

BATAVIA CITY COUNCIL CONFERENCE MEETING

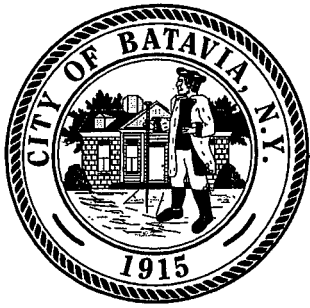
**City Hall - Council Board Room
One Batavia City Centre
November 22, 2021 at 7:00 p.m.**

AGENDA

- I. Call to Order
- II. Invocation – Councilmember Viele
- III. Pledge of Allegiance
- IV. Public Comments
- V. Council Response to Public Comments
- VI. Communications
- VII. Council President Report
 - a. Announcement of the next City Council Conference and Business Meeting to be held on Monday, December 13, 2021 at 7:00 p.m. at the City Hall Council Board Room, 2nd Floor, City Centre
 - b. Proclamation for Council Member Rose Mary Christian
 - c. Proclamation For Retiring District Attorney Lawrence Friedman
- VIII. Schedule 2022 Council Meetings
- IX. Bond Authorization For Harvester Richmond Street Improvements
- X. Bond Authorization For Design, Engineering And Architecture Services For The New Police Facility
- XI. Contract With Architecture Unlimited For Project Management/Owners Representative Services Related To The New Police Facility
- XII. Surplus Of Police Car
- XIII. Amend The Budget To Recognize VLT Revenue And Purchase Equipment For Emergency Personnel
- XIV. Ellicott Trail Easement- Graham Property Creek Park
- XV. Boa Pre-Development Services Contract with LaBella
- XVI. Reclassify Human Resource Position
- XVII. Rezoning of 145 and 147 Pearl Street- referral to City Planning & Development*

- XVIII. Contract with Survey Firm for Bank and Alva Place- New Police Facility*
- XIX. CSEA Contract*
- XX. Adjournment

*Items move to Special Business Meeting



City of Batavia

Memorandum

To: Honorable City Council Members

From: Rachael J. Tabelski, MPA, City Manager

Date: November 6, 2021

Subject: 2022 Meeting Schedule

Attached is the resolution outline the proposed meeting schedule for 2022. Pursuant to the City Charter, the Council is required to schedule regular council meetings through passage of a resolution.

The proposed meeting schedule designates council meetings on the second and fourth Monday of each month, except during the months of July, August and December when Council will meet on the second Monday of the month only.

Furthermore, please note that the January 10th 2022 meeting will be the annual organizational meeting. According to Charter the Council shall organize biennially, adopt rules governing procedure, the conduct of its meetings and the discipline of its members.

#-2021

**A RESOLUTION SCHEDULING REGULAR COUNCIL MEETINGS THROUGH
DECEMBER 31, 2022**

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, 2022; 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, 2022.

**Seconded by Councilmember
and on roll call**

2022 City of Batavia Council Meetings

January 10, 2022 (Organizational)

January 10, 2022 (Business)

January 24, 2022 (Conference)

February 14, 2022 (Business)

February 28, 2022 (Conference)

March 14, 2022 (Business)

March 28, 2022 (Conference)

April 11, 2022 (Business)

April 25, 2022 (Conference)

May 9, 2022 (Business)

May 23, 2022 (Conference)

June 13, 2022 (Business)

June 27, 2022 (Conference)

July 11, 2022 (Business and Conference)

August 8, 2022 (Business and Conference)

September 12, 2022 (Business)

September 26, 2022 (Conference)

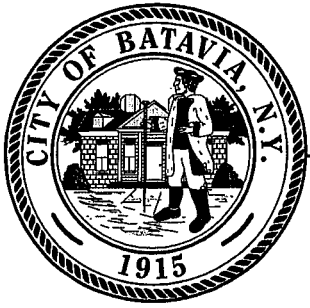
Tuesday, October 11, 2022 (Business)

October 24, 2022 (Conference)

November 14, 2022 (Business)

November 28, 2022 (Conference)

December 12, 2022 (Business and Conference)



City of Batavia

Memorandum

To: Mrs. Rachael Tabela - City Manager

From: Raymond Tourt - Superintendent of Maintenance

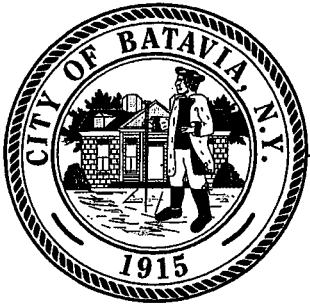
Date: November 8, 2021

Subject: PIN: 4761.01 - Highway Preventative Maintenance - Rehabilitation of Harvester Ave. & Richmond Ave.

It is requested that Batavia City Council approve short-term financing to fund the \$3.6 Million Rehabilitation of Harvester Ave and Richmond Ave Project. This financing is necessary to fund the construction project until reimbursements are received. *The project background as follows:*

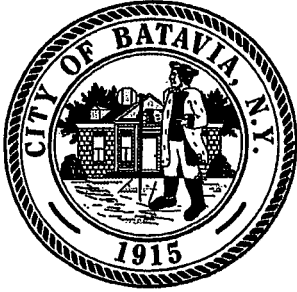
In 2018 the City submitted four projects for consideration for the T.I.P. (Transportation Improvement Project) 80% federal funding for eligible roadways. The City has 46 roadways that qualify for this funding source. 9 are NYS highways and 37 are city owned roads (*I have attached the list of eligible roadways in the community for this funding.*).

Funds are limited so, the NYSDOT has focused funding with an emphasis on preventative maintenance or rehabilitation measures and limiting funds for construction/ reconstruction projects. Construction projects cost more than ten times the cost of a rehabilitation so by funding rehabilitations they can fund more projects and preserve more roadways. With this knowledge the City submitted what were considered to be 4 competitive projects (Bank St., Jackson St., Richmond Ave. and Harvester Ave.) for rehabilitation. The City was awarded Richmond Ave for FY 2022 and Harvester Ave. for FY2023. For efficiency and cost-effectiveness we asked that the projects be merged with the expectations they would both be done as one project in FY2023. To our surprise they did agree to merge the projects for FY2022. In 2020 T.Y. Lin was selected as the consultant and design began.



City of Batavia

As part of the project scoping and preliminary design it was discovered that a portion of Harvester Ave.'s road structure was deficient for a rehabilitation and was a better candidate for a partial reconstruction (*Colorado Ave. to Ellicott Street*). It was found that the southern portion of roadway only has 3" of bituminous concrete on no prepared base versus the upper portion being on 5" - 6" of P.C. concrete base with 3" of bituminous concrete paving as a wear surface. This means there is no base to pave back onto on the Southern portion of Harvester Avenue. With Harvester Avenue being an industrial boulevard with frequent tractor trailer loads that include over-sized loads coming out of Graham Mfg. it would be a very short lived improvement. For that reason the City has reached out to GTC and NYSDOT for a change of scope to correct this condition. This requires the partial reconstruction of Harvester Avenue at its southern limits. This change increases the cost by \$1.6 million dollars over the original \$2.04 million. GTC and NYSDOT are aware of this need and are favorable towards adding funding if the work begins if FFY 2022.



City of Batavia

October 14, 2021

Mr. James Stack
Executive Director
Genesee Transportation Council
50 W. Main Street, Suite 8112
Rochester, NY 14614

**RE: TIP Amendment Request for City of Batavia Highway Preventive Maintenance
(TIP #:H20-04-GN2 | PIN:476101)**

Dear Mr. Stack:

The City of Batavia respectfully requests changes to the City of Batavia Highway Preventive Maintenance (TIP #:H20-04-GN2 | PIN:476101) Project (the Project), which would require amending the *2020-2024 Transportation Improvement Program (TIP)*.

The reason for the proposed changes is that the window of opportunity for the originally scoped preventive maintenance (PM) treatment for the portion of the Project on Harvester Avenue from Colorado Avenue to NYS Route 63 (Ellicott Street) has closed. A PM treatment (milling and resurfacing) would no longer be the appropriate scope of work, based on the current pavement and subsurface conditions. This section, which is approximately 900 feet or 30 percent of the total length of work on Harvester Avenue, will need to be rehabilitated/reconstructed. Based on the geotechnical report produced for the Project, no concrete sub-base exists on this segment of Harvester Avenue. Additional work associated with the change that triggers the need for additional funds includes:

- Excavation for pavement boxout
- Subbase and asphalt base courses
- Curb reset/replacement & underdrain
- Catch basins
- Additional driveway, sidewalk and ramp work
- Increases to Construction incidental and field change items (fixed percentages)
- Increase to Construction Inspection to account for complexity of rehabilitation/reconstruction work

The requested changes to the Project are detailed below and in the attached TIP project detail sheet.

**Public Works Administration
One Batavia City Centre
Batavia, New York 14020**

**Phone: 585-345-6325
Fax: 585-345-1385
www.batavianewyork.com**



City of Batavia

Change the Project Scope to “Conduct preventive maintenance on Richmond Ave from State Street to Rt 98 (Oak St) and Harvester Ave from Rt 5/33 (E Main St) to Colorado Ave and rehabilitate Harvester Ave from Colorado Avenue to Rt 63 (Ellicott St) in the City of Batavia, Genesee County.”;

Increase the Total Cost from \$2,041,000 (\$1,632,800 Federal) to \$3,691,000 (\$2,952,800 Federal);

Defer a FFY 22 Construction phase of \$1,448,000 (\$1,158,400 Federal) to FFY 23;

Increase a FFY 23 Construction phase of \$1,448,000 (\$1,158,400 Federal) to \$3,048,000 (\$2,438,400 Federal);

Defer a FFY 22 Construction Inspection phase of \$228,000 (\$182,400 Federal) to FFY 23;

Increase a FFY 23 Construction Inspection phase of \$228,000 (\$182,400 Federal) to \$278,000 (\$222,400 Federal).

The amounts listed above for existing phases are based on the latest published 2020-2024 TIP table for the Project, which was accessed September 17, 2021:

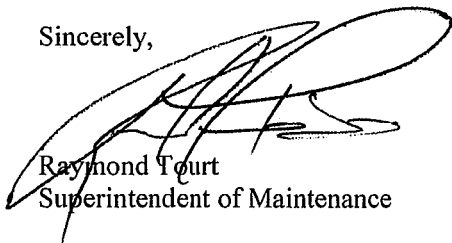
(<https://www.gtcmpo.org/sites/default/files/TIP/H20-04-GN2.htm>)

The source of programmed Federal funds is the Surface Transportation Block Grant – Flex program. FFY 22 funds will be provided to Available Balances. The City of Batavia does not have any offsets to offer from other projects. The offset of FFY 23 funds is requested from the Available Balances of the Surface Transportation Block Grant – Flex program, which (per the August 12, 2021 Planning Committee meeting) is currently \$3,392,000 in FFY 23. It is understood that the overall level of available federal funding in FFY 2023 is insufficient to cover the requested increase for the Project. The City is hopeful that additional federal funds will be made available to the NYS Department of Transportation Region 4 via the passage of the Infrastructure Investment and Jobs Act or by adjustments to existing balances from other regions.

The NYS Department of Transportation Region 4 Regional Local Project Liaison has been involved in the development and review of the proposed design changes.

Please let me know if you have any questions or need additional information. I and/or the design consultant can be available to discuss the Project and the proposed changes with GTC staff and member agency staff at the October 28, 2021 GTC TIP Development Committee meeting. I may be reached by email at tourt@batavianewyork.com or by telephone at (585) 345-6325.

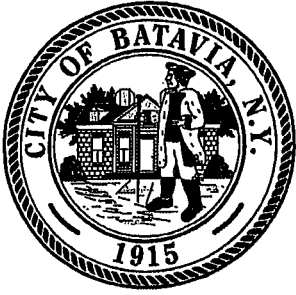
Sincerely,



Raymond Tourt
Superintendent of Maintenance

**Public Works Administration
One Batavia City Centre
Batavia, New York 14020**

**Phone: 585-345-6325
Fax: 585-345-1385
www.batavianewyork.com**



City of Batavia

Cc: Alex Kone, Genesee Transportation Council
Robert Corcimiglia, NYSDOT Region 4
Joel Kleinberg, NYSDOT Region 4
Craig Ekstrom, NYSDOT Region 4
Tim Hens, Genesee County Highway and Facilities Management
Rachael Tabelski, City of Batavia

**Public Works Administration
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City of Batavia Federal Aid Eligible Roadways

Road/Street Name	Route #	System	From	To	Jurisdiction/ Owner	Functional Class
Ellicott Street	NYS 63	State Hwy	City Line	W. Main	NYS	Principal Arterial
Oak Street	NYS 98	National Hwy	W. Main	City Line	NYS	Principal Arterial
West Main Street	NYS 5/33/63	National Hwy	Main	Oak	NYS	Principal Arterial
East Main Street	NYS 5/33	State Hwy	Clinton	Main	NYS	Minor Arterial
East Main Street	NYS 5	State Hwy	City Line	Clinton	NYS	Minor Arterial
Main Street	NYS 5/33	State Hwy	E. Main	W. Main	NYS	Minor Arterial
Oak Street Ext	NYS 33/ 98	State Hwy	W. Main	Pearl	NYS	Minor Arterial
Pearl St	NYS 33	State Hwy	Oak Ext	City Line	NYS	Minor Arterial
West Main Street	NYS 5	State Hwy	Oak	City Line	NYS	Minor Arterial
Bank Street			E. Main	Cityline	CITY	Minor Arterial
Clinton Street	NY-33	State Hwy	E. Main	City Line	CITY	Minor Arterial
Liberty Street			Ellicott	E. Main	CITY	Minor Arterial
South Main Street	NY-98	State Hwy	Walnut	Oak Ext	CITY	Minor Arterial
Walnut Street	NY-98	State Hwy	City Line	S. Main	CITY	Minor Arterial
Cedar Street			Ellicott	E. Main	CITY	Collector
Chestnut Street			S. Jackson	Law	CITY	Collector
Clifton Avenue			James	Ellicott	CITY	Collector
Court Street			Ellicott	Main	CITY	Collector
Dellinger Avenue			W. Main	Washington	CITY	Collector
Denio Dr			Bank	State	CITY	Collector
East Avinue			Clinton	Ross	CITY	Collector
Ellicott Avenue			W. Main	Richmond	CITY	Collector
Florence Avenue			Cedar	Howard	CITY	Collector
Harvester Avenue			Ellicott	E. Main	CITY	Collector
Howard Avenue			Florence	Harvester	CITY	Collector
Jackson Street			S. Jackson	Main	CITY	Collector
James Street			Clifton	Otis	CITY	Collector
Jefferson Avenue			Main	Washington	CITY	Collector
Law Street			Chestnut	Walnut	CITY	Collector
Lehigh Avenue			City Line	Ellicott	CITY	Collector
Mix Place			Ellicott	Oak	CITY	Collector
North Street			Vine	Richmond	CITY	Collector
Otis Street			S. Jackson	James	CITY	Collector
Parrk Road			Oak	Cityline	CITY	Collector
Richmond Avenue.			North	Park	CITY	Collector
River Street			Pearl	W. Main	CITY	Collector
Ross Street			E. Main	East	CITY	Collector
South Jackson Street			Otis	Jackson	CITY	Collector
South Liberty Street			S. Jackson	Ellicott	CITY	Collector
South Main Street			Oak Ext	River	CITY	Collector
State Street			Washington	Cityline	CITY	Collector
Summit Street			E. Main	North	CITY	Collector
Swan Street			Ellicott	E. Main	CITY	Collector
Union Street			W. Main	Oak	CITY	Collector
Vine Street			E. Main	Bank	CITY	Collector
Washington Avenue			Ross	Ellicott	CITY	Collector

#-2021
BOND RESOLUTION
CITY COUNCIL OF THE CITY OF BATAVIA
November 22, 2021

A RESOLUTION AUTHORIZING GENERAL OBLIGATION BONDS OF THE CITY OF BATAVIA, GENESEE COUNTY, NEW YORK, TO FINANCE THE REHABILITATION, REPAIR AND REPLACEMENT OF CERTAIN CITY STREET IMPROVEMENTS ON RICHMOND AND HARVESTER AVENUES, AS WELL AS AUTHORIZING THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS.

WHEREAS, the **CITY OF BATAVIA** (the "City"), in the County of Genesee, by its City Council has determined it necessary for the City, to undertake the rehabilitation and repair and replacement of certain city street improvements on Richmond Avenue and Harvester Avenue. Said rehabilitation, replacement and repair to consist of the removal of the existing street surfaces, repair to the base, repair/replacement of defective curbing, corrections to the drainage systems, corrective measures to comply with the current ADA requirements for sidewalks and a new roadway surfaces and markings (jointly referred to as the "Projects"); and

WHEREAS, the estimated cost of the Projects is \$3,600,000.

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

Section 1. The design, construction and implementation of the Projects are hereby authorized at the estimated combined cost of \$3,600,000.

Section 2. The financing of the Projects, and the costs of issuance of such financing, (the "specific object or purpose"), is hereby authorized at a maximum estimated aggregate cost of \$3,600,000.

Section 3. The specific objects or purposes are objects or purposes described in Section 11 of the Local Finance Law.

Section 4. The City Council, acting as Lead Agency under the SEQRA regulations of the State of New York, hereby determines the Projects to be TYPE II Actions that do not necessitate the preparation of and Environmental Impact Statement

Section 5. The plan for the financing of such maximum estimated cost is by the issuance of general obligation serial bonds of the City in an aggregate principal amount not exceeding \$3,600,000 which is hereby authorized to be issued therefor pursuant to the Local

Finance Law.

Section 6. The aforementioned principal amount of serial bonds authorized hereby shall be reduced dollar for dollar by any amount otherwise available and allocated for the costs of the Improvements by funds made available to the City for said purpose from authorized City Sidewalk Reserve funds as well as any State and/or Federal funds/grants.

Section 7. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

Section 8. It is hereby determined that the period of probable usefulness of the Projects is 15 years, pursuant to subparagraph 1 of Section 11.00.a. subsection 20 of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized will not be in excess of 15 years.

Section 9. The faith and credit of the City of Batavia, Genesee County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in every year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year.

Section 10. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the City Council pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the City Manager, the chief fiscal officer of the City. To the extent required by law, this Resolution shall also constitute a "Bond Anticipation Note Resolution" pursuant to the Local Finance Law.

Section 11. All other matters except as provided herein relating to the bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual

debt service, shall be determined by the City Manager, as the chief fiscal officer of the City. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the City Treasurer shall determine consistent with the provisions of the Local Finance Law.

Section 12. The City Manager is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

Section 13. The City Manager is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

Section 15. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution of the State of New York.

Section 16. The temporary use of available funds of the City, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The City then reasonably expects to reimburse any such expenditures

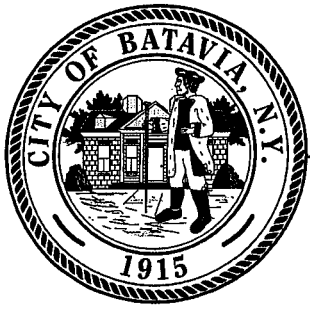
(to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 1 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 17. This resolution shall take effect immediately.

Section 18. This resolution or a summary hereof shall be published in full in the official legal newspaper of the City for such purposes, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

* * * * *

DRAFT



City of Batavia

Memorandum

To: Honorable City Council Members

From: Rachael J. Tabelski, MPA, City Manager

Date: November 6, 2021

Subject: Authorization of General Obligation Bond and issuance of a Bond Anticipation Note (BAN) to finance the cost of design, engineering and architecture plans for the new Police Facility

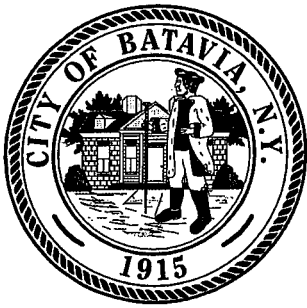
After years of studies, task force and planning meetings the City of Batavia is ready to move forward with the construction of a new police station and headquarters at Bank and Alva place.

As you are aware the current facility (the Historic Brisbane Mansion) is an antiquated structure that is not suited for modernized policing activities and administration. Constructed in 1855, the building is over 160 years old and has been retrofitted many times since the City took ownership in 1918. This is not a feasible nor viable approach to moving forward in our efforts to modernize policing the City.

