

MARCH 18, 2020
REGULAR TOWN BOARD MEETING

Town Hall

7:00 P.M.

Greg Post, Supervisor led the pledge to the flag.

Roll Call

Present: Supervisor Post
Deputy Supervisor Underhill
Councilwoman White
Councilwoman Michalak
Councilman Zambito

Others

Present: Town Clerk Morasco

The Supervisor called the meeting to order at 7:00 P.M.

Public Hearing Local Law 1 of 2020- The Supervisor called the Public Hearing to Order for Local Law 1 of 2020 – Investment Policy at 7:01 P.M. - Minutes for public hearing entered separately.

February 19, 2020 Regular Town Board Meeting: Motion Councilman Zambito, second Councilwoman Michalak to approve the minutes as written.

Ayes: Zambito, Michalak, White, Underhill, Post

MOTION CARRIED by unanimous vote (5-0)

RESOLUTION NO. 62:

Councilwoman White offered the following:

RESOLUTION ADOPTING LOCAL LAW No. 1 of 2020

WHEREAS, proposed Local Law No. 1 of 2020 of the Town of Batavia entitled “A Local Law Establishing an Investment Policy for the Town of Batavia”, which proposed Local Law in its final form was presented to the Town Board at the meeting held on February 19, 2020, and a copy thereof was kept with the Town Clerk and copies both laid upon the desks of the members of said Town Board Members and mailed to each member of the Town Board Members not in attendance at said meeting; and

WHEREAS, a public hearing on the advisability of enacting said proposed Local Law was held on March 18, 2020, before this Town Board, pursuant to public notice duly published in The Daily News according to law, at which time all interested persons were heard; and

WHEREAS, the Town Board of the Town of Batavia, New York is of the opinion that adoption of said proposed Local Law No. 1 of 2020 is in the best interest of the Town of Batavia, New York,

NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Batavia, New York that said proposed Local

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Law No. 1 of 2020 be and the same hereby is adopted; and

BE IT FURTHER RESOLVED, that a certified copy of said Local Law No. 1 of 2020 be filed with the New York State Secretary of State in accordance with Law.

Second by: Councilman Zambito

Ayes: White, Zambito, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

Local Law Filing

New York State Department of State
41 State Street, Albany, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City of Batavia, Genesee County, New York
Town
Village

Local Law No. 1 of the year 2020.

A local law known as A Local Law Establishing an Investment Policy for the Town of Batavia

(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County
City of Batavia, Genesee County, New York as follows:
Town
Village

ARTICLE I: **ENACTMENT**

The title of this chapter shall be "A Local Law Establishing an Investment Policy for the Town of Batavia."

ARTICLE II: **INVESTMENT POLICY**

The text of the Investment Policy for the Town of Batavia shall be as follows:

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1. Scope.

This investment policy applies to all moneys and other financial resources available for investment on its own behalf or on behalf of any other entity or individual.

2. Objectives.

The primary objectives of the local government's investment activities are, in priority order:

- A. To conform to all applicable federal, state and other legal requirements (legal);
- B. To adequately safeguard principal (safety);
- C. To provide sufficient liquidity to meet all operating requirements (liquidity); and
- D. To obtain a reasonable rate of return (yield).

3. Delegation of authority.

The governing board's responsibility for administration of the investment program is delegated to the Supervisor, who shall establish written procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability, based on a database of records incorporating description and amounts of investments, transaction dates, and other relevant information, and regulate the activities of subordinate employees.

4. Prudence.

- A. All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the Town of Batavia to govern effectively.
- B. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.
- C. All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair their ability to make impartial investment decisions.

5. Diversification.

It is the policy of the Town of Batavia to diversify its deposits and investments by financial institution,

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by investment instrument, and by maturity scheduling.

