan itself does not constitute a contractual agreement and did not provide City officials with a way to adequately monitor the DMA's use of funds.

The original Plan, subsequent amendments and current Plan do not include any expectations or goals for DMA performance, with the exception of the 2016 and 2017 amendments, which state that the DMA board should comply with New York State Open Meetings Law² and publish information on the DMA website. The Plan and amendments indicate that the DMA shall operate and manage the BID and provide marketing and other BID related services. However, the Plan does not describe the services the DMA would provide in sufficient detail or require the DMA to provide the Council with periodic reports to show how the DMA was achieving BID's operational goals.

To ensure that public money is used to meet the BID's missions and goals, the City Manager, along with the Council, should design performance measures and specify these measures in the Plan and written agreement with the DMA. These measures would allow City officials to monitor progress and effectively detail outcomes generated by each project or event. Reported outcomes could then be compared to projections. If such comparisons indicate that results have not met expectations, corrective action needs to be considered.

Without clear performance measures, City officials cannot evaluate how well the DMA is carrying out its obligations to the City or ensure BID funds are being appropriately used.

The Use of BID Funds Were Not Properly Monitored

City officials allowed the DMA to use BID funds at its own discretion with little oversight. In addition, officials did not maintain adequate records to properly account for BID funds.

BID funds were not disbursed in accordance with the same cash disbursement procedures prescribed for all other City funds and the Plan does not establish specific procedures for the disbursement of BID funds by the DMA on the City's behalf. From 2005-06 through 2016-17, City officials remitted BID charges to the

² New York State Public Officers Law, Article 7

DMA totaling almost \$1.5 million or an average \$111,000³ each year. City officials allowed the DMA to expend these funds as it deemed necessary to carry out the services described in the Plan and operate the BID without appropriate City oversight and control. However, the Plan was not sufficiently detailed to indicate how the DMA was to use the funds it was provided. Further, BID charges are City funds that should not have been given to the DMA without a written agreement (in addition to the Plan), which clearly describes the services to be provided by the DMA in the operation of the BID.

The Clerk-Treasurer, who is responsible for ensuring the City's financial records properly reflected BID activity, did not maintain detailed accounting records to adequately account for the collection of BID charges or use of BID funds. Although the DMA⁴ maintained accounting records and a ledger, and provided the Council with annual financial statements, interim financial reports and detailed cash disbursement reports were not provided to show how BID funds were used.

We reviewed all disbursements totaling \$411,000 made by the DMA from May 1, 2015 through August 15, 2017 to determine whether they complied with the Plan. We also reviewed 20 disbursements totaling \$43,500 to determine whether they were made for legitimate purposes. Although we did not identify any improper payments, the Council would not have been aware of any discrepancies because it was not provided with adequate reports and did not review the disbursements.

As an alternative to lump-sum payments, the DMA could submit claim vouchers to the City requesting payment to vendors for goods and services consistent with the Plan on the BID's behalf. These vouchers would be subject to the City's disbursement procedures including a claims audit thereby providing City officials with an opportunity to ensure funds were being used appropriately.

Because the City has turned over BID charges to the DMA without a written agreement and sufficiently detailed Plan, BID funds are at risk of mismanagement and the transparency of BID operations is compromised.

BID Charges Were Not Properly Monitored

The BID charge exceeded the statutory limit each year for more than a decade and BID charges were not used in a transparent manner.

We reviewed the charges levied on BID benefited properties over a 13-year period beginning with the City's 2005-06 fiscal year (the first year the Plan was amended and the boundaries extended) and ending with 2017-18.

³ The BID charge was \$120,000 annually from 2006-07 through 2016-17, approximately \$77,000 in 2005-06 and \$56,000 in 2017-18.

⁴ The DMA board is composed of business owners, tenants and three individuals appointed by City officials.

City officials increased the BID charge from \$76,940 in 2005-06 (\$46,940 to be used to repay bonds and \$30,000 for operations) to \$120,000 in 2006-07 (\$102,727 for debt service and \$17,273 for operations). A significant portion of this increase was to be used to repay bonds that were expected to be issued to make capital improvements to benefited properties within the extended boundaries.

