

BATAVIA CITY COUNCIL CONFERENCE MEETING

City Hall - Council Board Room
One Batavia City Centre
October 23rd 2023 at 7:00 p.m.

AGENDA

- I. Call to Order
- II. Invocation – Councilmember Richmond
- III. Pledge of Allegiance
- IV. Public Comments
- V. Council Response to Public Comments
- VI. Communications
 - a. BID Christmas in The City- 12/2/2023
 - b. BID Christmas in The City – Ice Skating – 12/2/2023
 - c. Liquor License – La Coxaquena Taqueuria Inc.
- VII. Council President Report
 - a. Announcement of the next City Council Meeting to be held on Monday, November 13th, 2023 at 7:00 p.m. at the City Hall Council Board Room, 2nd Floor, City Centre
- VIII. Police Chief Update – Parking Restrictions Washington Ave.
- IX. Marchiselli Agreement – Richmond / Harvester
- X. Schedule Public Hearing BID District Plan Update
- XI. Fire Engine Vehicle Acceptance ***
- XII. USDA Loan Resolution – Form RD 1942-47***
- XIII. Final Draft Details Resolution For The Fire Truck Bond***
- XIV. Adjournment

Moves to Special Business Meeting



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

Official Use Only:

2023-50

Event Application #:

PAID
AUG 29 2023
CITY OF BATAVIA
CLERK-TREASURER

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

Event Sponsor Batavia Business Improvement Dist

Type of Event Christmas in the City

Day and Date of Event Dec. 2nd 2023 (Sat.)

Time of Event (don't include set up time here - just actual event time) 2-6 parade at 6

Location of Event The Mall + Main St

Details of Event (be as specific as possible!) Parade ~~with~~ vendors in the

Mall - Santa will also be in the mall

We will be using most of the mall for vendors.

Contact Information:

Primary contact:

Name Sharon Mack

Phone # 585-401-5531

Mailing address 200 E. Main St

E-mail address director@down-town-batavia-nyc.com

Secondary contact:

* Events will be posted on the City's website calendar. If there is a website you would like to include that people can visit for more information or registration, if applicable, note website here: _____

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

Type of alcoholic beverage to be served: Liquor Wine Beer

Will you be providing alcohol to your group? Yes No

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

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

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

Is the Sponsor requesting waiver of the Open Container law per §34-7 of the City Code? Yes No

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

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

EVENT INFORMATION (required):

Set up date: 12/2/23 Set up time: 10 Am
Tear down date: 12/2/23 Tear down time: 6pm

PLEASE LIST ALL DATES / TIMES AND CROWD INFORMATION BELOW:

Date: 12/2/23 Start time: 2pm End time: 6pm
Estimated crowd size: 400 # of Vendors/Displays 30

WILL THE EVENT INCLUDE:

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

Name of Company Providing Above: _____ Company Contact/Representative _____ Phone # _____

Address, Street _____ City _____ Zip Code _____

Music: Live Group Recorded/DJ

Name of Company Providing Above: _____ Company Contact/Representative _____ Phone # _____

Address, Street _____ City _____ Zip Code _____

CITY SERVICES SUPPORT:

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

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

ELECTRIC:

Will electric be needed for the event? Yes No
What will you be providing electric to? Speaker System for parade

Will generators be used? Yes No *see Special Events Inspection ✓ list for compliance*

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

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

TENTS/CANOPIES/POP-UPS: See appendices for compliance checklist – all tents will be inspected **

Will Tents/Canopies or other membrane structures be erected at event? Yes No
Will a bounce house or other air supported structures be erected at event? Yes No

NOTE – Appropriate anchoring is required for all tents, canopies, and pop-up structures

Please list size(s) of Tents/Canopies or other temporary structures erected* _____

ANCHORING INTO PAVEMENT IS PROHIBITED!

If anchoring in grass, soil areas please contact the NYS Dig Safe # at: 1-800-962-7962 or 811

STREET CLOSURE(S):

ANY EVENT REQUIRING A STREET CLOSURE REQUIRES 90 DAY ADVANCE NOTICE

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

List Street(s) and Cross Street(s) that will be affected:

Main St Street to be closed & _____ Cross Streets
Center Street to be closed & _____ Cross Streets
Jackson Street to be closed & _____ Cross Streets
Jefferson Street to be closed & _____ Cross Streets

Will street barricades be requested from the City? Yes No How Many? _____

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

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

Are there any other city materials or personnel requested for the event? Identify below: (there may be additional costs)

Trash cans

Block parties must allow local traffic and driveways cannot be blocked. Initial here: _____ (if hosting block party)

POLICE

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

If yes, what type of request? Traffic control Security Community Policing
Other : Specify _____

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

PLEASE NOTE:

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

Hold Harmless Agreement

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

8/22/23
Date:

Batavia BID
Name of Event Sponsor:

Shannon Meute Executive Director
Authorized Signature, Title

Shannon Meute
Name - Printed or Typed

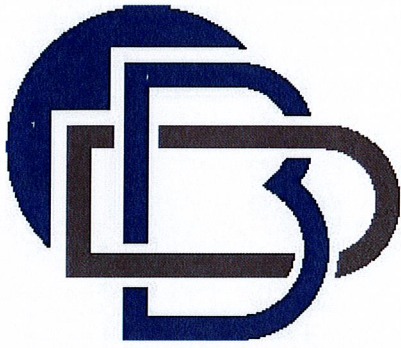
The rules and information contained within this application have been read and will be adhered to.

8/22/23
Date:

Shannon Meute
Signature of Applicant:

Please forward this application to:

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



DOWNTOWN BATAVIA BUSINESS IMPROVEMENT DISTRICT

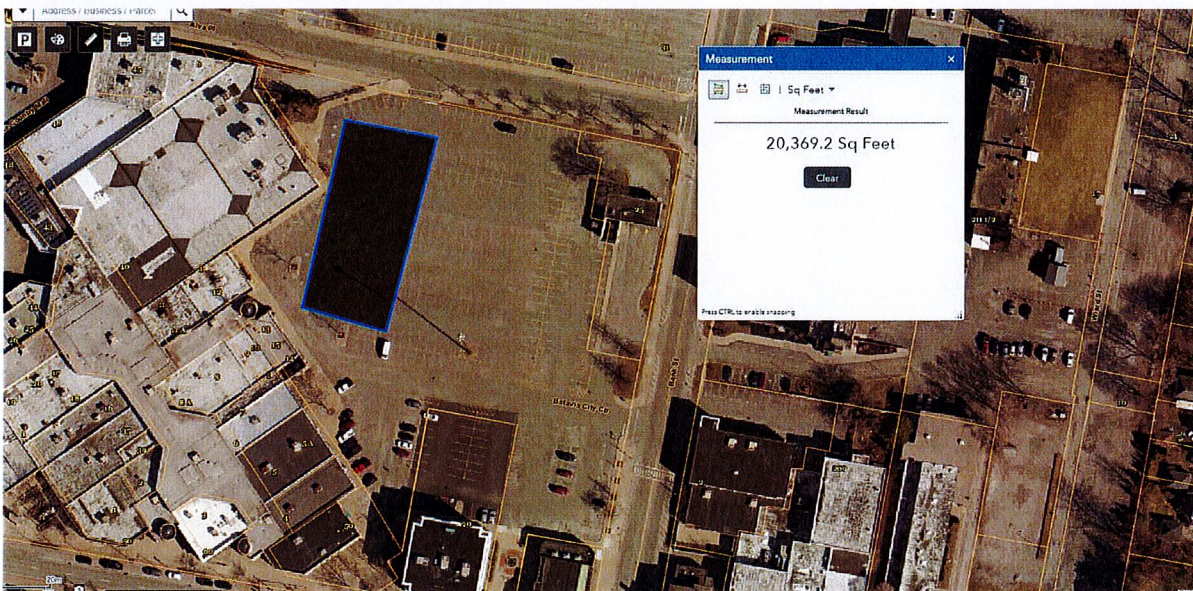
Amended Memo: Changes to Permit Applications Submitted By The BID for Christmas in The City

The use of Jackson Sq for the Ice Rink has been changed to the Parking lot of Bank and Alva (Placed where the farmers market is now) for this year only and will be in Jacksons Sq. the following year due to construction in Jackson Sq. The Ice Rink will be no more than 100x200ft. The BID Still asks for cones and blockades for the Ice Rink and requests a sign that states Skate at own risk.

