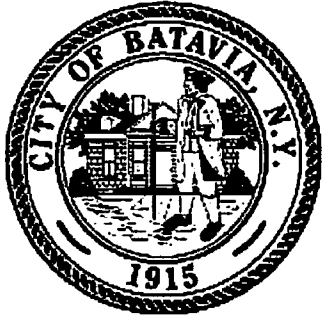


## **BATAVIA CITY COUNCIL CONFERENCE MEETING**

**City Hall - Council Board Room  
One Batavia City Centre  
Monday, August 13, 2018 at 7:00 PM**

### **AGENDA**

- I. Call to Order
- II. Committed Fund Balance for BAN Issuance Cost
- III. State Comptroller's Audit Corrective Action Plan Regarding BID
- IV. Business Improvement District (BID) – Installation of Bicycle Racks and Trash Receptacles
- V. Shared Information Technology for Law Enforcement Records
- VI. State Transportation Improvement Program
- VII. Easement with Savarino Companies
- VIII. National Grid Grant Undertaking Agreement with Savarino Companies
- IX. DPW Surplus Equipment Disposal
- X. Proposed Zoning Map Amendment
- XI. Letter of Support to the Batavia Development Corporation
- XII. City Manager Appointment
- XIII. Adjournment



## City of Batavia

TO: Matt Worth, Interim City Manager  
FROM: Lisa Neary, Deputy Director of Finance  
DATE: July 13, 2018  
RE: Committed Fund Balance for BAN issuance costs

In November of 2017, a resolution (#98-2017) was passed committing \$20,000 of unassigned fund balance to cover the costs of issuance for the BAN the City acquired in May of 2018 for the TIP and Healthy Schools project. We now have all expenses in for this issuance, stated as follows:

Underberg and Kessler	\$3,750.00
Municipal Solutions	\$5,899.40

A Moody's rating is not required on BANs therefore this expense ended up being less than initially estimated.

Attached please find a resolution for council to approve transferring the excess of this committed fund balance back to unassigned fund balance.

Please let me know if you have any questions.

**#-2018**

**A RESOLUTION TO RETURN UNUSED COMMITTED FUND BALANCE TO  
UNASSIGNED FUND BALANCE RELATED TO BAN INSSURANCE COSTS**

**Motion of Councilperson**

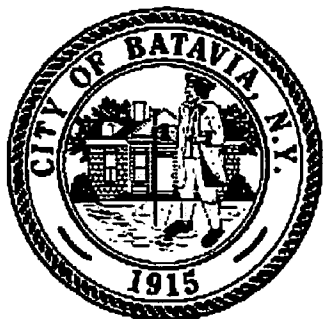
**WHEREAS**, the City of Batavia City Council resolved to commit \$20,000 of unassigned General Fund balance to Committed fund balance to cover the costs of issuing a BAN for the TIP and Healthy Schools projects in resolution #98-2017, November of 2017; and

**WHEREAS**, the City's expenses associated with the issuance of this BAN totaled \$9,649.40 for services rendered by the City's bond counsel, Underberg and Kessler and by the City's fiscal advisors, Municipal Solution; and

**WHEREAS**, there is a balance of unused Committed fund balance for this purpose that need to be returned to Unassigned fund balance in the amount of \$10,350.60.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Batavia does hereby transfer \$10,350.60, the remaining balance of Committed fund balance for the purpose of covering the issuance cost of the BAN acquired in May of 2018, to the Unassigned General Fund balance.

**Seconded by Councilperson  
on roll call**



## City of Batavia

TO: Matt Worth, Interim City Manager

FROM: Lisa Neary, Deputy Director of Finance

DATE: July 13, 2018

RE: State Comptroller's Audit Corrective Action Plan regarding BID

The State Comptroller's Audit report to the City regarding their audit of the Business Improvement District contained audit recommendations relating to various transactions involving BID funds. The state recommends the City take custody of BID charges levied and the excess charges levied previously and maintain those funds in a City account where receipts and disbursements can be properly accounted for.

In many years past, the City use to maintain a Business Improvement District Fund (27) in the financial software system. I recommend the City re-establish this Fund as we start to implement our corrective actions as recommended by the State's audit. This is the first step necessary in doing so.

Attached to this memo is a resolution to City Council that this fund be re-established in KVS in order to move forward with the corrective action plan as presented to the State in June.

Please let me know if you have any questions.

#-2018

**A RESOLUTION TO RE-ESTABLISH THE CITY'S BUSINESS IMPROVEMENT  
DISTRICT FUND (27)**

**Motion of Councilperson**

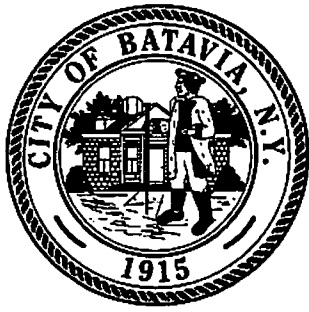
**WHEREAS**, the City of Batavia is in the process of implementing the corrective plan of action in response to the New York State Office of the State Comptroller's Audit of the City's Business Improvement District; and

**WHEREAS**, the State recommends the City take custody of BID charges levied along with the excess charges levied in previous years and maintain those funds in a City account where receipts and disbursements can be properly accounted for; and

**WHEREAS**, in years past, the City had a Business Improvement District Fund (27) in their financial system software.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Batavia does hereby re-instate the establishment of the Business Improvement District Fund (27) for the purposes of taking custody of BID charges levied and to properly account for their receipt and disbursement as a course of corrective action.

**Seconded by Councilperson**  
**On roll call**



# City of Batavia

## *Memorandum*

To: Matt Worth – Director of Public Works

From: Raymond Tourt – Superintendent of Maintenance

Date: July 25, 2018

Subject: BID (Business Improvement District) – request for the installation of bicycle racks and trash receptacles.

The BID has purchased fourteen bicycle racks and six trash receptacles that they would like installed throughout the business improvement district. The BID is requesting that the City install these furnishings at various locations as listed on the attached list and map.

The bicycle racks are of a hoop design adorned with a feet motif to go with their “Feet on the Street” campaign. There are ten locations for the bicycle racks five on city R.O.W., two on private property (Tim Hortons and Save A Lot) and three on NYSDOT R.O.W. They have an additional four to be used as replacements or future placement.

The trash receptacles are similar to the trash receptacles installed by the city in 2004. They are indicated by yellow on the map and all would be in NYSDOT R.O.W. Two would be placed on East Main Street with the remaining four being placed on Ellicott Street from Court Street to Goade Park.

In the case of any furnishings being placed in NYSDOT R.O.W. they require to be permitted annually. NYSDOT advised the BID to have the City add these nine furnishings to the City’s annual permit. This requires the City to assume ownership and maintenance of the furnishings. The alternate is for the BID to obtain the permit which would require them to get special insurances.

My office has met with the BID and feel that the furnishings can be installed in a manner that minimizes interference with sidewalks and snow removal operations though some field adjustments may have to be made.

At this time the BID is requesting permission for the City install the sixteen furnishings and to include nine of the furnishings on the City’s annual permit with NYSDOT.

Pok A Dot



GAME ON



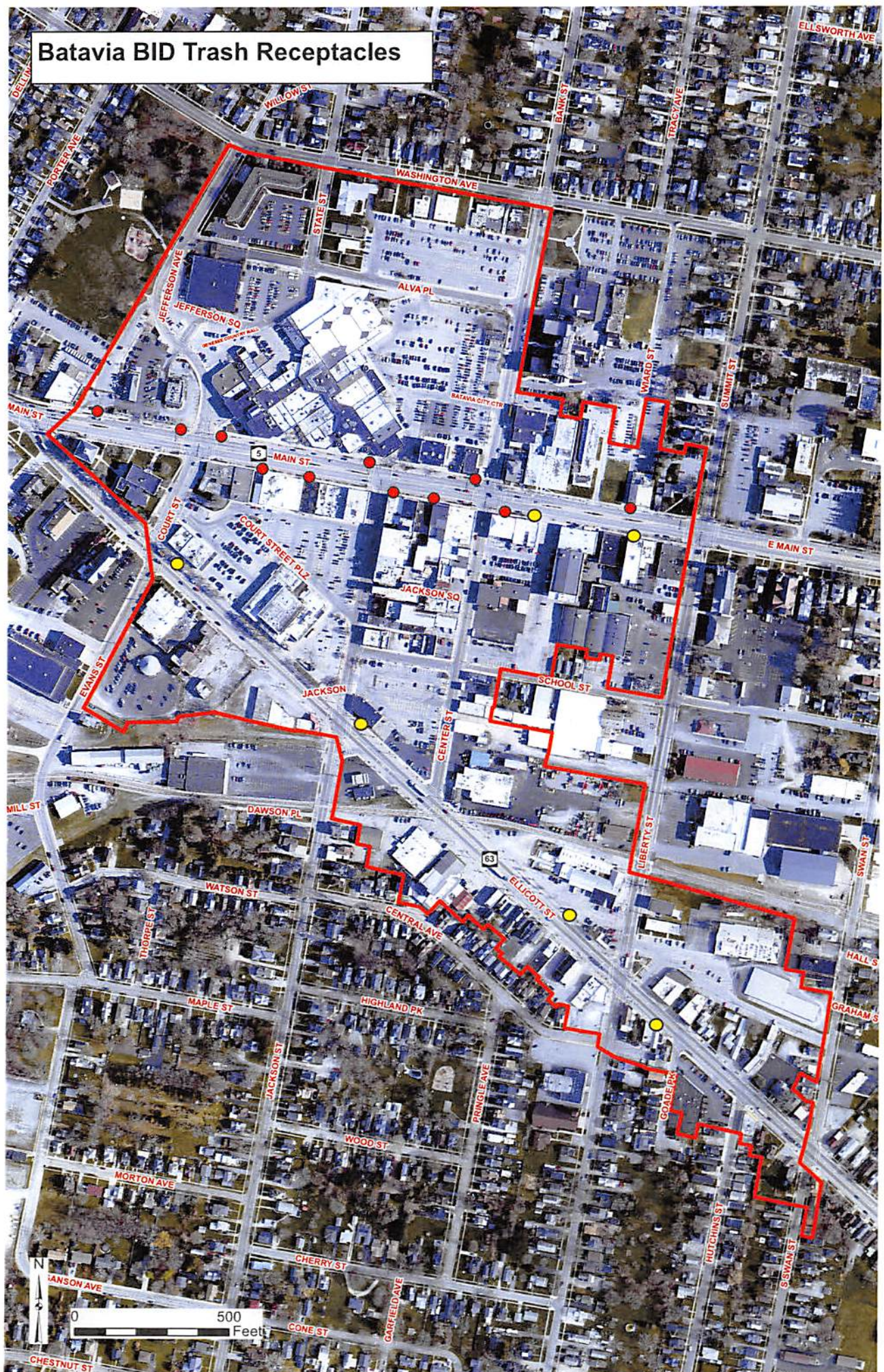
Southside Deli



∩ = Bike rack



# Batavia BID Trash Receptacles







## **Bike Racks to be installed Downtown Batavia**

1. Tim Hortons
2. Court Street (near Old Coffee Culture, across from DMV)
3. Outside JCP/Batavia Showtime
4. Near Christmas Tree between Bank of America and Tompkins
5. In front of Game On (Main St)
6. In front of Southside Deli (Ellicott)
7. In front of Pok-A-Dot (Ellicott)
8. In front of Bourbon & Burger (Jackson St.)
9. In front of Glass Roots (Center St)
10. Save A Lot

We do have 14 total, but can reserve 4 for any replacements needed

**#-2018**

**A RESOLUTION AUTHORIZING OWNERSHIP AND INSTALLATION OF  
RECEPTACLES IN RIGHT OF WAY**

**Motion of Councilperson**

**WHEREAS**, the City of Batavia Business Improvement District (BID) has purchased and would like to give the City of Batavia fourteen bicycle racks and six trash receptacles to be placed strategically throughout the BID district; and

**WHEREAS**, the trash receptacles match the existing trash receptacles currently utilized by the City; and

**WHEREAS**, the City of Batavia would take ownership of the receptacles; and

**WHEREAS**, the City of Batavia would install sixteen of the twenty bicycle racks and trash receptacles in the NYSDOT Right of Way and the City of Batavia's Right of Way; and

**WHEREAS**, the City of Batavia would add new receptacles to the current annual NYSDOT highway permit; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Batavia does hereby approve that the City will take ownership of the sixteen receptacles and they will be placed in the City and State's ROW and be added on the City's NYSDOT highway permit.

**Seconded by Councilperson  
and on roll call**



# City of Batavia

## *Memorandum*

To: Matt Worth, Interim City Manager

From: Shawn Heubusch, Police Chief

Date: August 3, 2018

Subject: CJIS Management Control Agreement with Genesee County

The City of Batavia Police Department utilizes a county-wide network to access Criminal Justice Information Systems (CJIS) through Genesee County. On Wednesday, July 11, 2018 Genesee County Information Technology participated in a (CJIS) audit with the County Sheriff's Office. At this meeting, County IT was informed that a 'Management Control Agreement' must be in place between the Genesee County Sheriff's Office, the City of Batavia Police Department and the Village of LeRoy Police Department and Genesee County IT. This agreement outlines the administration of computer systems and network infrastructure interfacing directly or indirectly with the state network NYeNET for the interstate exchange of criminal history / criminal justice information. This agreement furthermore indicates that the management control of the criminal justice function remains solely with the Genesee County Sheriff's Office, the City of Batavia Police Department and Village of LeRoy Police Department.

It is recommended to enter into a CJIS Management Control Agreement with Genesee County in order to be in compliance with State regulations.

Please see the attached supporting documents.

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

**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](http://www.batavianewyork.com)**



**RESOLUTION NO. CJIS MANAGEMENT CONTROL AGREEMENT -  
INFORMATION TECHNOLOGY - APPROVAL OF**

Legislator offered the following resolution:

**WHEREAS**, The Director of Information Technology concurs with the May 2018 CJIS Audit Findings and Recommendations and does recommend a Management Control Agreement is put in place between the City of Batavia of Police Department and Genesee County Information Technology, And

**WHEREAS**, The County Attorney and the Ways and Means Committee did review the agreement and concurs the Management Control Agreement between the City of Batavia of Police Department and Genesee County Information Technology is required. Now, therefore, Be it

**RESOLVED**, That the Genesee County Legislature does direct the Chair of the Legislature to sign the Management Control Agreement between the City of Batavia of Police Department and Genesee County Information Technology.