However, City officials did not issue bonds as planned, because grant funding was received to pay for the expansion project. Officials did not update their Plan and the annual charge was not reduced until 2017-18. As a result, the annual charge exceeded the statutory limit in 11 of the 13 years by a total of approximately \$464,000 or, an average of \$42,000 each year.

City officials remitted the entire \$120,000 each year to the DMA. However, the DMA did not expend the entire amount each year and is currently holding \$228,000 for future unspecified capital improvements. City officials withheld approximately \$50,000 from the 2016-17 charge.⁵

These funds were assessed to pay for debt service. However, because there is currently no debt outstanding, it is unclear whether the City or DMA can use these funds for their intended purpose. The current Plan does not include plans for any additional improvements or issuance of debt. As a result, City officials have decided to leave these funds in the DMA's custody.

City officials should have custody of these excess funds instead of the DMA, because the City would be responsible for the payment of debt service on BID-related debt issued by the City. Further, if officials do not expect to issue debt for BID purposes in the foreseeable future, the Council and City officials should consider applying these excess funds to reduce future BID charges.

What Do We Recommend?

The Council should:

1. With respect to lump-sum payments of BID charges to the DMA, enter into a written agreement with the DMA clearly describing the services to be provided by the DMA in the operation of the BID.
2. Review periodic financial reports and monitor fiscal operations to ensure BID funds are properly used in accordance with the Plan and GML.
3. Levy BID charges in compliance with the statutory limit.
4. Amend the Plan, in consultation with the City Attorney, to include a description of the services the DMA provides to the BID or require the DMA to provide it with periodic reports to show how it is achieving BID's

⁵ The DMA used the remaining \$186,000 for BID operations.

operational goals and to prescribe a lawful use for BID charges levied in excess of the statutory limit.

City officials should:

5. Ensure the Clerk-Treasurer maintains adequate financial records to properly account for the receipt and disbursement of BID charges.
6. Retain custody of all BID funds and disburse funds only in accordance with City policies and procedures by claim voucher after a proper claims audit.
7. Take custody of the BID charges levied in excess of the statutory limit and, in consultation with the City Attorney, maintain these funds in a City account until the Council amends the Plan to prescribe a lawful use for these funds.

Appendix A: Response From City Officials



City of Batavia

March 9, 2018

Mr. Jeffrey Mazula
Chief Examiner of Local Government
and School Accountability
NYS Comptroller's Office, Buffalo Region
295 Main Street, Suite 1032
Buffalo, NY 14203-2510

Dear Mr. Mazula:

The City has received the NYS Comptroller's Office draft audit report on the City of Batavia for the period April 1, 2005 – September 14, 2017. We appreciate the time and effort of the Comptroller's Office and staff in reviewing the City's operations and making recommendations to improve operations. We also appreciate the opportunity to have met with your staff at the exit conference on February 21, 2018 which afforded us the opportunity to address findings and further clarify certain items noted in your preliminary report. The City views the audit and the report as an opportunity to improve upon our practices and procedures as well as developing any needed policies.

The City generally agrees with your findings and, even prior to your audit, has tightened this specific area with which the City is responsible for monitoring. We recognize the City's responsibility as to oversight required, and responsibility of the BID's financial operations as they are public funds. The City also understands that it must ensure the BID meets performance measures and goals as they relate to the public money they receive from the City.

Two items of clarification that we would like to offer as they relate to your "Key Findings." The City has entered into a written agreement with the BID, a copy of which was provided at our exit meeting. The City understands that the written agreement in its current form is not fully compliant and a new agreement will be drafted. It appears that this agreement was not reviewed during the initial audit

See
Note 1
Page 9

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Office of the City Manager
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Batavia, New York 14020

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City of Batavia

investigation period. In addition, while the BID charges exceeded the statutory limit during the years reviewed, the City identified this previously and is currently compliant.

The City thanks the Office of the State Comptroller and staff for their time and effort to review the City's operations and provide recommendations to improve our internal controls and public trust. While acknowledging that there are areas for improvement, we are pleased to note that there were no instances of misappropriation of funds, fraudulence, or corruption. We continue to monitor the City's policies and procedures for improvement.