6. Internal controls.

- A. It is the policy of the Town of Batavia for all moneys collected by any officer or employee of the government to be deposited within three days of collection, or within the time period specified in law, whichever is shorter. All said moneys collected for the month must be transferred to the Chief Fiscal Officer by the 5th of the following month.
- B. The Supervisor is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and recorded properly and are managed in compliance with applicable laws and regulations.

7. Designation of depositories.

The banks and trust companies authorized for the deposit of moneys up to the maximum amounts are and pursuant to this policy shall be established and reviewed annually and amended from time to time by Town Board, by resolution.

8. Collateralizing of deposits.

In accordance with the provisions of General Municipal Law § 10, all deposits of the Town of Batavia, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

- A. By a pledge of eligible securities with an aggregate market value as provided by General Municipal Law § 10, equal to the aggregate amount of deposits from the categories designated in Appendix A to the policy.
- B. By an eligible irrevocable letter of credit issued by a qualified bank other than the bank with the deposits in favor of the government for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed-upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk-based capital requirements.
- C. By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of deposits and the agreed-upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

9. Safekeeping and collateralization.

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- A. Eligible securities used for collateralizing deposits shall be held by the depository and/or a third party bank or trust company subject to security and custodial agreements.
- B. The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed-upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the local government to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the Town of Batavia or its custodial bank.
- C. The custodial agreement shall provide that securities held by the bank or trust company, or agent of and custodian for the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

10. Permitted investments.

- A. As authorized by General Municipal Law § 11, the Town of Batavia authorizes the Supervisor to invest moneys not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:
 - (1) Special time deposit accounts.
 - (2) Certificates of deposit.
 - (3) Obligations of the United States of America.
 - (4) Obligations guaranteed by agencies of the United States of America where the payment of principal and interest is guaranteed by the United States of America.
 - (5) Obligations of the State of New York.
 - (6) Obligations issued pursuant to Local Finance Law § 24.00 or 25.00 (with approval of the State Comptroller) by any municipality, school district or district corporation other than the Town of Batavia.
 - (7) Obligations of public authorities, public housing authorities, urban renewal agencies and industrial development agencies where the general state statutes governing such entities or whose specific enabling legislation authorizes such investments.

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- (8) Certificates of participation (COPs) issued pursuant to General Municipal Law § 109-b.
- (9) Obligations of this local government, but only with any moneys in a reserve fund established pursuant to General Municipal Law § 6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6-k, 6-l, 6-m or 6-n.

B. All investment obligations shall be payable or redeemable at the option of the Town of Batavia within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Town of Batavia within two years of the date of purchase.

11. Authorized financial institutions and dealers.

The Town of Batavia shall maintain a list of financial institutions and dealers approved for investment purposes and establish appropriate limits to the amount of investments which can be made with each financial institution or dealer. All financial institutions with which the local government conducts business must be credit worthy. Banks shall provide their most recent Consolidated Report of Condition (Call Report) at the request of the Town of Batavia. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers. The Supervisor is responsible for evaluating the financial position and maintaining a listing of proposed depositories, trading partners and custodians. Such listing shall be evaluated at least annually.

12. Purchase of investments.

A. The Supervisor is authorized to contract for the purchase of investments:

- (1) Directly, including through a repurchase agreement, from an authorized trading partner.
- (2) By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5G of the General Municipal Law where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46 and the specific program has been authorized by the governing board.
- (3) By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the governing board.

B. All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed in writing to the Town of Batavia by the bank or trust company. Any obligation held in the custody of a bank or trust

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company shall be held pursuant to a written custodial agreement as described in General Municipal Law § 10.

- C. The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

13. Repurchase agreements.

Repurchase agreements are authorized subject to the following restrictions:

- A. All repurchase agreements must be entered into subject to a master repurchase agreement.
- B. Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
- C. Obligations shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States of America.
- D. No substitution of securities will be allowed.
- E. The custodian shall be a party other than the trading partner.

ARTICLE II: **EFFECTIVE DATE AND SEVERABILITY**

Section 1: Effective Date

This local law shall take effect immediately upon filing with the Department of State.