**BUDGET IMPACT STATEMENT:** ESTIMATED COST OF DISPOSAL IS \$0 DOLLARS.



**Genesee County**  
**Information Technology**  
**Memorandum in Support - Ways & Means Committee**

3837 West Main St. Rd., Batavia, NY 14020-9406  
Phone (585) 344-2580, ext. 5422  
Fax (585) 345-3060  
[www.co.genesee.ny.us/departments/it](http://www.co.genesee.ny.us/departments/it)

**Date:** August 4, 2018

**Title:** CJIS Management Control Agreements

**Purpose:** To comply with the CJIS Audit findings and recommendations conducted with the Genesee County Sheriff's Office on Wednesday, July 11, 2018.

**Summary of Provisions:** County Information Technology participated in a CJIS audit with the County Sheriff's Office on Wednesday, July 11, 2018. At this meeting, County IT was informed that a 'Management Control Agreement' must be in place between the Genesee County Sheriff's Office, the City of Batavia Police Department and the Village of LeRoy Police Department and Genesee County IT. This agreement outlines the administration of computer systems and network infrastructure interfacing directly or indirectly with the state network NYeNET for the interstate exchange of criminal history / criminal justice information. This agreement furthermore indicates that the management control of the criminal justice function remains solely with the Genesee County Sheriff's Office, the City of Batavia Police Department and Village of LeRoy Police Department.

The attached Management Control Agreement is a cut and paste from the CJIS policies.

**Justification:** Following this process ensures Genesee County is in compliance with the CJIS Audit findings and recommendations.

**Fiscal Implications:** The cost of this service is \$0 dollars.

**Recommendation:** Information Technology is requesting the Ways and Means Committee recommend the Genesee County Legislature approve the three Management Control Agreements, one each for the Genesee County Sheriff's Office, the City of Batavia Police Department and the Village of LeRoy Police Department.

#-2018

**A RESOLUTION TO ENTER INTO A CJIS MANAGEMENT CONTROL  
AGREEMENT FOR INFORMATION TECHNOLOGY WITH GENESEE COUNTY**

**Motion of Councilperson**

**WHEREAS**, the City of Batavia and Genesee County share Information Technology for the purpose of Law Enforcement Records through a shared network application; and

**WHEREAS**, the New York State Criminal Justice Information Systems (CJIS) Security Policy requires a Management Control Agreement relative to CJIS information obtained through the network; and

**NOW THEREFORE, BE IT RESOLVED**, that the City Council President for the City of Batavia is hereby authorized to sign an Agreement with Genesee County for the purpose of establishing the City of Batavia as having Management Control over CJIS information retrieved from the shared network for the City of Batavia as attached hereto.

**Seconded by Councilperson  
and on roll call**



# Genesee County Information Technology Management Control Agreement with the City of Batavia Police Department

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Pursuant to the Criminal Justice Information Systems (CJIS) Security Policy, it is agreed that with respect to administration of that portion of computer systems and network infrastructure interfacing directly or indirectly with the state network NYeNET for the interstate exchange of criminal history/criminal justice information, the City of Batavia Police Department shall have the authority, via managed control, to set, maintain, and enforce:

1. Priorities.
2. Standards for the selection, supervision, and termination of personnel access to Criminal Justice Information (CJI).
3. Policy governing operation of justice systems, computers, access devices, circuits, hubs, routers, firewalls, and any other components, including encryption, that comprise and support a telecommunications network and related criminal justice systems to include but not limited to criminal history record/criminal justice information, insofar as the equipment is used to process or transmit criminal justice systems information guaranteeing the priority, integrity, and availability of service needed by the criminal justice community.
4. Restriction of unauthorized personnel from access or use of equipment accessing the State network.
5. Compliance with all rules and regulations of the City of Batavia Police Department Policies and CJIS Security Policy in the operation of all information received.

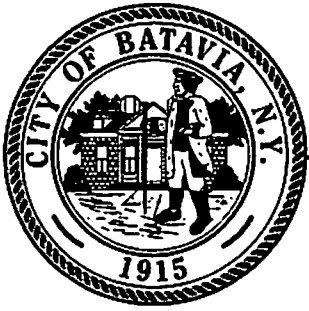
Management control of the criminal justice function remains solely with the City of Batavia Police Department.

This agreement covers the overall supervision of all City of Batavia Police Department systems, applications, equipment, systems design, programming, and operational procedures associated with the development, implementation, and maintenance of any City of Batavia Police Department system to include NCIC Programs that may be subsequently designed and/or implemented within the City of Batavia Police Department.

\_\_\_\_\_  
Date:  
  
Eugene Jankowski, Jr.  
Council President, City of Batavia

\_\_\_\_\_  
Date:  
  
Robert Bausch  
Chair, Genesee County Legislature

\_\_\_\_\_  
Date:  
  
Stephen Zimmer  
Genesee County Information Technology Director



# City of Batavia

## *Memorandum*

To: Matt Worth – Director of Public Works

From: Ray Tourt – Superintendent of Maintenance

Date: August 3, 2018

Subject: STIP (State Transportation Improvement Program)

With anticipation that there will be a release of a call for TIP projects (FHWA Aid projects), we met this past week to assess possible candidate streets to make application for. The City has 39 streets or segments of streets that qualify for consideration under this program.

The program allows for communities to submit applications for 80% federal funds towards the completion of the project. The roads have to be classified as federal aid eligible roadways. In the City of Batavia there are 48 streets/ portion of streets that are classified and 39 of them are owned by the City. Since 1999 we have completed six projects utilizing this funding, five being City streets and one being part of the NYS system for a total of eleven streets being improved. The City currently has a seventh TIP project underway, improving another six streets.

For the next round of the TIP application we are considering rehabilitation projects for Harvester Avenue, Jackson Street, Bank Street and Richmond Avenue. There is no guarantee that any of the projects will be selected as part of this highly competitive selection but we have been successful in the past and would like to apply for this funding opportunity.

Thank you for your consideration and let me know if you would like us to continue to pursue this funding opportunity.

**#-2018**

**A RESOLUTION TO SUBMIT AN APPLICATION FOR NEXT ROUND OF  
TRANSPORTATION IMPROVEMENT PROGRAM WITH  
NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR  
CITY OF BATAVIA, HIGHWAY PREVENTIVE MAINTENANCE (FOUR STREETS)**

**Motion of Councilperson**

**WHEREAS**, the Department of Public Works anticipates a release of aid from the Transportation Improvement Program (TIP); and

**WHEREAS**, the City of Batavia has several streets or segments of streets that qualify for consideration; and

**WHEREAS**, an application for funding to the TIP (FHWA Aid) for the rehabilitation of four streets classified as federal aids eligible roadways will be required; and

**WHEREAS**, for the next round of the TIP funding the City is considering applying for rehabilitation to the following four roadways, Harvester Avenue, Jackson Street, Bank Street and Richmond Avenue; and

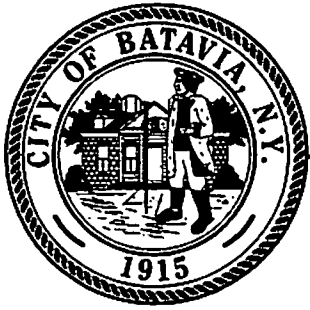
**WHEREAS** the City of Batavia is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% Federal funds and 20% non-Federal funds.

**NOW THEREFORE, BE IT RESOLVED**, the City Council, duly convened does hereby concur to move forward with the submission of application for the above-referenced project; and

**BE IT FURTHER RESOLVED**, that the Council President of the City of Batavia is hereby authorized to execute all necessary requests for Federal aid on behalf of the City Council with the New York State Department of Transportation in connection with the rehabilitation of these above-mentioned roadways.

**Seconded by Councilperson  
and on roll call**





# City of Batavia

## *Memorandum*

To: Honorable City Council

From: Matt Worth, Interim City Manager

Date: August 3, 2018

Subject: Stormwater Easement with Savarino Companies aka Ellicott Station LLC

The Ellicott Station Development Project site has a major city storm sewer within its boundary. This storm sewer has existed on this site for a significant period of time and was in-place without a legal access or maintenance agreement.

The City has worked with Savarino Companies to create an acceptable easement agreement for this facility to remain in place and to also allow for a complete reconstruction of a section which will ultimately be underneath one of the new buildings on this site.

The execution of this easement is a requirement of the site approval issued by the City Planning and Development Committee, as well as an important legal document giving the City access for maintenance of this storm sewer in the future.

Supporting Documentation  
Easement Agreement  
Draft Resolution

**THIS EASEMENT** made this \_\_\_ day of \_\_\_\_\_, 2018

Between

**ELLICOTT STATION LLC**, having an address of 500 Seneca Street,  
Suite 508, Buffalo, New York 14204 (hereinafter referred to as "Grantor")

party of the first part, and

**CITY OF BATAVIA**, a municipal corporation with a mailing address at One  
Batavia City Centre, Batavia, New York 14020 (hereinafter referred to as  
"Grantee")

party of the second part,

**WITNESSETH**

**WHEREAS**, Grantor is the owner of the property situate as 40-52 and 56-70 Ellicott Street,  
Batavia, New York, having the tax identification numbers 84.015-1-2, 84.015-1-4, 84.015-1-5,  
84.015-1-37.312 and 84.015-1-37.311 (the "Premises"); and

**WHEREAS**, a storm water sewer line for the Grantee of approximately three feet by four feet  
crosses the Grantor's property (the "Storm Line"); and

**WHEREAS**, the Grantee wishes to operate and maintain the Storm Line; and

**WHEREAS**, Grantor intends to construct a five story building of approximately 56,000 SF (the  
"Building") on the property directly over the Storm Line; and

**WHEREAS**, the location of the Storm Sewer line is solely at the request of the Grantor and not at  
the request or direction of Grantee, and

**WHEREAS**, Grantor will install a five foot by five foot box culvert replacing the current conduit  
for the Storm Line under the Building; and

**NOW**, therefore, Grantor, in consideration of the mutual promises and understandings herein  
contained, hereby grants and releases unto the Grantee, its agents, employees, successors and  
assigns a **Permanent Easement** for the purpose of construction, reconstruction, maintenance,  
operation and use of the Storm Line below the Premises, which easement area is more fully  
described in the attached diagram marked "Schedule A", on premises more specifically described  
as follows:

**ALL THAT TRACT** or parcel of land situate in the City of Batavia, County of Genesee, State of  
New York, and more particularly described as follows:

Beginning on the westerly right of way line of Jackson Street (width varies), said point being the eastern boundary of tax account number 84.015-1-37.312; thence,

20' wide easement, 10' on either side of the center line of the storm sewer tunnel, approximately 425' in length, containing approximately 0.195 acres of land, more or less.

All as set forth on a site plan originally prepared by Marks Engineering, dated February 15, 2018, a copy of which is attached as "Schedule A" (the "Easement Area").

Concomitant and coextensive with this easement is the further right in the Grantee of ingress and egress upon the Premises for the continued operation, maintenance and repair of the Storm Line, the right, privilege and authority to construct, reconstruct, erect, operate, repair, renew, locate, relocate, perpetually maintain the Storm Line, and other fixtures and appurtenances used or adapted for the Storm Line, on, over, above and through the Easement Area.

The Grantor shall be responsible for, shall bear all costs and expenses and indemnify the Grantee from and against the cost of constructing the Building over the Storm Line, installation of the precast box culvert replacing the current conduit under the Building and the Grantee's out of pocket costs for design review, inspection and approval of the installation of the box culvert.

The Grantor shall indemnify the Grantee against any loss and damage that may be caused by the construction and operation of the Building over the Storm Line, the precast box culvert or by any wrongful or neglectful or omission of the Grantor or its agents or employees with respect thereto.

The Grantor shall defend, indemnify and hold the Grantee, its successors, assigns and grantees harmless against any and all claims, liabilities, expenses (including reasonable attorneys' fees) suits, damages or causes of action for damages, and against any orders or decrees or judgments which may be entered therein, brought for damages or alleged damages resulting from any injury to person and/or property or loss of life sustained in or about the Easement Area by any person or persons whatever, except to the extent arising out of the gross negligence or wrongful act of the Grantee.

At its own cost and expense, the Grantee shall repair any damages caused by it to Grantor's property and lands which lie outside the physical footprint of the Building, and shall indemnify against any loss and damage, excluding the Building, that may be caused by the construction, maintenance and/or operation of the Storm Line or by any wrongful or neglectful act or omission of the Grantee or its agents or employees with respect thereto. Grantee shall use reasonable efforts to minimize any damage to the Premises and Building as a result of Storm Line maintenance, construction and operation.

The Grantor shall defend, indemnify and hold the Grantee, its successors, assigns and grantees harmless against any and all claims, liabilities, expenses (including reasonable attorneys' fees) suits, damages or causes of action for damages, and against any orders or decrees or judgments which may be entered therein, brought for damages or alleged damages arising or related to the Grantee's enforcement of its rights under this easement, operation, maintenance, or

repair of the storm sewer line under Grantor's building or any damages that may result to the Building from the Storm Line, except as a result of the gross negligence or wrongful act of the Grantee.

The easement rights granted herein may not be modified or terminated except by agreement subscribed to by the parties hereto or their successors in interest.

This Agreement shall run with the land and bind the successors of the parties hereto.

This Agreement when made and delivered, shall be performed in, and governed and constructed in accordance with the laws of the State of New York.

