



BATAVIA CITY COUNCIL CONFERENCE MEETING

**City Hall - Council Board Room
One Batavia City Centre
Monday, October 24, 2016 at 7:00 PM**

AGENDA

- I. Call to Order
- II. Invocation – Councilperson Viele
- III. Pledge of Allegiance
- IV. Public Comments
- V. Council Response to Public Comments
- VI. Communication
 - a. BBID - Christmas in the City, December 2, 2016 - 5:00 to 9:00 p.m.
- VII. Council President Report
 - a. Announcement of the next regular City Council Business meeting to be held on Monday, November 14, 2016 at 7:00 p.m. at the City Hall Council Board Room, 2nd Floor, City Centre.
- VIII. Fire Department Car Seat Grant
- IX. ADA Transition Plan
- X. STOP-DWI “Crackdown (Enhanced) Award
- XI. Police Traffic Services Grant
- XII. Healthy Schools Corridor Project Supplemental Agreement #1
- XIII. Sales Tax Allocation Agreement
- XIV. Executive Session...Collective Bargaining
- XV. Adjournment

Fee pd 9/12/16
25



City of Batavia
Batavia, New York 14020
(585) 345-6300

DATE: 09/12/2016
GENERAL RECEIPTS
RECEIPT TYPE: 2590
RECEIPT # 10966
AMOUNT PAID ----

TIME: 14:08:39

25.00

Official Use Only:

Event Application #:

Event Application Fee - \$25.00 (non-refundable)
(A separate permit must be issued for each item requested)

Batavia Business Improvement District Management Association, Inc
Name of Renter / Sponsor / Organization:

Christmas IN The City Friday, December 2nd 2016
Type / Name of Event: Date(s) & Time(s) of Event

Profit ☐ Non-Profit ☒

CONTACT INFORMATION:

John Roche 8 Center Street Batavia
Primary Contact Name Primary Contact Address
adam.miller2@verizon.net 585-343-0548
E-Mail Address Home Phone # Cell Phone # Other #

Beth Kemp 37 Center Street Batavia
Secondary Contact Name Secondary Contact Address
bkemp@mail.geneeseenyc.com 585-993-7747
E-Mail Address Home Phone # Cell Phone # Other #

EVENT DAY CONTACT INFORMATION:

John Roche 585-343-0548
Contact Name Home Phone # Cell Phone # Other #

Location of your event: Downtown Batavia / Main Street

Please provide details of your event: The Christmas in The City parade will be on
Main St starting from Jefferson Ave. to ~~Bank St~~ ^{Summit} St. Horse and wagon
rides will go around Jackson block starting at the Center St. parking lot. A
Holiday trolley will bring people to H&M and back to the save-A-lot parking lot.

Will there be alcohol at your event? Yes ☐ No ☒ If yes, complete the following:

Type of alcoholic beverage to be served: Liquor ☐ Wine ☐ Beer ☐

Will you be providing alcohol to your group? Yes ☐ No ☒

Will you be selling alcohol to your group? Yes ☐ No ☒ Insurance certificate WILL BE required with Liquor Legal.

Will people be allowed to bring alcohol to the event? Yes ☐ No ☒

Who will be applying to the NYS Liquor Authority for the permit to sell? _____

It is the Applicant's responsibility to police the area during the gathering to make sure all Alcohol Beverage Control rules are followed. Also, after the event Applicant is responsible to dispose of all empty bottles and debris.

If you are contracting with a group to sell alcohol during your event on city property, separate insurance is required from them with Liquor Legal in addition to your insurance.

EVENT INFORMATION (required):

12/2/16 Horse, Wagon, Trolley 5:00pm 9:00pm
Set-Up Date: Set-Up Time: Tear Down Date: Tear Down Time:
12/2/16 - Parade 7:00pm 7:45pm → Police monitors traffic control
PLEASE LIST ALL DATES / TIMES AND CROWD INFORMATION BELOW:

12/2/16	Horse & Wagon	5-9pm	500	0
Date:	Start Time:	End Time:	Estimated Crowd Size:	# of Vendors / Displays
12/2/16	Trolley	5-9pm		
12/2/16	Parade	7-7:45pm	500-700	0
Date:	Start Time:	End Time:	Estimated Crowd Size:	# of Vendors / Displays

WILL THE EVENT INCLUDE:

Parade: Yes ☒ No ☐ (MAP OF DESIRED ROUTE MUST BE ATTACHED)
Run or Walk: Yes ☐ No ☐ (MAP OF DESIRED ROUTE MUST BE ATTACHED)
Music: Yes ☐ No ☐ (SITE DRAWING OF STAGE OR DJ LOCATION ATTACHED)
Street Closure(s): Yes ☐ No ☐ (MAP OF CLOSED STREETS AND DROP LOCATION OF BARRICADES)
Other: Yes ☐ No ☐ (MAP OF DESIRED ROUTE MUST BE ATTACHED)
Fireworks or Hazardous Materials? Yes ☐ No ☒ Carnival or Amusement Rides? Yes ☐ No ☒

Name of Company Providing Above: Company Contact/Representative Phone # ()

Address, Street City Zip Code

Music: Live Group ☐ Recorded/DJ ☐

Name of Company Providing Above: Company Contact/Representative Phone # ()

Address, Street City Zip Code

CITY SERVICES SUPPORT:

City Code 66-15, D-2 The City reserves the right, as part of the permitting process, to require the applicant to pay for additional operational costs of the City associated with the event.

FOR EVENTS IN CITY PARKS, GARBAGE PICK-UP WILL BE MADE ONLY TO GARBAGE CANS ON SITE.
ADDITIONAL GARBAGE MUST BE BAGGED AND REMOVED FROM PREMISES BY EVENT SPONSOR.

ELECTRIC:

Will electric be needed for the event? Yes ☐ No ☒

What will you be providing electric to? _____

Will generators be used? Yes ☐ No ☒

If yes, INCLUDE SITE DRAWING INDICATING PLACEMENT/LOCATION OF GENERATOR

SIZE OF GENERATOR(S) _____ FUEL SOURCE - GAS - ☐ - DIESEL - ☐ - PROPANE - ☐

Will Tents/Canopies or other membrane structures be erected at event?
Will a bounce house or other air supported structures be erected at event?

Yes ☐ No ☒

Yes ☐ No ☒

ANCHORING INTO PAVEMENT IS PROHIBITED!

STREET CLOSURE(S):

Will street(s) need to be closed for the event? Yes ☒ No ☐ Reason: Parade

Main Street (Temporary)	Jefferson	&	Court
Street to be closed		Cross Streets	
	Barth Summit	&	Center
Street to be closed		Cross Streets	
	Jackson	&	
Street to be closed		Cross Streets	
		&	
Street to be closed		Cross Streets	

Will street barricades be requested from the City? Yes ☒ No ☐ How Many? (see Attached)

Will traffic cones be requested from the City? Yes ☐ No ☐ How Many? _____
(Drop off locations of requested items must be identified on the site drawing)

BANNERS / SIGNS OR OTHER DECORATIONS ARE NOT TO BE ATTACHED TO STREET BARRICADES, TRAFFIC CONES, LIGHT POLES, OR ANY OTHER CITY PROPERTY

Police Dept (Police Chief Shawn Heubusch) has agreed to block traffic temporarily for the parade.

Will City Police Officers be requested for the event? Yes ☒ No ☐

**FINAL DETERMINATION FOR NUMBER OF POLICE OFFICERS
and UTILIZATION WILL BE AT THE DISCRETION OF THE CITY.**

PLEASE NOTE:

1. Be as specific as possible in the description so we have the best understanding of your event. Also, be clear as to what you would like provided by the City. **Applications should be submitted at least 30 days in advance.**
2. Fire hydrants, Cross Streets/Alleys and Store Fronts **Shall Not Be Blocked** by any Vehicle or Concession at any time.
3. An Emergency Vehicle Safety Lane Must be Maintained at All times at All Locations
4. Fuel Containers Must be of an Approved type and Must be Properly Secured
5. Deep Fryers Must Be Approved. Commercial Types Require a Type "K" Portable Fire Extinguisher
6. All Food Vendors Must Have a Type ABC Fire Extinguisher. All Fire Extinguishers Must Be Inspected Within The Last Year. **A Valid Health Department Permit Must Be Displayed.**
7. No grease or substance of any kind may be discharged upon the streets, sidewalks, or into the storm drains and/or sewers
8. City Sign Ordinances Shall Be Complied With At All Times And In All Regards
9. No paint or other markings may be placed on the street surface.
10. Any overtime and/or material costs in excess of \$500, as determined by City Departments, must be paid by the event sponsor or other party
11. The application fee is due at time of submission of the application and is non-refundable.
12. If approved, a Certificate of Liability Insurance of at least \$1,000,000 naming the City of Batavia as an additional insured for at least the day(s) of the event must be submitted to the City Clerk prior to the event date.

Hold Harmless Agreement

Batavia B.I.D., the organizer/sponsor, shall indemnify, hold harmless, assume liability for and defend the City of Batavia, its employees, officers and agents from any and all damages, costs and expenses including but not limited to, attorney's fees, court costs, and all other sums which the City of Batavia its employees, officers and agents may pay or become obligated to pay on account of any and every demand, claim or assertion of liability, or any claim founded thereon, arising or alleged to have arisen out of the activities described in this special event application and sanctioned by the permit issued by the City of Batavia or by any act or omission of the Batavia B.I.D. (Organizer/Sponsor), its members, agents, employees, volunteers, officers, or directors in relation to activities described in this application and sanctioned by the issuance of a special event permit.

9/7/16
Date:

Batavia Business Improvement District
Name of Event Sponsor:
Laurie L. Alt, Executive Director
Authorized Signature, Title
Laurie L. Ottramari
Name - Printed or Typed

The rules and information contained within this application have been read and will be adhered to.

Date:

Signature of Applicant:

Please forward this application to:

**City Clerk's Office
Attention: Events Applications Department
One Batavia City Centre
Batavia, New York 14020**

**SPECIAL EVENT APPLICATION
DEPARTMENT APPROVAL SUMMARY**

FOR OFFICIAL CITY USE ONLY

<u>OFFICIAL USE ONLY</u>				
Department Recommendations:	Approved	Denied	Additional Costs	Department Initials
DPW (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	<hr/>	<hr/>
Fire Dept. (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	<hr/>	<hr/>
Police Dept. (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	<hr/>	<hr/>
<i>If recommendation is denied, please attach a brief explanation</i>				

<u>OFFICIAL USE ONLY</u>	
<hr/> <i>Date Received</i>	<hr/> <i>Council Action: (Approved / Disapproved)</i>
<hr/> <i>Date of Council Action:</i>	<hr/> <i>Insurance Received (if applicable)</i>

Event Application #:

Department:

List Department Name Here

Department Approval

	YES	NO
DPW	<input type="checkbox"/>	<input type="checkbox"/>
Fire	<input type="checkbox"/>	<input type="checkbox"/>
Police	<input type="checkbox"/>	<input type="checkbox"/>

Department Cost Estimate:

If applicable

Estimate based on: *Fillable table – type your response here:*

If Application not Approved, Provide Reason Here: *Fillable table – type your response here:*

Submitted By:

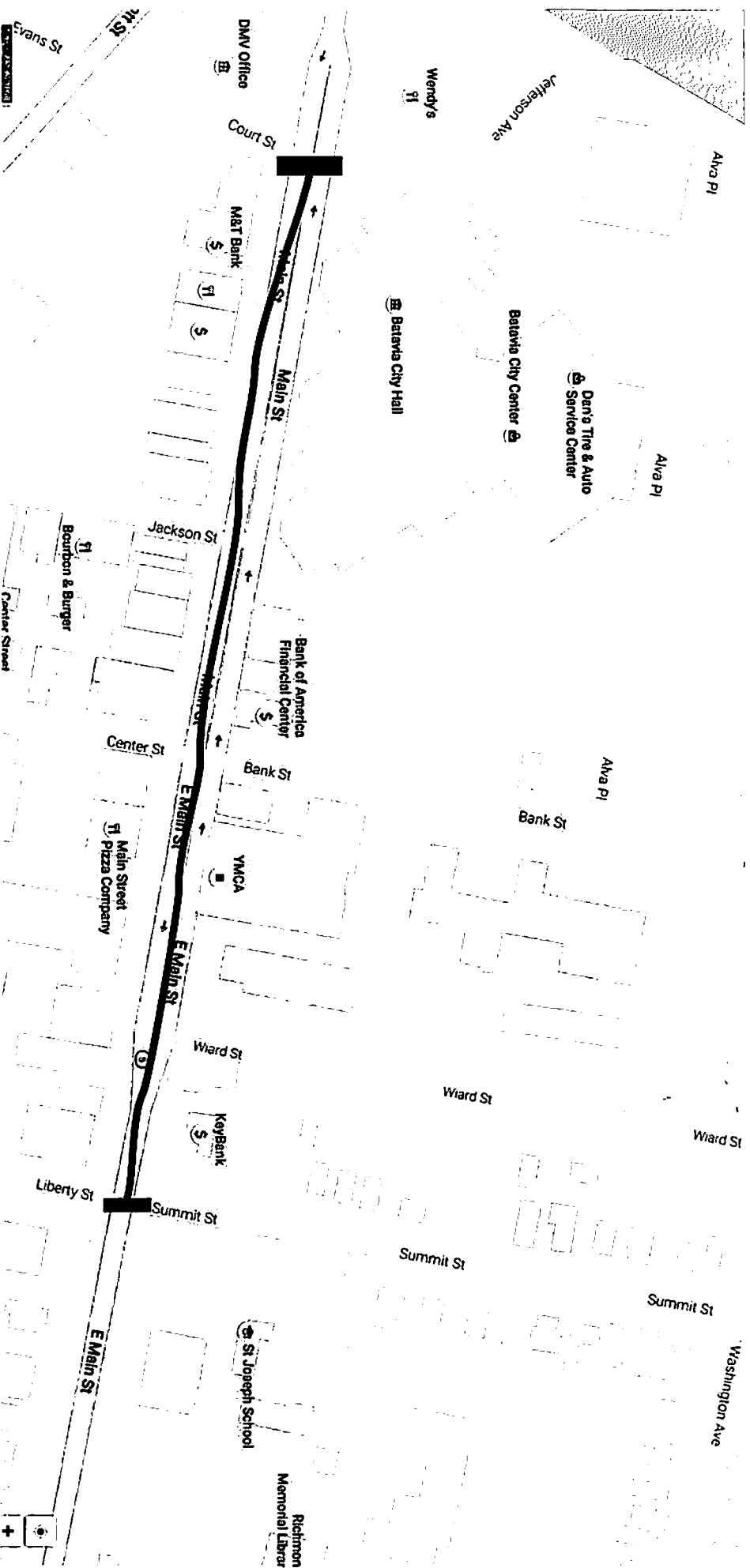
Name / Title

Date Submitted

Christmas in the City Parade 2016

Start of Parade (Jefferson onto Main) *Marchers/Floats will go to the far side of median, opposite City Centre

End of Parade (Summit St)



Christmas in the City

Estimated cost from the police department is \$558.60 and \$1,992.38 from Public Works.
There are no other estimated costs from the other departments.



City of Batavia

Memorandum

To: Jason Molino

From: Daniel G. Herberger, Interim Fire Chief

Date: 10/20/16

Subject: Child Safety Seat Program

Jason, attached is a resolution to amend the Fire Department 2016-2017 budget to reflect the receipt of a Child Safety Seat Program through the NYS Governor's Traffic Safety Committee. The grant is in the amount of \$1,500.00.

This amendment will affect the following budget lines:

Increase revenue accounts:	
1.1.3389.1157	\$1,500.00
Increase expense accounts:	
1.3410.0201.1157	\$1,500.00

Please let me know if you have any questions or concerns.

Fire Department
18 Evans Street
Batavia, New York 14020



Phone: 585-345-6375
Fax: 585-345-5639
www.batavianewyork.com

#-2016

A RESOLUTION TO AMEND THE 2016-2017 FIRE DEPARTMENT BUDGET TO REFLECT THE RECEIPT OF A CAR SEAT GRANT, IN THE AMOUNT OF \$1,500.00.

