

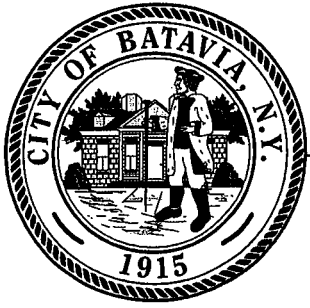
BATAVIA CITY COUNCIL CONFERENCE MEETING

City Hall - Council Board Room
One Batavia City Centre
November 27th 2023 at 7:00 p.m.

AGENDA

- I. Call to Order
- II. Invocation – Councilmember Briggs
- III. Pledge of Allegiance
- IV. Public Comments
- V. Council Response to Public Comments
- VI. Communications
 - a. Nothing at this time.
- VII. Council President Report
 - a. Announcement of the next City Council Meeting to be held on Monday, December 11th, 2023 at 7:00 p.m. at the City Hall Council Board Room, 2nd Floor, City Centre
- VIII. Presentations
 - a. Lead Service Presentation
- IX. Public Hearing
 - a. BID District Plan – Local Law No. 3
- X. Appointments
 - a. David Beatty – Historic Preservation Commission
- XI. BID District Plan - Local Law No. 3
- XII. Bullet Proof Vest Grant
- XIII. STOP DWI HVEC Grant Award
- XIV. Wi Fi Upgrade

- XV. 6 Month Budget Transfers
- XVI. Prosecutorial Services
- XVII. Council Meeting Dates 2024
- XVIII. Mix Place – Schedule A Public Hearing
- XIX. City Manager Contract
- XX. Adjournment



City of Batavia

Memorandum

To: Rachael Tabelski, City Manager
From: Heidi J. Parker, Clerk-Treasurer
Date: November 22, 2023
Subject: Appointment to Historic Preservation Commission

David Beatty has submitted an application to serve on the Historic Preservation Commission. There are vacancies on this board so his appointment would go to further fill HPC. His term would expire on December 31, 2026. Mr. Beatty lives in the City of Batavia on Summit St. His appointment was sent to Councilmembers Briggs and Schmidt for review and approval to be considered at the next conference agenda. Both Councilmembers were in favor of the appointment.

It is recommended that Council approve the appointment of David Beatty to the Historic Preservation Commission until December 31, 2026.

#XX-2023
**RESOLUTION TO APPOINT MEMBERS TO VARIOUS CITY COMMITTEES/
BOARDS**

Motion of Councilmember

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

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

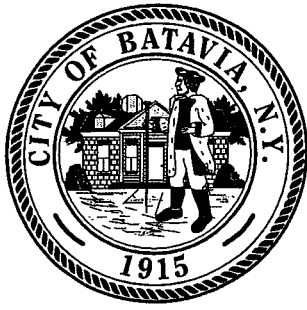
Historic Preservation Commission

David Beatty

December 31, 2026

**Seconded by Councilmember
and on roll call**

DRAFT



City of Batavia

Memorandum

To: Honorable City Council

From: Rachael J. Tabelski, City Manager

Date: November 20, 2023

Subject: Batavia Business Improvement District- Amend District Plan – Local Law No. 3 of 2023

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, and/or sidewalk improvements.

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

I recommend that the City Council of the City of Batavia approve Local Law No. 3 of 2023 on behalf of the BID.

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**

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Fax: 585-343-8182
www.batavianewyork.com**

#XX-2023

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

WHEREAS, City Council having found that amendment of the Business Improvement 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 properties benefitted are included in the boundaries of the District, and

WHEREAS, that copies of the aforesaid proposed Local Law be laid upon the desk of each member of the City Council; and

WHEREAS, a public hearing on the proposed Local Law No. 3 of 2023 was held on Monday, November 27, 2023 before this Council, pursuant to the public notice duly published in the Daily News.

THEREFORE, BE IT RESOLVED, that proposed Local Law No. 3 of 2023, entitled LOCAL LAW NO. 3 OF THE YEAR 2023 ENTITLED “AMENDING THE BUSINESS IMPROVEMENT DISTRICT PLAN” in accordance with Article 19-A of the General Municipal Law be that the same is hereby enacted by City Council of the City of Batavia, New York.

**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 \$259,996.18 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, and sidewalk improvements.
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.

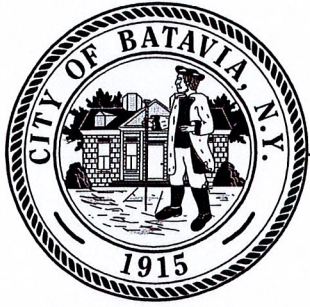
As of January 18, 2021 it is estimated that 20 percent of the total general municipal taxes levied in FY21/22 against the taxable property in the BID is \$58,000, based on current taxable assessed values and the existing City property tax rate. The BID assessment is estimated to be \$1.810873 per \$1,000 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: Rachael Tabelski, City Manager

From: Shawn Heubusch, Police Chief

Date: October 12, 2022

Subject: FY 2022 Patrick Leahy Bulletproof Vest Partnership Award

On September 21, 2022 the Department received notification from the Bureau of Justice Assistance that we will receive an award in the amount of \$5,667.30 from the FY 2022 Patrick Leahy Bulletproof Vest Partnership program. This award is used towards the purchase of new bulletproof vests for new hire police officers and replacement vests for existing officers. The award will cover ½ of the cost of each vest purchased.

Please find attached the documents that go with this grant award.

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

Attachments: Grant Information Form
Draft Resolution

Cc: Lisa Neary, Deputy Director of Finance

Police Department
10 Main Street
Batavia, New York 14020



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

#XX-2023

A RESOLUTION TO AMEND THE 2023-2024 POLICE DEPARTMENT BUDGET TO REFLECT THE RECEIPT OF A FY 2023 PATRICK LEAHY BULLETPROOF VEST PARTNERSHIP AWARD IN THE AMOUNT OF \$5,153.70 FROM THE BUREAU OF JUSTICE ASSISTANCE FISCAL YEAR 2023 PATRICK LEAHY BULLETPROOF VEST PARTNERSHIP PROGRAM

Motion of Councilperson

WHEREAS, the City of Batavia Police Department has received a grant in the amount of \$5,153.70 from the FY 2023 Patrick Leahy Bulletproof Vest Partnership Program of the Bureau of Justice Assistance to be used towards the purchase of ballistic vests for members of the City of Batavia Police Department; and

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

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Manager be and hereby is authorized to make the following budget amendment to the 2023-2024 budget:

Increase expenditure accounts:	
A.04.3120.3120 418	\$ 5,153.70
Increase revenue accounts:	
A.00.0000.0000 4320-1055	\$ 5,153.70

Seconded by Councilperson

and on roll call

Shawn Heubusch

From: Bureau of Justice Assistance <BJA@public.govdelivery.com>
Sent: Friday, September 29, 2023 5:15 PM
To: Shawn Heubusch
Subject: BJA Patrick Leahy Bulletproof Vest Partnership (BVP) – FY 2023 Award Announcement

[View as a webpage / Share](#)

Dear BVP applicant,

The Bureau of Justice Assistance (BJA) is pleased to inform you that your jurisdiction will receive an award under the Fiscal Year (FY) 2023 Patrick Leahy Bulletproof Vest Partnership (BVP) program. These funds have been posted to your account in the [BVP System](#). A complete list of FY 2023 BVP awards is now available at the following link: <https://bj.a.ojp.gov/funding/fy23-bvp-awards.pdf>.

