

BATAVIA CITY COUNCIL CONFERENCE MEETING

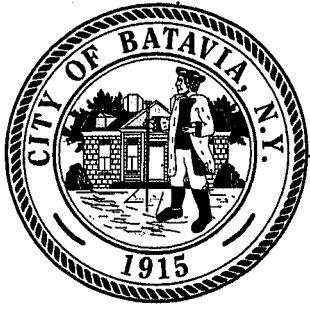
**City Hall - Council Board Room
One Batavia City Centre
Monday, September 26, 2022 at 7:00 p.m.**

AGENDA

- I. Call to Order
- II. Invocation – Councilmember Richmond
- III. Pledge of Allegiance
- IV. Public Comments
- V. Council Response to Public Comments
- VI. Communications
 - a. Alzheimer’s Walk 10/1/22
 - b. Eli Fish Festival 10/15/22
- VII. Council President Report
 - a. Announcement of the next City Council Business Meeting to be held on Tuesday, October 11, 2022 at 7:00 p.m. at the City Hall Council Board Room, 2nd Floor, City Centre
- VIII. Public Hearing – Restore NY
- IX. Audit Presentation
- X. Batavia Home Fund- Housing Revitalization Presentation
- XI. Batavia Home Fund Agreement
- XII. Funding of Reserves
- XIII. Centennial Fund Commit To Wing Ding
- XIV. Creek Park Contract For Environmental With Benchmark Turnkey
- XV. Jackson Street Water Project Architecture and Engineering

- XVI. Healthy Living Campus Restore NY Application***
- XVII. Traffic Safety Committee Car Seat Grant
- XVIII. Adjournment

***Moves to tonight's business meeting



City of Batavia

MEMORANDUM

To: Rachael Tabelski, City Manager
From: Heidi J. Parker, Clerk-Treasurer
Date: 9/20/22
Subject: **Event Summary**

Below please find the summary for the events to be reviewed by City Council on September 26, 2022:

Alzheimer's Association Walk – 10/1/22

There are no costs from the departments.

Eli Fish Festival – 10/15/22

There are no costs from the departments.

****NOTE** – Event sponsors are responsible for any costs that may be incurred because of their event and have been made aware of estimate costs, if any.



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

Official Use Only:

2022-53

Event Application #:

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

Event Sponsor Alzheimer's Association - WNY chapter

Type of Event Walk

Day and Date of Event Saturday October 1st 2022

Time of Event (don't include set up time here - just actual event time) 8am - 2pm

Location of Event Dwyer Stadium - 299 Bank St. Batavia NY 14020

Details of Event (be as specific as possible) The walk to END Alzheimer's raises awareness and funds for programs, services, and research. The event has entertainment, music, raffles, refreshments and ceremonies. The walk is approx. 2 mile, starts @ Stadium + ends at stadium. (Route map attached)

Contact Information:

Primary contact:

Secondary contact:

Name Lynn Hughes - Event Manager

Amanda Nobrega, interim ED

Phone # 716.870.8206

585.451-7442

Mailing address 6400 Sheridan Dr. Suite 320 Amherst NY 14221

E-mail address lhughes@alz.org

anobrega@alz.org

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

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

Type of alcoholic beverage to be served: Liquor Wine Beer

Will you be providing alcohol to your group? Yes No

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

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

Who will be applying to the NYS Liquor Authority for the permit to sell? N/A

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

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

EVENT INFORMATION (required):

+ Tents @ Dwyer only ^{week of + after}
Set up date: Day of 10/1/2022 Set up time: 8 am
Tear down date: Day of 10/1/2022 Tear down time: 1 pm

PLEASE LIST ALL DATES / TIMES AND CROWD INFORMATION BELOW:

Date: 10/1/2022 Start time: 10 am End time: 1 - 2 pm
Estimated crowd size: 300 # of Vendors/Displays 5

WILL THE EVENT INCLUDE:

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

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

Address, Street _____ City _____ Zip Code _____

Music: Live Group Recorded/DJ
Biggs Sound & Entertainment Biggs Johnson 716.574.7429
Name of Company Providing Above: _____ Company Contact/Representative: _____ Phone #: _____

8 main St. Corfu NY 14036
Address, Street _____ City _____ Zip Code _____

CITY SERVICES SUPPORT:

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

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

ELECTRIC:

Will electric be needed for the event? Yes No
What will you be providing electric to? Dwyer part of contract

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

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

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

PLEASE NOTE:

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

Hold Harmless Agreement

Alzheimer's Association
WNY

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

9/15/22
Date:

Alzheimer's Association WNY
Name of Event Sponsor:
Amanda Adams - Intern/Executive Director
Authorized Signature, Title

Amanda Adams
Name - Printed or Typed

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

9/15/22
Date:

Amanda Adams
Signature of Applicant:

Please forward this application to:

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

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

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

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

Please list size(s) of Tents/Canopies or other temporary structures erected* 30x20 20x40 10x10
most likely Sterling Tent vendor

ANCHORING INTO PAVEMENT IS PROHIBITED!

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

STREET CLOSURE(S):

ANY EVENT REQUIRING A STREET CLOSURE REQUIRES 90 DAY ADVANCE NOTICE

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

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

_____	_____	&	_____
<i>Street to be closed</i>		<i>Cross Streets</i>	
_____	_____	&	_____
<i>Street to be closed</i>		<i>Cross Streets</i>	
_____	_____	&	_____
<i>Street to be closed</i>		<i>Cross Streets</i>	
_____	_____	&	_____
<i>Street to be closed</i>		<i>Cross Streets</i>	

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

Will traffic cones be requested from the City? Yes No How Many? _____

(Drop off locations of requested items must be identified on the site drawing)

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

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

POLICE

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

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

**SPECIAL EVENT APPLICATION
DEPARTMENT APPROVAL SUMMARY**

FOR OFFICIAL CITY USE ONLY

OFFICIAL USE ONLY				
Department Recommendations:	Approved	Denied	Additional Costs	Department Initials
DPW (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
Fire Dept. (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
Police Dept. (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

If recommendation is denied, please attach a brief explanation

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

Event Application #: _____

Department: _____
List Department Name Here

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

Department Cost Estimate: _____
If applicable

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

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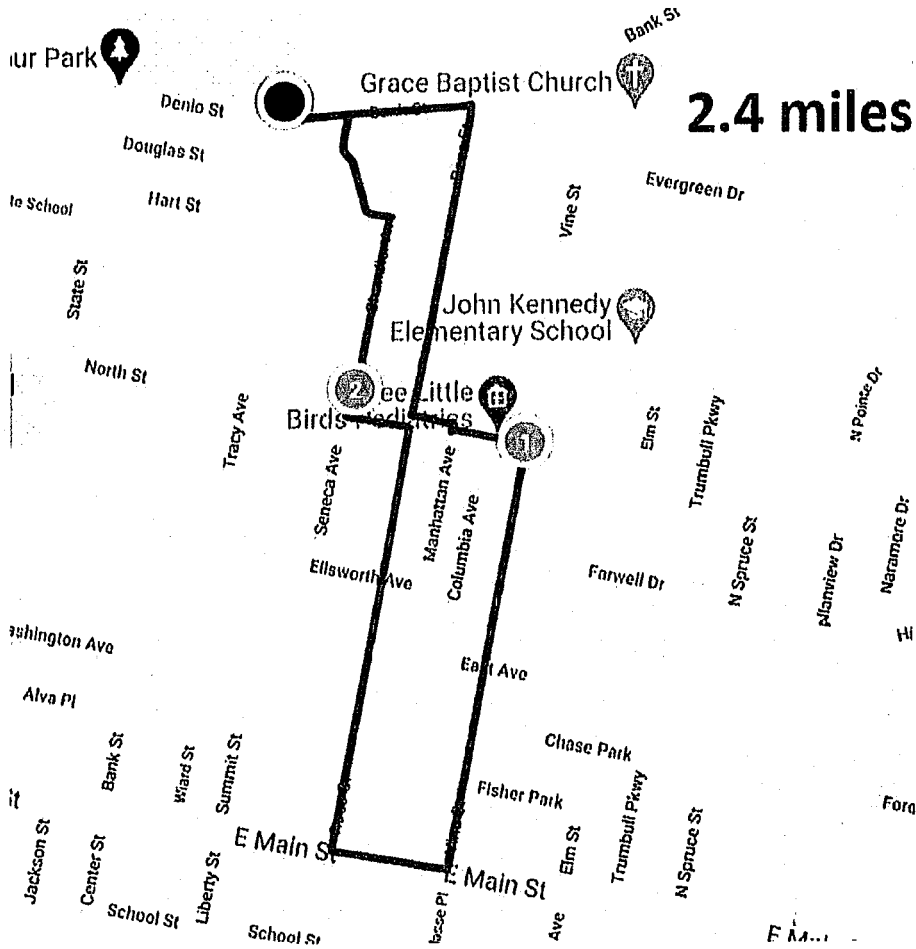
If Application not Approved, Provide Reason Here: *Fillable table – type your response here:*

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Submitted By: _____ *Name / Title* _____ *Date Submitted*

Appendices

Start Dwyer 299 Bank Street





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

PAID
AUG 29 2022
CITY OF BATAVIA
CLERK-TREASURER

Official Use Only:

2022-50
Event Application #.

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

Event Sponsor Eli Fish Brewery/Batavia Brewing Company
Type of Event Festival
Day and Date of Event 10/15/22 Saturday
Time of Event (don't include set up time here - just actual event time) 12pm - 4pm
Location of Event Jackson Square
Details of Event (be as specific as possible!) Craft beer festival with visiting breweries, local vendors, food, and live music

Contact Information:

Primary contact:

Secondary contact:

Name Sydney Carl Adam Burnett
Phone # 585-813-7005 310-903-6535
Mailing address 5220 Clinton St Rd Apt 3, Batavia 109 main St Batavia, NY
E-mail address syd.carl@gmail.com adam@elifishbrewing.com

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

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

Type of alcoholic beverage to be served: Liquor Wine Beer

Will you be providing alcohol to your group? Yes No

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

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

Who will be applying to the NYS Liquor Authority for the permit to sell? Eli Fish Brewery

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

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

EVENT INFORMATION (required):

Set up date: 10/15/22 Set up time: 9 AM

Tear down date: 10/15/22 Tear down time: 5 PM

PLEASE LIST ALL DATES / TIMES AND CROWD INFORMATION BELOW:

Date: 10/15/22 Start time: 12 PM End time: 4 PM

Estimated crowd size: 200 # of Vendors/Displays 10

WILL THE EVENT INCLUDE:

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

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

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

Address, Street _____ City _____ Zip Code _____

Music: Live Group Recorded/DJ

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

Address, Street _____ City _____ Zip Code _____

CITY SERVICES SUPPORT:

City Code 66-15, D-2

The City reserves the right, as part of the permitting process, to require the applicant to pay for additional operational costs of the City associated with the event.

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

ELECTRIC:

Will electric be needed for the event? Yes No

What will you be providing electric to? live music, string lights, possible cotton candy machine

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

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

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

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

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

Yes No
Yes No

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

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

40x40, 10x10

ANCHORING INTO PAVEMENT IS PROHIBITED!