Motion of Councilperson

WHEREAS, the City of Batavia Fire Department has received a grant in the amount of \$ 1,500.00 for Award period October 1, 2016 through September 30, 2017 from the New York State Governor's Traffic Safety Committee related to Car Seat Safety for increased child passenger safety and proper installation training of caregivers in an effort to reduce serious injury and death to children; and

WHEREAS, to properly account for the expenditure of this money, a budget amendment needs to be made; and

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Manager is authorized to make the following budget amendment to the 2016-2017 budgets effective November 14, 2016 to cover various Car Seat Program details and equipment purchases:

Increase revenue accounts:

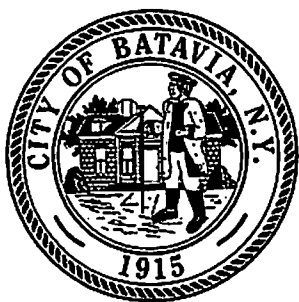
Increase revenue accounts:

1.1.3389.1157 \$1,500.00

Increase expense accounts:

1.3410.0201.1157 \$1,500.00

**Seconded by Councilperson
and on roll call**



City of Batavia

Memorandum

To: Jason Molino, City Manager

From: Matt Worth, Director of Public Works *MMW*

Date: October 17, 2016

Subject: ADA Transition Plan

The US Department of Justice's ADA implementation regulations barring discrimination in state and local government services (28 CFR Part 35) require that "a public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity. In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities" (28 CFR 35.149 and 35.150). The regulation requires that "a public entity that employs 50 or more persons" prepare an ADA Transition Plan identifying noncompliance in pedestrian accessible routes and facilities in the municipality's right of way, along with a plan and schedule for corrective action.

The City has generally constructed, and maintained facilities in accordance with these regulations since 1990 or before. Unfortunately, there is no record or evidence of a formal transition plan having been adopted or enacted. The ADA Transition Plan being submitted for adoption is a roadmap to compliance which allows for the City to evaluate facilities as to their current state of compliance, and develop a plan to bring these facilities into full compliance over time. Once formally adopted, the Department will begin the evaluation and scoring phase and develop a list of physical barriers and the methods to remove those barriers.

The formal adoption of a transition plan is the only accepted tool for giving relief from immediate compliance, and is a regulatory requirement.

Supporting Documentation:
ADA Transition Plan
Draft Resolution

#-2016
A RESOLUTION ADOPTING AMERICANS WITH DISABILITIES
ACT TRANSITION PLAN

Motion of Councilperson

WHEREAS, the City Council of the City of Batavia recognizes that the City needs an Americans with Disabilities Act (ADA) Transition plan and is a crucial aspect of providing excellent services to residents, businesses, visitors and property owners in the City of Batavia; and

WHEREAS, the City Council of the City of Batavia was presented on October 24, 2016, with the ADA Transition Plan; and

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Batavia hereby adopts the proposed ADA Transition Plan; and

BE IT FUTRHER RESOLVED, that the ADA Transition Plan is a document working towards improving ADA compliance for the City of Batavia; and

BE IT FURTHER RESOLVED, that the adoption of the ADA Transition Plan are consistent with the City's compliance of ADA regulations and is outlined in Attachment A of this resolution.

Seconded by Councilperson
and on roll call

ADA Transition Plan

City of Batavia

Americans with Disabilities Act (ADA) regulations prohibit discrimination against individuals on the basis of disability and require state and local governments to make their programs and services accessible to persons with disabilities. The City of Batavia, has made a significant and long term commitment to improving the accessibility of the City.

As evidence of the commitment to improving the accessibility of the City, the ADA Transition Plan will be incorporated into all aspects of planning in the City. The City of Batavia has made substantial progress toward full compliance with ADA accessibility requirements. Currently the City has been identifying the facilities that need to be improved each year in the capital plan. This ADA Transition Plan will allow the City to better focus on providing accessibility by addressing and eliminating structural barriers associated with public facilities. This ADA Transition Plan will be revised and updated as it progresses.

Introduction

The purpose of this plan is to ensure that the City of Batavia identifies prohibited structural barriers to its public facilities, and where structurally feasible, schedules and implements ADA required improvements in order to remove those barriers. This ADA Transition Plan documents facilities that must be modified or improved to ensure compliance with ADA regulations.

This ADA Transition plan includes the following components:

- I. Identification of physical barriers in a public entity's facilities that limit the accessibility of its programs, activities, or services to individuals with disabilities.
- II. Identification of the methods to be used to remove any barriers limiting accessibility.
- III. A schedule for completion of the necessary steps to achieve accessibility in public facilities; and
- IV. The name of the public entity's ADA Coordinator.

I. Identification of Physical Barriers

The first phase of the City of Batavia's ADA Transition Plan is to identify facilities that limit the accessibility of its programs, activities, or services to individuals with disabilities. We will identify them through an evaluation process. Officials from the City of Batavia will evaluate the accessibility of

1. City sidewalks, crosswalks, and curb ramps
2. Publicly accessible buildings
3. Parking lots serving the public.

The primary focus of the ADA Transition Plan is to address all ADA noncompliant facilities. There will be an evaluation with a rating to identify which facilities are a priority. Any deficiencies, suggested improvements, and observations relating to structural feasibility of improvements will be noted and recorded. A list of the Public Facilities will also be created and will serve as the central database for identifying structural barriers, suggested improvements, and comments relating to the structural feasibility of improvements.

1. Evaluation of City Sidewalks, Crosswalks and Curb Ramps

The Proposed Accessibility guidelines for Pedestrian Facilities in the Public Right-of-way and the following list of criteria will be used to assess the condition and rank each City sidewalk, crosswalk, and curb ramp. Once they are ranked, we will use the ranking in deciding which facilities will be made a priority. This list of criteria can be change or updated to reflect the current ADA standards.

List of Criteria:

- Steps
- No ramps
- More than 100 ft. of unpaved walkway on both sides of the street
- Heaving
- Vertical displacement
- Severe stress
- Not designed to current ADA standards
- No detectable surfaces
- Problems with ramps/landings
- Insufficient width
- Proper grade

Attached is a copy to date of the sidewalks and ramps that have been replaced over the last few years. It summarizes the sidewalk compliance progress to date.

2. Buildings

The City of Batavia's facilities vary considerably in age and condition. Major improvements and or replacements have been made on a site-to-site basis based on severity and funding. Major ADA-related improvements will be scheduled as the comprehensive facilities plans and an overall strategy for capital improvements are developed. Since 1990 the City of Batavia has been making new facilities ADA compliant when new construction or when renovations are completed. For this reason, the City does not expect that its publicly accessible buildings which were built after 1990 will require major structural improvements. Unfortunately, the aging facilities do require expensive investments to keep them functioning, and is believed that some may be structurally unfeasible.

Once the public facilities have been evaluated and the necessary improvements have been prioritized the City will formulate an estimated budget for the improvements. We believe that the survey will confirm a general assessment that modern facilities are ADA compliant and that the older facilities often have structural barriers that may require long term, engineered, expensive solutions.

3. Parking Lots

Since all parking lots have been built or repaved since the enactment of Americans with Disabilities Act in 1990, it is believed that they have been built in compliance with applicable standards. When the evaluations of parking lots are done, they will incorporate relevant portions of the ADA checklist.

II. Identification of Methods to Remove Barriers

The second phase of the City of Batavia's ADA Transition Plan is to develop a method to remove the barriers. This includes identification of the nature of the needed improvements and a determination regarding structural feasibility of improvements under ADA standards, and prioritization of necessary improvements. We will also include and make a list of improvements that may not be structurally feasible, based on ADA regulations. After the evaluation, methods for compliance may include complete reconstruction, new facilities or facility upgrades, including upgrades that may allow for closure of other facilities or more optimum usage of facilities.

The overall rating that we will be utilizing in assessing the conditions of the facilities is listed below.

Overall Rating will be:

Rating 1 – Not accessible – High Risk

Rating 2 – Partially accessible

Rating 3 – Accessible

Rating 4 – Fully Compliant

Rating 5 – Not Applicable

III. Schedule for Completion

City of Batavia Officials will coordinate over the next several months to re-evaluate buildings, parking lots, sidewalks, crosswalks and curb ramps. To this point, we have always made ADA requirements part of our Capital Planning. The City of Batavia will

continue to include ADA compliance in planning each Capital project, and will evaluate the buildings, streets and outdoor facilities by April 30, 2018.

The necessary improvements will be scheduled as part of existing highway capital projects, stand-alone projects/ repairs, or reconstruction or rehabilitation projects. The necessary improvements will depend upon the number and severity of the deficiencies identified during the evaluation. When buildings and facilities are renovated or reconstructed ADA compliance will be included as part of the project. Major ADA related improvements will be incorporated into plans or capital projects as they are developed. Any and all plans are reviewed with City of Batavia Council and approved by them in a public meeting.

Since the re-evaluation of all the facilities will involve a substantial undertaking for the reviewing officials, the City plans that the evaluation will be completed by April 30, 2018. The ADA Transition Plan will document facilities that must be modified or improved to ensure compliance with ADA regulations. The City of Batavia is committed to making its public facilities accessible to all persons regardless of their disability. The City of Batavia will continue updating the data, addressing issues to improve the information, and update the ADA Transition Plan on a periodic basis.

IV. ADA Coordinator

The City of Batavia's ADA coordinator is Dawn Fairbanks, Human Resource Specialist. She is the official responsible for implementation of modifications or improvements that address and eliminate structural barriers associated with use of public facilities. Her Contact information is:

Dawn Fairbanks
Human Resource Specialist
City of Batavia
One Batavia City Centre
Batavia, NY 14020

Attachments:
Sidewalk Map
Downtown Parking
Checklist for Existing Facilities

[illegible]

1

REVISED - COURT ST PLAZA - 2nd - 10/4/71
REVISED - COURT ST PLAZA - 11/22/71
REVISED - COURT ST PLAZA - OVERSIGHT POINT - 4/9/72
REVISED - COURT ST PLAZA - OVERSIGHT POINT - 5/19/72
REVISED - COURT ST PLAZA - OVERSIGHT POINT - 5/19/72
REVISED - COURT ST PLAZA - OVERSIGHT POINT - 5/19/72
REVISED - Library has submitted 22 requests for 8 sets for copyright - 1/26/73
REVISED - OVERSIGHT POINT 10/7/73
REVISED - ADDED 22 SPACES WEST CITY CENTER 10/1/74
REVISED - ADDED 22 SPACES WEST CITY CENTER 10/1/74
REVISED - ADDED 22 SPACES WEST CITY CENTER 10/1/74

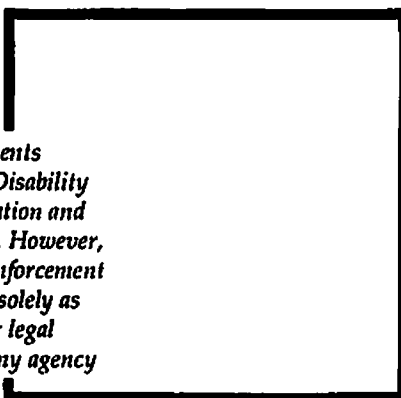
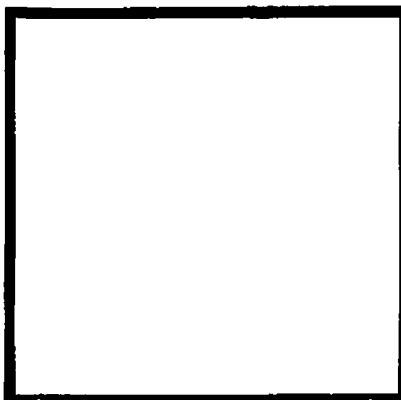
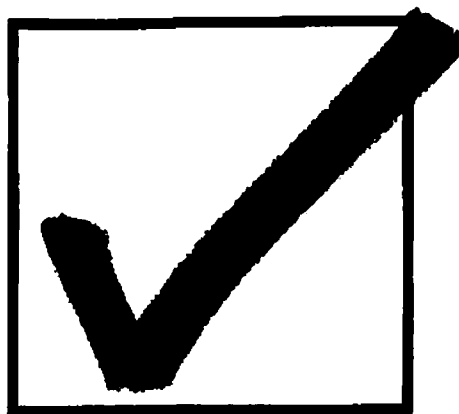
Checklist for Existing Facilities version 2.1



To obtain additional copies of this checklist, contact your Disability and Business Technical Assistance Center. To be automatically connected to your regional center, call 1-800-949-4ADA. This checklist may be copied as many times as desired by the Disability and Business Technical Assistance Centers for distribution to small businesses but may not be reproduced in whole or in part and sold by any other entity without written permission of Adaptive Environments, the author.

copyright © 1995
Adaptive Environments Center, Inc.
Barrier Free Environments, Inc.

Barrier Free Environments, Inc. and Adaptive Environments Center, Inc. are authorized by the National Institute on Disability and Rehabilitation Research (NIDRR) to develop information and materials on the Americans with Disabilities Act (ADA). However, you should be aware that NIDRR is not responsible for enforcement of the ADA. The information, presented here is intended solely as informal guidance, and is neither a determination of your legal rights or responsibilities under the Act, nor binding on any agency with enforcement responsibility under the ADA.



The Americans with Disabilities Act Checklist for Readily Achievable Barrier Removal

August 1995

Checklist for Existing Facilities version 2.1

Introduction

Title III of the Americans with Disabilities Act requires public accommodations to provide goods and services to people with disabilities on an equal basis with the rest of the general public. The goal is to afford every individual the opportunity to benefit from our country's businesses and services, and to afford our businesses and services the opportunity to benefit from the patronage of all Americans.

The regulations require that architectural and communication barriers that are structural must be removed in public areas of existing facilities when their removal is **readily achievable**—in other words, easily accomplished and able to be carried out without much difficulty or expense. Public accommodations that must meet the barrier removal requirement include a broad range of establishments (both for-profit and nonprofit)—such as hotels, restaurants, theaters, museums, retail stores, private schools, banks, doctors' offices, and other places that serve the public. People who own, lease, lease out, or operate places of public accommodation in existing buildings are responsible for complying with the barrier removal requirement.

The removal of barriers can often be achieved by making simple changes to the physical environment. However, the regulations do not define exactly how much effort and expense are required for a facility to meet its obligation. This judgment must be made on a case-by-case basis, taking into consideration such factors as the size, type, and overall financial resources of the facility, and the nature and cost of the access improvements needed. These factors are described in more detail in the ADA regulations issued by the Department of Justice.

The process of determining what changes are readily achievable is not a one-time effort; access should be re-evaluated annually. Barrier removal that might be difficult to carry out now may be readily achievable later. Tax incentives are available to help absorb costs over several years.

Purpose of This Checklist

This checklist will help you identify accessibility problems and solutions in existing facilities in order to meet your obligations under the ADA.

The goal of the survey process is to plan how to make an existing facility more usable for people with disabilities. The Department of Justice (DOJ) recommends the development of an Implementation Plan, specifying what improvements you will make to remove barriers and when each solution will be carried out: "...Such a plan...could serve as evidence of a good faith effort to comply...."

Technical Requirements

This checklist details some of the requirements found in the ADA Standards for Accessible Design (Standards). The ADA Accessibility Guidelines (ADAAG), when adopted by DOJ, became the Standards. The Standards are part of the Department of Justice Title III Regulations, 28 CFR Part 36 (*Nondiscrimination on the basis of disability... Final Rule*). Section 36.304 of this regulation, which covers barrier removal, should be reviewed before this survey is conducted.

However, keep in mind that full compliance with the Standards is required only for new construction and alterations. The requirements are presented here as a guide to help you determine what may be readily achievable barrier removal for existing facilities. The Standards should be followed for all barrier removal unless doing so is not readily achievable. If complying with the Standards is not readily achievable, you may undertake a modification that does not fully comply, as long as it poses no health or safety risk.

In addition to the technical specifications, each item has a scoping provision, which can be found under Section 4.1 in the Standards. This section clarifies when access is required and what the exceptions may be.

Each state has its own regulations regarding accessibility. To ensure compliance with all codes, know your state and local codes and use the more stringent technical requirement for every modification you make; that is, the requirement that provides greater access for individuals with disabilities. The barrier removal requirement for existing facilities is new under the ADA and supersedes less stringent local or state codes.

What This Checklist is Not

This checklist does not cover all of the requirements of the Standards; therefore, it is not for facilities undergoing new construction or alterations. In addition, it does not attempt to illustrate all possible barriers or propose all possible barrier removal solutions. The Standards should be consulted for guidance in situations not covered here.

The Title III regulation covers more than barrier removal, but this checklist does not cover Title III's requirements for nondiscriminatory policies and practices and for the provision of auxiliary communication aids and services. The communication features covered are those that are structural in nature.

Priorities

This checklist is based on the four priorities recommended by the Title III regulations for planning readily achievable barrier removal projects:

- Priority 1: Accessible approach and entrance
- Priority 2: Access to goods and services
- Priority 3: Access to rest rooms
- Priority 4: Any other measures necessary

Note that the references to ADAAG throughout the checklist refer to the Standards for Accessible Design.

How to Use This Checklist

✓ **Get Organized:** Establish a time frame for completing the survey. Determine how many copies of the checklist you will need to survey the whole facility. Decide who will conduct the survey. It is strongly recommended that you invite two or three additional people, including people with various disabilities and accessibility expertise, to assist in identifying barriers, developing solutions for removing these barriers, and setting priorities for implementing improvements.

✓ **Obtain Floor Plans:** It is very helpful to have the building floor plans with you while you survey. If plans are not available, use graph paper to sketch the layout of all interior and exterior spaces used by your organization. Make notes on the sketch or plan while you are surveying.

