



BATAVIA CITY COUNCIL CONFERENCE MEETING

**City Hall - Council Board Room
One Batavia City Centre
Monday, November 23, 2015 at 7:00 PM**

AGENDA

- I. Call to Order
- II. Invocation – Councilperson Deleo
- 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, December 14, 2015 at 7:00 p.m. at the City Hall Council Board Room, 2nd Floor, City Centre.
- VIII. Public Meeting
 - a. Police Facility Discussion
- IX. Deferred Compensation
- X. 6 Month Budget Review
- XI. Video Lottery Terminal (VLT) Aid Allocations
- XII. Batavia Pathway to Prosperity (BP²) Agreement
- XIII. Ice Rink Lease Agreement
- XIV. Youth Board Appointment
- XV. 2016 City Council Meeting Dates
- XVI. Adjournment



TO: Jason Molino, City Manager
FROM: Dawn Fairbanks, Human Resource Specialist
DATE: November 18, 2015
SUBJECT: Deferred Compensation Model Plan

As a requirement of the Rules and Regulations of the New York State Deferred Compensation Board, the City has gone through the formal bid process and has solicited Requests for Proposals for Administrative, Financial and Trustee Services for the next five years regarding the Employee Deferred Compensation Plan.

The City has received four proposals. After review of the proposals submitted, the Deferred Compensation Committee recommends Mass Mutual Financial Group (457 Plan Service Group) for Administrative and Financial Services and Reliance Trust Company for Trustee Services related to the City of Batavia Employee Deferred Compensation Plan.

Mass Mutual Financial Group currently services over 2,000 plans with 260,000 participants and over \$12 billion in assets. Mass Mutual Financial Group will provide administration, financial and trust services. The 457 Plan Service Group has been servicing the City's Deferred Compensation Plan for over 20 years. Fee structure and investment options are comparable amongst two of the four groups, one of which is Mass Mutual.

Budget Impact: There is no budgetary impact to appoint administrative, financial, and trustee services for the Employee Deferred Compensation Plan.

Supporting Documents:

1. Resolution

The Model Plan, the NYS Rules and Regulations and bid documents relating to the Employee Deferred Compensation Plan are on file in the Human Resource Department (in excess of 400 pages)

#-2015

**A RESOLUTION AUTHORIZING APPOINTMENT OF ADMINISTRATIVE,
FINANCIAL, AND TRUST SERVICES FOR THE EMPLOYEE
DEFERRED COMPENSATION PLAN**

Motion of Councilperson

WHEREAS, the City of Batavia Employee Deferred Compensation Plan Committee (the "Committee") has solicited Requests for Proposal for administrative, financial, and trustee services for the next five (5) year period; and

WHEREAS, the Committee has reviewed and analyzed proposals; and

WHEREAS, after careful review, the Committee selected and recommends Mass Mutual Financial Group (457 Plan Service Group) for Administration and Financial Services, and Reliance Trust Company for Trustee Services of the Employee Deferred Compensation Plan; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that Mass Mutual Financial Group (457 Plan Service Group) be appointed for Administrative and Financial Services and Reliance Trust Company for Trustee Services related to the City of Batavia Employee Deferred Compensation Plan; and

BE IT FURTHER RESOLVED, that the City Council President be, and hereby is, authorized and directed to execute any and all necessary documents in relation to the City of Batavia Employee Deferred Compensation Plan.

**Seconded by Councilperson
and on roll call approved**



City of Batavia

To: Honorable City Council

From: Jason Molino, City Manager

Date: November 17, 2015

Subject: 6 Month Review

Background: Annually the City conducts a 6 month budget review and projection to identify potential unexpected variances in the budget after adoption. In reviewing the 2nd quarter financial statements, there is one budget amendment recommended to complete the fiscal year. All budget amendments are suggested to be made from the City's contingency budget.

- 001.1325.0472 – Tax Foreclosure Expenses – It is expected that tax foreclosure expenses will be approximately \$20,000 higher than budgeted due to a high number of properties in the foreclosure process. As a result, additional expenses for preparing documents for filing and transferring title to the City will increase.

It should be noted that while there is a high number of properties currently in the foreclosure process, the City is not foreclosing on more properties as property owners or interested parties make delinquent tax payments in full last minute. Foreclosure expenses a costs related to foreclosure process as outlined in the Real Property Tax Law but also prorated school taxes for properties foreclosed on by the City.

It is recommended that \$20,000 be transferred from the contingency budget to cover the increase in tax foreclosure expenses.