**IN WITNESS WHEREOF**, the parties have duly executed this easement the day and year first above written.

**ELLICOTT STATION LLC**, a New York limited liability company

\_\_\_\_\_  
By: Samuel Savarino  
Title: Authorized Signatory

**THE CITY OF BATAVIA**

\_\_\_\_\_  
By: Eugene Jankowski, Jr.  
Title: City Council President

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

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2018, before me, the undersigned, a Notary Public in and for the said State, personally appeared SAMUEL SAVARINO, of Ellicott Station LLC, personally known to me or proved to me on the basis of satisfactory evidence to the individual whose name is subscribed to the within instrument and acknowledged to me that he executed in the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

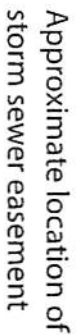


STATE OF NEW YORK     )  
  ) ss:  
COUNTY OF ERIE         )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2018, before me, the undersigned, a Notary Public in and for the said State, personally appeared EUGENE JANKOWSKI, JR., City Council President of the City of Batavia, personally known to me or proved to me on the basis of satisfactory evidence to the individual whose name is subscribed to the within instrument and acknowledged to me that he executed in the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

## STATE ROUTE 63 (ELLCOTT STREET)



SW20A THREE 5

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[illegible]

ELLCOTT STREET  
CITY OF BATAVIA  
COUNTY OF GENESEE  
STATE OF NEW YORK

C100

67 HILLMAN STREET  
CANASTOTA, NY 13241  
PH 716/440-5800 ENGINEERING CONSULTANTS  
CIRCUIT-ONE

SUBSARCA STREET  
SUITE 400  
BUFFALO, NY 14204  
WWW.SAVANNECOMPANIES.COM  
(716) 872-9999

**#-2018**

**A RESOLUTION TO AUTHORIZE THE CITY COUNCIL PRESIDENT TO SIGN  
THE EASEMENT WITH SAVARINO COMPANIES/ELLICOTT STATION LLC**

**Motion of Councilperson**

**WHEREAS**, Ellicott Station LLC, having an address of 500 Seneca Street, Suite 508, Buffalo, New York 14204 (hereinafter referred to as "Grantor") and City of Batavia, a municipal corporation with a mailing address at One Batavia City Centre, Batavia, New York 14020 (hereinafter referred to as "the City"); and

**WHEREAS**, Grantor is the owner of the property located at 40-52 and 56-70 Ellicott Street, Batavia, New York, having the tax identification numbers 84.015-1-2, 84.015-1-4, 84.015-1-5, 84.015-1-37.312 and 84.015-1-37.311 (the "Premises"); and

**WHEREAS**, a storm water sewer line for the City of approximately three feet by four feet crosses the Grantor's property (the "Storm Line"); and

**WHEREAS**, the City wishes to operate and maintain the Storm Line; and

**WHEREAS**, Grantor intends to develop this property, including construction of a five story building of approximately 56,000 SF on the property directly over the storm line; and

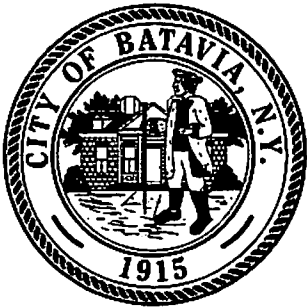
**WHEREAS**, the City has consulted with its engineers who have reviewed Grantor's proposed box culvert proposal for the storm line and advised that it is appropriate; and

**WHEREAS**, Grantor will install a five foot by five foot box culvert replacing the current conduit for the storm line under the building in accordance with plans dated February 23, 2018 per sheet S-121 and revised by addendum no. 2; and

**WHEREAS**, the execution of this easement is a requirement of the site approval issued by the City Planning and Development Committee, as well as legal document giving the City access for maintenance of this storm sewer in the future.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council President for the City of Batavia is hereby authorized to sign the easement with Savarino Companies aka Ellicott Station LLC to move forward with the development.

**Seconded by Councilperson  
and on roll call**



# City of Batavia

## *Memorandum*

To: Honorable City Council

From: Matt Worth, Interim City Manager

Date: August 3, 2018

Subject: National Grid Grant Undertaking Agreement with Savarino Companies

Incorporated into the Ellicott Station Development Project is the construction of a section of the Ellicott Trail Project along the southern boundary of the property. Savarino Companies, as part of their development project, added landscaping and other amenities to further enhance the trail area.

It has been intended, that the City would apply for a National Grid Urban Center/Commercial District Revitalization and urban Development Grant to fund these enhancements to the trail. The City of Batavia has just received confirmation of award of a \$250,000 grant per the application.

Savarino Companies has currently identified/estimated \$183,477 worth of improvements that would be reimbursed under the proposed grant undertaking agreement, based on preliminary construction estimates. It is expected that once plans are finalized, and bids are received that Savarino Companies LLC will be able to define these costs more specifically.

The undertaking agreement will allow Savarino Properties LLC access to up to \$250,000 for approved and verified costs associated with improvements to this property addressing the removal of blight, and enhancing the trail through the addition of lighting, landscaping, seating, parking, etc.

Supporting Documentation  
Original Grant Application  
Draft Undertaking Agreement  
Draft Resolution

Original

Business Address

City:

Online Program Application

County:

New York

nationalgrid

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**Application Information****Application #:****E-mail:** jpacatte@bataviadevelopmentcorp.org**Choose a Password:** ESUC2017**Name:** Julie Pacatte**Title:** Economic Developer**Company Head(President or CEO):** Matthew Worth**Company Head Title:** Interim City Manager**Organization:** City of Batavia, NY**Business Address:** One Batavia City Centre**City:** Batavia**State:** Genesee**State:** NY**Zip:** 14020**Telephone:** 585-345-6330**Fax:** 585-343-8182**Federal Tax ID Number:** 166002535**Date:** 4/5/2017**Organization Type:**

☒ Public/Government Agency ☐ Private Corporation, or ☐ Not for Profit or EDO (Econ Dev Org)  
☐ Other:

**What is the applicants relationship to the project for which the funding is being requested?:**  
**(Check all that apply)**

☒ Owner ☐ For-profit developer ☐ Tenant ☐ Not for-Profit developer ☒ Government official  
☐ Other





Organization:  
Business Address:

City:  
Online Program Application  
County:

New York

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**Step One:** Please check the program for which you want to be considered. If you plan to apply for more than one program, you must submit a separate application for each program.

**Marketing Programs (Section A)**

- ☐ Strategic Economic Development Outreach
- ☐ Cooperative Business Recruitment

**Capital Investment Programs (Section B)**

- ☐ Electric Capital Investment Incentive
- ☐ Natural Gas Capital Investment Incentive
- ☐ 3-Phase Power Incentive

**Site Development Programs (Section B)**

- ☐ Brownfield Redevelopment
- ☐ Building Ready Upstate
- ☐ CleanTech Incubation
- ☐ Industrial Building Redevelopment
- ☐ ShovelReady Incentive

**Revitalization & Urban Development Programs (Section B)**

- ☐ Mainstreet Revitalization Program
- ☐ Urban Center/Commercial District
- ☐ Sustainable Gas and Economic Development

**Energy Efficiency and Productivity Programs (Section C)**

- ☐ Energy Efficiency in the Empire Zones
- ☐ Agribusiness Productivity
- ☐ Manufacturing Productivity Program
- ☐ Natural Gas Manufacturing Productivity Program
- ☐ Power Quality Enhancement Program
- ☐ Renewable Energy and Economic Development

**Pricing Programs (Section D)**

- ☐ Small Business Growth (Demand Charge Reduction)
- ☐ Targeted Financial Assistance



Origin:

Business Address:

City:

Online Program Application

County:

New York

nationalgrid

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**Step Two:** Please complete Applicant, Project, and Financial Information - the person who has the authority to undertake this project and receive funds for it should complete this step. In all circumstances, funding should be viewed by applicant as a reimbursement for work completed following grant approval.

### Project Information

Project Name (if any): **Ellicott Station Urban Corridor**

Project Address/Location (the location which will receive the benefits of this program): **40-70 Ellicott Street, Batavia**  
County: **Genesee**

Are you planning to redevelop, improve, or market:

☐ a site ☐ a building, or ☐ a site and building ☒ a commercial corridor ☐ other(specify):

Does National Grid service the project's location? ☒ electric ☐ natural gas ☐ both ☐ No  
(Only projects located in the National Grid Electric and/or Gas Service Territory are eligible.)

National Grid account number (if any): ☒ N/A

Does applicant have primary responsibility for paying the natural gas and electricity bills for project? ☒ Yes ☐ No

If No, who has primary responsibility of the bills for the project?

Will this investment improve energy efficiency?

☐ Yes ☒ No If so, when? (year)

Will this project stop a facility from closing or relocating outside of the National Grid service territory?

☐ Yes ☒ No

(If Yes, please include explanation in project description)

Estimated project start date? **8/1/2017** Estimated project completion date? **12/31/2019**

### Financial Information:

What is the total cost of this project? \$ **1,651,009.00**

What is the amount of funding you are requesting from this (NG) program? \$ **250,000.00**

Complete the following Project Budget with as much detail as is currently available below.

Attach commitment letters or letters of intent from each source of financing indicated (other than NG).

Use of Funds	\$ Total	Applicant	Sources		Commitments	
			NG	Other		
Urban Corridor	1651009	170839	250000	1230170	<input checked="" type="radio"/> Yes	<input type="radio"/> Pending
					<input type="radio"/> Yes	<input type="radio"/> Pending
					<input type="radio"/> Yes	<input type="radio"/> Pending
					<input type="radio"/> Yes	<input type="radio"/> Pending
					<input type="radio"/> Yes	<input type="radio"/> Pending
					<input type="radio"/> Yes	<input type="radio"/> Pending

Either provide as an attachment to your application a detailed budget breakdown by major item or fill out the form below.

Please make sure the detail you provide identifies each component and cost for the project.

**Construction Related (including electric & gas infrastructure):**

<u>Use (e.g. demolition)</u>	<u>Budget \$</u>
Trail Construction - Hard Costs	\$ 1153045
	\$0
	\$0
	\$0
	\$0

**Research or Productivity Related (Identify contractor & major study components & costs):**

<u>Use</u>	<u>Budget \$</u>
	\$0
	\$0
	\$0
	\$0
	\$0

**Marketing (identify specific activities, materials & costs associated with the project):**

<u>Use</u>	<u>Budget \$</u>
	\$0
	\$0
	\$0
	\$0
	\$0

**Other (be specific):**

<u>Use</u>	<u>Budget \$</u>
Soft Costs	\$0
Engineering	\$269000
Flagger	\$30000
Inspection	\$156000
ROW Purchases	\$102000

6/22/2018

## Economic Development Program Application



City:  
Business Address:  
City:  
Online Program Application  
County:  
New York

**STEP TWO *continued*:**

**Project Description:** Please input a detailed description about your project into the Text box below.

Applicants for the Capital Investment, Site Development & Revitalization & Urban Development Programs (Section B) should provide a clear description of the project. The description should include: the project goals and how they will be achieved, the project budget, jobs created and/or retained, capital investment and/or improved productivity, and explanation and how they will be achieved, and any other unusual characteristics that will help us evaluate the project.

For Building Ready include all information about the "building", site, real estate market and targeted industry.

**Project Description:**

**SEE ATTACHED OVERVIEW.** A new multi-modal trail has been approved by NYSDOT through the City of Batavia known as Ellicott Trail, a 4.3 mile pedestrian corridor. The project is a \$1.6M collaborative effort between the City and Town of Batavia wherein the municipalities have committed more than \$250,000 cash match to the NYS DOT TAP grant which initiated the project. The NG Urban Corridor grant will serve as gap funding to cover hard construction costs. The trail installation will dramatically improve blighted parcels by the installation of lighting, seating, green space, landscaping and gardens in downtown Batavia. The adjacent investment at Ellicott Station will also reclaim vacant structures and re-purpose tax foreclosed abandoned buildings to attract retail and residential pioneers. The historic character of the neighborhood will be enhanced and the new corridor will provide an alternative transportation route to work for the hundreds of temporary construction jobs and estimated 65 permanent jobs when development is fully realized.





- ☐ Wholesale Trade (NAICS Code 42)  
☐ Regional Warehousing or storage (NAICS Code 493)  
☐ Agri-Business (NAICS Codes 111, 112, 113)  
☐ Professional, Scientific or Technical Services (NAICS Code 541)  
☐ Administrative or Support Services (NAICS 561)  
☒ Other (please identify)

What size is the project? (How many acres is the site; how many square feet is the building)? **4.3 mile trail**

Is the site, building or project area currently vacant or underutilized? ☒ Yes ☐ No

If underutilized, what portion of the project is occupied and by whom?

Is the site, building or project area (please check all that apply):

- ☒ a government designated Brownfield?  
☐ a NYS designated RebuildNY Site?  
☐ a NYS designated BuildNowNY site?  
☐ in a NYS designated Empire Zone?  
☐ a NYS designated ShovelReady site?  
☐ in a federal designated Empowerment or Enterprise Zone?  
☐ located in a HD designated Entitlement Community?

Does the site or building have: ☒ Natural gas ☒ Electric ☒ Water ☒ Sewer ☒ Telecom?

Has your project been through the SEQRA Process? ☒ Yes ☐ No

Has it received a negative declaration? ☒ Yes ☐ No If no, describe where you are in the process.

**Town of Batavia SEQRA completed 08/19/2015**

Will the project be fully occupied when completed?

- ☐ Yes ☒ No

If no, do you plan to market your completed project to potential out-of-state tenants or owners?

- ☐ Yes ☒ No

Do you have a written marketing plan?

- ☐ Yes ☒ No

What is your primary target market?

How will you deliver your marketing plan? (Please check all that apply.)

- ☐ Direct Mail ☐ Trade Shows ☐ Sales Calls ☐ Advertising ☐ Web based Marketing ☐ Public Relations ☐ or Other

**Mainstreet Revitalization Program applicants only**

What Type of project?

- ☐ Development of a second story or mixed use planning strategy.  
☐ Research, marketing, architectural, engineering work that advances a construction project.  
☒ Site preparation and construction of commercial and industrial re-use projects  
☐ Renovation and rehabilitation of commercial, industrial or mixed-use buildings under 100,000 square feet.

City: \_\_\_\_\_  
 Business Address: \_\_\_\_\_

City: \_\_\_\_\_  
**Online Program Application**  
 County: \_\_\_\_\_

New York



**STEP THREE:** You have now completed the general information section of this application. Your next step is to complete one program information section for the specific program to which you are applying. (If you are unsure see the program outline in step one on the first page of the application).

**SECTION B - Capital Investment, Site Development and Revitalization & Urban Development Programs:**  
 This section should be completed by only those applicants who are applying for:

**Brownfield  
 Redevelopment  
 Building Ready  
 Capital Investment  
 Incentive**

**CleanTech Incubation  
 Industrial Building  
 Redevelopment  
 Main Street Revitalization**

**3-Phase Power  
 ShovelReady Incentive  
 Urban Center/Commercial District  
 Revitalization**

If existing, what is the project facility's National Grid electric service classification? (This information is included on the facility's National Grid bill.)

- ☐ SC2 ☐ SC3 ☐ SC3A ☐ SC12 or Other  
☐ Natural Gas Service (if applicable)

What will the project's average monthly electric demand (kW) ?

What will it be after the project(kW)? When will this occur?

Is the existing natural gas or electric infrastructure a barrier to completing your project?