Section 2: Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out

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that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2020, of the (~~County~~) (~~City~~) (Town) (~~Village~~) of Batavia, New York was duly passed by the Town Board on _____, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (~~County~~) (~~City~~) (Town) (~~Village~~) _____ was duly passed by the _____ on _____ 20____, and was (approved) (not disapproved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 2006, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (~~County~~) (~~City~~) (Town) (~~Village~~) of _____ was duly passed by the _____ on _____ 20__, and was (approved) (not disapproved) (repassed after disapproval) by the _____ on _____ 20__. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (~~County~~) (~~City~~) (Town) (~~Village~~) of _____ was duly passed by the _____ on _____ 20__, and was (approved) (~~not disapproved~~) (~~repassed after disapproval~~) by the _____ on _____ 20__. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20__, in accordance with the applicable provisions of law.

*** Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

5. (City local law concerning Charter revision proposed by petition.)

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I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

(SEAL)

Teresa Morasco
Town Clerk, Town of Batavia

Date: _____, 2020

1Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF GENESEE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Andrew W. Meier
Town Attorney
County

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City of Batavia
Town
Village

Date: _____

RESOLUTION NO. 63:

Deputy Supervisor Underhill offered the following:

AUTHORIZING BUDGET TRANSFERS FOR 2019

RESOLVED, the Batavia Town Board hereby authorizes the following Budget Transfers:

General Fund:

From	Amount	To
A1355.402 Assessors – Attorney	677.00	A1381.401 Financial Advisors

Highway Fund:

From	Amount	To
DA5110.103 General Repairs OT	2121.00	DA9060.800 Health Ins

Second by: Councilwoman Michalak

Ayes: Underhill, Michalak, Zambito, White, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 64:

Supervisor Post offered the following:

LEAD AGENCY STATUS
TOWN OF ALEXANDER
STAFFORD WATER DISTRICT NO. 12

WHEREAS, the Town of Stafford is proposing formation of Water District No. 12 in the Town of Stafford; and

WHEREAS, the Town of Stafford wishes to assume Lead Agency status for the proposed Water District; and

WHEREAS, the Batavia Town Board does not object to the Town of Stafford assuming this role.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the attached

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SEQR Lead Agency Intent Consent Form designating the Town of Stafford as Lead Agency for the proposed formation of Water District No. 12, located in the Town of Stafford.

Second by: Councilman Zambito

Ayes: Post, Zambito, White, Underhill, Michalak

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 65:

Councilwoman Michalak offered the following:

**REQUESTING THE WITHDRAWAL OF THE
STATE BUDGET'S ENERGY SITING AMENDMENT**

WHEREAS: NYS is a Home Rule State, which basically means that any and all powers of the State emanate from the people, and

WHEREAS: Per the NYS Constitution, Article IX, it is our statutory obligation to protect the health, safety and welfare of citizens of our community, and

WHEREAS: On February 21, 2020, Governor Cuomo proposed a Budget Amendment "to dramatically speed up the permitting and construction of renewable energy projects.", and

WHEREAS: This amendment could be passed with the Budget by April 1st, replacing the current Article 10 process with a radically new method for siting renewable energy projects; and

WHEREAS: The stated purpose of this proposed far-reaching change is to enhance the execution of the *Climate Leadership and Community Protection Act (CLCPA)*; and

WHEREAS: Although the objectives of the CLCPA sound admirable, there is no empirical scientific proof that industrial wind energy (compared to Nuclear, Hydro or Gas) saves any consequential amount of Carbon Dioxide (CO₂); and

WHEREAS: Conversely, there is considerable scientific evidence that onshore industrial wind energy projects will likely be a *net economic liability* to NYS host communities. This will be particularly burdensome to social justice communities; and

WHEREAS: There is extensive scientific evidence that onshore industrial wind energy projects will likely result in adverse health effects to some citizens of NYS host communities; and