- 030.7110.0443.0901 – Summit Street Reconstruction – The attached memo from Math Worth, Director of Public Works explains tree removal for the Summit Street reconstruction project. Due to protections of the Northern Long Eared Bat, tree removal for Summit St. is required within the current fiscal year before construction starts next spring. The estimated cost for the tree removal is \$15,000 and would be completed by next March. This work will go towards the City's local contribution for the Summit St. reconstruction project.

It is recommended that \$15,000 be transferred from the contingency budget to cover the cost of tree removal related to the Summit St. reconstruction project.

Revenue: After reviewing revenue lines and projections it should be noted that the City's sales tax receipts are currently \$30,000 less when compared to last year's receipts at this time. The current year budget was adopted with the expectation of a slower growth in sales tax than in prior years. While there are many factors impacting sales tax receipts, the lower than average gas prices are most likely a contributing factor. We will continue to monitor receipts closely as we begin to prepare the budget for the 2016/17 year; however it should be expected that there will be little to no growth in sales tax going into next year.

No action by City Council is recommended at this time regarding sales tax.

Recommendation: It is recommended that City Council make the above mentioned budget amendment at the next Business Meeting December 14th.

We continue to monitor and review all revenues and expenditures for any variances from budgeted amounts.

Attachments:

1. A Resolution to Amend the Budget by Transferring Funds from the Contingency Budget



Memo

Date: November 17, 2015

To: Jason Molino, City Manager

From: Matt Worth, Director of Public Works

Subject: Summit Street Tree Removals

The Summit Street reconstruction project has approximately 30 trees that have been identified for removal at this time. The timing of the construction contract will not allow for this work to be completed prior to May of 2016, which is a significant milestone impacting the project.

The Summit Street trees are considered a potential habitat for nesting Northern Long Eared Bats. These bats are listed as a threatened species due to "white nose syndrome", and are therefore provided with certain protections. This protection includes a prohibition of removing habitat once the nesting period begins in May, which would negatively impact the construction schedule.

It is suggested that the City do the tree removals in March of 2016, ahead of the prescribed nesting period, and thereby allow the construction to proceed unimpeded. Under the current City tree removal contract this cost would be approximately \$15,000 and the contracted portion would be applied towards the City's contribution share of the Summit Street project.

#-2015
RESOLUTION TO AMEND THE BUDGET BY TRANSFERRING FUNDS
FROM THE CONTINGENCY BUDGET

Motion by Councilperson

WHEREAS, the City of Batavia has experienced an increase in tax foreclosures thereby increasing tax foreclosure expenses over and above the adopted budget; and

WHEREAS, the Summit Street Reconstruction Project requires the removal of trees prior to construction beginning which will occur in this fiscal year and has not been budgeted for in the capital project; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Manager is hereby authorized to make the following budget transfer:

Effective December 14, 2015, the following transfer is hereby approved:

Increasing accounts:

Tax Foreclosure expense	001.1325.0472	\$ 20,000.00
Summit Street Reconstruction Project	030.7110.0443.0901	\$ 15,000.00

Decreasing account:


Contingency	001.1990.0500	\$ 35,000.00
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Seconded by Councilperson
and on roll call



City of Batavia

To: Honorable City Council

From: Jason Molino, City Manager 

Date: November 17, 2015

Subject: Video Lottery Terminal (VLT) Aid

Background: In past years the City has utilized VLT aid as one-time revenue to assist with non-recurring expenses. Due to inconsistencies and uncertainty with the State Executive Budget the City has not budgeted VLT aid as part of the City general fund revenues; however the aid, when received, has been critical in funding capital projects, capital equipment and supporting reserve funds. Sidewalk improvements have been a common use of VLT aid in prior years as the sidewalk replacements are capital projects not funded in the general fund. In June 2015 the City received \$440,789 of VLT aid.

In 2014 the City received a Transportation Alternatives Program (TAP) grant for \$720,657 to complete approximately 12,300 linear feet of sidewalk improvements along pedestrian routes to City schools. This grant requires a local match of \$192,200. After the current year's sidewalk projects, the Capital Sidewalk Reconstruction Reserve Fund will have a balance of approximately \$110,000 for future projects. Not knowing the certainty of future VLT aid or possible general fund operating surpluses to provide funding for the City's project match it is recommended the City Council assign \$150,000 of current VLT aid to be designated specifically for the TAP project which will be completed by 2017. This will ensure the project has the adequate financial support to be completed over the next two years and will begin to build some additional resources for future sidewalk replacements.