✓ **Conduct the Survey:** Bring copies of this checklist, a clipboard, a pencil or pen, and a flexible steel

tape measure. With three people surveying, one person numbers key items on the floor plan to match with the field notes, taken by a second person, while the third takes measurements. *Be sure to record all dimensions!* As a reminder, questions that require a dimension to be measured and recorded are marked with the ruler symbol. Think about each space from the perspective of people with physical, hearing, visual, and cognitive disabilities, noting areas that need improvement.

✓ **Summarize Barriers and Solutions:** List barriers found and ideas for their removal. Consider the solutions listed beside each question, and add your own ideas. Consult with building contractors and equipment suppliers to estimate the costs for making the proposed modifications.

✓ **Make Decisions and Set Priorities:** Review the summary with decision makers and advisors. Decide which solutions will best eliminate barriers at a reasonable cost. Prioritize the items you decide upon and make a timeline for carrying them out. Where the removal of barriers is not readily achievable, you must consider whether there are **alternative methods** for providing access that *are* readily achievable.

✓ **Maintain Documentation:** Keep your survey, notes, summary, record of work completed, and plans for alternative methods on file.

✓ **Make Changes:** Implement changes as planned. Always refer directly to the Standards and your state and local codes for complete technical requirements before making any access improvement. References to the applicable sections of the Standards are listed at the beginning of each group of questions. If you need help understanding the federal, state, or local requirements, contact your Disability and Business Technical Assistance Center.

✓ **Follow Up:** Review your Implementation Plan each year to re-evaluate whether more improvements have become readily achievable.

To obtain a copy of the Title III regulations and the Standards or other technical information, call the U.S. Dept. of Justice ADA Information Line at (800) 514-0301 Voice, (202) 514-0381 TDD, or (800) 514-0383 TDD. For questions about ADAAG, contact the Architectural and Transportation Barriers Compliance Board at (800) USA-ABLE.

QUESTIONS

POSSIBLE SOLUTIONS

Priority

1 Accessible Approach/Entrance

People with disabilities should be able to arrive on the site, approach the building, and enter as freely as everyone else. At least one route of travel should be safe and accessible for everyone, including people with disabilities.

Yes No

Route of Travel (ADAAG 4.3, 4.4, 4.5, 4.7)

Is there a route of travel that does not require the use of stairs?


☐ ☐


- ☐ Add a ramp if the route of travel is interrupted by stairs.
- ☐ Add an alternative route on level ground.

Is the route of travel stable, firm and slip-resistant?


☐ ☐


- ☐ Repair uneven paving.
- ☐ Fill small bumps and breaks with beveled patches.
- ☐ Replace gravel with hard top.

 Is the route at least 36 inches wide?

☐ ☐

width

- ☐ Change or move landscaping, furnishings, or other features that narrow the route of travel.
- ☐ Widen route.

 Can all objects protruding into the circulation paths be detected by a person with a visual disability using a cane?

☐ ☐

distance from wall/
height

- ☐ Move or remove protruding objects.
- ☐ Add a cane-detectable base that extends to the ground.
- ☐ Place a cane-detectable object on the ground underneath as a warning barrier.


In order to be detected using a cane, an object must be within 27 inches of the ground. Objects hanging or mounted overhead must be higher than 80 inches to provide clear head room. It is not necessary to remove objects that protrude less than 4 inches from the wall.

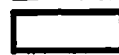
Do curbs on the route have curb cuts at drives, parking, and drop-offs?

☐ ☐

- ☐ Install curb cut.
- ☐ Add small ramp up to curb.

Ramps (ADAAG 4.8)

 Are the slopes of ramps no greater than 1:12?

☐ ☐

slope

Slope is given as a ratio of the height to the length. 1:12 means for every 12 inches along the base of the ramp, the height increases one inch. For a 1:12 maximum slope, at least one foot of ramp length is needed for each inch of height.

- ☐ Lengthen ramp to decrease slope.
- ☐ Relocate ramp.
- ☐ If available space is limited, reconfigure ramp to include switchbacks.

QUESTIONS

POSSIBLE SOLUTIONS


Ramps, continued


Do all ramps longer than 6 feet have railings on both sides?

Yes No

☐ ☐


☐ Add railings.

 Are railings sturdy, and between 34 and 38 inches high?

☐ ☐

height

☐ Adjust height of railing if not between 30 and 38 inches.
☐ Secure handrails in fixtures.

 Is the width between railings or curbs at least 36 inches?


☐ ☐

width


☐ Relocate the railings.
☐ Widen the ramp.

Are ramps non-slip?


☐ ☐


☐ Add non-slip surface material.

 Is there a 5-foot-long level landing at every 30-foot horizontal length of ramp, at the top and bottom of ramps and at switchbacks?

☐ ☐

length


☐ Remodel or relocate ramp.

 Does the ramp rise no more than 30 inches between landings?

☐ ☐

rise

☐ Remodel or relocate ramp.

Parking and Drop-Off Areas (ADAAG 4.6)

 Are an adequate number of accessible parking spaces available (8 feet wide for car plus 5-foot access aisle)? For guidance in determining the appropriate number to designate, the table below gives the ADAAG requirements for new construction and alterations (for lots with more than 100 spaces, refer to ADAAG):


Total spaces	Accessible
1 to 25	1 space
26 to 50	2 spaces
51 to 75	3 spaces
76 to 100	4 spaces

☐ ☐


number of accessible spaces

Note widths of existing accessible spaces:

☐ Reconfigure a reasonable number of spaces by repainting stripes.

 Are 8-foot-wide spaces, with minimum 8-foot-wide access aisles, and 98 inches of vertical clearance, available for lift-equipped vans?

☐ ☐


width/vertical clearance

☐ Reconfigure to provide van-accessible space(s).

At least one of every 8 accessible spaces must be van-accessible (with a minimum of one van-accessible space in all cases).

QUESTIONS

POSSIBLE SOLUTIONS

Parking and Drop-Off Areas, continued

Are the access aisles part of the accessible route to the accessible entrance?

Yes No

☐ ☐

Are the accessible spaces closest to the accessible entrance?

☐ ☐

Are accessible spaces marked with the International Symbol of Accessibility? Are there signs reading "Van Accessible" at van spaces?

☐ ☐

Is there an enforcement procedure to ensure that accessible parking is used only by those who need it?

☐ ☐

- ☐ Add curb ramps.
- ☐ Reconstruct sidewalk.

- ☐ Reconfigure spaces.

- ☐ Add signs, placed so that they are not obstructed by cars.

- ☐ Implement a policy to check periodically for violators and report them to the proper authorities.

Entrance (ADAAG 4.13, 4.14, 4.5)

If there are stairs at the main entrance, is there also a ramp or lift, or is there an alternative accessible entrance?

☐ ☐

Do not use a service entrance as the accessible entrance unless there is no other option.

Do all inaccessible entrances have signs indicating the location of the nearest accessible entrance?

☐ ☐


Can the alternate accessible entrance be used independently?

☐ ☐

- ☐ If it is not possible to make the main entrance accessible, create a dignified alternate accessible entrance. If parking is provided, make sure there is accessible parking near all accessible entrances.

- ☐ Install signs before inaccessible entrances so that people do not have to retrace the approach.


- ☐ Eliminate as much as possible the need for assistance—to answer a doorbell, to operate a lift, or to put down a temporary ramp, for example.

 Does the entrance door have at least 32 inches clear opening (for a double door, at least one 32-inch leaf)?

☐ ☐

☐

clear opening

 Is there at least 18 inches of clear wall space on the pull side of the door, next to the handle?

☐ ☐

☐

clear space


A person using a wheelchair or crutches needs this space to get close enough to open the door.

- ☐ Widen the door to 32 inches clear.
- ☐ If technically infeasible, widen to 31-3/8 inches minimum.
- ☐ Install offset (swing-clear) hinges.


- ☐ Remove or relocate furnishings, partitions, or other obstructions.
- ☐ Move door.
- ☐ Add power-assisted or automatic door opener.

QUESTIONS

POSSIBLE SOLUTIONS


Entrance, continued
 Is the threshold edge 1/4-inch high or less, or if beveled edge, no more than 3/4-inch high?

Yes No

☐ ☐

 height

- ☐ If there is a single step with a rise of 6 inches or less, add a short ramp.
- ☐ If there is a threshold greater than 3/4-inch high, remove it or modify it to be a ramp.

 If provided, are carpeting or mats a maximum of 1/2-inch high?


☐ ☐

 height


- ☐ Replace or remove mats.

Are edges securely installed to minimize tripping hazards?

☐ ☐


- ☐ Secure carpeting or mats at edges.


 Is the door handle no higher than 48 inches and operable with a closed fist?

☐ ☐

 height

- ☐ Lower handle.
- ☐ Replace inaccessible knob with a lever or loop handle.
- ☐ Retrofit with an add-on lever extension.


The "closed fist" test for handles and controls: Try opening the door or operating the control using only one hand, held in a fist. If you can do it, so can a person who has limited use of his or her hands.


 Can doors be opened without too much force (exterior doors reserved; maximum is 5 lbf for interior doors)?

☐ ☐

 force

- ☐ Adjust the door closers and oil the hinges.
- ☐ Install power-assisted or automatic door openers.
- ☐ Install lighter doors.

You can use an inexpensive force meter or a fish scale to measure the force required to open a door. Attach the hook end to the doorknob or handle. Pull on the ring end until the door opens, and read off the amount of force required. If you do not have a force meter or a fish scale, you will need to judge subjectively whether the door is easy enough to open.

 If the door has a closer, does it take at least 3 seconds to close?

☐ ☐

 seconds

- ☐ Adjust door closer.

QUESTIONS

POSSIBLE SOLUTIONS

Priority

2 Access to Goods and Services

Ideally, the layout of the building should allow people with disabilities to obtain materials or services without assistance.

Yes No


Horizontal Circulation (ADAAG 4.3)

Does the accessible entrance provide direct access to the main floor, lobby, or elevator?


☐ ☐

Are all public spaces on an accessible route of travel?

☐ ☐

 Is the accessible route to all public spaces at least 36 inches wide?

☐ ☐
width

 Is there a 5-foot circle or a T-shaped space for a person using a wheelchair to reverse direction?

☐ ☐
width


- ☐ Add ramps or lifts.
- ☐ Make another entrance accessible.

- ☐ Provide access to all public spaces along an accessible route of travel.


- ☐ Move furnishings such as tables, chairs, display racks, vending machines, and counters to make more room.

- ☐ Rearrange furnishings, displays, and equipment.


Doors (ADAAG 4.13)

 Do doors into public spaces have at least a 32-inch clear opening?


☐ ☐
clear opening

 On the pull side of doors, next to the handle, is there at least 18 inches of clear wall space so that a person using a wheelchair or crutches can get near to open the door?


☐ ☐
clear space

 Can doors be opened without too much force (5 lbf maximum for interior doors)?

☐ ☐
force

 Are door handles 48 inches high or less and operable with a closed fist?

☐ ☐
height

 Are all threshold edges 1/4-inch high or less, or if beveled edge, no more than 3/4-inch high?

☐ ☐
height

- ☐ Install offset (swing-clear) hinges.
- ☐ Widen doors.

- ☐ Reverse the door swing if it is safe to do so.
- ☐ Move or remove obstructing partitions.

- ☐ Adjust or replace closers.
- ☐ Install lighter doors.
- ☐ Install power-assisted or automatic door openers.

- ☐ Lower handles.
- ☐ Replace inaccessible knobs or latches with lever or loop handles.
- ☐ Retrofit with add-on levers.
- ☐ Install power-assisted or automatic door openers.

- ☐ If there is a threshold greater than 3/4-inch high, remove it or modify it to be a ramp.
- ☐ If between 1/4- and 3/4-inch high, add bevels to both sides.

QUESTIONS

POSSIBLE SOLUTIONS

Rooms and Spaces (ADAAG 4.2, 4.4, 4.5)
 Are all aisles and pathways to materials and services at least 36 inches wide?

Yes No

☐ ☐
 width

☐ Rearrange furnishings and fixtures to clear aisles.

Is there a 5-foot circle or T-shaped space for turning a wheelchair completely?

☐ ☐
 width

☐ Rearrange furnishings to clear more room.

Is carpeting low-pile, tightly woven, and securely attached along edges?

☐ ☐

☐ Secure edges on all sides.
☐ Replace carpeting.

In circulation paths through public areas, are all obstacles cane-detectable (located within 27 inches of the floor or higher than 80 inches, or protruding less than 4 inches from the wall)?

☐ ☐
 height/
 protrusion

☐ Remove obstacles.
☐ Install furnishings, planters, or other cane-detectable barriers underneath.

Emergency Egress (ADAAG 4.28)

If emergency systems are provided, do they have both flashing lights and audible signals?

☐ ☐

☐ Install visible and audible alarms.
☐ Provide portable devices.

Signage for Goods and Services (ADAAG 4.30)

Different requirements apply to different types of signs.

If provided, do signs and room numbers designating permanent rooms and spaces where goods and services are provided comply with the appropriate requirements for such signage?

☐ ☐

☐ Provide signs that have raised letters, Grade II Braille, and that meet all other requirements for permanent room or space signage. (See ADAAG 4.1.3(16) and 4.30.)

- Signs mounted with centerline 60 inches from floor.

Y N ☐
 height

- Mounted on wall adjacent to latch side of door, or as close as possible.

☐ ☐

- Raised characters, sized between 5/8 and 2 inches high, with high contrast (for room numbers, rest rooms, exits).

☐ ☐
 character
 height

- Brailled text of the same information.

☐ ☐

- If pictogram is used, it must be accompanied by raised characters and braille.

☐ ☐

QUESTIONS

POSSIBLE SOLUTIONS

Directional and Informational Signage

The following questions apply to directional and informational signs that fall under Priority 2.

Yes No

Priority 2 If mounted above 80 inches, do they have letters at least 3 inches high, with high contrast, and non-glare finish?

☐ ☐
☐
letter height

☐ Review requirements and replace signs as needed, meeting the requirements for character size, contrast, and finish.

Do directional and informational signs comply with legibility requirements? (Building directories or temporary signs need not comply.)

☐ ☐

☐ Review requirements and replace signs as needed.

Controls (ADAAG 4.27)

Priority 2 Are all controls that are available for use by the public (including electrical, mechanical, cabinet, game, and self-service controls) located at an accessible height?

☐ ☐
☐
height

☐ Relocate controls.

Reach ranges: The maximum height for a side reach is 54 inches; for a forward reach, 48 inches. The minimum reachable height is 15 inches for a front approach and 9 inches for a side approach.

Are they operable with a closed fist?

☐ ☐

☐ Replace controls.

Seats, Tables, and Counters (ADAAG 4.2, 4.32, 7.2)

Priority 2 Are the aisles between fixed seating (other than assembly area seating) at least 36 inches wide?

☐ ☐
☐
width

☐ Rearrange chairs or tables to provide 36-inch aisles.

Are the spaces for wheelchair seating distributed throughout?

☐ ☐

☐ Rearrange tables to allow room for wheelchairs in seating areas throughout the area.
☐ Remove some fixed seating.

Priority 2 Are the tops of tables or counters between 28 and 34 inches high?

☐ ☐
☐
height

☐ Lower part or all of high surface.
☐ Provide auxiliary table or counter.

Priority 2 Are knee spaces at accessible tables at least 27 inches high, 30 inches wide, and 19 inches deep?

☐ ☐
☐
height/
width/
depth

☐ Replace or raise tables.

QUESTIONS

POSSIBLE SOLUTIONS

Seats, Tables, and Counters, continued

TYPE At each type of cashier counter, is there a portion of the main counter that is no more than 36 inches high?

Yes No

☐ ☐

☐ ☐

height

- ☐ Provide a lower auxiliary counter or folding shelf.
- ☐ Arrange the counter and surrounding furnishings to create a space to hand items back and forth.

TYPE Is there a portion of food-ordering counters that is no more than 36 inches high, or is there space at the side for passing items to customers who have difficulty reaching over a high counter?

☐ ☐

☐ ☐

height

- ☐ Lower section of counter.
- ☐ Arrange the counter and surrounding furnishings to create a space to pass items.

Vertical Circulation (ADAAG 4.1.3(5), 4.3)

Are there ramps, lifts, or elevators to all public levels?

☐ ☐

- ☐ Install ramps or lifts.
- ☐ Modify a service elevator.
- ☐ Relocate goods or services to an accessible area.

On each level, if there are stairs between the entrance and/or elevator and essential public areas, is there an accessible alternate route?

☐ ☐

- ☐ Post clear signs directing people along an accessible route to ramps, lifts, or elevators.

Stairs (ADAAG 4.9)

The following questions apply to stairs connecting levels *not* serviced by an elevator, ramp, or lift.

Do treads have a non-slip surface?

☐ ☐

- ☐ Add non-slip surface to treads.

Do stairs have continuous rails on both sides, with extensions beyond the top and bottom stairs?

☐ ☐

- ☐ Add or replace handrails if possible within existing floor plan.