WHEREAS: There is substantial scientific evidence that industrial wind energy projects will likely cause extensive eco-system damage to onshore NYS host communities, or to marine locales where offshore wind projects are sited; and

WHEREAS: This amendment will effectively remove any meaningful input from citizens, towns, counties, local environmental groups, and community businesses regarding the siting and regulation of renewable energy projects; and

WHEREAS: The new process is structured such that scientific data, or testimony from qualified experts, will have little bearing regarding siting regulations and approval; and

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WHEREAS: Once an application is submitted, the new Office of Renewable Energy Siting (ORES) has 60 days to review and determine if it is complete. If the ORES decision is **not** made in that time, the application is *automatically* deemed complete; and

WHEREAS: Once an application is determined to be complete, ORES has 12 months to approve the project. If the ORES decision is **not** made in that time, the application is *automatically* approved! There is no provision for extending this time limit; and

WHEREAS: The Governor's proposal also seems to indicate that the State might get into the ownership and/or operation of renewable energy generation. Such a profound change would also severely limit the ability of local communities to regulate such industrial projects; and

WHEREAS: All of these proposed changes are not only in conflict with our Home Rule rights but are also contrary to our obligation to protect the health, safety and welfare of our constituents.

NOW, THEREFORE,

BE IT RESOLVED: The Town of Batavia Town Board formally requests that this Budget Amendment be withdrawn before the Budget is voted on. Additionally, the Town petitions the State to respect our Home Rules rights, and to defend our authority to regulate renewable energy projects as the citizens of our community see fit.

Second by: Deputy Supervisor Underhill

Ayes: Michalak, Underhill, Zambito, White, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 66:

Councilman Zambito offered the following:

INCREASE HOURS FOR PART-TIME CLERK TYPIST

WHEREAS, in December 2019 the Town Board approved the hiring of Rachael Ohlson as a part-time Clerk-Typist for the Court and has been working no more than 16 hours per week; and

WHEREAS, with the continued increase in court cases and the 2020 Discover and Bail Reform legislation the Town Court requested additional hours for the part-time Clerk-Typist.

NOW, THEREFORE BE IT

RESOLVED, that the Batavia Town Board hereby authorizes Rachael Ohlson, Clerk-Typist to work up to 19.5 hours per week retroactive to March 9, 2020.

Second by: Councilwoman White

Ayes: Zambito, White, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 67:

Councilwoman White offered the following:

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MITEL/INTER-TEL 5000 TELECOMMUNICATION SYSTEM
SOFTWARE ASSURANCE PACKAGE

WHEREAS, Rel-Comm, Inc. installed the Mitel CS 5000 telecommunications system upgrade in the Town Hall and Highway Facility in 2009, which also included enrollment in the Software Assurance Program; and

WHEREAS, the Software Assurance Coverage expires May 16, 2020; and

WHEREAS, Software Assurance coverage is required for technical support and/or upgrades. The cost for one (1) year coverage is \$360.00 (proposal quote attached).

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board authorizes a one (1) year Software Assurance Coverage with RelComm, Incorporated at a cost of \$360.00 for the Mitel 5000 Telecommunication System; and be it

FURTHER RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the proposal.

Second by: Deputy Supervisor Underhill

Ayes: White, Underhill, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 68:

Deputy Supervisor Underhill offered the following:

CODE ENFORCEMENT OFFICER SIXTH AMENDED AGREEMENT BETWEEN
THE TOWN OF BATAVIA AND THE VILLAGE OF ALEXANDER

WHEREAS, the Town of Batavia and the Village of Alexander wish to enter into a Code Enforcement Officer Agreement; and

WHEREAS, the agreement addresses the need for the Village of Alexander to have its Codes enforced by the Town of Batavia Code Officials.

NOW, THEREFORE, BE IT

RESOLVED, pursuant to Article 5-G of the General Municipal Law, the Batavia Town Board wishes to enter into a Code Enforcement Officer Sixth Amended Agreement between the Town of Batavia and the Village of Alexander for Code Enforcement services, a copy of which is annexed hereto and made a part of the minutes; and be it

FURTHER RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute

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the aforementioned agreement.