There have been no less than five studies conducted since 1991 to determine the future of the police station and headquarters in Batavia, as well as a task force commissioned to investigate possible site locations. After a review of various potential locations, the task force determined that the Bank and Alva Place site rose to the top as one of the best locations for a new station and headquarters.

A feasibility study authorized by the City Council in 2020 to determine the efficacy of the Bank and Alva location reviewed among other things, whether the police station would fit in the lot; have adequate utility infrastructure,; and, maintain adequate parking to surrounding businesses. The results of the findings of the study that were presented to Council in September of 2021 concluded, that the Bank and Alva Place site was “ideal” and would achieve these goals while being a good neighbor to the surrounding property owners.

The concept of a new police station and headquarters is premised on a standalone one-story structure that can efficiently and effectively serve as a long-term solution for a modernizing the City of Batavia Police Department. The facility will improve the quality, efficiency, security, and regulatory



City of Batavia

compliance features of the services and activities provided by the Police Department while enhancing the opportunities to meet community needs. The new station and headquarters will be designed with accreditation standards in mind, including LEED and will be ADA compliant. In short, the new station and headquarters will be a welcoming place for all persons in our community.

With the assistance of Ken Pearl, of Architecture Unlimited, the City released a Request for Proposals (RFP) to architecture and engineering firms in late September. The City is currently undertaking the selection process to hire a firm for design, architecture and engineering and will need to expend funds related to this effort over the next year.

To finance these services, and move forward with the project, I am recommending that the City Council approve the resolution authorizing of General Obligation Bond and issuance of a Bond Anticipation Note (BAN) to finance the cost of design, engineering and architecture plans for a new police station and headquarters for \$1,500,000.

#-2021
BOND RESOLUTION
CITY COUNCIL OF THE CITY OF BATAVIA
November 22, 2021

A RESOLUTION AUTHORIZING GENERAL OBLIGATION BONDS OF THE CITY OF BATAVIA, GENESEE COUNTY, NEW YORK, TO FINANCE THE COST OF DESIGN, ENGINEERING, ARCHITECTURAL PLANS, SPECIFICATIONS AND ESTIMATES FOR THE POTENTIAL CONSTRUCTION OF CAPITAL IMPROVEMENTS CONSISTING OF POLICE DEPARTMENT SAFETY HEADQUARTERS, AS WELL AS AUTHORIZING THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS.

WHEREAS, the **CITY OF BATAVIA** (the “City”), in the County of Genesee, by its City Council has determined it necessary for the City, to undertake the advance planning, engineering and design of capital improvements to consist of the City’s Police Headquarters (hereinafter referred to as the “Design Project”); and

WHEREAS, the estimated cost of the Design Project is \$1,500,000.

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

Section 1. The preliminary planning and design expenses (the “Design Expenses”) in connection with the capital improvements consisting of the police department safety headquarters (the “Design Project”) are hereby authorized at the estimated combined cost of \$1,500,000. (the expenses for the

Section 2. The financing of the Design Expenses, and the costs of issuance of such financing, (the “specific object or purpose”), are hereby authorized at a maximum estimated aggregate cost of \$1,500,000.

Section 3. The specific objects or purposes of the Design Project are objects or purposes described in Section 11 of the Local Finance Law.

Section 4. The City Council, acting as Lead Agency under the SEQRA regulations of the State of New York, hereby determines that the expenditure of the Design Expenditures in furtherance of the Design Project to be a TYPE II Action that does not necessitate the preparation of and Environmental Impact Statement

Section 5. The plan for the financing of such maximum estimated cost is by the issuance of general obligation serial bonds of the City in an aggregate principal amount not exceeding \$1,500,000 which is hereby authorized to be issued therefor pursuant to the Local

Finance Law.

Section 6. It is hereby determined the proposed maturity of the obligations authorized by this resolution will not be in excess of five years.

Section 7. It is hereby determined that the period of probable usefulness of the Design Project is 5 years, pursuant to - Section 11.00.a. subsection 62 (2nd) of paragraph a of Section 11 of the Local Finance Law.

Section 8. The faith and credit of the City of Batavia, Genesee County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in every year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year.

Section 9. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the City Council pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the City Manager, the chief fiscal officer of the City. To the extent required by law, this Resolution shall also constitute a "Bond Anticipation Note Resolution" pursuant to the Local Finance Law.

Section 10. All other matters except as provided herein relating to the bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, shall be determined by the City Manager, as the chief fiscal officer of the City. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the City Treasurer shall determine consistent with the provisions of the Local Finance Law.

Section 11. The City Manager is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds

authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

Section 12. The City Manager is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c12-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

Section 13. The validity of such bonds and bond anticipation notes may be contested only if:

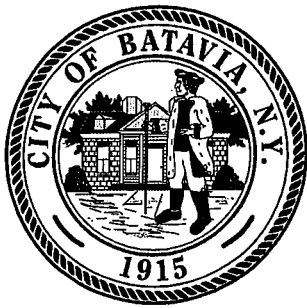
- 1) Such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution of the State of New York.

Section 14. The temporary use of available funds of the City, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The City then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date hereof) with the proceeds of the bonds authorized by Section 1 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 15. This resolution shall take effect immediately.

Section 16. This resolution or a summary hereof shall be published in full in the official legal newspaper of the City for such purposes, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

DRAFT



City of Batavia

Memorandum

To: Honorable City Council Members

From: Rachael J. Tabelski, MPA, City Manager

Date: November 12, 2021

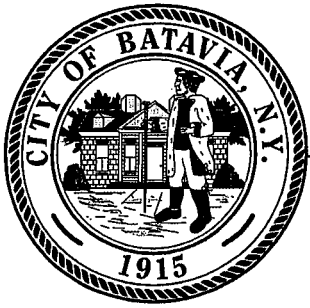
Subject: Execution of Agreement with Architecture Unlimited, LLC. For Professional Services and Project Management/Owner's Representative for the Police Facility Project.

Ken Pearl, President and Principal-in-charge of Architecture Unlimited, LLC, since its founding in 1995, has worked extensively with the City of Batavia providing project and construction management services, bid assistance, and construction oversight. Most recently Mr. Pearl assisted the Department of Public Works with the Mall Roof, Mall Roof 2, Police Roof, and Police Facility Feasibility Study.

Mr. Pearl is an expert in architecture and construction management and has assisted other municipalities with the construction of new buildings including the Clarence Police and Courts Facility. After finalizing the Police Facility Feasibility Study he assisted the City, issuing Requests for Proposals (RFP') for the design and engineering of the new police facility. Currently, the City is reviewing these submissions and interviewing firms with a final choice expected in December, 2021.

As the City moves into the design of the facility we need to retain the services of a project manager or owner's representative that will assist the City through the entire design process, and then in turn, the pre-construction/construction process. Attached is a detailed agreement from Architecture Unlimited to provide services to the City and the project management services of Ken Pearl. Below is a condensed list of the services that Architecture Unlimited will provide to the City for a fee of \$370,000.

I recommend that the City Council of the City of Batavia authorize the City Council President to execute the Agreement for Services with Architecture Unlimited as part of the Police Facility Project.



Scope of Work Highlights- Architecture Unlimited Project Management Agreement:

- Project Budget Control Services
- Project Quality Control Services
- Design Management Services
 - Program development
 - Design requirements
 - Schematic design services
 - Design development services
 - Construction Document services
 - Management of various design, engineering, and survey consultants
 - Management of design service contract compliance
 - Management of various regulatory compliance needs
- Construction Management Services
 - Preconstruction phase services
 - Construction phase services
 - On-site inspection and monitoring services
 - Management of multiple-prime contracts
 - Construction cost monitoring and disbursement monitoring

#-2021

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BATAVIA
AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL
SERVICES AND PROJECT MANAGEMENT OF THE BUILDING OF THE NEW
POLICE FACILITY**

Motion of Councilmember

WHEREAS, the City Council of the City of Batavia has determined it necessary to contract with a professional architectural firm to assist the City with pre-construction and construction services; and

WHEREAS, Architecture Unlimited has worked on behalf of the City on numerous facility projects in a professional capacity; and

WHEREAS, Architecture Unlimited will act as project manager and owners representative for the new police facility project assisting the City Manager and Department of Public Works; and

WHEREAS, Architecture Unlimited will be responsible for project budget control services, project quality control services, design management services and construction management services; and

WHEREAS, the fee for services is \$370,000 and is an eligible expense as part of the other overall capital project.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia authorize the City Council President to execute an agreement for professional services and project management for the new police facility with Architecture Unlimited.

**Seconded by Councilmember
and on the roll call**

AIA[®] Document C172™ – 2014

Standard Form of Agreement Between Owner and Program Manager for use on a Single Project

AGREEMENT made as of the 1st day of **October** in the year **2021**
(In words, indicate day, month and year.)

BETWEEN the Program Manager's client identified as the Owner:
(Name, legal status, address, and other information)

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

and the Program Manager:
(Name, legal status, address, and other information)

Architecture Unlimited, LLC
8304 Main Street
Williamsville, New York 14221

for the following Project:
(Name, location, and detailed description)

The New Batavia Police Department Project
@ the corner of Bank Street and Alva Place
Batavia, New York

The Owner and Program Manager agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.

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User Notes:

(1279677288)

TABLE OF ARTICLES

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.2 Definitions

§ 1.2.1 Unless otherwise specifically defined in this Agreement, terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 1.3 Project Information

§ 1.3.1 The Owner's program for the Project:

(Identify documentation or state the manner in which the program will be developed.)

Previously completed June 8th, 2021 Program Phase Analysis by Architecture Unlimited, LLC

§ 1.3.2 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographical surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

See same June 8th, 2021 Program Phase Analysis

§ 1.3.3 Preliminary assessment of the condition of existing facilities or site, if any:

(Identify or describe written reports of the conditions of existing facilities or site.)

See same June 8th, 2021 Program Phase Analysis

§ 1.3.4 Funding source:

(Identify anticipated funding sources, and deadlines or schedules related to funding, as well as whether funding is authorized.)

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Public Funding per City of Batavia Project and/or Bond Resolution

§ 1.3.5 The Owner's budget for the Project:

(Provide the Owner's total budget for the Project and, if known, a line-item breakdown of all costs described in Section 3.5.1.)

See same June 8th, 2021 Program Phase Analysis

§ 1.3.6 The Owner's intended procurement or delivery method for design and construction of the Project:

(Identify method such as competitive bid, negotiated contract, multiple prime contracts, or construction management.)

- a. **RFQ/RFP for Design/Engineering Services**
- b. **Competitive Bid Multiple Prime Contracts for Building/Site/Infrastructure Construction**
- c. **Competitive Bid / Negotiated Contracts for misc. Fixture, Furnishings, & Equipment (FF&E)**

§ 1.3.7 Anticipated scheduling information:

(Include overall Project duration and milestones. If known, include proposed dates for commencement and completion of design, commencement and completion of construction, occupancy, and any other critical scheduling information for the Project.)

.1 Anticipated dates of Project commencement and completion:

.1 Commencement of design, if other than the date of this Agreement:

January 1st, 2022

.2 Completion of design:

December 21st, 2022

.3 Commencement of construction:

April 1st, 2023

.4 Completion of construction:

June 1st, 2023

.2 Other Project scheduling information:

§ 1.3.8 Other information regarding the Project:

(Identify any other available studies or reports, as well as special characteristics or needs of the Project, such as historic preservation requirements, not provided elsewhere.)

Not applicable

§ 1.3.9 The Owner's anticipated sustainable objective for the Project, if any:

(Identify the Owner's sustainable objective for the Project such as sustainability certification, benefit to the environment, enhancement to the health and well-being of building occupants, or improvement of energy efficiency.)

Not applicable

§ 1.4 Project Team

§ 1.4.1 The Owner will retain the following consultants and contractors:

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(List name, discipline, address, and other information.)

To be determined – None as of this date

§ 1.4.2 The Program Manager will retain the consultants identified in Sections 1.4.2.1 and 1.4.2.2:

§ 1.4.2.1 Consultants retained under Basic Services:
(List name, discipline, address, and other information.)

a. **Building Science Services, LLC – Program Manager Services**
8304 Main Street
Williamsville, New York 14221

§ 1.4.2.2 Consultants retained under Additional Services:
(List name, discipline, address, and other information.)

To be determined – None as of this date

§ 1.4.3 The Owner identifies the following representative in accordance with Section 5.4:
(List name, address, and other information.)

Mrs. Racheal J. Tabelski
City Manager
City of Batavia – Office of City Manager
One Batavia City Centre
Batavia, New York 14020
(585) 345-6334 **rtabelski@batavianewyork.com**

§ 1.4.4 The persons or entities, in addition to the Owner's representative, who are required to review and approve the Program Manager's submittals to the Owner are as follows:
(List name, address, and other information.)

To be determined – None as of this date

§ 1.4.5 The Program Manager identifies the following representative in accordance with Section 2.4:
(List name, address, and other information.)

Mr. Kenneth W. Pearl, R.A.
Building Science Services, LLC
8304 Main Street
Williamsville, New York 14221
(716) 204-9733 **kpearl@buildingscienceservices.com**

§ 1.5 Other Initial Information on which the Agreement is based:

None

§ 1.6 The Owner and Program Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Program Manager shall appropriately adjust the schedule, the Program Manager's services, and the Program Manager's compensation.

ARTICLE 2 PROGRAM MANAGER'S RESPONSIBILITIES

§ 2.1 The Program Manager shall provide the services as set forth in this Agreement.

§ 2.2 The Program Manager shall perform its services consistent with the skill and care ordinarily provided by program managers practicing in the same or similar locality under the same or similar circumstances. The Program

Manager shall perform its services as expeditiously as is consistent with such skill and care and the orderly progress of the Project.

§ 2.3 The Program Manager, as soon as practicable after execution of the Agreement, shall confirm in writing to the Owner the names and qualifications of its proposed key staff members. Within 14 days of receipt of the names and qualifications of the Program Manager's proposed key staff members, the Owner may reply to the Program Manager in writing stating (1) whether the Owner has reasonable objection to a proposed key staff member or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14 day period shall constitute notice of no reasonable objection. The Program Manager shall not staff any employees on the Project to whom the Owner has made reasonable and timely objection. The Program Manager shall not change its key staff members without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 2.4 The Program Manager shall identify a representative authorized to act on behalf of the Program Manager with respect to the Project.

§ 2.5 Except with the Owner's knowledge and consent, the Program Manager shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Program Manager's judgment with respect to the Project.

§ 2.6 The Program Manager shall provide its services in cooperation with the services provided by the Owner and the Owner's consultants and contractors and shall coordinate its services with those services provided by the Owner and the Owner's consultants and contractors. The Program Manager shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants and contractors. The Program Manager shall provide prompt written notice to the Owner if the Program Manager becomes aware of any error, omission, or inconsistency in such services or information.

§ 2.7 **Insurance.** The Program Manager shall provide services in cooperation with the separate services of the Architect, Engineer, or Architect/Engineer (ie; Design Professional of Record) as described in the *Form of Agreement between Owner and Architect/(Engineer)*.

(Paragraphs deleted)

§ 2.8 **Insurance.** The Program Manager shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Program Manager normally maintains, the Owner shall reimburse the Program Manager for any additional cost as set forth in Section 11.6.3.

§ 2.8.1 **Commercial General Liability** with policy limits of not less than **one million dollars (\$ 1,000,000)** for each occurrence and **two million dollars (\$ 2,000,000)** in the aggregate for bodily injury and property damage.

§ 2.8.2 **Automobile Liability** covering vehicles owned by the Program Manager and non-owned vehicles used by the Program Manager with policy limits of not less than **one million dollars (\$ 1,000,000)** combined single limit for bodily injury and property damage along with any other statutorily required automobile coverage.

§ 2.8.3 The Program Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections 2.8.1 and 2.8.2.

§ 2.8.4 **Workers' Compensation at statutory limits and Employers Liability** with policy limits of not less than **one million dollars (\$ 1,000,000)**.

§ 2.8.5 **Professional Liability** covering negligent acts, errors, and omissions in the performance of professional services, with policy limits of not less than **one million dollars (\$ 1,000,000)** per claim and **two million dollars (\$ 2,000,000)** in the aggregate.

§ 2.8.6 The Owner shall be an additional insured on the Program Manager's primary and excess insurance policies for Commercial General Liability and Automobile Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations.

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§ 2.8.7 The Program Manager shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.8. The certificates will show the Owner as an additional insured on the Commercial General Liability, Automobile Liability, and any excess policies.

ARTICLE 3 SCOPE OF PROGRAM MANAGER'S BASIC SERVICES

§ 3.1 General

§ 3.1.1 The Program Manager's Basic Services consist of those described in this Article 3. The Program Manager shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Program Manager shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs employed in connection with the construction of the Project, nor shall the Program Manager be responsible for the failure of the Owner's consultants or contractors to perform services for, or the construction of, the Project in accordance with the plans, specifications, or other contract or legal requirements. The Program Manager shall be responsible for the Program Manager's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Owner's consultants or contractors.

§ 3.1.2 The Program Manager shall provide the Owner with a preliminary evaluation of the Owner's program, schedule, and construction budget requirements, each in terms of the other.

§ 3.1.3 The Program Manager shall assist the Owner in determining the Owner's need for retaining consultants to provide professional and other services for the Project, and assist the Owner in reviewing qualifications and selecting any such consultants. The Program Manager shall periodically review the development of the design for the Project, and provide recommendations to the Owner for systems, materials, equipment, and techniques that may be utilized to achieve design standards for the Project, if any.

§ 3.1.4 The Program Manager shall assist the Owner in selecting the services of independent testing laboratories, review their reports, and make recommendations, if any, to the Owner based on that review.

§ 3.1.5 The Program Manager shall assist the Owner in coordinating the professional services of surveyors, special consultants, and testing laboratories required for the Project.

§ 3.1.6 The Program Manager shall assist the Owner in reviewing the qualifications of, and in selecting and retaining, the Contractor (or Contractors) for Project.

§ 3.1.7 The Program Manager shall assist the Owner and Architect in establishing digital data protocols for the Project as appropriate.

§ 3.1.8 The Program Manager shall develop a strategy, procedure, and schedule to assist the Owner in obtaining the required reviews and approvals of authorities having jurisdiction over the Project; and shall assist the Owner in connection with the Owner's responsibility for filing documents required for such approvals. The Program Manager shall assist the Owner in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by the Contractor. The Program Manager shall verify that the Owner has paid applicable fees and assessments.

§ 3.1.9 (Void – Any services related to sustainable design) The Program Manager and the Owner shall discuss the feasibility of incorporating sustainable objectives in the Project.

§ 3.1.10 The Program Manager shall retain all Project related documents and information it receives. Upon reasonable notice, the Owner shall have access to all such documents and information. Project participants shall have access to such documents and information only as approved by the Owner. The Program Manager shall preserve such documentation and information for a period of one year from the date of Substantial Completion and at that time provide a copy to the Owner.

§ 3.2 Project Management Plan

§ 3.2.1 In order to ascertain the requirements of the Project, the Program Manager shall review and discuss with the Owner the Initial Information, along with any other information to be furnished by the Owner and listed below.

Init.

(List other information to be furnished by the Owner.)

To be determined

§ 3.2.2 The Program Manager shall develop and document a Project Management Plan with recommendations for the Owner's internal management of the Project, including a description of, and requirements pertaining to, the following:

- .1 Project management approach and organization, including executive, management and team staffing plan and responsibilities;
- .2 Project planning and development activities, including strategic planning; prioritizing; and defining scope, schedule, and budget for the Project;
- .3 Cost estimates;
- .4 Project management controls, including scope, budget/cost, schedule, and quality management plan;
- .5 Procurement strategies and procedures, including strategy for procurement of design services and construction; procedures for pre-purchase of material, systems, and equipment; procedures for evaluating and approving substitutions; and strategy for affirmative action or diversity planning;
- .6 Authorization processes and procedures, including administrative approval processes and responsibilities, and key documentation for: professional services and preconstruction services; processes and procedures for Project construction procurement, such as award, contracting, notice to proceed, Change Orders, payment certification; and Project closeout;
- .7 Project communication procedures, including systems, meetings, reporting, investigation, and records;
- .8 Development of design process guidelines, including coordination and permit process;
- .9 Development of construction process guidelines, including preconstruction and construction administration services, construction phase processes and procedures, program coordination, Change Order management, commissioning, and Project closeout procedures; and
- .10 Project acceptance and turnover guidelines relating to contract completion and closeout management, including record documentation, manuals and warranties.