Elevators (ADAAG 4.10)

Are there both visible and verbal or audible door opening/closing and floor indicators (one tone = up, two tones = down)?

☐ ☐

- ☐ Install visible and verbal or audible signals.

TYPE Are the call buttons in the hallway no higher than 42 inches?

☐ ☐

☐ ☐

height

- ☐ Lower call buttons.
- ☐ Provide a permanently attached reach stick.

Do the controls inside the cab have raised and braille lettering?

☐ ☐

- ☐ Install raised lettering and braille next to buttons.

QUESTIONS

POSSIBLE SOLUTIONS

Elevators, continued

Is there a sign on both door jambs at every floor identifying the floor in raised and braille letters?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

☐ Install tactile signs to identify floor numbers, at a height of 60 inches from floor.

If an emergency intercom is provided, is it usable without voice communication?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

☐ Modify communication system.

Is the emergency intercom identified by braille and raised letters?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------


☐ Add tactile identification.

Lifts (ADAAG 4.2, 4.11)

Can the lift be used without assistance? If not, is a call button provided?


<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

☐ At each stopping level, post clear instructions for use of the lift.
☐ Provide a call button.

 Is there at least 30 by 48 inches of clear space for a person in a wheelchair to approach to reach the controls and use the lift?

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	
clear space	

☐ Rearrange furnishings and equipment to clear more space.

 Are controls between 15 and 48 inches high (up to 54 inches if a side approach is possible)?

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	
height	

☐ Move controls.

Priority

3 Usability of Rest Rooms

When rest rooms are open to the public, they should be accessible to people with disabilities.

Getting to the Rest Rooms (ADAAG 4.1)

If rest rooms are available to the public, is at least one rest room (either one for each sex, or unisex) fully accessible?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

☐ Reconfigure rest room.
☐ Combine rest rooms to create one unisex accessible rest room.

Are there signs at inaccessible rest rooms that give directions to accessible ones?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

☐ Install accessible signs.

Doorways and Passages (ADAAG 4.2, 4.13, 4.30)

Is there tactile signage identifying rest rooms?

<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------

☐ Add accessible signage, placed to the side of the door, 60 inches to centerline (not on the door itself).

Mount signs on the wall, on the latch side of the door, complying with the requirements for permanent signage. Avoid using ambiguous symbols in place of text to identify rest rooms.

QUESTIONS

POSSIBLE SOLUTIONS

Doorways and Passages, continued

Are pictograms or symbols used to identify rest rooms, and, if used, are raised characters and braille included below them?

Yes No

☐ ☐

- ☐ If symbols are used, add supplementary verbal signage with raised characters and braille below pictogram symbol.


ENTRY Is the doorway at least 32 inches clear?

☐ ☐

clear width

- ☐ Install offset (swing-clear) hinges.
- ☐ Widen the doorway.

ENTRY Are doors equipped with accessible handles (operable with a closed fist), 48 inches high or less?

☐ ☐

height

- ☐ Lower handles.
- ☐ Replace knobs or latches with lever or loop handles.
- ☐ Add lever extensions.
- ☐ Install power-assisted or automatic door openers.


ENTRY Can doors be opened easily (5 lbf maximum force)?

☐ ☐

force

- ☐ Adjust or replace closers.
- ☐ Install lighter doors.
- ☐ Install power-assisted or automatic door openers.


ENTRY Does the entry configuration provide adequate maneuvering space for a person using a wheelchair?

☐ ☐

clear width

- ☐ Rearrange furnishings such as chairs and trash cans.
- ☐ Remove inner door if there is a vestibule with two doors.
- ☐ Move or remove obstructing partitions.

A person in a wheelchair needs 36 inches of clear width for forward movement, and a 5-foot diameter or T-shaped clear space to make turns. A minimum distance of 48 inches clear of the door swing is needed between the two doors of an entry vestibule.

ENTRY Is there a 36-inch-wide path to all fixtures?

☐ ☐

width

- ☐ Remove obstructions.


Stalls (ADAAG 4.17)

Is the stall door operable with a closed fist, inside and out?

☐ ☐

- ☐ Replace inaccessible knobs with lever or loop handles.
- ☐ Add lever extensions.

ENTRY Is there a wheelchair-accessible stall that has an area of at least 5 feet by 5 feet, clear of the door swing, OR is there a stall that is less accessible but that provides greater access than a typical stall (either 36 by 69 inches or 48 by 69 inches)?

☐ ☐

length/
width

- ☐ Move or remove partitions.
- ☐ Reverse the door swing if it is safe to do so.

QUESTIONS

POSSIBLE SOLUTIONS

Stalls, continued

In the accessible stall, are there grab bars behind and on the side wall nearest to the toilet?

Yes No

☐ ☐

☐ Add grab bars.

MIN Is the toilet seat 17 to 19 inches high?

☐ ☐

☐ Add raised seat.

height

Lavatories (ADAAG 4.19, 4.24)

MIN Does one lavatory have a 30-inch-wide by 48-inch-deep clear space in front?

☐ ☐

- ☐ Rearrange furnishings.
- ☐ Replace lavatory.
- ☐ Remove or alter cabinetry to provide space underneath.
- ☐ Make sure hot pipes are covered.
- ☐ Move a partition or wall.

A maximum of 19 inches of the required depth may be under the lavatory.

clear space

MIN Is the lavatory rim no higher than 34 inches?

☐ ☐

☐ Adjust or replace lavatory.

height

MIN Is there at least 29 inches from the floor to the bottom of the lavatory apron (excluding pipes)?

☐ ☐

☐ Adjust or replace lavatory.

height

Can the faucet be operated with one closed fist?

☐ ☐

☐ Replace with paddle handles.

Are soap and other dispensers and hand dryers within reach ranges (see page 7) and usable with one closed fist?

☐ ☐

- ☐ Lower dispensers.
- ☐ Replace with or provide additional accessible dispensers.

MIN Is the mirror mounted with the bottom edge of the reflecting surface 40 inches high or lower?

☐ ☐

- ☐ Lower or tilt down the mirror.
- ☐ Add a larger mirror anywhere in the room.

height

Priority

4 Additional Access

Note that this priority is for items not required for basic access in the first three priorities.

When amenities such as drinking fountains and public telephones are provided, they should also be accessible to people with disabilities.

Drinking Fountains (ADAAG 4.15)

MIN Is there at least one fountain with clear floor space of at least 30 by 48 inches in front?






☐ ☐

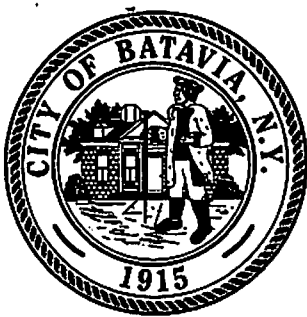
☐ Clear more room by rearranging or removing furnishings.

clear space

QUESTIONS

POSSIBLE SOLUTIONS

	Yes	No	
Drinking Fountains, continued			
 Is there one fountain with its spout no higher than 36 inches from the ground, and another with a standard height spout (or a single "hi-lo" fountain)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Provide cup dispensers for fountains with spouts that are too high. <input type="checkbox"/> Provide accessible cooler.
Are controls mounted on the front or on the side near the front edge, and operable with one closed fist?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Replace the controls.
 Is each water fountain cane-detectable (located within 27 inches of the floor or protruding into the circulation space less than 4 inches from the wall)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Place a planter or other cane-detectable barrier on each side at floor level.
	height/ protrusion		
Telephones (ADAAG 4.31)			
 If pay or public use phones are provided, is there clear floor space of at least 30 by 48 inches in front of at least one?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Move furnishings. <input type="checkbox"/> Replace booth with open station.
	clear space		
 Is the highest operable part of the phone no higher than 48 inches (up to 54 inches if a side approach is possible)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Lower telephone.
	height		
 Does the phone protrude no more than 4 inches into the circulation space?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Place a cane-detectable barrier on each side at floor level.
	protrusion		
Does the phone have push-button controls?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Contact phone company to install push-buttons.
Is the phone hearing-aid compatible?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Have phone replaced with a hearing-aid compatible one.
Is the phone adapted with volume control?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Have volume control added.
Is the phone with volume control identified with appropriate signage?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Add signage.
If there are four or more public phones in the building, is one of the phones equipped with a text telephone (TT or TDD)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Install a text telephone. <input type="checkbox"/> Have a portable TT available. <input type="checkbox"/> Provide a shelf and outlet next to phone.
Is the location of the text telephone identified by accessible signage bearing the International TDD Symbol?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Add signage.



City of Batavia

Memorandum

To: Jason Molino, City Manager

From: Shawn Heubusch, Police Chief *SH*

Date: October 6, 2016

Subject: 2016-2017 STOP-DWI "Crackdown" (Enhanced) Award

On October 5, 2016 the Genesee County STOP-DWI program was awarded \$9,124 for the 2016/2017 "High Visibility Road Checks/ Saturation Patrols/ DRE Call Out During Impaired Driving Crackdowns". The grant is to be shared by City Police, Genesee County Sheriff's Office and Village of LeRoy Police Department. The City Police was granted a sub-award \$3,394 for Enhanced DWI enforcement efforts by the Genesee County STOP-DWI coordinator.

These enhanced efforts include joint DWI patrols or checkpoints with other law enforcement agencies as well as reimbursement for Drug Recognition Expert (DRE) call-outs during the grant period.

The City of Batavia will benefit greatly from these additional DWI details by enhancing the Police Department's ability to conduct more specialized enforcement details to target alcohol or drug impaired drivers.

Feel free to call with any questions you may have. Thank you.

Attachments: Award Letter
Draft Resolution

Cc: Lisa Neary, Deputy Director of Finance

**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**



L. Matthew Landers
Coordinator

MEMO

To: Genesee County Sheriff's Office, Batavia Police Department, LeRoy Police Department

From: Matt Landers, STOP DWI Coordinator

Date: October 14, 2016

RE: 2016-2017 GTSC Crackdown Grant Award

As hoped, our request was granted for 2016/17 crackdown grant funds. Unfortunately we were awarded \$9,124 compared to the \$10,000 requested, which is even smaller than the \$17,785 granted for the 2015/16 cycle, but at least we were able to secure some funding. I am going to distribute the funds in the same proportion they were allocated for the 2015/16 grant, which is:

Genesee County Sheriff 15/16 amount = \$9,160.75 or 51.5%, which amounts to \$4,699 for 2016/17
City of Batavia Police 15/16 amount= \$6,612.37 or 37.2%, which amounts to \$3,394 for 2016/17
Village of LeRoy Police 15/16 amount = \$2,011.88 or 11.3%, which amounts to \$1,031 for 2016/17

The same holidays are covered as in previous grants, and the specific dates are listed below. The first holiday for the new grant cycle is Halloween. The forms needed to complete are attached and look similar to what was used in this last grant cycle but there is a new grant number that needs to be used, so please use the updated forms. If you have any questions don't hesitate to reach out. Thank you for helping me to acquire these grant funds and more importantly, for using them to increase your efforts around these specific times of the year.

Again this year there will be 8 crackdown periods as follows:

HALLOWEEN:	October 28 – October 31, 2016
THANKSGIVING:	November 23 – 27, 2016
HOLIDAY SEASON (NATIONAL):	December 16, 2016 - January 2, 2017
SUPER BOWL:	February 3 – 5, 2017
ST. PATRICK'S DAY:	March 17 – 19, 2017
MEMORIAL DAY:	May 26 – 29, 2017
JULY 4TH:	June 30 – July 4, 2017
LABOR DAY (NATIONAL):	August 18 - September 4, 2017

#-2016

**A RESOLUTION TO AMEND THE 2016-2017 POLICE DEPARTMENT BUDGET TO
REFLECT THE RECEIPT OF A STOP-DWI GRANT AMENDMENT IN THE AMOUNT OF
\$3,394 TO ADDRESS THE CRIMES OF DRIVING WHILE INTOXICATED AND/OR DRIVING
WHILE ABILITY IMPAIRED BY DRUGS**

Motion of Councilperson

WHEREAS, the City of Batavia Police Department has received additional grant funding in the amount of \$3,394 from THE GENESEE COUNTY STOP-DWI PROGRAM TO COMBAT IMPAIRED DRIVING BY FUNDING SPECIALIZED PATROL FUNCTIONS AND EQUIPMENT; and

WHEREAS, to properly account for the expenditure of this money, a budget amendment needs to be made; and

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Manager be and hereby is authorized to make the following budget amendment to the 2016-2017 budget to cover various initiatives to combat alcohol and drug related traffic offenses:

Effective November 14, 2016, amend the 2016-17 budget:

Increase expenditure accounts

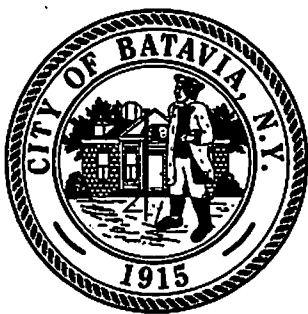
001.3120.0101.1159	\$ 3,152.81
--------------------	-------------

001.3120.0802.1159	\$ 241.19
--------------------	-----------

Increase revenue accounts

1.1.3389.1159	\$ 3,394.00
---------------	-------------


**Seconded by Councilperson
and on roll call**



City of Batavia

Memorandum

To: Jason Molino, City Manager

From: Shawn Heubusch, Police Chief 

Date: 10/03/2016

Subject: Police Traffic Services Grant 2016-2017

On August 16, 2016 the City Police were awarded \$11,400 from the NYS Governor's Traffic Safety Committee for the Police Traffic Safety grant. The goal of the program is to increase seat belt usage and reduce dangerous driving behaviors in an effort to reduce serious injury and deaths resulting from traffic crashes.

The funding received will be used to provide for special traffic details throughout the year. The funding covers the period of October 1, 2016 thru September 30, 2017.

Feel free to call with any questions you may have. Thank you.

Attachments: Award Letter
Draft Resolution

Cc: Lisa Neary, Deputy Director of Finance

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

ANDREW M. CUOMO
Governor



6 EMPIRE STATE PLAZA • ALBANY, NY 12228 • SafeNY.ny.gov

Governor's Traffic Safety Committee

CHUCK DEWEESE
Assistant Commissioner

Ph: (518) 474-5111
Ph: (518) 474-5777
Fx: (518) 473-6946

August 16, 2016

Shawn Heubusch
Chief of Police
Batavia City Police Department
10 West Main St
Batavia, NY 14020

Re: PTS-2017-Batavia City PD -00109-(019)
Police Traffic Services
DMV01-T006112 -3700393
CFDA #: 20.600
EFFECTIVE DATE: October 1, 2016

Dear Chief of Police Shawn Heubusch:

On behalf of Governor Andrew M. Cuomo, I am pleased to notify you that the Batavia City Police Department has been awarded \$11,400.00 to participate in the statewide Police Traffic Services Program. Our goal is to increase seat belt usage and reduce dangerous driving behaviors in an effort to reduce serious injury and death from traffic crashes. Please note all grants will be effective only upon final approval by the New York State Office of the State Comptroller.

Before incurring any project related expenses, login to eGrants to review your approved budget as it may have been reduced or otherwise changed from what was requested.

Thank you for participating in this very important statewide enforcement program. I wish you success in your efforts. If you have any questions, please contact the Governor's Traffic Safety Committee at (518) 474-5111.

Sincerely,

A handwritten signature in cursive script, reading "Charles R. DeWeese".

Charles R. DeWeese
Assistant Commissioner

CRD:lo
Enclosure
cc: Eric Bolles



Department of
Motor Vehicles

-2016

**A RESOLUTION TO AMEND THE 2016-2017 POLICE DEPARTMENT BUDGET TO
REFLECT THE RECEIPT OF A POLICE TRAFFIC SERVICES GRANT**

Motion of Councilperson

WHEREAS, the City of Batavia Police Department has received a grant in the amount of \$11,400 from the New York State Governor's Traffic Safety Committee to participate in the statewide Police Traffic Services Program. The goal is to increase seat belt usage and reduce dangerous driving behaviors in an effort to reduce serious injury and death from traffic crashes; and

WHEREAS, to properly account for the expenditure of this money, a budget amendment needs to be made.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Manager be and hereby is authorized to make the following budget amendment to the 2016-2017 budget effective November 14, 2016 to cover various traffic enforcement details card equipment purchases:

Increase expenditure accounts:

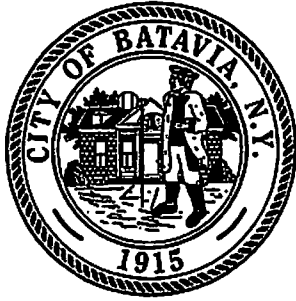
001.3120.0101.1158	\$	10,589.88
001.3120.0802.1158	\$	810.12

Increase revenue accounts:

001.0001.3389.1158	\$	11,400.00
--------------------	----	-----------

Seconded by Councilperson

and on roll call



City of Batavia

Memorandum

To: Jason Molino, City Manager

From: Matt Worth, Director of Public Works *(Signature)*

Date: October 18, 2016

Subject: Healthy Schools Corridor Project Supplemental Agreement #1

New York State Department of Transportation has issued Supplemental Agreement #1 to the City of Batavia that confirms and authorizes funding for Right-of-Way (ROW) aspects of the Healthy Schools Corridor Project. The Supplemental Agreement is the formal contract authorizing reimbursement of funds for this project between the City and NYSDOT to complete ROW work.