Second by: Councilwoman Michalak
Ayes: Underhill, Michalak, Zambito, White, Post
APPROVED by unanimous vote (5-0)

SIXTH AMENDED
CODE ENFORCEMENT
AGREEMENT

THIS AGREEMENT, made this _____ day of _____, _____ by and between the **Village of Alexander**, a municipal corporation with offices at 3350 Church Street, Alexander, New York 14005 (“Alexander”), and the **Town of Batavia**, a municipal corporation with office at 3833 West Main Road, Batavia, NY 14020 (“Batavia”),

WHEREAS, pursuant to article 5-G of the General Municipal Law, Alexander and Batavia are authorized to enter into an inter-municipal cooperative agreement for the provision of Code Enforcement services, and

WHEREAS, Batavia employs fully qualified Code Enforcement Officers to enforce Zoning Code, Fire and Building Codes and other various codes and regulations, and

WHEREAS, Alexander has identified a need to have its Codes enforced by Batavia, and

WHEREAS, Batavia intends to continue to maintain the position of Code Enforcement Officer and to provide Code Enforcement Duties in both the Town of Batavia and the Village of Alexander.

NOW THEREFORE, BE IT, RESOLVED, pursuant to Article 5-G of the General Municipal Law, it is agreed as follows:

First: That Alexander shall appoint the Code Enforcement Officers of the Town of Batavia as its Code Enforcement Officers.

Second: In consideration for compensation for the services set forth herein, Alexander shall pay Batavia \$4,606.00 per year of this agreement. The sum shall be paid during the 2020 budget year to provide services for the year of 2020.

Third: The services that will be provided will be to administer the adopted NYS Building Codes, Village of Alexander Zoning Code.

Fourth: Services provided will be on call and available during business hours of Monday thru Friday work week from 9am- 3pm.

Fifth: The Code Officer shall for all purposes be deemed an employee of Batavia. The Code Officer shall not in any way be construed as an employee of Alexander. Batavia shall pay the Code Officers salary and make employer’s contributions for retirement, social security, health insurance, worker’s compensation, unemployment and other similar benefit.

Sixth: This agreement does not include attorney services and Alexander shall provide and pay for all attorney services and expenses in its jurisdiction.

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Seventh: This agreement shall become effective on April 1, 2020 and expire on March 31, 2021 with an option for either municipality to terminate this agreement upon a ninety (90) day written notice to the other municipality.

Eighth: There are no other agreements or understandings, either oral or written, between the parties affecting this agreement. No changes, additions or deletions of any portions of this agreement shall be valid or binding upon the parties hereto unless the same is approved in writing by the parties.

IN WITNESS WHEREOF, the Towns have caused this Agreement to be signed by the Supervisors and the Town Seal attached on the date first set forth above.

Village of Alexander

TOWN OF BATAVIA

William Wagner, Mayor

Gregory H. Post, Supervisor

STATE OF NEW YORK)
COUNTY OF GENESEE) SS.

On the _____ day of _____, 2020 before me, the undersigned, a Notary Public in and for said State, personally appeared **William Wagner**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
COUNTY OF GENESEE) SS.

On the _____ day of _____, 2020 before me, the undersigned, a Notary Public in and for said State, personally appeared **Gregory H. Post**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

RESOLUTION NO. 69:

Supervisor Post offered the following:

RESOLUTION TO APPROVE AN OPERATION AND MAINTENANCE AGREEMENT-TOWN OF BETHANY AND TOWN OF BATAVIA

WHEREAS, the Town of Batavia has entered into agreements with Genesee County to be supplied with water and has developed a water distribution system of its own, and has authority to distribute water from its distribution system to customers, on behalf of other municipalities outside of the Town of Batavia, and