Important: Jurisdictions must be registered and include updated banking information in the System for Award Management (SAM) (<https://www.sam.gov/SAM/>) to receive reimbursement. For more information about renewing and updating your existing SAM registration, or registering in SAM as a new entity, please visit: <https://sam.gov/content/help>. The SAM Helpdesk can be reached at 866-606-8220.

The FY 2023 award may be used for National Institute of Justice (NIJ) compliant armored vests which were ordered after April 1, 2023. The deadline to request payments from the FY 2023 award is August 31, 2025, or until all available funds have been requested. Awards will not be extended past that date, and any unused funds will be forfeited.

As a reminder, body armor vests purchased with BVP funds must have been tested through the National Institute of Justice (NIJ) [Compliance Testing Program](#) and found to comply with the most current NIJ body armor standards, appear on the [NIJ Compliant Products List](#) as of the date the body armor was ordered, be uniquely fitted, and be made in the United States. In addition, applicants must have a written mandatory wear policy for uniformed patrol officers in place at the time of application.

In addition, the federal portion of the costs for body armor vests purchased under the BVP Program may not exceed 50 percent. However, jurisdictions may request a financial or natural disaster hardship waiver during the payment request process and receive up to 100 percent of the cost of each body armor vest submitted for reimbursement. Additional information regarding match waivers can be found in the [BVP FAQs](#), and detailed instructions on the process for requesting a waiver and the documentation required can be found in the [Submitting Payment Requests in BVP User Guide](#).

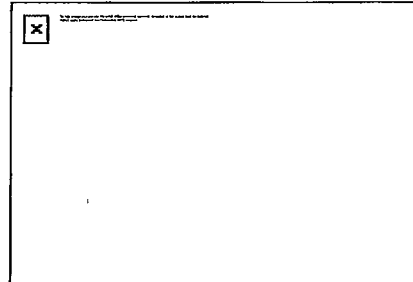
Please contact the BVP Helpdesk at 1-877-758-3787 or email vests@usdoj.gov if you have any questions regarding the above information. Please also visit the [BVP website](#) for additional information regarding the BVP Program.

In addition, please visit BJA's Officer Robert Wilson III Preventing Violence Against Law Enforcement Officers and Ensuring Officer Resilience and Survivability (VALOR) Initiative website to obtain other information regarding officer safety: [VALOR Officer Safety and](#)

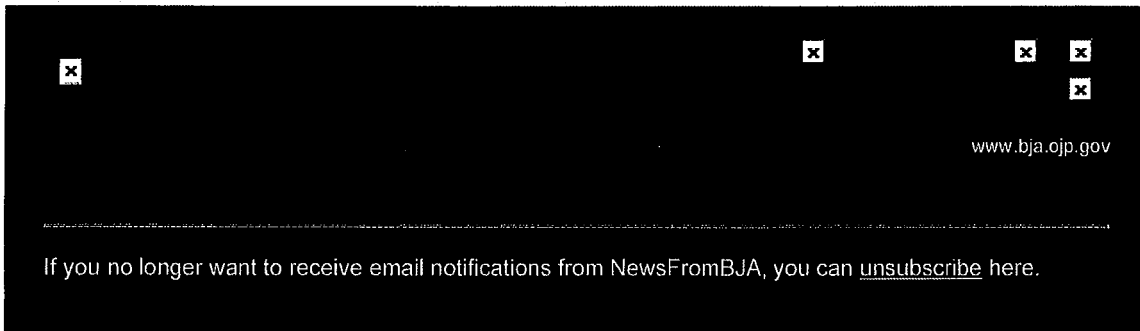
[Wellness Initiative | Overview | Bureau of Justice Assistance \(ojp.gov\)](#). The VALOR Initiative is a comprehensive set of programs that deliver no-cost officer safety, wellness, resilience training, resources, and technical assistance to law enforcement throughout the country. VALOR brings together the latest research and practices to address current and emerging officer safety and wellness issues/threats. Please see the VALOR Initiative Overview-Booklet for a detailed synopsis of this important initiative: [BJA VALOR INITIATIVE \(ojp.gov\)](#).

Sincerely, BVP Program Support Team

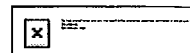
Bureau of Justice Assistance



BJA offers many resources, training and technical assistance, and policy development services to support local, state, and tribal governments in achieving safer communities.



This email was sent to sheubusch@batavianewyork.com using GovDelivery Communications Cloud on behalf of Department of Justice
· Washington, DC



APPLICATION DETAILS

APPLICATION PROFILE

Participant	BATAVIA CITY
Fiscal Year	2023
Number of Agencies Applied	0
Total Number of Officers for Application	33
Number of Officers on Approved Applications	33

APPLICATION PROFILE

Fiscal Year	2023
Vest Replacement Cycle ①	5
Number of Officers	33
Number of Stolen or Damaged Emergency Replacement Needs ①	0
Number of Officer Turnover	1

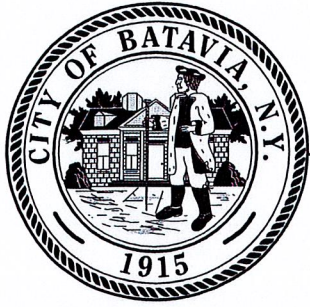
APPLICATION DETAILS

NIJ#	Quantity	Unit Price	Extended Cost	Tax Shipping and Handling	Total Cost
ULW-II	10	\$1,030.74	\$10,307.40	\$0.00	\$10,307.40
Grand Totals	10		\$10,307.40	\$0.00	\$10,307.40

AWARD SUMMARY FOR FY2023 REGULAR FUND

Funds Type	Eligible Amount	Award	Date Approved	Status
Regular Fund	\$10,307.40	\$5,153.70	10/02/23	Approved by BVP
Grand Totals:	\$10,307.40	\$5,153.70		

RETURN



City of Batavia

Memorandum

To: Rachael Tabelski, City Manager

From: Shawn Heubusch, Police Chief

Date: November 7, 2023

Subject: 2023-2024 STOP-DWI “High Visibility Engagement Campaign”

On November 6, 2023 the Genesee County STOP-DWI program awarded \$2,800 to the City of Batavia Police Department for the 2023/2024 High Visibility Engagement Campaign to be utilized during specific dates throughout the State’s fiscal year.