The above recommended transfer is consistent with the City's conservative budget practices of the past and are a responsible effort to complete needed capital projects and minimizing unneeded debt service.

Supporting Documents:

1. A Resolution To Transfer \$150,000 Of Video Lottery Terminal State Compact Money To The Sidewalk Reconstruction Reserve Fund To Assist With The Completion Of The Transportation Alternative Program (Tap) – Healthy Schools Corridor Sidewalk Project

#-2015

A RESOLUTION TO TRANSFER \$150,000 OF VIDEO LOTTERY TERMINAL STATE COMPACT MONEY TO THE SIDEWALK RECONSTRUCTION RESERVE FUND TO ASSIST WITH THE COMPLETION OF THE TRANSPORTATION ALTERNATIVE PROGRAM (TAP) – HEALTHY SCHOOLS CORRIDOR SIDEWALK PROJECT

Motion of Councilperson

WHEREAS, the City of Batavia in 2014 received a Transportation Alternatives Program (TAP) Grant of \$720,657 to complete approximately 12,300 linear feet of sidewalk improvements along pedestrian routes to City schools; and

WHEREAS, the project requires a local cash match from the City of \$192,200; and

WHEREAS, the City of Batavia for the fiscal year ending March 31, 2016 received state assistance ("VLT" compact money) as an eligible City in which a video lottery gaming facility is located, in the amount of \$440,789; and

WHEREAS, the City of Batavia has found it financially prudent to utilize VLT compact money for non-reoccurring expenses such as, but not limited to capital projects, capital equipment and debt service reduction; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia does hereby transfer VLT compact money revenue of \$150,000 to the Sidewalk Reconstruction Reserve Fund to assist with the TAP Health Schools Corridor Sidewalk Project.


BE IT FURTHER RESOLVED, that the transfer of funds to the Capital Sidewalk Reconstruction Reserve Fund is consistent with the City's Strategic Plan in achieving Key Intended Outcome's identified under the Well-Managed City and Stewards of the City's Physical Assets strategic priorities.

**Seconded by Councilperson
and on roll call**



City of Batavia

To: Honorable City Council

From: Jason Molino, City Manager 

Date: November 17, 2015

Subject: Batavia Pathway to Prosperity (BP²)

Background: On October 13, 2015, City and County leaders presented to City Council a PILOT Increment Financing (PIF) concept to repurpose new PILOT payments from new development throughout the City into a capital fund to be used for purposes of assisting with extraordinary costs associated with Brownfield redevelopment. This PIF concept was entitled "Batavia Pathway to Prosperity (BP²)". These funds were come from and managed from a partnership between the City, County, School District, Genesee County Economic Development Center (GCEDC) and Batavia Development Corporation (BDC).

As discussed during the presentation, the proposed BP² Fund would be the first of its kind in the State of New York in which a community and all taxing jurisdictions agree to contribute future PILOT payments to aid in future economic development projects. In addition, the caveat that all funds are to be targeted for uses directly related to Brownfield redevelopment within a designated Brownfield Opportunity Area (BOA) furthers the uniqueness of the multi-agency partnership.

On November 10, 2015 City and County leaders presented BP² to the Batavia City School District, following which the Board of Education adopted a resolution to participate in the proposed economic development initiative. This was the first of three taxing jurisdictions to take action to participate in the program.

Attached please find a draft agreement to be executed by the City, County, School District, GCEDC and BDC. The agreement outlines in detail the execution of the BP² concepts explained in October. Currently legal counsels from all entities are reviewing the agreement and once all parties agree on final language, the agreement will be ready for execution. The City Attorney has also reviewed the proposed agreement.

Recommendation: It is recommended that the City Council adopt the attached resolution authorizing the City Council President to execute the BP² Agreement.