Sincerely,

Matt Worth,
Interim City Manager

Lisa Neary
Deputy Director of Finance

cc Honorable City Council

This institution is an equal opportunity provider and employer. If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.aser.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov

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Appendix B: OSC Comment on the City's Response

Note 1

We did not review the agreement during the audit, because City officials told us that there was no written agreement between the City and the DMA. The contract provided to us at the exit discussion was dated June 30, 2008 and did not describe the services to be provided by the DMA. In addition, the contract appeared to become invalid once the BID Plan was amended in 2016.

Appendix C: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included:

- We reviewed the City's and DMA's financial policies and procedures to assess their adequacy.
- We reviewed the BID Plan and amendments to assess whether they included the elements required by GML.
- We reviewed Council minutes and supporting documentation to assess whether the Plan and amendments were approved by the Council after public hearings.
- We reviewed the DMA's expenditures to evaluate whether they were in compliance with the Plan and amendments. We reviewed the supporting documentation for a sample of 20 disbursements made by the DMA to evaluate whether they were for appropriate BID purposes. We judgmentally selected payments to individuals or unusual vendors and payments of large dollar amounts.
- We reviewed the BID charge levy, bond amortization schedules, and City tax rolls to assess whether the BID levy was within the amount allowed by GML.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or relevant population size and the sample selected for examination.

A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Council to make the CAP available for public review in the Clerk-Treasurer's office.

Appendix D: Resources and Services

Regional Office Directory

www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/localgov/pubs/listacctg.htm#lmg

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

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City of Batavia

Memorandum

To: Mr. Matt Worth – Interim City Manager

From: Raymond Tourt

Date: April 18, 2018

Subject: NYSDOT (*New York State Department of Transportation*) /City Arterial Agreement

The City has been approached to sign a supplemental to the arterial agreement for the maintenance of the State Highways within the City. The highways are NYS Routes 5, 33, 63 and 98 but do not include the portions of Route 33 known as Clinton Street or Route 98 known as South Main Street/ Walnut Street as these are City owned streets. NYSDOT has been instructed by the Office of the State Comptroller to have the City enter into this supplemental agreement in order to receive payment for services rendered from June 2017 to November of 2017. The value of this payment is \$88,258.13

Staff is reviewing the agreement to determine the future feasibility of this 67 year partnership with New York State. It appears we will need to enter into a short-term agreement in order to be paid for past and current services.

#-2018

**A RESOLUTION TO ENTER INTO A SUPPLEMENTAL TO THE ARTERIAL AGREEMENT
BETWEEN NEW YORK STATE DEPARTMENT OF TRANSPORTATION AND CITY OF
BATAVIA**

Motion of Councilperson

WHEREAS, 38 cities, including the City of Batavia, have arterial maintenance agreements with the State of New York in which the Cities maintain certain designated State-owned arterial highways and the State compensates those Cities for this service; and

WHEREAS, the City of Batavia maintains 204,588 square yards, or approximately 7 miles of State highway throughout the City and those services include, but are not limited to, street cleaning, snow and ice control, pothole patching, traffic signal maintenance and signage and pavement marking; and

WHEREAS, since its inception in 1951, the arterial reimbursement agreement has been a very effective and efficient shared service model for maintenance of State highways, as it has relieved the State of maintenance responsibilities and provided municipalities a certain amount of autonomy of how roads are maintained; and

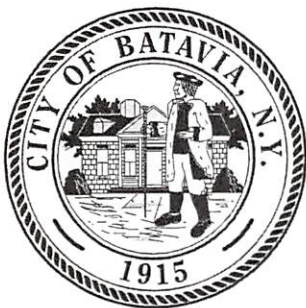
WHEREAS, NYSDOT has been instructed by the Office of the State Comptroller to have the City of Batavia enter a Supplemental to the Arterial Agreement for portions of NYS Route 5, 33, 63 and 98 but not to include the portions of Route 33 known as Clinton Street or Route 98 known as South Main Street/Walnut Street as these are City owned Streets; and

WHEREAS, by entering into a Supplemental to the Arterial Agreement the City of Batavia will receive payment of \$88,258.13 for services rendered from June 2017 to November 2017; and

WHEREAS, the City of Batavia, like most Cities in the State, have made a vigilant effort to maximize municipal resources and lessen the tax burden on taxpayer by actively engaging in, and seeking shared service models when practically possible, shared service agreements can only be successful when all parties involved receive meaningful benefits in return.

