

**CITY OF BATAVIA  
SPECIAL BUSINESS MINUTES  
OCTOBER 23, 2023**

The special business meeting of the City Council was held Monday, October 23, 2023 at 7:15 PM in the Council Chambers, One Batavia City Centre, Batavia, New York, with Council President Jankowski presiding.

Present were Council President Jankowski and Councilmembers Viele, Twichell, Canale, McGinnis, Briggs, Schmidt, Richmond and Bialkowski.

Council President Jankowski called the meeting to order at 7:15 PM immediately following the conference meeting.

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**New Business**

**#108-2023  
RESOLUTION TO APPOINT MEMBERS TO VARIOUS CITY COMMITTEES/  
BOARDS**

**Motion of Councilmember Richmond**

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

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

**Historic Preservation Commission**

Pamela Meyer

December 31, 2025

**Seconded by Councilmember Briggs and on roll call approved 9-0.**

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**#109-2023  
A RESOLUTION TO APPROVE THE PURCHASE OF FIRE TRUCK  
PROJECT COMPLETION**

**Motion of Councilmember Viele**

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

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

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

Seconded by Councilmember McGinnis and on roll call approved 9-0.

\* \* \*

#110-2023

### Motion of Councilmember Canale

USDA  
Form RD 1942-4/  
(Rev. 12-97)

*Position 5*  
**LOAN RESOLUTION**  
**(Public Bodies)**

FORM APPROVED  
OMB NO. 0575-0015

A RESOLUTION OF THE City Council

OF THE City Of Batavia  
AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING  
A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS  
New Fire Truck  
FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the City Of Batavia  
*(Public Body)*  
(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of  
665,000.00

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

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

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

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U. S. C. 1983 (c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$ 10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal permissible source.

5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contract or agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by the Government. No free service or use of the facility will be permitted.

*According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0015. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established and maintained, disbursements from that account may be used when necessary for payments due on the bond if sufficient funds are not otherwise available. With the prior written approval of the Government, funds may be withdrawn for:
  - (a) Paying the cost of repairing or replacing any damage to the facility caused by catastrophe.
  - (b) Repairing or replacing short-lived assets.
  - (c) Making extensions or improvements to the facility.

Any time funds are disbursed from the reserve account, additional deposits will be required until the reserve account has reached the required funded level.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain the Government's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.

17. To accept a grant in an amount not to exceed \$ 100,000.00

under the terms offered by the Government; that the City Manager

and City Clerk Treasurer of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee

The vote was: Yeas \_\_\_\_\_ Nays \_\_\_\_\_ Absent \_\_\_\_\_.

IN WITNESS WHEREOF, the City Council of the City Of Batavia has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
By Rachael Tabelski

Attest:

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

\_\_\_\_\_  
Heidi Parker, Clerk  
Title \_\_\_\_\_

**CERTIFICATION TO BE EXECUTED AT LOAN CLOSING**

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

hereby certify that the City Council of such Association is composed of \_\_\_\_\_ members, of whom \_\_\_\_\_, constituting a quorum, were present at a meeting thereof duly called and held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; and that the foregoing resolution was adopted at such meeting by the vote shown above. I further certify that as of \_\_\_\_\_, the date of closing of the loan from the Government, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Title Heidi Parker, Clerk

**Seconded by Councilmember Schmidt and on roll call approved 9-0.**

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**#111-2023  
CITY OF BATAVIA  
USDA STATUTORY INSTALLMENT BOND DETAIL RESOLUTION  
, 2023**

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

**Motion of Councilmember Bialkowski**

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

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

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

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

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

**WHEREAS**, the Statutory Installment Bond attached as Exhibit A sets forth the maturity schedule thereof and also includes the schedule of annual payments of principal and semi-annual payments of interest to be paid thereon together with all other terms and conditions thereof; and

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

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

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

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

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

Section 4. This resolution shall take effect immediately.

**Seconded by Councilmember Canale and on roll call approved 9-0.**

**Exhibit A**  
**(Form of Statutory Installment Bond)**

**REGISTERED  
NO. 1**

**REGISTERED  
\$665,000.00**

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

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

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

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

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

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

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

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

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

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

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

[Signature page follows]

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

City of Batavia

By: \_\_\_\_\_

**Rachael Tabelski**  
**City Manager**

[Signature page – \$665,000 GENERAL OBLIGATION STATUTORY INSTALLMENT BOND - 2023]

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**MOTION TO ENTER EXECUTIVE SESSION**

**Motion of Councilmember Viele**

**WHEREAS**, Article 7, Section 105(1)(d), of the Public Officer’s Law permits the legislative body of a municipality to enter into Executive Session to discuss “...proposed, pending or current litigation...”.

**WHEREAS**, Article 7, Section 105(1)(h), of the Public Officer’s Law permits the legislative body of a municipality to enter into Executive Session to discuss “...the proposed acquisition, sale, or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof...”.

**WHEREAS**, Article 7, Section 105(1)(f), of the Public Officer’s Law permits the legislative body of a municipality to enter into Executive Session to discuss “...the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation...”.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Batavia, that upon approval of this Motion, the City Council does hereby enter into Executive Session.

**Seconded by Councilmember Schmidt and on roll call approved 9-0.** Council entered executive session at 7:20pm and exited at 7:52pm.

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**Meeting adjourned at 7:53PM.**

**Respectfully submitted,**

**Heidi J Parker**  
**Clerk-Treasurer**