Supporting Documents:

1. Draft resolution

A RESOLUTION TO AUTHORIZE THE CITY COUNCIL PRESIDENT TO EXECUTE AN AGREEMENT WITH THE COUNTY OF GENESEE, SCHOOL DISTRICT OF BATAVIA, GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AND BATAVIA DEVELOPMENT CORPORATION TO REPURPOSE A PORTION OF PAYMENT IN LIEU OF TAXES RECEIPTS TO CAPITALIZE A REINVESTMENT FUND TO BE UTILIZED TO OFFSET EXTRAORDINARY EXPENSES RELATED TO ECONOMIC DEVELOPMENT AND BROWNFIELD REDEVELOPMENT CONSISTENT WITH THE CITY'S BOA PLAN

WHEREAS, the City of Batavia (hereinafter referred to as the "CITY"), the County of Genesee (hereinafter referred to as the "COUNTY"), the School District of Batavia (hereinafter referred to as the "SCHOOL"), the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (hereinafter referred to as the "AGENCY") and the Batavia Development Corporation (hereinafter referred to as "CORPORATION") want to facilitate the remediation, rehabilitation and redevelopment of real estate, targeting blighted and/or contaminated properties in the City, for use by private retail, commercial, mixed use residential and/or industrial businesses in order to promote and provide for additional and maximum employment opportunities, improved real estate conditions, expand the tax base, increase business activity and improve neighborhood vitality; and

WHEREAS, on June 9, 2014 the City Council of the City of Batavia accepted the BOA plan to advance and support the redevelopment of strategic sites in the BOA believing a catalytic area-wide reinvestment is necessary; and

WHEREAS, on April 9, 2015 the Secretary of State for the State of New York designated the City of Batavia's BOA pursuant to the General Municipal Law, Article 18-C, Section 970-r (4) and (5), giving priority status for grants and additional potential Brownfield Cleanup Program tax credit incentives to spur economic development; and

WHEREAS, the 366 acre BOA includes underutilized, vacant and abandoned properties and brownfields that are located in a distressed area of the City that has confirmed or suspected environmental contamination and cause significant blight on the City's downtown urban core and surrounding neighborhoods; and

WHEREAS, two of the City's six census tracts qualify as "highly distressed area" as defined under Section 854(18) of the General Municipal Law in that they have (i) a poverty rate of at least 20% for the year, and (ii) an unemployment rate of at least 1.25% times the statewide unemployment rate per most recent data that further authorizes the AGENCY to consider inducing all retail, commercial and/or mixed-use projects in the City; and

WHEREAS, the SCHOOL reports over 53% of its student population qualifies for free or reduced priced meals per the National School Lunch Program (NSLP); and

WHEREAS, economic development projects are encouraged to dramatically improve the

area including but not limited to the remediation and redevelopment of the contaminated property, elimination of blighting influence on the City's downtown area and desire to cause an increase in property values that will continue revitalization of downtown and support neighborhood stabilization; and

WHEREAS, the extraordinary expenses incurred for brownfield redevelopment pose an inhibiting threat to and prevent such projects from developing; therefore, public-private partnerships are necessary to motivate owners, investors and developers to begin new projects within the City that will improve conditions; and

WHEREAS, the CITY, COUNTY, SCHOOL, AGENCY and CORPORATION agree that focusing on targeted redevelopment of the City's BOA will result in elimination of blight, increase tax base, increase/retain employment within the City and cause overall positive economic benefit for the surrounding community; and

WHEREAS, through collective partnership and cooperation, the CITY, COUNTY, SCHOOL, AGENCY and CORPORATION are entering into this Agreement to repurpose a portion of the City, County and School Payment In Lieu Of Taxes receipts to capitalize a reinvestment fund to be utilized to offset extraordinary expenses related to economic development and brownfield redevelopment consistent with the City's BOA plan; and

WHEREAS, this is a local program in Genesee County to focus solely on brownfield redevelopment, adaptive re-use and infill projects; and

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Batavia authorizes the City Council President to enter into the Batavia Pathway To Prosperity Capital And Reinvestment Fund (BP²) Agreement with the COUNTY, SCHOOL, AGENCY and CORPORATION.,

Second by Councilperson
And on roll call

**A BATAVIA PATHWAY TO PROSPERITY CAPITAL AND REINVESTMENT FUND
(BP²)**

**AGREEMENT BY AND BETWEEN
THE CITY OF BATAVIA, NEW YORK, THE COUNTY OF GENESEE, NEW YORK,
THE BATAVIA CITY SCHOOL DISTRICT, THE GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY AND THE BATAVIA DEVELOPMENT CORPORATION**

THIS AGREEMENT, made the _____ day of _____, 2015, by and between the CITY OF BATAVIA, a municipal corporation of the State of New York, having offices located at City Hall, One Batavia City Centre, Batavia, New York, hereinafter referred to as the “CITY,” and the COUNTY OF GENESEE, a municipal corporation of the State of New York having offices at County Courthouse, 7 Main Street, Batavia, New York, hereinafter referred to as the “COUNTY”, and the CITY SCHOOL DISTRICT OF BATAVIA, a public school of the State of New York having offices at 260 State Street, Batavia, New York hereinafter referred to as the “SCHOOL”, the GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER, a public benefit corporation duly existing under the laws of the State of New York, having offices located at 99 MedTech Drive, Suite 106, Batavia, New York hereinafter referred to as the “AGENCY”, and the BATAVIA DEVELOPMENT CORPORATION, a non-profit local development corporation duly existing under the laws of the State of New York, having office located at One Batavia City Centre, Batavia, New York hereinafter referred to as “CORPORATION”.