NOW, THEREFORE BE IT RESOLVED, that the Council President be and is hereby authorized to execute the necessary agreement on behalf of City Council with New York State Department of Transportation in connection with the Supplemental to the Arterial Agreement to be paid for past and current services of maintenance of the State Highways within the City; and


**Seconded by Councilperson
and on roll call**



City of Batavia

Memorandum

To: Honorable City Council

From: Matt Worth, Interim City Manager 

Date: April 18, 2018

Subject: Request to Install Fencing at MacArthur Park

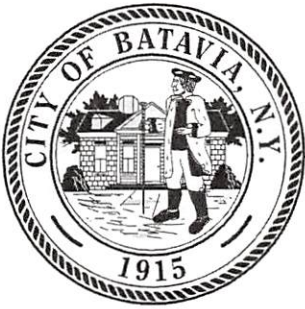
The Batavia Minor/Major League Youth Organization has requested to enclose a field with fencing that has had recent improvements made to it by the organization. This is an existing field that has been reconfigured to eliminate a condition where the 3rd base line was in conflict with existing fence at the Little League field. This field will be primarily utilized as a “coach pitch” league by youths approximately 8yrs old. Like many of the youth organizations operating in the City of Batavia, this is an investment by the organization into City owned facilities to the benefit of the youth utilizing these programs.

The proposed fence would create an approximate 5-1/2ft walkway allowing passage between fields. This would have encroached on the current Little League field requiring a corner of the foul ball area to be reconfigured. An outfield fence would be constructed to intersect the existing tennis court fences creating an enclosed field. Please see attached illustration labeled “Fence Option 1”.

The Little League Youth Organization has raised concerns in regards that this configuration will infringe upon the foul ball area of the Little League field, and that the field being enclosed by fence will limit their space for teams to “warm-up” ahead of games.

A joint meeting of City staff and representatives from both youth organizations was unable to make progress towards finding a solution acceptable to both organizations. After several site visits with Ray Tourt, Superintendent of Maintenance I would offer the following options for consideration:

- Limit fencing to the backstop and baseline area to protect immediate infield. Install a pad at Little League field fence corner as an added protection. Please see illustration labeled “Fence @ Baselines”.



City of Batavia

- Same as previous with addition of fence down right field and over to tennis court limiting access from the east side of the field. Please see attached illustration labeled "Fence Option 3".
- Same as two previous bullets points and install fence along left field and over to tennis courts creating a fully enclosed field, as Minor/Major League has requested. Please see attached illustration labeled "Fence Option 2".

I have informed both organization as to this item being discussed. Staff is requesting direction from Council as to a preferred course of action so that this project may move forward.

Supporting Documentation:

Map Overviews (6)