§ 3.2.3 The Project Management Plan shall also include the Program Manager's recommendations regarding the delivery method for design and construction of the Project.

§ 3.2.4 The Program Manager shall obtain the Owner's approval of the Project Management Plan, and any subsequent revisions to the Project Management Plan.

§ 3.3 Information Management and Standards

§ 3.3.1 The Information Management System is a web-based File-Sharing Information System used to distribute Project related information only between the Owner and the Project Manager. A separate web-based File-Sharing Information Management System shall be furnished by the Owner's separate Owner/Architect Agreement.

§ 3.3.2

(Paragraphs deleted)

(Section Deleted)

§ 3.3.2 **File Sharing System.** The Program Manager shall implement, maintain, and upgrade as necessary, via the file sharing system furnished by the Owner's separate AE consultant, a web-based File Sharing System to be used to receive and distribute Project Reports, Project Schedules, and other information as agreed by the Owner and the Program Manager.

§ 3.3.3 **Project Management Information System.** The Program Manager shall implement, maintain, and upgrade as necessary, via the file sharing system furnished by the Owner's separate AE consultant, a web-based Project Management Information System to be used to receive, distribute, and maintain Project Reports, Project Schedules, and other information as agreed by the Owner and the Program Manager. Activities under the Project will be scheduled and documented through the Project Management Information System. The Project Management Information System shall organize information by activity or other relevant categories, as determined by the Program Manager and Owner. The Program Manager shall collect information pertaining to the Project, and update the Project Management Information System on a weekly basis unless otherwise agreed. The Project Management Information System shall contain, at a minimum, the current status on contracts, budget, and schedule, and the documents identified in this Section 3.3.3, including the following:

Init.

- .1 The Contract Documents
- .2 Addenda
- .3 Change Orders and Construction Change Directives
- .4 Modifications
- .5 Construction schedules and submittal schedules
- .6 Requests for information and any responses, logs, or compilations pertaining to requests for information
- .7 Approved Shop Drawings, Product Data, and similar required submittals
- .8 Certificates of insurance received from the Contractor
- .9 Consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment
- .10 Affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens
- .11 Minutes for any meeting the Program Manager attends
- .12 Any other documentation required of the Contractor under the Contract Documents, including warranties and similar submittals
- .13 Other
 - .a photographs / videos
 - b. record / archive documents

(Paragraphs deleted)

§ 3.4 Project Budget Control

§ 3.4.1 If the Owner has not established a budget for the Project, the Program Manager and the Owner shall collaborate to prepare a Project Budget, which shall include the costs for the Program Manager's services, the costs of the services of the Owner's other consultants, the costs for design and construction of the Project, reasonable cost contingencies, and additional cost projections and information as necessary. The Owner shall review and approve the Project Budget in writing. On a monthly basis, or as otherwise agreed to by the Owner, the Program Manager shall update and provide reports on the Project Budget.

§ 3.4.2 The Program Manager shall develop and implement a system of budget and cost controls to assist the Owner in the management of Project costs. The Program Manager shall prepare cash flow projections of costs for the Project.

§ 3.4.3 The Program Manager shall share information regarding the Project Budget with the Owner's consultants as authorized by the Owner.

§ 3.4.4 The Program Manager shall report the impact on the Project Budget of contracts and Modifications proposed by the Owner and the Owner's consultants and contractors.

§ 3.5 Project Schedule Control

§ 3.5.1 The Program Manager shall prepare a Project Schedule showing priorities, sequences, durations, and responsible parties, for major design, pricing, construction, and Owner activities. The Project Schedule shall also identify critical milestone dates and schedule contingencies. As the Project progresses, the Program Manager shall update the status and expand the level of detail of the Project Schedule. The Project Schedule shall also incorporate or identify

- .1 dates for approvals and permits;
- .2 the design and construction schedules, including dates of commencement and completion, and other Project milestones;
- .3 Project components that need to be ordered or procured by the Owner, if any; and
- .4 the Owner's occupancy requirements, and any portions of the Project having occupancy priority.

§ 3.5.2 The Program Manager shall provide recommendations for sequencing and phasing to meet overall Project objectives.

§ 3.5.3 The Program Manager shall monitor and report on the progress of the Project and advise the Owner of observed deviations from the Project Schedule or key milestones that may impact Substantial Completion or final completion. The Program Manager shall include the reports in the Project Management Information System if selected

Init.

in Section 3.3. The Program Manager shall consult with the Owner and the Owner's consultants and contractors and assist the Owner in developing recovery plans when the schedules or objectives are not being met.

(Paragraphs deleted)

§ 3.6 Project Quality Control

§ 3.6.1 The Program Manager shall

(Paragraphs deleted)

establish quality control guidelines, that the Owner may include in agreements between the Owner and the Owner's consultants or contractors, and distribute them through the Information Management System, if one is selected in Section 3.3.

§ 3.6.2 The Program Manager shall confirm that the Contractor has prepared a safety program and quality control plan.

§ 3.6.3 The Program Manager shall visit the site at intervals appropriate to the state of construction, or at the specific intervals or milestones set forth, to become generally familiar with the progress and quality of the portion of the Work completed.

§ 3.6.3.1 If the Program Manager is required to visit the site at specific intervals or milestones, set forth such intervals or milestones below.

**At least 3 times per week during 5-day work weeks,
at least 2 times a week during 3 & 4-day work weeks,
and at least 1 time a week during 1 & 2-day work weeks.**

§ 3.6.4 The Program Manager shall advise the Owner of observations it makes regarding deficiencies in the performance of the Owner's consultants and contractors.

§ 3.7 Other Services

§ 3.7.1 Subject to Sections 4.2.1 and 4.5, upon the Owner's written request, the Program Manager shall provide reasonable assistance in the areas of community and public relations, in order to enhance and maintain public awareness in furtherance of the interests of the Project and the Owner.

§ 3.7.2 The Program Manager shall schedule and conduct meetings with the necessary Project participants to coordinate the progress of the Project. The Program Manager shall also prepare minutes of such meetings. The Program Manager shall include its meeting minutes, as appropriate, in the Project Management Information System if selected in Section 3.3.

§ 3.7.3 The Program Manager shall assist the Owner in preparing construction contracts and advise the Owner on the acceptability of Subcontractors and material suppliers proposed by the Contractor.

(Paragraphs deleted)

§ 3.7.4 The Program Manager shall assist the Owner in selecting the dispute resolution procedures to be included in the agreements between the Owner and consultants and contractors for disputes arising out of the Project.

§ 3.7.5 Upon the written request of the Owner, the Program Manager shall evaluate and provide input to the Owner on claims arising out of the Project.

§ 3.8 Design Management Services

§ 3.8.1 The Program Manager shall consult with the Owner, research applicable design criteria, attend Program and project meetings, communicate with members of the Program and project team(s), and issue periodic reports on the progress of the Program Manager's services and in particular the development of the design requirements.

§ 3.8.2 The Program Manager shall coordinate its services with those services provided by the Owner, the Architect(s) of Record, and the Owner's other consultants and contractors. The Program Manager shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's other consultants and

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contractors. The Program Manager shall provide prompt written notice to the Owner if the Program Manager becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.8.3 The Program Manager shall not be responsible for directives or substitutions made by the Owner or the Architect(s) of Record, without the Program Manager's approval.

§ 3.8.4 The Program Manager shall not have control over, charge of, or responsibility for the services provided by the Architect(s) of Record, nor shall the Program Manager be responsible for the Architect(s) of Record's failure to perform the services in accordance with the requirements of the agreements between the Owner and the Architect(s) of Record.

§ 3.8.5 The Program Manager shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with any construction or related activity on any project in the Program.

§ 3.9 Design Management - Program Development

The Program Manager shall assist the Owner in development of the Program as set forth in this Section 3.9.

§ 3.9.1 The Program Manager shall review the Initial Information and any other Program information provided by the Owner.

§ 3.9.2 The Program Manager shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Program Manager to perform its services for the Program. The Program Manager shall reach an understanding with the Owner regarding the design requirements of the Program.

§ 3.9.3 The Program Manager shall meet regularly with the Owner to discuss the further development of the Program.

§ 3.9.4 The Program Manager, in collaboration with the Owner, shall develop an order of priority for the projects in the Program based on the analysis of facility assessment data provided by the Owner, estimates of probable construction cost, scheduling implications, and other Program goals and requirements.

§ 3.10 Design Management – Design Requirements

§ 3.10.1 In consultation with the Owner, the Program Manager shall develop and document the design requirements for the Program, including any sustainability objectives. The design requirements shall provide a functional, aesthetic, and quality framework for the projects in the Program and shall include the following: planning criteria (area, volume, equipment, finish, technical services and other relevant functional requirements for typical spaces); specifications and performance requirements (including sustainable design criteria) for materials, systems, components and assemblies organized by classification system as agreed upon with the Owner; drawing, building information modeling, and documentation standards (including requirements for interim and final contract document deliverables); typical design details of selected conditions; and procurement, contracting and general requirements. The design requirements shall incorporate any existing Owner design standards. The Program Manager shall provide the design requirements to the Owner for evaluation and approval by the Owner.

§ 3.10.2 The Program Manager shall provide the approved design requirements for inclusion in the Web-based Program Management Information System, implemented by the Program Manager to receive, distribute and maintain Program Reports and other information and documentation, and for use by the Architect(s) of Record and other Program participants.

§ 3.10.3 In consultation with the Owner, the Program Manager shall review and update the design requirements at appropriate intervals as required by the status of the Program.

§ 3.11 Design Management - Schematic Design Services

The Program Manager shall perform the Schematic Design services set forth in this Section 3.11 for each project in the Program.

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§ 3.11.1 The Program Manager shall review the program and other project specific information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Program Manager's services.

§ 3.11.2 The Program Manager shall prepare a preliminary evaluation of the program, schedule, budget for the Cost of the Work, project site, proposed procurement or delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the project. The Program Manager shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably necessary.

§ 3.11.3 The Program Manager shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction, including the feasibility of incorporating environmentally responsible design approaches. The Program Manager shall reach an understanding with the Owner regarding the requirements of the project.

§ 3.11.4 The Program Manager shall consider material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the design requirements as well as the Owner's program, schedule and budget for the Cost of the Work.

§ 3.11.5 The Program Manager shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics in assisting the Architect of Record in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.11.6 The Program Manager shall meet with the Owner and Architect of Record to review the Schematic Design Documents.

§ 3.11.7 Upon receipt of the detailed estimate of the Cost of the Work at the conclusion of Schematic Design services, the Program Manager shall take action and request the Owner's approval of the Schematic Design Documents.

§ 3.12 Design Management - Design Development Services

The Design Manager shall perform the Design Development services set forth in this Section 3.12 for each project in the Program.

§ 3.12.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any revisions or adjustments in the requirements and the budget for the Cost of the Work, the Program Manager shall meet with the Architect of Record as they prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents. The Design Development Documents shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include draft specifications that identify major materials and systems and establish in general their quality levels.

§ 3.12.2 The Program Manager shall meet with the Owner and Architect of Record to review the Design Development Documents and the detailed estimate of the Cost of the Work.

§ 3.12.3 Upon receipt of the detailed estimate of the Cost of the Work for the Design Development Documents, the Program Manager shall take action and request the Owner's approval of the Design Development Documents.

§ 3.12.4 After incorporation of any modifications, the Program Manager shall assist the Owner in directing the Architect of Record to make any required revisions to the Drawings, Specifications or other documents necessitated by subsequent cost estimates that exceed the Owner's budget for the Cost of the Work.

§ 3.13 Design Management - Services Relative to the Architect/Engineer(s) of Record

§ 3.13.1 The Program Manager shall provide administration of the Architect/Engineer(s) of Record's services for each project in the Program as described in this Section 3.13. The Program Manager shall have authority to act on behalf of the Owner only to the extent provided in this Agreement.

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§ 3.13.2 The Program Manager shall review the Architect(s) of Record's Construction Documents for general conformance with budget, scope, design intent, and design requirements.

§ 3.13.3 The Program Manager shall conduct reviews of Construction Documents prepared by the Architect(s) of Record at the approximate mid-point of their completion and again just prior to their completion, unless otherwise agreed. The Program Manager's review of the construction documents prepared by the Architect(s) of Record shall be for the limited purpose of checking for conformance with information given and the design concepts expressed in the design requirements. Review of such documents is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of materials equipment or systems, which are the Architect(s) of Record's responsibility.

§ 3.13.4 The Program Manager shall document the reviews provided for in Section 3.13.3 through written reports to the Owner and Architect(s) of Record.

§ 3.13.5 The Program Manager shall document the Architect(s) of Record's responses to review comments and discuss them with the Owner.

§ 3.13.6 The Program Manager shall assist in coordinating the schedule of presentations by the Architect(s) of Record to user groups, committees, boards or other public or private groups in cooperation with the other Program participants.

§ 3.13.7 The Program Manager shall provide, in a consistent format, a monthly status report indicating the progress of design and design documentation for ongoing projects and identifying any concerns with regard to the performance of the Architect(s) of Record. The monthly status report shall be provided for inclusion in the Program Management Information System.

§ 3.13.8 The Program Manager shall review invoices and requests for Additional Services from the Architect(s) of Record and provide recommendations to the Owner.

§ 3.13.9 During the Bidding or Negotiation Phase, the Program Manager shall assist the Architect(s) of Record in responding to questions, and rendering decisions, regarding compliance with the design requirements.

§ 3.13.10 The Program Manager shall participate in pre-bid and pre-construction meetings.

§ 3.13.11 The Program Manager shall assist the Owner in establishing a system for managing records of design requirements, and design and construction documents, for the projects in the Program, in coordination with, or as part of, the Program Management Information System.

§ 3.14 Construction Management – Preconstruction Phase Services

§ 3.14.1 The Program Manager shall review the program furnished by the Owner and any evaluation of the Owner's program provided by the Architect of Record, to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner and the Architect of Record.

§ 3.14.2 The Program Manager shall provide a preliminary construction evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.14.3 The Program Manager shall expeditiously review design documents during their development and advise the Owner and Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Program Manager shall also provide recommendations to the Owner and the Architect on constructability, availability of materials and labor, sequencing for phased construction, time requirements for procurement, installation and construction, and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 3.14.4 The Program Manager shall advise the Owner and the Architect if it appears that the Cost of the Work may exceed the Owner's budget and make recommendations for corrective action.

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§ 3.14.5 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Program Manager shall consult with the Owner and the Architect and make recommendations whenever the Program Manager determines that design details adversely affect constructability, cost or schedules.

§ 3.14.6 The Program Manager shall provide recommendations and information to the Owner and Architect regarding the assignment of responsibilities for temporary Project facilities and equipment, materials and services for common use of the Contractors. The program Manager shall verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents.

§ 3.14.7 The Program Manager shall provide recommendations to the Owner on the division of the Project into individual Contracts for the construction of various categories of Work, including the method to be used for selecting Contractors and awarding Contracts. If multiple Contracts are to be awarded, the Program Manager shall review the Drawings and Specifications and make recommendations as required to provide that (1) the Work of the Contractors is coordinated, (2) all requirements for the Project are assigned to the appropriate Contract, (3) the likelihood of jurisdictional disputes is minimized, and (4) proper coordination is provided for phased construction.

§ 3.14.8 The Program Manager shall update the Project schedule to include the components of the Work, including phasing of construction, times of commencement and completion required of each Contractor, ordering and delivery of products, including those that must be ordered well in advance of construction, and the occupancy requirements of the Owner.

§ 3.14.9 The Program Manager shall expedite and coordinate the ordering and delivery of Owner furnished materials, including those that must be ordered well in advance of construction.

§ 3.14.10 The Program Manager shall provide an analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical phases. The Program Manager shall make recommendations for actions designed to minimize adverse effects of labor shortages.

§ 3.14.11 The Program Manager shall assist the Owner in obtaining information regarding applicable requirements for equal employment opportunity programs, and other programs as may be required by governmental and for quasi-governmental authorities for inclusion in the Contract Documents.

§ 3.14.12 The Program Manager shall assist in developing bidder's interest in the Project and establishing bidding schedules. The Program Manager shall assist the Owner, and/or Architect in issuance of bidding documents to bidders and in conducting pre-bid conferences with prospective bidders. The Program Manager shall assist the Owner and/or Architect in issuance of the current Project schedule with each set of bidding documents. The Program Manager shall assist the Architect with regard to questions from bidders and with the issuance of addenda.

§ 3.14.13 The Program Manager shall assist the Owner in receiving bids, preparing bid analysis and in making recommendations to the Owner for the Owner's award of Contracts or rejection of bids.

§ 3.14.14 The Program Manager shall assist the Owner in preparing Construction Contracts.

§ 3.14.15 The Program Manager shall assist the Owner in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by the various Multiple Prime Contractors. The Program Manager shall verify that the Owner has paid applicable fees and assessments. The Program Manager shall assist the Owner and Architect in connection with the Owner's responsibility for filing documents required for the approvals of governmental authorities having jurisdiction over the Project.

§ 3.15 Construction Management – Construction Phase Services

The Program Manager shall provide to the Owner only the services in this Section that are designated by a check or "X" in the box adjacent to the listed service.

(Designate the services the Program Manager shall provide by placing a check or "X" in the box adjacent to the listed service. If necessary, provide expanded or modified descriptions of the designated services in the section or in an exhibit attached to this document.)

<input checked="" type="checkbox"/>	§ 3.15.1 The Program Manager shall provide a staffing plan to include one or more representatives who shall be in general attendance at the Project site during the durations of active Work periods. The Program Manager shall determine in general that the Work of the Contractor is being performed in accordance with the requirements of the Contract Documents and notify the Owner and Architect in writing of observed defects and deficiencies in the Work.
<input checked="" type="checkbox"/>	§ 3.15.2 The Program Manager shall review information regarding tests and inspections provided by the Contractor, and provide written comments to the Owner, for consideration by the Owner and Architect, regarding any questions or concerns the Program Manager has with the information provided by the Contractor.
<input checked="" type="checkbox"/>	§ 3.15.3 If the Program Manager reasonably believes the Architect should reject Work or require additional inspection or testing of the Work, the Program Manager shall promptly recommend such actions to the Owner and Architect in writing. The Program Manager shall also recommend to the Owner, in writing, courses of action when requirements of a contract are not being fulfilled. The Program Manager shall include all recommendations required by this Section 4.2.3 in its Project Reports.
<input checked="" type="checkbox"/>	§ 3.15.4 The Program Manager shall review the Contractor's Applications for Payment and provide written recommendations, if any, to the Owner and Architect.
<input checked="" type="checkbox"/>	§ 3.15.5 If requested by the Architect and Owner, the Program Manager shall evaluate Contractor requests for information regarding the Contract Documents and provide written recommendations to the Owner and Architect.
<input checked="" type="checkbox"/>	§ 3.15.6 When requested by the Owner, the Program Manager shall review requests for changes, assist the Owner and Architect in evaluating and negotiating Contractors' proposals, and submit written recommendations to the Architect and Owner. Upon request by the Owner, the Program Manager will review Change Orders and Construction Change Directives prepared by the Architect and provide written comments regarding any questions or concerns the Program Manager has regarding the Change Orders or Construction Change Directives.
<input checked="" type="checkbox"/>	§ 3.15.7 The Program Manager shall review the Contractor's daily logs and other similar relevant data as the Owner may require and provide written comments to the Owner regarding any questions or concerns the Program Manager has regarding the daily logs or other data.
<input checked="" type="checkbox"/>	§ 3.15.8 The Program Manager shall evaluate whether the Work, or a designated portion thereof, is substantially complete and provide its written recommendations to the Owner and Architect. Upon the Contractor's completion of the Work, the Program Manager shall inspect the Work and provide written recommendations to the Owner and Architect.
<input checked="" type="checkbox"/>	§ 3.15.9 With the Architect and the Owner's maintenance personnel, the Program Manager shall observe the Contractor's final testing and start-up of utilities, operational systems and equipment, and observe any commissioning as the Contract Documents may require.
<input checked="" type="checkbox"/>	§ 3.15.10 The Program Manager shall assist the Owner in establishing a procedure for tracking and submission of records, warranties, guarantees, and documents pertaining to systems verification and Project close-out. The Program Manager shall deliver to the Owner all keys, manuals, record drawings, and maintenance stocks it receives from the Contractor.
<input checked="" type="checkbox"/>	§ 3.15.11 The Program Manager shall review the Contractor's final Application for Payment and provide written recommendations, if any, to the Owner and Architect.
<input checked="" type="checkbox"/>	§ 3.15.12 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Program Manager shall, without additional compensation, attend a meeting with the Owner and Architect to review the facility operations and performance.