WITNESSETH:

WHEREAS, all parties are willing to facilitate the remediation, rehabilitation and redevelopment of real estate, targeting blighted and/or contaminated properties in the City, for use by private retail, commercial, mixed use residential and/or industrial businesses in order to

promote and provide for additional and maximum employment opportunities, improved real estate conditions, expand the tax base, increase business activity and improve neighborhood vitality; and

WHEREAS, the Brownfield Opportunity Area (BOA) Step 2 Nomination Plan targeted a 366 acre central business area impacted by 75 underutilized, vacant and abandoned properties in the City of Batavia and where a rigorous inventory and analysis of conditions, opportunities and development constraints in the BOA were identified; and

WHEREAS, on June 9, 2014 the City Council of the City of Batavia accepted the BOA plan to advance and support the redevelopment of strategic sites in the BOA believing a catalytic area-wide reinvestment is necessary; and

WHEREAS, on April 9, 2015 the Secretary of State for the State of New York designated the City of Batavia's BOA pursuant to the General Municipal Law, Article 18-C, Section 970-r (4) and (5), giving priority status for grants and additional potential Brownfield Cleanup Program tax credit incentives to spur economic development; and

WHEREAS, the 366 acre BOA includes underutilized, vacant and abandoned properties and brownfields that are located in a distressed area of the City that has confirmed or suspected environmental contamination and cause significant blight on the City's downtown urban core and surrounding neighborhoods; and

WHEREAS, two of the City's six census tracts qualify as "highly distressed area" as defined under Section 854(18) of the General Municipal Law in that they have (i) a poverty rate of at least 20% for the year, and (ii) an unemployment rate of at least 1.25% times the statewide

unemployment rate per most recent data that further authorizes the AGENCY to consider inducing all retail, commercial and/or mixed-use projects in the City; and

WHEREAS, the SCHOOL reports over 53% of its student population qualifies for free or reduced priced meals per the National School Lunch Program (NSLP); and

WHEREAS, economic development projects are encouraged to dramatically improve the area including but not limited to the remediation and redevelopment of the contaminated property, elimination of blighting influence on the City's downtown area and desire to cause an increase in property values that will continue revitalization of downtown and support neighborhood stabilization; and

WHEREAS, the extraordinary expenses incurred for brownfield redevelopment pose an inhibiting threat to and prevent such projects from developing; therefore, public-private partnerships are necessary to motivate owners, investors and developers (hereafter referred to as "PROJECT INVESTORS") to begin new projects within the City that will improve conditions; and

WHEREAS, the CITY, COUNTY, SCHOOL, AGENCY and CORPORATION agree that focusing on targeted redevelopment of the City's BOA will result in elimination of blight, increase tax base, increase/retain employment within the City and cause overall positive economic benefit for the surrounding community; and

WHEREAS, through collective partnership and cooperation, the CITY, COUNTY, SCHOOL, AGENCY and CORPORATION are entering into this Agreement to repurpose a

portion of the City, County and School Payment In Lieu Of Taxes (PILOT) receipts (as hereinafter defined) to capitalize a reinvestment fund to be utilized to offset extraordinary expenses related to economic development and brownfield redevelopment consistent with the City's BOA plan; and

WHEREAS, this is a local program in Genesee County to focus solely on brownfield redevelopment, adaptive re-use and infill projects.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein the CITY, COUNTY, SCHOOL, AGENCY and CORPORATION hereby agree as follows:

1. Batavia Pathway to Prosperity Capital and Reinvestment Fund (BP² Fund)

- a) The CITY, COUNTY, SCHOOL, AGENCY and CORPORATION agree to create the Batavia Pathway to Prosperity Capital and Reinvestment Fund (hereinafter referred to as "BP² Fund") to be capitalized by a portion of new PILOT payments on all AGENCY induced projects approved within the City of Batavia.
- b) The BP² funds will be used as defined in Section 4 for future economic and brownfield redevelopment investments targeted within the City's designated BOA.
- c) The AGENCY is authorized to utilize a PILOT schedule reducing abatement for commercial and or mixed-use projects; a traditional manufacturing abatement schedule will remain comparable County-wide.