The second change will be on the parade line up. The BID will now have all parade participants lining up on Jefferson and Washington Ave. We will no longer be using Alva for parade line up.

Below we have provided the a photo of the new location of the ice rink.

Thank you, Shannon Maute





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

PAID
OCT 12 2023
CITY OF BATAVIA
CLERK-TREASURER

Official Use Only:

2023-53
Event Application #:

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

Event Sponsor Batavia Business Improvement District
Type of Event Ice Skating in Jackson Sq Penney's pkg lot
Day and Date of Event Saturday Dec 2nd 2023
Time of Event (don't include set up time here - just actual event time) 2-6 pm
Location of Event Jackson Sq JCPenney's parking lot
Details of Event (be as specific as possible!) Ice Skating for Christmas in the City

Contact Information:

Primary contact:

Name Shannon Maute

Phone # 409-5531

Mailing address 200 E. Main St. Suite 12

E-mail address director@downtownbatavia.ny.us

Secondary contact:

* Events will be posted on the City's website calendar. If there is a website you would like to include that people can visit for more information or registration, if applicable, note website here: _____

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

Type of alcoholic beverage to be served: Liquor Wine Beer

Will you be providing alcohol to your group? Yes No

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

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

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

Is the Sponsor requesting waiver of the Open Container law per §34-7 of the City Code? Yes No

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

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

EVENT INFORMATION (required):

Set up date: 11/23/23 (maybe) Set up time: TBD
Tear down date: 12/8/23 (maybe) Tear down time: TBD

PLEASE LIST ALL DATES / TIMES AND CROWD INFORMATION BELOW:

Date: 12/2/2023 Start time: 2pm End time: 6pm
Estimated crowd size: 300? # of Vendors/Displays 2

WILL THE EVENT INCLUDE: *I will put up snow fence to keep people off of ice.*

- Block Party: Yes No (MAP OF STREET CLOSURE MUST BE ATTACHED)
- Parade: Yes No (MAP OF DESIRED ROUTE MUST BE ATTACHED)
- Run or Walk: Yes No (MAP OF DESIRED ROUTE MUST BE ATTACHED)
- Music: Yes No (SITE DRAWING OF STAGE OR DJ LOCATION ATTACHED)
- Street Closure(s): Yes No (MAP OF CLOSED STREETS AND DROP LOCATION OF BARRICADES)
- Other: Yes No (MAP OF DESIRED ROUTE MUST BE ATTACHED)

Fireworks or Hazardous Materials? Yes No Carnival or Amusement Rides? Yes No

Name of Company Providing Above: _____ Company Contact/Representative _____ Phone # _____

Address, Street _____ City _____ Zip Code _____

Music: Live Group Recorded/DJ

Radio

Name of Company Providing Above: _____ Company Contact/Representative _____ Phone # _____

Address, Street _____ City _____ Zip Code _____

CITY SERVICES SUPPORT:

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

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

ELECTRIC:

Will electric be needed for the event? Yes No

What will you be providing electric to? TBD

Will generators be used? Yes No *see Special Events Inspection ✓ list for compliance*

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

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

TENTS/CANOPIES/POP-UPS: See appendices for compliance checklist – all tents will be inspected **

Will Tents/Canopies or other membrane structures be erected at event? Yes No
Will a bounce house or other air supported structures be erected at event? Yes No

NOTE – Appropriate anchoring is required for all tents, canopies, and pop-up structures

Please list size(s) of Tents/Canopies or other temporary structures erected* _____

ANCHORING INTO PAVEMENT IS PROHIBITED!

If anchoring in grass, soil areas please contact the NYS Dig Safe # at: 1-800-962-7962 or 811

STREET CLOSURE(S):

ANY EVENT REQUIRING A STREET CLOSURE REQUIRES 90 DAY ADVANCE NOTICE

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

List Street(s) and Cross Street(s) that will be affected:

Street to be closed & Cross Streets

Street to be closed & Cross Streets

Street to be closed & Cross Streets

Street to be closed & Cross Streets

Will street barricades be requested from the City? Yes No How Many? _____

Will traffic cones be requested from the City? Yes No How Many? 10
(Drop off locations of requested items must be identified on the site drawing)

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

Are there any other city materials or personnel requested for the event? Identify below: (there may be additional costs)

Trash cans (4)

Block parties must allow local traffic and driveways cannot be blocked. Initial here: _____ (if hosting block party)

POLICE

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

If yes, what type of request? Traffic control Security Community Policing
Other : Specify _____

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4. Fuel Containers Must be of an Approved type and Must be Properly Secured
5. Deep Fryers Must Be Approved. Commercial Types Require a Type "K" Portable Fire Extinguisher
6. All Food Vendors Must Have a Type ABC Fire Extinguisher. All Fire Extinguishers Must Be Inspected Within The Last Year. **A Valid Health Department Permit Must Be Displayed.**
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13. If approved, a Certificate of Liability Insurance of at least \$1,000,000 naming the City of Batavia as an additional insured for at least the day(s) of the event must be submitted to the City Clerk prior to the event date.

Hold Harmless Agreement

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

10/11/23
Date:

Batavia Business Improvement
Name of Event Sponsor:
Shannon Maute
Authorized Signature, Title
Shannon Maute
Name - Printed or Typed

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

10/11/23
Date:

Shannon Maute
Signature of Applicant:

Please forward this application to:

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

**SPECIAL EVENT APPLICATION
DEPARTMENT APPROVAL SUMMARY**

FOR OFFICIAL CITY USE ONLY

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

OFFICIAL USE ONLY	
Date Received _____	Council Action: (Approved / Disapproved) _____
Date of Council Action: _____	Insurance Received (if applicable) _____

Event Application #: _____

Department: _____
List Department Name Here

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

Department Cost Estimate: _____
If applicable

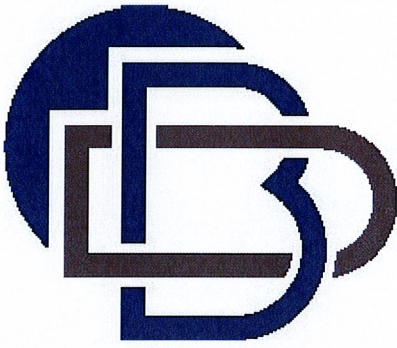
Estimate based on: Fillable table – type your response here:

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

Submitted By: _____
Name / Title Date Submitted

Appendices

SPECIAL EVENTS INSPECTION			
YES	Item to verify	NO	Corrective action
	Extension cords plugged into approved electrical boxes?		Do not use unless cords plugged direct
	Generator in use 20 feet from any structure?		Do not use generator unless moved to safe area
	Generator has appropriate extinguisher available		Do not use unless extinguisher present
	Generator grounded?		Do not use unless grounded
	Inflatable secured to ground?		Do not use unless secured
	Inflatable rods covered?		Do not use unless rods are covered for safety
	Propane tanks secured?		Do not use unless secured
	Outside cooking has appropriate extinguisher?		Do not use unless extinguisher present
	Fireworks display 75 feet from any structure?		Do not light unless in approved location
	Fireworks display has proper extinguishers?		Do not light unless extinguisher is present
	Does cooking under tent meet the safety standard?		Do not cook unless tent is rated for fire resistance or cooking outside tent
	Are Easy up tents properly roped, braced or anchored to withstand elements of weather and collapse?		Do not occupy until proper securing is approved by inspector
	Does Easy up tent have permanent label ID of size and fabric?		Tent not to be used without proper label
	Outdoor cooking that produces sparks or grease laden vapors?		Shall be outside of tents unless tent is fire rated and extinguishers or hood present
	Does the venue have a crowd of 250 people or more?		Must have crowd managers trained as approved by inspector