ARTICLE 4 ADDITIONAL SERVICES

(Paragraph deleted)

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Program. The Program Manager shall provide the listed Additional Services only if specifically designated in the table below as the Program Manager's responsibility, and the Owner shall compensate the Program Manager as provided in Section 11.3.

(Designate the Additional Services the Program Manager shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.1, or in an exhibit attached to this services document. If in an exhibit, identify the exhibit.)

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Services	Responsibility (Program Manager, Owner or Not Provided)	Location of Service Description (Section 4.2 below or an exhibit attached to this document and identified below)
§ 4.1.1 Multiple preliminary designs for individual projects	<i>Not Provided</i>	
§ 4.1.2 Programming for individual projects (B202™-2009)	<i>Not Provided</i>	
§ 4.1.3 Prototype Facility design	<i>Not Provided</i>	
§ 4.1.4 Services as the Architect of Record for one or more projects (B172™-2013)	<i>Not Provided</i>	
§ 4.1.5 Pre-purchased material and equipment design, logistics and specifications	Program Manager	To be determined
§ 4.1.6 Contract Administration Phase services for individual projects, except those services listed in Section 3.16	Program Manager	See Section 4.2
§ 4.1.7 Detailed cost estimating	<i>Not Provided</i>	
§ 4.1.8 Measured drawings	<i>Not Provided</i>	
§ 4.1.9 Existing facilities surveys	<i>Not Provided</i>	
§ 4.1.10 Facility Condition Assessment	<i>Not Provided</i>	
§ 4.1.11 Site Evaluation and Planning (B203™-2007)	<i>Not Provided</i>	
§ 4.1.12 Civil engineering	<i>Not Provided</i>	
§ 4.1.13 Landscape design	<i>Not Provided</i>	
§ 4.1.14 Architectural Interior Design (B252™-2007)	<i>Not Provided</i>	
§ 4.1.15 Value Analysis (B204™-2007)	<i>Not Provided</i>	
§ 4.1.16 Preliminary LEED® Certification Services	<i>Not Provided</i>	
§ 4.1.17 Post occupancy evaluation	Program Manager	
§ 4.1.18 Tenant-related services	Program Manager	As requested by Owner
§ 4.1.19 Coordination of Owner's consultants	Program Manager	As requested by Owner
§ 4.1.20 Telecommunications/data design coordination	Program Manager	As requested by Owner
§ 4.1.21 Security Evaluation and Planning (B206™-2007)	<i>Not Provided</i>	
§ 4.1.22 Commissioning (B211™-2007)	<i>Not Provided</i>	
§ 4.1.23 Extensive environmentally responsible design	<i>Not Provided</i>	
§ 4.1.24 LEED® Certification (B214™-2012)	<i>Not Provided</i>	
§ 4.1.25 Historic Preservation (B205™-2007)	<i>Not Provided</i>	
§ 4.1.26 Preliminary Energy Modeling Services	<i>Not Provided</i>	
§ 4.1.27 Technical Peer review of Construction Documents	<i>Not Provided</i>	
§ 4.1.28 Other		

§ 4.2 The Program Manager shall provide the listed Additional Services only if specifically designated in the table below as the Program Manager's responsibility, and the Owner shall compensate the Program Manager as provided in Section 11.3.

(Designate the Additional Services the Program Manager shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.4 or in an attached exhibit. If in an exhibit, identify the exhibit. AIA Contract Document numbers are cited, where applicable, to provide a basis for the proposed scope of services but may need to be revised to be applicable in the program management context.)

§ 4.2.1 Community communications not included in	Program Manager	As requested
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Section 3.8.1		
§ 4.2.2 Capital campaign support	Not Provided	
§ 4.2.3 Assistance with sustainability certifications	Not Provided	
§ 4.2.4 Affirmative action/diversity compliance and outreach	Not Provided	
§ 4.2.5 Existing facilities analysis	Not Provided	
§ 4.2.6 Site Selection Analysis (B203™–2007)	Not Provided	
§ 4.2.7 Economic analysis	Not Provided	
§ 4.2.8 Programming (B202™–2009)	Program Manager	Previously completed
§ 4.2.9 Master planning	Not Provided	
§ 4.2.10 Design standards services	Not Provided	
§ 4.2.11 Early procurement of materials and equipment	Program Manager	To be determined
§ 4.2.12 FF&E procurement coordination	Program Manager	To be determined
§ 4.2.13 Life cycle analysis	Not Provided	
§ 4.2.14 Move management	Program Manager	To be determined
§ 4.2.15 Coordination of hazardous material testing or abatement	Not Provided	
§ 4.2.16 Payroll compliance services	Not Provided	
§ 4.2.17 Stakeholder relationships management	Program Manager	As requested

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

§ 4.3 The Program Manager shall provide the listed Additional Services only if specifically designated in the table below as the Program Manager's responsibility, and the Owner shall compensate the Program Manager as provided in Section 11.3.

(Designate the Additional Services the Program Manager shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.4 or in an attached exhibit. If in an exhibit, identify the exhibit. AIA Contract Document numbers are cited, where applicable, to provide a basis for the proposed scope of services, but may need to be revised to be applicable in the program management context.)

Services	Responsibility <i>(Program Manager, Owner or not provided)</i>	Location of Service Description <i>(Section 4.4 below or in an exhibit attached to this document and identified below)</i>
§ 4.3.1 Community communications not included in Section 3.8.1	Program Manager	As requested
§ 4.3.2 Capital campaign support	Not provided	
§ 4.3.3 Assistance with sustainability certifications	Not provided	
§ 4.3.4 Affirmative action/diversity compliance and outreach	Not provided	
§ 4.3.5 Existing facilities analysis	Not provided	
§ 4.3.6 Site Selection Analysis (B203™–2007)	Not provided	
§ 4.3.7 Economic analysis	Not provided	
§ 4.3.8 Programming (B202™–2009)	Program Manager	Previously completed
§ 4.3.9 Master planning	Not provided	
§ 4.3.10 Design standards services	Not provided	

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§ 4.3.11	Early procurement of materials and equipment	Program Manager	To be determined
§ 4.3.12	FF&E procurement coordination	Program Manager	To be determined
§ 4.3.13	Life cycle analysis	Not provided	
§ 4.3.14	Move management	Program Manager	To be determined
§ 4.3.15	Coordination of hazardous material testing or abatement	Not provided	
§ 4.3.16	Payroll compliance services	Not provided	
§ 4.3.17	Stakeholder relationships management	Program Manager	To be determined

§ 4.4 Insert a description of each Additional Service designated in Section 4.3 as the Program Manager's responsibility, if not further described in an exhibit attached to this document.

Services shall be provided at a fixed fee included within this agreement. The scope of services is anticipated to be required in some form reviewed in Programming Phase services and will be provided at the request of the Owner.

§ 4.5 Additional Services may be provided after execution of this Agreement without invalidating this Agreement. Except for services required due to the fault of the Program Manager, any Additional Services provided in accordance with this Section 4.5 shall entitle the Program Manager to compensation pursuant to Section 11.4.

§ 4.5.1 Upon recognizing the need to perform the following Additional Services, the Program Manager shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Program Manager shall not proceed to provide the following services until the Program Manager receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information; a change to previous instructions or approvals given by the Owner; or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's Project Schedule or Project Budget, or procurement or delivery methods listed in Section 1.3.6;
- .2 Services necessitated by the enactment or revision of codes, laws or regulations, or by official interpretations, after the date of this Agreement;
- .3 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Program Manager is party thereto;
- .4 Services required to assist in the repair or replacement of any elements of construction for any cause except the negligence of the Program Manager; or
- .5 Services required by deficiencies in the performance or default of Owner's consultants or contractors.

§ 4.5.2 If the services covered by this Agreement have not been completed within **Thirty (30) months** of the date of this Agreement, through no fault of the Program Manager, an extension of the Program Manager's services beyond that time shall be compensated as Additional Services pursuant to Section 11.4.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 The Owner shall provide and update information regarding requirements for, and limitations on, the Project in a timely manner, including the information in Article 1; information pertaining to other objectives, schedule constraints and criteria, and site requirements; and any other information either described in Article 5 or required for the Program Manager to perform its services.

§ 5.2 The Owner shall collaborate with the Program Manager to establish and periodically update the Project Budget including (1) the Program Manager's costs, (2) design and constructions costs, (3) the Owner's other costs, and (4) reasonable contingencies related to all of these costs. The Owner shall promptly notify the Program Manager if the Owner significantly increases or decreases the Project Budget.

§ 5.3 The Owner shall retain all contractors and consultants necessary to carry out the Project except for those consultants retained by the Program Manager as listed in Section 1.4.2. The Owner shall provide the Program Manager with a copy of all executed agreements between the Owner and its consultants and contractors, and any

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modifications to those agreements. The Owner shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided, and require that its contractors maintain commercial general liability insurance and other liability insurance as appropriate to the services or work provided. The Owner shall require all contractors to name the Program Manager and its consultants as Additional Insureds on all insurance policies where available.

§ 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Program Manager's services.

§ 5.5 The Owner shall furnish surveys to describe the physical characteristics, legal limitations, utility locations and written legal description of the Project site. The survey and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to an appropriate benchmark.

§ 5.6 The Owner shall furnish services of a geotechnical engineer, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests, and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.7 The Owner shall furnish tests, inspections, and reports required by law or the Project, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.8 The Owner shall furnish all legal, insurance, financing, and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.9 The Owner shall provide, and shall require that its consultants and contractors provide, prompt written notice to the Program Manager if they become aware of any fault or defect in the Project, including errors, omissions or inconsistencies in any documents produced by, or services provided by, the Program Manager.

§ 5.10 In the agreements between the Owner and the Owner's consultants or contractors, the Owner shall include a duty that the consultant or contractor cooperate with the Program Manager and provide information and documents reasonably necessary for the Program Manager to prepare and update the Project Management Plan or as otherwise required for the Program Manager to perform its services.

§ 5.11 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Program Manager's consultants through the Program Manager about matters arising out of or relating to the Project. The Owner shall communicate with its own forces, consultants, and contractors, and coordinate its own internal information and communications that are necessary for the Project. The Owner shall notify the Program Manager of any such communication that affects the Project. The Owner shall promptly notify the Program Manager of any direct communications that may affect the Program Manager's services.

§ 5.12 The Owner shall provide the Program Manager access to the Project site and other facilities under the Owner's control and associated with the Project. The Owner shall obligate its contractors to provide the Program Manager access to the Project site wherever Work is in preparation or progress.

§ 5.13 The Owner shall purchase and maintain, or require its contractors to purchase and maintain, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial contract sum, plus the value of subsequent contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. This policy shall cover reasonable compensation for Program Manager's services and expenses required as a result of such insured loss.

ARTICLE 6 COST OF THE WORK OF THE PROJECTS

§ 6.1 For purposes of this Agreement, the Cost of the Work for each project shall be the total cost to the Owner to construct all elements of the project designed or specified by the Architect(s) of Record, and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Program Manager or the Architect(s) of Record, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner. The term "Cost of the Work" is project specific and does not apply to the entire Program.

§ 6.2 The Owner's budget for the Cost of the Work for the project(s) is provided as a result of Programming Phase analysis and may be adjusted throughout the project. The Program Manager's evaluations of the Owner's budget for the Cost of the Work represent the Program Manager's judgment as a design professional.

§ 6.3 The Owner shall require the individual or entity responsible for cost estimating to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Program Manager shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the cost consultant prepares as the Program Manager progresses with its services. The Program Manager may review the estimates, and such review will be solely for the Program Manager's guidance in completion of its services; however, the Program Manager shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

(Paragraphs deleted)

§ 6.4 If, prior to the conclusion of the Design Development Phase, an estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Program Manager, in consultation with the individual or entity responsible for estimating, shall make appropriate recommendations to the Owner to adjust the project's size, quality or budget, and the Owner shall cooperate with the Program Manager in making such adjustments.

§ 6.5 If the estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 in consultation with the Program Manager, revise the project program, scope, or quality as required to reduce the Cost of the Work; or
- .3 implement any other mutually acceptable alternative.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Program Manager assigns to the Owner its rights, including copyright, in its Instruments of Service. The Program Manager shall obtain a similar assignment to the Owner from the Program Manager's consultants consistent with this Agreement. For purposes of this Agreement, Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Program Manager, the Owner, and their consultants and contractors under their respective services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models, and other similar materials.

§ 7.2 The Program Manager and Owner warrant that in transmitting any information, including Instruments of Service, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.3 The Owner shall have exclusive ownership of all data in the Information Management System and the Project Management Plan developed or contributed by the Program Manager or the Program Manager's consultants and contractors. Ownership of the data in the Information Management System and the Project Management Plan does not include ownership of any proprietary software developed and owned by the Program Manager and used in connection with the collection, manipulation, or publication of the data in the Information Management System and the Project Management Plan. Unless the Owner pays the licensing fee described in Section 11.7, the Owner's right to use any such proprietary software shall terminate at the time of termination of this Agreement. The Program Manager shall take all steps reasonably necessary to allow the Owner to exercise the Owner's rights to own and utilize the data in the Information Management System and the Project Management Plan after termination of the Owner's rights to use any proprietary software. The Program Manager shall include provisions consistent with the provisions in this Section 7.3 in the Program Manager's agreements with the Program Manager's consultants. If the Program Manager rightfully terminates this Agreement for cause as provided in Section 9.4, the Program Manager's obligations under, and the

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Owner's rights to further use of proprietary software granted in, this Section 7.3 shall terminate. Ownership of data obtained from, or compiled, developed or contributed by, the Owner's consultants or contractors will be controlled by the terms of the Owner's agreements with those consultants or contractors.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Program Manager shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other, arising out of or related to this Agreement, in accordance with the requirements of the method of binding dispute resolution selected in this Agreement, within the period specified by applicable law, but in any case, not more than 10 years after the date of Substantial Completion of the Work on the Project. The Owner and Program Manager waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance required under Section 5.13, the Owner and Program Manager waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in Section 5.13. The Owner or the Program Manager, as appropriate, shall require of their contractors, consultants, and agents and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Program Manager shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Program Manager, its employees, and its consultants in the performance of services under this Agreement. The Program Manager's duty to indemnify the Owner under this provision shall be limited to the available proceeds of insurance coverage.

§ 8.1.4 The Program Manager and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 7.2.1 Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution.

(Paragraphs deleted)

§ 8.2.2 The Owner and Program Manager shall endeavor to resolve claims, disputes, and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraph deleted)

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Program Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: (Specify)

§ 8.3 Arbitration (Section - Void and Deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Program Manager in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Program Manager's option, cause for suspension of performance of services under this Agreement. If the Program Manager elects to suspend services, the Program Manager shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Program Manager shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Program Manager shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Program Manager's services. The Program Manager's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Program Manager shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Program Manager shall be compensated for expenses incurred in the interruption and resumption of the Program Manager's services. The Program Manager's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Program Manager, the Program Manager may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Program Manager for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Program Manager, the Program Manager shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

§ 9.7 Termination Expenses are in addition to compensation for the Program Manager's services and include expenses directly attributable to termination for which the Program Manager is not otherwise compensated.

(Paragraph deleted)

§ 9.8 In the event of termination of this Agreement, the Owner's rights to use information and materials provided by the Program Manager are set forth in Article 7.

(Paragraphs deleted)

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1

(Paragraphs deleted)

This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 The

(Paragraphs deleted)

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Owner and Program Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Program Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

(Table deleted)

§ 10.3

(Paragraphs deleted)

If the Owner requests the Program Manager to execute certificates, the proposed language of such certificates shall be submitted to the Program Manager for review at least 14 days prior to the requested dates of execution. If the Owner requests the Program Manager to execute consents reasonably required to facilitate assignment to a lender, the Program Manager shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Program Manager for review at least 14 days prior to execution. The Program Manager shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.4

(Paragraphs deleted)

Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Program Manager.

§ 10.5 Unless otherwise required in this Agreement, the Program Manager shall have no responsibility for the discovery, presence, handling, removal, or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.6 The Program Manager shall have the right to include photographs of the Project among the Program Manager's promotional and professional materials. The Program Manager shall be given reasonable access to the Project to take photographs. However, the Program Manager's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Program Manager in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Program Manager in the Owner's promotional materials for the Project.

§ 10.7 If the Program Manager or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 10.7.1.

§ 10.7.1 If the Program Manager or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party may disclose such information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. The Party receiving such information may also disclose it to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.7.

§ 10.8 Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 10.9 The Owner agrees not to solicit or hire the Program Manager's employees who are involved with the Project prior to one year after completion of the Project.

ARTICLE 11 COMPENSATION

§ 11.1 For the Program Manager's Basic Services described under Article 3, the Owner shall compensate the Program Manager as follows:

(Insert amount of, or basis for, compensation, including stipulated sums, hourly or monthly billing rates, direct salary expense plus multiple, or monthly fee.)

A total Fee of Three-hundred Seventy Thousand dollars (\$370,000.00), separated in 3 parts as follows;

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User Notes:

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Part I - For the Program Manager's Design Management Services

A stipulated sum of **One Hundred Ten Thousand Five Hundred Dollars (\$110,500.00)** comprised of monthly fees and milestone fees based on the Project's level of completion anticipated as follows under 11.2. Design Management services area described in 3.8, 3.9, 3.10, 3.11, 3.12, 3.13, 4.1.5, 4.2.1, and 4.2.17.

Part II - For the Program Manager's Pre-Construction Phase Construction Management Services

A stipulated sum of **Thirty-One Thousand Dollars (\$31,000.00)** comprised of monthly fees and milestone fees based on the Project's level of completion anticipated as follows under 11.2. Pre-Construction-phase Construction Management Services are described in 3.14, 4.1.18, 4.1.19, 4.1.20, 4.2.8, 4.2.11, and 4.2.12.

Part III - For the Program Manager's Construction Phase Construction Management Services

A stipulated sum of **Two Hundred Twenty-Eight Thousand, Five Hundred Dollars (\$228,500.00)** comprised of monthly fees and milestone fees based on the Project's level of completion anticipated as follows under 11.2. Construction-phase Construction Management Services are described in 3.15, 4.1.6, and 4.2.14.

§ 11.2 Schedule of Anticipated Fees shall be as follows:

Date	Project Phases	Part I Fees:	Part II Fees:	Part III Fees:
Dec 2021	AE Contract Neg/MOU	\$4,000		
Jan 2022	AE Start-ups	\$4,000		
Feb 2022	SD Phase Services	\$6,000		
Mar 2022	SD Phase Services	\$8,500		
Apr 2022	SD Phase Services	\$8,500		
May 2022	SD Phase Services	\$10,000		
Jun 2022	DD Phase Services	\$6,500	\$2,000	
Jul 2022	DD Phase Services	\$9,000	\$2,000	
Aug 2022	DD Phase Services	\$9,000	\$2,000	
Sep 2022	CD Phase Services	\$10,000	\$2,000	
Oct 2022	CD Phase Services	\$10,000	\$2,000	
Nov 2022	CD Phase Services	\$10,000	\$2,000	
Dec 2022	CD Phase Services	\$10,000	\$2,000	
Jan 2023	Bid Phase Services	\$2,500	\$6,500	
Feb 2023	Complete Bid Phase	\$2,500	\$5,500	
Mar 2023	Prime Contract Start-ups		\$5,000	

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Apr 2023	Start Construction Phase		\$14,200
May 2023			\$14,200
Jun 2023			\$14,200
Jul 2023			\$14,200
Aug 2023			\$14,200
Sep 2023			\$14,200
Oct 2023			\$14,200
Nov 2023			\$14,200
Dec 2023			\$14,200
Jan 2024			\$14,200
Feb 2024			\$14,200
Mar 2024			\$14,200
Apr 2024			\$14,200
May 2024			\$14,200
Jun 2024			\$14,200
Jul 2024	Completion of Construction Phase		\$15,500
<i>Totals:</i>		\$110,500	\$31,000
			\$228,500 = \$370,000.00

§ 11.2 The hourly labor cost rates and billing rates for services of the Program Manager and the Program Manager's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Program Manager's and Program Manager's consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

To be determined by separate Amendment to this Agreement.