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WHEREAS, the Town of Bethany will be constructing a Town wide water distribution system consisting of approximately 13, 600 linear feet of new 8 and 12 inch diameter water main, together with all related hydrants, valves, apparatus, conduits, pipes, casings, meters and manholes; to also include all interests in real property of any kind or nature to the extent assignable; to be installed within Water District No. 4; and

WHEREAS, Bethany, in furtherance of this Project, has established Water District No. 4; and

WHEREAS, the Town of Bethany on behalf of this District desires to authorize the Town of Batavia to operate and maintain the water system for this District; as well as for the billing and collection of costs to provide and pay for water service; and

WHEREAS, a proposed Operation and Maintenance Agreement has been drafted, reviewed and approved by the respective Attorneys for both Towns; and

WHEREAS, the Genesee County Legislature concurred and approved of the intermunicipal agreement between the Town of Batavia and the Town of Bethany on February 26, 2020.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that the Supervisor is hereby authorized and directed on behalf of the Town of Batavia to execute a proposed “Agreement for Operation and Maintenance of the Water Facilities for the Town of Bethany Water District No. 4”, a copy of which is annexed and made part of the minutes of the Town Board, and be it

FURTHER RESOLVED that the distribution of water to the residents of the Town of Bethany Water District in the Town of Bethany will not at this time reduce the supply of the Town of Batavia water so as to render the same insufficient to service all water districts within the Town of Batavia for the residents located therein, and be it

FURTHER RESOLVED that upon the completion of the execution of the aforesaid “Agreement for Operation and Maintenance of the Water Facilities for the Town of Bethany Water District No. 4”, employees of the Town are hereby authorized and directed to take all steps necessary to effectuate all terms and conditions set forth in said Agreement.

Second by: Deputy Supervisor Underhill
Ayes: Post, Underhill, Michalak, Zambito, White
APPROVED by unanimous vote (5-0)

INTERMUNICIPAL AGREEMENT FOR OPERATION AND MAINTENANCE
OF WATER FACILITIES FOR
TOWN OF BETHANY WATER DISTRICT NO. 4

THIS AGREEMENT, made the _____ day of _____, 20___, by and among the **TOWN OF BATAVIA**, a Municipal Corporation of the State of New York, with offices located at 3833 West

MARCH 18, 2020
REGULAR TOWN BOARD MEETING

Main Street Road, Batavia New York 14020, (hereinafter “Batavia”); and the **TOWN OF BETHANY** a Municipal Corporation of the State of New York, with offices located at 10510 Bethany Center Road, (hereinafter “Bethany”); (hereinafter referred to collectively as the “Towns”).

WITNESSETH:

WHEREAS, Batavia has previously entered into a Water Supply Agreement with the County of Genesee, whereby the County supplies an adequate quantity of water for use by Batavia’s residents who are obtaining water services, and

WHEREAS, Bethany has previously entered into a Water Supply Agreement with the County of Genesee, whereby the County supplies an adequate quantity of water for use by Bethany’s residents who are obtaining water services, and

WHEREAS, a town wide water distribution system will be constructed consisting of approximately 13,600 linear feet of new 8- and 12-inch diameter water main, together with all related hydrants, valves, apparatus, conduits, pipes, casings, meters and manholes, to also include all interests in real property of any kind or nature to the extent assignable, to be installed within Water District No. 4 as more fully described on the Boundary Map for said Water District No. 4 attached hereto as Exhibit A (hereinafter referred to collectively as the “Facilities” or the “Project”), and

WHEREAS, Bethany, in furtherance of this Project, has established Water District No. 4 (hereafter “Water District”), and

WHEREAS, Bethany desires to contract for the operation and maintenance of the Facilities, as well as for the billing and collection of the costs to provide and pay for the water service, and

WHEREAS, Batavia will lease the Facilities from Bethany in order to perform the services and responsibilities as set forth herein, pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is agreed as follows:

1. Bethany does hereby lease the Facilities to the Town of Batavia for the term as hereinafter set forth in this Agreement.
2. The leased Facilities include replacements, additions, betterments and improvements, which may hereinafter during the term of this Agreement be furnished and installed within or on behalf of the Water District by the Water District.