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

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

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

Attachments: Award
Draft Resolution

Cc: Lisa Neary, Deputy Director of Finance

Police Department
10 Main Street
Batavia, New York 14020



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

#XX-2023

A RESOLUTION TO AMEND THE 2023-2024 POLICE DEPARTMENT BUDGET TO REFLECT THE RECEIPT OF A STOP-DWI GRANT AMENDMENT IN THE AMOUNT OF \$2,800 TO ADDRESS THE CRIMES OF DRIVING WHILE INTOXICATED AND/OR DRIVING WHILE ABILITY IMPAIRED BY DRUGS DURING SPECIFIED HIGH VISIBILITY ENGAGEMENT CAMPAIGN PERIODS

Motion of Councilperson

WHEREAS, the City of Batavia Police Department has received grant funding in the amount of \$2,800 from THE GENESEE COUNTY STOP-DWI PROGRAM TO COMBAT IMPAIRED DRIVING BY FUNDING SPECIALIZED PATROL FUNCTIONS; and

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

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Manager be and hereby is authorized to make the following budget amendment to the 2023-2024 budget to cover various initiatives to combat alcohol and drug related traffic offenses:

Increase expenditure accounts

A.04.3120.3120 199-100002 \$ 2,800.00

Increase revenue accounts

A.00.0000.0000 3389-100002 \$ 2,800.00

**Seconded by Councilperson
and on roll call**



November 6, 2023

Shawn Heubusch, Chief of Police
City of Batavia

Please accept this letter as official notification of the 2023-24 High Visibility Engagement Campaign (HVEC) award in the amount of \$2,800. New York State is continuing to focus on increased visibility and enhanced engagement with public during these periods. Funding is available for Overtime during the time periods listed below.

New York State STOP-DWI High Visibility Engagement Campaigns 2023 - 2024		
Halloween	October 27	- November 1
Thanksgiving	November 22	- November 26
Holiday Season (National)	December 13	- January 1
Super Bowl	February 9	- February 11
St. Patrick's Day	March 15	- March 17
Drugged Driving Awareness (420 Day)	April 19	- April 21
Memorial Day	May 24	- May 27
100 Days of Summer	June 6	- June 9
	June 13	- June 16
	June 20	- June 23
	June 27	- June 30
July 4th	July 3	- July 7
100 Days of Summer	July 11	- July 14
	July 18	- July 21
	July 25	- July 28
	August 1	- August 4
	August 8	- August 11
End of Summer/ Labor Day (National)	August 14	- September 2

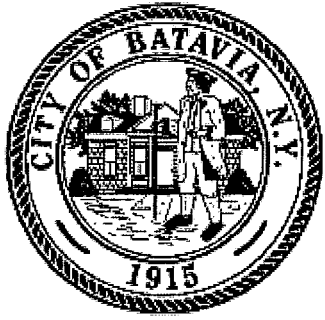
In addition, NYS also has funding available for reimbursement of DRE callout time and DRE court time. Funding for these activities is not included in the above allocation and is available on a first come, first serve basis thru the Governor's Traffic Safety Committee.

Thank you for your time and commitment to keeping our community safe. Please reach out with any questions or concerns.

Respectfully,

Tammi Ferringer
Assistant County Manager/STOP-DWI Coordinator

Attachments



Memorandum

TO: Rachael Tabelski, City Manager

FROM: Erik Fix, Assistant City Manager

DATE: 11/6/23

RE: City Centre Wi-Fi Upgrades

As you are aware, the City recently upgraded City Councils and Department Heads abilities to access documents electronically by providing Microsoft Tablets. To ensure proper internet access in the City Centre, an upgrade is needed of the Wi-Fi in the upper floors of the City Centre.

In September and October of 2023, at the Cities request, Alternative Information Systems (AIS) conducted a upgrade test of the system using loaned equipment. It was determined that these steps were effective in ensuring the City Centre had proper access in both the Manager's Office Suite, Community Room and Council Chambers.

Due to the success of the test, I recommend allocating \$5027 of Administrative Reserve to pay AIS to upgrade the current Wi-Fi system.

Attached please find resolutions supporting these actions to be presented to City Council at the November 13th, business meeting. Please let me know if you have any questions.

#XX-2023

A RESOLUTION AUTHORIZING USE OF \$5,027 ADMINISTRATIVE RESERVE TO UPGRADE THE CITY CENTRE WI-FI SYSTEM AND AMEND THE 23/24 BUDGET

Motion of Councilperson

WHEREAS, pursuant to General Municipal Law 6-c the City of Batavia has an established Administrative Services Reserve Fund; and

WHEREAS, the Administrative Services Reserve has a current balance of approximately \$474,523; and

WHEREAS, the City has recently made an effort to transition from paper Council minutes and Agendas to using Microsoft Tablets for electronic minutes and agendas; and

WHEREAS, the need to upgrade the City Centre Wi-Fi system to handle the demands of utilizing electronic equipment is necessary to maintain proper internet access when utilizing laptops and tablets for business purposes, and

WHEREAS, the City has received a quote for \$5,027 from Alternative Information Systems (AIS), for the implementation and service of the necessary equipment; and

WHEREAS, considering these upgrades are similar to capital purchases, utilizing reserve funds will allow these improvements to take place without impacting the City's operating budget; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia does hereby authorize the use of \$5,027 from the Administrative Reserve to cover the cost of the Wi-Fi equipment and services and make the following budget amendment to the 2023/2024 budget, effective December 12, 2023; and

BE IT FURTHER RESOLVED, the transfer of funds to the Information Services Small Equipment Reserve Fund is consistent with the City's Strategic Plan in achieving Key Intended Outcome's identified under the Well-Managed City strategic priority.

Increase Revenue:

A. 00.0000.0000.0511-2112 Administrative Reserve \$5,027

Increase Expense:

A.02.1680 201-2001 Small Equipment Administrative Reserve \$5,027

**Second by Councilperson
and on roll call**



THIS IS NOT AN INVOICE

Quote Number: 4536

Payment Terms:
Expiration Date: 11/30/2023

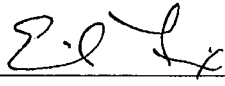
Quote Prepared For

Erik Fix
City of Batavia
One Batavia city center
Batavia, NY 14020
United States
Phone:585-345-6400
efix@batavianewyork.com

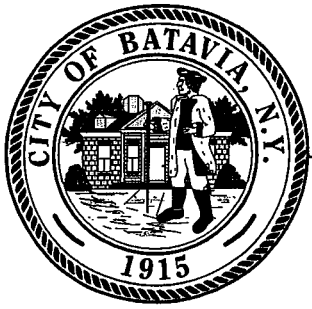
Quote Prepared By

Matt Schultz
Alternative Information Systems, Inc
461 Ellicott St
Buffalo, NY 14203
United States
Phone:716-831-9929
Fax:716-332-0496
mschultz@aisbuffalo.com

Item#	Quantity	Item	Unit Price	Adjusted Unit Price	Extended Price
Yearly Items					
1)	5	Aruba Central - Foundation AP - 1Y HPE Aruba Central Foundation - Subscription license (1 year) - 1 access point - hosted	\$104.70	\$104.70	\$523.50
				Yearly Total	\$523.50
One-Time Items					
2)	3	R2H29A 1.77 Gbps of maximum throughput WPA3 and Enhanced Open security Built-in technology that resolves sticky client issues for Wi-Fi 6 and Wi-Fi 5 devices OFDMA and MU-MIMO for enhanced multi-user efficiency IoT-ready Bluetooth 5 and Zigbee support	\$620.48	\$620.48	\$1,861.44
3)	2	Q9H63A Aruba AP-515 (US) Dual Radio 4x4:4 + 2x2:2 802.11ax Internal Antennas Unified Campus AP	\$997.43	\$997.43	\$1,994.86
4)	5	R3J18A AP-MNT-D AP mount bracket individual D	\$29.44	\$29.44	\$147.20
5)	1	Professional Services Configure, install & test all APs and associated equipment	\$500.00	\$500.00	\$500.00
				One-Time Total	\$4,503.50
				Subtotal	\$5,027.00
				Total Taxes	\$0.00
				Total	\$5,027.00

Authorizing Signature 
Date 11/3/23

Quoted pricing for products and services are valid for until the day listed as "expiration date". After this date you should request a new quote. Pricing is only valid for the quantity listed and may change if the quantity purchased is different from the original quoted quantity. Payment is due based on terms listed in this quote as "payment terms".