(Paragraphs deleted)

§ 11.3 For Additional Services designated in Sections 4.1, 4.2, or 4.3, the Owner shall compensate the Program Manager as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

To be determined by separate Amendment to this Agreement.

§ 11.4 For Additional Services that may arise during the course of the Project, including those under Section 4.5, the Owner shall compensate the Program Manager as follows:

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User Notes:

(1279677288)

(Insert amount of, or basis for, compensation.)

To be determined by separate Amendment to this Agreement.

§ 11.5 Compensation for Additional Services of the Program Manager's consultants when not included in Sections 10.3 and 10.4 shall be as follows:

To be determined by separate Amendment to this Agreement.

§ 11.6 Compensation for Reimbursable Expenses

§ 11.6.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Program Manager and the Program Manager's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .3 Fees paid for testing, surveys or other data obtained at the request of the Owner;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling, and delivery *{Applies to bulk mailings only, if requested by the Owner}*;
- .6 Professional photography and presentation materials requested by the Owner; and
- .7 Other similar Project-related expenditures.

§ 11.6.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Program Manager and the Program Manager's consultants plus **Ten percent (10 %)** of the expenses incurred.

§ 11.6.3 If the insurance requirements listed in Section 2.8 exceed the types and limits the Program Manager normally maintains and the Program Manager incurs additional costs to satisfy such requirements, the Owner shall reimburse the Program Manager for such costs as set forth below:

Insurance amounts listed under Section 2.8 are considered coverage amounts agreed to by both the Owner and the Program Manager. Additional insurance coverage increases initiated by the Program Manager are not subject to this provision. Additional insurance coverage increases requested by the Owner after adoption of this agreement will be considered subject to this provision.

§ 11.7 Compensation for Use of Program Manager's Proprietary Software

If the Owner terminates the Program Manager for its convenience under Section 9.5, or the Program Manager terminates this Agreement under Section 9.3, or upon completion of the Program Manager's services under this Agreement, the Owner shall pay a licensing fee, as compensation for the Owner's continued use of the Program Manager's proprietary software developed and owned by the Program Manager in accordance with Section 7.3, as follows:

Compensation shall be limited to reimbursement of expenses for (1) the Program Manger maintaining any terms on monthly subscription agreements and (2) fees paid to the Program Manager's IT consultant for transition consulting expenses.

§ 11.8 Payments to the Program Manager

§ 10.8.1 An initial payment of **zero (\$ 0.00)** shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.8.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Program Manager's invoice. Amounts unpaid **one-hundred twenty (120)** days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Program Manager.

(Insert rate of monthly or annual interest agreed upon.)

%

Init.

§ 11.8.3 The Owner shall not withhold amounts from the Program Manager's compensation to impose a penalty or liquidated damages on the Program Manager, or to offset sums requested by or paid to contractors or other consultants for the cost of changes to the Project, unless the Program Manager agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.8.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times for a period of three years after the termination or completion of this Agreement.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

Not Applicable

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Program Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Program Manager.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document C172™-2014, Standard Form Agreement Between Owner and Program Manager for use on a Single Project

- .2 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.)

None

This Agreement is entered into as of the day and year first written above.

OWNER *(Signature)*

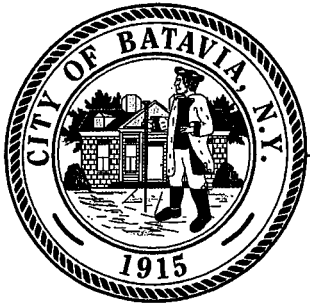
(Printed name and title)

PROGRAM MANAGER *(Signature)*

Kenneth W. Pearl, R.A. President

(Printed name and title)

Init.



City of Batavia

Memorandum

To: Rachael Tabelski, City Manager

From: Shawn Heubusch, Police Chief

Date: November 4, 2021

Subject: Surplus of vehicle for disposal

Per the City of Batavia Purchasing Manual property valued over \$1000 must be declared surplus by resolution of City Council prior to being disposed of.

The attached draft resolution calls for the surplus of one vehicle by the Police Department with the intent on auctioning/ selling the vehicle to another municipality.

Please advise if you should have any questions or concerns regarding this MEMO.

Thank you.

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

#-2021
**RESOLUTION TO DECLARE POLICE DEPARTMENT EQUIPMENT SURPLUS FOR THE
PURPOSE OF DISPOSAL**

Motion of Councilperson

WHEREAS, The Police Department has declared the equipment listed below surplus;
and

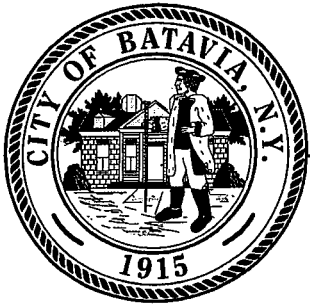
WHEREAS, the City of Batavia requires a surplus declaration of property to be made prior
to disposal or sale of equipment;

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

- 2015 Ford Police Interceptor Utility VIN 1FM5K8AR8FGC68237

**Seconded by Councilperson
and on roll call**

DRAFT



City of Batavia

Memorandum

To: Honorable City Council Members

From: Rachael J. Tabelski, MPA, City Manager

Date: November 10, 2021

Subject: Amend The Budget To Recognize VLT Revenue And Purchase Equipment For
Emergency Personnel (\$150,000)

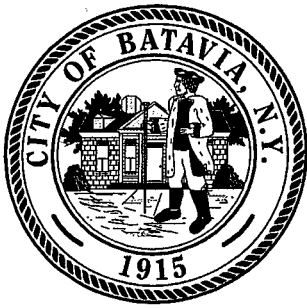
The City of Batavia is in need of operation equipment that was not originally budgeted in the FY21/22 budget that includes Mobile Data Terminals (MDT's), Portable Radios, Emergency Escape and Self-Rescue System Kits "Bail Out" Kits, and fire helmets for emergency personnel.

The City of Batavia Police Department MDT's were last replaced in 2014 and have reached their end of useful life. MDT's are a necessary piece of computing equipment installed into each patrol car providing officers with dispatch information, responder safety information, arrest reports, domestic incident reports and a variety of other computer generated data. They also allow officers to file reports, issue tickets, and complete accident reports for citizens in the field.

MDT's operate in all types of environments and withstand fluctuating temperatures. Therefore they are especially made to be tougher than the average laptop or tablet computers. *In order to replace eight units it will cost the City will be approximately \$55,000.*

In 2014 City Fire and Police Department portable and mobile radios were replaced when the County-wide radio system was transitioned to an all-digital radio system. Harris Corp was selected as the vendor. Since that time City Fire and Police have periodically fixed/replaced radios however the current products are nearing end of life and in the near future will not be supported by the vendor. In order to begin replacing radios *I recommend \$64,500 to replace 19 portable radios (6 for Fire and 13 for Police).* After this round of replacement the City Police Department will still have 21 portable and 25 mobile radios to replace, City Fire will still need to replace 41 portables and 10 mobile radios.

The City of Batavia Fire Department Emergency Escape and Self-rescue System kits are end of life, last purchased in 2009. In the event a firefighter becomes trapped by an uncontrolled emergency



City of Batavia

situation such as a rapid fire advance, the use of the Emergency Escape and Self-Rescue System is intended to enable the firefighter to utilize a non-conventional opening such as a window to escape the emergency situation. NYS legislation 12NYCRR section 800.7 (§27-a of the Labor Law is also mentioned) requires a system to be in place by all fire departments in NYS serving a population of under 1 million people. *To replace these Emergency Escape Systems will cost \$15,254.*

As an integral part of the firefighter personal protective equipment ensemble fire helmets currently used by the department are coming to their 10 year end of life. *The cost to replace these fire helmets for all firefighters and officers is \$15,246.*

I recommend that the City Council direct the City Manager to recognize \$150,000 in Video Lottery Terminal (VLT) revenue in the FY 21/22 and increase the equipment expense accounts for City Police and Fire to make these purchases.

#-2021

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BATAVIA
AUTHORIZING THE CITY MANAGER TO AMEND THE FY21/22 BUDGET FOR
THE ACQUISITION OF EQUIPMENT FOR EMERGENCY PERSONNEL**

Motion of Councilmember

WHEREAS, the City Council of the City of Batavia has determined that operational equipment for the Police and Fire Department needs to be purchased and replaced; and

WHEREAS, the equipment was not purchased as part of the FY21/22 budget due to cuts related to COVID-19 and reductions in revenue; and

WHEREAS, Video Lottery Terminal (VLT) funds (\$440,789) were received by the City of Batavia after being reinstated by the State Legislature into the New York State final budget; and

WHEREAS, these funds are considered a windfall to the City as they were not budgeted for and should only be used on one-time purchases and to cover end-of year overruns; and

WHEREAS, \$150,000 of VLT funds will be used to purchase essential equipment including Mobile Data Terminals, radios, bail-out-kits, and fire-fighter helmets that are end of life and need to be replaced.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia authorize the City Manager to recognize VLT revenue and amend the FY21/22 budget as follows:

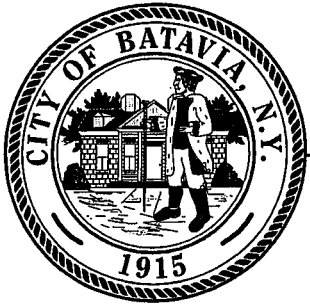
Increase Revenue:

A.00.0000.0000 3014	State Aid, VLT/Tribal Compact Monies	\$150,000
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Increase Expense:

A.04.3120.3120 201	Police Small Equipment	\$100,000
A.05.3410.3410 201	Fire Small Equipment	\$ 50,000

**Seconded by Councilmember
and on the roll call**



City of Batavia

Memorandum

To: Honorable City Council Members

From: Rachael J. Tabela, City Manager

Date: November 10, 2021

Subject: Ellicott Trail Easements

On March 14, 2016 the City of Batavia City Council approved an Inter-Municipal Agreement to split the local cost share of the Ellicott Trail project and, at the completion of the project, to maintain a portion of the trail within the City limits.

The project has reached completion, and in 2020 City Council authorized the payment of (\$196,763) per resolution #78-2020 to the Town of Batavia for the local cost share of the project.

During the planning of the trail, and as a means to advance the trail project, the Town of Batavia acquired various easements for real property within the City limits. To fully close out the project the Town of Batavia requests that the City accept the transfer of the Evans Street easement, commonly known as 60 Evans Street.

The term of the agreement is perpetual. The trail will be maintained and operated as a public improvement and will be restricted from vehicular access. The City's portion of the trail will be insured. In April the City accepted four (4) other easements via resolution #33-2021.

I recommend that the City Council accept the transfer of the Evans Street easement and agree to assume sole ownership and responsibility for maintenance and repair of the Ellicott Trail inside the City limits, now to include the Evans Street parcel as depicted in the permanent easement document.

#-2021

**A RESOLUTION AUTHORIZING THE CITY OF BATAVIA TO ACCEPT THE
TRANSFER OF AN EASEMENT RELATED TO THE ELLICOTT TRAIL AND
EXECUTE THE EASEMENT AGREEMENT**

Motion of Councilperson

WHEREAS, the City Council for the City of Batavia approved an Inter-Municipal Agreement with the Town of Batavia to construct the Ellicott Trail; and

WHEREAS, the Ellicott Trail has been constructed and specific easements will be assigned from the Town of Batavia to the City; and

WHEREAS, the following permanent easement related to the trail will be assigned to the City-60 Evans Street; and

WHEREAS, the City commits to maintain and repair the Ellicott Trail inside City limits from Pearl Street Rd. to Cedar St. including the easement areas.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Batavia accepts the assignment of easements and authorizes the City Council President to execute the Ellicott Trail Permanent Easement Agreement.

**Seconded by Councilperson
and on roll call**

DRAFT

PERMANENT EASEMENT

THIS INDENTURE, made this _____ day of _____, 2021,

BETWEEN

TOWN OF BATAVIA, a New York Municipal Corporation having an office located at 3833 West Main Street, Batavia, New York 14020,

Party of the first part, and

CITY OF BATAVIA, a New York Municipal Corporation having an office located at One Batavia City Centre, Batavia, New York 14020,

Party of the second part.

WITNESSETH:

That the party of the first part, in consideration of Ten or More Dollars, lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the party of the second part, its successors and/or assigns,

A PERMANENT EASEMENT in, on, over, under, through and across part of a parcel of land situate in the City of Batavia, County of Genesee and State of New York, commonly known as 60 Evans Street, more particularly described in a certain deed recorded in the Genesee County Clerk's Office as Instrument No. DE2018-891 (the "Premises"), and described as follows:

BEGINNING AT POINT of intersection of the southerly property line of the Premises with the easterly bank of the Tonawanda Creek;

1. Thence Northerly a distance of 77' along the easterly bank of the Tonawanda Creek;
2. Thence Southeasterly a distance of 45';
3. Thence Easerly a distance of 1083';
4. Thence Southeasterly a distance of 18' to a point of intersection of said line and the western right of way line of Evans Street;
5. Thence Southerly a distance of 35' along the western right of way line of Evans Street to the intersection of the southern property line of said parcel and western right of way line of Evans Street;
6. Thence Northwesterly a distance of 32' along the southerly property line of said parcel;
7. Thence Westerly a distance of 1121' along the southerly property line of said parcel to the point of beginning with a total approximate area of 33,257 square feet.

The above-described easement area is further identified on the map attached hereto as "EXHIBIT A."

SUBJECT TO all covenants, conditions and restriction of record affecting said premises.

The easement granted herein shall be perpetual and non-exclusive for the purpose of installing, constructing, operating, repairing, maintaining, a portion of the Ellicott Trail in the City of Batavia, County of Genesee and State of New York.

IT IS FURTHER AGREED AND UNDERSTOOD that the party of the second part shall restore any portion of the Premises disturbed as a result of the operation, repair, and/or maintenance of the Ellicott Trail to its original condition, to the extent reasonably possible.

IT IS FURTHER AGREED AND UNDERSTOOD the party of the first part shall have the right to use the surface of the Permanent Easement provided that such use shall not interfere with, obstruct or endanger any of the rights herein granted, and further provided that no structure shall be erected or ground surface grades changed within the permanent easement area without prior written consent of the second part.

IT IS FURTHER AGREED AND UNDERSTOOD the party of the first part its successors and assigns shall not be liable for personal injury or property damage caused by the carelessness, negligence or conduct of the party of the second part or any other person in the use of the Easement Premises in connection with this Easement. The party of the second part agrees to defend, indemnify and hold harmless the party of the first part, its successor's and assigns from any and all claims and damages caused directly by the existence of the Easement, the use and occupancy by the party of the second part of the Easement Premises, or the acts of the party of the second part, its agents, employees, servants, contractors, invitees or any other persons under the direction and control of any of the foregoing.

IT IS FURTHER AGREED AND UNDERSTOOD the party of the second part shall purchase and maintain in effect during the term of the Easement a protective liability and property damage insurance policy from a reputable insurance company doing business in the State of New York to cover the Easement Premises, designating the party of the first part, its officers, employees, agents and servants as named or additional insured. The party of the second part shall furnish to the party of the first part written notice of any change in, or cancellation of, coverage under the policy at least thirty days prior to the effective date of such change or cancellation.

THIS REQUEST AND PERMISSION shall be binding on the parties' successors and/or assigns.

[SIGNATURES FOLLOW ON NEXT PAGES]

IN WITNESS WHEREOF, the party of the first part has hereunto caused this instrument to be signed and sealed the day and year first above written.

TOWN OF BATAVIA

By: _____
Gregory H. Post, Supervisor

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

On the _____ day of _____ in the year _____, before me, the undersigned, personally appeared GREGORY H. POST, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her said capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

IN WITNESS WHEREOF, the party of the first part has hereunto caused this instrument to be signed and sealed the day and year first above written.

CITY OF BATAVIA

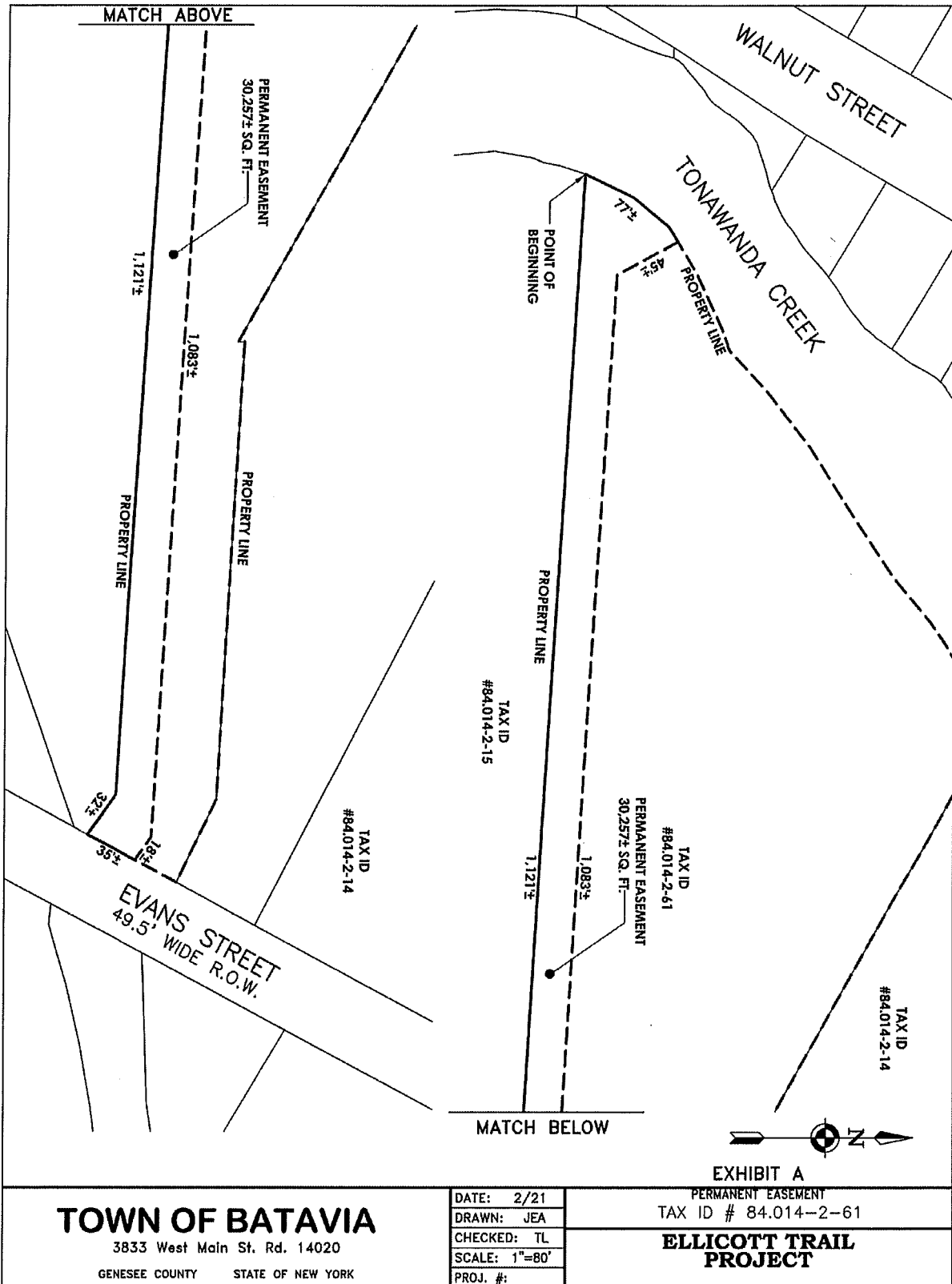
By: _____

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

On the _____ day of _____ in the year _____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her said capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT A





Recording Office Time Stamp

**Real Estate Transfer Tax Return
For Public Utility Companies'
and Governmental Agencies'
Easements and Licenses**

This form may only be used by public utility companies regulated by the Public Service Commission and governmental agencies for the recording of easements and licenses where the consideration for the grant of such easement or license is \$500.00 or less.