- ☐ Yes ☒ No

Please explain

What will the measurable results of your project be?

**A new urban corridor will be introduced in downtown Batavia that turns blighted properties into a welcoming 4.3 mile pedestrian corridor serving as an alternative route to work.**

What total amount of capital investment will be created by this project? \$ 1,651,009.00

Estimated project start date 8/1/2017 Estimated project completion date 12/31/2019

How many jobs will be created as a result of this project? 0 By end of year 1 0

Year 3 0 Year 5 0

How many jobs will be retained as a result of this project? (#) 0 N/A

Do you have a cost estimate for the infrastructure enhancement?

- ☒ Yes ☐ No

Which of the following manufacturing or commercial purposes as classified by the North American Industry Classification System describes this project? (You may determine your NAICS classification by checking:  
<http://www.census.gov/epcd/www/naics.html>)

- ☐ Manufacturing (NAICS Codes 31, 32, or 33)

6/22/2018

## Economic Development Program Application



Business Address:  
City:  
Online Program Application  
County:  
New York

**STEP FOUR: Signatures, Attestments and Disclaimers.**

Please Print this page and then, having read the disclaimers carefully, sign the page and **UPLOAD** it with the documentation outlined below.

**Disclaimers**

- 1) National Grid has the sole responsibility for selecting grant recipients.
- 2) National Grid retains the right to conduct pre-installation and post-installation site visits.
- 3) National Grid makes no warranty, guarantee, or representation, express or implied, with regard to any economic benefits, energy savings, or improved energy quality resulting from use of Program grants. While the Programs are intended to provide benefits to recipients, the recipient understands and agrees that National Grid is not liable for any losses resulting from the recipient's participation in the Programs or from the Programs' failures to result in benefits to recipients.
- 4) In the event the grant recipient utilizes a contractor to accomplish the project goals, National Grid makes no warranty, guarantee, or representation, express or implied, with regard to any materials or workmanship provided by any contractors engaged by the recipients or the reasonableness of the prices charged by them. The recipient understands and agrees that the contractor alone is responsible for the work, and not National Grid. National Grid assumes no liability or responsibility for any damages or claims resulting from your use of any contractor.
- 5) The information contained in this application, the required attachments and any site visit made by an authorized National Grid employee will be used to evaluate your project. An incomplete application will be disqualified.
- 6) Funds granted through this program may only be used by the applicant for the use stated and approved. National Grid reserves the right to withhold funding if the substance of the project changes or the requirements of the program are not met.
- 7) All Economic Development Programs will be administered in accordance with the applicable tariffs as specified in PSC No. 207, Rule 34 and Service Classification No. 12.
- 8) All materials become the property of National Grid and will not be returned. National Grid reserves the right to use any submitted material for marketing the Economic Development Program.
- 9) Program assistance is only available to customers who are current in payments with National Grid or have executed a deferred payment agreement.

**Attestments and Signatures**

APPLICANT: I certify that all statements made in this application, including all attachments, are correct to the best of my knowledge and that I have reviewed and agree to the terms stated on this form, including those provisions regarding warranties and liabilities.

Signed by Applicant: \_\_\_\_\_

Signature Printed

Name MATTHEW J. WORTH

Title: LATERNA CITY MANAGER

Date: JUNE 22, 2018

**National Grid Urban Corridor – Ellicott Trail  
City of Batavia, NY  
June 22, 2018**

**Applicant:** City of Batavia, NY

**Contact:** Lisa Neary, Deputy Director of Finance  
One Batavia City Centre, Batavia, NY 14020  
585-345-6300

**Alternative:** Lisa Casey, Confidential Secretary  
City of Batavia Manager  
One Batavia City Centre, Batavia, NY 14020  
585-345-6330

***Major Neighborhood Revitalization***

Ellicott Station, Batavia is a strategic, catalytic, redevelopment in the New York State designated City of Batavia Brownfield Opportunity Area (BOA), within a central business corridor district. Savarino Cos has received City planning approval to rebuild a mixed-use three-acre campus that will reclaim vacant structures and repurpose tax foreclosed abandoned buildings to attract retail and residential pioneers. Ellicott Trail is a new urban corridor being introduced at the site.

***City of Batavia Urban Corridor***

Genesee County's first 4.3 mile trail, Ellicott Trail, is the first stretch of a multi-modal corridor amenity that has been approved by New York State DOT. Batavia expects to receive final approval for construction in 2018. The extensive Ellicott Trail is a collaboration amongst the City of Batavia, Town of Batavia and multiple property owners. Notably, Ellicott Trail will traverse the southern property line of Ellicott Station, a public right-of-way easement is already in place extending more than a half-acre.

Savarino Cos has proposed enhancements to the new Ellicott Trail by creating spurs into the new retail hub and installing trailhead parking, a pocket park, lush landscaping and new lighting between Evans Street and Jackson Street to complement the Ellicott Station redevelopment. When fully realized, Ellicott Station will house a new brewery, five-story residential building and Class A office space.

***Ellicott Trail at Ellicott Station Project Impacts***

- Enhances the distinctive & historic character of the neighborhood
- Dramatically improves an unofficial beaten path across blighted parcels by installation of lighting, seating, green space, landscaping & gardens
- Provides an alternative transportation route to work at Ellicott Station, more than 130 temporary construction jobs and upwards of 65 permanent jobs proposed onsite
- Construction of the Trail will mitigate public health risks & promote healthy living habits community-wide



**Ellicott Trail Project Budget**

<b>Ellicott Trail, Batavia NY</b>	<b>Estimated Costs</b>
Soft Costs	\$ 557,000
Hard Costs	\$1,153,045
<b>TOTAL Trail</b>	<b>\$1,651,009</b>

<b>Sources</b>	<b>Uses</b>
	<b>Hard Costs</b>
Federal TEP	\$ 593,170
City & Town of Batavia – Cash	\$ 250,839
National Grid Urban Corridor	\$ 250,000
	<b>Soft Costs</b>
Federal TEP	\$ 557,000
Engineering \$269,000	
Flagger \$ 30,000	
Inspection \$156,000	
<u>ROW Purchases \$102,000</u>	
Total Soft = \$557,000	

**See attachments:**

- Ellicott Trail Steering Cmte Project Presentation, September 2017
- City & Town of Batavia cash commitments to the project
- Urban Corridor rendering at Ellicott Station

# The Savarino Companies

Ellicott Trail

December 06, 2017



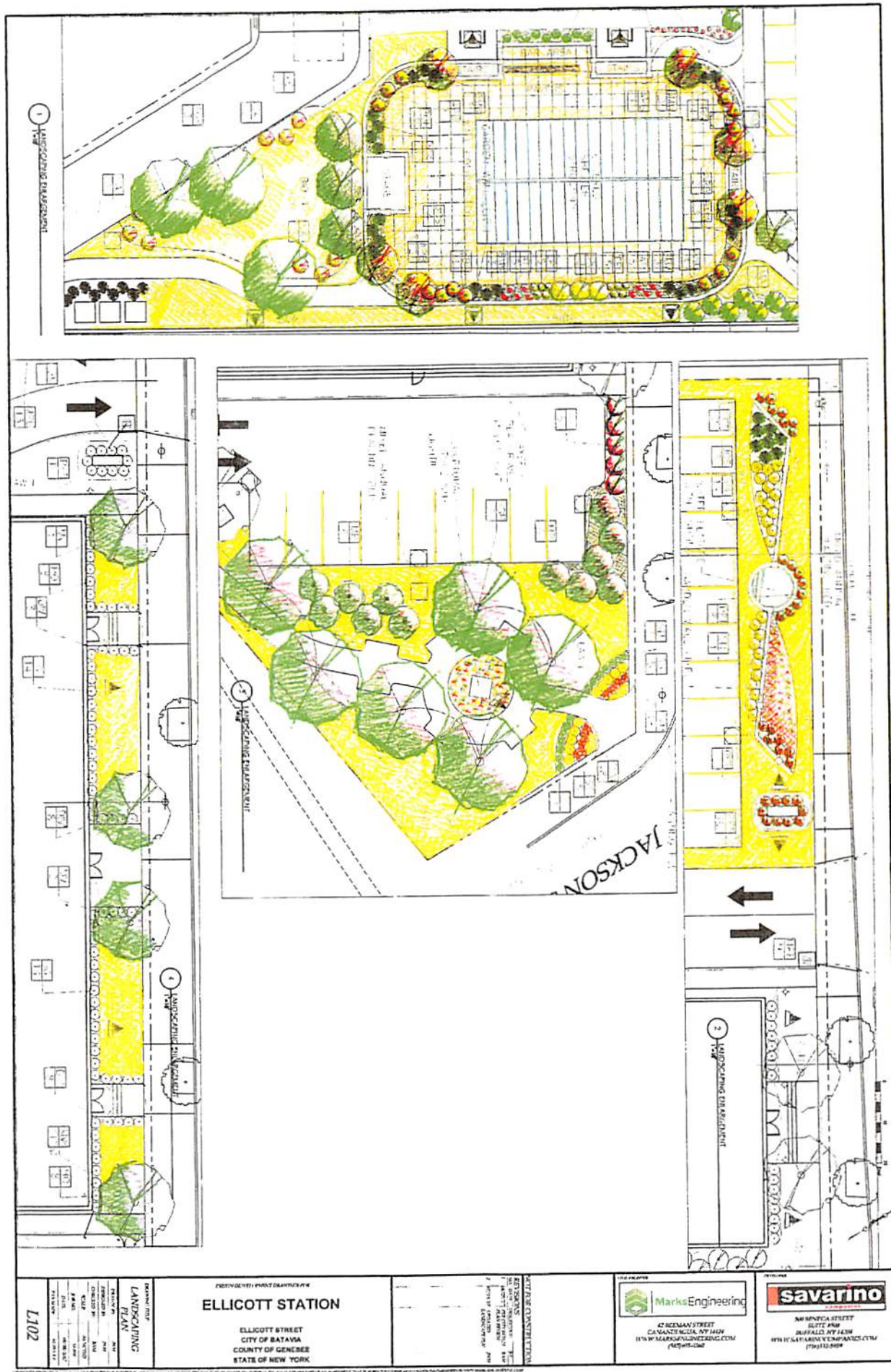
	Item	U/M	QTY	UNIT COST	TOTAL	COMMENTS
10	Jackson St Park - dwgs C100, L100 & L102					
A	Site fill to subgrade	cy	52	30.00	\$1,560	
B	Sidewalk	sf	1,200	2.50	\$3,000	
C	Subbase at sidewalk	cy	22	35.00	\$770	
D	Topsoil - import	cy	58	30.00	\$1,740	
E	Fine Grade & Seed	sf	4,690	0.65	\$3,049	
F	Landscape Bed	sf	201	4.00	\$804	
G	Sculptural feature w/ lights	ea	1	20,000	\$20,000	
H	Trees	ea	7	500.00	\$3,500	
I	Shrubs	ea	17	150.00	\$2,550	
J	Perennials	ea	60	20.00	\$1,200	
K	Light fixture head	ea	1	500.00	\$500	
					\$38,673	
20	Evans Parking Lot - dwgs C101 & L101					
A	Site Cut to subgrades	cy	588	12.00	\$7,056	
B	Geotextile	sy	1,409	1.15	\$1,620	
C	Subbase @ asphalt	cy	235	35.00	\$8,225	
D	Asphalt Pvm't -	sf	12,680	3.25	\$41,210	
E	Striping per Stall	ea	29	5.00	\$145	
F	Curb - concrete	lf	388	35.00	\$13,580	
G	Catchbasins	ea	4	1500.00	\$6,000	
H	12" HDPE	lf	258	25.00	\$6,450	
I	Conduit (complete)	lf	486	10.00	\$4,860	
J	Light Pole (complete)	ea	5	4000.00	\$20,000	
K	Light hand holes	ea	3	500.00	\$1,500	
L	Trees	ea	13	500.00	\$6,500	
M	Shrubs	ea	37	150.00	\$5,550	
N	Topsoil - import	cy	77	30.00	\$2,310	
O	Fine Grade & Seed	sf	6,250	0.65	\$4,063	
P	Site cut to SG @ walk	cy	85	12.00	\$1,020	
Q	Site fill to SG @ walk	cy	21	12.00	\$252	
R	Sidewalk	sf	5,785	2.50	\$14,463	
					\$144,804	