The Healthy Schools Corridor Project is a Federal Highway Pass Thru Project administered through the New York State Department of Transportation under the heading of the Transportation Alternatives Program (TAP). This supplemental agreement transfers monies from the construction phase of this project into the ROW heading. During the preliminary design phase, it was discovered that there were three properties in which the new sidewalk would encroach on private lands requiring either a permanent easement or property taking. In all three cases the properties have existing sidewalk which already encroaches, and this process formalizes the new sidewalk to occupy these spaces.

Supporting Documentation:

Supplemental Agreement No. 1
Draft Resolution

#-2016

**A RESOLUTION AUTHORIZING SUPPLEMENTAL AGREEMENT NO. 1 WITH
NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR PE/DESIGN, AND
R.O.W. INCIDENTALS FOR THE CITY OF BATAVIA
HEALTHY SCHOOLS CORRIDOR**

Motion of Councilperson

WHEREAS, a project for the Reconstruction of Sidewalks for Liberty Street from East Main Street (Route 5) to Morton Avenue, and Washington Avenue from Ross Street to Bank Street, City of Batavia, Genesee County, P.I.N. 4755.93 (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 R.O.W. Incidentals; 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 R.O.W. Incidentals for the Project or portions thereof; and

BE IT FURTHER RESOLVED, that the sum of \$83,050 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**

Sponsor: City of Batavia
 PIN: 4755.93 BIN: _____
 Comptroller's Contract No. D034906
 Supplemental Agreement No. 1
 Date Prepared: 10/03/2016 By: RSL
 Initials

Press F1 for instructions in the blank fields:

SUPPLEMENTAL AGREEMENT No. 1 to D034906 (Comptroller's Contract No.)

This Supplemental Agreement is by and between:

the New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Road, Albany, NY 12232, on behalf of New York State ("State");

and

City of Batavia (the Sponsor)
 Acting by and through the City Manager
 with its office at One Batavia City Centre, Batavia, New York 14020.

This amends the existing Agreement between the parties in the following respects only (*check applicable categories*):

☒ Amends a previously adopted Schedule A by (*check as applicable*):

- ☐ amending a project description
- ☐ amending the contract end date
- ☒ amending the scheduled funding by:
 - ☒ adding additional funding (*check and enter the # phase(s) as applicable*):
 - ☒ adding phase 221 which covers eligible costs incurred on/after 9/26/2016
 - ☐ adding phase _____ which covers eligible costs incurred on/after 1 / 1
 - ☐ increasing funding for a project phase(s)
 - ☐ adding a pin extension
 - ☐ change from Non-Marchiselli to Marchiselli
 - ☐ deleting/reducing funding for a project phase(s)
 - ☐ other (_____)

☒ Amends a previously adopted Schedule "B" (Phases, Sub-phase/Tasks, and Allocation of Responsibility)

☐ Amends a previously adopted Agreement by adding Appendix 2-S – Iran Divestment Act:

☐ Amends the text of the Agreement as follows (*insert text below*):

Sponsor: City of BataviaPIN: 4755.93 BIN: _____Comptroller's Contract No. D034906Supplemental Agreement No. 1Date Prepared: 10/03/2016 By: RSL

Initials

Press F1 for instructions in the blank fields:

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

SPONSOR:

SPONSOR ATTORNEY:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

STATE OF NEW YORK

)ss.:

COUNTY OF _____

On this _____ day of _____, 20____ before me personally came _____ to me known, who, being by me duly sworn did depose and say that he/she resides at _____; that he/she is the _____ of the Municipal/Sponsor Corporation described in and which executed the above instrument; (except New York City) that it was executed by order of the _____ of said Municipal/Sponsor Corporation pursuant to a resolution which was duly adopted on _____ and which a certified copy is attached and made a part hereof; and that he/she signed his/her name thereto by like order.

Notary Public

APPROVED FOR NYSDOT:

APPROVED AS TO FORM:

STATE OF NEW YORK ATTORNEY GENERAL

BY: _____
For Commissioner of Transportation

Agency Certification: In addition to the acceptance of this contract I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

By: _____
Assistant Attorney General

Date: _____

COMPTROLLER'S APPROVAL:

By: _____
For the New York State Comptroller
Pursuant to State Finance Law '112

SCHEDULE A – Description of Project Phase, Funding and Deposit Requirements
NYSDOT/ State-Local Agreement - Schedule A for PIN 4755.93

OSC Municipal Contract #: D034906	Contract Start Date: 2/11/2015 _(mm/dd/yyyy)	Contract End Date: 12/9/2024 _(mm/dd/yyyy) <input type="checkbox"/> Check, if date changed from the last Schedule A			
Purpose:	<input type="checkbox"/> Original Standard Agreement <input checked="" type="checkbox"/> Supplemental Schedule A No. 1				
Agreement Type:	<input checked="" type="checkbox"/> Locally Administered Municipality/Sponsor (Contract Payee): City of Batavia Other Municipality/Sponsor (if applicable): <input type="checkbox"/> State Administered <i>List participating Municipality(ies) and the % of cost share for each and indicate by checkbox which Municipality this Schedule A applies.</i> <input type="checkbox"/> Municipality: % of Cost share <input type="checkbox"/> Municipality: % of Cost share <input type="checkbox"/> Municipality: % of Cost share				
Authorized Project Phase(s) to which this Schedule applies: <input checked="" type="checkbox"/> PE/Design <input checked="" type="checkbox"/> ROW Incidentals <input type="checkbox"/> ROW Acquisition <input type="checkbox"/> Construction/CI/CS					
Work Type: BIKE/PED./FACILITIES	County (If different from Municipality): Genesee				
Marchiselli Eligible <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Check, if Project Description has changed from last Schedule A): <input type="checkbox"/> Project Description: City of Batavia Healthy School Corridor					
Marchiselli Allocations Approved FOR ALL PHASES <i>All totals will calculate automatically.</i>					
Check box to indicate change from last Schedule A	State Fiscal Year(s)	Project Phase			TOTAL
		PE/Design	ROW (RI & RA)	Construction/CI/CS	
<input type="checkbox"/>	Cumulative total for all prior SFYs	\$	\$	\$0.00	\$ 0.00
<input type="checkbox"/>	Current SFY	\$0.00	\$0.00	\$0.00	\$ 0.00
Authorized Allocations to Date		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

A. Summary of allocated MARCHISELLI Program Costs FOR ALL PHASES *For each PIN Fiscal Share below, show current costs on the rows indicated as "Current." Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.*

PIN Fiscal Share	"Current" or "Old" entry indicator	Federal Funding	Total Costs	FEDERAL Participating Share	STATE MARCHISELLI Match	LOCAL Matching Share	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
..	Current		\$ 0.00	\$	\$	\$	\$
	Old		\$ 0.00	\$	\$	\$	\$
..	Current		\$ 0.00	\$	\$	\$	\$
	Old		\$ 0.00	\$	\$	\$	\$
..	Current		\$ 0.00	\$	\$	\$	\$
	Old		\$ 0.00	\$	\$	\$	\$
..	Current		\$ 0.00	\$	\$	\$	\$
	Old		\$ 0.00	\$	\$	\$	\$
..	Current		\$ 0.00	\$	\$	\$	\$
	Old		\$ 0.00	\$	\$	\$	\$
..	Current		\$ 0.00	\$	\$	\$	\$
	Old		\$ 0.00	\$	\$	\$	\$
TOTAL CURRENT COSTS:			\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

NYSDOT/State-Local Agreement – Schedule A

B. Summary of Other (Including Non-allocated MARCHISELLI) Participating Costs FOR ALL PHASES For each PIN Fiscal Share, show current costs on the rows indicated as "Current." Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.

Other PIN Fiscal Shares	'Current' or 'Old' entry indicator	Funding Source	TOTAL	Other FEDERAL	Other STATE	Other LOCAL
4755.93.121	Current	Other (see footnote)	\$72,000.00	\$57,600.00	\$0.00	\$14,400.00
	Old	Other (see footnote)	\$	\$57,600.00	\$0.00	\$14,400.00
4755.93.221	Current	Other (see footnote)	\$11,050.00	\$8,840.00	\$0.00	\$2,210.00
	Old		\$	\$	\$	\$
	Current		\$ 0.00	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$ 0.00	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$ 0.00	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$ 0.00	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$ 0.00	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$ 0.00	\$	\$	\$
	Old		\$	\$	\$	\$
TOTAL CURRENT COSTS:			\$83,050.00	\$66,440.00	\$ 0.00	\$16,610.00

C. Total Local Deposit(s) Required for State Administered Projects:

\$ 0.00

D. Total Project Costs All totals will calculate automatically.

Total FEDERAL Cost	Total STATE MARCHISELLI Cost	Total OTHER STATE Cost	Total LOCAL Cost	Total ALL SOURCES Cost
\$66,440.00	\$ 0.00	\$ 0.00	\$16,610.00	\$83,050.00

E. Point of Contact for Questions Regarding this Schedule A (Must be completed)

 Name: Rhonda LaFever
 Phone No: 585-272-3727

See Agreement (or Supplemental Agreement Cover) for required contract signatures.

NYSDOT/State-Local Agreement – Schedule A

Footnotes: (See [LPB's website](#) for link to sample footnotes)

- Funding is TAP Flex
- This supplemental agreement adds the ROW Incidental phase.
-
-
-
-
-
-
-
-
-

SCHEDULE B: Phases, Sub-phase/Tasks, and Allocation of Responsibility

Instructions: Identify the responsibility for each applicable Sub-phase task by entering X in either the *NYSDOT* column to allocate the task to State labor forces or a State Contract, or in the *Sponsor* column indicating non-State labor forces or a locally administered contract.

A1: Preliminary Engineering (PE) Phase

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. <u>Scoping</u> : Prepare and distribute all required project reports, including an Expanded Project Proposal (EPP) or Scoping Summary Memorandum (SSM), as appropriate.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Perform data collection and analysis for design, including traffic counts and forecasts, accident data, Smart Growth checklist, land use and development analysis and forecasts.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Smart Growth Attestation (NYSDOT ONLY).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. <u>Preliminary Design</u> : Prepare and distribute Design Report/Design Approval Document (DAD), including environmental analysis/assessments, and other reports required to demonstrate the completion of specific design sub-phases or tasks and/or to secure the approval/authorization to proceed.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Review and Circulate all project reports, plans, and other project data to obtain the necessary review, approval, and/or other input and actions required of other NYSDOT units and external agencies.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Obtain aerial photography and photogrammetric mapping.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. Perform all surveys for mapping and design.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. <u>Detailed Design</u> : Perform all project design, including preparation of plan sheets, cross-sections, profiles, detail sheets, specialty items, shop drawings, and other items required in accordance with the Highway Design Manual, including all Highway Design, including pavement evaluations, including taking and analyzing cores; design of Pavement mixes and applications procedures; preparation of bridge site data package, if necessary, and all Structural Design, including hydraulic analyses, if necessary, foundation design, and all design of highway appurtenances and systems [e.g., Signals, Intelligent Transportation System (ITS) facilities], and maintenance protection of traffic plans. Federal Railroad Administration (FRA) criteria will apply to rail work.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9. Perform landscape design (including erosion control).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10. Design environmental mitigation, where appropriate, in connection with: Noise readings, projections, air quality monitoring, emissions projections, hazardous waste, asbestos, determination of need of cultural resources survey.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
11. Prepare demolition contracts, utility relocation plans/contracts, and any other plans and/or contract documents required to advance, separate, any portions of the project which may be more appropriately progressed separately and independently.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12. Compile PS&E package, including all plans, proposals, specifications, estimates, notes, special contract requirements, and any other contract documents necessary to advance the project to construction.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
13. Conduct any required soils and other geological investigations.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
14. Obtain utility information, including identifying the locations and types of utilities within the project area, the ownership of these utilities, and prepare utility relocations plans and agreements, including completion of Form HC-140, titled Preliminary Utility Work Agreement.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
15. Determine the need and apply for any required permits, including U.S. Coast Guard, U.S. Army Corps of Engineers, Wetlands (including identification and delineation of wetlands), SPDES, NYSDOT Highway Work Permits, and any permits or other approvals required to comply with local laws, such as zoning ordinances, historic districts, tax assessment and special districts.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. Prepare and execute any required agreements, including:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
- Railroad force account		
- Maintenance agreements for sidewalks, lighting, signals, betterments		
- Betterment Agreements		
- Utility Work Agreements for any necessary Utility Relocations of Privately owned Utilities		
17. Provide overall supervision/oversight of design to assure conformity with Federal and State design standards or conditions, including final approval of PS&E (Contract Bid Documents) by NYSDOT.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
18. The American Recovery and Reinvestment Act (ARRA) projects require additional extensive reporting. The Municipality/Sponsor must include in its construction contract the additional ARRA reporting requirements related to the weekly employment during Construction or as modified by the Federal Highway Administration (FHWA).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
19. Pursuant to Title IX, Section 902 of the ARRA, the U.S. DOT Comptroller General and his representatives are authorized to: 1) examine any records of the contractor, or any records of its subcontractors, that directly pertain to and involve transactions relating to the contract or subcontract, and 2) interview any officer or employee of the contractor or any of its subcontractors regarding such transactions.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

A2. Right-of-Way (ROW) Incidentals

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>
-----------------------------	---------------------------------------

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Prepare ARM or other mapping, showing preliminary taking lines.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. ROW mapping and any necessary ROW relocation plans.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Obtain abstracts of title and certify those having an interest in ROW to be acquired.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Secure Appraisals.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Perform Appraisal Review and establish an amount representing just compensation.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Determination of exemption from public hearing that is otherwise required by the Eminent Domain Procedure Law, including <i>de minimis</i> determination, as may be applicable. If NYSDOT is responsible for acquiring the right-of-way, this determination may be performed by NYSDOT only if NYSDOT is responsible for the Preliminary Engineering Phase under Phase A1 of this Schedule B.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. Conduct any public hearings and/or informational meetings as may be required by the Eminent Domain Procedures Law, including the provision of stenographic services, preparation and distribution of transcripts, and response to issues raised at such meetings.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. The American Recovery and Reinvestment Act (ARRA) projects require additional extensive reporting. The Municipality/Sponsor must include in its construction contract the additional ARRA reporting requirements related to the weekly employment during Construction or as modified by the Federal Highway Administration (FHWA).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9. Pursuant to Title IX, Section 902 of the ARRA, the U.S. DOT Comptroller General and his representatives are authorized to: 1) examine any records of the contractor, or any records of its subcontractors, that directly pertain to and involve transactions relating to the contract or subcontract, and 2) interview any officer or employee of the contractor or any of its subcontractors regarding such transactions.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

B. Right-of-Way (ROW) Acquisition

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Perform all Right-of-Way (ROW) Acquisition work, including negotiations with property owners, acquisition of properties and accompanying legal work, payments to and/or deposits on behalf of property owners; Prepare, publish, and pay for any required legal notices; and all other actions necessary to secure title to, possession of, and entry to required properties. If NYSDOT is to acquire property, including property described as an uneconomic remainder, on behalf of the Municipality/Sponsor, the Municipality/Sponsor agrees to accept and take title to any and all permanent property rights so acquired which form a part of the completed Project.	<input type="checkbox"/>	<input type="checkbox"/>

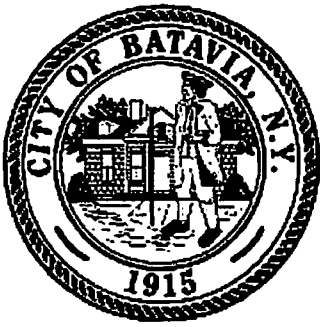
<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
2. Provide required relocation assistance, including payment of moving expenses, replacement supplements, mortgage interest differentials, closing costs, mortgage prepayment fees.	<input type="checkbox"/>	<input type="checkbox"/>
3. Conduct eminent domain proceedings, court and any other legal actions required to acquire properties.	<input type="checkbox"/>	<input type="checkbox"/>
4. Monitor all ROW Acquisition work and activities, including review and processing of payments of property owners.	<input type="checkbox"/>	<input type="checkbox"/>
5. Provide official certification that all right-of-way required for the construction has been acquired in compliance with applicable Federal, State or Local requirements and is available for use and/or making projections of when such property(ies) will be available if such properties are not in hand at the time of contract award.	<input type="checkbox"/>	<input type="checkbox"/>
6. Conduct any property management activities, including establishment and collecting rents, building maintenance and repairs, and any other activities necessary to sustain properties and/or tenants until the sites are vacated, demolished, or otherwise used for the construction project.	<input type="checkbox"/>	<input type="checkbox"/>
7. Subsequent to completion of the Project, conduct ongoing property management activities in a manner consistent with applicable Federal, State and Local requirements including, as applicable, the development of any ancillary uses, establishment and collection of rent, property maintenance and any other related activities.	<input type="checkbox"/>	<input type="checkbox"/>
8. The American Recovery and Reinvestment Act (ARRA) projects require additional extensive reporting. The Municipality/Sponsor must include in its construction contract the additional ARRA reporting requirements related to the weekly employment during Construction or as modified by the Federal Highway Administration (FHWA).	<input type="checkbox"/>	<input type="checkbox"/>
9. Pursuant to Title IX, Section 902 of the ARRA, the U.S. DOT Comptroller General and his representatives are authorized to: 1) examine any records of the contractor, or any records of its subcontractors, that directly pertain to and involve transactions relating to the contract or subcontract, and 2) interview any officer or employee of the contractor or any of its subcontractors regarding such transactions.	<input type="checkbox"/>	<input type="checkbox"/>