Name of grantee (public utility company or governmental agency)
CITY OF BATAVIA

Federal employer identification number
(if applicable)

Address of grantee
One Batavia City Centre, Batavia NY 14020

Name and telephone number of person to contact
George Van Nest, Esq. 716.847.9105

Name(s) of Grantor Of Easement or License	Address of Property	Consideration Given For Easement or License
----------------------------------------------	---------------------	------------------------------------------------

1. Town of Batavia	60 Evans Street, Batavia NY 14020; SBL 84.014-2-61	10.00
--------------------	----------------------------------------------------	-------

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

11. _____

12. _____

13. _____

14. _____

15. _____

If more than fifteen conveyances are to be recorded, attach a schedule of such other conveyances.

Signature of Grantee

I certify that the grantee is a public utility regulated by the Public Service Commission or is a governmental agency and the grantee of the easements and/or licenses above; that it is true to the best knowledge of the grantee that the granting of each such easement and/or license is exempt from Real Estate Transfer Tax imposed by Article 31 of the Tax Law by reason that each such conveyance is for a consideration of five hundred dollars or less and/or the conveyance is being made to a governmental agency.

City of Batavia

Name of grantee

Signature of partner, officer of corporation, governmental official, etc.

Title



City of Batavia

Memorandum

To: Honorable City Council Members

From: Rachael J. Tabelski, City Manager

Date: November 16, 2021

Subject: BOA Pre Development Grant- Professional Services Agreement with LaBella Associates

In July of 2019 City Council authorized the City to apply for a New York State Department of State Brownfield Opportunity Area (BOA) Pre-Development Grant. The grant was awarded in late December 2019 with a total project budget is \$215,000 including \$193,500 of grant funds, and \$21,500 of in-kind (staff support) from the City and the Batavia Development Corporation (BDC).

On August 31, 2021 the City issued a Batavia BOA Pre-Development RFP. After scoring and review of the proposals LaBella was chosen as the firm most capable to manager the project.

The BOA Pre-Development Grant will advance opportunities at the City Centre Campus and Harvester Campus, two sites within the City's Brownfield Opportunity Area. The pre-development activities that will occur at the sites include preliminary engineering and architectural studies, legal services, real estate services, zoning updates, marketing and developer engagement.

While the City Center Downtown Revitalization Initiative (DRI) \$1 million funding will improve some interior and exterior elements of the City Centre structure, more pre-development activity and planning needs to be complete to transform the entire campus. This will include a full infrastructure review to accommodate more development on the campus, parking reviews, the potential re-design of Bank Street to support development. A full Generic Environmental Impact Statement (GEIS) will be conducted for the campus that will allow future pre-permitted development.

The Harvester Campus will benefit from engineering work in relation to potential site layouts, subdivision plans, legal analysis, real estate strategy and demolition strategy work. This work could allow a systematic redevelopment of the 23-acre site into a vibrant campus of commerce in the City.

I recommend that City Council approve the professional services agreement with LaBella Associates for the BOA Pre-Development grant in the amount of \$187,130.

#-2021

**A RESOLUTION TO ENTER INTO AN AGREEMENT
WITH LABELLA ASSOCIATES FOR ENGINEERING SERVICES FOR THE BOA
PRE-DEVELOPMENT SERVICES GRANT**

Motion by Councilmember

WHEREAS, in July of 2019 City Council authorized the City to apply for a New York State Department of State Brownfield Opportunity Area (BOA) Pre-Development Grant; and

WHEREAS, the grant was awarded in late December 2019 with a total project budget is \$215,000 including \$193,500 of grant funds, and \$21,500 of in-kind (staff support) from the City and the Batavia Development Corporation (BDC); and

WHEREAS, proposals were received for a consultant to perform the engineering and professional services associated with the grant, and a committee of City personnel and stakeholders selected LaBella Associated to perform the work.

NOW, THEREFORE, be it resolved that City Council approves the award of a contract for Professional Services for the BOA Pre-Development Services Grant to LaBella Associates in the amount of \$187,130.

**Seconded by Councilmember
and on roll call**

DRAFT

Professional Services Agreement

Agreement made the ____ day of November, 2021
between

LaBella Associates, D.P.C.
("LaBella")

and

City of Batavia
("Client")

for services related to the following Project:

BOA Pre-Development Services
City of Batavia
("Project")

LaBella and Client hereby agree as follows:

1. **Description of Services:** LaBella shall perform the services set forth and described in LaBella's proposal, dated October 7, 2021, a copy of which is attached as *Exhibit A*, in accordance with the terms and conditions of this contract attached as *Exhibit B*.
2. **Compensation for Services:** Client shall compensate LaBella for its professional services as set forth in LaBella's proposal. LaBella shall submit invoices for services rendered on a monthly basis. Client shall make payment to LaBella no later than thirty (30) days after the date of each invoice.
3. **Term:** LaBella shall commence performing its services when Client gives notice to proceed. This Agreement shall terminate when LaBella's services are completed, or as otherwise provided in this Agreement.

4. **Insurance:** LaBella shall maintain, at its own expense, throughout the term of this Agreement and until the expiration of all applicable statutes of limitation, the following insurance coverages:

- Comprehensive general liability insurance with policy limits of not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate for bodily injury and property damage;
- Automobile liability insurance covering owned, non-owned, rented and hired vehicles operated by LaBella with policy limits of not less than \$1,000,000 combined single limit and aggregate for bodily injury and property damage;
- Umbrella liability insurance with policy limits of not less than \$10,000,000 each occurrence and \$10,000,000 in the aggregate;
- Worker's compensation insurance at statutory limits and employer's liability insurance with a policy limit of not less than \$1,000,000 for all employees engaged in the rendering of professional services under this Agreement; and
- Professional liability insurance with policy limits of not less than \$5,000,000 per claim and \$5,000,000 in the aggregate.

Client shall be named as an additional insured on a primary and non-contributory basis under the CGL, Automobile and Umbrella insurance policies. LaBella shall provide to the Client certificates of insurance evidencing compliance with the requirements of this Agreement. The certificates shall contain a provision that at least thirty (30) days prior written notice shall be given to Client in the event of cancellation, non-renewal, or reduction of the insurance.

5. **Indemnification:** To the fullest extent permitted by law, LaBella shall indemnify and hold the Client and its officers and employees harmless from and against liabilities, damages, losses and judgments, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of LaBella, its employees and its consultants in the performance of professional services under this Agreement. Client agrees that LaBella's financial responsibility for any and all liabilities, damages, losses, judgments, expenses and attorneys' fees shall be limited to the lesser of \$ _____ or the available proceeds of LaBella's insurance coverage.

LaBella Associates, D.P.C.

City of Batavia

By: Timothy Webber, P.E.

By: Rachael Tabelski

Name _____

Name _____

Title Civil Division Director, V.P.

Title City Manager

Date: _____

Date _____

Exhibit A
LaBella's Proposal

APPROACH & SCOPE OF WORK

The LaBella team will implement the following general scope of work:

1. Project Management

LaBella Associates will hold monthly check-ins with the City and Department of State. LaBella will also prepare quarterly reports and payment requests on behalf of the City.

2. Public Participation and Stakeholder Engagement

A minimum of two open house meetings will be held at the beginning and end of the project. The initial meeting will provide the public an opportunity to learn about project objectives and to provide input on potential redevelopment strategies. A final open house will afford participants an opportunity to comment on draft redevelopment strategies. If public health restrictions prohibit in-person meetings, the meetings can be held virtually and input can be achieved via virtual surveys or meeting rooms. LaBella will help prepare press releases, ads, and other information for the meetings. Interviews with key stakeholders identified by the City will provide in-depth information about their preferences and views of the project.

3. City Centre Pre-Development Services

LaBella will provide services that will add value to work previously completed with the BOA, DRI, and City Centre Feasibility Study scopes to advance current and future redevelopment projects including:

- Preliminary site and road engineering analyses to:
- Establish or update infrastructure and site

needs and required upgrades

- Potential site organization and layouts
- Potential abandonment or redesign of Alva Place
- Redesign and upgrades for parking lots to facilitate development
- Estimated site development costs to support up to three development sites, including support of pending public & private development proposals
- Preliminary/Conceptual Architectural plans for new or renovated buildings – Prepare or update conceptual designs, renderings and cost estimates, for up to three sites, including support of pending public & private development proposals and the City Centre concourse.
- SEQR and SHPO – Prepare appropriate SEQR forms for pending development projects, inclusive of SHPO consultation, and archaeological studies (if required). For future development projects prepare a Generic Environmental Impact Statement (GEIS) for City Centre site.
- Land Assembly, Disposition and Permitting – Identify strategies to dispose of City properties and/or acquire private properties based on proposed redevelopment strategies inclusive of required permits/approvals, legal documentation, and required zoning changes. Determine if form-based

zoning is appropriate for City Centre's C-3 zoning district and provide a model template if applicable.

- Pre-development site characterization to determine sub-surface conditions that could impact site development and provide potential for BCP tax credits.
- GIS mapping if needed or required
- Update Prospectus developed as part of City Centre Revitalization Study
- Outline a funding and incentive strategy for individual projects or overall project

4. Harvester Center Pre-Development Services

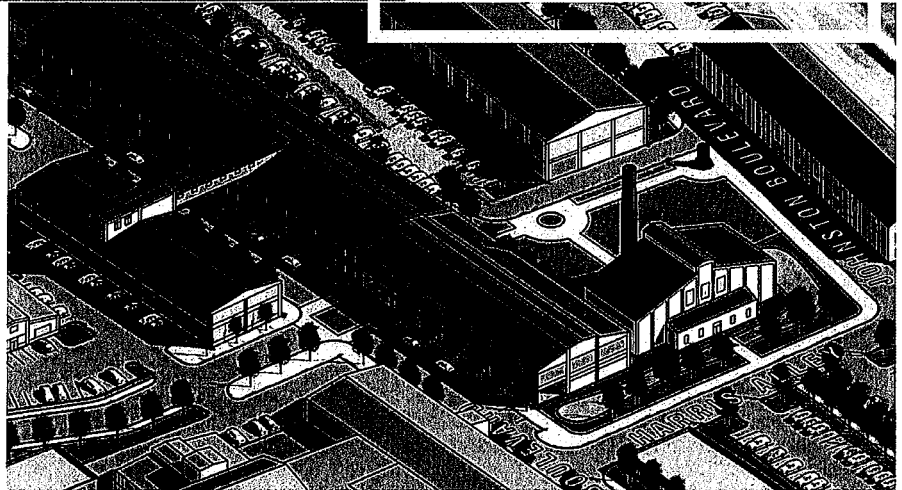
LaBella will provide services that will add value to work previously completed with the BOA scope to advance current and future redevelopment projects including:

- Meet with new owners to understand future development goals and uses of campus
- Preliminary site analyses to update information from 2014 Nomination study:
- Establish infrastructure and site needs and required upgrades
- Understand feasible site organization and layouts for buildings (based on owner plans and building analyses), roads, parking, loading and site amenities including landscaping and streetscape.

APPROACH & SCOPE OF WORK



LaBella has partnered with the City of Batavia on many previous projects including the Batavia Opportunity Area Plan pictured.



- Preliminary assessments of building and environmental conditions to update information from the 2014 Nomination Plan.
- Preliminary/Conceptual site plans, and corresponding subdivision strategies, for buildings (including potential demolition of buildings), roads, parking, pedestrian areas, loading, connections to the Ellicott Trail, and site amenities.
- Preliminary/Conceptual architectural plans for new or renovated buildings – prepare or update conceptual designs, renderings and cost estimates.
- SEQR and SHPO – Prepare a SEQR Generic Environmental Impact Statement (GEIS) for area.
- Subdivision and redevelopment – identify strategies to reorganize property lines to maximize redevelopment of the

- campus and facilitate property sales if needed, inclusive of required permits/ approvals and required zoning changes.
- GIS mapping if needed or required
- Create a Developer and Funder Prospectus for the 23 acre campus
- Outline a funding and incentive strategy for individual projects or overall project

5. Final Deliverables

LaBella will prepare draft and final documents for NYS DOS and City reviews and make appropriate changes based on comments. Information and deliverables will also be compiled into a BOA Strategic Plan document.



TEAM ORGANIZATION

We build a project team by thoughtfully engaging professionals that have demonstrated reliability, accountability and collaboration.

CITY OF BATAVIA

Edward Flynn, AICP

Project Manager
LaBella Associates

CITY CENTRE SITE

PROJECT SUPPORT

HARVESTER SITE

PLANNING, COMMUNITY ENGAGEMENT & GEIS

Derik Kane, AICP, CNU-A
Planner

**Nicolette Wagoner, AICP,
LEED AP**
Senior Planner

ARCHITECTURE & LANDSCAPE DESIGN

Dave McClellan, AIA
Architect

Lyndsey Herbert, RLA
Landscape Architect

Lindsay Davis
Rendering Technician

SITE & CIVIL ENGINEERING

Lauren Rodriguez, PE
Civil Engineer

Robert Steehler, PE
Land Development Manager

LEGAL PARTNER

George Van Nest, AT
Underberg & Kessler

ENVIRONMENTAL

Robert Napieralski, CPG
Principal Environmental Analyst

DESIGN WBE PARTNER SIDEKICK CREATIVE

Cara Greenslade
Business Director

Kelli Germain
Creative Director

Will Fowler
Creative Director

PLANNING, COMMUNITY ENGAGEMENT & GEIS

**WBE PARTNER
ELAN PLANNING**
Lisa C. Nagle, AICP, RLA
Principal

Laura Lourenco
Senior Planner

ARCHITECTURE & LANDSCAPE DESIGN MBE PARTNER FOIT ALBERT

Bryce Bixby, AIA
Sr. Team Leader, Architecture

**Deborah Siener, RA, CSI,
CDT, LEED AP BD&C**
Project Architect

WBE PARTNER ELAN PLANNING

Jere E. Tatich, RLA
Principal

SITE & CIVIL ENGINEERING MBE PARTNER FOIT ALBERT

**Deanne Pericak, PE, RLA,
LEED AP**
Sr. Civil Engineer

Hillary Chiarella, EIT
Jr. Engineer

SCHEDULE

	November 2021	December 2021	January 2022	February 2022	March 2022	April 2022	May 2022	June 2022	July 2022	August 2022	September 2022
Project & Report Activities	Preliminary site and building assessments			Draft conceptual, design plans, renderings, development strategies and cost estimates			Final conceptual design plans, renderings, development strategies and cost estimates			Prepare draft final BOA report	Prepare final BOA report, prospectus, and SEQR GEIS for each site
	Stakeholder Meetings			Open House & Workshop						Final Open House	
Public & Stakeholder Participation											
Project Advisory Committee	Kickoff Meeting		Review assessments & discuss emerging concepts		Review draft concept alternatives			Review final concept alternatives			Review SEQR & Prospectus

COST

Task	BUDGET - BATAVIA BOA IMPLEMENTATION						Hours/Task	Cost/Task
	Labella			UK				
	Proj. Mgr	Senior Staff	Mid-level Staff	Senior	Sr. & Mid	Elan	Foit Albert	RE
Project Management	24	24						
Public Participation/Stakeholder Engagement	16	16	16	16				16
City Centre Services	40	120	40	20				32
Harvester Center Services	40	120	40	20				32
Draft & Final Deliverables	40	120	40	20				32
Total Hours	160	400	96	40	104	392	256	64
Rates - Some Blended	\$150	\$145	\$95	\$250	\$115	\$145	\$145	\$145
Task J - General Expenses - All Firms					\$500	\$1,000	\$500	\$250
TOTAL	\$24,000	\$46,000	\$9,120	\$10,000	\$12,460	\$46,080	\$29,940	\$9,530

All fees and rates include fringe benefits, overhead and profit.

Exhibit B
Terms and Conditions

Terms and Conditions

LaBella's Responsibilities: LaBella shall designate a representative authorized to act on its behalf with respect to the Project. All notices required under this Agreement shall be given to that representative.

LaBella shall perform its services consistent with the professional skill and care ordinarily provided by members of the same profession practicing in the same or similar locality under the same or similar circumstances. LaBella shall perform its services as expeditiously as is consistent with such professional skill and care, and the orderly progress of the Project.

LaBella shall comply with all applicable federal, state, and local laws and regulations in effect during the term of this Agreement. LaBella shall promptly inform Client of any changes to any laws and regulations that LaBella reasonably believes will have a material effect upon the cost of the Project, or the scope of LaBella's services. In such event, Client and LaBella shall re-negotiate the terms of this Agreement, and if unable to do so, then either party may terminate this Agreement without cause and without penalty or liability to the other party.

Client's Responsibilities: Client shall designate a representative authorized to act on its behalf with respect to the Project. All notices required under this Agreement shall be given to that representative.

Client shall provide LaBella with all available information regarding the Project necessary for LaBella to perform its professional services, including Client's requirements for the Project. Client also shall provide information regarding the Project site and any existing facilities, including destructive testing and investigation of concealed conditions and hazardous substances, in a timely manner. If Client does not perform destructive testing or investigation, nor provide information beyond that which is apparent by non-intrusive observations, or in the event documentation or information furnished by Client is inaccurate or incomplete, then any resulting damages, losses and expenses, including the cost of LaBella's changes in service or additional services, shall be borne by Client.

Client shall examine documents submitted by LaBella and render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of LaBella's services.

Additional Services: LaBella may provide additional services after execution of this Agreement without invalidating the Agreement. LaBella shall not proceed to provide any additional services, unless and until LaBella receives written direction from Client. Client shall compensate LaBella for additional services as set forth in LaBella's proposal, or as agreed upon in writing signed by both parties.

Assignment: Neither party may assign any benefit or obligation under this Agreement without the prior written consent of the other party, except LaBella may use the services of persons and entities not in LaBella's employ when appropriate and customary to do so.

Confidentiality: During the Project, confidential and/or proprietary information of the Client might be furnished to LaBella. LaBella shall use such information for the purpose of providing its professional services on the Project, and for no other purpose. LaBella shall hold such information in strict confidence, and shall not disclose such information to any person or entity, except sub-consultants engaged on the Project. Upon completion of its services, LaBella shall return or destroy all confidential and/or proprietary information to the Client.

Instruments of Service: All documents prepared or furnished by LaBella pursuant to this Agreement are instruments of professional service, and LaBella shall retain its ownership and property interest therein, including all copyrights. Upon payment for services rendered, LaBella grants Client a license to use the instruments of service for the purposes of constructing, occupying and maintaining the Project. Reuse or modification of any such documents by Client without LaBella's written permission shall be at Client's sole risk, and Client agrees to defend, indemnify, and hold LaBella harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by Client or by others acting through Client.

Escalation: In the event the term of this Agreement is extended beyond the period of service set forth in LaBella's proposal, then compensation for professional services are subject to review and escalation by LaBella upon thirty (30) days written notice to Client.

Suspension: Client may suspend this Agreement in whole or in part at any time for convenience upon seven (7) days written notice. Upon receipt of notice, LaBella shall immediately discontinue all services. LaBella shall be entitled to compensation for all services rendered up to the date of suspension. If the suspension exceeds three (3) months, an equitable adjustment in compensation shall be negotiated to compensate LaBella for all reasonable costs incurred by LaBella on account of the suspension of the Project.

Termination: Either party may terminate this Agreement for cause upon seven (7) days written notice with an opportunity to cure any default during that period.

Disputes: The parties agree that mediation before a mutually agreeable neutral third party shall be a condition precedent to any legal action arising out of this Agreement, unless waived in writing by the parties. The cost of the mediation shall be borne equally by the parties. The mediation shall be conducted in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, unless the parties agree otherwise. No demand for mediation shall be made after the date that the applicable statute of limitations would bar a legal or equitable action based on the claim or dispute.