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

STREET CLOSURE(S):

ANY EVENT REQUIRING A STREET CLOSURE REQUIRES 90 DAY ADVANCE NOTICE

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

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

_____	&	_____
Street to be closed	Cross Streets	
_____	&	_____
Street to be closed	Cross Streets	
_____	&	_____
Street to be closed	Cross Streets	
_____	&	_____
Street to be closed	Cross Streets	

Will street barricades be requested from the City? Yes No How Many? 2

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

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

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

12 picnic tables, 6 garbage cans

POLICE

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

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

PLEASE NOTE:

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

Hold Harmless Agreement

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

7/30/22
Date:

Eli Fish Brewing Company / Batavia Brewing Company
Name of Event Sponsor:

Sydney L. Carli, Event Coordinator
Authorized Signature, Title

Sydney L. Carli
Name - Printed or Typed

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

7/30/22
Date:

Sydney L. Carli
Signature of Applicant:

Please forward this application to:

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

**SPECIAL EVENT APPLICATION
DEPARTMENT APPROVAL SUMMARY**

FOR OFFICIAL CITY USE ONLY

OFFICIAL USE ONLY				
Department Recommendations:	Approved	Denied	Additional Costs	Department Initials
DPW (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
Fire Dept. (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
Police Dept. (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

If recommendation is denied, please attach a brief explanation

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

Event Application #: _____

Department: _____
List Department Name Here

Department Approval

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

Department Cost Estimate: _____
If applicable

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

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

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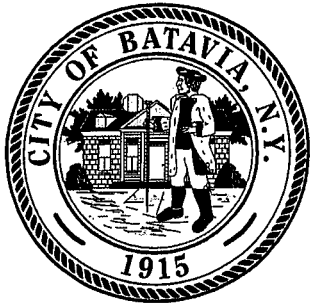
Submitted By: _____ Name / Title Date Submitted

Appendices

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

TEMPORARY STRUCTURE SETUP AND DAILY CHECKLIST (tent and membrane structures)			
YES	Item to Verify	NO	Corrective Action

Is structure at least 20 feet from any property lines?	Do not occupy or use structure. Structure needs to be relocated a minimum of 20 feet from any property lines.
Is structure within 20 feet of any building?	Do not occupy or use structure. Structure needs to be relocated a minimum of 20 feet from any building.
Is structure within 20 feet of another structure?	Evaluate all structures within 20 feet of each other as a single structure meeting all applicable requirements.
Is structure within 20 feet of parking?	Restrict parking or relocate structure at least 20 feet from parking.
Is structure within 20 feet of any internal combustion engines?	Do not use internal combustion engine until relocated at least 20 feet from structure.
Are "No Smoking" signs posted inside and outside?	Do not occupy or use structure unless no smoking signs are posted and enforced.
Are fireworks and unapproved open flames prohibited inside and outside the structure?	Do not occupy or use structure unless fireworks and all unapproved open flames are prohibited in the structure and within 20 feet of exterior of structure.
Are all points in the structure within 100 feet of an exit?	Do not occupy or use structure unless sufficient nearby exits are provided.
Ensure "Exit" signs are posted and clearly visible.	Do not occupy or use structure unless required "Exit" signs are provided.
Ensure "Exit" signs are illuminated.	Do not use or occupy structure unless illuminated exits are provided.
Ensure that exit signs have either two separate circuits or two sources of power depending on occupant load.	Do not use or occupy structure until a minimum of two circuits or sources of power are provided as required. Typically this is accomplished through the use of AC Powered Exit signs with internal battery backup.
Are exits open and uncovered?	Do not occupy or use structure unless all required exits are functional.
Are all aisles at least 44 inches wide? Do aisles increase in width where required?	Do not occupy or use structure unless proper aisle widths are maintained.
Is the Occupant Load posted appropriately?	Do not occupy or use structure unless the correct occupant load is posted appropriately.
Ensure emergency lighting is provided.	Do not use or occupy structure unless emergency lighting is provided.
Is a label permanently affixed to the structure bearing the identification of size and material type?	Do not use or occupy structure unless label is present.
2A:10BC Fire extinguishers are provided (see information packet for minimum number required).	Do not use or occupy structure until sufficient, properly sized, fire extinguishers are provided.
At least one 4OBC rated fire extinguisher shall be provided for each kitchen, mess hall, power generator, or transformer and at locations where flammable or combustible liquids are used, stored, or dispensed.	Do not use or operate any of these hazards unless appropriate fire extinguishers are provided as described in Temporary Membrane Structures, Tents and Canopies document and applicable codes.
Weeds and other combustible vegetation shall be removed from within 30 feet of the structure area.	Do not use or occupy the structure unless combustible vegetation has been removed from the specified area.
The floor surface inside, including the grounds adjacent to or within 30 feet outside of temporary tents, canopies, and membrane structures, shall be kept free of combustible waste.	Do not use or occupy the structure unless combustible waste is removed or stored in proper containers.
Such waste shall be stored in approved containers until removed from the premises.	Do not use or occupy the structure unless trash containers have been emptied from the previous day.
Outdoor cooking that produces sparks or grease-laden vapors. Must be outside tent.	Do not use cooking source under tent
Is tent secure	20 lbs per leg or tent stakes
Inspection performed by:	Date:



City of Batavia

Memorandum

To: Honorable Council Members

From: Erik Fix, Assistant City Manager

Date: September 19, 2020

Subject: Batavia Home Fund

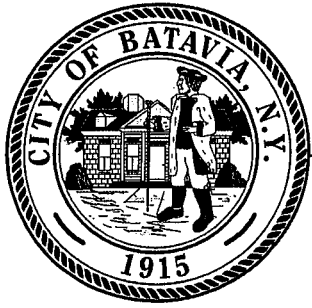
Genesee County's private-sector employment increased 4.4% between 2015 and 2020. Batavia-based food and beverage manufacturers now employ 900+. This along with the enormous potential at the WNY STAMP site continues to present the need for the City of Batavia, and the entire county to focus on housing. According to the 2020 Rockefeller Institute of Government (SUNY Think Tank) study "the lack of available housing prevents the full local return on business investment. The biggest challenge facing Genesee County is the tight housing market. With low vacancy rates and few houses available for sale, if a surge of development attracted employment into the region, workers would need to look outside of the county for housing." **4,800+ units (single family and rentals) will be needed in Genesee County over the next 20 years as build-out of WNY STAMP occurs.**

This coupled with the City's current market conditions of older homes (69% of houses are over 100 years old, 82% are at least 60 years old), lower property values than the Town of Batavia or the County as a whole, higher concentration of poverty, a large supply of multifamily housing, landlords who are not reinvesting in properties cause numerous challenges for the City and our neighborhoods.

In 2021 there were 243 homes sold in City of Batavia from January 4 – December 13 at an average sale price of \$134,170. The average date of the homes sold was 1918.

The City needs to stop the decline of aging housing stock by providing incentives to property owners to continue to be property stewards, needs to provide a continuum of housing so that residents can move into appropriate housing as they age, needs to incentivize the transition of multifamily to single family and needs to look towards more stringent property codes to ensure quality housing for all residents.

To this end, the City of Batavia, the Genesee County Economic Development Center (GCEDC), and the Town of Batavia will collectively facilitate the remediation, rehabilitation and redevelopment of real estate, targeting blighted and/or contaminated properties in the City by developing the Batavia Home Fund.



City of Batavia

The Batavia Home Fund will be used to promote and provide for new home construction, the rehabilitation and conversion of residential rental to single family homes, improve real estate conditions, expand tax base and improve neighborhood viability. These expenditures may include extraordinary development costs related to hazardous material abatement, remediation, flood hazard areas, demolition/rehabilitation of vacant residential structures that cause community and neighborhood blight.

Through collective partnership and cooperation, the Batavia Home Fund will capitalize Payment In Lieu Of Taxes (PILOT) payments from project investors, as well as other sources such as land sales, etc. to capitalize the fund.

Other eligible uses of funds could be for the expansion of sewer capacity at Waste Water Treatment Plant for studies, engineering, construction and expansion, matching funds to secure other grant resources to further capitalize redevelopment projects and home rehabilitation. The fund could also provide capital for land assemblage, property acquisition and due diligence for projects, marketing expenses for existing programs such as 421-F, 485-R.

The City will also be exploring the Core Housing Owner Incentive Exemption (CHOICE) program, modeled after the City of Rochester that would provide exemptions for multi-family homes to convert to single family homes (conversions) and for building new housing stock.

The payments associated with projects will be remitted to the GCEDC and be deposited into the Batavia Home Fund to be utilized for the program. A committee with equal representation from the City, Town and GCEDC will review applications and determine appropriate uses of funds.

The terms of the agreement will cover a ten-year period from the time the agreement is signed by all parties. I recommend that City Council approve the Batavia Home Fund Agreement.

A RESOLUTION TO AUTHORIZE THE CITY COUNCIL PRESIDENT TO EXECUTE AN AGREEMENT WITH THE GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AND TOWN OF BATAVIA TO REPURPOSE A PORTION OF PAYMENT IN LIEU OF TAXES AND/OR HOST BENEFIT AGREEMENT RECEIPTS TO CAPITALIZE A REINVESTMENT FUND TO BE UTILIZED TO OFFSET EXTRAORDINARY EXPENSES RELATED TO REMEDIATION, REHABILITATION AND REDEVELOPMENT OF MARKET RATE HOUSING AND SINGLE FAMILY HOMES IN THE CITY OF BATAVIA.

WHEREAS, the City of Batavia (hereinafter referred to as the "CITY"), the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (hereinafter referred to as the "AGENCY") and the Town of Batavia (hereinafter referred to as "TOWN") want to facilitate the remediation, rehabilitation and redevelopment of real estate, targeting blighted and/or contaminated properties in the City, for use to promote and provide for new home construction and the rehabilitation and conversion of residential rental to single family homes, improve real estate conditions, expand tax base and improve neighborhood viability; and

WHEREAS, new housing projects and the conversion of rental properties to single family homes are encouraged to dramatically improve the area including but not limited to the remediation and redevelopment of contaminated property, elimination of blighting influence on the City's housing area and desire to cause an increase in property values that will continue revitalization of downtown and support neighborhood stabilization; and

WHEREAS, the extraordinary expenses incurred for extension of infrastructure and increase to capacities pose an inhibiting threat to and prevent such housing projects from developing; therefore, public-private partnerships are necessary to motivate owners, investors and developers (hereafter referred to as "Project Investors") to begin new housing projects within the City that will improve conditions; and

WHEREAS, the Parties agree that focusing on redevelopment and new construction of the City's housing stock will result in elimination of blight, increase tax base, improve community conditions and cause overall positive economic benefit for the surrounding community; and

WHEREAS, through collective partnership and cooperation, the Parties are entering into this Agreement to Host Agreements (as hereinafter defined) from Project Investors to capitalize a certain housing and infrastructure improvement fund to be utilized for the undertaking of Project related infrastructure improvements and housing program related expenditures. These expenditures may include extraordinary development costs related to hazardous material abatement, remediation, flood hazard areas, demolition/rehabilitation of vacant residential structures that cause community and neighborhood blight.

WHEREAS, improvements may also include infrastructure modernization and improvements including all costs related to plan, design and construct streets, sidewalks, multi-modal, water, sewer, gas, electric, telecommunication enhancements, storm water management,

and related green infrastructure including landscaping and streetscape improvements related to housing projects.