C. Construction, Construction Support (C/S) and Construction Inspection (C/I) Phase

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Advertise contract lettings and distribute contract documents to prospective bidders.	<input type="checkbox"/>	<input type="checkbox"/>
2. Conduct all contract lettings, including receipt, opening, and analysis of bids, evaluation/certification of bidders, notification of rejected bids/bidders, and awarding of the construction contract(s).	<input type="checkbox"/>	<input type="checkbox"/>
3. Receive and process bid deposits and verify any bidder's insurance and bond coverage that may be required.	<input type="checkbox"/>	<input type="checkbox"/>


<u>Phase/Sub-phase/Task</u>	Responsibility: <u>NYSDOT</u> <u>Sponsor</u>	
4. Compile and submit Contract Award Documentation Package.	<input type="checkbox"/>	<input type="checkbox"/>
5. Review/approve any proposed subcontractors, vendors, or suppliers.	<input type="checkbox"/>	<input type="checkbox"/>
6. Conduct and control all construction activities in accordance with the plans and proposal for the project. Maintain accurate, up-to-date project records and files, including all diaries and logs, to provide a detailed chronology of project construction activities. Procure or provide all materials, supplies and labor for the performance of the work on the project, and insure that the proper materials, equipment, human resources, methods and procedures are used.	<input type="checkbox"/>	<input type="checkbox"/>
7a. For non-NHS or non-State Highway System Projects: Test and accept materials, including review and approval for any requests for substitutions.	<input type="checkbox"/>	<input type="checkbox"/>
7b. For NHS or State Highway System Projects: Inspection and approval of materials such as bituminous concrete, Portland cement concrete, structural steel, concrete structural elements and/or their components to be used in a federal aid project will be performed by, and according to the requirements of NYSDOT. The Municipality/Sponsor shall make or require provision for such materials inspection in any contract or subcontract that includes materials that are subject to inspection and approval in accordance with the applicable NYSDOT design and construction standards associated with the federal aid project.	<input type="checkbox"/>	<input type="checkbox"/>
7c. For projects that fall under both 7a and 7b above, check boxes for each.		
8. Design and/or re-design the project or any portion of the project that may be required because of conditions encountered during construction.	<input type="checkbox"/>	<input type="checkbox"/>
9. Administer construction contract, including the review and approval of all contractor requests for payment, orders-on-contract, force account work, extensions of time, exceptions to the plans and specifications, substitutions or equivalents, and special specifications.	<input type="checkbox"/>	<input type="checkbox"/>
10. The American Recovery and Reinvestment Act (ARRA) projects require additional extensive reporting. The Municipality/Sponsor must include in its construction contract the additional ARRA reporting requirements related to the weekly employment during Construction or as modified by the Federal Highway Administration (FHWA).	<input type="checkbox"/>	<input type="checkbox"/>
11. Pursuant to Title IX, Section 902 of the ARRA, the U.S. DOT Comptroller General and his representatives are authorized to: 1) examine any records of the contractor, or any records of its subcontractors, that directly pertain to and involve transactions relating to the contract or subcontract, and 2) interview any officer or employee of the contractor or any of its subcontractors regarding such transactions.	<input type="checkbox"/>	<input type="checkbox"/>
12. Review and approve all shop drawings, fabrication details, and other details of structural work.	<input type="checkbox"/>	<input type="checkbox"/>

<u>Phase/Sub-phase/Task</u>	Responsibility: <u>NYSDOT</u> <u>Sponsor</u>	
13. Administer all construction contract claims, disputes or litigation.	<input type="checkbox"/>	<input type="checkbox"/>
14. Perform final inspection of the complete work to determine and verify final quantities, prices, and compliance with plans specifications, and such other construction engineering supervision and inspection work necessary to conform to Municipal, State and FHWA requirements, including the final acceptance of the project by NYSDOT.	<input type="checkbox"/>	<input type="checkbox"/>
15. Pursuant to Federal Regulation 49 CFR 18.42(e)(1) The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.	<input type="checkbox"/>	<input type="checkbox"/>



City of Batavia

To: Honorable City Council

From: Jason Molino, City Manager 

Date: October 20, 2016

Subject: Sales Tax Allocation Agreement

Background: In 1999 the City and County entered into the Sales Tax Allocation Agreement formalizing the percentage share of County sales tax to be distributed between the City, County, Towns and Villages. This agreement came in tandem with the creation of the Operation and Maintenance Agreement for the Water Treatment Plant and Water Treatment Facilities Agreement, as all three agreements addressed the Genesee County Public Water Supply Program, economic development and water demands in the County.

All three agreements (see attached) were renewed and extended in 2007 for an additional 10 years. As outlined in the Sale Tax Allocation Agreement, selected City Council members have attended two meetings with members of the County Legislature and the surrounding Towns and Villages to discuss the Sales Tax Allocation Agreement and whether or not to amend, modify or extend this agreement for an additional term. Furthermore, the agreement requires both the City Council and County Legislature, no later than December 1, 2016, to notify the other of its intentions with respect to extension, terminate, amend or modify the Sales Tax Allocation Agreement.

It should be noted, that while not mentioned in the Sales Tax Allocation Agreement, the two water treatment agreements have bearing on the outcome of the sales tax agreement and that any recommendation regarding any one agreement would be intrinsically intertwined with the other two. As such the City is in ongoing discussions with the County regarding the water agreements.

Currently the renewal and/or amendment of the water agreements are not complete. However, at this juncture in the discussion process there is no reason to consider any alternative to the Sales Tax Allocation Agreement, other than the continuation of the agreement with the current distribution formula for sales tax. Therefore, it is recommended that the Sales Tax Allocation Agreement be extended, without modification, prior to the end of the term, which is February 28, 2018. When a consensus is reached with the County new terms and conditions of all three agreements, it would be recommended that the Sales Tax Allocation Agreement be formally extended, along with the other two water agreements.

Considering that all agreements have a significant impact on all jurisdictions throughout Genesee County from both a water and sales tax perspective, it is imperative that final terms of the agreements provide a regional solution to water supply demands and sales tax distributions for years to come. As we continue to discuss these matters with County staff, should a regional solution not be obtained by July 1, 2017 the City Council may be requested to extend all three agreements for an addition one (1) year term, ending February 8, 2019, to provide sufficient time to finalize and execute new agreements. This would also be needed in order to provide the Office of the State Comptroller ample time to review, approve and process the amendment to the Sales Tax Allocation Agreement which is required under State law.

Recommendation: It is recommended that the City Council approve a resolution stating it intends, without modification, to extend the Sales Tax Allocation Agreement with the County of Genesee prior to the end of the term.

Supporting Document:

1. A Resolution Authorizing the extension of the Sales Tax Agreement with the County of Genesee

#-2016

**A RESOLUTION AUTHORIZING THE EXTENSION OF THE SALES TAX
AGREEMENT WITH THE COUNTY OF GENESEE**

Motion of Councilperson

WHEREAS, the City of Batavia, New York and the County of Genesee have signed an Agreement for the allocation of sales tax revenue which is agreeable to these two municipalities; and

WHEREAS, it is in the best interest of the citizens of the City of Batavia as well as the residents in the County outside the City to insure that sales tax revenue in the City of Batavia is stabilized and does not decline; and

WHEREAS, the term of this Agreement is ten (10) years commencing March 1, 2008 and ending on the 28th day of February, 2018; and

WHEREAS, the Agreement provides that on or before the first day of July, 2016, the Genesee County Legislature shall cause a committee to be convened consisting of members of the County Legislature, members of the City Council and representatives of the elected officials of the Villages and Towns of Genesee County, which committee shall recommend to the Legislature and the City Council whether or not to amend, modify or extend this Agreement for an additional term; and

WHEREAS, the Agreement further states that the Legislature and the City Council thereafter, and prior to December 1, 2016, shall, by resolution, notify the other body that it intends, at the end of the term or any extension thereof, to terminate, amend or modify the Agreement; and

WHEREAS, members of the County Legislature, members of the City Council and representatives of the elected officials of the Villages and Towns of Genesee County, have met to discuss the Agreement; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia pursuant to the Sales Tax Agreement by and between Genesee County and the City of Batavia hereby intends, without modification, to extend the Agreement prior to the end of the term.

**Seconded by
and on roll call**

**AGREEMENT
SALES TAX ALLOCATION
COUNTY OF GENESEE and CITY OF BATAVIA**

THIS AGREEMENT made this 7th day of December, 2007 by and between the **COUNTY OF GENESEE**, with offices at the Old County Courthouse, 7 Main Street, Batavia, New York 14020 hereinafter referred to as "County", and the **CITY OF BATAVIA**, with offices at City Centre, Main Street, Batavia, New York 14020 hereinafter referred to as "City".

WITNESSETH:

WHEREAS, the County and the City, together with representatives of the Villages and Towns in the County have hereto reached an agreement in principal regarding the distribution of sales tax revenue in Genesee County; and

WHEREAS, the County, the Towns and the Villages recognize that the best interests of the entire area, all the various municipalities and all the citizens thereof, would be best served if the revenue derived from sales tax allocated to the City was to be stabilized; and

WHEREAS, it is recognized that industrial and commercial growth in Genesee County will in all likelihood take place outside the City, that the current population of the City will in all likelihood decline and that the City's portion of the revenue derived from sales tax should be based neither on taxable sales within its geographic boundaries nor its population; and

WHEREAS, it is clear that the City's ability to serve as a commercial, financial and governmental center of the County is essential for the economic growth of the areas outside the City; and

WHEREAS, a decline in the City's revenue would adversely affect its ability to function effectively as such a center and adversely effect the ability of the areas outside the City to achieve their full potential for economic development; and

WHEREAS, the best interests of the entire Genesee County Community are served by sharing sales tax revenue in a manner which stabilizes the City's sales tax revenue in order to preserve and promote all of Genesee County; and

WHEREAS, the parties hereto wish to enter into an Agreement pursuant to subdivision c of section 1262 of the Tax Law of the State of New York.

NOW, THEREFORE, it is agreed as follows:

FIRST: The County shall, during the term of this Agreement, have the exclusive authority to impose all of the taxes described in Articles 28 and 29 of the Tax Law of the State of New York, pursuant to the provisions of Section 1210(a) and 1224(p) of said law

and at a rate of three percent (3%) and one percent(1%) respectively and shall not set aside any part thereof for County purposes or educational purposes, except as other provided in this Agreement.

SECOND: The City, during the term of this Agreement, shall refrain from imposing any of the taxes described in Article 28 of the Tax Law, effective March 1, 2008.

THIRD: The net proceeds of the tax imposed, collected and received by the County shall be allocated and distributed as follows:

- A. Fifty percent (50%) of such monies shall be set aside for County purposes and shall be available for any legitimate County purposes.
- B. The City shall receive sixteen percent (16%) of such monies.
- C. Thirty four (34%) of such monies shall be paid to each of the towns in proportion to its share of the full taxable value of real property in such towns. Where a village has elected to be paid directly pursuant to section 1262(c) of the Tax Law said village shall be paid that amount proportionate to its share of the total full value of taxable real property in the town.

FOURTH: The implementation of the distributive formula contained in "Third" above is contingent upon agreement by the City not to pre-exempt the sales tax imposed by the County during the term of this Agreement. The City, by resolution has authorized the President of the City Council to confirm its agreement to the distributive formula as set forth herein.

FIFTH: The term of this Agreement shall be ten (10) years commencing March 1, 2008 and ending on the 28th day of February, 2018.

SIXTH: That on or before the first day of July, 2016, the Genesee County Legislature shall cause a committee to be convened consisting of members of the County Legislature, members of the City Council and representatives of the elected officials of the Villages and Towns of Genesee County, which committee shall recommend to the Legislature and the City Council whether or not to amend, modify or extend this Agreement for and additional term.

The Legislature and the City Council thereafter, and prior to December 1, 2016, shall, by resolution, notify the other body that it intends, at the end of the term or any extension, thereof, to terminate, amend or modify this Agreement.

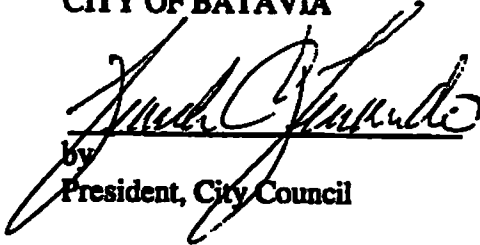
SEVENTH: Within the time frames set forth herein and the statutory notice requirements in Articles 28 and 29 of the Tax Law, this Agreement may be modified, terminated or otherwise amended in the event that both the City Council and the County Legislature, by formal resolution, mutually agree to do so. Neither party may do so unilaterally. Any such modification, termination or amendment must be reduced to writing, executed by such officers of each body as they shall respectively designate and

be approved by the Office of the State Comptroller as set forth above.

EIGHTH: This Agreement is subject to the approval of the State Comptroller of the State of New York as set forth in section 1262(c) of the Tax Law.

IN WITNESS WHEREOF, the undersigned have set their hands this 31st day of December, 2007.

CITY OF BATAVIA


by
President, City Council

COUNTY OF GENESEE


by
Chair, Genesee County Legislature

STATE OF NEW YORK)

COUNTY OF GENESEE) SS.:

On December 31, 2007, before me personally came

Frank Ferrando to me known, who being by me duly sworn did depose and say that he/she is the Batavia City Council President of the City of Batavia, New York, the municipal corporation described in foregoing, and acknowledged that he/she executed the same by order of such corporation.

Heidi Parker
Notary Public

J.
Heidi Parker, Notary Public
State of NY, County of Genesee
My Commission Expires March 28, 2009

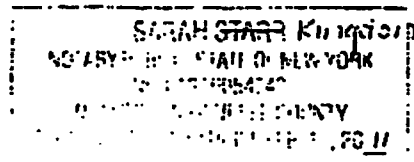
STATE OF NEW YORK)

COUNTY OF GENESEE) SS.:

On December 31, 2007, before me personally came _____

Mary Pat Hancock to me known, who being by me duly sworn did depose and say that he/she is the Legislative Chair of the Genesee County Legislature, the municipal corporation described in the foregoing, and acknowledged that she executed the same by order of the Legislature of said County; and that she signed her name thereto by like order.

Sarah Starr Kingdon
Notary Public



#20-2016

**A RESOLUTION APPOINTING TWO COUNCIL MEMBERS TO THE COMMITTEE TO
REVIEW THE SALES TAX ALLOCATION AGREEMENT WITH GENESEE COUNTY**

C. Hey, T. Hens, Scott G
FXI

Motion of Councilperson Viele

WHEREAS, the County of Genesee and the City of Batavia, together with representatives of the Villages and Towns in the county did in 1999 reach an agreement with regard to the distribution of sales tax revenue in Genesee County and renewed that agreement in 2007, and

WHEREAS, the County and Villages recognized that the best interests of the entire area, all the various municipalities and all the citizens thereof, would be best served if the revenue derived from sales tax allocated to the City was to be stabilized, and

WHEREAS, it was recognized that industrial and commercial growth in the County of Genesee would in all likelihood take place outside the City, that the population of the City would in all likelihood decline and that the City's portion of the revenue derived from sales tax should be based neither on taxable sales within its geographic boundaries nor its population, and

WHEREAS, the County Legislature has determined that the City's ability to serve as a commercial, financial and governmental center of the County is essential for the economic growth of the areas outside the City, and

WHEREAS, pursuant to the current Sales Tax Allocation Agreement that on or before the first day of July, 2016, the Genesee County Legislature shall cause a committee to be convened consisting of members of the County Legislature, members of the City Council and representatives of the elected officials of the Villages and Towns of Genesee County, which committee shall recommend to the Legislature and the City Council whether or not to amend, modify or extend this Agreement for an additional term, and

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby appoints Councilpersons Eugene Jankowski Jr., and Kathy Briggs to serve as the City representatives on said committee.

Seconded by Councilperson McGinnis and on roll call approved 9-0.