Venue and Jurisdiction: Any legal suit, action or proceeding arising out of or relating to this agreement shall be instituted in a court of competent jurisdiction located in the state and county where the project is located. The parties hereby waive any objection which they may have now or hereafter to the venue of any such suit, action or proceeding, and also hereby irrevocably consent to the personal jurisdiction of any such court in any such suit, action or proceeding.

Choice of Law: This Agreement shall be interpreted, construed and enforced in accordance with the laws of the state where the project is located without giving effect or reference to any conflict

of laws provisions.

Consequential Damages: In any suit, action or proceeding, the parties shall be entitled to recover compensatory damages incurred as a result of the breach of this Agreement, but neither party shall be liable to the other for any special, indirect, or consequential damages.

Late Fees, Costs and Attorneys' Fees: An additional charge of 1.5% of an invoice will be imposed each month on all past due accounts. Imposition of such charges does not constitute an extension of the payment due date. In the event that LaBella must bring suit to collect payment of any invoices, then Client agrees to pay LaBella's costs and expenses, including reasonable attorneys' fees.

Remedies Cumulative: The rights and remedies available to a party under this Agreement are cumulative and in addition to, not exclusive of, or in substitution for, any other rights or remedies either party may have at law, or in equity, or under this Agreement. Nothing contained in this Agreement shall be deemed to preclude either party from seeking injunctive relief, if necessary, in order to prevent the other party from willfully or intentionally breaching its obligations under this Agreement or to compel the other party to perform its obligations hereunder.

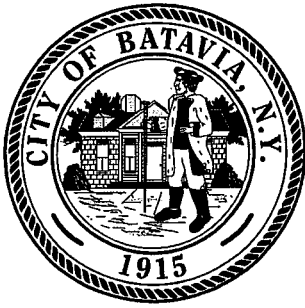
Non-Waiver: Failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement will not be construed as a waiver of any right accruing under this Agreement, nor affect any subsequent breach, nor affect the effectiveness of this Agreement or any part hereof, nor prejudice either party as regards any subsequent action.

Force Majeure: Neither party to this Agreement shall be liable to the other for delays in performing the obligations called for by this Agreement, or the direct and indirect costs resulting from such delays, that are caused by labor strikes, riots, war, acts of government authorities other than the Client (if a governmental authority), extraordinary weather conditions, epidemics, pandemics or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.

Severability: The provisions of this Agreement are hereby agreed and declared to be severable. Any term or provision of this Agreement which is held to be unenforceable by a court of competent jurisdiction shall be deemed to have been stricken from this Agreement, and the remaining terms and provisions of this Agreement shall be construed and enforced without such terms or provisions.

Counterparts: This Agreement may be executed in one or more counterparts, each one of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Scope of Agreement: This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral, except that terms specific to future projects shall be set forth in LaBella's proposals. This Agreement may be amended only by written instrument signed by both parties.



City of Batavia

Memorandum

To: Honorable City Council Members

From: Rachael J. Tabelski, City Manager

Date: November 16, 2021

Subject: Reclassification of the Human Resources Specialist to Human Resources Director

For several years the duties, expectations and responsibilities of the Human Resources Specialist have grown in terms of directing, planning and maintaining all human resources functions of the City.

The Human Resources Specialist is responsible to manage all personnel budgets across the City, the hiring process for new employees, has in-depth knowledge of all union contracts, performs extensive compilation of financial data for the annual audit, administers the workers' compensation programs, and the City's self-funded health care.

Furthermore, the Human Resources Specialist position assists the City Manager in negotiating labor contracts, compiling cost analysis of the economic impact of union proposal on the City, oversees and investigates personnel-related charges, ensures compliance with Civil Service as it relates to current personnel and new employees, and develops, maintains, and administers the City's Personnel Policies Manual in compliance with all state and federal rules, regulations and laws.

After reviewing the duties and asking Genesee County Civil Service to review the duties as well, it has been determined that the work performed by the Human Resources Specialist is more in line with the job classification of Human Resources Director.

I recommend that the City Council reclassify the position of Human Resources Specialist to Human Resources Director.

#-2021

**RESOLUTION AUTHORIZING RECLASSIFICATION OF THE POSITION OF
HUMAN RESOURCES SPECIALIST TO HUMAN RESOURCES DIRECTOR**

Motion of Councilperson

WHEREAS, the City Council of the City of Batavia is desirous in reclassifying the position of Human Resources Specialist to Human Resources Director; and

WHEREAS, for several years the duties, expectations and responsibilities of the Human Resources Specialist have grown in terms of directing, planning and maintaining all human resources functions of the City; and

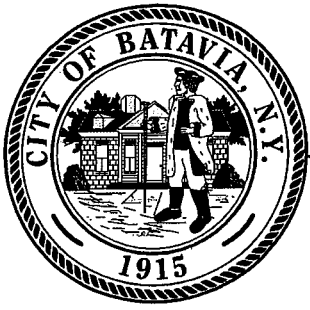
WHEREAS, the Human Resources Specialist also manages all personnel budgets across the City, manages the hiring process for new employees, has in-depth knowledge of all union contracts, performs extensive compilation of financial data for the annual audit, administers the workers' compensation programs, and the City's self-funded health care; and

WHEREAS, the Human Resources Specialist position assists the City Manager in negotiating labor contracts, compiling cost analysis of the economic impact of union proposal's on the City, oversees and investigates personnel-related charges, ensures compliance with Civil Service as it relates to current personnel and new employees, and develops, maintains, and administers the City's Personnel Policies Manual in compliance with all state and federal rules, regulations and laws; and

WHEREAS, after Genesee County Civil Service review of the current duties performed by the Human Resources Specialist it has been determined that the job should be reclassified as Human Resources Director.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the Human Resources Specialist position is hereby reclassified to Human Resources Director.

**Seconded by Councilmember
and on roll call**



City of Batavia

Memorandum

To: Honorable City Council Members

From: Jill M. Wiedrick, AICP, Assistant City Manager

Date: November 22, 2021

Subject: Rezoning of 145 and 147 Pearl Street from P-1 (Planned Development District) to R-2 (Residential District)

Submitted for your review is a proposal to rezone 145 and 147 Pearl Street from P-1 (Planned Development District) to R-2 Residential District.

Background: A request was made to place a shed at 147 Pearl Street. During review by the Bureau of Inspections, it was discovered that the current zoning district did not allow for the placement of a shed

Current Zoning: The properties is currently P-1 which is a planned development district. This district allows uses that are industrial in nature and specifically declares that residential uses are not allowed.

The residential uses at 145 and 147 Pearl Street are considered to be nonconforming uses, as the two residential uses were constructed prior to the establishment of the zoning district and its regulations. Nonconforming uses can continue to exist, but they are not allowed to expand. As a result, the placement of a shed would be expanding this nonconforming use, which is not allowed by the Zoning Code.

Comprehensive Plan: The Comprehensive Plan (October 2017) future land use map on Page 59 (attachment A) shows the area around 145 and 147 Pearl Street as Medium Density Residential. This designation equates to the R-2 zoning district.

Recommendation: A rezoning is necessary to allow for these two residential properties to make any site changes to their property. Rezoning these properties to an R-2 zoning district will make both of these residential properties conforming uses and will allow the property owners to make site changes (for example adding onto their homes, placing a shed on their property or constructing a garage) that the Zoning Code currently prohibits as a result of the current zoning district.

4.B Future Land Use Map

City of Batavia
Comprehensive Plan

Future Land Use Plan

Existing Land Use Legend

- City Boundary
- Land Use Type
- Agriculture
- Commercial
- Community Services
- Industrial
- Major Arterial
- Parks, Recreation & Conservation Areas
- Public Utilities
- Residential - Single Family
- Residential - Medium Density
- Residential - High Density
- Transportation - Air, Water
- Unutilized

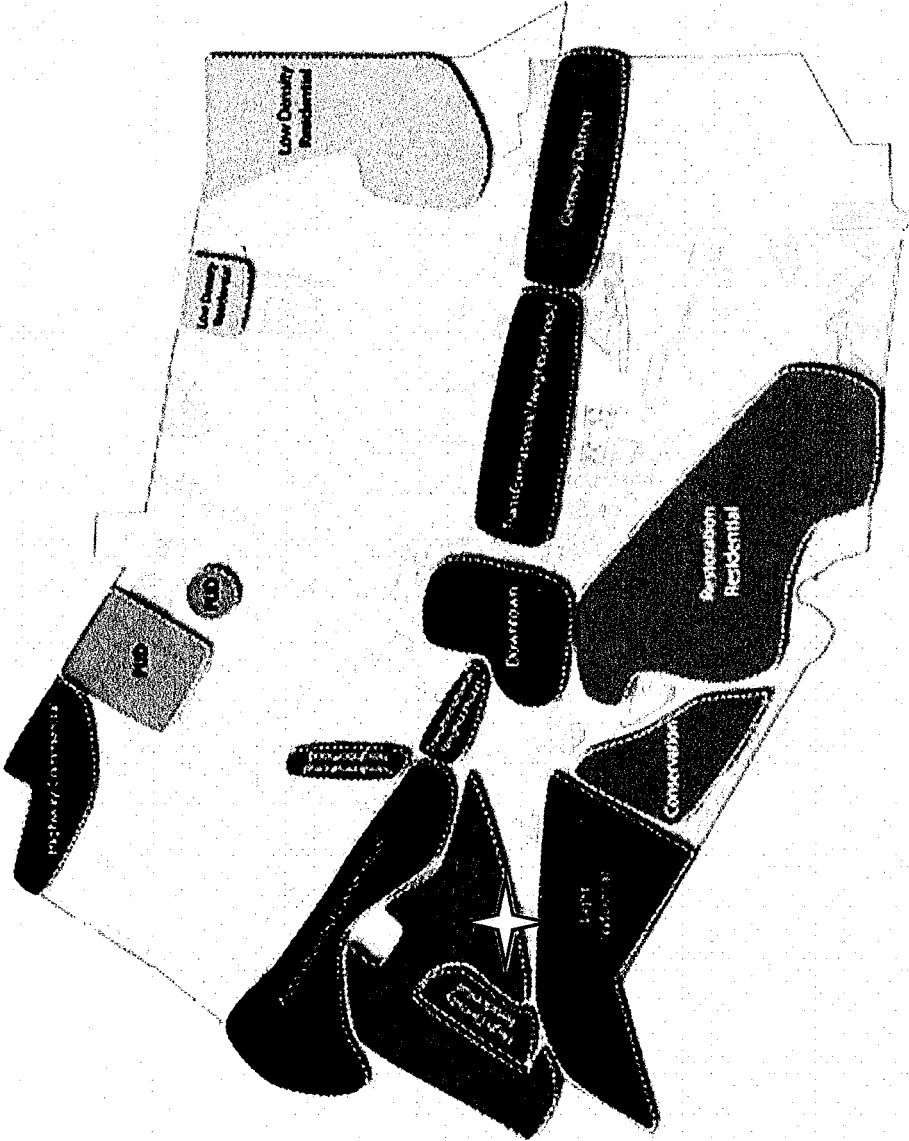


Map Date: 10/15/2010
Map Scale: 1" = 100'

ELAN



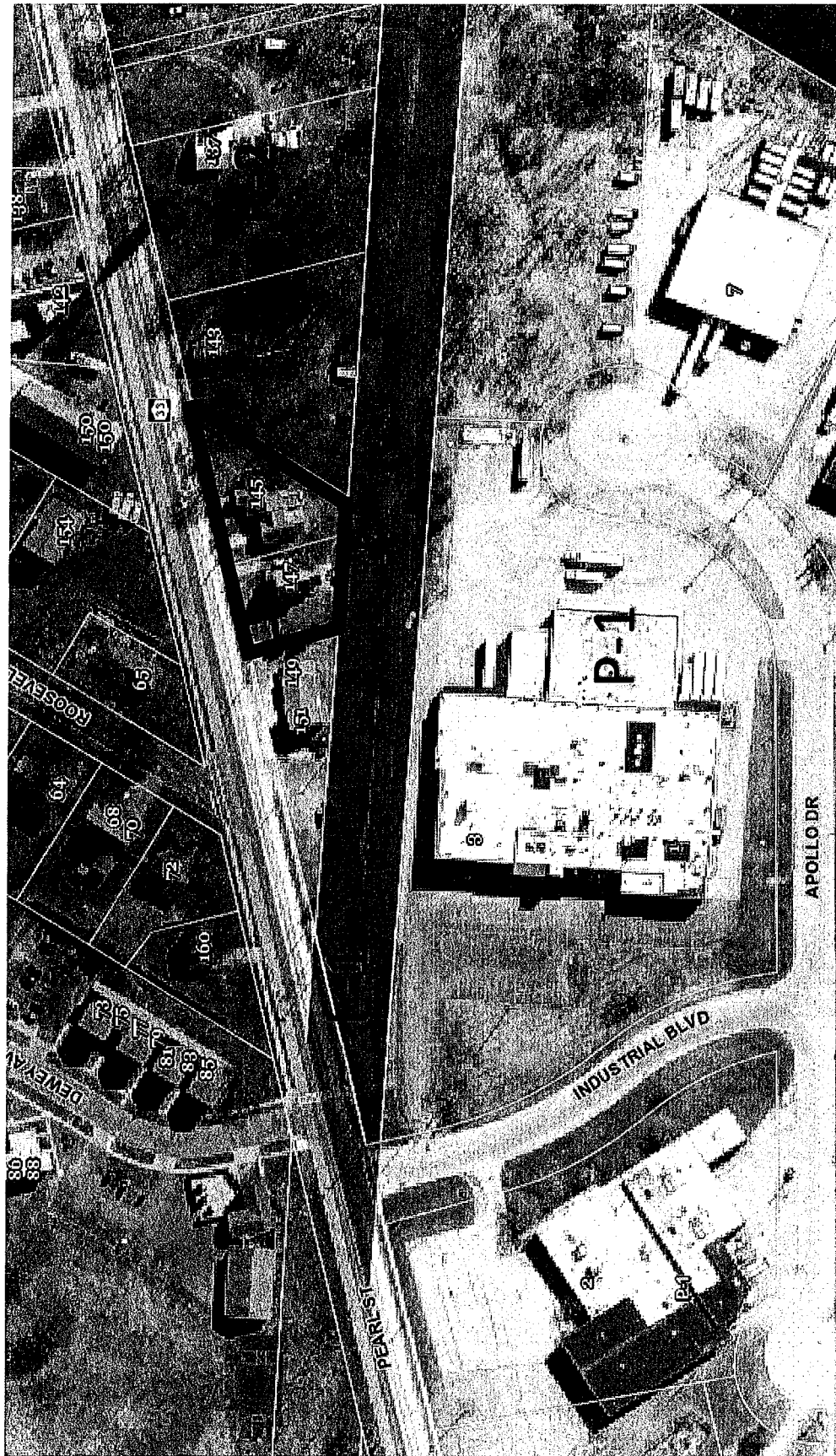
Professional Land Surveyor No. 10000



145 and 147 Pearl Street



Proposed Rezoning of 145 and 147 Pearl Street from P-1 (Planned Development District) to R-2 (Residential District).



#-2021

A RESOLUTION REFERRING THE PETITION TO REZONE 145 AND 147 PEARL STREET TO THE PLANNING AND DEVELOPMENT COMMITTEE

Motion of Councilmember

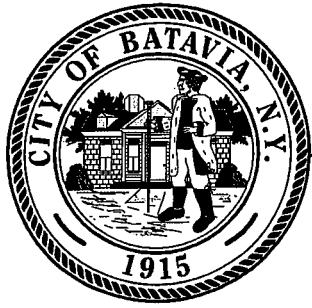
WHEREAS, the City Council is desirous of reviewing the Batavia Municipal Code, Section §190, in response to a petition from the City Manager's Office, requesting two parcels, 145 and 147 Pearl Street, to be re-zoned; and

WHEREAS, under the City Charter § 13-3 the City Planning and Development Committee shall have such powers and duties to serve in an advisory capacity and provide such advice as to assist the City Council in developing a strategy that interprets, plans and leads in the implementation of land use matters relating to public and private development within the City of Batavia; and

WHEREAS, General City Law - GCT § 27 provides City Council with the authority to refer matters to the Planning and Development Committee requesting reviews and recommendations regarding planning and development within the City of Batavia.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia hereby request that the City Planning and Development Committee review a Petition to Re-Zone 145 and 147 Pearl Street, and make a recommendation to the City Council for consideration.

**Seconded by Councilmember
and on roll call**



City of Batavia

Memorandum

To: Honorable City Council Members

From: Rachael J. Tabelski, MPA, City Manager

Date: November 16, 2021

Subject: Selection of Wm Schutt Associates to conduct a land survey

The City of Batavia, with assistance from Ken Pearl of Architecture Unlimited, issued a Request for Proposals (RFP) for a land survey of the Bank and Alva (Tax Map Parcel 84.011-1-54) for the purposes of advancing the police facility project.

The survey area includes the City's public parking lot and specifically the southeast corner of the lot immediately adjacent to Bank Street and Alva Place. The survey will provide boundary lines, a legal description, zoning, right-of-way's, elevations, location size and depth of water, sewer, gas and other utilities on the site.

After review of the cost of the survey bids Wm Schutt was the lowest. I recommend that the City Council authorize a land survey to be completed by Wm Schutt for a lump sum fee of \$3,250.

#-2021

**A RESOLUTION TO ENTER INTO AN AGREEMENT
WITH WM SCHUTT FOR LAND SURVEY SERVICES FOR BANK AND ALVA**

Motion by Councilmember

WHEREAS, proposals were received for a consultant to perform land survey work on the Bank and Alva site (Tax Map Parcel 84.011-1-54) for the purposes of advancing the police facility project; and

WHEREAS, the survey area includes the City's public parking lot and specifically the southeast corner of the lot immediately adjacent to Bank Street and Alva Place. The survey will provide boundary lines, a legal description, zoning, right-of-way's, elevations, location size and depth of water, sewer, gas and other utilities on the site.

WHEREAS, WM Schutt of Lancaster New York submitted the lowest bid of \$3,250 for the survey work.

NOW, THEREFORE, be it resolved that City Council authorizes the City Council President accept a survey proposal from Wm Schutt in the amount of \$3,250, and execute documents.

**Seconded by Councilmember
and on roll call**

DRAFT

Civil Engineering
Environmental Engineering
Municipal Engineering
Land Surveying



Project Management
Construction Support Services
Landscape Architecture
SWPPP Services

Mrs. Rachael J. Tabelski, City Manager
City of Batavia
One Batavia City Centre
Batavia, NY 14020

October 18, 2021

Re: **PROPOSAL** to perform
Boundary & Topographic Survey
City of Batavia Public Parking Lot
at northwest corner of the intersection of
Bank Street and Alva Place

Dear Mrs. Tabelski:

In response to the Request for Proposal (RFP) dated October 1, 2021 we are pleased to submit three (3) signed copies of our Proposal for your consideration.

Our Proposal consists of the following:

- Lump Sum Fee Proposal of \$3,250.00
- Copy of our Hourly Rate Schedule
- Acknowledgement that NYS Prevailing Wages will be applied to our survey field work
- In response to Article 1.8 of RFP
 - Horizontal Datum – NAD 83(2011) EPOCH 2010 MYCS2
 - Vertical Datum - NAVD 88(GEOID 18)
 - Positional accuracy to be +/-1cm +2ppm
- Cautionary note, our schedule and accuracy of our survey work is weather and ground condition dependent
- Copy of RFP

Thank you for this opportunity to be of service to the City of Batavia. Please do not hesitate to contact me should you have any questions regarding our Proposal.

Respectfully submitted

A handwritten signature in black ink, appearing to read "William Schutt", with a long horizontal flourish extending to the right.

William Schutt
wschutt@wmschutt.com

Encl.
CC: PR21068

21-10-15-PR21068-City of Batavia-P-wes

This is **Exhibit 1**, consisting of 2 pages, referred to in and part of Surveyor's Proposal to City of Batavia for providing Professional Services dated October 18, 2021.

HOURLY RATE & REIMBURSABLE EXPENSE SCHEDULE

A. *Hourly Rates:*

Hourly Rates for the agreed-upon project duration are set forth below and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.