WHEREAS, other eligible uses of funds could be for the expansion of sewer capacity at Waste Water Treatment Plant for studies, engineering, construction and expansion, matching funds to secure other grant resources to further capitalize redevelopment projects and home rehabilitation, land assemblage, property acquisition and due diligence for projects, marketing expenses for existing programs such as 421-F, 485-R and Core Housing Owner Incentive Exemption (CHOICE), grants to support CHOICE program, (the “Infrastructure Improvements”); and

WHEREAS, In furtherance of the anticipated significant positive financial impacts within the City associated with a Project’s Infrastructure Improvements as related to the City’s Neighborhood Revitalization Strategy in: (i) creating new housing stock in the City, (ii) rehabilitating vacant and blighted buildings and properties, (iii) converting rental properties to single family homes within the City, and (iv) increasing property values and property tax revenue, and in recognition that City Housing Projects often have extraordinary expenses, the Payment In Lieu of Taxes and/or Host Benefit Agreements will be required to generate funds to be utilized by the Agency to pay for or reimburse costs incurred for Infrastructure Improvements, by and between the Agency and the proprietor of a Project, as described herein; and

WHEREAS, this is a local program in the City of Batavia to focus solely on new housing projects and the conversion of rental properties to single family homes.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Batavia authorizes the City Council President to enter into the Batavia HOME FUND (BHF) Agreement with the COUNTY, AGENCY and TOWN.,

**BATAVIA HOME FUND (BHF)
AGREEMENT BY AND BETWEEN
THE CITY OF BATAVIA, NEW YORK, THE GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY, AND THE TOWN OF BATAVIA**

THIS AGREEMENT, made the _____ day of _____, 2022, by and between the CITY OF BATAVIA, a municipal corporation of the State of New York, having offices located at City Hall, One Batavia City Centre, Batavia, New York, (the “City”) and the TOWN OF BATAVIA, a municipal corporation of the State of New York, having offices at 3883 West Main Street Road, Batavia, New York and the GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER, a public benefit corporation duly existing under the laws of the State of New York, having offices located at 99 MedTech Drive, Suite 106, Batavia, New York (the “Agency”), (collectively, with the City, the Town, and the Agency, the “Parties”).

WITNESSETH:

WHEREAS, the Parties are willing to facilitate the remediation, rehabilitation and redevelopment of market rate housing and single family homes in the City, for residential use in order to promote and provide for new home construction and the rehabilitation and conversion of residential rental to single family homes, improved real estate conditions, expand the tax base, and improve neighborhood vitality; and

WHEREAS, in 2018 Genesee County hired LaBella Associates to complete a county wide housing study which identified the need for an additional 4,800 new housing units in the next 20 years; and

WHEREAS, new housing projects and the conversion of rental properties to single family homes are encouraged to dramatically improve the area including but not limited to the remediation and redevelopment of contaminated property, elimination of blighting influence on the City's housing area and desire to cause an increase in property values that will continue revitalization of downtown and support neighborhood stabilization; and

WHEREAS, the extraordinary expenses incurred for extension of infrastructure and increase to capacities pose an inhibiting threat to and prevent such housing projects from developing; therefore, public-private partnerships are necessary to motivate owners, investors and developers (hereafter referred to as "Project Investors") to begin new housing projects within the City that will improve conditions; and

WHEREAS, the Parties agree that focusing on redevelopment and new construction of the City's housing stock will result in elimination of blight, increase tax base, improve community conditions and cause overall positive economic benefit for the surrounding community; and

WHEREAS, through collective partnership and cooperation, the Parties are entering into this Agreement to Host Agreements (as hereinafter defined) from housing developers to capitalize a certain housing and infrastructure improvement fund to be utilized for the undertaking of Project related infrastructure improvements and housing program related expenditures. These expenditures may include extraordinary development costs related to hazardous material abatement, remediation, flood hazard areas, demolition/rehabilitation of vacant residential structures that cause community and neighborhood blight. It may also include infrastructure modernization and improvements including all costs related to plan, design and

construct streets, sidewalks, multi-modal, water, sewer, gas, electric, telecommunication enhancements, storm water management, and related green infrastructure including landscaping and streetscape improvements related to housing projects. Other eligible uses of funds could be for the expansion of sewer capacity at Waste Water Treatment Plant for Studies, Engineering, Construction and Expansion, matching funds to secure other grant resources to further capitalize redevelopment projects and home rehabilitation, land assemblage, property acquisition and due diligence for projects, marketing expenses for existing programs such as 421-F, 485-R and Core Housing Owner Incentive Exemption (CHOICE), Grants to support CHOICE program, (the “Infrastructure Improvements”); and

WHEREAS, In furtherance of the anticipated significant positive financial impacts within the City associated with a Project’s Infrastructure Improvements as related to the City’s Neighborhood Revitalization Strategy in: (i) creating new housing stock in the City, (ii) rehabilitating vacant and blighted buildings and properties, (iii) converting rental properties to single family homes within the City, and (iv) increasing property values and property tax revenue, and in recognition that City Housing Projects often have extraordinary expenses, the Host Benefit Agreements will be required to generate funds to be utilized by the Agency to pay for or reimburse costs incurred for Infrastructure Improvements, by and between the Agency and the proprietor of a Project, as described herein; and

WHEREAS, this is a local program in the City of Batavia to focus solely on new housing projects and the conversion of rental properties to single family homes.

NOW, THEREFORE, BE IT RESOLVED, in consideration of the mutual covenants

and agreements contained herein the Parties hereby agree as follows:

1. Batavia Home Fund (BHF)

- a) The Parties agree to create the Batavia Home Fund (hereinafter referred to as “BHF”) to be capitalized by Host Benefit Agreements on all Agency induced housing Projects that utilize Agency benefits within the City and Town of Batavia, or other Projects that may not utilize Agency benefits that the City and Town may require Host Benefit Agreements.
- b) The City will contribute funds from GCEDC induced housing projects and sale of property that meets the requirements of this agreement on a case by case basis.
- c) The Town can contribute funds
- d) The BHF funds will be used for Infrastructure Improvements as described above and as further defined in Section 4, below, for future economic and brownfield redevelopment investments targeted within the City for new housing projects and the conversion of residential rental to single family homes.

2. Project Eligibility

- a) All Housing Projects within the City and Town that are on or after October 1, 2022 will enter into a Host Benefit Agreement with the Agency to be deposited into the BHF Fund.
- b) The Parties agree that BHF Funds may only be utilized for a Housing Project that:
 - i. Is located, in its entirety, within the City, or one project that is on City property that also carries over to Town property,

ii. Has obtained approval from the Housing Oversight Committee (“Committee”) that will have a representative from the Town of Batavia, the City of Batavia and the Agency.

1. The City representative will be the City Manager or his or her designee.

2. The Town representative will be the

3. The Agency representative will be the Senior VP of Operations

(c) Application. The Project Investor shall prepare an application to the Committee including such information to enable the Committee to determine if anticipated Project related infrastructure improvement expenditures are consistent with BHF Fund purposes.

(d) Information with regard to Project Infrastructure Improvements as included within the BHF investment recommendation provided by the Committee to the Agency within the “Application” will be included, as determined necessary by the Agency.

(e) As administrator of the BHF Fund account, the Agency will confirm that sufficient BHF funds are available to honor the proposed Project commitment, however, any such Project commitment shall be non-recourse to the Agency.

(f) Upon BHF investment funding approval by the Committee made with respect to a Project, the amount of BHF funds committed to such a Project shall be referenced in and be made part of an appropriate agreement entered into by and between the Project Investor and the Agency which shall define the exact amount of funds committed to the project and for what purpose.

- (g) The Committee reserves the right and discretion to approve or disapprove any Agency led project requesting BHF funds.

3. Payment and Management of Funds

- a) The Host Benefit Agreement payments associated with Projects on or after October 1, 2022, within the existing boundaries of the City or Town, be remitted to the Agency and be deposited into the BHF Fund to be utilized by the Agency to pay for Infrastructure Improvements.
- b) BHF will be used for Project related Infrastructure Improvements within the City of Batavia as defined in Section 4 below.
- c) The Agency hereby agrees to accept all future Host Benefit Agreements as described herein and to deposit such payments into the BHF Fund account.
- d) The Agency agrees to maintain all BHF funds in accordance with Generally Accepted Accounted Principles (GAAP), Sections 10 and 11 of GML and Section 2925 of New York Public Authorities Law.

4. Use of Funds

- a) The Parties agree and acknowledge that Host Benefit Agreements submitted to the Agency as described herein are to provide funds to capitalize the BHF Fund, said funds to only be utilized for Project related Infrastructure Improvements, within the City, including, but not limited to:
 - i. Extraordinary development costs related to hazardous material abatement, remediation, flood hazard areas, etc.

- ii. Demolition / rehabilitation of vacant residential structures that cause community and neighborhood blight.
- iii. Infrastructure modernization and improvements including all costs related to planning, design and constructing roadways, multi-modal, water, sewer, gas, electric, telecommunication enhancements, storm water management facilities and related green infrastructure including landscaping and streetscape improvements related to redevelopment projects.
- iv. Expansion of sewer capacity at Waste Water Treatment Plant for Studies, Engineering, Construction and Expansion.
- v. Matching funds to secure other grant resources to further capitalize redevelopment projects in the BOA area.
- vi. Land assemblage, property acquisition and due diligence for Agency Projects consistent with Section 2 of this Agreement.
- vii. Marketing expenses for existing programs such as 421-F, 485-R and Core Housing Owner Incentive Exemption (CHOICE).
- viii. Grants to support CHOICE program

5. Internal Controls

- a) Milestones and related reimbursement schedule shall be agreed upon by the Agency, Committee and Project Investor as outlined in the “Application” prior to Agency

presentation and consideration of the project.

- b) For projects undertaken directly by the Agency, as opposed to a Project Investor, an “Application” shall also be required outlining project milestones and funding/reimbursement schedule.
- c) As part of the project application to the Committee by the Project Investor, the Agency will confirm that the BHF Fund is adequately capitalized to support the proposed project. A cash flow statement demonstrating the existing BHF funds and future cash flow, taking into consideration existing commitments as well as the proposed project, will be provided by the Agency as part of Committee approval process. At no time will a proposed project receive approval which overcommits the capitalization of the BHF Fund.
- d) No BHF Fund reimbursements are allowed for expenses incurred prior to project approval by the Committee.
- e) Reimbursement of project expenses from the BHF Fund shall be dispersed following the agreed upon reimbursement schedule and milestones as defined in the “Application” and any related agreement for such Project.

6. Consent

- a) The City, the Town, and the Agency hereby irrevocably (a) consent to the terms of this agreement, (b) direct and authorize payments made to the Agency pursuant to the terms of the Host Benefit Agreement as affected by this Agreement.

7. Annual Reporting

- a) The Agency will provide all parties to this Agreement with an annual report on the fiduciary condition and transactions of the BHF Fund for the prior year's fund performance no later than 120 days following the close of the Agency's fiscal year.
- b) The Agency will continue to comply with the Public Authorities Law requirements.

8. Indemnification

- a) Each party to this Agreement represents that this Agreement is an enforceable obligation of such party, and indemnifies and holds the other parties to this Agreement harmless against any loss, costs, expense (including reasonable attorney's fees and expenses) and any liability, claim, action or proceeding, arising from any assertion that this Agreement is not the enforceable obligation of such party. If said damage or injury is caused by or is due to the specific negligence attributable solely to the City, Town, and Agency, as the case may be, all other parties shall be held harmless.

9. Term of Agreement

- a) The term of this Agreement shall be October 1, 2022 through September 30, 2032.