2. Payment and Management of Funds

- a) The CITY, COUNTY and SCHOOL authorize that 50% of future PILOT payments as

a result of approved projects within the existing boundaries of the City will be remitted to the AGENCY and deposited into the BP² Fund.

- b) BP² funds will help underwrite and reimburse expenses related to economic development and brownfield redevelopment projects located only within the City's designated 366 acre BOA.
- c) The CITY, COUNTY and SCHOOL agree to annually redirect 50% of City-project related PILOT payments to AGENCY within 30 days of receipt by each jurisdiction.
- d) The AGENCY hereby agrees to accept 50% of future PILOT payments from CITY, COUNTY and SCHOOL to be maintained in a dedicated BP² Fund account.
- e) The BP² funds will be used consistent with Section 4 Use of Funds as defined in this Agreement.
- f) The AGENCY agrees to maintain all BP² funds in accordance with Generally Accepted Accounted Principles (GAAP), Sections 10 and 11 of General Municipal Law (GML) and Section 2925 of Public Authorities Law.

3. Project Eligibility

- a) All AGENCY approved PILOT projects in the City will redirect a portion of PILOT payments to the BP² Fund as outlined in Section 2 of this Agreement.
- b) The parties agree that projects to receive reimbursements from the BP² Fund are to meet the following criteria:
 - i. The project must be located, in its entirety, within the City's designated BOA.
 - ii. The project must be induced and/or supported by the AGENCY.

iii. The CORPORATION must adopt a “Certificate of Consistency” ensuring the project is consistent with the City’s redevelopment plans, specifically the BOA Step 2 Nomination Plan accepted by the City of Batavia or any amended version hereafter, and that the recommended use of BP² funds is consistent with the outlined requirements of this Agreement.

1. When considering a project for a “Certificate of Consistency” the PROJECT INVESTOR shall prepare an application to the CORPORATION including project development information such as, but not limited to, site/sketch plans, pro forma, project funding sources and uses, land use approval needed for project completion..

2. The CORPORATION may require and reserves the option of requesting additional information from the PROJECT INVESTOR in order to adequately review each application.

3. PROJECT INVESTOR application information may be marked proprietary business information and may be subject to the Freedom of Information Law requirements and exemptions until a decision is made regarding a “Certificate of Consistency.”

iv. The BP² Fund investment recommendation to the AGENCY Board of Directors will require the “Certificate of Consistency” and be further outlined in the AGENCY’s public hearing notice as required in Section 859-a of General Municipal Law (GML).

- v. As administrator of the BP² Fund account, the AGENCY will ensure the BP² Funds are available to honor the proposed project commitment.
- vi. Upon PILOT approval, the amount of BP² funds committed to a project shall be referenced in and part of the project PILOT Agreement, and shall define the exact amount of funds committed to the project and for what purpose.

4. Use of Funds

- a) The parties agree and acknowledge that PILOT payments made hereunder are to provide revenues into the BP² Fund established to offset extraordinary costs associated with economic development and brownfield redevelopment within the City's designated BOA.
- b) The authorized BP² project support may include the following public or private reimbursements as facilitated by the AGENCY and CORPORATION:
 - i. Extraordinary development costs related to hazardous material abatement, remediation, flood hazard areas, etc.
 - ii. Demolition / rehabilitation of vacant buildings that cause community and neighborhood blight.
 - iii. Infrastructure modernization and improvements including roadways, multi-modal, water, sewer, gas, electric, telecommunication enhancements related to projects.
 - iv. Advance engineering and implementation of the Ellicott Trail, federally sponsored pedestrian trail through the City's urban core.

- v. Match other grant resources to secure more project capital for BOA redevelopment.
- vi. Land assemblage, property acquisition and due diligence for AGENCY and/or CORPORATION projects only consistent with Section 3 of this Agreement.
- vii. Any of the above uses as it is related to an AGENCY sponsored project and/or AGENCY lead/owned project.