Hourly rates for services performed under this Agreement are:

ENGINEERING

Principal/Officer	\$160.00
Engr'g Director	\$126.00
Sr. Project Manager	\$120.00
Project Manager	\$110.00
Sr. Project Engineer	\$100.00
Project Engineer II	\$ 96.00
Project Engineer	\$ 88.00
Jr. Engineer	\$ 69.00
Sr. Engineering Technician	\$ 99.00
Engineering Technician	\$ 58.00
CAD Technician	\$ 71.00

LAND SURVEYING

Survey Director	\$126.00
Survey Manager	\$ 85.00
Survey Technician	\$ 71.00
1-Man Field Crew (Straight time).....	\$ 85.00
2-Man Field Crew (Straight time).....	\$145.00
2-Man Field Crew (Overtime)	\$170.00
2-Man Field Crew (NYS Prevailing Rate**)	\$225.00
GPS Technician	\$ 85.00

** NYS Prevailing Rate is subject to periodic adjustments by NYS



CONSTRUCTION

Construction Inspector I	\$ 65.00
Construction Inspector II	\$ 75.00
Construction Inspector III	\$ 80.00
Construction Administrator	\$ 110.00

TECHNICAL SUPPORT STAFF

SWPPP Inspector I.....	\$ 58.00
Technical Aide.....	\$ 58.00
MAWBE Coordinator.....	\$ 95.00

REIMBURSABLE EXPENSES

Photocopies B & W (8 1/2" x 11")	\$ 0.10/pg
Photocopies B & W (11" x 17")	\$ 0.20/pg
Color Prints (8 1/2" x 11").....	\$ 0.59/pg
Color Prints (11" x 17").....	\$ 1.78/pg
Large Format CAD Paper Plots (24" x 36").....	\$ 2.00/pg
Large Format CAD Paper Plots (30" x 42").....	\$ 3.00/pg
Large Format CAD Mylar Plots (24" x 36")	\$ 6.00/pg
Large Format CAD Mylar Plots (30" x 42")	\$10.00/pg
Large Format Color Plots (24" x 36")	\$ 6.00/pg
Large Format Color Plots (30" x 42")	\$10.00/pg
Mileage.....	\$.056 (IRS) + 10% = 0.62/mi
Tolls.....	cost +10%
Lodging.....	cost +10%
Special Equipment Rentals/Purchases	cost +10%
Delivery (Courier, Overnight, Mail)	cost +10%
Job Site Trailer/Field Office	cost +10%
Fees/Permits	cost +10%

SUBCONSULTANT SERVICES

Subconsultant	cost +10%
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**REQUEST FOR PROPOSAL—
LAND SURVEY**

AIA Document G601

SURVEYOR
OWNER
ARCHITECT

PROJECT: **NEW BATAVIA POLICE DEPT.
PROJECT @ CORNER OF
BANK ST. & ALVA PL.
BATAVIA, NEW YORK**

DATE: **OCT. 1ST, 2021**

OWNER: **MRS. RACHAEL J. TABELSKI
CITY MANAGER
CITY OF BATAVIA
ONE BATAVIA CITY CENTRE
BATAVIA, NY 14020**

ARCHITECT'S PROJECT NO.: **TBD**

SURVEYOR: **TBD**

ARCHITECT: **TBD**

ATTENTION: **TBD**

REQUEST FOR PROPOSAL

The Owner requests the Surveyor to submit to the Owner a proposal for a Land Survey of the property described below.

The Surveyor shall submit the proposal by attaching hereto (and identifying in Article 8) the material required, and returning three signed copies of this document to the Owner. The Surveyor shall include with the proposal a statement defining any proposed deviations from the requirements of this document, including additions, deletions, exceptions and revisions.

If the Owner accepts the proposal, all three copies of this document will be signed by the Owner; one will be returned to the Surveyor and one to the Architect. Upon execution and receipt by both parties, this document and all attachments listed in Articles 6, 7 and 8 shall form the Agreement between the Owner and the Surveyor.

The Surveyor shall hold the proposal open for acceptance by the Owner for a period of
NINETY (**90**) calendar days after the date of submittal to the Owner.

**PROPOSALS ARE DUE BY TUESDAY, OCT. 19TH, 2021, 2:00 PM
EST, AT THE CITY MANAGERS' OFFICE LISTED ABOVE.**

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G601—1994 1

LAND SURVEY PROPOSAL

ARTICLE 1

GENERAL PROVISIONS

1.1 TIME

1.1.1 Subject to any limitations stated in this proposal, the specified Land Survey shall be completed and the drawing(s) and report(s) delivered to the Owner and the Architect within **FORTY-FIVE (45)** calendar days after written authorization to proceed is received, barring circumstances beyond the Surveyor's control that force a delay. In such instance, the Surveyor will inform the Owner of the cause of the delay.

1.2 COMPENSATION

1.2.1 The Surveyor shall attach the lump sum fee or rate and price schedule information or both to this proposal. The cost of the Land Survey (including the furnishing of all materials, surveying equipment and computers, labor and any required insurance) shall be based upon the method(s) checked below:

a stipulated sum for all services based on this proposal, with adjustments to the stipulated sum being computed in accordance with the Surveyor's attached rate schedule if changes in the work are authorized;

OR

charges computed in accordance with the Surveyor's current attached rate schedule which shall include a lump sum for mobilization, demobilization, travel and per diem expenses, stating the maximum amount of cost that will be incurred without prior written authorization by the Owner;

OR

as specified below.

1.3 BILLING AND PAYMENT

1.3.1 Billing for the survey shall be as checked below:

to the Owner's address above, with a copy to the Architect;

OR

to the Owner in care of the Architect, in duplicate, at the Architect's office address.

1.3.2 Payment shall be made as follows:

(Here insert payment provisions.)

1.4 INSURANCE

1.4.1 The Surveyor shall provide and maintain insurance coverage for claims under Workers' Compensation Acts; claims for damages because of bodily injury, including personal injury, sickness or disease, or death of employees or of any other person; and from claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom. The Surveyor's proposal shall state the coverages and limits of liability of professional liability insurance that will be maintained for protection from claims arising out of the performance of professional services. Certificates of Insurance evidencing the above coverages shall be made available at the Owner's request.

1.5 PROTECTION OF PROPERTY

1.5.1 The Surveyor shall contact the Owner for information regarding the site and shall take all reasonable precautions to prevent damage to property, visible and concealed, and shall reasonably restore the site to the condition existing prior to the Surveyor's entry, including, but not limited to, repair of lawns and plantings.

1.6 QUALIFICATIONS

1.6.1 All services shall be performed by qualified personnel under the supervision of a professional licensed or otherwise qualified by the state to practice land surveying, and the document(s) submitted shall bear the Surveyor's seal and statement to that effect.

1.7 USE OF SURVEYOR'S DRAWINGS

1.7.1 It is understood that the Owner, or the Architect on the Owner's behalf, may reproduce the Surveyor's drawings without modification and distribute the prints in connection with the use or disposition of the property without incurring obligation for additional compensation to the Surveyor. The original drawings shall remain the property of the Surveyor.

1.8 ACCURACY STANDARDS

1.8.1 Precision of the survey shall be based on the positional accuracy concept. The Surveyor shall recommend in the proposal positional accuracy limits and error of closure limits for the property being surveyed.

ARTICLE 2

PROPERTY INFORMATION PROVIDED BY OWNER

2.1 LEGAL DESCRIPTION:

(Insert legal description of the property and attach supporting data.)

PARKING LOT
TAX MAP PARCEL NO.: BA.011-1-5A
SWIS CODE & TAX MAP PARCEL NO.: 18020084.011-1-5A
SBL NO.: 0840110001054000

See attachments, if any, identified in Article 7.

2.2 COMMON DESCRIPTION:

(Insert property name and address.)

THE CITY OF BUTAVIA PUBLIC PARKING LOT
@ THE NORTH WEST CORNER OF THE INTERSECTION OF
BANK ST. & ALVA PLACE, CITY OF BUTAVIA

See attachments, if any, identified in Article 7.

2.3 PROPERTY LINES AND ACCESS

2.3.1 Property lines and means of access are shown on the attached drawings, identified in Article 7. Site access is provided by the arrangement checked below:

- The Owner has title to this property and the right of entry for this survey.
- The Owner has secured permission from the present owner and tenant for entry to the property for this survey, subject to the following conditions:

The present owner is:

The present tenant is:

Other conditions:

- The Surveyor shall contact the following person(s) in order to schedule site access and make necessary arrangements:
(Insert names, addresses and telephone numbers, if any.)

- As otherwise specified below.

ARTICLE 3

DRAWING REQUIREMENTS

Requirements for land survey drawings are as indicated below.

- 3.1 Drawings shall note all dimensions and elevations in:
- imperial units at **TBD** scale. **(TO BE DETERMINED)**
 - metric units at _____ scale.
- 3.2 Drawing sheets shall be trim size **24" x 36"** with left binding edge and **1/2"** borders.
- 3.3 Show NORTH arrow and locate magnetic North:
- directed to the top of the sheet;
OR
 - as specified below.
- 3.4 Include legend of symbols and abbreviations used on the drawing(s).
- 3.5 Spot elevations on paving or other hard surfaces shall be to the nearest .01 foot; on other surfaces, to the nearest .10 foot. If required by Paragraph 3.1, use equivalent metric units.
- 3.6 Boundary and topographic information, where both are required, shall be on the same drawing unless otherwise requested by the Architect.
- 3.7 State elevation datum on each drawing:
- use National Vertical Geodetic Datum (NVGD) 1929 and give location of benchmark used;
OR
 - use assumed elevation _____ at _____ ;
OR
 - use official town datum;
OR
 - as specified below.
- 3.8 **OWNER, ONE ELECTRONIC PLAN IN DWG. FORMAT, ONE PLAN IN PDF. FORMAT,** Furnish to the ~~Architect~~ one reproducible transparency and three prints of each drawing. The Surveyor shall sign and seal each drawing and shall state that to the best of the Surveyor's knowledge, information and belief, all information thereon is true and accurately shown.

ARTICLE 4

LAND (BOUNDARY) SURVEY REQUIREMENTS

Survey requirements shall be established as indicated below.

- 4.1 Show boundary lines, giving length and bearing (including reference or basis) on each straight line; interior angles, radius, point of tangency and length of curved lines. Unless otherwise prohibited by law, where no monument exists, set permanent iron pin (monument) or other suitable permanent monument at property corners; drive pin adequately into ground to prevent movement and mark with wood stake; state on the drawing(s) whether corners were found or set and describe each.
- 4.2 Furnish a legal description that conforms to the record title boundaries. Prior to making this survey and insofar as is possible, the Surveyor shall acquire data including, but not limited to, deeds, maps, certificates or abstracts of title, section line and other boundary line locations in the vicinity.
- Reconcile any discrepancies between the survey and the recorded legal description.

- 4.3 Give area in square feet if less than one acre; in acres (to .001 acre) if over one acre. If required by Paragraph 3.1, use equivalent metric units.
- 4.4 Note identity, jurisdiction and width of adjoining streets and highways, width and type of pavement. Identify street monuments and show distance to the nearest intersection.
- 4.5 Plot location of structures on the property. Dimension to property lines and other buildings. Note vacant parcels as VACANT. Describe building materials and note number of stories.
 - Dimension perimeters in feet and inches to nearest 1/2 inch;
OR
 - dimension perimeters in feet and decimals to .05 foot;
OR
 - dimension perimeters in metric units to the nearest millimeter.
 - Include adjacent property within _____ (feet) (meters).
- 4.6 Show encroachments, including cornices, belt courses, etc., either way across property lines.
- 4.7 Describe fences and walls and locate them with respect to property lines.
- Include identification of party walls.
- 4.8 Show recorded or otherwise known easements and rights-of-way and identify owners (holders).
- 4.9 Note planned rights-of-way and the nature of each.
- 4.10 Note planned street widenings.
- 4.11 Show individual lot lines and lot block numbers; show street numbers of buildings if available.
- 4.12 Show zoning of property. If more than one zone, show the extent of each. Show zoning of adjacent property and property across the street(s) or highway(s).
- 4.13 Show building line and setback requirements, if any.
- 4.14 Give names of owners of adjacent property.
- 4.15 Other:
(Specify)

- .1 VICINITY MAP.
- .2 LOCATION OF ALL EXISTING CURBS, WALKS, GRASS STRIPS, EDGES OF PAVEMENT, MEDIANS, MEDIAN BREAKS, ETC.
- .3 PAVEMENT STRIPING & DIRECTIONAL ARROWS.
- .4 RAISED AND/OR GRASS MEDIANS.
- .5 TURNING LANES & MEDIAN BREAKS
- .6 EXISTING TRAFFIC SIGNALS & TRAFFIC CONTROL SIGNS.
- .7 LOCATION OF HEDGES, FENCES, & WALLS.
- .8 LOCATION OF WELLS & SEPTIC FIELDS WITHIN 100 FEET OF SITE.
- .9 LABEL BUFFERS & LOCATE ALL TREES 1" CALIPER AND ABOVE.
- .10 ALL SIGNAGE.

ARTICLE 5

TOPOGRAPHICAL SURVEY REQUIREMENTS

All lines of levels shall be checked by separate check level lines, or on previous turning points or benchmarks. Topographical survey requirements shall be established as indicated below. If required by Paragraph 3.1, use equivalent metric units.

- X 5.1 A minimum of one permanent benchmark on site for each four acres and a description and elevation to nearest .01 foot.
- X 5.2 Contours at ONE (1) foot intervals; error shall not exceed one-half contour interval.
- X 5.3 Spot elevation at each intersection of a TWENTY FIVE (25) foot square grid covering the property.
- X 5.4 Spot elevations at street intersections and at TWENTY FIVE (25) feet on center of curb, sidewalk and edge of paving, including far side of paving. If elevations vary from established grades, also state established grades.
- X 5.5 Plotted location of structures, paving and improvements above and below ground.
- X 5.6 Floor elevations and elevations at each entrance of buildings on the property.
- X 5.7 Utility information. The following information is to be shown based on record information and on surface evidence. Inadequate record data requiring the surveyor to employ techniques of subsurface exploration to locate utilities will be an additional service subject to Owner approval.
 - X Location, size, depth and pressure of water and gas mains, central steam and other utilities including, but not limited to, buried tanks and septic fields serving, or on, the property.
 - X Location of fire hydrants available to the property and the size of the main serving each.
 - X Location, elevation and characteristics of power, cable television, street lighting, traffic control facilities and communications systems above and below grade.
 - X Location, size, depth and direction of flow of sanitary sewers, combination sewers, storm drains and culverts serving, or on, the property; location of catchbasins and manholes, and inverts of pipe at each.
 - X Name of the operating authority, including contact person and phone number, for each utility indicated above.
- X 5.8 Mean elevation of water in any excavation, well or nearby body of water.
- X 5.9 Location of flood plain and flood level of streams or adjacent bodies of water.
- X 5.10 Extent of watershed onto the property.
- X 5.11 Location of test borings if ascertainable, and the elevation of the tops of holes.
- X 5.12 Location of trees FOUR (4) inches and over (caliper three feet above ground); locate within one foot tolerance and identify species in English and botanical terms.
- X 5.13 Location of specimen trees flagged by the Owner or the Architect ~~in number~~; locate to center within six inches tolerance; give species in English and botanical terms, give caliper three feet above ground and ground elevation on upper slope side.
- X 5.14 Perimeter outline only of thickly wooded areas unless otherwise directed.
- X 5.15 Description of natural features.
- X 5.16 Location(s) of locations of confirmed soil contamination(s).
- X 5.17 Other:
(Specify)
 - .1 EXTEND CONTOUR/SURVEY ACROSS FULL WIDTH OF BANK STREET AND ALVA PLACE RIGHT-OF-WAYS.
 - .2 EXTEND CONTOURS 75 FEET PAST SURVEY ZONE.
 - .3 HIGH POINTS OF DITCHES AND SWALES.
 - .4 ELEVATIONS OF ESTABLISHED FLOOD LEVEL THAT MAY BE APPLICABLE; GIVE IDENTIFICATION OF ESTABLISHING AUTHORITY.
 - .5 THE EXISTENCE OF ANY LAKES, DITCHES, STREAMS, OR RIVERS WITHIN 100 FEET OF THE SITE.
 - .6 FLOOD ZONE AREAS.

ARTICLE 6
ADDITIONAL REQUIREMENTS

(Describe any additional requirements specific to this Project.)

ARTICLE 7
ATTACHMENTS BY OWNER

(Identify attachments by Owner as described in Paragraphs 2.1, 2.2 and 2.3, and any other documents that are incorporated by reference below.)

- 7.1 ATTACH. A - AERIAL IMAGE OF PARKING LOT SITE.
- 7.2 ATTACH B - AERIAL IMAGE OF PARKING LOT SITE HIGHLIGHTING SURVEY ZONE, APPROXIMATE AREA.
- 7.3 ATTACH C - MISC. RECORD DOCUMENTS, CITY OF BATAVIA.

ARTICLE 8
ATTACHMENTS BY SURVEYOR

(Identify and attach any other terms or conditions, accompanying sketches and any other documents that are incorporated by reference below.)

- 8.1
- 8.2
- 8.3

ARTICLE 9

SUBMISSION OF PROPOSAL

By signing this document, the Land Surveyor represents that all appropriate attachments and additions have been made and that any proposed deviations from the requirements of the Owner's request have been clearly identified.

LAND SURVEYOR

William Schutt
(Signature)

William Schutt, President
(Printed name and title)

PROPOSAL DATE

October 13, 2021
(Month, day and year)

ARTICLE 10

ACCEPTANCE OF PROPOSAL

By signing this document, the Owner accepts the Land Surveyor's proposal, including all attachments listed in Articles 6, 7 and 8 that henceforth shall form the Agreement between the Owner and the Land Surveyor.

OWNER

(Signature)

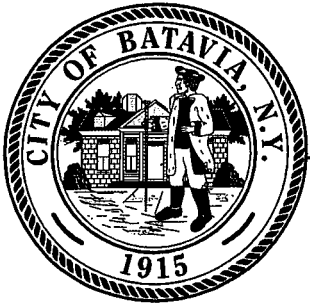
(Printed name and title)

ACCEPTANCE DATE

(Month, day and year)



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City of Batavia

To: Honorable City Council
From: Rachael Tabelski, City Manager
Date: 11/19/2021
Subject: CSEA Tentative Agreement

As you are aware, the last collective bargaining agreement negotiated with the CSEA union expired on March 31, 2021. Over the past couple months, the City and union representatives have been negotiating terms for a new agreement. On October 21, 2021, a Tentative Agreement was reached with the CSEA Union.

The CSEA Tentative Agreement includes changes to the collective bargaining agreement as follows:

- Salary Increase of 2.5% each year for a six-year agreement
- Longevity Increase – a \$100 increase per year at the 20-year point
- Limit of carry-over of vacation to one week
- Adding the option to cash in sick time (currently employees can defer into their 457 plan)
- Increase in health care contribution by 3% over the term of the contract
- Removal of the Financial Clerk Typist from the Union – This position will now be a Non-Union employee
- Other miscellaneous language changes

Total Budget Impact: An average of approximately \$34,500 each year (includes, retirement and social security)

Recommended Action: It is recommended by the City Manager that City Council approve the Tentative Agreement with the CSEA Union.

Supporting Documents:

1. Draft Resolution

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

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#-2021

**A RESOLUTION APPROVING THE COLLECTIVE BARGAINING AGREEMENT
WITH THE CIVIL SERVICE EMPLOYEES ASSOCIATION (CSEA)**

Motion of Councilperson

WHEREAS, the City of Batavia and the CSEA have had collective bargaining sessions;
and

WHEREAS, the parties have since been able to negotiate a tentative collective bargaining
agreement; and

WHEREAS, City Council is of the opinion that it is in the best interest of the City of
Batavia to approve the tentative collective bargaining agreement as negotiated; and

WHEREAS, on November 15, 2021 the CSEA Union secured the necessary votes to ratify
the tentative agreement;

NOW, THEREFORE, BE IT RESOLVED, that the City Council President be and is
hereby authorized and directed to execute said collective bargaining agreement.

**Seconded by Councilperson
and on roll call**

DRAFT