City of Batavia

Memorandum

To: Honorable City Council Members

From: Rachael J. Tabelski, MPA, City Manager

Date: November 20, 2023

Subject: 6th Month Budget Transfers

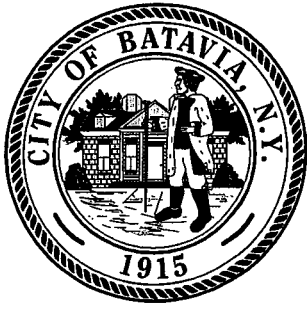
The City of Batavia is committed to maintaining financial oversight of taxpayer funds and monitoring expenses of each budget line item throughout the year.

There are times where certain expenses are in excess of budgeted amounts set in April.

The 6th Month Budget Review is a financial process that assists the City Council and City Manager when reviewing the status of the budget and in making transfers as necessary.

The 6th Month Budget Transfer recommendations are list below:

1. The City's general liability insurance expenses is more then expected in FY 23/24. The total insurance package was higher than originally anticipated when we set the budget. Adding new vehicles tp the plan has also increased our premiums. I am recommending increasing the Administrative Services – Insurance account A.02.1315 454 by \$25,000.
2. The City's property foreclosure process has been more costly with legal fees and property searches in FY 23/24. I am recommending increasing the Clerk Treasurer – Uncollected Taxes account A.02.1325.3125 472 by \$12,000.
3. The City has been dedicated to citing violations of grass, weeds and debris. When we do not receive compliance, the City hires property maintenance companies to mow and remove trash on these properties.. The amount budged for this activity was not adequate for the amount we needed to contract out for. I recommend increasing Inspection – Contract Services – grass, weeds and debrisaccount A.03.3620 423 by \$30,000.



City of Batavia

4. The "Save-A-Lot" parking lot project came in over budget by \$2,822. I recommend increasing Parking Lot Reserve account A.03.5010.5650 401-2111 in the amount of \$2,822.
5. In the beginning of the fiscal year a police vehicle was involved in a motor vehicle accident and as a result, it was deemed a total loss. I recommend increasing the Police - Equipment account A.04.3120.3120 200 by \$100,000.

The proposed offset for these increases are as follows:

1. Increase Insurance recoveries revenue account A.00.0000.0000 2680 by \$100,000;
2. Decrease expense account, Contingency A.01.1989 500 by \$ 67,000; and
3. Increase Reserve Appropriation account: Parking Lot Reserve account A.00.0000.0000 0511-2111 by \$2,822

#XX-2023

**RESOLUTION TO AMEND THE 23/24 BUDGET BY TRANSFERRING FUNDS
FROM THE CONTINGENCY AND RESERVE ACCOUNTS AND
RECOGNIZING ADDITIONAL REVENUE**

Motion by Councilmember

WHEREAS, the City of Batavia has experienced an increase in insurance premium costs in excess of the adopted budget; and

WHEREAS, the City of Batavia has experienced an increase in legal and filing fees in association with uncollected taxes; and

WHEREAS, the City of Batavia has experienced an increase in expenses in contract services related to clean up of grass, weeds and debris; and

WHEREAS, pursuant to General Municipal Law 6-c, the City of Batavia has an established Parking Lot Reserve for payment of surface repairs and upgrades, which, as of September 30, 2023, had an approximate balance of \$39,700; and

WHEREAS, the City of Batavia's K-9 vehicle was deemed a total loss after an accident.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Manager is hereby authorized to use \$2,822 of Parking Lot Reserves and make the following budget transfers, effective December 11, 2023:

Increase expense accounts:

Administrative Services - Insurance	A.02.1315 454	\$ 25,000
Clerk Treasurer – Uncollected Taxes	A.02.1325.3125 472	\$ 12,000
Inspection – Contract Services – grass, weeds and debris	A.03.3620 423	\$ 30,000
Parking Lots – Supplies and Materials		
Parking Lot Reserve	A.03.5010.5650 401-2111	\$ 2,822
Police - Equipment – vehicle replacement	A.04.3120.3120 200	\$100,000

Increase revenue accounts:

Insurance recoveries	A.00.0000.0000 2680	\$100,000
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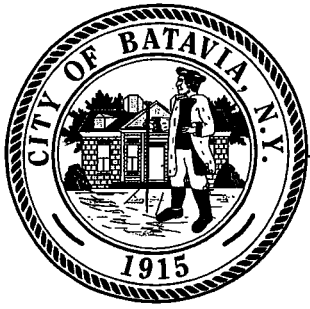
Decrease expense accounts:

Contingency	A.01.1989 500	\$ 67,000
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Increase Reserve Appropriation account:

Parking Lot Reserve	A.00.0000.0000 0511-2111	\$ 2,822
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**Seconded by Councilmember
and on roll call**



City of Batavia

Memorandum

To: Honorable City Council Members

From: Rachael J. Tabelski, MPA, City Manager

Date: October 24, 2023

Subject: City of Batavia Prosecutorial Services

Since 1993, the City of Batavia contracted with Genesee County for prosecutorial services for vehicle and traffic violations and penal law violations. Prior to this agreement, the City had a separate police court attorney that handled vehicle and traffic and penal violations. For the past 20 years plus the City has contracted with Genesee County for an Assistant District Attorney (ADA) to conduct all prosecutions.

The City Court is located in the County Court House across from the Police Station. The proposed agreement is for three years beginning January 1, 2024 at the cost of \$68,917 and ending December 31, 2026 at the cost of \$73,115. The increase in cost is 3.0% over the prior year's base contract.

Prosecutorial Service	Contract Cost
2020	\$62,137
2021	\$63,069
2022	\$64,961
2023	\$66,910
2024	\$68,917
2025	\$70,985
2026	\$73,115

** In the 2020/2021 Prosecutorial Services Agreement the City agreed to pay an additional fee of \$12,000 and \$15,000 respectively for clerical services related to discovery law changes that went into effect in New York State. The County did not hire the additional clerical personnel and the City was not billed for this service. The cost reflected here is only for ADA prosecutorial services.*

I recommended that City Council of the City of Batavia approve the prosecutorial services agreement.

#XX-2023

**A RESOLUTION TO CONTRACT FOR PROSECUTORIAL SERVICES WITH
GENESEE COUNTY**

Motion of Councilmember

WHEREAS, the City of Batavia has contracted with Genesee County for the past several years for Prosecutorial Services; and

WHEREAS, the Contract between the City and County for these services expires December 31, 2023; and

WHEREAS, the City is desirous of continuing with the Inter-Municipal City Court Prosecutorial Services Agreement; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council President for the City of Batavia is hereby authorized to sign an Inter-Municipal City Court Prosecutorial Services Agreement between the City of Batavia and Genesee County.