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3. Batavia agrees to operate, maintain and repair the entire Facilities and to distribute water on behalf of Bethany to the Water District.

4. The cost for these services shall be determined in accordance with Batavia's current Rate Schedule in effect, and as amended from time to time by Batavia. Batavia's Rate Schedule currently requires payment by each customer for water service to be charged at the rate of \$6.42 per 1,000 gallons of water used for regular customer, and \$5.10 per 1,000 gallons of water used for Agricultural customer, with this cost determined as follows:

	<u>User Rate</u>	<u>Agriculture Rate</u>
A. Billed Purchased Water	\$2.47	\$2.47
B. Unbilled Purchased Water	\$0.30	\$0.30
C. Genesee County Surcharge	\$1.20	\$1.20
D. Outside Batavia ⁽¹⁾	\$0.99	\$0.99
E. Operation and Maintenance	<u>\$1.46</u>	<u>\$0.14</u>
	\$6.42	\$5.10

(1) Outside Batavia rate shall not exceed Batavia customers capital reserve rate.

5. On at least forty-five (45) days advance notice, Batavia will provide to Bethany any proposed amendments to the Rate Schedule, which shall break out the various costs for water supply, operation, maintenance and capital improvement reserve. During this forty-five (45) day period, the Supervisors of Batavia and Bethany shall meet at least once to discuss any proposed rate change. During the term of this Agreement, users in the Town of Batavia Service Area will pay the same water rate as users within Bethany Water District No. 4.

6. Bethany hereby retains the right to add any additional charges for the delivery of water service within the Water District, and shall be entitled to collect and remit any such charges from the Water District users to Bethany.

7. Maintenance and repair by the Town of Batavia as referred to in this Agreement shall be defined as a project which costs the sum of \$20,000.00 or less. Any project or improvements costing more than \$20,000.00 shall be considered as a capital expense, and Bethany shall be responsible to pay for or to reimburse Batavia for the full capital expenses. Notwithstanding the foregoing, any costs for maintenance and/or repair resulting from the use by Bethany or the Water District of materials or

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equipment that do not meet the minimum specifications of the Town of Batavia shall be borne solely by the Water District.

8. All performance of services that will be provided by Batavia shall be pursuant to Subpart 5-1, Public Water Supplies of the New York State Sanitary Code and Batavia's Water Ordinance, (hereinafter the "Ordinance"). The Ordinance may be amended from time to time by Batavia. However, Batavia agrees to provide Bethany at least forty-five (45) days advance written notice before implementing any such amendments. During this forty-five (45) day period, the Supervisors from Batavia and Bethany shall meet at least once to discuss the proposed Ordinance changes.

9. Upon request, Batavia shall supply to Bethany copies of any test reports required by the New York State Department of Health.

10. Batavia shall read all meters and invoice the customers of the Water District.

11. All Batavia invoices to the Water District customers included in this Agreement, shall be due and paid according to the terms of the Ordinance, including penalties for late payments, in effect as of the date of the invoice for such water. In the event that any such customer is delinquent for more than ninety (90) days, Bethany shall have in effect and shall maintain throughout this agreement rules and regulations to enforce collection of such charges and to make payment to Batavia, including but not limited to re-levying of delinquent charges on tax bills and procedures regarding shut off of delinquent accounts.

12. Bethany, within 60 days after request by Batavia, shall make payments to Batavia for any water bills of customers within the Water District that are more than ninety (90) days in arrears.

13. Batavia shall make any and all payments related to water supply to Genesee County on behalf of Bethany, according to the terms set forth in the Water Supply Agreement in effect between Genesee County and Bethany.

14. Customers within the Water District shall purchase water to serve present and future needs of this Water District pursuant to the Water Supply Agreements by and between the County of Genesee and Bethany.