DOWNTOWN BATAVIA BUSINESS IMPROVEMENT DISTRICT

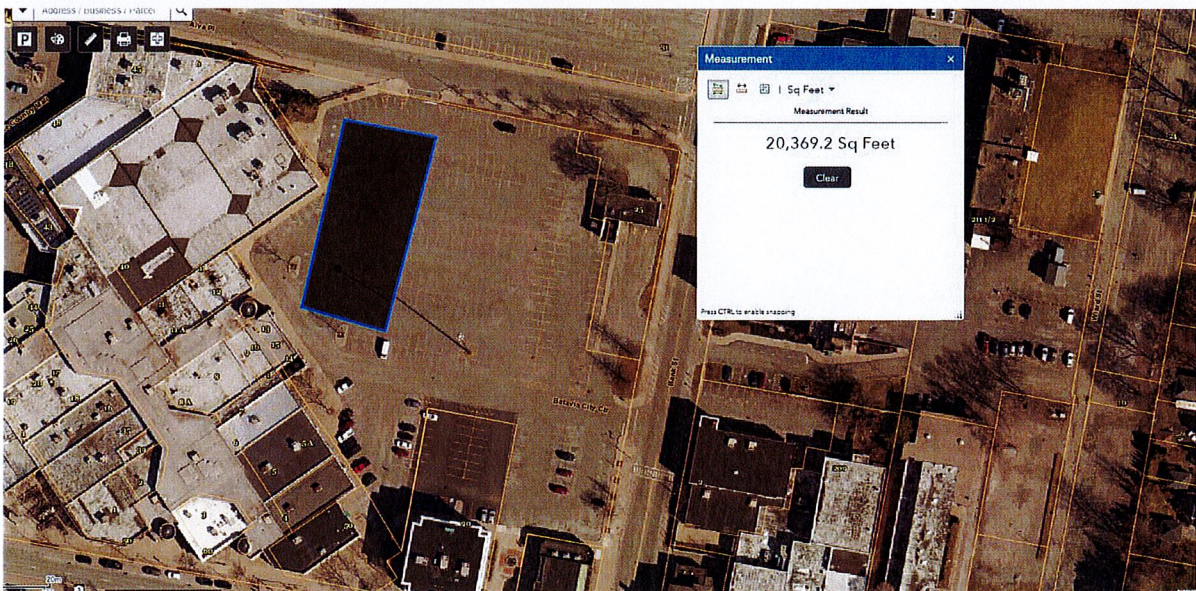
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The second change will be on the parade line up. The BID will now have all parade participants lining up on Jefferson and Washington Ave. We will no longer be using Alva for parade line up.

Below we have provided the a photo of the new location of the ice rink.

Thank you, Shannon Maute



OFFICE USE ONLY		
<input type="radio"/> Original	<input type="radio"/> Amended	Date _____

Standardized NOTICE FORM for Providing 30-Day Advance Notice to a Local Municipality or Community Board

1. Date Notice Sent: 10/06/2023 1a. Delivered by: Nancy Rosario

2. Select the type of Application that will be filed with the Authority for an On-Premises Alcoholic Beverage License:

For premises outside the City of New York:

New Application Removal Class Change

For premises in the City of New York:

New Application New Application and Temporary Retail Permit Renewal Alteration Removal

Class Change Method of Operation Corporate Change

For **New** and **Temporary Retail Permit** applicants, answer each question below using all information known to date

For **Renewal** applicants, answer all questions

For **Alteration** applicants, attach a complete written description and diagrams depicting the proposed alteration(s)

For **Corporate Change** applicants, attach a list of the current and proposed corporate principals

For **Removal** applicants, attach a statement of your current and proposed addresses with the reason(s) for the relocation

For **Class Change** applicants, attach a statement detailing your current license type and your proposed license type

For **Method of Operation Change** applicants, although not required, if you choose to submit, attach an explanation detailing those changes

Please include all documents as noted above. Failure to do so may result in disapproval of the application.

This 30-Day Advance Notice is Being Provided to the Clerk of the Following Local Municipality or Community Board:

3. Name of Municipality or Community Board: City of Batavia

Applicant/Licensee Information:

4. Licensee Serial Number (if applicable): Expiration Date (if applicable):

5. Applicant or Licensee Name: La Oaxaquena Taqueria Inc.

6. Trade Name (if any):

7. Street Address of Establishment: 4152 W. Main Street Rd

8. City, Town or Village: Batavia, NY Zip Code: 14020

9. Business Telephone Number of applicant/ Licensee: 585 219 - 4108

10. Business E-mail of Applicant/Licensee: oaxaquenatacos@gmail.com

11. Type(s) of alcohol sold or to be sold: Beer & cider Wine, Beer & Cider Liquor, Wine, Beer & Cider

12. Extent of Food Service: Full Food menu; full kitchen run by a chef/cook Menu meets legal minimum food requirements; food prep area required

13. Type of Establishment: Counter service restaurant

Seasonal Establishment Juke Box Disc Jockey Recorded Music Karaoke

14. Method of Operation: (check all that apply) Live Music (give details i.e., rock bands, acoustic, jazz, etc.):

Patron Dancing Employee Dancing Exotic Dancing Topless Entertainment

Video/Arcade Games Third Party Promoters Security Personnel

Other (specify):

15. Licensed Outdoor Area: None Patio or Deck Rooftop Garden/Grounds Freestanding Covered Structure
 (check all that apply) Sidewalk Cafe Other (specify): _____

OFFICE USE ONLY		
<input type="radio"/> Original	<input type="radio"/> Amended	Date _____

16. List the floor(s) of the building that the establishment is located on: ground floor

17. List the room number(s) the establishment is located in within the building, if appropriate: 8

18. Is the premises located within 500 feet of three or more on-premises liquor establishments? Yes No

19. Will the license holder or a manager be physically present within the establishment during all hours of operation? Yes No

20. If this is a transfer application (an existing licensed business is being purchased) provide the name and serial number of the licensee:
Name: _____ Serial Number: _____

21. Does the applicant or licensee own the building in which the establishment is located? Yes (if YES, SKIP 23-26) No

Owner of the Building in Which the Licensed Establishment is Located

22. Building Owner's Full Name: 425 West Main Associates

23. Building Owner's Street Address: 6536 Anthony Dr.

24. City, Town or Village: Victor State: NY Zip Code: 14564

25. Business Telephone Number of Building Owner: (585) 410-6733 ext #105

Representative or Attorney Representing the Applicant in Connection with the Application for a License to Traffic in Alcohol at the Establishment Identified in this Notice

26. Representative/Attorney's Full Name: _____

27. Representative/Attorney's Street Address: _____

28. City, Town or Village: _____ State: _____ Zip Code: _____

29. Business Telephone Number of Representative/Attorney: _____

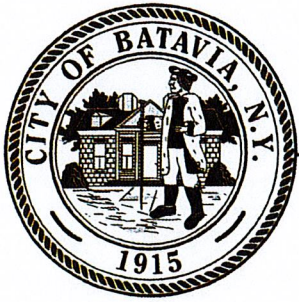
30. Business E-mail Address of Representative/Attorney: _____

I am the applicant or licensee holder or a principal of the legal entity that holds or is applying for the license. Representations in this form are in conformity with representations made in submitted documents relied upon by the Authority when granting the license. I understand that representations made in this form will also be relied upon, and that false representations may result in disapproval of the application or revocation of the license.

By my signature, I affirm - under **Penalty of Perjury** - that the representations made in this form are true.