**Seconded by Councilmember
and on roll call**

DRAFT

**INTERMUNICIPAL CITY COURT PROSECUTORIAL
SERVICE AGREEMENT**

THIS AGREEMENT, made this ____ day of _____, 20____, by and between the CITY OF BATAVIA, NEW YORK, a municipal corporation of the State of New York with offices at One City Centre in the City of Batavia, New York, hereinafter referred to as the “CITY” and the COUNTY OF GENESEE, a municipal corporation of the State of New York having offices at County Courthouse, 7 Main Street, in the City of Batavia, New York, hereinafter referred to as the “COUNTY”.

WITNESSETH:

WHEREAS, the County of Genesee is obligated to provide prosecutorial services for misdemeanors in Batavia City Court;

WHEREAS, the City and County are desirous of providing for all prosecutorial services for the City Court of the City of Batavia; and

WHEREAS, this Agreement is contingent upon the City requiring Prosecutorial Service as set forth in the attached Schedule A;

NOW, THEREFORE, in consideration of the terms, covenants and conditions herein contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, it is agreed between the parties as follows:

**ARTICLE I
LEVEL OF SERVICE**

The City and County agree that upon payment of the sums hereinafter contained, the County will provide for the prosecution of not only misdemeanors, but also vehicle and traffic violations and penal law violations in Batavia City Court, this is to include the processing of any charges or

violations through the mail. The County further agrees that under the terms of this contract the County will be obligated to have an Assistant District Attorney present on all days that City Court is in session as set forth on Schedule A which is attached hereto and made part hereof, unless City Court indicates that it does not need a prosecutor on a specific date. The County shall provide the City with prior notice of ADA assignments to City Court as well as any changes in assignments during the term of this Agreement.

ARTICLE II CONTRACT FEE

The City shall pay the County for ADA prosecutorial services provided as per Schedule A as follows:

January 1, 2024, through December 31, 2024: \$68,917

January 1, 2025, through December 31, 2025: \$70,985

January 1, 2026, through December 31, 2026: \$73,115

ARTICLE III PAYMENT SCHEDULE

The City shall be obligated to make quarterly payments for ADA prosecutorial services as set forth on Schedule B which is attached hereto and made part hereof the County of Genesee with said quarterly payments being due the first of each calendar quarter.

ARTICLE IV CANCELLATION OR RENEWAL OF CONTRACT

Either party shall notify the other at least one hundred and twenty (120) days prior to the expiration of this agreement of its intention not to renew. In addition, either party shall have the authority to terminate this agreement upon one hundred and twenty (120) days written notice in the

event that the City shall determine that the services to be provided in Schedule A are not sufficient to meet its needs.

**ARTICLE V
TERM OF AGREEMENT**

The term of this Agreement shall be from January 1, 2024 through December 31, 2026.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed and their respective hands and seals to be affixed by their duly authorized officers the day and year first above written.

CITY OF BATAVIA

(SEAL)

By _____
Eugene Jankowski Jr., President
Batavia City Council

COUNTY OF GENESEE

(SEAL)

By _____
Rochelle Stein, Chair
Genesee County Legislature

SCHEDULE A

WEEKLY SCHEDULE BATAVIA CITY COURT PROSECUTORIAL SERVICES

MONDAY	9:00AM – 12:00 PM	CRIMINAL/TRAFFIC TRIALS/ HEARINGS (Appearances as needed)	JUDGE R
TUESDAY	1:00 PM – 4:00/30 PM	CRIMINAL	JUDGE R
WEDNESDAY	9:00 AM – 11:00/30 AM	TRAFFIC COURT TRAFFIC TRIALS	JUDGE R
	1:00 PM – 4:00/30 PM	CRIMINAL	JUDGE R
THURSDAY	1:30 PM – 4:30 PM	CRIMINAL	JUDGE C
FRIDAY	9:00 AM – 4:30 PM	ARRAIGNMENTS/HEARINGS AS NEEDED	JUDGE R
MONDAY- FRIDAY	9:30 AM – 10:30/11:00 AM	CAP COURT	

~ 2ND WEEK OF EVERY MONTH JURY TRIAL MAY BE SCHEDULED

SCHEDULE B

**2024-2026 Intermunicipal City Court Prosecutorial Services Agreement
Payment Schedule for Services Provided**

Due:	January 1, 2024	\$ 17,229.25
	Services for 1st Quarter: January 1 through March 31, 2024	
Due:	April 1, 2024	\$ 17,229.25
	Services for 2nd Quarter: April 1 through June 30, 2024	
Due:	July 1, 2024	\$ 17,229.25
	Services for 3rd Quarter: July 1 through September 30, 2024	
Due:	October 1, 2024	\$ 17,229.25
	Services for 4th Quarter: October 1 through December 31, 2024	
2024 Total:		\$ 68,917
Due:	January 1, 2025	\$ 17,746.25
	Services for 1st Quarter: January 1 through March 31, 2025	
Due:	April 1, 2025	\$ 17,746.25
	Services for 2nd Quarter: April 1 through June 30, 2025	
Due:	July 1, 2025	\$ 17,746.25
	Services for 3rd Quarter: July 1 through September 30, 2025	
Due:	October 1, 2025	\$ 17,746.25
	Services for 4th Quarter: October 1 through December 31, 2025	
2025 Total:		\$ 70,985

Due: January 1, 2026 \$ 18,278.75
Services for 1st Quarter:
January 1 through March 31, 2026

Due: April 1, 2026 \$ 18,278.75
Services for 2nd Quarter:
April 1 through June 30, 2026

Due: July 1, 2026 \$ 18,278.75
Services for 3rd Quarter:
July 1 through September 30, 2026

Due: October 1, 2026 \$ 18,278.75
Services for 4th Quarter:
October 1 through December 31, 2026

2026 Total: \$ 73,115

#XX-2023

**A RESOLUTION SCHEDULING REGULAR COUNCIL MEETINGS THROUGH
DECEMBER 31, 2024**

Motion of Councilmember

WHEREAS, the Batavia City Council, pursuant to the City Charter, is required to schedule regular Council meetings through the standard resolution process; and

WHEREAS, City Council historically meets on the second and fourth Monday of each month except during the months of July, August and December where the Council meets only on the second Monday; and

WHEREAS, City Council must designate the specific location and time of meetings on an annual basis.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia hereby designates the Council Board Room located at City Hall, One Batavia City Centre, as the regular meeting place for the scheduled Council meetings through December 31, 2024; and

BE IT FURTHER RESOLVED, that the City Council shall meet at 7:00 p.m. at the City Council Board Room on the designated dates as outlined on Attachment "A" through December 31, 2024.