10. Cancellation or Renewal of Agreement

- a) Non-Renewal: Any party shall notify all others at least one hundred and twenty (120) days prior to the expiration of this agreement of its intention not to renew.
- b) Termination: Any party shall have the authority to terminate their participation in this agreement upon one hundred and twenty (120) days written notice to all other parties by providing reason for so doing with the effective date of the notifying parties

termination of participation in this agreement being January 1st of the ensuing year providing notice requirements have been met.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers the day and year first above-written.

CITY OF BATAVIA

(SEAL)

By: _____
Eugene Jankowski, Jr.
BATAVIA CITY COUNCIL PRESIDENT

TOWN OF BATAVIA

(SEAL)

By: _____
Gregory Post
TOWN OF BATAVIA TOWN SUPERVISOR

**GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY d/b/a GENESEE
COUNTY ECONOMIC DEVELOPMENT
CENTER**

(SEAL)

By: _____
Peter Zelif
CHAIRMAN, GENESEE COUNTY
ECONOMIC DEVELOPMENT CENTER

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

On _____, 2022, before me personally came Eugene Jankowski, Jr. to me known, who being by me duly sworn did depose and say that he is the Batavia City Council President of the City of Batavia, New York, the municipal corporation described in foregoing, and acknowledged that he executed the same by order of such corporation.

Notary Public

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

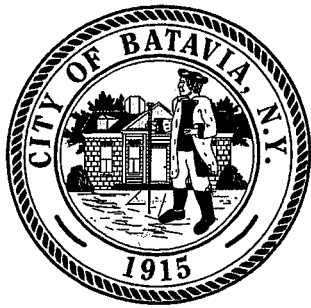
On _____, 2022, before me personally came Gregory Post to me known, who being by me duly sworn did depose and say that he is the Supervisor of the Town of Batavia, New York, the municipal corporation described in foregoing, and acknowledged that he executed the same by order of such corporation.

Notary Public

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

On _____, 2022, before me personally came Peter Zeliff to me known, who being by me duly sworn did depose and say that he is the Chairman of the Genesee County Industrial Development Agency in Batavia, New York, a public benefit corporation described in foregoing, and acknowledged that he executed the same by order of such corporation.

Notary Public



City of Batavia

Memorandum

To: Honorable City Council

From: Rachael J. Tabelski, City Manager

Date: September 19, 2022

Subject: FY 21/22 Draft Financial Statements

Below is a draft recommendation for the allocation of unassigned fund balance to be transferred to restricted reserve fund balances. After FY 21/22 the City is in a good position to increase the percentage of unassigned fund balance, per the Fund Balance Policy, to 17.5% of current year budgeted General Fund expenses (\$17,853,892). This calculates to approximately \$3,124,431 in unassigned fund balance. GFOA recommends two months of expenses to be reserved in fund balance, and we are able to achieve this.

I recommend the remaining unassigned General Fund fund balance, \$1,067,000, be allocated to reserve funds as outlined below, for future expenses highlighted in the City's approved Capital Plan.

Over the past decade the City has diligently built reserve funds to complete projects and control General Fund spending that causes the tax rate to increase above the 2% tax cap. The reserves are built to fund planned capital projects, purchase trucks and vehicles, infrastructure improvements, facility improvements, and cover overages in health and worker's comp costs.

Building the reserve fund now is extremely important as the City prepares to bond for a new Police Facility. In addition, the City will be utilizing "roll-off" debt that is currently being devoted to reserves in the annual budget.

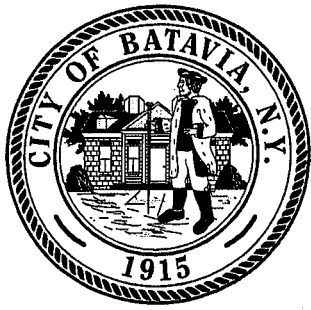
Below are the recommendations for reserve fund allocations.

Police Reserve (\$125,000)- the City is working to replace patrol and detective vehicles on an annual basis based on a fleet replacement schedule. Currently, there is a need to replace two to three vehicles per year to keep up with the replacement schedule. By allocating \$125,000 to the police reserve the City can purchase

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City of Batavia

two marked vehicles and one detective vehicle. Currently the oldest patrol vehicle is a 2017 and the oldest detective car is a 2009.

Fire Reserve (\$31,000)- the City just authorized a bond to purchase a new pump engine for \$800,000 with a combination of financing of \$100,000 USDA RD grant, a 2.55% UDSA RD loan for \$665,000 and a commitment of \$37,000 in reserve funds. This will leave approximately \$375,000 balance in the reserve fund to make debt payments, and invest in other needs. Adding another \$30,000 will help with annual debt payments and could be used to replace radios and Squad 16 (\$100,000). In FY 21/22, the City was able to use VLT funds and invested \$125,000 in replacing 49 portable radios. Currently the City needs to purchase an additional 89 police and fire radios (\$375,000) as our current radios are at end of life.

Sidewalk Reserve (\$50,000) the ability to continue to maintain sidewalks across the City is imperative to the City's Complete Streets program that seeks to repair streets and sidewalks simultaneously. This summer the City was able to repair approximately 6,400 linear feet of City sidewalks and handicap accessible ramps on portions of Chase Park, Fisher Park, Seneca Avenue, Miller Avenue, and Columbia Avenue. To ensure that we can continue with sidewalk replacements, I recommend funding this reserve with \$50,000. This brings the total reserve fund up to 215,772 and allow for the replacement of another 3,200 linear feet of sidewalk.

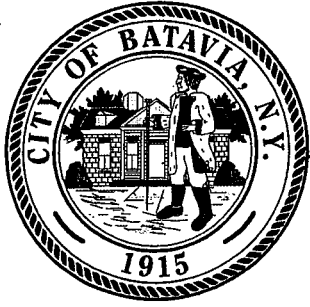
DPW Equipment Reserve (\$240,000) – since 2011, the Equipment Replacement Plan (ERP) has allowed the City to replace over 22 pieces of public works equipment, valued at over \$3.6 million. The City has been able to replace a significant amount of equipment by utilizing reserve funds to absorb the majority of the cost, and not negatively impact the tax rate. The ERP outlines replacing two single axel dump trucks with plows, six sedans, four 4x4 pickups with plows, and a one-ton dump truck by the end of 2025. About \$1.3 million is needed to replace this equipment. By allocating \$240,000, the reserve fund will have a new balance of \$533,000. Continuing to replenish reserve funds allows the City to make these needed investments on a regular basis.

Facilities Reserves (\$421,000)- an objective of the City's Strategic Plan includes creating capital plans for City facilities. Capital plans for the Bureau of Maintenance, Fire Station, and City Centre (mall) roof were completed and identified over \$4,000,000 of needed improvements. The Mall Roof Project Phase I and II was completed in 2022 at a cost of \$935,000. The Fire Station and Bureau of Maintenance (BOM) project is expected to go to bid in the fall of 2022; however not all of the upgrades will be achieved. The cost of the original project was estimated at \$1,100,000, however current estimates of construction are \$1,500,000 with only 65% of the needed improvements completed. Continuing to build the Facility Reserve Fund will be

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City of Batavia

critical to the ongoing success of the City to maintain a safe and healthy workplace for employees, and to move these projects forward as prices continue to rise.

Compensated Absences (\$50,000)- currently the City's compensated absences liability is \$2.014 million (pg. 51 of the Financial Statements) with \$201,499 due within one year. However, based on what we know today, three pending retirements will affect the General Fund by \$110,000. Accordingly, the City utilizes this reserve to fund these one-time payouts. With the addition of \$50,000 to this reserve account the City will have \$205,586 in Compensated Absences Reserve.

Retirement Reserves (\$50,000)- the State's projected retirement contributions in past years have not been consistent with actual retirement payments, making it prudent to assume retirement costs will increase in years to come until consistent and reliable retirement payments are restored. In the last two budget years the City has budgeted to use Retirement Reserves to offset rising employee benefit costs in the budget. The Current balance of Retirement Reserves is \$170,000 and after adding \$50,000 the City will have \$220,000 in this reserve.

Parking Lot (\$50,000)- the City maintains multiple parking lots and sports surfaces throughout the City and has a parking lot plan to address payment for the improvements of lots and surfaces overtime. This year Williams Street parking lot and trails will be paved at an expense of \$41,000. The City needs to fund the repaving of the Court Street Plaza (\$350,000), and the Bureau of Maintenance Parking lot (\$150,000). Funding this reserve will help to advance these projects in future years, and bring the balance of the fund to \$222,000.

Health Care Fund Reserve (\$50,000) – continuing to fund the health insurance reserve is critical in order to be able to maintain fund balance in the General Fund. In FY 19/20 and 20/21, the City had several high value claims funded by the Health Insurance Fund at larger than anticipated amounts. By adding \$50,000 to the Health Care Fund reserves, the City will be building back funds used in previous years. Establishing safe financial resources for any unexpected health insurance expenses in the future is critical in maintaining a stable tax rate. As of March 31, 2022 the Health Care Fund has \$510,000 in reserve funds.

Recommendation

After review with the Audit Committee of the City of Batavia, I recommend that City Council allocate \$1,067,000 of unassigned fund balance to be transferred to restricted reserve fund balances.

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#XX-2022

**A RESOLUTION TRANSFERRING FUNDS FROM UNASSIGNED FUND BALANCE
TO VARIOUS RESERVE FUNDS**

Motion of Councilmember

WHEREAS, pursuant to General Municipal Law 6-c and 6-j the City of Batavia has established various reserve funds; and

WHEREAS, the City of Batavia, for the fiscal year ending March 31, 2022, has assigned General Fund balance for funding various reserves; and

WHEREAS, the City has made significant strides in improving their equipment, infrastructure and buildings, by using capital improvement plans and vehicle replacement schedules; and

WHEREAS, the City is desirous to replace vehicles and equipment in each department based on replacement schedules; and

WHEREAS, the City has multiple facility projects, infrastructure and building projects that need to be addressed in the future; and

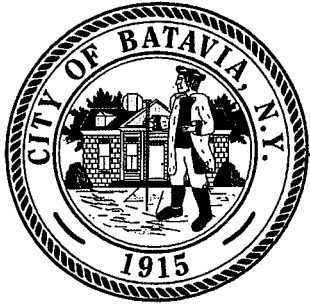
WHEREAS, the City wishes to continue to fund parking lot improvements; and

WHEREAS, the City will reserve funds for compensated absences, health care, and retirement reserves.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Batavia does hereby transfer, consistent with the City's Strategic Plan, the following amounts into the following reserves from the General Fund's assigned fund balance:

Police Equipment Reserve	\$ 125,000
Fire Reserves	\$ 31,000
Sidewalk Reserves	\$ 50,000
DPW Equipment Reserve	\$ 240,000
Facility Reserve	\$ 421,000
Parking Lot Reserve	\$ 50,000
Compensated Absence Reserve	\$ 50,000
Retirement Reserve	\$ 50,000
Health Care Reserve	\$ 50,000

**Seconded by Councilmember
and on roll call**



City of Batavia

Memorandum

To: Honorable Council Members

From: Erik Fix, Assistant City Manager

Date: September 16, 2022

Subject: Centennial Celebration Transfer to Wing Ding Account

It has been announced that Genesee County is planning to re-establish the Airshow in the fall of 2023. In conjunction with that event, the City of Batavia is exploring the idea of once again hosting the Wing Ding Weekend. We are in the process of establishing a committee to begin planning the event.