31. Printed Principal Name: Nancy Rosario Title: owner

Principal Signature: Nancy Rosario



City of Batavia

TRAFFIC ORDER NUMBER 3 OF THE YEAR 2023

Pursuant to the authority delegated by Chapter 178-3 of the code of the City of Batavia, the Chief of Police of the City of Batavia hereby promulgates the following Traffic Order:

PARKING RESTRICTIONS ON WASHINGTON AVENUE

Amendment to parking restrictions on Washington Avenue section 178-14 of the code of the City of Batavia:

Amend:

1. On the south side; No Parking from 7:00 AM to 9:00 AM and 2:00 PM to 4:00 PM on School Days between Ross Street and a point 120 feet west of Ross Street.

This traffic order shall become effective immediately upon the proper posting of appropriate signs.

Dated: October 6, 2023

Christopher Camp
Assistant Police Chief

Sworn to before me

This ___ day of _____

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



City of Batavia

Memorandum

To: Rachael Tabela, City Manager

From: Brett Frank, Director of Public Works

Date: October 12, 2022

Subject: Master Federal Aid/Marchiselli Aid Project Agreement Highway Preventive Maintenance
– City of Batavia D040140; PIN 4761.01

The City of Batavia has been awarded Federal Aid/Marchiselli funding to complete the Road Rehabilitation project on Richmond/Harvester Avenues PIN 4761.01.

In order for Federal Aid/Marchiselli funds to be committed to the subject project, the City of Batavia is required to conform to certain procedures. These certain procedures are included in what's referred to as a Supplemental #2 State-Local Agreement which includes the following:

1. Schedule A – a breakdown of funding for design, right of way and/or construction activities
2. Schedule B – allocation of responsibility for specific tasks of each phase of work

Both Schedule A & B have been submitted to the NYS DOT

Previously, the City of Batavia was awarded \$2,934,085 in Federal Aid/Marchiselli funding which did not fully cover the 95% reimbursement cost of the Richmond/Harvester project. In order to receive the full 95% project reimbursement a Supplemental Agreement is needed. This agreement will award the City of Batavia \$3,001,071 in funding (increase of \$66,986) which will fund the entirety of the project at a 95% reimbursement level.

This Supplemental Agreement for Federal Aid/Marchiselli funding will help fund and close out the Richmond/Harvester Avenue project.

#XX-2023

A RESOLUTION AUTHORIZING AN AGREEMENT WITH NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR SUPPLEMENTAL AGREEMENT MARCHISELLI PORTION OF DESIGN & CONSTRUCTION ASSOCIATED WITH THE REHABILITATION OF RICHMOND AVENUE AND HARVESTER AVENUE

Motion of Councilmember

WHEREAS, a project for the Rehabilitation of Richmond Avenue (Oak Street to State Street) and Harvester Avenue, City of Batavia, Genesee County, P.I.N. 4761.01 (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% Federal funds and 20% non-Federal funds; and

WHEREAS, the City of Batavia desires to advance the Project by making a commitment of 100% of the non-Federal share of the cost for PE/Design, R.O.W. Incidentals and Construction/CI/CS; and

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

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

IT IS FURTHER RESOLVED, that the sum of \$3,159,022 is hereby appropriated and made available to cover the cost of participation in the above phase of the Project; and

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

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

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

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

**Seconded by Councilmember
and on roll call**



Department of
Transportation

KATHY HOCHUL
Governor

MARIE THERESE DOMINGUEZ
Commissioner

CHRISTOPHER REEVE, P.E.
Regional Director

September 19, 2023

Mr. Brett Frank
City Manager – City of Batavia
One Batavia City Centre
Batavia, NY 14020

**RE: Supplemental Agreement #2 to Master Federal Aid/Marchiselli Aid Project Agreement
Highway Preventive Maintenance – City of Batavia
D040140; PIN 4761.01**

Dear Mr. Frank:

Attached you will find files of the following documentation necessary for the City of Batavia to process before any Federal/State Aid can be committed to the subject project. This locally administered project requires that the City of Batavia conforms to certain procedures referenced in the attached documentation.

This documentation includes:

- (1) Supplemental #2 State-Local Agreement including:
 - a. Schedule A - a breakdown of funding for design, right of way and/or construction activities
 - b. Schedule B – allocation of responsibility for specific tasks of each phase of work

The State Local Agreement has been written according to the following guidelines:

- (1) The Schedule A has been written with funds that have been approved by the MPO and are identified in the TIP. NOTE: If the sponsor feels additional funding is required, they must request additional funds through the MPO. If approved, addition funding can be added to the next Supplemental Agreement.
- (2) No work shall begin until Federal Authorization is in place
- (3) Any work done prior to the Federal Authorization is NOT eligible for reimbursement.
- (4) A local resolution in support of the project must be in place before a request for Federal Aid will be submitted.

NOTE: We are now accepting digital copies of agreements with original signatures. Therefore, please print out a copy of the signature page for execution. After physical signature scan back into document and email along with scanned resolution to paula.samson@dot.ny.gov. Main Office will not accept digital signatures.

Upon execution by the State Comptroller, one executed, digital copy of the agreement will be returned to your office. If you have any questions, please contact Paula Samson, Regional State/Local Agreement Coordinator, at (585) 272-3333.

Sincerely,

Joel Kleinberg
Acting Manager, Regional Program Development and Management
Enclosures

cc: Jon Harman, RLPL, Project Manager, Region 4

Sponsor: **City of Batavia**
PIN: **476101** BIN: _____
Comptroller's Contract No. **D040140**
Supplemental Agreement No. **2**
Date Prepared: **09/19/2023** By: plms
Initials

Press F1 for instructions in the blank fields:

SUPPLEMENTAL AGREEMENT No. 2 to D040140 (Comptroller's Contract No.)

This Supplemental Agreement is by and between:

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

City of Batavia (the Sponsor)
Acting by and through the **City Manager**
with its office at **One Batavia City Center, Batavia, NY 14020.**

This amends the existing Agreement between the parties in the following respects only:

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

- amending a project description
- amending the contract end date
- amending the scheduled funding by:
 - adding additional funding (check and enter the # phase(s) as applicable):
 - adding phase _____ which covers eligible costs incurred on/after / /
 - adding phase _____ which covers eligible costs incurred on/after / /
 - increasing funding for a project phase(s)
 - adding a pin extension
 - change from Non-Marchiselli to Marchiselli
 - deleting/reducing funding for a project phase(s)
 - other (_____)
- Amends a previously adopted Schedule "B" (Phases, Sub-phase/Tasks, and Allocation of Responsibility)
- Amends a previously adopted Agreement by replacing the Appendix A dated January 2019 with the Appendix A dated October 2023.
- Amends a previously adopted Agreement by adding:
 - Appendix B M/WBE/SDVOB.
 - Retention Exhibit.
 - Other: _____
- Amends the text of the Agreement as follows (insert text below):

Sponsor: City of Batavia
PIN: 476101 BIN: _____
Comptroller's Contract No. D040140
Supplemental Agreement No. 2
Date Prepared: 09/19/2023 By: plms
Initials

Press F1 for instructions in the blank fields:

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

SPONSOR:

SPONSOR ATTORNEY:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

STATE OF NEW YORK

)ss.:

COUNTY OF _____

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

Notary Public

APPROVED FOR NYSDOT:

APPROVED AS TO FORM:
STATE OF NEW YORK ATTORNEY GENERAL

BY: _____

For Commissioner of Transportation

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

By: _____
Assistant Attorney General

Date: _____

COMPTROLLER'S APPROVAL:

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

**SCHEDULE A – Description of Project Phase, Funding and Deposit Requirements
 NYSDOT/ State-Local Agreement - Schedule A for PIN 4761.01**