TOTAL CONSTRUCTION COST

\$183,477







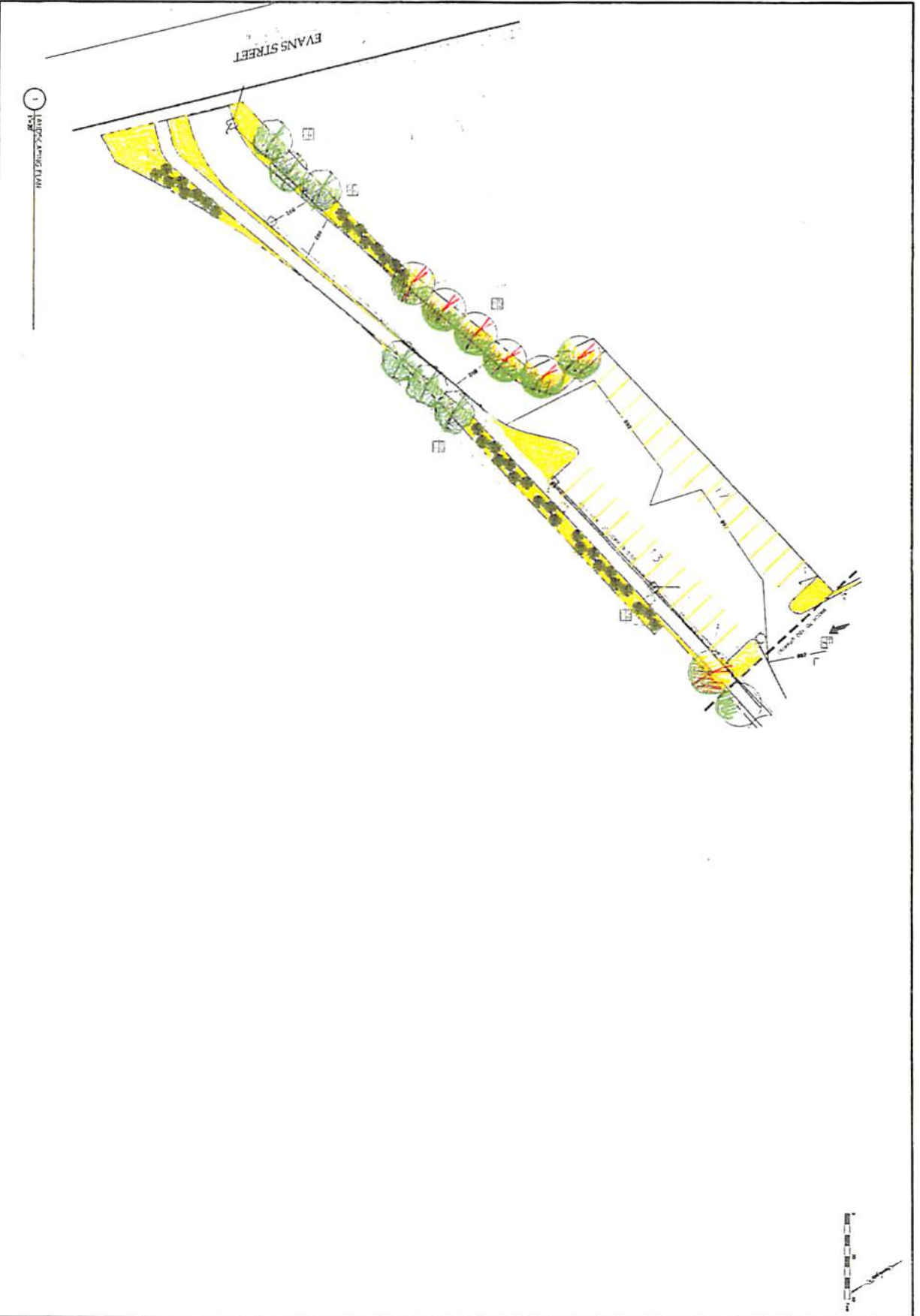
# ELLICOTT STATION

ELLICOTT STREET  
CITY OF BATAVA  
COUNTY OF GENESEE  
STATE OF NEW YORK

**Marks Engineering**  
47 REEDMAN STREET  
CANASTOTA, NY 13309  
TEL: 518-537-1234  
WWW.MARKSENGINEERING.COM

**savarino**  
100 MONROE STREET  
SUITE 200  
BUFFALO, NY 14203  
TEL: 716-835-1000  
WWW.SAVARINOCOMPANIES.COM

L102



<p><b>PROJECT</b></p> <p>ELICOTT STATION</p> <p>ELICOTT STREET CITY OF BATAVIA COUNTY OF GENESEE STATE OF NEW YORK</p>	<p><b>DATE</b></p> <p>10/10/2018</p> <p><b>BY</b></p> <p>MARKS ENGINEERING</p> <p><b>FOR</b></p> <p>SAVARINO ENGINEERING</p>	<p><b>SCALE</b></p> <p>AS SHOWN</p>	<p><b>LOGO</b></p> <p><b>Marks Engineering</b></p> <p>40 FREEMAN STREET CANASTOTA, NY 13608 WWW.MARKSENGINEERING.COM (315) 437-4400</p>	<p><b>LOGO</b></p> <p><b>savarino</b></p> <p>300 SENeca STREET ELICOTT STATION BATAVIA, NY 14050 WWW.SAVARINOENGINEERING.COM (315) 353-1100</p>



**UNDERTAKING AGREEMENT  
FOR  
NATIONAL GRID'S URBAN CENTER/COMMERCIAL DISTRICT PROGRAM  
PROJECT – ELLICOTT STATION URBAN CORRIDOR PROJECT #4708**

**THIS AGREEMENT**, dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between **THE CITY OF BATAVIA**, a political subdivision of the State of New York with offices at One City Centre, Batavia, New York 14020 (the “**City**”) and Savarino Companies, LLC, a limited liability company duly organized and validly existing under the laws of the State of New York, with offices at 500 Seneca Street, Suite 508, Buffalo, New York 14204 (the “**Company**”).

**W I T N E S S E T H:**

WHEREAS, the City has entered into a grant disbursement agreement with Niagara Mohawk Power Corporation d/b/a National Grid (“**National Grid**”) for a grant of up to \$250,000 (the “**Grant Agreement**”) for the Ellicott Station Urban Corridor Project located at 40-70 Ellicott Street, in the City of Batavia which is to consist of the redevelopment, repurposing and adaptive reuse of a former construction yard, power company service facility and adjacent properties as part of the City’s Master and Brownfield opportunity plan, and as part of the Ellicott Trail Corridor Project as more specifically set forth at Exhibit A of the Grant Agreement; (the “**Project**”) and

WHEREAS, the Company requested that the City apply to National Grid for financial assistance for the benefit of the Company in connection with the Project; and

WHEREAS, the Company has agreed to undertake the Project as specifically described in the General Project Plan titled The Savarino Companies, Ellicott Trail, dated December 6, 2017, set forth at Exhibit A of the Grant Agreement; and

WHEREAS, the funds payable pursuant to the City pursuant to the Grant Agreement will be disbursed for the benefit of Company solely to pay the costs of undertaking and completing the Project by the Company; and

WHEREAS, as a condition for the City entering into the Grant Agreement, the City is requiring the Company to enter into this Undertaking Agreement to assume a portion or all of the obligations of the City under the Grant Agreement.

NOW, THEREFORE, in consideration of the mutual promises herein set forth and the mutual benefits accruing to each of the parties hereto, and pursuant to the appropriate sections of the laws of the State of New York, the parties hereto to agree and covenant as follows:

1. The City will perform the terms and conditions of the Grant Agreement at the request of and solely for the benefit of the Company to enable the Company to undertake and complete the Project.

2. The Company hereby acknowledges receipt of a copy of the Grant Agreement and consents and agrees to all of its terms and conditions. (A copy of the Grant Agreement is annexed hereto and made a part hereof as Exhibit A). The terms and conditions of the Grant Agreement are fully incorporated by reference herein as if fully set forth in this Agreement.

3. The Company agrees to comply with all the terms and conditions of the Grant Agreement as if the Company were a party to the Grant Agreement.

4. The Company agrees to defend, indemnify and hold harmless the City for any and all losses or claims arising from any breach by the Company of any term of this Undertaking Agreement and any failure to comply with the terms of the Grant Agreement incorporated herein.

5. The City hereby agrees that to the extent necessary to complete all contracts and to accomplish the work schedule set forth on the Grant Agreement, the Company shall act as the City's agent.

6. The Company shall provide all reports required under the Grant Agreement to the City on a timely basis.

7. The City agrees to promptly and timely process all requests for reimbursements provided that the Company complies with all substantive and procedural reporting requirements as set forth by the Grant Agreement and any other requirements of the National Grid's Economic Development Program or under any other provisions of law applicable hereto.

8. The Company hereby further agrees to hold harmless, defend and indemnify the City from any and all actions, claims or suits brought against the City for any type of damages, costs, expenses, including, but not limited to, personal injury or property damage arising from the acts of the Company's officers, agents, employees, licensees or invitees, as well as the City's reasonable attorneys' fees.

9. The Company fully agrees that it will only seek reimbursement for eligible costs as that term is defined in the Grant Agreement.

10. The performance by the City of any obligations arising under this agreement are specifically contingent upon the actual disbursement to the City by National Grid of the funds which are contemplated by and awarded under the Grant Agreement.

**IN WITNESS WHEREOF**, this Agreement has been executed by the City and the Company by and through their duly authorized officers effective the day and year first above written.

**CITY OF BATAVIA**

**SAVARINO COMPANIES, LLC**

By: \_\_\_\_\_  
Name: Eugene Jankowski, Jr.  
Title: Council President

By: \_\_\_\_\_  
Name: Samuel J. Savarino  
Title:

**#-2018**

**A RESOLUTION APPROVING THE EXECUTION OF AN UNDERTAKING  
AGREEMENT BETWEEN THE CITY OF BATAVIA AND SAVARINO COMPANIES LLC  
REFERENCING NATIONAL GRID URBAN CENTER/COMMERCIAL DISTRICT  
PROGRAM PROJECT AND ELLICOTT STATION URBAN CORRIDOR PROJECT #4708**

**Motion of Councilperson**

**WHEREAS**, the City of Batavia entered into a grant disbursement agreement with National Grid for a grant of up to \$250,000 for the Ellicott Station Urban Corridor Project located in the City of Batavia which is to consist of the redevelopment, repurposing and adaptive reuse of a former construction yard, power company service facility and adjacent properties as part of the City's Master and Brownfield Opportunity Plan and as part of the Ellicott Trail Corridor Project; and

**WHEREAS**, Savarino Companies LLC has agreed to undertake additional improvements to the Ellicott Trail Project; and

**WHEREAS**, the City of Batavia received confirmation from National Grid that the City has been awarded \$250,000; and

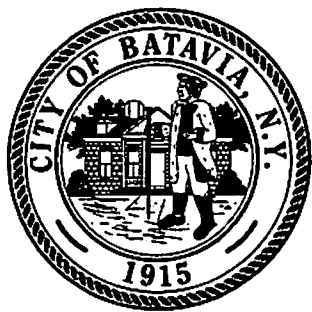
**WHEREAS**, Savarino Companies, as part of their development project will be including enhancements such as lighting, landscaping, seating, parking, etc. to further develop the Ellicott Trail area; and

**WHEREAS**, the City of Batavia is requiring Savarino Companies LLC to enter into an Undertaking Agreement to assume the obligations of the City under the grant; and

**WHEREAS**, the funds payable pursuant to the City pursuant to the Grant Agreement will be disbursed for the benefit of Savarino Companies solely to pay the costs of undertaking and completing the project by the Savarino Companies LLC

**NOW, THEREFORE, BE IT RESOLVED** that the City of Batavia Council hereby authorizes the Council President to execute an Undertaking Agreement with Savarino Companies LLC to access up to \$250,000 for approved and verified costs associated with improvements to this property addressing the removal of blight and enhancing the Trail.

**Seconded by Councilperson  
and on roll call**



# City of Batavia

## *Memorandum*

To: Matt Worth – Director of Public Works

From: Ray Tourt – Superintendent of Maintenance

Date: August 7, 2018

Subject: Surplus equipment disposal

We are requesting permission to dispose/surplus the following equipment by auction as identified below.

Unit 246 – 1995 Caterpillar Wheel loader Serial # 8TK3104 with accessories (*G.P. bucket, Light material bucket, Forks, Lifting Boom, Henke plow SN 80-315 and TENCO wing model 716H*). The unit has approximately 9400 hrs. Was repainted in 2007, rebuilt top of engine in 2013 and replaced the transmission and front axle seals in 2015. Unit is 23 years old and has become very costly to keep in service.

This piece of equipment's replacement has arrived as planned in the approved fiscal year budget 2018/19 and City of Batavia's Equipment Replacement Plan. The new loader, a 2018 CAT 938M, and is the same model as the unit we replaced last year and will be able to share accessories. So we should be good to auction off the 1995 Cat at this time.

**#-2018**

**A RESOLUTION TO DECLARE DEPARTMENT OF PUBLIC WORKS VEHICLES  
AND EQUIPMENT SURPLUS FOR THE PURPOSE OF SALVAGE AND DISPOSAL**

**Motion of Councilperson:**

**WHEREAS**, the Department of Public Works have declared the equipment listed below surplus and as part of the equipment replacement plan; and

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

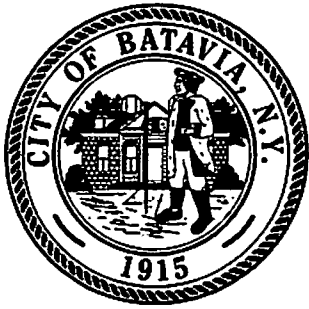
**WHEREAS**, any revenue received from disposal is to be put into the Department of Public Works equipment reserve fund, fund revenue to be used for approved equipment replacement.

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

**BE IT FURTHER RESOLVED**, that the City Manager be and hereby is authorized to make the necessary budget transfers in the 2018-2019 budget;

- 1995 Caterpillar Wheel Loader, SN – 8TK3104 and accessories

**Seconded by Councilperson  
and on roll call**



# City of Batavia

## *Memorandum*

To: Honorable City Council

From: Matt Worth, Interim City Manager

Date: August 6, 2018

Subject: Proposed Zoning Map Amendment

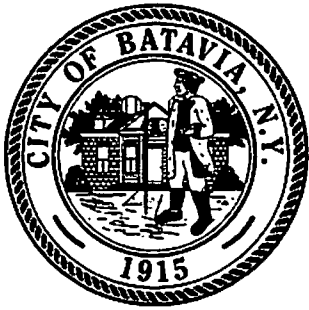
The campus which contains St. Anthony's Church, Rectory, and Elementary School had been vacant for several years. In 2016 this property was purchased by City Church, Inc. in anticipation of re-utilization for community activities. These parcels were identified as Community Services Use in the most recent Comprehensive Plan, and the City Church's intention would be consistent with the plan's identified use.

The current zoning for these parcels is a R-3 district, which would allow for a residential housing complex, individual housing, and continued utilization as a private elementary school. The City of Batavia has seen a decline in the number of private schools, and it does not seem likely that this facility would ever be utilized as an elementary school again. The facility is reasonably set up to be utilized for community activities that have taken place since the facility was purchased by City Church, Inc., and are not remarkably different from activities that would have been associated with the previous St. Anthony's School.

While many of the activities that are associated with City Church at this complex are compliant with zoning regulations, there would be some ancillary activities (dance school, art school, community education classes, etc.) that could be considered a business activity and a non-conforming use in an R-3 district.

City Church, Inc. has filed a petition dated July 19, 2018 to re-zone this campus of parcels that would annex this property into the adjacent C-3 district, which would bring the property into conformance with zoning regulations. These properties are adjacent to an existing C-3 district on two sides, and the make up of the buildings would seem to fit with C-3 utilizations.