5. Internal Controls

- a) Milestones and related reimbursement schedule shall be agreed upon by the AGENCY, CORPORATION and PROJECT INVESTOR as outlined in the “Certificate of Consistency” prior to AGENCY presentation and consideration of the project.
- b) For projects undertaken by the AGENCY, a “Certificate of Consistency” shall also be required outlining project milestones and reimbursement schedule.
- c) As part of the project submission to the CORPORATION for a “Certificate of Consistency” by the PROJECT INVESTOR, the AGENCY must demonstrate that the BP² Fund is adequately capitalized to support the proposed project. A financial statement demonstrating the existing BP² funds and future cash flow taking into consideration existing commitments as well as the proposed project will need to be provided by the AGENCY. At no time will a project be proposed or approved that over commits the capitalization of the BP² Fund.
- d) There shall be no retroactive BP² Fund reimbursements for expenses incurred prior to project approval by the AGENCY.

- e) Reimbursement of project expenses from the BP² Fund shall be dispersed following the agreed upon reimbursement schedule and milestones as defined in the “Certificate of Consistency” and PILOT agreement for the project.

6. Annual Reporting

- a) The AGENCY will provide all parties of this Agreement with an annual report on the fiduciary condition and transactions of the BP² Fund for the prior year’s fund performance no later than 90 days following the adoption of the AGENCY budget.
- b) The AGENCY and CORPORATION will continue to comply with the Public Authorities Law requirements.

7. Indemnification

- a) All parties shall indemnify and save harmless the other from and against any and all liability, damage, expense, cause of action, suits, claims, penalties or judgments, arising from this agreement and projects funded by the BP² Fund
- b) If said damage or injury is caused by or is due to the specific negligence attributable solely to the CITY, COUNTY, SCHOOL, AGENCY and CORPORATION, as the case may be, all other parties shall be held harmless.

8. Term of Agreement

- a) The term of this Agreement shall be January 1, 2016 through December 31, 2025.

9. Cancellation or Renewal of Agreement

- a) Non-Renewal: Any party shall notify all others at least one hundred and twenty (120)

days prior to the expiration of this agreement of its intention not to renew.

- b) Termination: Any party shall have the authority to terminate this agreement upon one hundred and twenty (120) days written notice to all other parties providing reason for so doing.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers the day and year first above-written.

CITY OF BATAVIA

(SEAL)

By: _____
Brooks Hawley
BATAVIA CITY COUNCIL PRESIDENT

COUNTY OF GENESEE

(SEAL)

By: _____
Raymond F. Cianfrini
GENESEE COUNTY LEGISLATURE CHAIR

CITY SCHOOL DISTRICT OF BATAVIA

(SEAL)

By: _____
Patrick Burk
CITY SCHOOL DISTRICT OF BATAVIA
BOARD OF EDUCATION PRESIDENT

**GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY d/b/a GENESEE
COUNTY ECONOMIC DEVELOPMENT
CENTER**

(SEAL)

By: _____
Steven G. Hyde
PRESIDENT/CHIEF EXECUTIVE OFFICER

BATAVIA DEVELOPMENT CORPORATION

(SEAL)

By: _____
Ramon Chaya
BATAVIA DEVELOPMENT CORPORATION
PRESIDENT

STATE OF NEW YORK)
) ss:
COUNTY OF GENESEE)

On _____, 2015, before me personally came Brooks Hawley to me known, who being by me duly sworn did depose and say that he is the Batavia City Council President of the City of Batavia, New York, the municipal corporation described in foregoing, and acknowledged that he executed the same by order of such corporation.

Notary Public

STATE OF NEW YORK)
) ss:
COUNTY OF GENESEE)

On _____, 2015, before me personally came Raymond F. Cianfrini to me known, who being by me duly sworn did depose and say that he is the Genesee County Legislature Chair, of Genesee County, New York, the municipal corporation described in foregoing, and acknowledged that he executed the same by order of such corporation.

Notary Public

STATE OF NEW YORK)
) ss:
COUNTY OF GENESEE)

On _____, 2015, before me personally came Patrick Burk to me known, who being by me duly sworn did depose and say that he is the City School District of Batavia Board of Education President in Batavia, New York, a public school described in foregoing, and acknowledged that he executed the same by order of such corporation.

Notary Public /

STATE OF NEW YORK)
) ss:
COUNTY OF GENESEE)

On _____, 2015, before me personally came Steven Hyde to me known, who being by me duly sworn did depose and say that he is the President/CEO of the Genesee County Industrial Development Agency in Batavia, New York, a public benefit corporation described in foregoing, and acknowledged that he executed the same by order of such corporation.