OSC Contract #: <u>D040140</u>	Contract Start Date: <u>3/9/2020</u> (mm/dd/yyyy) Contract End Date: <u>8/31/2025</u> (mm/dd/yyyy) <input type="checkbox"/> Check, if date changed from the last Schedule A
Purpose: <input type="checkbox"/> Original Standard Agreement <input checked="" type="checkbox"/> Supplemental Schedule A No. 2	
Agreement Type: <input checked="" type="checkbox"/> Locally Administered Municipality/Sponsor (Contract Payee): City of Batavia <input type="checkbox"/> State Administered Other Municipality/Sponsor (if applicable): <small>List participating Municipality(ies) and the % of cost share for each and indicate by checkbox which Municipality this Schedule A applies.</small> <input type="checkbox"/> Municipality: _____ % of Cost share <input type="checkbox"/> Municipality: _____ % of Cost share <input type="checkbox"/> Municipality: _____ % of Cost share	
Authorized Project Phase(s) to which this Schedule applies: <input checked="" type="checkbox"/> PE/Design <input checked="" type="checkbox"/> ROW Incidentals <input type="checkbox"/> ROW Acquisition <input checked="" type="checkbox"/> Construction/CI/CS	
Work Type: HWY REHAB	County (If different from Municipality): Genesee
<small>(Check, if Project Description has changed from last Schedule A):</small> <input type="checkbox"/>	
Project Description: City of Batavia Highway Preventive Maintenance	
Marchiselli Eligible <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

A. Summary of Participating Costs FOR ALL PHASES <small>For each PIN Fiscal Share below, show current costs on the rows indicated as "Current.". Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.</small>							
PIN Fiscal Share	"Current" or "Old" entry indicator	Funding Source (Percentage)	TOTAL Costs	FEDERAL Funds	STATE Funds	LOCAL Funds	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
4761.01.121	Current	STP	\$331,900.00	\$265,520.00	\$49,785.00	\$16,595.00	\$0.00
	Old	STP	\$331,900.00	\$265,520.00	\$49,785.00	\$16,595.00	\$0.00
4761.01.221	Current	STP	\$27,000.00	\$21,600.00	\$4,050.00	\$1,350.00	\$0.00
	Old	STP	\$27,000.00	\$21,600.00	\$4,050.00	\$1,350.00	\$0.00
4761.01.321	Current	STP	\$2,800,122.00	\$2,240,097.00	\$420,019.00	\$140,006.00	\$0.00
	Old	STP	\$2,729,611.00	\$2,183,697.00	\$409,433.00	\$136,481.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$3,159,022.00	\$2,527,217.00	\$473,854.00	\$157,951.00	\$ 0.00

NYSDOT/State-Local Agreement – Schedule A PIN 4761.01

B. Local Deposit(s) from Section A:	\$ 0.00
Additional Local Deposit(s)	\$0.00
Total Local Deposit(s)	\$ 0.00

C. Total Project Costs <i>All totals will calculate automatically.</i>			
Total FEDERAL Cost	Total STATE Cost	Total LOCAL Cost	Total ALL SOURCES Cost
\$2,527,217.00	\$473,854.00	\$157,951.00	\$3,159,022.00
		Total FEDERAL Cost	\$2,527,217.00
		Total STATE Cost	\$473,854.00
SFS TOTAL CONTRACT AMOUNT			\$3,001,071.00

D. Point of Contact for Questions Regarding this Schedule A (Must be completed)	Name: <u>Paula Samson</u> Phone No: <u>585-272-3333</u>
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See Agreement (or Supplemental Agreement Cover) for required contract signatures.

Footnotes (FN): (See LPB's SharePoint for link to sample footnotes)

- The State Match is being funded with Marchiselli Program Funds.
- This Supplemental Agreement increases the Construction Funding.
- This Supplemental Agreement includes a NPS Share of \$293,677.
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APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

TABLE OF CONTENTS

	Page
1. Executory Clause	3
2. Non-Assignment Clause	3
3. Comptroller's Approval	3
4. Workers' Compensation Benefits	3
5. Non-Discrimination Requirements	3
6. Wage and Hours Provisions	3-4
7. Non-Collusive Bidding Certification	4
8. International Boycott Prohibition	4
9. Set-Off Rights	4
10. Records	4
11. Identifying Information and Privacy Notification	4
12. Equal Employment Opportunities For Minorities and Women	5
13. Conflicting Terms	5
14. Governing Law	5
15. Late Payment	5
16. No Arbitration	5
17. Service of Process	5
18. Prohibition on Purchase of Tropical Hardwoods	5-6
19. MacBride Fair Employment Principles	6
20. Omnibus Procurement Act of 1992	6
21. Reciprocity and Sanctions Provisions	6
22. Compliance with Breach Notification and Data Security Laws	6
23. Compliance with Consultant Disclosure Law	6
24. Procurement Lobbying	7
25. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors	7
26. Iran Divestment Act	7
27. Admissibility of Contract	7

STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller's approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in

accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records

must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "(a), (b) and (c)" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not

apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this

law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business and Technology Development
625 Broadway
Albany, New York 12245
Telephone: 518-292-5100

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue 33rd Floor
New York, NY 10017
646-846-7364
email: mwbebusinessdev@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §§ 899-aa and 899-bb and State Technology Law § 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a “procurement contract” as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

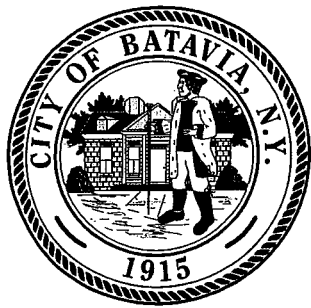
26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: <https://ogs.ny.gov/iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.



City of Batavia

Memorandum

To: Honorable City Council

From: Rachael J. Tabelski, City Manager

Date: October 17, 2023

Subject: Batavia Business Improvement District- Amend District Plan – Local Law No. 3

The Batavia Business Improvement District (BID) desires to amend their district plan and add language for improvements in the district that will be allowable under their capital account.

The BID intends to improve the downtown district with multiple capital purchases to enhance the district including decorations, banners, planters, light poles, and accessories, signs and wayfinding, decorative trash bins, sidewalk improvements and/or grants.

The BID currently has \$222,470.50 in their capital account.

I recommend that the City Council of the City of Batavia hold a public hearing on said proposed Local Law at City Hall, One Batavia City Centre, Batavia, New York, at 7:00 p.m. on Monday, November 27, 2023.

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

**Office of the City Manager
One Batavia City Centre
Batavia, New York 14020**

**TDD 800-662-
Phone: 585-345-6330
Fax: 585-343-8182
www.batavianewyork.com**

#XX-2023

**A RESOLUTION TO SCHEDULE A PUBLIC HEARING AND INTRODUCE
PROPOSED LOCAL LAW NO. 3 OF THE YEAR 2023 ENTITLED “AMENDING THE
BUSINESS IMPROVEMENT DISTRICT PLAN”**

Motion of Councilmember

BE IT RESOLVED, that proposed Local Law No. 3 of the year 2023 entitled “LOCAL LAW NO. 3 OF THE YEAR 2023 AMENDING THE BUSINESS IMPROVEMENT DISTRICT PLAN” is introduced before the City Council of the City of Batavia, New York; and

BE IT FURTHER RESOLVED, that copies of the aforesaid proposed Local Law be laid upon the desk of each member of the City Council; and

BE IT FURTHER RESOLVED, that the City Council hold a public hearing on said proposed Local Law at City Hall, One Batavia City Centre, Batavia, New York, at 7:00 p.m. on Monday, November 27, 2023; and

BE IT FURTHER RESOLVED, that the City Clerk publish or cause to be published a public notice in the official newspaper of the City of said public hearing at least ten (10) days prior thereto.

**Seconded by Councilmember
and on roll call**

LOCAL LAW NO. 3 OF THE YEAR 2023
CITY OF BATAVIA

A LOCAL LAW AMENDING THE BUSINESS IMPROVEMENT DISTRICT PLAN

A **LOCAL LAW** amending the Business Improvement District Plan in the City of Batavia in accordance with Article 19-A of the General Municipal Law submitted to the City Clerk on January 25, 2021.