# City of Batavia

It is necessary for City Council refer this item to the Planning and Development Committee for review, and public hearing and recommendation to Council regarding the re-zoning request. The action would be in accordance with Section 190-51 of the zoning ordinance

## Supporting Documentation

Memo from Doug Randall Code Enforcement Officer

Comprehensive Plan Existing Conditions Map

Petition to Re-zone documents by City Church, Inc. w/support documents

Draft Resolution



*City of Batavia*  
*Department of Public Works*  
***Bureau of Inspections***

One Batavia City Center, Batavia, New York 14020

(585)-345-6345

(585)-345-1385 (fax)

To: City Council  
Genesee County Planning  
Planning and Development Committee

From: Doug Randall, Code Enforcement Officer

Date: 7/20/18

Re: 110 Liberty 84.066-1-11; 42 Central 84.066-1-47; 112-116 Liberty 84.066-1-12; 118-120  
Liberty 84.066-1-13; 122 Liberty 84.066-1-14; 122-124 Liberty St. Rear 84.066-1-15; 124-126  
Liberty 84.066-1-16

Zoning Use District: R-3

The applicant, Martin MacDonald (for City Church), has petitioned Batavia City Council to amend the zoning of the seven parcels listed above from R-3 (Residential) to C-3 (Central Commercial). The owner, City Church, would like to extend its offering of programs to include youth activities, after school programs, dance classes art classes, open gymnasium days and other community related activities for youths and adults that are not permitted principal uses in the residential use district that these properties are located in.

**Review and Approval Procedures:**

**Batavia City Council-** Pursuant to section 190-51 of the zoning ordinance, upon receipt of a petition requesting a change in district boundaries, City Council may refer the proposed amendment to the Planning and Development Committee for review and recommendation prior to Council action. If the PDC fails to provide a report within thirty days of referral, the proposed amendment is deemed approved, and City Council may proceed.

**County Planning Board-** Pursuant to General Municipal Law 239 m, referral to the County Planning Board is required since the property is within 500 feet of the right of way of a state road or highway.

**City Planning and Development Committee-** Pursuant to section 190-51 of the zoning ordinance, City Council has requested that the Planning and Development Committee review the proposed zoning amendment, hold a public hearing and submit a report outlining their findings and recommendations to Council within thirty days of referral.

**City Council will conduct an uncoordinated review of SEQR for this unlisted action.**

## **PETITION TO RE-ZONE**

42 Central Avenue, SBL No. 84.066-1-47  
110 Liberty Street, SBL No. 84.066-1-11  
112-116 Liberty Street, SBL No. 84.066-1-12  
118-120 Liberty Street, SBL No. 84.066-1-13  
122 Liberty Street, SBL No. 84.066-1-14  
122-124 Liberty Street, SBL No. 84.066-1-15  
124-126 Liberty Street, SBL No. 84.066-1-16  
Batavia, New York

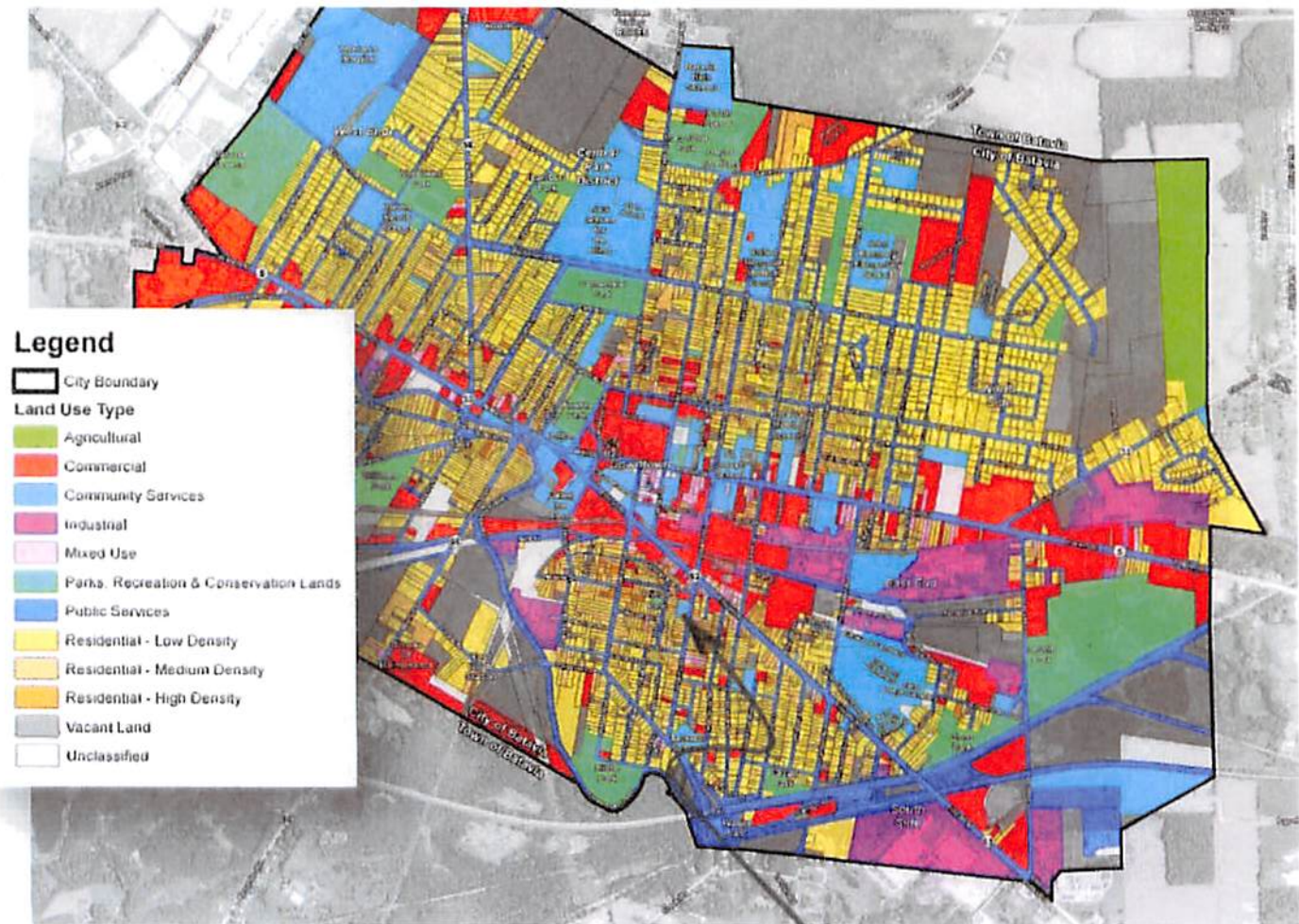
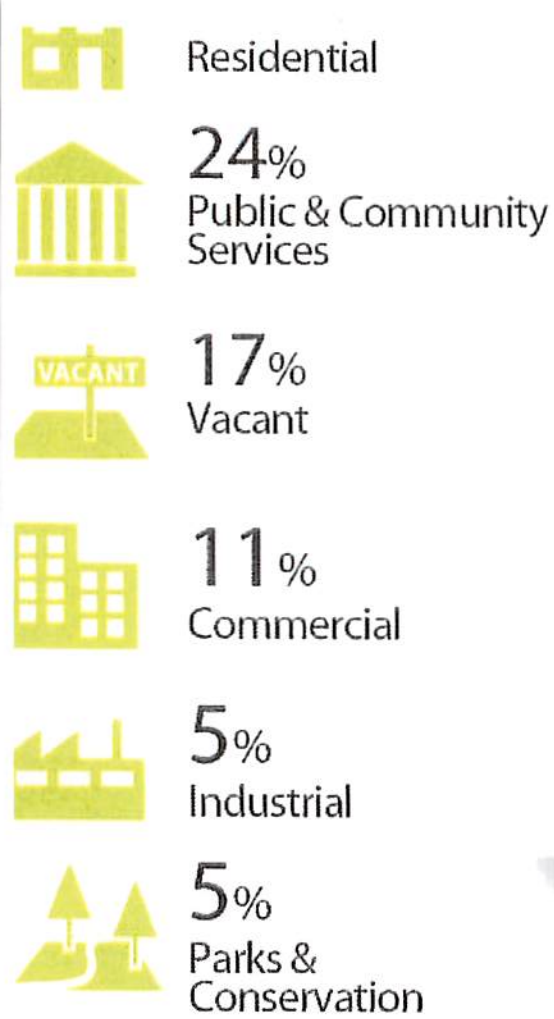
City Church, Inc. by Martin MacDonald, President, parcel owner, hereby submits the within Petition to Re-zone the above-referenced parcel from an R-3 use district to a C-3 use district.

### **Background**

City Church, Inc. purchased 42 Central Avenue, 110 Liberty Street, 112-116 Liberty Street, 118-120 Liberty Street, 122 Liberty Street (front), 122-124 Liberty Street and 124-126 Liberty Street, Batavia, New York, which are all contiguous parcels of property (the "Property") from the St. Anthony's Roman Catholic Church Society of Batavia, New York (by deeds dated May 11, 2016 and recorded in the Genesee County Clerk's Office on May 20, 2016). The Property was owned in its entirety by the former St. Anthony's Roman Catholic Church. The site had been vacant for some time prior to the purchase by City Church. Originally the Property had been used as a Roman Catholic Church, Community Center, elementary/middle school and Church Rectory. We are seeking to have the City of Batavia re-zone the Property from its current R-3 use district to a C-3 use district. A copy of the existing City zoning map is attached as Exhibit A, which shows the Property, which is located along Pringle Avenue and Liberty Streets. On the north side of Central Avenue, where it intersects with Liberty Street is the C-3 use district and on the south side of Central Avenue, where the Property is located in an R-3 use district. Although, use of the Property as a school is a permitted use in an R-3 district, City Church, Inc. would like extend its offering to programs to the community beyond educational in nature, to include but, not be limited to: youth activities, youth programs, youth after school programs, dance classes, art classes, open gymnasium days to the community and other community related activities, both adult and youth orientated.

### **Adjoining Uses**

The property is entirely within the R-3 use district and is bordered on the north by a C-3 use district.



COMMUNITY SERVICES



### Proposed Future Use

As stated above, City Church, Inc. would like to open the Property up to many community related activities, beyond the original use of a community center/school. Although, our concept of usage includes utilization of the facility as a Church and Community Center, where members of the community may gather for services, meetings or celebrations along the lines of original use, we envision usage beyond that to include a youth bureau and many adult and youth programs. City Church, Inc. would like to see the Property once again become the hub of activity for the south side of the City of Batavia. We intend to take steps necessary or, to see that steps are taken, regarding the existing building to bring it into compliance with all current codes for usage of the building as intended, should this rezoning be granted.

**WHEREFORE**, Petitioners respectfully request that the City Council of the City of Batavia amend its Zoning Ordinance for 42 Central Avenue, SBL No. 84.066-1-47; 110 Liberty Street, SBL No. 84.066-1-11; 112-116 Liberty Street, SBL No. 84.066-1-12; 118-120 Liberty Street, SBL No. 84.066-1-13; 122 Liberty Street, SBL No. 84.066-1-14; 122-124 Liberty Street, SBL No. 84.066-1-15; 124-126 Liberty Street, SBL No. 84.066-1-16, Batavia, New York from an R-3 use district to a C-3 use district.

Dated: July <sup>19</sup>~~11~~, 2018

**CITY CHURCH, INC.**




By: **Pastor Martin MacDonald, President**

STATE OF NEW YORK )

COUNTY OF GENESEE ) SS.:

On the <sup>19th</sup>~~11th~~ day of July, 2018, before me, personally appeared **Martin MacDonald** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

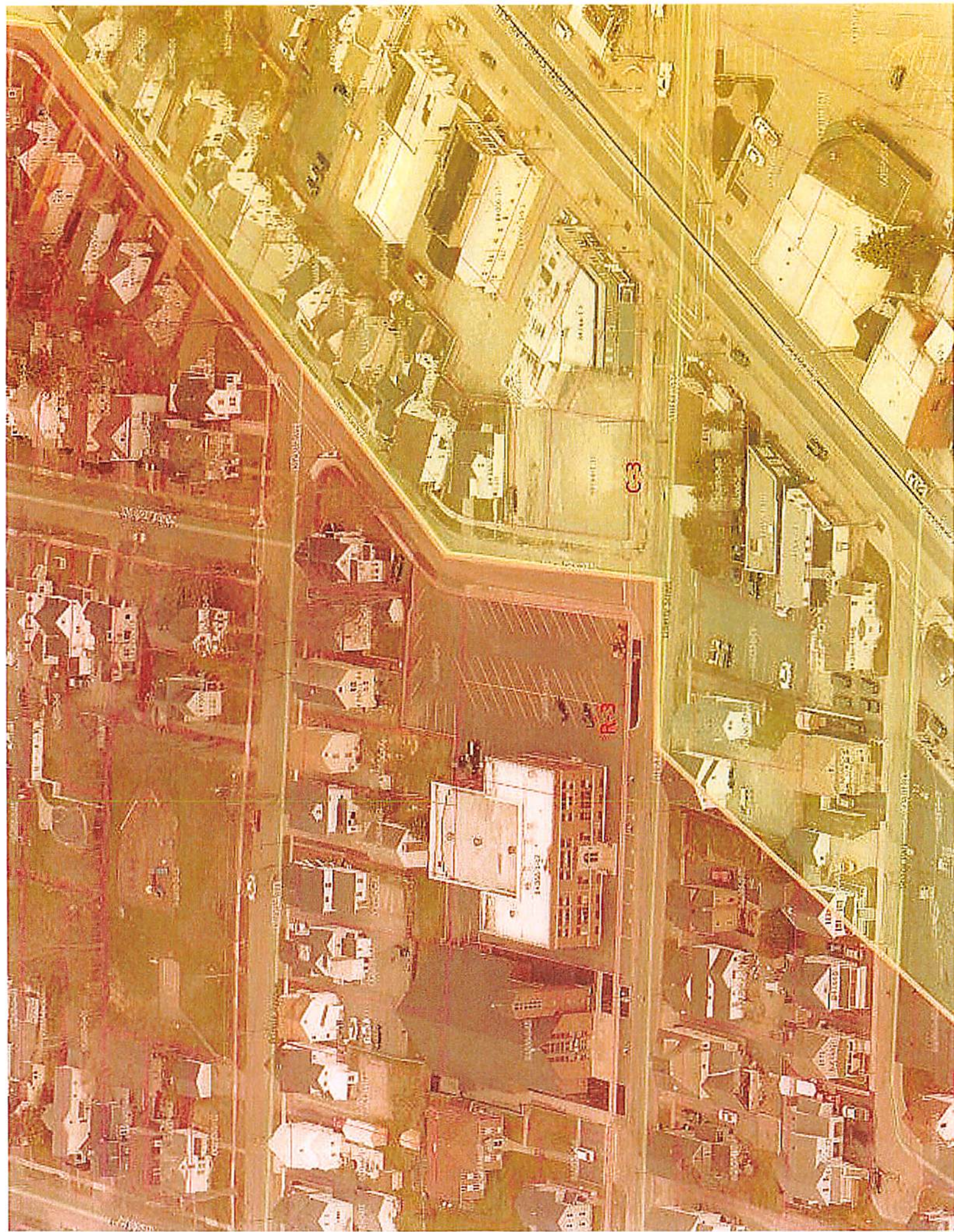
  
Notary Public

MARGARET CORDARO  
NOTARY PUBLIC, State of New York  
County of Genesee  
My Commission Expires 4/4/2020