In reviewing City finances during the Audit, we realized there is a \$9,188 balance from the Centennial Celebration sitting in the City coffers.

We surveyed the former Centennial Celebration Committee and they have agreed to allow the City to use the funds as startup capital for re-establishing the Wing-Ding Weekend.

I recommend that City Council approve the transfer of \$9,188 from Other Restricted Fund Balance Centennial Celebration to Other Restricted Fund Balance Wing Ding Weekend.

#XX-2022

**A RESOLUTION AUTHORIZING TRASFER OF FUNDS FROM CENTENNIAL
CELEBRATION ACCOUNT TO WING DING ACCOUNT**

Motion of Councilmember

WHEREAS, the City of Batavia celebrated their centennial year in 2015; and

WHEREAS, the city of Batavia is looking to re-establish the Wing Ding Weekend as part of the Genesee County Airshow in the fall of 2023; and

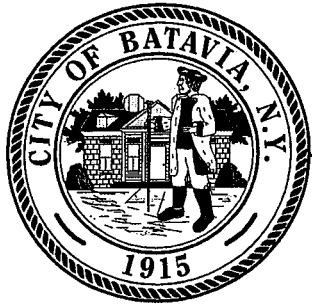
WHEREAS, there is currently \$9,188 from Other Restricted Fund Balance Centennial Celebration, and

WHEREAS, the Centennial Committee has agreed to allow the City to transfer this money to use as seed money for the Wing Ding weekend.

NOW, THEREFORE, BE IT RESOLVED, that City Council approves the transfer of \$9,188 from Other Restricted Fund Balance Centennial Celebration to Other Restricted Fund Balance Wing Ding Weekend.

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

DRAFT



City of Batavia

Memorandum

To: Honorable Council Members

From: Rachael J. Tabelski, City Manager

Date: September 19, 2022

Subject: Benchmark-TurnKey Professional Environmental Services- Creek Park

For over two decades, the City has contemplated re-development of the Creek Park Area (behind the Fire Station and Ice Rink). The 2014 Brownfield Opportunity Area Study (BOA), completed by the City, laid out a strategic framework to assist the City in advancing the site to development. To help facilitate redevelopment, the City needs to determine if a portion of the site is eligible for the Brownfield Cleanup Program (BCP). If a property is accepted into the BCP by NYS DEC the site will have access to significant tax credits and liability relief which can aid in re-development.

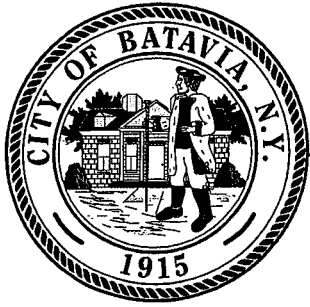
Recently, amid an influx of market-rate housing developer interest, the Batavia Development Corporation (BDC) has worked with the Town of Batavia to acquire 60 Evans (formerly owned by Graham) and set up the Creek Park LLC. By acquiring this parcel the BDC will collaborate with the City and County to allow a limited scope Phase II environmental investigation of the Creek Park Area. This work will aid in assessing BCP eligibility.

The Site is approximately ±10.74 acres in size and includes three separate tax parcels

- 1-3 West Main Street: SBL 84.010-4-13.1 (3.89 acres)- County owned
- 26 Evans Street: SBL 84.014-2-14 (3.35 acres)- City owned
- 60 Evans Street: SBL 84.014-2-61 (3.5 acres)- soon to be owned by the BDC's Creek Park LLC.

As the City, County and the BDC evaluate the potential residential redevelopment of a portion of the three parcels the Phase II will assist in determining if the site is eligible for BCP.

The BCP, developed to spur redevelopment and reuse of underutilized and contaminated sites, was originally enacted in October 2003 and was revised in April 2015 and December 2021.



City of Batavia

The primary incentives for seeking eligibility to participate in the BCP are certain tax credits, a release from environmental liability issued by New York State Department of Environmental Conservation (DEC), remediation of sites to DEC standards and obtaining a Certificate of Completion (COC) which qualifies the party to such tax credits.

The cost to remediate and develop a brownfield site can be more expensive than a greenfield site, but the advantages are numerous including reducing urban sprawl, utilizing existing utilities and placing a non-contributing parcel at the edge of downtown into productive use.

The City has chosen Benchmark Environmental Engineering & Science PLLC-TurnKey Environmental Restoration LLC, a professional service firm with a strong record of assisting municipalities and development companies in re-developing blighted brownfield sites to perform the Phase II site investigation. Benchmark-TurnKey will also assess the eligible Site Preparation costs and credits and the anticipated Tangible Property costs and credits under potential cleanup tracks scenarios to allow the project team to evaluate the potential tax credits available under the BCP to off-set the project redevelopment costs.

I recommend that City Council approve the Benchmark-TurnKey proposal for \$10,800 and utilize Creek Park Committed Fund balance for the expense.

#-2022

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BATAVIA
AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR ENVIRONMENTAL
SERVICES FROM BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE
PLLC AND TURNKEY ENVIRONMENTAL RESTORATION LLC FOR THE CREEK
PARK AREA**

Motion of Councilmember

WHEREAS, the cost to remediate and develop a brownfield site can be more expensive than a greenfield site, but the advantages are numerous including reducing urban sprawl, utilizing existing utilities and placing a non-contributing parcel at the edge of downtown into productive use; and

WHEREAS, the City of Batavia identified the Creek Park Area Site as a brownfield site in the 2014 Brownfield Opportunity Area (BOA) Study; and

WHEREAS, the City of Batavia has committed fund balance of \$15,000 for the environmental study of the Creek Park Area; and

WHEREAS, to help facilitate redevelopment, the City needs to understand if a portion of the site is eligible for the Brownfield Cleanup Program (BCP); and

WHEREAS, the City of Batavia would like to engage Benchmark Environmental Engineering & Science PLLC and TurnKey Environmental Restoration LLC, a professional service firm with a strong record of assisting municipalities and development companies in re-developing blighted brownfield sites, to prepare the limited Phase II Environmental Investigation on the Creek Park Area; and

WHEREAS, the total contract to Benchmark & TurnKey LLC is \$10,800.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia authorizes the City Council President to execute an agreement for environmental services for the Creek Park Area with Benchmark Environmental Engineering & Science PLLC and TurnKey Environmental Restoration LLC, and use Committed Fund Balance designated for Creek Park for the expense.

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



Revised August 1, 2022

Mr. George Van Nest, Esq.
Underberg & Kessler, LLP
Counsel for City of Batavia
50 Fountain Plaza, Suite 320
Buffalo, New York 14202

**Re: Limited Phase II Environmental Investigation and
Brownfield Cleanup Program (BCP) Consulting Services Proposal
Creek Area Redevelopment Project
1 to 3 West Main Street, 26 and 60 Evans Street, Batavia, New York (Site)**

Dear Mr. Van Nest,

Benchmark Environmental Engineering and Science, PLLC, in association with TurnKey Environmental Restoration, LLC, referred to as Benchmark-TurnKey herein, is pleased to submit this proposal to you for completion of a Limited Phase II Environmental Investigation and BCP Consulting Services at the above referenced Site in the City of Batavia, New York. The Site is approximately ± 10.74 acres in size and includes three (3) separate tax parcels, as follows:

- 1-3 West Main Street: SBL 84.010-4-13.1 (3.89 acres)
- 26 Evans Street: SBL 84.014-2-14 (3.35 acres)
- 60 Evans Street: SBL 84.014-2-61 (3.5 acres)

We understand that the City of Batavia (owner of 26 Evans Street), the Town of Batavia (owner of 60 Evans Street) and Genesee County (owner of 1-3 Main Street) (to be referred to herein as the "Owners") are evaluating potential redevelopment of a portion of the three (3) Site parcels into a residential development. The actual size and specific location of the residential redevelopment area is currently unknown. The Creek Area has been identified in Batavia Opportunity Area Nomination Study as an underutilized asset in the City of Batavia. To help facilitate that redevelopment, the Owners are interested in determining if the portion of the Site subject to the residential redevelopment would be eligible for the New York Brownfield Cleanup Program (BCP).

A key requirement for entry of a Site into the BCP is evidence of soil impact that exceeds the current published soil cleanup objectives (SCOs) for the intended end use of the Site. As discussed below, Recognized Environmental Conditions (RECs) were identified in a Phase I

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phone: (716) 856-0599 | fax: (716) 856-0583**

Environmental Site Assessment¹ (ESA) completed by other which indicate that soil/fill contamination may be present. As such, completion of the Limited Phase II will determine whether the Site is a candidate for the BCP. If the Site is eligible, Benchmark-TurnKey can assist the Owners with assessing the potential BCP tax credits available to the project, based on the projected residential project redevelopment costs and potential remedial action necessary to fulfill the BCP requirements.

BACKGROUND

The previously completed ESA for the Creek Area identified RECs for the Site. A summary of the RECs is provided below.

- The Site was used for various manufacturing and industrial operations from at least 1919 to 1980. Occupants included Batavia Steel Products Corporation, Doehler Die Casting Co., Adria Motor Car Corporation, and Gray Machine & Parts Corporation.
- 60 Evans Street was identified as a New York State Department of Environmental Conservation (NYSDEC) Superfund Site (Site No. 819016). However, the ESA indicated that no information was available from NYSDEC or other informational sources regarding the listing.
- Environmental investigations and remedial activities were completed at a portion of the Site (26 Evans) between 1990 and 1992. This work was completed under NYSDEC Spill No. 9109575 which was closed in April 1995. Remedial work included removal of one, 500-gallon underground storage tank (UST), two 10,000-gallon USTs, two hydraulic lifts, off-site disposal of lead impacted soil and bio-remediation of 1,700 cubic yards of petroleum impacted soil.

Although NYSDEC closed the Spill, soil analysis for the post excavation sampling from the remedial work was completed using Toxicity Characteristic Leaching Procedure (TCLP) methods which is primarily used to determine if soils exhibit hazardous characteristic. These results cannot be compared to the current NYSDEC SCOs based on that methodology and therefore, exceedances may exist.

- Fill materials are present at the Site consisting of cinders, ash, glass, brick, etc. to depths up to 7 feet below ground surface. The fill material would warrant further investigation as the characteristics of the fill cannot be determined from the previous work at the Site.
- Chlorinated volatile organic compounds (cVOCs) were detected in a 1992 groundwater sample collected from 26 Evans at concentrations exceeding NYSDEC criteria. The source of the contamination is unknown. The detection of cVOCs in the groundwater could represent a potential soil vapor intrusion concern.

¹ "Phase I Environmental Site Assessment, Creek Area – Evan Street, Batavia, New York". Prepared for the City of Batavia. Prepared by Labella Associates, DPC. June 2014.

- Three (3) fuel oil tanks were noted in a Sanborn Map on the western portion of the 26 Evans Street in at least 1948. The status of these tanks is unknown.
- A suspect vent pipe was observed along the south Site boundary in the wooded portion of 60 Evans Street. The purpose of the pipe is unknown.

Labella concluded that further investigation appeared warranted.

Benchmark-TurnKey agree that the RECs identified at the Site indicate that there is a potential for contamination to be present. As previously stated, to determine if the Site is eligible for the BCP, evidence of soil impact that exceeds the current published SCOs for the intended end use of the Site must be present. Benchmark-TurnKey proposes the following scope of work for the Limited Phase II and BCP Consulting Services within the area of the Site to be developed/redeveloped for residential purposes.