BE IT ENACTED by the City Council of the City of Batavia as follows:

SECTION 1. The Downtown Business Improvement District established by Local Law No. 6 of 1997 adopted on November 24, 1997 and further outlined in Chapter 58 of the Code of the City of Batavia, and was amended by Local Law No. 3 of 2005 adopted on June 27, 2005 to include the Ellicott Street business area and further amended by Local Law No. 3 of 2016 on August 6, 2016, and further amended by Local Law No 3 of 2018 on March 12, 2018, and further amended on March 8, 2021 by Local Law No 2 the City Council having found that the amendment of the district plan, herein attached, is in the public interest, that all notice and hearing requirements have been complied with, that all properties within the district will benefit from the amendments and that all property benefited is included in the boundaries of the district.

SECTION 2. The provision of services within the district shall be pursuant to said amended district plan of the Downtown Batavia Business Improvement District (BID). All said services shall be in addition to, and not a substitution for required municipal services provided by the City of Batavia on a city-wide basis.

SECTION 3. To the extent not explicitly provided herein, the provisions set forth in Article 19-A of the General Municipal Law shall govern the operation of the Downtown Batavia Business Improvement District and the Batavia Business Improvement District Management Association. Insofar as the provisions of this Local Law are inconsistent with the provisions of any other Local Law or act, the provisions of this local law shall be controlling.

SECTION 4. Any additional amendments to the BID or the BID Plan shall be made in accordance with the provisions set forth in section 980-i of Article 19-A of the General Municipal Law.

SECTION 5. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law which can be given effect without such invalid part or parts.

A PLAN UPDATE FOR THE
BUSINESS IMPROVEMENT DISTRICT



January 14, 2021

Prepared by City of Batavia

In 1997, a core group of property owners within Downtown Batavia Business District asked the City of Batavia to form a Business Improvement District (BID) to help foster streetscape improvements and business growth. The boundaries of the district included the historic downtown Main Street from Liberty/Summit Streets to the Upton Monument and areas to the north and south between Washington Avenue and Ellicott Street. In March 1998 these owners also formed the non-profit Batavia Business Improvement District Management Association Incorporated (Management Association) to provide marketing, promotional and other business improvement district development services for the BID to the City of Batavia.

Since 1998, the BID and the Management Association have had many accomplishments and were fortunate to benefit from numerous development and streetscape projects the City has initiated, including a complete redevelopment of Main Street. The Management Association has also partnered with the City on a number of streetscape and beautification projects throughout the downtown core, administered a popular facade improvement program and promoted a summer concert series.

Because of the BID's success, and its visual transformation, interest in the BID grew and owners in the adjacent Ellicott Street area, just southeast of downtown, requested the City of Batavia to consider an amendment of the Downtown BID boundaries that would annex their properties to the BID. Consequently, in 2005 the City Council authorized the extension of the BID to include the adjacent Ellicott Street area.

Because the BID Plan has not been updated since 2005, the City of Batavia has prepared updates to the Plan including a change in the district assessment charge to properly reflect operations, capital accounting for surplus funds, compliance with the Open Meetings Law and Freedom of Information Law and additional budgetary compliance reporting.

I. Map and Boundary of the District

Exhibit A is a description of the boundaries of the district. Exhibit B is a list of benefitted properties by address and property owner.

II. Land Uses

Allowed uses within the district comply with the City of Batavia Zoning Ordinance. The current BID includes the C-3 zoning district and allows such uses as retail stores, banks, offices, restaurants, hotels, places of amusement, services, shopping centers, residential uses and government buildings. Other districts included in the current BID boundaries are the C-2 zoning district which allows such uses as retail stores, restaurants, hotels, places of amusement, offices, banks and shopping centers, a small section of industrial zoned property and the P-2 planned development district on Main Street for the United Memorial Center Bank Street Campus.

There are no immediate plans to change the allowed uses within the current zoning district.

III. Activities allowed by Business Improvement District Law (Article 19-A)

The main objectives of the improvement district are to provide for attractive and functional infrastructure improvements, and to have an operational budget for marketing, communications, events and administration. The concept has created an attractive downtown area that has encouraged investment in the area and provided a pedestrian friendly environment to downtown shoppers, businesses and other downtown users.

An operational budget insures that the City and the Management Association can communicate and

market the district to the public, downtown owners and potential investors. The operational budget also provides funds for basic administration of the Management Association activities such as meetings and staff.

The General Municipal Law authorizes the legislative body of a participating municipality to exercise the following powers with respect to a business improvement district:

a.) To provide for district improvements located within the municipality to promote business activity in the district:

1. construction and installation of landscaping, planting and park areas;
2. construction of lighting and heating facilities;
3. construction of physically aesthetic and decorative safety fixtures, equipment and facilities;
4. construction of improvements to enhance security of persons and property within the district;
5. construction of pedestrian overpasses and underpasses and connections between buildings;
6. closing, opening, widening or narrowing of existing streets;
7. construction of ramps, sidewalks, plazas and pedestrian malls;
8. rehabilitation or removal of existing structures as required;
9. removal and relocation of utilities and vaults as required;
10. construction of parking lot and parking garage facilities; and
11. construction of fixtures, equipment, facilities and appurtenances as may enhance the movement, convenience and enjoyment of the public and be of economic benefit to surrounding properties such as: bus stop shelters; benches and street furniture; booth, kiosks, display cases, and exhibits; signs; receptacles; canopies; pedestrian shelters and fountains.

b.) To provide for the operation and maintenance of any district improvement.

c.) To provide for additional maintenance or other additional services required for the enjoyment and protection of the public and the promotion and enhancement of the district whether or not in conjunction with improvements authorized by this section, including:

1. enhanced sanitation services;
2. services promoting and advertising activities within the district;
3. marketing education for businesses within the district;
4. decorations and lighting for seasonal and holiday purposes; and
5. services to enhance the security of persons and property within the district.

d.) To construct improvements on the properties of businesses located within the BID for the specific purpose of increasing access from public areas to the businesses for persons with disabilities. This is the only exception to the requirement that BID improvements be made on or within municipal or district owned or leased property.

Note: Funding from a source other than the BID assessment may be spent for improvements and services that are not listed in the General Municipal Law §980-c.

IV. Improvements, operation costs and the maximum costs thereof

a) Capital Infrastructure Improvements

The BID has enjoyed millions in infrastructure and facade improvements over the last 15 years. While most of the streetscape improvements on Main Street were funded by the state and federal

governments, the remainder of streetscape and facade improvements were funded through an \$830,000 bond that will be retired with payments from BID special assessments and City general funds in 2016.

In 2005 the City expanded the BID boundaries to include Ellicott Street businesses. The district plan was subsequently amended providing for an increase in the annual BID assessment to \$120,000. An additional \$350,000 of downtown infrastructure improvements was proposed along Ellicott Street as part of district plan amendment. The improvements desired included trees, decorative lighting and sidewalk improvements that mimic the improvements already in place within the current BID. The district plan continued to outline that BID assessments would cover 60% of the debt service related to capital improvements and the City would contribute general funds for 40% of the debt service. In addition, any outside sources of funds would be dedicated toward reducing the annual bond costs proportionally. Following the BID expansion the City received a \$500,000 Transportation Enhancement Program (TEP) grant and the Ellicott Street Scape project was expanded to a \$750,000 total project cost, making the local match between the City and the BID \$250,000 to complete Ellicott Streetscape improvements. At the conclusion of the project both the City and BID paid for the remaining cost of the project with available funds and the City did not issue a bond or incur debt service for the project as was originally planned in the 2005 district plan amendment.

There are no immediate infrastructure or physical improvements planned; however, the City and the Management Association expect to begin a district plan update to include infrastructure and capital improvements.

b.) Operations

1. A primary concern regarding the BID assessment and levy is that the 2016/17 BID assessment get exceeds the General Municipal Law limits for district assessment charges used for operations. As outlined in General Municipal Law §980-k, the City is limited in the amount of money that can be raised for a BID through the assessment. The district assessment charge, excluding debt service, may not exceed 20 percent of the total general municipal taxes levied in a year against the taxable property in the BID. For 2016/17 the total general municipal taxes levied in the 2016/17 year is \$275,194. Therefore, the maximum amount of district assessment charge that can be raised for operational use, excluding debt service, is \$55,038.