I hereby certify that the foregoing is a true and correct transcript of a resolution duly adopted by the City Council of the City of Batavia on the 9th day of February, 2016 and of the whole thereof.

Dated at Batavia, NY, February 17, 2016



Heidi J. Parker
City Clerk, Batavia, NY

AGREEMENT

This Agreement made this 31 day of December, 2007 by and between the City of Batavia a municipality in the County of Genesee and State of New York with offices at City Hall, One Batavia City Centre, Batavia, New York 14020, hereinafter referred to as the "City" and County of Genesee, with offices at Old County Courthouse, 7 Main Street, Batavia, New York 14020, and/or an assignee with the authority to own, lease, and/or operate a municipal water system or systems and/or to supply municipal water produced by others; hereinafter referred to as the "County".

WHEREAS, the County and the City have agreed to work together long term to enhance economic development within all of Genesee County, consistent with Smart Growth and associated countywide sales tax revenues, and for the City to share equitably such countywide economic development revenues; and

WHEREAS, the County established the Genesee County Water Resources Agency by County Resolution No. 495 of 1999 consisting of nine members appointed by the County and for purposes of guiding the water supply decisions and actions by the County relative to all aspects of the proposed countywide, coordinated, comprehensive and integrated water supply system; and

WHEREAS, the creation of a countywide, coordinated, comprehensive, and integrated County water supply system is an essential "infrastructure component" to enable the above countywide economic development; and

WHEREAS, the County requires the use of and access to the City's existing water treatment and water supply facilities; water transmission system; and customer base to create the above countywide water supply system; and

WHEREAS, the City desires to continue to use its current water supply sources (Tonawanda Creek and Cedar Street Well Field) vs. "outside sources" to supply the City as long as said existing sources are viable, cost effective, and in compliance with applicable State and Federal standards and requirements; and

WHEREAS, the City agrees to have the County assume responsibility for the production, treatment, operation, maintenance and/or supply of municipal water supply in compliance with Federal and State standards, regulations for the City and environs; and

WHEREAS, the County desires to assume the responsibility for said water supply and/or production/treatment; and

WHEREAS, the County has developed a plan to so supply the City and included it in its Environmental Impact Statement dated February 1999; and

WHEREAS, the City and County entered into an original Lease Agreement dated November 20, 2000 for a term, as revised, through February 28, 2010; and

WHEREAS, the City and County have agreed to extend and renew the original Lease Agreement in order to have the lease on the same term as the Sales Tax Allocation Agreement between the City and the County.

NOW THEREFORE, pursuant to General Municipal Law Article 5-B, it is agreed as follows:

FIRST: TERM

The City shall lease to the County the City's Water Supply and Treatment Facilities, including but not limited to, the existing water treatment plant, clearwell, well field and raw water lines to the plant, existing water intake and waterlines from Tonawanda Creek to the plant

hereinafter referred to as the "Facilities" located at Cedar Street and Lehigh Avenue for a period of ten (10) years beginning February 28, 2008 and ending February 28, 2018 (the "Term").

SECOND: RENT

For and in consideration of such lease, the County shall pay or cause to be paid to the City the annual rent for each year during the term of this agreement the amount of Five Hundred and Fifty Thousand Dollars (\$550,000). The rent payments shall be made in equal quarterly payments of \$137,500 on April 1, July 1, October 1 and January 1.

THIRD: FACILITIES

The County or its designee shall assume the complete responsibility for the maintenance and operation of the Facilities. The City and County have also entered into an operation and maintenance agreement dated April 10, 2001, as extended by an agreement dated December 31, 2007.

FOURTH: COUNTY TO PROVIDE CITY REQUIREMENTS

The County shall produce or shall cause to be produced at the Facilities, or to acquire from other sources, water which shall meet all current and future applicable New York and Federal Public Drinking Water Regulations and Standards and shall provide water in such quantities and pressure as may be required by the City for residential, commercial and industrial use including use by the City itself for fire fighting, public works and other municipal services. Finished water provided through this contract shall not exceed a hardness level of 140mg/l.

The County shall continue to use the City's existing water supply sources vs. "outside sources" to supply the City as long as said existing sources are viable, costs effective, and in compliance with applicable State and Federal standards/regulations and no change shall be made to the City's supply source without the mutual agreement of the City and the County.

The County shall assume all requirements of any Water Districts in the Town of Batavia whether now in existence or created during the Term and any other districts in any adjoining Town, Towns or Villages to the full extent of their collective requirements during the term of the Lease.

FIFTH: CITY TO PURCHASE EXCLUSIVELY FROM COUNTY

The City agrees to purchase potable water exclusively from Genesee County during the Term.

SIXTH: COUNTY TO SUPPLY OUTSIDE CITY

On the effective date of this Agreement, the City does hereby assign to the County all of its rights and obligations pursuant to an Agreement to provide water, by and between the City of Batavia and the Town of Batavia, dated May 13, 1969; and the County hereby agrees to indemnify and hold harmless the City from all claims, losses, costs and damages arising out of any activities undertaken by the County hereinafter pursuant to the terms and conditions of this said Town of Batavia Agreement, including the cost of settling any actions and reasonable attorney's fees for defense. Other consumers in the Town of Batavia, outside the City, currently being served by the City's distribution system, will continue to receive water supply from the City at the same rate as the City or they shall be able to form Town of Batavia Water Districts and receive service from the County. Similarly, customers in the City of Batavia currently being served by Town of Batavia water districts shall continue to receive water supply from the districts at the same rate as district customers.

SEVENTH: WATER RATES

The County shall sell or cause to be sold, such water to the City on a wholesale basis and as measured by a "master meter" at the treatment plant owned and operated by the City and

jointly read by the City and County. Any cost of maintenance of said meter shall be borne by the City and reimbursed to the City as part of the reimbursement costs provided in paragraph

THIRD.

The "2007-08 base rate" for the 12 month period ending 3/31/08 for said water purchased by the City is \$1.80 /1000 gallons. An additional \$.60/1000 gallons shall be charged to partially cover the cost of the project. On April 1 of each subsequent year, the \$1.80 /1000 gallons shall be adjusted not to exceed the Consumer Price Index (CPI) for All Consumers in the Northeast region.

If the County provides water for use by the City from a source other than the current City supply sources, as agreed to by the City and County pursuant to Paragraph FOURTH, the rate shall be the weighted average, based on flow, of the inflated 2007-08 base rate for the existing City sources and the rate actually charged to the County for "other sources" plus \$.60 /1000 gallons.

In the event of material changes to the current applicable Federal and State regulations/standards effecting the cost of producing treated water, as provided for herein, the parties agree to review the 2007-08 base rate of \$1.80/1000 gallons and to negotiate in "good faith" to equitably adjust said "base rate" to reflect any associated increased cost of treatment attributed to said new regulations/standards.

EIGHTH: TRANSMISSION AND DISTRIBUTION

The City shall remain responsible for the maintenance, billing, servicing, repair, replacement, operation, metering and any and all aspects of its distribution system for such water after it has left the Facilities and passed through the master meter.

NINTH: TRANSMISSION TO USERS OUTSIDE CITY

The City hereby agrees to permit the transmission of water through its existing system to areas outside its geographic boundaries of such water as may be required by any water districts, other municipalities or other individual customers, for the Term without any additional charge. The County and said "outside users" shall indemnify the City from any and all claims, costs and liabilities that may arise out of such service. This provision shall not require the City to provide water to users outside the City in such amounts as would materially adversely affect the City's ability to provide adequate water to its customers within the City.

TENTH: CITY WATER STORAGE TANK AND WATER FILTRATION PLANT

The City has conveyed its old water storage tank #1 to the County and the County has removed said tank. The County shall provide a new water storage tank which shall serve the City water system with sufficient capacity such that when operated in conjunction with the existing City of Batavia water tank #2, located near the Veterans' Hospital, and water treatment plant "clearwell" provides a two day emergency conditions supply of water for the City.

In the event that the City and County abandon the City Water Filtration Plant, the County, at its cost, shall decommission the plant and raze the site subject to City concurrence.

ELEVENTH: COUNTY INDEMNIFIES CITY

The County shall indemnify, save harmless and defend the City from any and all liability, cost, claims and expense arising out of any occurrence related, directly or indirectly, to the County's operation of the facilities.

TWELFTH: CITY INDEMNIFIES COUNTY

The City shall indemnify, save harmless and defend the County from any and all liability, cost, claims and expense arising out of any occurrence related, directly or indirectly to the City's

ownership, control, operation, maintenance, repair, replacement, transmission or distribution of water through its system.

THIRTEENTH: LAW AND VENUE

This Agreement shall be interpreted pursuant to the Laws of the State of New York and any action to enforce it shall be brought in the County of Genesee.

FOURTEENTH: ASSIGNMENT OF AGREEMENT

The County and City both agree not to assign this Agreement without the approval of the other except that the County can assign this Agreement in whole or in part without such approval to a subsequently formed Genesee County Water District. Any such approvals will not be unreasonably withheld by the City.

FIFTEENTH: GENESEE COUNTY WATER RESOURCES AGENCY

The County agrees to consult with the City regarding appointments to the Genesee County water Resources Agency. Further the County agrees to maintain the number of members of the Agency at nine unless mutually agreed otherwise by the City and County, that the members shall be reasonably representative of the communities served, and not served, by the County water system, with at least two-thirds of the members from communities that directly or indirectly are served by the County system and that the Chairman or Vice Chairman shall be a member who resides within the City. Additionally, the County agrees that its actions under this agreement will be guided by and be consistent with the recommendations of the Agency.

SIXTEENTH: PHASE II FACILITIES

The County agrees that it will not undertake the Phase II facilities, or similar ones, as described in the Genesee County Water Supply Program Final Environmental Impact Statement dated February, 1999, if undertaking such would materially change or adversely affect the use of

the City's supply or source of water, its quality or quantity and/or its water cost, without the approval of the City. Said approval will not be unreasonably withheld by the City.

SEVENTEENTH: RENEWAL

The City and the County hereby agree to begin negotiations to extend the Lease Agreement as set forth herein beyond the Term hereof, beginning in 2015, to the effect that the general terms, conditions and mutual benefits will continue beyond the Term.

INWITNESS WHEREOF, the parties have hereunto set their respective hands and seals
the date first set forth above.

THE CITY OF BATAVIA

By: *Frank Ferrando*

President of the City Council

COUNTY OF GENESEE

By: *Mary Pot Hancock*

Chairman of the Legislature

STATE OF NEW YORK)

ss:

COUNTY OF GENESEE)

On the 31 day of December in the year 2007 before me personally came, Frank Ferrando to me known, who, being by me duly sworn, did depose and say that he/she resides in Batavia, New York; that he/she is the President of the City Council of the City of Batavia, that he/she knows the seal of said City; that the seal affixed to said instrument is such seal; that it was so affixed by order of the City Council of said City, and that he/she signed his/her name thereto by like order.

Heidi Parker
Notary Public

J.
Heidi Parker, Notary Public
State of NY, County of Genesee
My Commission Expires March 28, 2009

STATE OF NEW YORK)

ss:

COUNTY OF GENESEE)

On the 31 day of December in the year 2007 before me personally came, Mary Pot Hancock to me known, who, being by me duly sworn, did depose and say that he/she resides in Batavia, New York; that he/she is the Chairman of the Legislature of the County of Genesee, that he/she knows the seal of said County; that the seal affixed to said instrument is such seal; that it was so affixed by order of the Legislature of said County, and that he/she signed his/her name thereto by like order.

Sarah S. Kingdon
Notary Public

SARAH STARR Kingdon
NOTARY PUBLIC, STATE OF NEW YORK
No. 01ST6054749
QUALIFIED IN GENESEE COUNTY
MY COMMISSION EXPIRES FEB. 12, 2011

**AMENDMENT
TO CITY OF BATAVIA AND COUNTY OF GENESEE
WATER SUPPLY OPERATION & MAINTENANCE AGREEMENT
DATED APRIL 10, 2001**

THIS AGREEMENT, made the 31st day of December, 2007, by and between the City of Batavia, a municipal corporation of the State of New York, with offices located at City Hall, One Batavia City Centre, Batavia, New York, hereinafter referred to as the "City," and the County of Genesee with offices at Old County Courthouse, 7 Main Street, Batavia, New York, hereinafter referred to as the "County."

WITNESSETH:

WHEREAS, the City and the County have entered into a lease agreement, dated January 20, 2000 whereby the City leased its water facilities to the County;

WHEREAS, the City and the County subsequently entered into a Water Supply Operation & Maintenance Agreement, dated April 10, 2001 whereby the operational procedures for the water facilities were addressed for a period from March 1, 2000 to February 28, 2010; and

WHEREAS, the current term of the lease agreement is through February 28, 2010; and

WHEREAS, the City and County have continued to review the lease and the terms of the related Operation and Maintenance Agreement executed by and between the City and the County for the operation of the water facilities; and

WHEREAS, the City and County intend the terms of the lease and Operation and Maintenance Agreement to be commensurate with the term of a Sales Tax Allocation Agreement between the parties; and

WHEREAS, the City and County have mutually determined that it is appropriate to enter a new lease agreement and extend the Operation and Maintenance Agreement for a period of eight (8) years through 2018; and

WHEREAS, the City and County have entered a new lease agreement for the water facilities dated December ____, 2007; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and in the Operation and Maintenance Agreement, and the January 20, 2000 agreement executed by the City and County respectively, it is agreed as follows:

Paragraph 8.1 of the Agreement between the City and County, dated April 10, 2001 is hereby amended to read as follows:

The term of this Agreement and the term of the lease of the "Facilities" described in the January 20, 2000 City/County water agreement shall be extended for a period of an additional eight (8) years commencing February 28, 2010 through February 28, 2018.

The April 10, 2001 Agreement is in all other respects re-affirmed and re-stated.

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: 

FRANK FERRANDO

BATAVIA CITY COUNCIL PRESIDENT

COUNTY OF GENESEE

(SEAL)

By: 

MARY PAT HANCOCK

LEGISLATIVE CHAIR

STATE OF NEW YORK)

COUNTY OF GENESEE) SS.:

On December 31, 2007, before me personally came _____
Frank Ferrando to me known, who being by me duly sworn did depose and say
that he/she is the Batavia City Council President of the City of Batavia, New York, the municipal
corporation described in foregoing, and acknowledged that he/she executed the same by order of
such corporation.

Heidi Parker
Notary Public

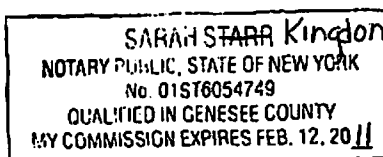
J.
Heidi Parker, Notary Public
State of NY, County of Genesee
My Commission Expires March 28, 2009

STATE OF NEW YORK)

COUNTY OF GENESEE) SS.:

On December 31, 2007, before me personally came _____
Mary Pat Hancock to me known, who being by me duly sworn did depose and say
that he/she is the Legislative Chair of the Genesee County Legislature, the municipal
corporation described in the foregoing, and acknowledged that she executed the same by order of
the Legislature of said County; and that she signed her name thereto by like order.

Sarah S. Kingdon
Notary Public



WATER SUPPLY OPERATION & MAINTENANCE AGREEMENT
(Approved February 2001)

This Agreement is made and entered into on this 10th day of April 2001, by and between the City of Batavia, a municipal corporation in the State of New York, with offices at 10 West Main Street, Batavia, New York 14020 (hereinafter "City"), and County of Genesee with offices at County Building No. 1, Main and Court Streets, Batavia, New York 14020, and/or an assignee with the authority to own, lease, and/or operate a municipal water system or system and/or to supply municipal water produced by others (hereinafter "County").

WHEREAS, the City and County agree that it is desirable to continue to use the current "City Water Supply Sources" and Treatment Plant (as referenced in Paragraph FIFTH in the City/County January 20th, 2000 Agreement); and

WHEREAS, pursuant to an agreement between the parties dated January 20, 2000, the City has agreed to lease its water supply and treatment facilities to the County; and

WHEREAS, the City has special expertise, professional skills, and experience in the management, operation, and repair of the water supply and treatment system; and

WHEREAS, the City desires to provide such services to the County through the continued operation of the facilities subject to the terms and conditions contained herein; and

WHEREAS, the City and the County desire to replace and supercede a previous water supply operation and maintenance agreement approved by the parties in or about August 2000.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

1. DEFINITIONS

"Administrative" refers to that part of the City's operation other than that directly involved with operation, maintenance, and repair of the Facilities.

"Cost of Operation" means all costs directly related to operation, maintenance, and repair of the Facilities including personnel, utilities, supplies, chemicals, contract services, and reasonable, and applicable Administrative costs of general City government.

"Direct Customers" means water customers directly served and billed by the City including those in the Town of Batavia whose water does not pass through one of the master meters.

“Distribution System” means all piping and appurtenances after the master meter(s) at the water treatment plant utilized to serve all customers who are directly billed by the City and prior to any master meters measuring water supplied to the Town of Batavia and/or any other political jurisdiction. (The term “Transmission/Distribution System” also means “Distribution System.”)