**Seconded by Councilmember
and on roll call**

2024 City of Batavia Council Meetings

January 8, 2024 (Business)

January 22, 2024 (Conference)

February 12, 2024 (Business)

February 26, 2024 (Conference)

March 11, 2024 (Business)

March 25, 2024 (Conference)

April 8, 2024 (Business)

April 22, 2024 (Conference)

May 13, 2024 (Business)

Tuesday, May 28, 2024 (Conference)

June 10, 2024 (Business)

June 24, 2024 (Conference)

July 8, 2024 (Business and Conference)

August 12, 2024 (Business and Conference)

September 9, 2024 (Business)

September 23, 2024 (Conference)

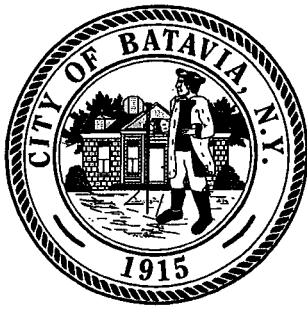
Tuesday, October 15, 2024 (Business)

October 28, 2024 (Conference)

Tuesday, November 12, 2024 (Business)

November 25, 2024 (Conference)

December 9, 2024 (Business and Conference)



City of Batavia

Memorandum

To: Rachael Tabelski, City Manager

From: Brett Frank, Director of Public Works

Date: November 17, 2023

Subject: Ordinance Introduction and Scheduling a Public Hearing – Existing Buildings to be repurposed for professional offices in the R-1A district by issuance of special use permit

An action to change the City of Batavia Zoning Ordinance to add “professional offices” as an allowed use with the issuance of a Special Use Permit in R-1A Residential Use Districts is before Council for consideration.

This process included a review by the City Planning and Development Committee as requested by City Council.

The review of the Planning and Development Committee included amending the zoning code to allow existing buildings to be repurposed for professional offices in the R1-A Residential district by issuance of a special use permit described in the attached draft BMC 190-11 C (2). It was further recommended amending the Special Use Permit standards of BMC 190-37 B in order to protect neighboring residential uses from professional offices, while providing flexibility of design for repurposed properties. The recommended changes are attached as BMC 190-37 B (1-10) Special Use Permits.

As is required by the action to introduce an Ordinance to change the City of Batavia Zoning Ordinance a public hearing is to be scheduled. A public hearing is an opportunity for the public to review the proposed changes and make comments ahead of City Council taking action.

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, January 8, 2024.

#XX-2023

**A RESOLUTION TO INTRODUCE AN ORDINANCE AMENDING CHAPTER
190 ENTITLED “ZONING” OF THE CITY OF BATAVIA MUNICIPAL CODE
AND TO SCHEDULE A PUBLIC HEARING**

Motion of Councilmember

BE IT RESOLVED that a proposed Ordinance entitled “AN ORDINANCE AMENDING CHAPTER 190 ENTITLED “ZONING” OF THE CITY OF BATAVIA MUNICIPAL CODE” is introduced before the City Council of the City of Batavia, New York; and

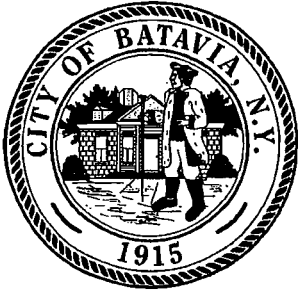
BE IT FURTHER RESOLVED that copies of the aforesaid proposed Ordinance be laid upon the desk of each member of the City Council; and

BE IT FURTHER RESOLVED that the City Council hold a public hearing on said proposed Ordinance at the City Hall, One Batavia City Centre, Batavia, New York, at 7:00 P.M. on Monday, January 8, 2024; 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 five days prior thereto.

**Seconded by Councilmember
and roll call**

DRAFT



City of Batavia

October 25, 2023

Batavia City Council
One Batavia City Centre
Batavia NY 14020


Dear Council President:

During its regularly scheduled meeting of October 17, 2023, the Planning and Development Committee reviewed "Special Uses" allowed in the R-1A Residential Use district, and considered changes to the special use standards of BMC 190-37 B for "Professional Offices".

After discussion, a quorum of committee members recommend Council consider amending the zoning code to allow existing buildings to be repurposed for professional offices in the R-1A Residential district by issuance of a special use permit described in the attached draft BMC 190-11 C (2). It is further recommended Council consider amending the Special Use Permit standards of BMC 190-37 B in order to protect neighboring residential uses from professional offices uses, while providing flexibility of design for repurposed properties. The recommended changes are attached as BMC 190-37 B (1-10) Special Use Permits.

Please feel free to contact me if you have any questions regarding this matter.

Respectfully submitted,


Duane Preston
PDC Chairman

Bureau of Inspection
One Batavia City Centre
Batavia, New York 14020

Phone: 585-345-6345
Fax: 585-343-1385
www.batavianewyork.com

B. Professional offices. Professional offices for attorneys, physicians and/or dentists may be permitted by special use permit in the R-3 **allowed in certain residential districts including R1a, R2, and R3**, provided that:

- (1) A minimum area of 10,000 square feet with 75 feet of frontage shall be provided.
- (2) Not more than 30% of the lot shall be covered by building area.
- (3) ~~A-~~ **Minimum setbacks** of 35 feet for rear and front yards and a minimum of 12 feet for one side yard and a total of 25 feet for both side yards shall be required for all new construction.
- (4) On an existing structure which is connected and providing no additions are required, the ~~City Council~~ **Planning and Development Committee** shall determine that the proposed use and structure will not be detrimental to adjoining properties.
- (5) Off-street parking shall be provided at a rate **determined by the Planning and Development Committee to be appropriate for the specific use or uses proposed. At a minimum, one space for each employee shall be provided. The provisional parking requirements of BMC 190-39 shall serve as a guide in determining appropriate off-street parking.** ~~of one space per 150 square feet of floor area or fraction thereof. No parking shall be permitted within any portion of the front yard.~~
- (6) Where a parking area **is located within 20 feet of a** ~~for four or more cars adjoins a residential property, a planted buffer strip at least 10 feet wide shall be provided~~ **a continuous solid screening of fencing and/or coniferous plantings at least 6 feet in height shall be placed and maintained between the parking spaces and the neighboring residential use property. Parking area access ways shall not be required to be screened.** ~~between the parking area and the adjoining property.~~
- (7) No more than four **professional offices** ~~physicians or dentists~~ shall occupy one building.

- (8) If the proposed use is to be located in a residential building, the residential facade shall be maintained.
- (9) a) For existing buildings on approved parcels, the applicant shall submit for review, a scale site plan not to exceed 1 inch equals 50 feet. The plan shall contain the following information:
- 1) Property survey
 - 2) Principal and accessory structure locations and dimensions
 - 3) Parking areas, quantities, and screening details
 - 4) Sidewalks and driveways/parking area access ways
 - 5) Exterior lighting
 - 6) Refuse storage plan and enclosure details. Dumpsters are not permitted within residential use districts.
 - 7) Signs
 - 8) Existing and proposed vegetation
 - 9) Storm water drainage
- b) New construction requires site plan submittal and review in compliance with BMC 190-44 C.(1).
- 10) Outdoor storage, including but not limited to; any type material, vehicle, or equipment, not specifically allowed by issuance of the special use permit, is not permitted.

~~Strikeout~~ = Remove from text

Red = Addition or change to text

190-11 R-1A Residential district

In R-1A Residential Districts, no building or structure shall be erected, altered, or extended, and no land, building, structure or part thereof shall be used for other than one or more of the following uses:

A.