The City debt service payment for the 1999 infrastructure bond improvements for the 2016/17 year is \$25,651.08. The proportional share of infrastructure bond payments is 60 percent for the BID owners and 40 percent for the City of Batavia. Thus the BIDs share of debt service is \$15,391, while the City's share is \$10,260. This is the last debt service payment for the 1999 infrastructure bond improvements.

Therefore, the maximum amount of district assessment charge that should have been levied should be no greater than \$70,429 (\$55,038 for operation + \$15,391 for debt service). The actual BID assessment levied for this year, \$120,000, exceeds the authorized amount allowed for operations and debt service payments under the General Municipal Law. As a result, the BID assessment that was levied May 1, 2016 was an additional \$49,571 in conflict with the General Municipal Law and the district plan with no authorized use of the additional funds.

The following BID budget amendments were made by the City:

- i. The Management Association has budgeted \$55,020 for annual operations and management of the district.
- ii. The BIDs share of debt service is \$15,391, while the City's share is \$10,260. August 1,

- 2016 is the last debt service payment for the 1999 infrastructure bond improvements.
- iii. In 2018 the additional levy of \$49,571 was held by the City until the BID plan was updated and approved by City Council to include a capital infrastructure project.
 - iv. The BID Capital Infrastructure Fund currently has \$222,470.50 designated to be used for a capital project(s).
 - ~~v. The BID intends to undertake three capital projects on behalf of the district in FY21/22 including the purchase of:

 - ~~a. Downtown marketing banners estimated \$9,000~~
 - ~~b. Downtown music equipment estimated \$30,000~~
 - ~~c. Downtown Christmas decorations estimated \$38,000~~~~
 - v. The BID intends to improve the downtown district with multiple capital purchases to enhance the district including decorations, banners, planters, light poles and accessories, planters, signs and wayfinding, decorative trash bins, sidewalk improvements, and grants.
2. Prior to the May 2016 BID levy, the City has paid over to the Management Association 100% of the amount of the BID levy and the Management Association has remitted to the City an amount equal to the BID's 60% share of debt service payments as described. The Management Association has kept any BID assessment proceeds in excess of the amount allowed in a reserve fund. As of June 6, 2016, the balance of this reserve was \$202,865.54. The Management Association will maintain these funds in a separate bank account and on a monthly basis provide the City's Chief Fiscal Officer with statements verifying the funds have been retained. The City and the BID Association will utilize these funds for capital improvements, either on a "pay as you go basis" or through the issuance of debt, as made mutually agreeable to the City and the Management Association as incorporated into an updated district plan. The funds will remain unutilized until the update district plan is adopted outlining new capital and infrastructure improvements.
 3. In future years, the Management Association's proposed budget shall be forwarded to the City's Chief Fiscal Officer (City Manager) no later than January 15th of every year. The City Manager will then review the proposed budget and complete a statement to the City Council and Management Association Board of Directors indicating that the provisions of General Municipal Law 19-A have been met. This step will serve to ensure that the proposed levy by the City of Batavia for the BID is compliant with the General Municipal Law.

V. Time for Implementation

Once this plan is amended and approved by the City of Batavia, the City and Management Association will undertake the implementation of actions set forth herein in the updated district plan..

VI. Rules & Regulations of the District and the District Management Association

The Management Association will continue to provide BID operational, management, marketing and other BID-related services to the City of Batavia as an independent contractor as permitted under Article 19-A of the General Municipal Law.

The Management Association's Board of Directors will manage the business of the corporation and consist of a majority of property owners. Three public representatives shall also continue to make up the Board of Directors and one each will be appointed by the City's Chief Executive Officer, City's Chief Financial Officer, and the City of Batavia Council.

Offices for the Management Association will be within the district. This office shall be staffed by an

Executive Director and other staff as budgeted by the Board of Directors.

Subject to any provisions of General Municipal or City Law, the Not-for Profit Corporation Law or any similar laws, the Management Association may buy, sell or exchange real property. The Management Association may also accept and apply for funds and contributions of real estate.

Because a substantial portion of the Management Association's activities are funded by a special assessment levied by the City and its activities are important to the economic health and vitality of the City, it is necessary that the business of the Management Association be performed in an open and public manner. This provides for the residents and businesses in the community to be fully aware of and able to observe the activities of the Management Association Board of Directors, as well as attend and listen to the deliberations and decisions that go into the making of BID policy. In addition, providing access to meeting minutes allows residents and businesses to observe the decision-making process by the Board and to review the documents leading to those determinations.

Under General Municipal Law §980-a the requirements of a district plan may provide for "*any other item or matter required to be incorporated therein by the legislative body.*" Therefore, the Batavia City Council is requiring that the Management Association Board of Directors comply, conform and abide by the State of New York Open Meetings and Public Information Laws. This will apply to all Management Association and sub-committee meetings, including Executive Committee meetings. The Management Association will further post all by-laws, Board and Committee meeting minutes, annual budgets, audited financial statements and annual reports on the Management Association's website for public viewing.

VII. Business Improvement District Assessment

As outlined in Section IV of this document two sources have been identified for funding the activities of the Business Improvement District: the Business Improvement District assessment (BID Assessment) and the City of Batavia. The BID Assessment for each property is calculated by multiplying the assessed valuation of the property by the BID assessment rate.

The district assessment charge for the FY 21/22 year, in accordance with the General Municipal Law 980-k, a BID is limited in the amount of money that can be raised through the assessment. The district assessment charge, excluding debt service, may not exceed 20% (percent) of the total general municipal taxes levied in a year against the taxable property in the BID.

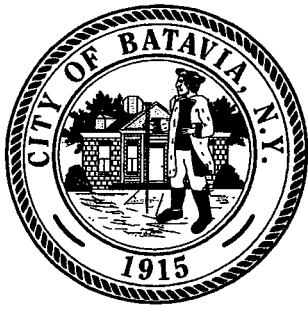
As of January 18, 2021 it is estimated that 20 percent of the total general municipal taxes levied in FY21/22 against the taxable property in the BID is \$58,000, based on current taxable assessed values and the existing City property tax rate. The BID assessment is estimated to be \$1.810873 per \$1,000 of assessed value. There is currently no debt service to be paid for with district assessment charges.

VIII. Description of Boundaries

See the attached description of the boundaries of the existing BID.

IX. List of Benefitted Properties

A list of benefitted properties is attached.



City of Batavia

Memorandum

To: Honorable City Council Members

From: Rachael J. Tabelski, MPA, City Manager

Date: October 17, 2023

Subject: USDA Rural Development Bond Resolutions

The City of Batavia applied for funding consideration for the purchase of a new fire engine, and was awarded a United State Department of Agriculture (USDA) Rural Development funding package. The final funding package included a \$665,000 loan at 2.5% for 20 years, a grant of \$100,000 and City contribution of \$36,681 from fire reserves.

Engine 12, a 2002 fire apparatus will be replaced by a new engine. The new fire engine is a 2023 NFPA compliant rescue style fire engine specifically built to City of Batavia specifications.

To accept delivery of the apparatus, and to finalize the USDA loan/grant funding I recommend that the City Council of the City of Batavia approve the following resolutions:

1. A Resolution to approve the purchase of the fire truck project completion.
2. A Resolution of the City Council of the City of Batavia authorizing and providing for the incurrence of indebtedness for the purpose of providing a portion of the cost of acquiring, constructing, enlarging, improving and or extending its new fire truck facility to serve an area lawfully within its jurisdiction to serve.
3. A resolution authorizing a general obligation statutory bond of the City of Batavia, Genesee County, New York, to finance the acquisition of a fire truck.