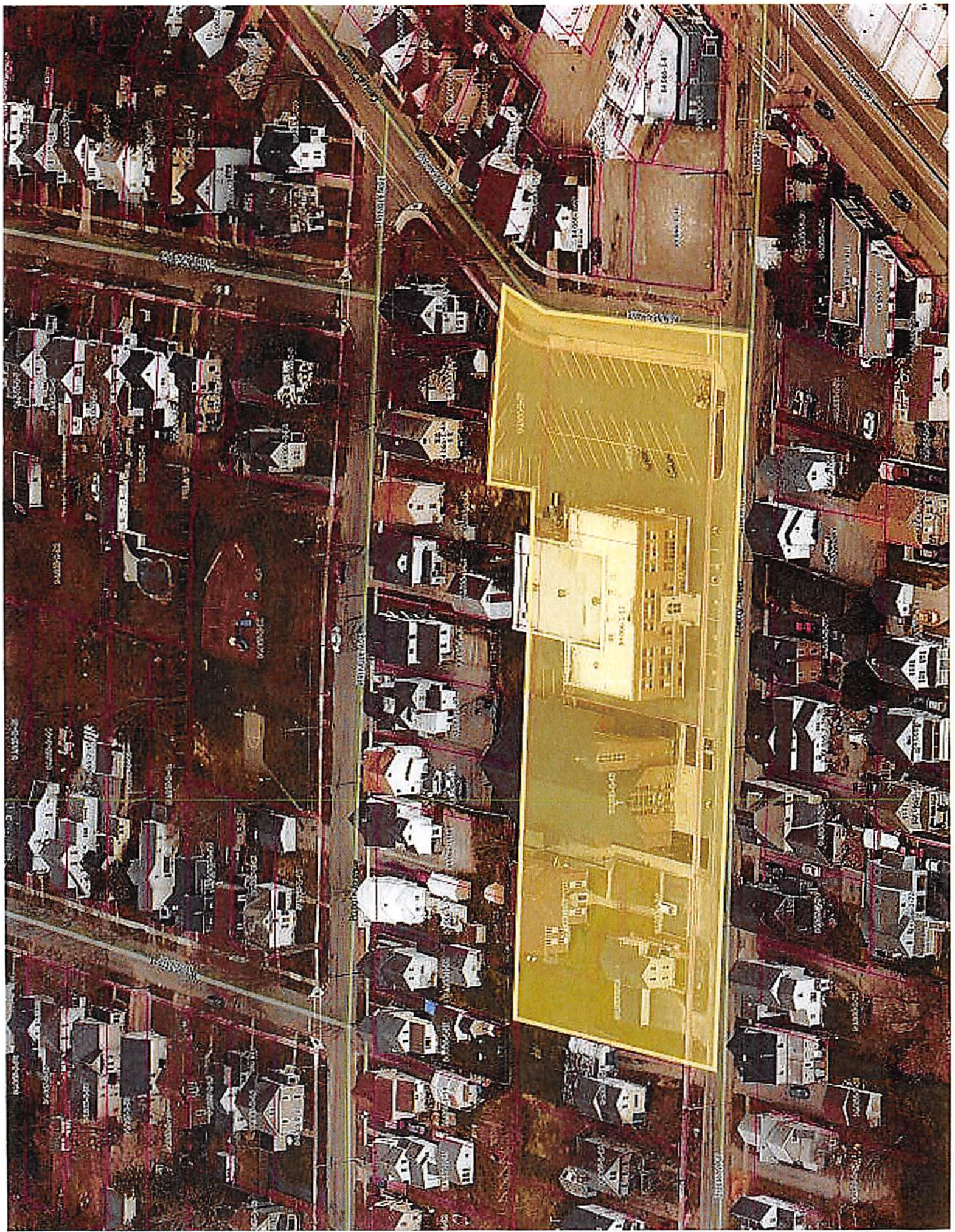


















617.20  
Appendix B  
Short Environmental Assessment Form

**Instructions for Completing**

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>							
CITY CHURCH, INC.							
Name of Action or Project: CENTRAL AVE. / LIBERTY ST. REZONE							
Project Location (describe, and attach a location map): 42 CENTRAL AVE, 110, 112-116, 118-120, 122-126 LIBERTY ST.							
Brief Description of Proposed Action: REZONE REQUEST FROM R-3 TO C-3							
Name of Applicant or Sponsor: CITY CHURCH, INC.		Telephone: (585) 409-1514					
		E-Mail: ONECITY@AOL.COM					
Address: 210 EAST MAIN ST.							
City/PO: BATAVIA		State: N.Y.	Zip Code: 14020				
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%;"><tr><td style="width: 50%; text-align: center;">NO</td><td style="width: 50%; text-align: center;">YES</td></tr><tr><td style="text-align: center;">X</td><td></td></tr></table>	NO	YES	X	
NO	YES						
X							
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			<table border="1" style="width: 100%;"><tr><td style="width: 50%; text-align: center;">NO</td><td style="width: 50%; text-align: center;">YES</td></tr><tr><td style="text-align: center;">X</td><td></td></tr></table>	NO	YES	X	
NO	YES						
X							
3. a. Total acreage of the site of the proposed action? <u>2</u> <u>1.34</u> acres							
b. Total acreage to be physically disturbed? <u>0</u> acres							
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? <u>2</u> <u>1.34</u> acres							
4. Check all land uses that occur on, adjoining and near the proposed action. <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland							

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	X		
b. Consistent with the adopted comprehensive plan?		X	
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
			X
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	X		
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	X		
b. Are public transportation service(s) available at or near the site of the proposed action?			X
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?			X
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO	YES	
			X
10. Will the proposed action connect to an existing public/private water supply?  If No, describe method for providing potable water: _____	NO	YES	
			X
11. Will the proposed action connect to existing wastewater utilities?  If No, describe method for providing wastewater treatment: _____	NO	YES	
			X
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO	YES	
	X		
b. Is the proposed action located in an archeological sensitive area?			
	X		
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	X		
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____			
	X		
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
	X		
16. Is the project site located in the 100 year flood plain?	NO	YES	
	X		
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES	NO	YES	
	X		
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____			

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ _____	NO	YES
	X	
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ _____	NO	YES
	X	
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ _____	NO	YES
	X	
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 60%;">           Applicant/sponsor name: <u>CITY CHURCH, INC.</u>            Signature: <u><i>[Signature]</i></u> </div> <div style="width: 35%;">           Date: <u>7/16/13</u> </div> </div>		

**Part 2 - Impact Assessment.** The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?		
2. Will the proposed action result in a change in the use or intensity of use of land?		
3. Will the proposed action impair the character or quality of the existing community?		
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?		
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?		
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?		
7. Will the proposed action impact existing:		
a. public / private water supplies?		
b. public / private wastewater treatment utilities?		
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?		
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?		

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?		
11. Will the proposed action create a hazard to environmental resources or human health?		

**Part 3 - Determination of significance.** The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

\_\_\_\_\_  
Name of Lead Agency

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
Title of Responsible Officer

\_\_\_\_\_  
Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
Signature of Preparer (if different from Responsible Officer)

**#-2018**

**A RESOLUTION TO REFER A PROPOSED AMENDMENT OF THE ZONING  
MAP OF THE CITY OF BATAVIA TO THE PLANNING AND DEVELOPMENT  
COMMITTEE**

**Motion of Councilperson**

**WHEREAS**, the City of Batavia has received the attached Petition to amend the zoning map of the City of Batavia at 110 Liberty Street (SBL No. 84.066-1-11), 42 Central Avenue (SBL No. 84.066-1-47), 112-116 Liberty Street (SBL No. 84.066-1-12), 118 – 120 Liberty Street (SBL No. 84.066-1-13), 122 Liberty Street (SBL No. 84.066-1-14), 122-124 Liberty Street-Rear (SBL No. 84.066 -1-15), and 124-126 Liberty Street (SBL No. 84.066-1-16) from the current zoning of R-3 Residential District to C-3 Commercial District; and

**WHEREAS**, Section 190-51 of the Batavia Municipal Code provides that the City Council may from time to time make zoning map amendments after review and report by the City's Planning and Development Committee; and

**WHEREAS**, in accordance with Section 190-51 if the Planning and Development Committee fails to file a report within 30 days after referral from City Council, the proposed amendment is deemed approved, and the City Council may proceed in addressing the rezoning request; and

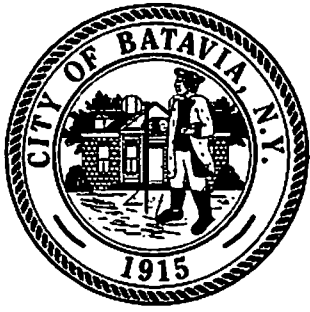
**BE IT RESOLVED**, that the Petition and additional request to amend the zoning map related to 42 Central Avenue, 110, 112-116, 118-120, 122, 122-124 Rear, 124-126 Liberty Street is referred to the Planning and Development Committee for review, analysis and recommendation; and

**BE IT FURTHER RESOLVED** that the Planning and Development Committee shall report back to the Council on its recommendation regarding the proposed amendment to the zoning district map; and

**BE IT FURTHER RESOLVED** that the Planning and Development Committee shall take necessary steps to review and report back to Council regarding this matter within thirty days of the date of this referral.

**Seconded by Councilperson  
and on roll call**





# City of Batavia

August 4, 2018

Mr. Pierluigi Cipollone, President  
Batavia Development Corporation  
One Batavia City Centre  
Batavia, NY 14020

Dear Mr. Cipollone:

The City of Batavia City Council would like to congratulate the Batavia Development Corporation on its efforts in the City of Batavia. Economic Development is a critical component of the City's future growth and prosperity. Economic opportunities for our residents will be an important quality of life aspect as people look to come to Batavia.

Please be advised that the current City Council is in support of the Batavia Development Corporation's work and looks forward to continuing this relationship, especially through the implementation of the DRI projects, in an effort to make sure that Batavia is a thriving community. Continued cooperative efforts, and development of relationships within the City will allow for economic projects to be moved forward successfully. These successes will create the momentum for agreements to be renewed on into the future.

On behalf of the City Council.

Sincerely,

Eugene Jankowski Jr.  
City Council President

**EMPLOYMENT AGREEMENT**  
*between*  
  
*and*  
**THE CITY OF BATAVIA, NEW YORK**

This EMPLOYMENT AGREEMENT ("the Agreement") entered into this 13<sup>th</sup> day of August, 2018, by and between the City of Batavia, New York, a municipal corporation ("Employer" or "the City"), and ("Employee" or "City Manager"), each referred to herein individually as a "Party" and collectively as "the Parties."

**WITNESSETH**

**WHEREAS**, the City of Batavia wishes to employ as City Manager of the City of Batavia, in accordance with the City Charter of the City of Batavia; and

**WHEREAS**, has the education, training and experience in local government management required by the City Charter for the position of City Manager and, as a member of International City/County Management Association (ICMA), is subject to the ICMA Code of Ethics; and

**WHEREAS**, it is the desire of the City to secure and retain the services of Employee as City Manager of the City of Batavia, New York, to provide compensation and benefits related to such employment, to establish certain conditions of employment, to act as a deterrent against malfeasance or dishonesty for personal gain on the part of Employee, to provide a just means for terminating Employee's services at such time as he may be unable to fully discharge his duties or when the City shall desire to terminate his employment, and to set working conditions of Employee; and

**WHEREAS**, the Parties have freely consented to enter into and be bound by this Agreement;

**NOW THEREFORE**, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficient of which is hereby acknowledged, the City agrees to employ Employee and Employee hereby accepts such employment, upon the terms and conditions set forth herein.

**Section 1: Powers and Duties of the City Manager**

a) The City hereby agrees to employ as City Manager of the City of Batavia to perform the functions and duties of the City Manager as specified in Chapter 5 of the City Charter of the City of Batavia, as well as the City's Municipal Code, and to perform such other duties and functions as may be delegated to him by the City Council.

b) Employee shall devote his full business time and attention to the performance of his duties as City Manager. Except as otherwise herein provided, Employee shall not engage in

any other business or occupation that would interfere in any manner whatsoever with the performance of his duties without Employer's express written consent; provided, however, nothing contained herein shall prohibit Employee from making passive or personal investments which do not interfere with the performance of his duties.

c) During said employment, Employee is obligated to adhere to and follow the Code of Ethics adopted by the International City/County Management Association, the Code of Ethics of the City of Batavia (Chapter 14 of the Batavia Municipal Code), as well as any directives of the City Council, in the performance of his job duties and responsibilities.

## **Section 2: Term**

Employee's term of employment shall commence on October 15, 2018, and continue until October 14, 2021, or until sooner terminated by Employer or Employee as provided in Section 5 of this Agreement and/or Chapter 5 of the Batavia City Charter. Notwithstanding the foregoing, Employee's employment as City Manager shall not commence until Employee's appointment as City Manager shall be approved by the City Council of the City of Batavia (pursuant to Section 5.1 of the City Charter). Similarly, this Agreement shall only be effective if the City Council duly authorizes the City Council President to enter into this Agreement on behalf of the City.

No later than ninety (90) days prior to the termination date of this contract, Employer and Employee shall either agree to the terms of a new employment (successor) agreement, amend the existing agreement providing for continued employment and any other terms mutually acceptable to Employer and Employee, or Employer will notify Employee in writing of its intent to allow this agreement to expire without renewal or renegotiation.

## **Section 3: Compensation and Benefits**

a) Base Salary: Except as otherwise provided herein, for all services rendered by Employee as City Manager for Employer, the City shall pay Employee a gross salary before taxes in accordance with the following schedule (less deductions for applicable and required taxes and other lawful withholdings):

- 1) Starting October 15, 2018: \$110,000;
- 2) Starting October 15, 2019: \$112,000; and
- 3) Starting October 15, 2020: \$114,000.