Notary Public

STATE OF NEW YORK)
) ss:
COUNTY OF GENESEE)


On _____, 2015, before me personally came Ramon Chaya to me known, who being by me duly sworn did depose and say that he is the Batavia Development Corporation Chair, of Batavia Development Corporation in Batavia, New York, a non-profit local development corporation described in foregoing, and acknowledged that she executed the same by order of such corporation.

Notary Public



City of Batavia

To: Honorable City Council

From: Jason Molino, City Manager 

Date: November 17, 2015

Subject: Ice Arena Lease

Background: On March 31, 2016 the City's operating lease for the ice arena expires. The City first entered into a five year operating lease with Firland Management following a Request for Proposal process in 2006. The City then renewed the lease agreement for another five years in May 2011. The current lease agreement covers the operator's responsibilities for maintenance of the facility, small capital expenses, programming/ice rental, liability for personal injury or property and facility pricing. The City is responsible for all major capital expenditures with the exception of the purchase of the zamboni. In exchange for operating the facility, the City receives several considerations including an annual lease payment, annual maintenance fee and capital improvement fee.

The annual lease payment has increased over the past five years starting at \$15,000 in 2012 and increased to \$20,000 in 2016. These lease payments are put into the City's Ice Arena Capital Improvement Reserve Fund to be used only for future capital improvements to the ice arena.

The City receives an annual maintenance fee that reimburses the City for an annual maintenance contract related to the arena's refrigeration system. The annual maintenance fee is approximately \$7,200 which is accounted for in the City's general fund.

Lastly the City receives a capital improvement fee that offsets existing debt service from an energy performance contract from 2006 that did substantial improvements to the arena. Because the City does not pay utilities to operate the facility, the City does not realize any energy savings achieved from the 2006 improvements. As a result the operator pays the City a capital improvement fee which is representative of the energy savings achieved from the improvements. The capital improvement fee has increased over the past five years starting at \$25,260 in 2012 and increased to \$28,430 in 2016.

In total this year the City will receive annual payments of approximately \$55,000 from the rink operator that offset City debt service and maintenance costs, as well as builds the City's reserve fund.

To date Firland Management has done an excellent job managing and meeting their annual maintenance obligations for the facility. In addition, after 10 years the City will have received over \$500,000 in

payments from Firland Management over for Capital/Service contract, lease payments and zamboni payments.

Recommendation: While Firland Management has been a good community partner and has maintained and operated the facility well over the past 10 years, it is recommended that the City issue a Request for Qualifications (RFQ) for interested operators. RFQ submittals would be evaluated on, but not limited to, experience related to management and operation of similar types of facilities, planned operations and financial capability. The RFQ would be issued in December 2015, all submittals reviewed and a recommendation to City Council in February 2016.

If you have any questions please feel free to contact me.

#-2015
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 City Council of the City of Batavia that the following appointments be made:

Youth Board

David Twichell


December 31, 2018

**Seconded by Councilperson
and on roll call**



City of Batavia

To: Honorable City Council

From: Jason Molino, City Manager 

Date: November 17, 2015

Subject: 2016 City Council meeting dates

Attached please find a list of City Council meeting dates for 2016. Please note, it is recommended that the February Business meeting be moved to Tuesday February 9th, rather than Monday. This due to the New York Conference of Mayor's (NYCOMs) Winter Legislative Session being held on February 8th. As a member of the Executive Committee my attendance is required. Also, in the past, some City Council members have attended the winter session to discuss current issues with NYCOM members as well as address issues facing the City directly with our State Representatives in Albany. The past several years this NYCOM session has conflicted with a regularly scheduled Council meeting and as a result Council members have not attended the session. Moving the Council meeting to Tuesday would allow several Council members to attend the NYCOM session.

If you have any questions please do not hesitate to contact me.

2016 City of Batavia Council Meetings

January 4, 2016 (Organizational Meeting)

January 11, 2016 (Business)

January 25, 2016 (Conference)

February 9, 2016 (Tuesday - Business)

February 22, 2016 (Conference)

March 14, 2016 (Business)

March 28, 2016 (Conference)

April 11, 2016 (Business)

April 25, 2016 (Conference)

May 9, 2016 (Business)

May 23, 2016 (Conference)

June 13, 2016 (Business)

June 27, 2016 (Conference)

July 11, 2016 (Business and Conference)

August 15, 2016 (Business and Conference)

September 12, 2016 (Business)

September 26, 2016 (Conference)

October 11, 2016 (Tuesday - Business)

October 24, 2016 (Conference)

November 14, 2016 (Business)

November 28, 2016 (Conference)

December 12, 2016 (Business and Conference)