#XX-2023
A RESOLUTION TO APPROVE THE PURCHASE OF FIRE TRUCK
PROJECT COMPLETION

Motion of Councilmember

WHEREAS, City of Batavia has purchased a new fire truck; and

WHEREAS, the City Council of the City of Batavia shall take possession of the fire truck on or about November 1st, 2023.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Council of the City of Batavia accepts the purchase of the fire truck as complete and authorizes final payment to the vendors.

Seconded by Councilmember
and on roll call

LOAN RESOLUTION
(Public Bodies)

A RESOLUTION OF THE City Council

OF THE City Of Batavia

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING
A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS

New Fire Truck

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the City Of Batavia
(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of
665,000.00

pursuant to the provisions of subject to NYS Local Finance Law; and

WHEREAS, the Association intends to obtain assistance from the Rural Housing Service, Rural Business - Cooperative Service, Rural Utilities Service, or their successor Agencies with the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U. S. C. 1983 (c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$ 10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contract or agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any

expenses which are not directly incurred for the facility financed by the Government. No free service or use of the facility will be permitted.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is O575-0015. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as Clerk _____ of the City Of Batavia _____

hereby certify that the City Council _____ of such Association is composed of

_____ members, of whom _____, constituting a quorum, were present at a meeting thereof duly called and

held on the _____ day of _____, _____; and that the foregoing resolution was adopted at such meeting

by the vote shown above. I further certify that as of _____, the date of closing of the loan from the Government, said resolution

remains in effect and has not been rescinded or amended in any way.

Dated, this _____ day of _____, _____.

Title Heidi Parker, Clerk _____

XX-2023
CITY OF BATAVIA
USDA STATUTORY INSTALLMENT BOND DETAIL RESOLUTION
_____ , 2023

**A RESOLUTION AUTHORIZING A GENERAL OBLIGATION
STATUTORY BOND OF THE CITY OF BATAVIA, GENESEE COUNTY,
NEW YORK, TO FINANCE THE ACQUISITION OF A FIRE TRUCK**

Motion of Councilmember

WHEREAS, by Bond Resolution dated August 8, 2022 (the “Prior Bond Resolution”) the City of Batavia (the “City), by its City Council, approved the acquisition and financing of the a fire truck at a total estimated cost of \$801,681.00 which is to be financed in part by the City through use of the Fire Department Reserve funds in an amount not less than \$36,681.00, in part by a loan from the United States Department of Agriculture (“USDA”) in an amount not to exceed \$665,000.00 (the “USDA Loan”), and in part by a grant from the USDA not to exceed \$100,000.00 (the USDA Grant”);

WHEREAS, pursuant to the Prior Bond Resolution, the City approved the issuance of general obligation bonds in an amount equal to the USDA Loan to provide security for the loan;

WHEREAS, pursuant to NYS Local Finance Law section 81 the City Clerk caused a Notice of Estoppel to be published on August 16, 2022 in the Batavia Daily News, and no time thereafter was a legal challenge to the Bond Resolution commenced;

WHEREAS, the City has received approval from USDA for the loan in the amount of \$665,000.00 with an interest rate of 2.500% per annum, to be amortized in annual principal installments over a period of twenty (20) years, and to be evidenced by a General Obligation Statutory Installment Bond (the “Statutory Installment Bond”); and

WHEREAS, a copy of a draft of the Statutory Installment Bond is annexed hereto and made a part hereof at Exhibit “A”; and

WHEREAS, the Statutory Installment Bond attached as Exhibit A sets forth the maturity

schedule thereof and also includes the schedule of annual payments of principal and semi-annual payments of interest to be paid thereon together with all other terms and conditions thereof; and

WHEREAS, it is necessary to adopt the Resolution set forth hereinafter to approve the details and terms and conditions of the Statutory Installment Bond.

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the City Council of the City of Batavia, Genesee County, New York, as follows:

Section 1. The issuance of the Statutory Installment Bond is hereby approved upon the terms and conditions as set forth hereinafter at Exhibit A.

Section 2. This resolution is adopted solely to confirm and approve the detail, terms and conditions of the Statutory Installment Bond.

Section 3. All other terms and conditions of the Prior Bond Resolution not amended hereby shall remain in full force and effect.

Section 4. This resolution shall take effect immediately.

**Seconded by Councilmember
and on roll call**

Exhibit A
(Form of Statutory Installment Bond)

**REGISTERED
NO. 1**

**REGISTERED
\$665,000.00**

**UNITED STATES OF AMERICA
STATE OF NEW YORK
CITY OF BATAVIA
FIRE TRUCK
\$665,000 GENERAL OBLIGATION STATUTORY INSTALLMENT BOND - 2023**

The City of Batavia in the County of Genesee, a municipal corporation of the State of New York, (the "Borrower") hereby acknowledges itself indebted and for the value received promises to pay to the United States of America acting through the Rural Housing Service, United States Department of Agriculture (the "Agency") or its registered assigns, the principal sum of Six Hundred Sixty Five Thousand and 00/100 Dollars (\$665,000.00) in installments as set forth as follows:

<u>DATE OF PRINCIPAL PAYMENT</u>	<u>AMOUNT</u>
November 16, 2024	\$25,000.00
November 16, 2025	\$25,000.00
November 16, 2026	\$30,000.00
November 16, 2027	\$30,000.00
November 16, 2028	\$30,000.00
November 16, 2029	\$30,000.00
November 16, 2030	\$30,000.00
November 16, 2031	\$30,000.00
November 16, 2032	\$30,000.00
November 16, 2033	\$30,000.00
November 16, 2034	\$35,000.00
November 16, 2035	\$35,000.00
November 16, 2036	\$35,000.00
November 16, 2037	\$35,000.00
November 16, 2038	\$35,000.00
November 16, 2039	\$40,000.00
November 16, 2040	\$40,000.00
November 16, 2041	\$40,000.00
November 16, 2042	\$40,000.00
November 16, 2043	\$40,000.00
TOTAL:	\$665,000.00

and to pay interest on such sum at the rate of 2.500 % per annum, payable on May 16, 2024 and semi-annually thereafter on May 16th and November 16th in each year until this bond matures. Both the principal of and interest on this bond will be paid in lawful money of the United States of America. The principal and interest on this bond will be payable to the Rural Development Office, United States Department of Agriculture, Syracuse, New York.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Borrower. Refunds, extra payments and loan proceeds obtained from outside sources for the purpose of paying down the Agency debt, shall, after payment of interest, be applied to the installments last to become due under this bond and shall not affect the obligation of borrower to pay the remaining installments as scheduled in this bond.

This bond may not be converted into bearer coupon form or registered to bearer.

This Bond is a statutory installment bond issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York, a bond resolution which approved the acquisition described therein at a total cost of \$801,681.00 and authorized the issuance of general obligation bonds in the amount of \$665,000.00 and which was adopted by the City Council of the Borrower on August 8, 2022 (the "Bond Resolution") and entitled:

"A RESOLUTION AUTHORIZING GENERAL OBLIGATION BONDS OF THE CITY OF BATAVIA, GENESEE COUNTY, NEW YORK, TO FINANCE THE ACQUISITION OF A FIRE TRUCK, THE EXPENDITURE OF SUMS FOR SUCH PURPOSE, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH."

This Bond has been designated by the Borrower as a qualified tax-exempt obligation pursuant to the provisions of Section 265 of the Internal Revenue Code of 1986, as amended.

It is hereby certified, recited and declared that all acts, conditions, and things required by the Constitution or laws of the State of New York to exist, to have happened and to have been performed precedent to and in the issuance of this bond, exist, have happened and have been performed, and that this bond together with all other indebtedness of the Borrower, is within every debt and other limit prescribed by said Constitution and laws of the State of New York.

The faith and credit of the Borrower are hereby pledged to the punctual payment of the principal of and interest on this Bond in accordance with its terms.

[Signature page follows]

IN WITNESS WHEREOF, the City of Batavia, in the County of Genesee, New York has caused this bond to be manually signed by its City Manager, and its official seal to be imprinted hereon, all as of November 16, 2023.

City of Batavia

By: _____
Rachael Tabela
City Manager