LIMITED PHASE II ENVIRONMENTAL INVESTIGATION

The focus of the investigation will be on the area proposed for the residential redevelopment. Benchmark-TurnKey will request the Owners provide a drawing or figure identifying the redevelopment area (e.g., building footprint and associated parking area) to identify the work area. This will also be used to focus the area for underground utility mark outs as discussed below. We propose to complete the following work as part of the Limited Phase II Environmental Investigation:

- Benchmark-TurnKey will contact DigSafe New York to request that buried utilities be marked prior to initiating subsurface work.
- Completion of one (1) day of test pits (TPs), estimated at up to ten (10) locations, using a track-mounted excavator to depths of approximately 10 to 12 feet below ground surface (fbgs).
- Collection of soil/fill samples for purposes of geologic description, visual and olfactory observations, and field screening using a photoionization detector (PID) to screen for total volatile organics.
- Submission of up to six (6) soil/fill samples (two (2) samples from each parcel that make up the Site) for laboratory analysis. The laboratory analysis will include the following parameters:
 - Target Compound List (TCL) volatile organic compounds (VOCs) via EPA Method 8260. If elevated PID readings are not observed in the field, the number of soil samples submitted for VOCs may be reduced.
 - CP-51 List semi-volatile organic compounds (SVOCs) via EPA Method 8270.
 - Resource Conservation and Recovery Act (RCRA) 8 metals via EPA Method 6010/7470.
 - Polychlorinated biphenyls (PCBs) via EPA Method 8082.

- Following sample collection, each test pit will be backfilled with the excavated spoils and rough graded/tampered with the excavator bucket.
- Completion of a Limited Phase II report, which will include a description of field activities, analytical testing and results, and the findings of the investigation, including figures, tabulated data, and subsurface information. A summary of the nature of contamination, if any, in comparison to applicable New York State Department of Environmental Conservation (NYSDEC) SCOs will also be included with any conclusions and recommendations.

A draft copy of the Limited Phase II report will be provided for your review. If contamination is identified above the applicable SCOs (e.g., Restricted-Residential) and the Site appears eligible for the BCP, Benchmark-TurnKey can provide a BCP Cost and Tax Credit Analysis for the project, as discussed below

BCP COST AND TAX CREDIT ANALYSIS

The BCP was developed to spur redevelopment and reuse of underutilized and contaminated sites. The BCP was originally authorized in statute under 6NYCRR Part 375 in October 2003 and was revised in April 2015. Revisions to the BCP have been proposed by NYSDEC in December 2021. The public comment period is complete, and the proposed revisions are pending.

The primary incentives for seeking eligibility to participate in the BCP are certain tax credits and a release from environmental liability issued by New York State. By successfully applying to the program, investigating, and remediating a Site under the BCP, the NYSDEC provides a Certificate of Completion (COC), which provides the release of environmental liability and eligibility of the tax credits.

In the context of the BCP, project redevelopment costs are divided into two (2) categories; "Site Preparation" costs and "Tangible Property" costs. Site Preparation costs include those costs necessary to secure Certificate of Completion from the NYSDEC, and may include environmental remediation, demolition, asbestos, lead and/or mold remediation, as well as associated engineering and legal costs. Tangible Property costs include the cost of new or renovated buildings and depreciable equipment. In the tax year after receiving the COC, an applicant (i.e., entity redeveloping the Site) is eligible to receive certain tax credits that vary from 22% to 50% of the Site Preparation costs (based on the level of cleanup achieved) and 10% to 24% of Tangible Property costs. We anticipate either Residential Track 2 (40%) or Restricted Residential Track 4 (28%) Site Preparation tax credits and 20% Tangible tax credits (10% base credit plus 5% for En-Zone and 5% for Brownfield Opportunity Area (BOA)) for this project.

The Tangible Property credit for redevelopment projects is “capped” by the lesser of: the applicable percentage of Tangible Property costs (e.g., 10-24%); three (3) times the Site Preparation costs; or a maximum cap of \$35,000,000.

The purpose of the BCP Cost and Tax Credit Analysis is to assess anticipated costs to enter an eligible site into the BCP, prepare the required work plans, perform the required investigation and associated reporting, complete required remedial actions, and redevelop the Site. Benchmark-TurnKey will provide an assessment of the eligible Site Preparation costs and credits and the anticipated Tangible Property costs and credits under potential cleanup tracks scenarios (as previously discussed) to allow the project team to evaluate the potential tax credits available under the BCP to off-set the project redevelopment costs. We will require some assistance from the Owners and/or developer on the costs redevelopment plan and associated costs in order to estimate the potential Site Preparation and Tangible Property tax credits.

PROJECT COSTS

Benchmark-TurnKey’s estimated costs to complete the Limited Environmental Investigation and BCP Cost and Tax Credit Analysis, on a time and expense basis, as described above, are presented below:

• Limited Phase II Environmental Investigation	
○ Professional Services (coordination, fieldwork, supplies)	\$2,900
○ Excavation Services (equipment and operator)	\$2,100 ²
○ Analytical Testing	\$2,600 ³
○ Report Preparation	<u>\$2,000</u>
	Phase II Estimated Total: \$9,600⁴
• BCP Cost and Tax Credit Analysis	\$1,200
	Estimated Proposal Total: \$10,800

AUTHORIZATION TO PROCEED

We have attached and made part of this proposal a copy of our standard terms and conditions for engineering services (see Attachment 1). If this proposal is acceptable, please indicate your acceptance by signing below and returning an electronic copy of the proposal to us.

² Assumes 1 day of test pits.

³ Assumes standard turn-around time of approximately 5 to 7 business days; expedited turn-around times are available for additional costs.

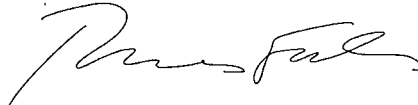
⁴ Final costs will reflect actual work and sampling completed.

We appreciate this opportunity to be of service to you. Please do not hesitate to contact us if you have any questions or require additional information.

Sincerely,
Benchmark Environmental Engineering & Science, PLLC
TurnKey Environmental Restoration, LLC



Christopher Boron, P.G.
Sr. Project Manager



Thomas H. Forbes, P.E.
President

**LIMITED PHASE II ENVIRONMENTAL INVESTIGATION AND
BROWNFIELD CLEANUP PROGRAM (BCP) CONSULTING SERVICES PROPOSAL
BATAVIA CREEK AREA REDEVELOPMENT PROJECT
1 TO 3 WEST MAIN STREET, 26 AND 60 EVANS STREET, BATAVIA, NEW YORK
PROPOSAL AND ATTACHED TERMS AND CONDITIONS ACCEPTED BY:**

Name (Printed)

Signature

Title

Date

ATTACHMENT 1

**ATTACHMENT 1
GENERAL TERMS AND CONDITIONS**

For Services Rendered to:
Underberg & Kessler, LLP (**Client**)
by
Benchmark Environmental Engineering & Science, PLLC (**Benchmark**)

For

Creek Area Redevelopment Project (Portions of: 1 to 3 West Main Street, 26 and 60 Evans Street, Batavia,
New York) (**Assignment**)

In consideration of the mutual promises herein, Client and Benchmark agree to the following Terms and Conditions for this Assignment:

Article 1 -- BASIC SERVICES

1.1 Scope. Benchmark shall provide the Basic Services generally described in the proposal to Client dated August 1, 2022 (**Proposal**). Benchmark's obligations under this Assignment are solely for the benefit of Client and no other party is intended to benefit or have rights hereunder.

1.2 Standard of Care. Benchmark shall perform the professional services under this Assignment at the level customary for competent and prudent engineers performing such services at the time and place where the services are provided [**Standard of Care**]. These services will be provided by engineers and individuals skilled in other technical disciplines, as appropriate.

1.3 Instruments of Service. Benchmark is responsible for the professional quality, technical accuracy, timely completion, and the coordination of all instruments of its services including reports [**Service Instruments**] and other services provided under this Assignment.

1.4 Applicable Codes and Regulations. The Service Instruments will be based on the generally accepted codes and regulations applicable to the Project at the time of performance.

1.5 Contract Documents. The Service Instruments may incorporate Benchmark's standard construction documents [**Contract Documents**]. In the event the Client contracts with another entity [**Contractor**] to implement a design, Benchmark shall be an additional insured on all liability and property damage insurance policies which the construction contractor(s) for the Project shall be required to provide. All contracts between Client and Benchmark for the Project shall require the Contractor to indemnify and hold Client and Benchmark harmless from any and all legal actions and liabilities arising out of the construction of the Project including, but not limited to, injury to or death of any person or injury or destruction of tangible property, not caused by the sole negligence of the party to be indemnified.

1.6 Subcontractors and Subconsultants. Benchmark may engage one or more subcontractors, or subconsultants to complete the work under this Agreement including but not limited to Benchmark Environmental Engineering, Benchmark Environmental Science, PLLC.

1.7 Title to Hazardous Materials. Client agrees that title to all solid, hazardous or toxic wastes, materials, or substances originating at or removed from Client's premises or at Client's direction will remain in and with Client and that Client will not challenge said title by any means, including actions in state or federal court or any other forum.

1.8 Generation, Storage, Transportation or Disposal of Hazardous Materials. Client further agrees that, unless specifically agreed to otherwise in a Task Order, Benchmark is not, and has no authority to act as a generator, storer, transporter, or disposer of any solid, hazardous or toxic wastes, materials or substances. Unless specifically agreed to in a Task Order, Client will provide all required generator numbers, signed manifests, and any permits or licenses required by local, state, and federal laws or regulations for the generation, transportation, storage, treatment and/or disposal of any solid, hazardous or toxic wastes, materials or substances.

Article 2 -- ADDITIONAL SERVICES

2.1 Scope. Benchmark will provide additional or optional services when authorized in writing by the Client.

Article 3 -- CLIENT'S RESPONSIBILITIES

Unless stated otherwise in Article 8 or in the Proposal, Client shall provide the following in a timely manner:

3.1 Client's Representative. Designate representative(s) having authority to give instructions, receive information, define Client's policies, and make decisions with respect to the Assignment.

3.2 Assignment Criteria. Provide all criteria and information as to Client's requirements for the Assignment, including objectives, concepts, constraints, and performance requirements, and any budgetary limitations.

3.3 Data. Provide Benchmark all available information, including previous reports and any other data in the possession of the Client relative to the Assignment. Benchmark may rely on the accuracy and completeness of the supplied data. These data may include (1) data prepared by others including borings, subsurface explorations, hydrographic surveys, and laboratory tests and inspections of samples, materials and equipment, (2) appropriate professional interpretations of such data, (3) environmental assessments and impact statements, (4) property, boundary, easement, right-of-way, topographic and utility surveys, (5) property descriptions, zoning, deed and other land use restrictions, and (6) other necessary special data or consultations. Benchmark may rely on the accuracy and completeness of the supplied data.

3.4 Access. Arrange for Benchmark to enter upon and inspect the property as necessary.

3.5 Surveys. Provide engineering and property surveys to define buried infrastructure, property boundaries, easements, and other project or site reference points.

3.6 Review. Examine the Service Instruments and render written decisions concerning the Service Instruments within a reasonable time.

3.7 Permits. Furnish approvals and permits from governmental authorities or other entities having jurisdiction over the Assignment and approvals from others as may be necessary for the timely completion of the Assignment.

3.8 Assignment Developments. Give prompt written notice to Benchmark whenever Client observes or otherwise becomes aware of any development that affects the scope or timing of Benchmark's services or any defect or non-conformance in the work of any Contractor, subcontractor, or subconsultant.