Existing overview of park

Overview of park showing new field layout

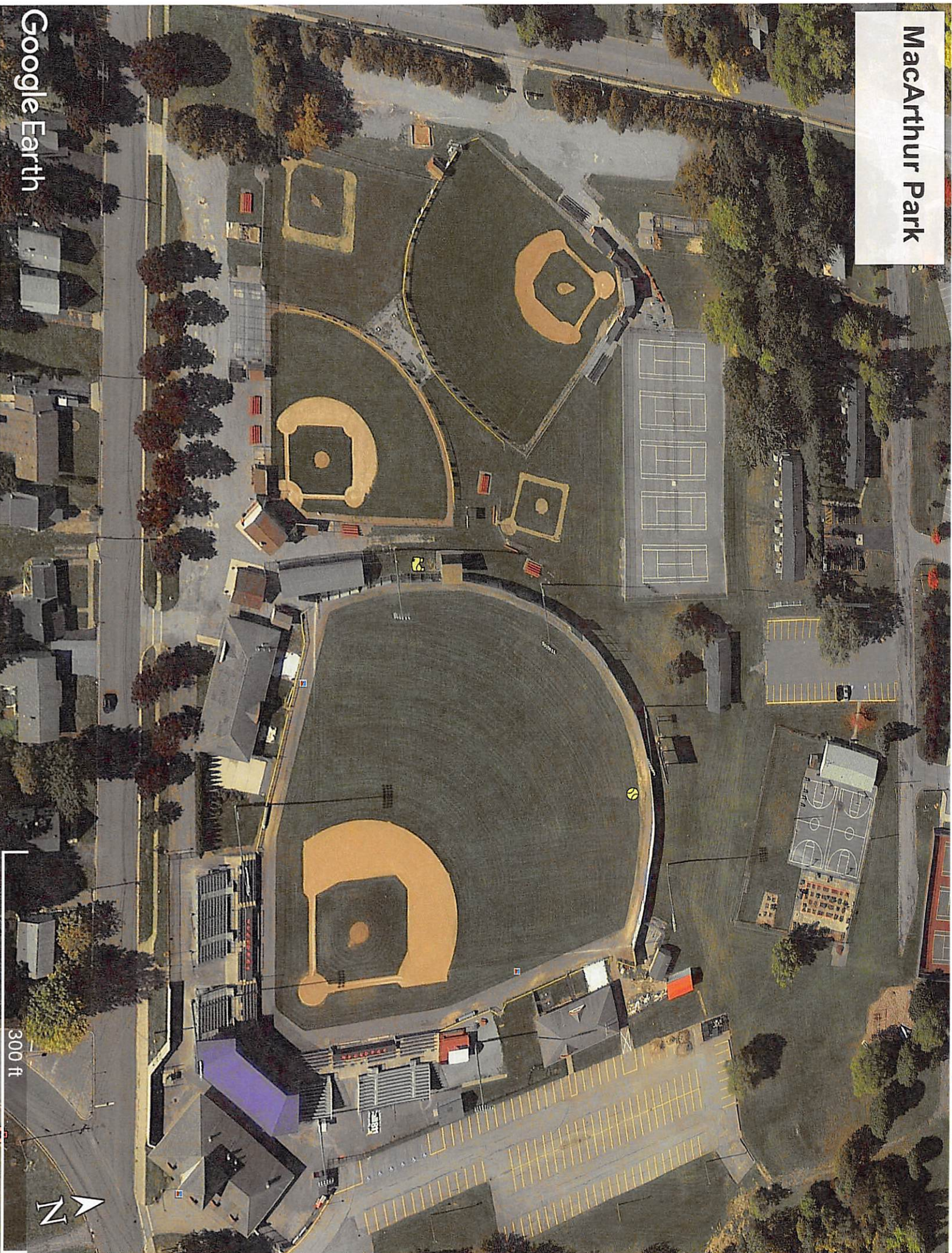
Fence Option 1

Fence @ Baselines

Fence Option 3

Fence Option 2

MacArthur Park



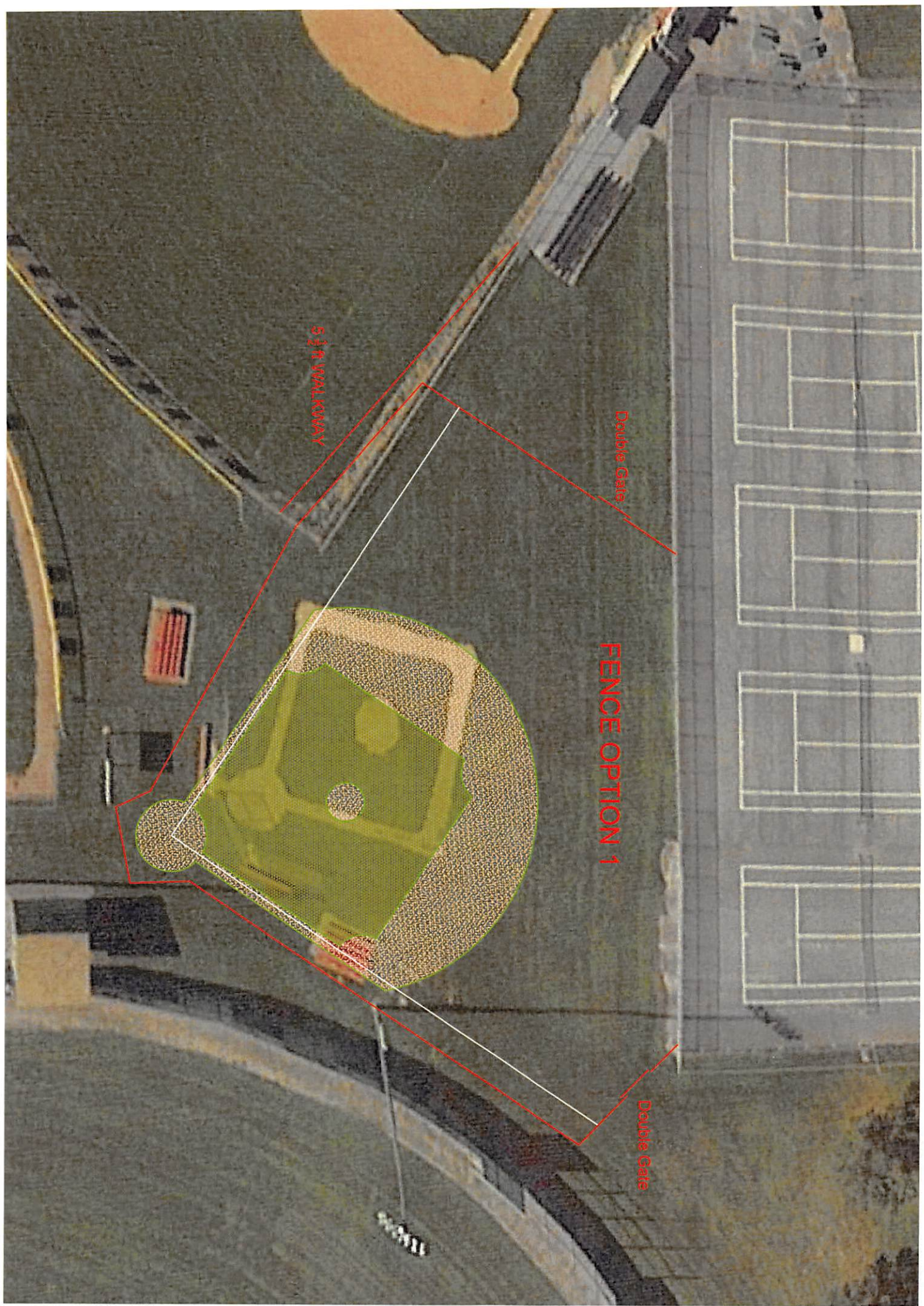