Permitted principal uses.

(1)

Single-family dwelling.

(2)

Two-family dwelling.

(3)

Church or other place of worship, convent, parish house, cemetery.

(4)

Public park not conducted for profit, public playground or athletic field and field house or other accessory buildings.

(5)

Golf course, except a miniature golf course operated on a commercial basis.

(6)

Agricultural operations, including gardens, nurseries, greenhouses and usual buildings or structures. No greenhouse heating plant shall be less than 100 feet from any lot line.

B.

Permitted accessory uses.

(1)

Such accessory uses as are customarily incidental to the above uses, subject to the provisions of § 190-35.

(2)

Off-street parking, subject to provisions of § 190-39.

(3)

Signs subject to the provisions of § 190-43.

C.

Uses permitted with special use permits.

(1)

Municipal or public utility structures or facilities when necessary for the service of a neighborhood and of a kind and character in keeping with the residential character of the neighborhood.

(2) Existing buildings or portions of buildings may be repurposed for professional office uses including, but not limited to, attorneys, physicians, dentists, architects, engineers, and similar professions determined by the Planning and Development Committee to have little or no negative impact on the residential neighborhood. Proposed uses shall be in compliance with the standards of 190-37 B (1-10) and 190-37 K (1-14).

Red = New text

#-2023

A RESOLUTION RE-APPOINTING CITY MANAGER AND AUTHORIZING CITY COUNCIL PRESIDENT TO EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF BATAVIA AND RACHAEL J. TABELSKI

Motion of Councilmember

WHEREAS, Rachael J. Tabelski was appointed to the position of City Manager on March 8th, 2021 after serving as interim Manager from June 20, 2020 until appointment; and

WHEREAS, at the time of hiring the City Council appointed a search committee, interviewed candidates, and recommended Rachael J. Tabelski for the permanent role; and

WHEREAS, the current employment agreement will expire on March 7, 2024 and the City Council of the City of Batavia, after negotiations, would like to extend the agreement for an additional three years.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia affirms that Rachael J. Tabelski is hereby re-appointed to the position of City Manager of the City of Batavia pursuant to Section 5.1 of the City Charter effective March 8, 2024; and

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

**Seconded by Councilmember
and on roll call**

EMPLOYMENT AGREEMENT
between
Rachael J. Tabelski
and
THE CITY OF BATAVIA, NEW YORK

This EMPLOYMENT AGREEMENT (“the Agreement”) entered into by and between the **City of Batavia, New York**, a municipal corporation (“Employer” or “the City”), and Rachael J. Tabelski (“Employee” or “City Manager”), each referred to herein individually as a “Party” and collectively as “the Parties.”

WITNESSETH

WHEREAS, the City of Batavia wishes to employ Rachael J. Tabelski as City Manager of the City of Batavia, in accordance with the City Charter of the City of Batavia; and

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

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

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

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

Section 1: Powers and Duties of the City Manager

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

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

any other business or occupation that would interfere in any manner whatsoever with the performance of her duties without Employer's express written consent; provided, however, nothing contained herein shall prohibit Employee from making passive or personal investments which do not interfere with the performance of her duties. Notwithstanding the foregoing, Employee may engage in teaching, consulting or other non-Employer connected business (that does not present a conflict with the Employee's work for the City) without the prior approval of the City Council so long as Employee does not spend more than ten (10) hours per week engaged in said activities.

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

Section 2: Term

Employee's term of employment shall commence on March 8th 2024, and continue until March 7, 2027, or until sooner terminated by Employer or Employee as provided in Section 6 of this Agreement and/or Chapter 5 of the Batavia City Charter. Notwithstanding the foregoing, Employee's employment as City Manager shall not commence until Employee's appointment as City Manager shall be approved by the City Council of the City of Batavia (pursuant to Section 5.1 of the City Charter). Similarly, this Agreement shall only be effective if the City Council duly authorizes the City Council President to enter into this Agreement on behalf of the City.

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

Section 3: Compensation and Benefits

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

- Starting April 1, 2024 = \$123,290 + the equivalent % of the nonunion pay raise
- Starting April 1, 2025 = 2024 salary + the equivalent % nonunion pay raise
- Starting April 1, 2026 = 2025 salary + the equivalent % nonunion pay raise

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

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

c) Medical Insurance: Employer agrees to provide for health, hospitalization, surgical, vision, dental and comprehensive medical insurance for Employee, her spouse and her dependent children in accordance with the rules and requirements applicable to all other non-union employees of the City of Batavia.

d) Paid Time Off: During the term of this Agreement, Employee shall earn five (5) weeks (equal to twenty-five (25) work days) of vacation time, to be used in accordance with the rules and requirements applicable to all other non-union employees of the City of Batavia (unless otherwise set forth herein). In addition to the foregoing vacation time benefit, Employee shall also earn and accrue other paid time off benefits (such as sick time, personal time or bereavement leave) in a manner consistent with the rules and requirements applicable to all other non-union employees of the City of Batavia.

e) Allowances: Employer shall provide and assume all costs associated with a suitable automobile for the business use only of Employee, which shall include commuting to and from work. It is expressly understood that said automobile shall not be for Employee's personal use. Employer shall also provide, at the City's expense, Employee with a cellular telephone which may be used for business and personal use of Employee or a \$100 monthly stipend for the use of her personal cellular phone. Said items are for the exclusive use of Employee and shall not be operated by any other person without prior approval of Employee and only to perform the business of the City of Batavia. City Manager shall be entitled to reimbursement of any travel and business expenses incurred on behalf of the City in a manner consistent with the rules and requirements applicable to all other non-union employees of the City of Batavia.

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

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

h) Deferred Compensation. City Manager shall have access to deferred compensation programs in accordance with the rules and requirements applicable to all other non-union employees of the City of Batavia. 4% of annual salary will be contributed to the deferred compensation of the employee by the City of Batavia.

Section 4: Professional Development and Professional Association Participation

Employer agrees to budget and pay the professional dues, subscriptions, travel and subsistence expenses for the City Manager for professional participation and travel, meetings and

occasions necessary to continue her professional development. Said participation on City time shall include the annual conferences held by the New York City/County Management Association (the New York State affiliate of the International City/County Management Association (ICMA)), the New York Conference of Mayors (NYCOM), and the New York Municipal Insurance Reciprocal (NYMIR). The City Manager's may participate, on City time, in other short courses, institutes, and seminars that may from time to time be approved by the City Council.

Section 5: Employee Representations & Consent to Background Search.

a) Criminal & Regulatory History. Employee represents that she has not been convicted of any criminal act whatsoever and has not been the subject of any regulatory or professional adverse findings.

b) Consent. Employee hereby agrees to execute any authorization forms or documents necessary for the City to conduct any background check or investigation and hereby agrees and consents to the terms thereof as if incorporated herein.

c) Termination. Notwithstanding anything herein to the contrary, Employee understands and acknowledges that any undisclosed criminal, professional or regulatory investigation, action, finding or other action discovered during any background check may be grounds for termination of this Agreement at the City's sole discretion.