3.9 Expert Advice. Provide legal, accounting, insurance, manufacturing operations, process or other necessary advisory services for the Project.

Article 4 -- PERIODS OF SERVICE

4.1 Time of Performance. Articles 4 and 5 anticipate the orderly and continuous progress of the Assignment. The time of performance contemplated is the period that should reasonably be required for the completion of the Assignment. Unless otherwise stated in this Assignment, signing of the proposal by both the Client and Benchmark will constitute such authorization. If Client elects to authorize Benchmark to proceed before signing the proposal, Benchmark shall be paid as if the services had been performed after the proposal was signed.

4.2 Force Majeure. If a force, event, or circumstance beyond Benchmark's control interrupts or delays Benchmark's performance, the time of performance of the Basic or Additional Services shall be equitably adjusted.

4.3 Start of Performance. Unless otherwise stated in this Assignment, signing of the proposal by both the client and Benchmark will start the Services. If client gives authorization before signing a proposal, Benchmark shall be paid as if the services had been performed after both parties signed the proposal.

4.4 Completion of Performance. For the purposes of final payment under Article 5, completion of Benchmark's services will occur:

- 4.4.1 for a study, investigation or planning activity: upon delivery of the final report as specified in a Task Order;
- 4.4.2 for a design activity: when the Contract Documents are delivered as specified in a Task Order;
- 4.4.3 for a bidding or construction contract negotiation activity: upon issuance by Client of notice of award of the construction contract;
- 4.4.4 for a construction activity: when written recommendation of final payment for the last prime construction contract of the Project is issued; and
- 4.4.5 for a startup or operations activity: upon successful completion of acceptance testing by the Contractor or beneficial occupancy by Client or upon completion of the operating term as specified in a Task Order.

Article 5 -- COMPENSATION

5.1 Basic Services. Client shall pay Benchmark the Amount stated in invoices issued in accordance with the proposal. Unless otherwise specified in the proposal, invoices will be issued based on the estimated percentage of work completed and are due and payable within 30 days after receipt by the Client. Charges at 1.5% per month will accrue for payments outstanding over 30 days.

5.2 Additional Services. Client shall pay Benchmark for Additional Services actually performed pursuant to Client's authorization and agreed upon in writing prior to the performance of such services.

5.3 Litigation Services. If Client requires Benchmark's services either as a witness in, or support of, litigation or other dispute resolution procedures between Client and a third party, Benchmark will provide such services in accordance with a Pricing Schedule for litigation services.

5.4 Applicable Taxes. Client shall be responsible for payment of all applicable taxes, including sales taxes, for services or goods furnished hereunder. If Client determines that project is tax exempt Client shall issue to Benchmark a tax exemption certificate or, for NY State projects, certificate of capital improvement.

5.5 Delay or Termination.

- 5.5.1 Benchmark or Client may terminate this Assignment after giving 10 days written notice.

- 5.5.2 If Client delays the performance of, or payment for, services under this Assignment for more than 30 days for a reason(s) other than Benchmark's fault, Benchmark may suspend performance until it receives payment in full for services rendered and expenses incurred to the date of suspension.
- 5.5.3 If Client terminates this Assignment prior to completion of the Basic Services, Benchmark shall be paid in full for services rendered and expenses incurred to the date of termination, including reasonable demobilization and termination expenses.

5.6 Disputed Amounts. Notwithstanding the provisions of Article 7, if Client disputes an item(s) or amount(s) contained in an invoice, Client agrees to pay the balance of the undisputed invoiced amounts to Benchmark in accordance with the proposal and any additional authorized services.

5.7 Collection. Any reasonable attorneys' fees and other reasonable costs incurred by Benchmark in collection of delinquent amounts shall be paid by the Client.

Article 6 -- OPINIONS OF COST

6.1 Opinions of Cost. Benchmark may provide estimates of investigation costs, remediation costs, regulatory fees, maintenance costs and other future site costs (Construction Cost) as part of the Service Instruments. Client acknowledges that Benchmark has no control over the cost of labor, materials, equipment or services furnished by others, or over contractor or subcontractor methods of determining prices, or over competitive bidding or market conditions. Benchmark's opinion of probable Construction Cost is made on the basis of Benchmark's experience and qualifications and represents Benchmark's judgment and experience with the construction industry. Benchmark does not guarantee that proposals, bids or actual Project cost will not vary from Benchmark's opinions of probable Construction Cost.

Article 7 -- GENERAL CONSIDERATIONS

7.1 Changes. By written notice at any time, Client may change the Basic Services, provided such changes are within the general scope of the services contemplated by this Assignment. In such event, an equitable adjustment both in the compensation for and time of performance of the Assignment shall be made in writing prior to Benchmark's performing the changed services.

7.2 Confidentiality. Benchmark will hold secret and confidential all information designated by Client as confidential [**Confidential Information**]. Benchmark will not reveal Confidential Information to a third party unless:

- 7.2.1 Client consents in writing;
- 7.2.2 the information is or becomes part of the public domain;
- 7.2.3 Benchmark lawfully possessed the information before receipt from Client;
- 7.2.4 applicable law, regulation, court order or an agency of competent jurisdiction requires its disclosure; or
- 7.2.5 failure to disclose the information would pose an imminent and substantial threat to human health or the environment.

7.3 Professional Service. The Service Instruments furnished under this Assignment are the tangible results of Benchmark's professional services for the Project. Benchmark shall retain ownership and property interests in the Service Instruments. Subject to the terms and conditions of this Agreement, Benchmark grants to Client the worldwide, non-exclusive, non-transferable, non-sublicenseable, perpetual, irrevocable right to use, copy, and create derivatives of any materials provided by Benchmark in the course of performing the services solely for Client's internal business operations.

- 7.3.1 **Reuse.** Benchmark does not represent the Service Instruments to be suitable for reuse by Client or others for extensions of the Project or on any other project. Any reuse without written verification or adaptation by Benchmark for the specific purpose intended is at Client's sole risk, without liability to Benchmark. Any such verification or adaptation will entitle Benchmark to compensation at rates to be agreed on by Client and Benchmark.
- 7.3.2 **CADD/GIS.** Benchmark may provide information related to the Service Instruments in computer-assisted design and drafting [CADD] or Geographic Information System [GIS] format to Client. CADD/GIS files are derived in part from computer software for which Benchmark is licensed. These licenses are not transferable. Any unlicensed reuse of CADD/GIS may subject the user to liabilities to the software licensor.
- 7.3.3 **Copies.** Benchmark may retain copies of the service records for its files as required by State or Federal Law.

7.4 **Disputes.** If a dispute or complaint [**Dispute**] arises concerning this Assignment, Client and Benchmark will negotiate a resolution of the Dispute. Should negotiation be unsuccessful, mediation of the Dispute by a third party shall follow. Any time which elapses in attempting to resolve the Dispute through either or both negotiation or mediation shall extend day-for-day any applicable statute(s) of repose or limitation of actions.

- 7.4.1 **Negotiation.** Following written notice of a Dispute, a minimum of three face-to-face meetings (or less if the Dispute is resolved) shall be held.
- 7.4.2 **Mediation.** If negotiation is unsuccessful, a mutually acceptable third party [**Facilitator**] having expertise in the subject of the Dispute shall be engaged to mediate the Dispute.

The fee and expenses of the Facilitator shall be shared equally by the parties to the Dispute. The parties may present evidence and arguments to the Facilitator. Unless the Facilitator and the parties agree otherwise, a minimum of three face to face meetings shall be held within the sixty day period beginning on the date of the Facilitator's engagement. Following the third meeting, or earlier if appropriate, the Facilitator shall report to the parties whether he believes the Dispute is resolvable through mediation. At that point the parties shall elect (a) to continue mediation, (b) replace the Facilitator and continue mediation, or (c) end mediation. If the mediation is ended, the parties may adjudicate or arbitrate the Dispute.

- 7.4.3 **Adjudication.** The laws of the State shall control both the action and the substantive issues unless required by law to be filed in a federal district court. Disputes whose total value [exclusive of interest] exceeds \$200,000 may not be arbitrated but may be litigated.
- 7.4.4 **Arbitration.** If the parties elect to submit the Dispute to arbitration, (a) the arbitration shall be decided in accordance with the current Construction Industry Arbitration Rules of the American Arbitration Association; (b) the demand for arbitration may not be made after the date when institution of legal or equitable proceedings to resolve the Dispute would be barred by the applicable statute of limitations; and (c) the arbitration proceeding may not include, by consolidation or otherwise, any third person. Any decision rendered by the arbitrators shall be final. Judgment may be entered upon the decision in any court having jurisdiction. The decision shall not be subject to modification or appeal except to the extent permitted by Sections 10 and 11 of the Federal Arbitration Act (9 U.S.C. 10, 11).

7.5 **Insurance.** Benchmark will maintain **insurance** against the following risks during the term of the Assignment:

- 7.5.1 Workers compensation in statutory amounts and employer's liability for Benchmark's employees' Project-related injuries or disease with limits of \$1,000,000;

- 7.5.2 Commercial General Liability Insurance against bodily injuries and death and property damage with a combined single limit of not less than \$2,000,000 per occurrence and \$2,000,000 in the aggregate, including contractual liability insurance specifically insuring the indemnifying portions of this Agreement, naming Client as additional named insured;
- 7.5.3 Comprehensive Automobile Liability insurance covering owned, non-owned and hired vehicles against personal injury and death and property damage with a combined single limit of not less than \$1,000,000 per occurrence and aggregate, naming Client as additional named insured;
- 7.5.4 Professional Liability (Errors and Omissions) Insurance with limits of not less than \$2,000,000 each occurrence and \$2,000,000 in the aggregate.

The certificates of insurance to be provided by Benchmark shall be endorsed to provide that such policies shall not be materially changed or canceled until at least 30 days prior notice is given to Client. Benchmark agrees that the provisions set forth herein shall be imposed upon, assumed and performed by each of its subcontractors or subconsultants, if any.

7.6 Mutual Indemnification. The Client acknowledges and agrees that Benchmark has not created or contributed to the creation or existence of any hazardous or toxic waste, material, or substance, or any other type of environmental hazard or pollution (as those terms are commonly understood or defined by applicable laws or regulations and collectively termed "Pollution" with regard to this paragraph) in connection with the Assignment. In addition, the compensation to be paid Benchmark under this Assignment is not commensurate with the risk of injury or loss which may be caused by Pollution.

- 7.6.1 Benchmark agrees to defend, indemnify, and hold harmless Client (including its officers, directors, employees and agents) from and against any and all losses, damages, liabilities and expenses (including legal fees and reasonable costs of investigation) to the extent resulting from or arising out of the gross negligence or willful misconduct on the part of Benchmark in performing services pursuant to this Agreement and any breach of this Agreement by Benchmark; provided however, that such indemnification shall not apply to the extent any losses, damages, liabilities, or expenses result from, are attributable to, or arise out of:
 - (a) the gross negligence or willful misconduct of Client; or
 - (b) any existing condition at the site over which Benchmark had no or has no control, including but not limited to the presence, if any, of solid, hazardous or toxic materials, wastes or substances or materials, contamination and/or pollution (as those terms are commonly understood or defined by federal, state or local statutes or regulations) at the site which is the subject of the Benchmark's performance of services under this Agreement (collectively, "Site Conditions").
- 7.6.2 Client agrees to defend, indemnify and hold harmless Benchmark (including its officers, employees, and agents) from and against any and all losses, damages, liabilities and expenses (including legal fees and reasonable costs of investigation) to the extent resulting from or arising out of the gross negligence or willful misconduct on the part of Client and any breach of this Agreement by Client; provided however, that such indemnification shall not apply to the extent any losses, damages, liabilities, or expenses result from, are attributable to, or arise out of:
 - (a) the gross negligence or willful misconduct of Benchmark; or
 - (b) any Site Conditions over which Benchmark had no or has no control.