“Facilities” means the water supply and treatment facilities including: all production and monitoring wells, (developed and undeveloped), and pumping equipment on property adjacent to Cedar Street; transmission line from these wells to the Water Treatment Plant; water intake structure, equipment, and piping for the withdrawal of water from Tonawanda Creek; water treatment plant on Lehigh Avenue, including clearwell; discharge piping from the plant, through a proposed master meter, to the City’s Distribution System, and the Ellicott Street elevated storage tank after January 1, 2002 and until that structure is removed from service.

“Maintenance” means those routine and/or repetitive activities, including preventative in nature, required or recommended by the equipment or facility manufacturer, City professional staff, applicable laws, or industry standards to maximize the service life of the Facilities or components thereof.

“Operators” means the full time City employees who only work directly at the Water Treatment Plant and operate the plant. For part-time or “shared” personnel, their associated costs shall be prorated appropriately.

“Personnel Costs” includes all salary, benefits, training, certification, and costs related to contractual agreements for the Operators, applicable portions of other Department of Public Works personnel when they perform work associated with the Facilities, and Administrative personnel.

“Repairs” means those non-routine activities required for operational continuity, safety, and performance, generally due to failure or to avert a failure of any component of the Facilities.

“System” means the entire water supply and distribution system both within and without the City of Batavia, including the Facilities, the Distribution System, and all connected storage tanks and meters, and any piping, tanks, pumps, meters, and appurtenances that currently exist or may be added outside of the City, but receiving water from the Water Treatment Plant.

“Plant” means the portion of the “Facilities” located on Lehigh Avenue in the City, which receives raw water from the wells on Cedar Street and the Tonawanda Creek and processes it to drinking water standards as well as softening it.

2. GENERAL

- 2.1 This Agreement is for operation and maintenance of the “Facilities” by the City. Related provisions involving the terms and conditions for leasing the Facilities to the County are

contained in the January 20, 2000 Water Agreement between the City of Batavia and Genesee County with certain additional provisions contained herein.

- 2.2 This Agreement shall be binding upon the successors and assigns of each party, but neither party may assign this Agreement without the prior written consent of the other party, except that the County can assign this Agreement in whole or in part without such approval to a subsequently formed Genesee County Water District. Consent shall not be unreasonably withheld.
- 2.3 All notices shall be in writing and transmitted to the addresses stated above.
- 2.4 This Agreement is the entire operating Agreement between the parties. This Agreement may be modified only by written agreement signed by both parties. Wherever used, the terms "County" and "City" shall include respective officers, agents, directors, elected or appointed officials, and employees.
- 2.5 If any non-material term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.
- 2.6 For the purposes of this Agreement, all days shall be counted including Saturdays, Sundays, and legal holidays, provided however that if the final day of any period shall fall on a Saturday, Sunday, or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday, or legal holiday.
- 2.7 It is understood that insofar as operation and maintenance of the "Plant" is concerned, the relationship of the City to County is that of independent contractor.
- 2.8 The City shall have the sole operational and repair authority of the "Facilities" within the scope set out herein as long as all requirements and standards of water production as well as the terms of this Agreement are satisfied.
- 2.9 The City shall have the right to sell bulk water to customers at the plant and withdraw such water prior to the master meter. Such transactions shall be handled in the same manner as water supplied within the City and subject to rates established by the City. Records shall be kept of the volumes sold, and payment to the County shall be made at the same rate as that passing through the master meter.
- 2.10 The cost of wastewater discharges from the "Plant", including domestic and process wastewater, shall be included in the operational expenses to be paid by the County as provided in Section 6 herein.

- 2.11 The division of this Agreement into articles, paragraphs, and subparagraphs and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- 2.12 The City and County shall designate their respective contact person for purposes of day-to-day interpretation, communications, coordination, and administration of this Agreement. Initially, the representatives shall be the Director of Public Works/City Engineer and the County Superintendent of Highways. Any change in these designations shall be immediately communicated to the other party. These representatives may designate other personnel within their respective organization to contact for specific reasons.
- 2.13 For all disputes or matters requiring interpretation, an attempt will be made by the designated representatives (Section 2.12 above) to first resolve all such issues. If they are unable to resolve the issue, it shall be submitted to a committee consisting of two City Council members and two County Legislators, chosen by the President of the City Council and Chairman of the County Legislature, respectively, who shall resolve the dispute after receiving input from administrative, technical, and legal staff of each party as appropriate. If said committee is unable to resolve the dispute, an independent arbitrator agreed upon by the two parties shall resolve it.

3. CITY RESPONSIBILITIES AND OBLIGATIONS

In accordance with the terms of this Agreement, the City shall:

- 3.1 Within the design capacity and capability of the "Facilities", manage, operate, and maintain the Facilities so that water transmitted from the "Plant" meets or exceeds the minimum drinking water standards as established by the United States Environmental Protection Agency and the New York State Department of Environmental Conservation. In addition, the hardness level of the water produced and transmitted from the Plant shall not exceed 140 mg/l.
- 3.2 After the County's initial \$2.5 million in improvements to the City's water treatment plant, make all capital improvements in an amount up to \$5 million, provided that such improvements do not increase the capacity of the "Facilities" and are necessary to enable the "Facilities to operate so as to meet applicable state and federal drinking water standards and/or regulations.

The City shall also be authorized to alter the Facilities to achieve the objectives of this Agreement; provided any such improvements shall not create additional operating and maintenance costs unless any such costs are paid by the City.

- 3.3 Operate and maintain (or cause to be operated and maintained) the "Facilities" as required to comply with Section 3.1 above and to be consistent with good engineering/operations practices.
- 3.4 Provide sufficient certified, qualified, capable, and experienced operations personnel (as well as necessary management, administrative, technical, and clerical support), who meet relevant State of New York requirements regarding water treatment operations and maintenance.
- 3.5 Perform (or have performed) all necessary and "Maintenance" and "Repairs" of "Facilities" to comply with the above.
- 3.6 Pay all costs incurred in operation of "Facilities" as provided herein.
- 3.7 Provide County, on a quarterly basis, an invoice for "Cost of Operation" of the "Facilities" as outlined in Section 6 below.
- 3.8 Provide County any and all information related to the "Facilities" and the operation thereof in accordance with the laws of the State of New York.

4. COUNTY RESPONSIBILITIES AND OBLIGATIONS

In accordance with the terms of this agreement, the County shall:

- 4.1 Make capital expenditures to the City's water treatment plant in the amount of \$2.5 million as specified in contracts designated "14" and "15" of Genesee County's Bid # 2001-02 for "The City of Batavia Water Treatment Plant", prepared by Clark Patterson Associates, which contracts are incorporated herein by reference; the contracts for which shall be awarded during the calendar year 2001 and the improvements themselves shall be completed in a timely manner thereafter, taking into account usual construction practices and schedules.
- 4.2 Subject to, and subsequent to, the City fulfilling it's responsibilities in accordance with the first paragraph of section 3.2 above, the county shall make any additional capital expenditures to the City's water treatment plant as may be necessary to ensure it's continued operation during the term of this agreement, as well as make direct payment or reimbursement to the City for repairs necessary to operate and maintain the facilities in accordance with Section 3 above for the supply of water at a quality in accordance with Section 3.1 above and in sufficient quantity to meet the peak demand of all existing and future direct customers of the City and any customers beyond the City's boundaries as may currently exist or be added by the County.

The County shall also reimburse the City for up to \$2.5 million of improvements and/or repairs to the City's water distribution system, based on the actual costs incurred by the City, and shall make said reimbursements to the City within sixty (60) days of the City providing documentation of said costs to the County. The City shall develop an estimate of expenditures/capital plan for its water distribution system and notify the County in advance of any planned improvements to the system before work commences on any such improvements.

- 4.3 Not allow any additional demands on the "System" outside the City that would measurably reduce the prior levels of pressure, water quality, or fire flow capability at any location within the City unless approved by the City's Director of Public Works/City Engineer. Said approval will not be unreasonably withheld. Any increased demands on the "System" that would measurably and negatively impact City customers will be preceded by the installation of improvements, at County expense, to the "System" to mitigate any such negative impact(s).
- 4.4 Not install new equipment or operate any current equipment in any part of the System in such a manner that measurably increases water pressure within the City unless approved by the City's Director of Public Works/City Engineer. Said approval will not be unreasonably withheld.
- 4.5 Immediately take all steps necessary to obtain in its name (or "co-named" with the City if required by regulatory agencies) all relevant and appropriate permits relevant to the Facilities from the New York State Department of Environmental Conservation and New York State Department of Health.
- 4.6 Supply the City with water from the City's current sources and not from any outside source unless other such source or sources are specifically authorized by the City.

5. METERS

It is understood that there will be "master meters" measuring all treated water entering the City's "Transmission/Distribution System" from the "Plant" as well as all water supplied to others who are not "Direct Customers" of the City. It shall be the responsibility of the County to install, maintain, and repair the master meter supplying water from the "Plant" to the City's "Transmission/Distribution System". The City and County agree to have the City handle these tasks with all fair and reasonable costs reimbursed to the City by the County.

All master meters providing water to those who are not "Direct Customers" of the City will be owned, maintained, and repaired by the City with all fair and reasonable costs reimbursed to the City by the County.

The City shall not be required to pay the County for any water used within the City's Water Treatment Plant whether or not such water passes through the master meter.

6. PAYMENT TO CITY

- 6.1 Each year the City and County will adopt an approved annual budget for the "Cost of Operations" of the "Facilities" that is consistent with the "guidelines" contained in the above referenced January 20, 2000 agreement and subsequent the clarifications. provided in the February 25, 2000 City of Batavia letter (to Clark Patterson) and the March 1, 2000 Clark Patterson letter (to City of Batavia) For the calendar year ending 12/31/00 the budget shall be \$693,008 (\$831,610 divided by 12 and multiplied by 10). For each subsequent year the City will submit a proposed annual budget to the County by September 1 of the preceding year. The County will review and make comments and recommendations on the proposed annual budget to the City within thirty (30) days of it receipt. The City and County will resolve any issues and agree on an approved annual budget for the forthcoming year within thirty (30) days after return of the County's comments to the City and in no case latter than November 10. If the City and County have not agreed on an approved annual budget by November 10, an approved annual budget shall be determined as prescribed in Section 2.13 above. If the City receives no comment or approval from the County after forty-five (45) days from its its submittal, its September 1 proposed annual budget will be deemed approved by the County.
- 6.2 Payments by the County to the City for the "Cost of Operations" will be based on the approved annual budget. Invoiced quarterly "Cost of Operations" will provide "reasonable documentation" so as to allow review of it by the County. If the actual total annual "Cost of Operations" exceeds the approved annual budget (a "Shortfall"), the "Shortfall" amount" amount will be funded and paid as described in Section 6.4 below.
- 6.3 The annual compensation (first and each subsequent year) shall include extra reimbursement to the City for "Transmission/Distribution System" losses attributable to providing water to users both inside and outside the City and for the City protecting the County's \$2.5 million investment in the "Facilities" as provided for in section 4.1. Said extra compensation shall be \$250,000 annually for the first ten (10) years, plus an additional amount equal to the rate charged by the County to the City for water used by the City times the "total net amount of water used by the City (total water production less water used outside the City) times the City's percent of unaccounted for water within the City "Transmission/Distribution System" (13.2% in 1999) times 150% (an estimate of actual water lost from the transmission "Transmission/Distribution System" due to transmission outside the City vs. water used within the City but not metered [fire hydrants, public buildings, etc]).

- 6.4 The total annual compensation (as described above in Section 6.1 and 6.2) shall be administered so as to provide an incentive to minimize the "Cost of Operations" of the "Facilities" and to create a "surplus fund" from any savings between the actual "Cost of Operations" and the approved annual budget (due to the above incentive system). Fifty percent (50%) of any such "surpluses" up to a cumulative amount of \$100,000 shall be "set aside" by the County to create a "Surplus Fund" to offset potential "Shortfalls" (paragraph 6.2) with the balance of any surpluses paid to the City. The City shall have the right to review the County "Surplus" account records at their discretion. Any annual "Shortfall" shall first be paid from the above County "Surplus" fund. . If an annual "Shortfall" exceeds the monies in the County "Surplus Fund", and the City has used its best efforts to minimize the "Cost of Operations", the County shall reimburse the City for said "shortfalls" even if payment of the "Shortfall" exceeds the approved annual budget outlined in paragraph 6.1. In such an event, one, one hundred per cent (100%) of subsequent annual "surpluses" will first be used to "re- establish and repay" the County "Surplus Fund". Once the "Surplus Fund" has been "reestablished and repaid all subsequent surpluses will again be paid to the City, as described above until/if the County "Surplus Fund" is again used, in which case the County "Surplus Fund will again be "reestablished/repaid" as described above.
- 6.5 Quarterly invoices submitted by the City will be paid within thirty (30) days of receipt. Any past due invoices will accrue interest at the rates and terms normally applied to normal business practices."other" City/County contractual relationships.

7. INDEMNITIES, LIABILITY, AND INSURANCE

- 7.1 City hereby agrees to hold County harmless from any liability or damages, which may arise from City negligence under this Agreement.
- 7.2 County agrees to hold City harmless from any liability or damages that may arise from all causes of any kind other than City negligence. County shall defend and hold harmless City from any claims, losses, damages, or actions arising from County's construction, repairs, alterations, or other activities that are not under the direct supervision of City.
- 7.3 The City will be responsible and liable for any penalties or fines which may be imposed by any governmental entity having jurisdiction over the Facilities for any violation resulting from negligence or other conduct in managing or operating the Facilities. The City will not be responsible and liable for any such violation resulting from County's failure to provide adequate equipment, source supply, or other requirements of the Facilities to meet applicable quality and quantity standards or failures resulting from causes of Force Majeure.
- 7.4 City shall maintain, through either commercial policy or self-insurance, insurance coverage on its employees and equipment. County shall require contractors performing work at the Facilities on behalf of the County to add City as an additionally insured on their insurance

policies. County shall maintain, through either commercial policy or self-insurance, insurance coverage on all parts of the Facilities.

- 7.5 The County will annually provide the City with a Certificate of Insurance evidencing insurance coverages as required by this section.

8. TERM AND TERMINATION

- 8.1 The term of this Agreement and the term of the lease of the "Facilities" described in the January 20, City/County water agreement shall be for a period of ten (10) years commencing retroactive to March 1, 2000 and ending February 28, 2010.
- 8.2 Either party may terminate this Agreement for a material breach of the Agreement by the other party, but only after giving written notice of said breach, and allowing the other party sixty (60) days to cure or commence reasonable steps to cure the breach.
- 8.3 In accordance with resolutions and/or agreements passed by County and City, it is recognized that conditions may occur at some time during the term of this Agreement that result in both parties approving an alternative water source and the resulting discontinuance of operation of the Facilities. If such discontinuance occurs, County will provide City one hundred eighty (180) days written notice in advance of the projected termination of operation of the Facilities. City shall continue operation of the Facilities until they are no longer needed, after which time this Agreement shall terminate.
- 8.4 If this agreement is terminated prior to the expiration of its term or is not renewed or extended for an additional term, the City will reimburse the County a portion of the County's \$2.5 million improvements to the City's water treatment plant and the portion of the \$2.5 million actually paid to the City pursuant to section 4.1, section 4.2 and that portion of the \$2.5 million payable as a \$250,000 fixed annual payment to the City as set forth in section 6.3; in accordance with the following formula:

Reimbursement Amount =

$$\begin{array}{l} (\$2,500,000 + \text{Actual Paid Amount of} \\ \text{Distribution System Improvements} + \\ \text{actual amount of additional compensation} \\ \text{as set forth in this section [8.4]}) \end{array} \quad \times \quad \frac{(\text{20 Years} - \text{No. of Years Agreement in Force})}{20 \text{ Years}}$$

9. CONFLICTS

In the event that any of the provisions or terms of this agreement conflict with, or are otherwise inconsistent with the terms of a contract executed by and between the City of

Batavia and the County of Genesee dated January 20, 2000, it is expressly agreed and understood between the parties that the terms of this agreement shall control and supercede any such conflicting or inconsistent provision of the said January 20, 2000 agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written by their duly authorized officers.

COUNTY OF GENESEE

Attest: Carlynn C. Pratt

Title: City Clerk

Date: 4/11/11

By: Mary Pat Hancock

Name: Mary Pat Hancock

Title: Legislature Chair

CITY OF BATAVIA

Attest: George A. Spinnegans

By: George A. Spinnegans

Name: George A. Spinnegans

Title: Council President

MOTION TO ENTER EXECUTIVE SESSION

Motion of Councilperson

WHEREAS, Article 7, Section 105(1)(e), of the Public Officer's Law permits the legislative body of a municipality to enter into Executive Session to discuss "...collective negotiations pursuant to article fourteen of the civil service law...".

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**