Salary payments pursuant to this schedule shall be payable in accordance with the City's normal payroll practices for other non-union employees of the City of Batavia.

b) Retirement Benefits: Employee shall participate in the New York State and Local Retirement System in a manner as all other non-union employees of Employer, in accordance with the terms and conditions established by State law.

c) Medical Insurance: Employer agrees to provide and to pay the premiums and deductibles for health, hospitalization, surgical, vision, dental and comprehensive medical

insurance for Employee, his spouse and his dependent children in accordance with the rules and requirements applicable to all other non-union employees of the City of Batavia.

d) **Paid Time Off:** On October 15<sup>th</sup> of every year during the term of this Agreement, Employee shall earn three (3) weeks (equal to fifteen (15) work days) of vacation time, to be used in accordance with the rules and requirements applicable to all other non-union employees of the City of Batavia (unless otherwise set forth herein). In addition to the foregoing vacation time benefit, Employee shall also earn and accrue other paid time off benefits (such as sick time, personal time or bereavement leave) in a manner consistent with the rules and requirements applicable to all other non-union employees of the City of Batavia.

e) **Allowances:** Employer shall provide and assume all costs associated with a suitable automobile for the business use only of Employee, which shall include commuting to and from work. Employer shall also provide, at the City's expense, Employee with a cellular telephone which may be used for business and personal use of Employee. Said items are for the exclusive use of Employee and shall not be operated by any other person without prior approval of Employee and only to perform the business of the City of Batavia. City Manager shall be entitled to reimbursement of any travel and business expenses incurred on behalf of the City in a manner consistent with the rules and requirements applicable to all other non-union employees of the City of Batavia.

f) **Other Benefits:** To the extent they are not inconsistent with the terms set forth herein, all provisions of the City of Batavia Personnel Policies Manual (as said manual currently exists or hereafter may be amended) shall also apply to the City Manager as may apply to non-union employees of the City of Batavia.

g) **Relocation Expense.** As a one-time incentive for Employee's relocation of his family and belongings to the City of Batavia to commence employment hereunder, the City agrees to provide Employee with a relocation expense in an amount no greater than ten thousand dollars (\$10,000). Relocation expenses permitted under this provision include reasonable vehicle rentals, to include rentals for travel to locate and acquire housing as well as actual fuel costs; relocation of family and belongings; *per diem*; lodging; and other reasonable and appropriate travel expenses, , including air travel). Upon execution of this Agreement, the Parties agree that City Manager shall be provided with a relocation expense payment of \$5,000 as an advance of any expenses to be incurred. Employee agrees and acknowledges his responsibility to submit receipts to the City regarding all relocation expenses incurred and shall be paid any additional relocation expenses beyond the amount advanced hereunder, so long as the total amount does not exceed \$10,000. City Manager shall be required to return any unspent funds provided to Employee as an advance payment of the relocation expense, if he shall fail to incur a sufficient amount of relocation expenses or fails to provide receipts related to the relocation expense.

h) **Life Insurance.** City Manager shall be provided with life insurance benefits in accordance with the rules and requirements applicable to all other non-union employees of the City of Batavia.

i) **Deferred Compensation.** City Manager shall have access to deferred compensation programs in accordance with the rules and requirements applicable to all other non-union employees of the City of Batavia.

#### **Section 4: Professional Development and Professional Association Participation**

Employer agrees to budget and pay the professional dues, subscriptions, travel and subsistence expenses for the City Manager for professional participation and travel, meetings and occasions adequate to continue his professional development. Said participation on City time to include, but not be limited to, the annual International City/County Management Association (ICMA), and the New York City/County Management Association annual conferences, New York Conference of Mayors (NYCOM) and New York Municipal Insurance Reciprocal (NYMIR) as well as associated short courses, institutes, and seminars that may from time to time be approved by the City Council.

#### **Section 5: Suspension and Termination**

a) Employee may be suspended, with full pay and benefits, at the discretion of the City Council in accordance with Chapter 5 of the Batavia City Charter.

b) Employee's employment may be terminated under the following circumstances:

1) In accordance with Chapter 5 of the Batavia City Charter;

2) If the voters of the City of Batavia substantially change the form of government of the City and Employee elects to treat that amendment or change as an act terminating his employment;

3) If the City offers Employee an opportunity to resign his employment in lieu of termination (or suggests that Employee resign his employment in lieu of termination) and Employee elects to accept that offer or suggestion and resigns his position;

4) If Employee dies or becomes totally disabled, which means that Employee is unable, on a continuous basis, to perform the duties and responsibilities associated with his position as City Manager, for a period of 180 consecutive days;

5) If Employee admits or is convicted of, or pleads *nolo contendere* to, a felony or of any crime involving moral turpitude; admits or is convicted of, or pleads *nolo contendere* to, a felony or of any crime involving the misuse or misappropriation of public funds; engages in illegal drug use; or misconduct in connection with the performance of his duties, including, without limitation, misappropriation of funds or property of Employer, securing or attempting to secure personally any profit in connection with any transaction entered into on behalf of Employer, misrepresentation to Employer, or any violation of law or regulations to which Employer is subject; materially breaches this Agreement; violates the Code of Ethics adopted by the International City/County Management Association; or commits an act involving moral turpitude; or

6) Employee may unilaterally terminate this Agreement, at any time and for any reason, so long as Employee provides the City with advanced written notice of at least 60 days before the termination of this Agreement and Employee's employment hereunder, unless the Parties agree (in writing) otherwise.

c) Upon termination of Employee's employment by expiration of the term of this Agreement or in accordance with Section 5(b), Employee shall be paid all compensation due Employee for work performed through the date of termination, as well as payment for all accrued but unused vacation time. Under no circumstance shall Employee be entitled to payment of any severance benefits if the termination of his employment occurs by expiration of the term of this Agreement (or successor agreement), provided that the employer through the City Council provides at least ninety (90) days advance notice in writing of its intent to not renew this agreement (or successor agreement), or relates in any manner (directly or indirectly) to any of the reasons for termination of employment set forth in Section 5(b)(3), 5(b)(4), 5(b)(5) or 5(b)(6) of this Agreement. If Employee's employment by the City is terminated in accordance with Section 5(b)(1) or 5(b)(2), Employee shall be entitled to the following severance benefits upon execution of a separation agreement and general release that is satisfactory to Employer:

1) If Employee's employment terminates between October 15, 2018 and October 14, 2019, payment of Employee's salary for a period of two (2) months at Employee's then-current rate (less deductions for applicable and required taxes and other lawful withholdings), continuation of Employee's City-provided health insurance at Employer's expense for two (2) months, continuation of any Employee and Employer contributions toward Employee's retirement benefit under the New York State and Local Retirement System (in accordance with any limitations set forth in State law) for two (2) months;

2) If Employee's employment terminates between October 15, 2019 and October 14, 2020, payment of Employee's salary for a period of three (3) months at Employee's then-current rate (less deductions for applicable and required taxes and other lawful withholdings), continuation for three (3) months of Employee's City-provided health insurance at Employer's expense, continuation of any Employee and Employer contributions toward Employee's retirement benefit under the New York State and Local Retirement System (in accordance with any limitations set forth in State law) for three (3) months; or

3) If Employee's employment terminates after October 15, 2020, payment of Employee's salary for a period of four (4) months at Employee's then-current rate (less deductions for applicable and required taxes and other lawful withholdings), continuation for four (4) months of Employee's City-provided health insurance at Employer's expense, continuation of any Employee and Employer contributions toward Employee's retirement benefit under the New York State and Local Retirement System (in accordance with any limitations set forth in State law) for four (4) months.

Any severance pay provided to Employee shall be paid in accordance with the City's established payroll practices over the applicable period immediately following termination of Employee's employment and Employee's execution of a separation agreement and general release that is satisfactory to Employer. During the period Employee is receiving Severance Pay, Employee shall

remain available to Employer for routine inquiries regarding the status of projects, initiatives, and such logistical information pertaining to City operations as Employer may deem necessary.

d) Upon termination of Employee's employment by the City for any reason, Employee shall promptly return to the City all property, whether tangible or intangible, that he possessed or had control over at any time during Employee's employment by the City, including, without limitation, all confidential information, and all credit cards, building and office access cards, keys, computer equipment, cellular telephones, manuals, directories, documents and books and records and any copies, compilations, extracts, excerpts, summaries and other notes thereof or relating thereto.

#### **Section 6: Outside Activities**

Employee shall not spend more than ten (10) hours per week in teaching, consulting or other non-Employer connected business without the prior approval of the City.

#### **Section 7: Performance Evaluation**

Employer shall conduct a review of the performance of City Manager after six months of employment (on or about April 15, 2019) and, thereafter, shall conduct an annual performance review on or about October 15<sup>th</sup> of each year (or on more frequent bases as the City may determine is prudent and necessary). The process, form, criteria, and format for the evaluation shall be mutually agreed upon by Employer and Employee. The City Council shall provide the City Manager with a summary written statement of the findings of the City Council and provide an adequate opportunity for the City Manager to discuss the evaluation with the City Council.

#### **Section 8: Indemnification**

Employer shall defend, hold harmless, and indemnify Employee against any obligation to pay money or perform or refrain from performing any act, including any and all losses and damages, including punitive damages, judgments, interest, settlement, penalties, fines, costs and expenses, including attorneys' and investigator's fees and litigation expenses, and any other costs or liabilities incurred by, imposed upon or suffered by Employee resulting from or in connection with any investigation, claim, action, suit or proceeding, actual or threatened, pending or completed, whether groundless or otherwise, arising out of or in connection with any act or omission, including reckless and intentional acts, related in any way to the performance of Employee's duties or the exercise of judgment or discretion in connection with those duties, except to the extent that Employee acts in a manner inconsistent with instructions issued by the City Council, beyond the scope of his duties and responsibilities or his authority (express, implied, apparent or otherwise) as City Manager. Employee must cooperate in the defense of any investigation, claim, action, suit or proceeding that falls within Employer's obligations under this Section; the City may settle or compromise any investigation, claim, action, suit or proceeding in which the Employee is a defendant or target without the Employee's consent, though the City will consult with Employee prior to any such settlement or compromise. If Employee cannot be adequately, competently and ethically represented by the same legal representative as the City or any other entity or individual for which the City must provide indemnification and/or a defense, Employer will provide independent legal representation for Employee at Employer's expense.



The obligations imposed by this Section will extend until a final determination of the investigation, claim, action, suit or proceeding, including any appeals and will survive the termination of Employee's employment.

#### **Section 9: Bonding**

Employer shall bear the full cost of any fidelity or other bonds required of Employee under any law or ordinance.

#### **Section 10: General Provisions**

a) **Integration.** This Agreement sets forth and establishes the entire understanding between Employer and Employee relating to the terms and conditions of Employer's employment of Employee. Any prior discussions, representations, understandings or offers related to the subject matter of this Agreement by or between the Parties are merged into and rendered null and void by this Agreement. No representations, promises or inducements have been made by the parties which are not embodied in this Agreement or in connection with the transactions contemplated hereby and none of the parties hereto shall be bound by or liable for the alleged representation, promise, inducement or statement of intent not set forth in this Agreement. This Agreement may not be altered, amended, abandoned, modified, waived, suspended, canceled or discharged, except by a further written agreement, executed with the same formality used to execute this Agreement, except as otherwise provided by this Agreement; any amendments shall be incorporated and made a part of this agreement.

b) **Binding Effect.** This Agreement shall be binding on Employer and Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

c) **Severability.** If any section, paragraph, sentence, clause, phrase or any part of this Agreement is held to be contrary to law, the remaining parts of this Agreement shall remain in full force and effect. If any part of this Agreement or the application of any part of this Agreement to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of any parts of this Agreement to the other person or circumstance shall not be affected by the invalidity or unenforceability, but rather shall be enforced to the greatest extent permitted by law.

d) **Governing Law and Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any of its conflict of law provisions that would result in the application of the substantive laws of another jurisdiction. The jurisdiction and venue for actions related to this Agreement shall be the State and Federal Courts located in Genesee County, New York or the American Arbitration Association, as appropriate under the Dispute Resolution terms and pursuant to the laws of the State of New York.

e) **Headings.** The titles and headings of the sections and subsections in this Agreement are intended solely for convenience of reference and are not intended for any other purpose, or to explain, modify or place any construction upon any of this Agreement's provisions and shall have no legal effect.

f) **No Waiver.** No failure or neglect of either party in any instance to exercise any right, power or privilege hereunder or under law shall constitute a waiver of any other right, power or privilege or of the same right, power or privilege in any other instance. All waivers by either party must be contained in a written instrument signed by the party to be charged.

g) **All Rights Cumulative.** The rights and remedies provided by this Agreement are cumulative, and the exercise of any right or remedy by either party, whether pursuant to this Agreement, to any other agreement, or to law, shall not preclude or waive its right to exercise any or all other rights and remedies.

h) **Third Party Beneficiaries.** No person or entity shall assert any rights as a third party beneficiary to this Agreement.

i) **Assignment or Succession.** Employee may not transfer or assign his rights under this Agreement.

j) **Notices.** Unless otherwise provided in writing pursuant to this section, any demand, notice or other communications ("notice") given by either party to the other shall be in writing and delivered by hand, certified U.S. Mail or other certified delivery. All notices to the City shall be delivered to the then-President of the City Council, One Batavia City Centre, Batavia, New York 14020. All notices to Employee shall be delivered to Employee at his home address: \_\_\_\_\_ . Either party may change the address above by providing notice of such change of address pursuant to this section.

k) **Representation on Authority of Parties/Signatories.** Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

**IN WITNESS WHEREOF,** the City of Batavia has caused this Agreement to be executed on its behalf by the City Council President and duly attested by its City Attorney, and has executed this agreement, in duplicate, on the date written above.

\_\_\_\_\_  
Eugene Jankowski, Jr.,  
City Council President

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
George Van Nest, City Attorney

**#71-2018**  
**A RESOLUTION TO APPOINT A CITY MANAGER**

**Motion of Councilperson**

**WHEREAS**, the prior City Manager resigned effective January 28, 2018 and the City Council appointed a search committee which has recommended a candidate; and

**WHEREAS**, City Council has had an opportunity to interview this candidate and a written agreement has been negotiated which is satisfactory to both City Council and the candidate;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Batavia that \_\_\_\_\_ is hereby appointed the City Manager of the City of Batavia pursuant to Section 5.1 of the City Charter effective October 15, 2018; and

**BE IT FURTHER RESOLVED**, that the City Council does hereby approve the terms and conditions of written Agreement for the employment of \_\_\_\_\_, and does hereby authorize the City Council President to execute this document on behalf of City Council.

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