7.7 Limitation of Liability. Notwithstanding any other provision of this Assignment and to the fullest extent permitted by law, Client agrees that:

- 7.7.1** Benchmark's liability to Client for any and all claims, damages, losses, or expenses arising out of this Assignment from any cause including, but not limited to, Benchmark's negligence, strict liability, breach of contract or breach of warranty, shall not exceed the cost of services rendered under this Agreement. Such Limitation of Liability shall not apply where Benchmark has been found grossly negligent or to have intentionally or willfully caused such liability.
- 7.7.2** Neither Benchmark nor Client shall be liable to each other for any special, indirect or consequential damages, whether caused or alleged to be caused by negligence, strict liability, and breach of contract or warranty under this Assignment of either party or their officers, directors, employees, agents, representatives or subcontractors.

7.8 Interpretation. This Assignment shall be interpreted in accordance with the laws of the State of New York.

7.9 Successors. This Assignment is binding on the successors and assigns of Client and Benchmark. The Assignment may not be assigned in whole or in part to any third parties without the written consent of both Client and Benchmark.

7.10 Independent Contractor. Benchmark represents that it is an independent contractor and is not an employee of Client.

7.11 Notices. Written notices may be delivered in person or by certified mail, or by facsimile, or by courier. All notices shall be effective upon the date of receipt by the party. Notices shall be delivered or sent to the designated representative of the other party at the address given on the last page of this Assignment. An address may only be changed by written notice.

7.12 Applicable Law. If applicable to this Assignment, Benchmark will comply with the requirements of:

- 7.12.1** the Equal Employment Opportunity clause in Section 202 of Executive Order 11246, as amended,
- 7.12.2** Utilization of Small and Disadvantaged Business Concerns (Public Law 95-507), and
- 7.12.3** all other federal, state and local laws and regulations or orders issued under such laws.

7.13 Entire Agreement. These terms and conditions, including the Proposal and any schedules, attachments, written changes executed pursuant to these terms and conditions, and referenced documents, is the entire agreement between Client and the Benchmark. Any prior or contemporaneous agreements, promises, negotiations or representations not expressly stated herein are of no force and effect. Any changes to these terms and conditions shall be in writing and signed by Client and Benchmark.

7.14 Waivers and Severability. A waiver or breach of any term, condition, or covenant by a party shall not constitute a waiver or breach of any other term, condition or covenant. If any court of competent jurisdiction declares a provision of these terms and conditions invalid, illegal, or otherwise unenforceable, the remaining provisions shall remain in full force and effect.

7.15 Effective Date. Unless stated otherwise herein, this Assignment is effective on the date of execution of the Proposal by Client.

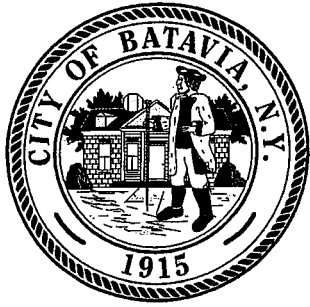
Article 8 -- SPECIAL PROVISIONS

8.1 This Assignment is subject to the following special provisions:

8.1.1 Deliverables. Benchmark may provide Client with a written report ("Report") as part of the Service Instruments generated in connection with the Assignment. The Report may present such findings and conclusions of environmental regulatory compliance status of Client's operations as Benchmark may reasonably draw on the basis of information gathered in accordance with this Assignment. The Report will be based solely upon Benchmark's findings made in the performing the Basic Services and any authorized Additional Services.

Benchmark may review and interpret information provided by third parties, including government authorities and testing laboratories. Benchmark will not independently evaluate or verify the accuracy or completeness of such information unless a patent error or inconsistency dictates the need for such verification, and may rely on such information as accurate.

8.1.2 Limitations on Site Assessment Services. This assignment is subject to the additional limitations identified on Schedule A, attached hereto and made part hereof.



City of Batavia

Memorandum

To: Rachael Tabelski, City Manager

From: Brett Frank, Director of Public Works

Date: September 16, 2022

Subject: Contract for Engineering Services for Jackson Street Water Improvement Project

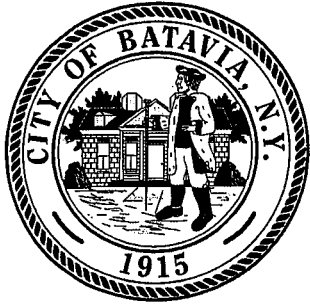
The City has successfully applied for and received funding through the CDBG program for the Jackson Street Water Main Project. The project will replace 4" and 6" lines on Jackson St. with a new 8" water main. The project has an estimated cost of \$1.414 Million.

The project will include the design, bid and construction of a water system improvement project that includes the replacement of the two existing lines, a 4" line from Ellicott to South Jackson on the western side of Jackson St. and a 6" line under the sidewalk between Watson and South Jackson on the Western side of the road.

The City will eliminate the 4" water main that was original to the street, and eliminate a circa. 1960's - 6" water main and transfer all services over to a new 8" water main. The replacement of the line will meet all standards of or fire protection, tie all services and fire hydrants to meet current 10 State Standard (GLUMR).

The project will encompass approximately 2,250 linear feet of water line replacement. 58 service connections, 10 inter-connections, installations of 6 fire hydrants and new valves at each interconnection plus two 8" line valves. The project will also address elimination of lead water services if encountered and a TAP grant for road rehabilitation will be pursued as well.

To advance the project an RFP was issued for professional engineering services to design and oversee construction of the project. Seven professional engineering firms responded to the RFP, and City Staff scored the proposals.



City of Batavia

After review and scoring of the RFP's I recommend xxxxxxxxx for the engineering design, bidding and construction inspection services for the Jackson Street Water Project for a total contract amount of xxxxxxxxx.

#XX-2022

**A RESOLUTION AUTHORIZING AGREEMENT WITH XXXXXXXXXXXXX FOR
ENGINEERING SERVICES FOR THE JACKSON STREET WATER SYSTEM
IMPROVEMENT PROJECT**

Motion of Councilmember

WHEREAS, The City of Batavia has been awarded a \$1,000,000 Community Development Block Grant (CDBG) for public infrastructure. The grant funds will be used to replace 4" and 6" lines on Jackson Street with a new 8" water main; and

WHEREAS, XXXXXXXX, an engineering firm, will provide the City with the following scope of services: survey and design, bid phase services, construction administration phase services, and resident inspection phase services; and

WHEREAS, a request for proposals was issued, and a committee of City personnel selected XXXXXXXXX to perform the work out of 7 proposals that were received; and

WHEREAS, the cost of the contract is XXXXXXXX.

NOW, THEREFORE, BE IT RESOLVED, that City Council approves the award of a contract for engineering services for the Jackson Street water system improvement project to XXXXXXXXXXXX in the amount of XXXXXXXXXXXX.

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

DRAFT

#-2022

RESOLUTION TO SUPPORT AN APPLICATION FOR THE ROUND 6 RESTORE NY COMMUNITIES INITIATIVE MUNICIPAL GRANT PROGRAM

Motion of Councilmember

WHEREAS, the Empire State Development Corporation is requesting funding proposals for the sixth round of the Restore NY Municipal Grant program; and

WHEREAS, grant funds are available for projects to demolish/deconstruct and/or rehabilitate/reconstruct vacant, abandoned, surplus and/or condemned residential, commercial and/or mixed-use buildings; and

WHEREAS, an important goal of Restore NY is to revitalize urban centers, rural areas, and disadvantaged communities. It is anticipated that upon completion, the projects funded by Restore NY grants will attract individuals, families, and industry and commercial enterprises to the municipality. It is further anticipated that the improved community and business climate will result in an increased tax base thereby improving municipal finances and the wherewithal to further grow the municipality's tax and resource base, lessening its dependence on state aid; and

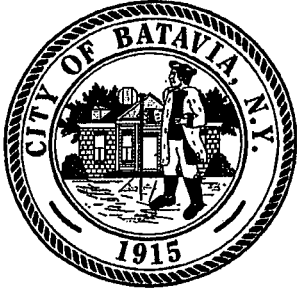
WHEREAS, Counties submitting applications for communities with populations less than 40,000 can apply for up to \$2,000,000 in grant funding; and

WHEREAS, that project meets the following objectives:

- (1) The project is consistent with the City of Batavia Comprehensive Plan, Downtown Revitalization Initiative (DRI) Strategic Investment Plan, and Brownfield Opportunity Area (BOA) Plan.
- (2) The proposed financing for the project is appropriate and committed.
- (3) The project facilitates effective and efficient use of existing and future public resources so as to promote both economic development and preservation of community resources.
- (4) The project develops and enhances infrastructure and/or other facilities in a manner that will attract, create and sustain employment opportunities where applicable.

NOW THEREFORE, LET IT BE RESOLVED, by the City of Batavia Council that it hereby supports the County of Genesee's Restore NY grant application not to exceed \$2,000,000 for the Healthy Living Campus project proposed by a partnership between the United Memorial Medical Center – Rochester Regional Health and the Genesee Livingston Orleans YMCA to demolish multiple properties.


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



City of Batavia

Memorandum

To: Rachael Tabelski, City Manager

From: Daniel G. Herberger, Interim Fire Chief 

Date: 9/21/22

Subject: Council Resolution

Rachael, attached is a Resolution to amend the Fire Department 2022-2023 budget to reflect the receipt of a Child Safety Seat Program through the NYS Governor's Traffic Safety Committee. The grant is in the amount of \$4,900.00

This amendment will affect the following budget lines:

Increase revenue accounts:	
A.00.0000.0000 3389-211198	\$4,900.00
Increase expense accounts:	
A.05.3410.3410 299-211198	\$1,900.00
A.05.3410.3410 499-211198	\$3,000.00

Fire Department
18 Evans Street
Batavia, New York 14020



Phone: 585-345-6375
Fax: 585-343-5639
www.batavianewyork.com

-2022

A RESOLUTION TO AMEND THE 2022-2023 FIRE DEPARTMENT BUDGET TO REFLECT THE RECEIPT OF A CAR SEAT GRANT, IN THE AMOUNT OF \$3,000.00.

Motion of Councilmember

WHEREAS, the City of Batavia Fire Department has received a grant in the amount of \$ 4,900.00 for Award period October 1, 2022 through September 30, 2023 from the New York State Governor's Traffic Safety Committee related to Car Seat Safety for increased child passenger safety and proper installation training of caregivers in an effort to reduce serious injury and death to children; and

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

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Batavia that the City Manager is authorized to make the following budget amendment to the 2022-2023 budgets effective 10/01/2022 to cover various Car Seat Program details and equipment purchases:

Increase revenue accounts:

Increase revenue accounts:

A.00.0000.0000 3389-211198	\$ 4,900.00
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Increase expense accounts:

A.05.3410.3410 299-211198	\$ 1,400.00
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A.05.3410.3410 499-211198	\$ 3,000.00
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**Seconded by Councilmember
and on roll call**