Section 6: Suspension and Termination

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

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

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

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

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

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

5) If Employee: (i) admits to, is convicted of, or pleads *nolo contendere* to any crime (felony or misdemeanor) which is injurious to the interests, business, operations or reputation of the City, or which involves moral turpitude, or which involves the misuse or misappropriation of public funds; (ii) engages in illegal drug use; (iii) engages in misconduct in connection with the performance of her duties, including, without limitation, misappropriation of

funds or property of Employer, securing or attempting to secure personally any profit in connection with any transaction entered into on behalf of Employer, misrepresentation to Employer, fraud, misappropriation of City assets or property, embezzlement, breach of any fiduciary duty owed to the City, or any violation of any law or regulations to which Employer is subject; (iv) engages in any intentional or grossly negligent act, omission or conduct that is injurious to the interests, business, operations or reputation of the City; (v) materially breaches this Agreement, including (but not limited to) Employee's neglect, refusal, failure, inability or unavailability to perform any of the duties of City Manager; (vi) violates the Code of Ethics adopted by the International City/County Management Association; or (vii) commits an act involving moral turpitude; or

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

c) Upon termination of Employee's employment by expiration of the term of this Agreement or in accordance with Section 6(b), Employee shall (in the normal course and in accordance with the City's established payroll practices) be paid all compensation due Employee for work performed through the date of termination, as well as payment for all accrued but unused vacation time.

d) Employee shall not be entitled to payment of any severance benefit if the termination of her employment occurs by expiration of the term of this Agreement (or successor agreement), so long as the City Council provides Employee with at least ninety (90) days advance written notice of its intent to not renew this agreement (or to not enter a successor agreement). Moreover, Employee shall not be entitled to payment of any severance benefit if the termination of her employment relates in any manner (directly or indirectly) to any of the reasons for termination of employment set forth in Section 5(c), 6(b)(3), 6(b)(4), 6(b)(5) or 6(b)(6) of this Agreement. If Employee's employment by the City is terminated in accordance with Section 6(b)(1) or 6(b)(2) of this Agreement, or if the term of Employee's employment expires and the City Council failed to provide Employee with at least ninety (90) days advance written notice of its intent to not renew this agreement (or to not enter a successor agreement), Employee shall be entitled to the severance benefits set forth below, but only after Employee executes (and does not revoke) a separation agreement and general release that contains terms that are satisfactory and agreeable to Employer:

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

2) If Employee's employment terminates during the second year of her employment by the City, Employee shall receive payment of Employee's salary for a period of

three (3) months at Employee's then-current rate (less deductions for applicable and required taxes and other lawful withholdings), continuation of Employee's City-provided health insurance at Employer's expense for three (3) months, continuation of any Employee and Employer contributions toward Employee's retirement benefit under the New York State and Local Retirement System (in accordance with any limitations set forth in State law) for three (3) months; or

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

Any severance benefits provided to Employee shall be paid in accordance with the City's established payroll practices over the applicable period, though such severance pay shall only be paid after Employee executes (and does not revoke) a separation agreement and general release that contains terms that are satisfactory and agreeable to Employer. During the period Employee is receiving any severance benefits under this Agreement, Employee shall remain available to Employer for routine inquiries regarding the status of projects, initiatives, and logistical information pertaining to City operations as Employer may deem reasonably necessary.

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

Section 7: Performance Evaluation

In the first year of employment the Employer shall conduct verbal informal reviews of the performance of the City Manager quarterly, with an annual written review. In the second year, Employer shall conduct a performance review bi-annually and, thereafter Employer shall conduct an annual performance review on or about March 8th of each year (or on more frequent bases as the City may determine is prudent and necessary). The process, form, criteria, and format for the evaluation shall be mutually agreed upon by Employer and Employee. The City Council shall provide the City Manager with a summary written statement of the findings of the City Council and provide an adequate opportunity for the City Manager to discuss the evaluation with the City Council.

Section 8: Indemnification

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

Section 9: Bonding

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

Section 10: Dispute Resolution

a) Arbitration. Any dispute or controversy arising under or in connection with this Agreement shall be settled exclusively by arbitration, in accordance with the rules of the American Arbitration Association for employment disputes as then in effect. For the avoidance of doubt, it is understood and agreed that this Agreement to arbitrate includes any and all claims and disputes, including, without limitation, as to arbitrability, with respect to Employee's employment by the City or the termination of such employment, including, without limitation, any claim for alleged discrimination, harassment, or retaliation under on the basis of race, sex, color, national origin, sexual orientation, age, religion, creed, marital status, veteran status, alienage, citizenship, disability or handicap, or any other legally protected status, and any alleged violation of any federal, state, or other governmental law, statute or regulation, including, but not limited to, any alleged violation of Title VII of the Civil Rights Act of 1964, other civil rights statutes including, without limitation, 42 U.S.C. §§1981-1985, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Family and Medical Leave Act, the Worker Adjustment and Retraining Notification Act, the Employee Retirement Income Security Act, the Fair Labor

Standards Act, the Occupational Safety and Health Act, or any state or local law, statute or regulation, as such statutes, laws, and regulations are amended. Judgment may be entered on the arbitrator's award in any court having jurisdiction.

b) The arbitration hearing in accordance with this Section shall commence within ninety (90) calendar days after the arbitrator is selected, unless the City and Employee mutually agree to extend this time period. The arbitrator will have full power to give directions and make such orders as the arbitrator deems just, and to award all remedies that would be available in court. Nonetheless, the arbitrator explicitly shall not have the authority, power, or right to alter, change, amend, modify, add, or subtract from any provision of this Agreement. The arbitrator shall issue a written decision that sets forth the essential findings and conclusions upon which the arbitrator's award or decision is based within thirty days after the conclusion of the arbitration hearing. The award rendered by the arbitrator shall be final and binding (absent fraud or manifest error), and any arbitration award may be enforced by judgment entered or vacated in any court of competent jurisdiction.

c) In the event of any contest or dispute relating to this Agreement or the termination of Executive's employment hereunder, each Party shall bear its own costs and expenses. The costs of arbitration of such disputes shall be borne equally by the Parties to this Agreement.

Section 11: General Provisions

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

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

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

d) **Governing Law and Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any of its conflict of law provisions that would result in the application of the substantive laws of another jurisdiction; provided, however, that the provisions set forth in Section 10 shall be governed by the Federal Arbitration Act. The jurisdiction and venue for actions related to this Agreement shall be the State and Federal Courts with jurisdiction over or located in Genesee County, New York or the American Arbitration Association, as appropriate under provisions of this Agreement and applicable law.

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

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

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

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

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

j) **Notices.** Unless otherwise provided in writing pursuant to this section, any demand, notice or other communications ("notice") given by either party to the other shall be in writing and delivered by hand, certified U.S. Mail or other certified delivery. All notices to the City shall be delivered to the then-President of the City Council, One Batavia City Centre, Batavia, New York 14020. All notices to Employee shall be delivered to Employee at her home address: 708 North Street, Batavia NY 14020. Either party may change the address above by providing notice of such change of address pursuant to this section.

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

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

Eugene Jankowski, Jr.
City Council President

Rachael J. Tabelski
City Manager

ATTEST:

George Van Nest, Esq
City Attorney

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