MacArthur Park



Google Earth

300 ft





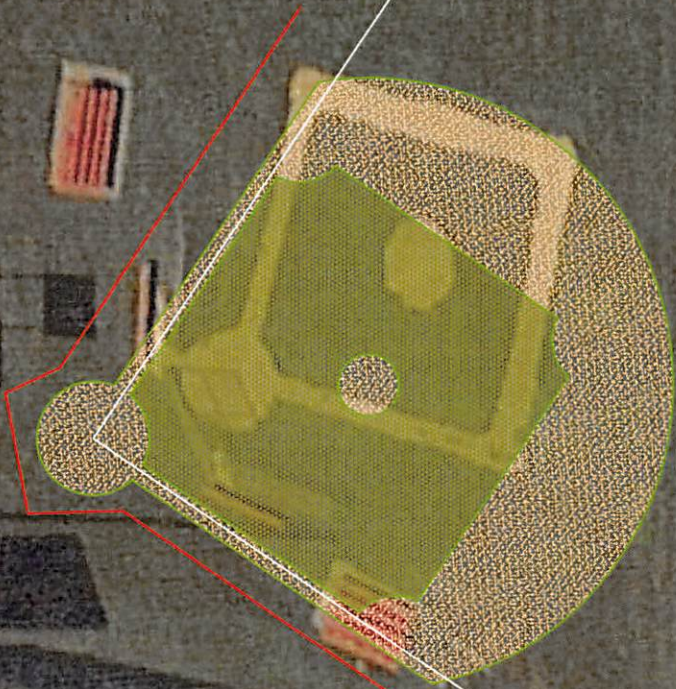
5 ft WALKWAY

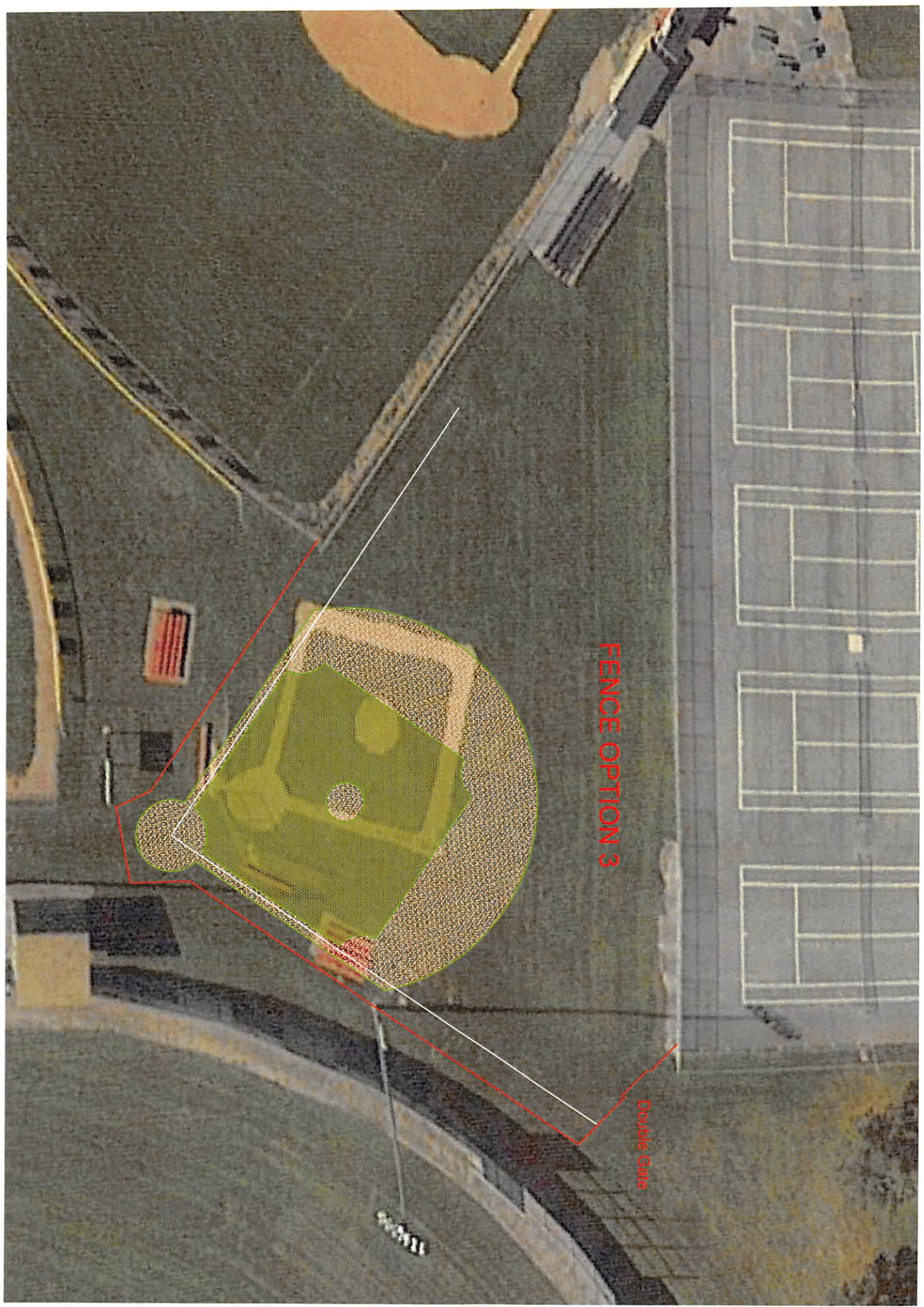
Double Gate

FENCE OPTION 1

Double Gate

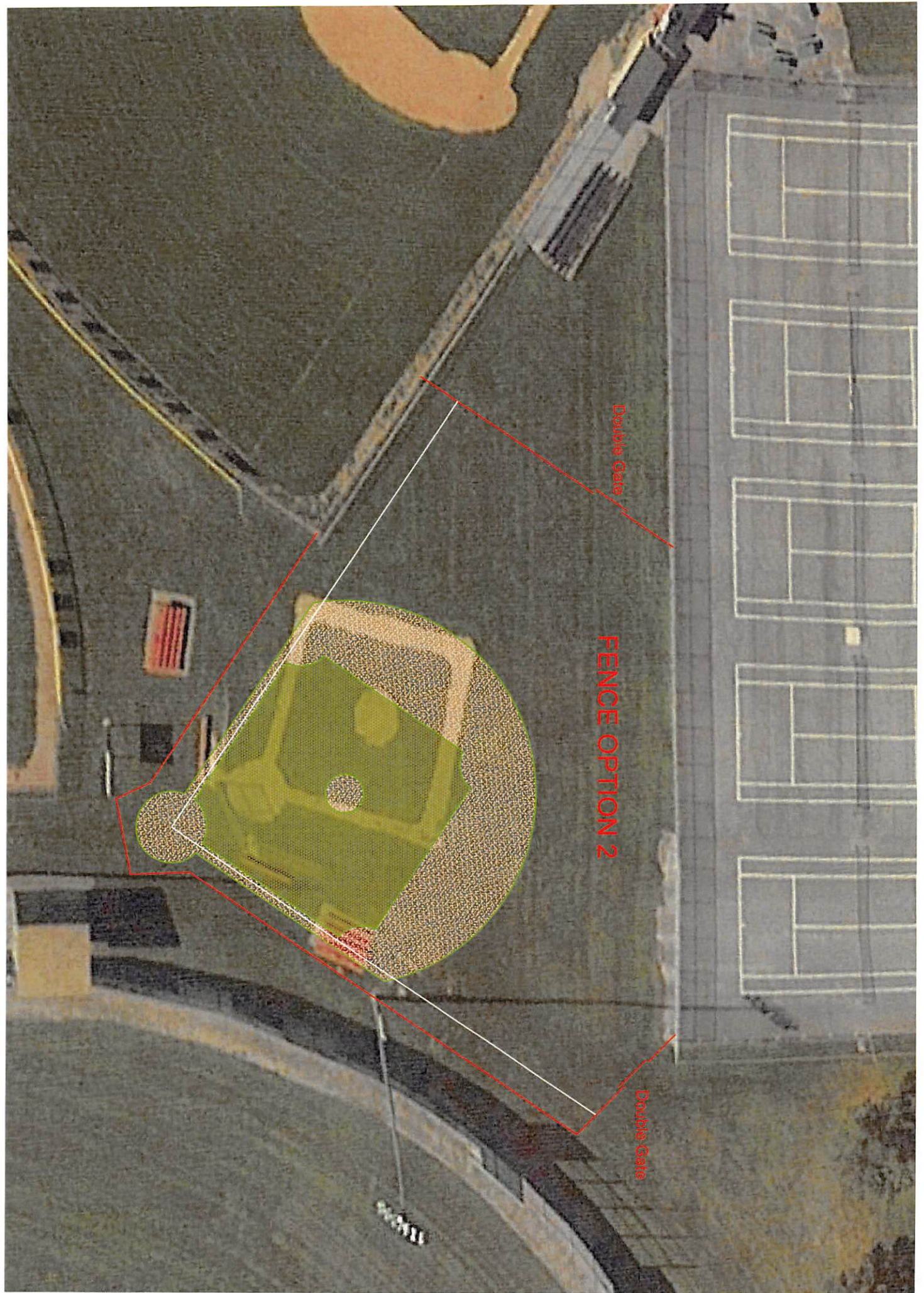
FENCE @ BASELINES





FENCE OPTION 3

Double Gate



MOTION TO ENTER EXECUTIVE SESSION

Motion of Councilperson

WHEREAS, Article 7, Section 105(1)(h), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...the proposed acquisition, sale, or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof...".

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia, that upon approval of this Motion, the City Council does hereby enter into Executive Session.

**Seconded by Councilperson
and on roll call**