15. This Water District and any and all extensions or additions thereto, and any new Water Districts or appurtenances, shall be constructed in accordance with all of Batavia's standards and specifications for design and construction of water improvements in place at the time of design, unless a deviation from such standards is authorized in writing by the Batavia Town Engineer or Supervisor. Approval may occur prior to or after the effective date of this agreement.

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16. A map of the proposed Water District service areas to be served by Bethany is annexed hereto and made a part of this Agreement as **EXHIBIT A**. This map shall be amended as necessary from time to time to reflect any customers added by the Water District. Any such amendment that expands or extends the Water District, shall be approved by Batavia and shall not negatively affect supply or service to existing Town of Batavia service area customers.

17. Batavia agrees that service to other areas outside of the initial boundaries of the Water District shall comply with the requirements of any and all existing Water Supply Agreements with Genesee County and the Towns of Batavia and Bethany, and any amendments thereto.

18. All extensions to the Water District after the execution of this Agreement shall be made under the exclusive control and jurisdiction of Bethany and shall be subject to the provisions of the Town Law and any amendments thereto. In the event that Bethany shall form one or more extensions, said extension shall be subject to the following terms and conditions:

A. At the request of the extending Water District, Batavia may provide the services of its Engineering Department to assist the extending District in the preparation and formation of necessary plans, drawings and specifications of the proposed distribution system construction. Said services may be provided to the extending District so long as Batavia is given reasonable notice of the need for, and the scope of such services, and Batavia and the extending District establishes mutually agreeable terms for the completion of services.

B. Said distribution system shall service the entire area of said extension and shall be installed without cost to Batavia.

C. Bethany shall have the exclusive right to determine the amount of any fee to be charged to any such extension and to be paid to it by the customers in the extension for the right to connect to the existing Facilities of the Water District. The fee shall belong exclusively to Bethany, and Batavia shall have no right or interest to this fee or any other charges related thereto.

D. The extension to the Water District shall comply with all applicable Laws, Rules and Regulations, including Batavia's Ordinance, and shall obtain all necessary governmental approvals with respect to the formation of any extensions and the construction of the distribution system therein.

19. Bethany, on behalf of the Water District, as well as any other water district now existing or developed in the future within Bethany, shall bear the full costs related to the formation of any such Water District and installation of facilities, including meters, except as specifically agreed herein.

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20. This Agreement is subject to the consent and approval of the Genesee County Legislature.
21. It is understood and agreed that Batavia makes no guarantee as to the pressure, quantity, quality or continuity of service, and shall not, under any circumstances, be held liable for loss or damage from a deficiency or failure in the supply of water whether caused by shutting off water in case of accident, or for alterations, extensions, connections or repairs or for any other cause of any kind or nature.
22. In the event of an emergency or other necessity, Batavia shall have the right to shut off or reduce the flow of water for such periods that it deems necessary.
23. In the event that Batavia deems it necessary to shut off or reduce the flow of water supply, Batavia shall provide Bethany with reasonable advance notice when possible. Batavia shall restore water supply as soon as practicable. In such cases, Bethany shall have the right to request that Batavia temporarily turn off its transmission main and Bethany shall be able to temporarily obtain water from another source, but only until such time as the restorative measures taken by Batavia have been inspected and approved by Batavia's Water Department.
24. If Batavia deems that there is a condition in the Water District that could contaminate the water supply, Batavia will notify Bethany, and Bethany will correct the condition as soon as practicable. Batavia may temporarily discontinue water service to the Water District until the necessary corrections have been made.
25. In the event that a water emergency is declared by Batavia, Batavia shall notify the Bethany Supervisor, and the Bethany Town Board shall declare a similar emergency with respect to all water supplied to customers within the Water District. Bethany shall duplicate any emergency measures taken by Batavia during such water emergency.
26. Bethany shall immediately notify Batavia of any information or complaints that it receives from customers within the Water District; as well as any problems or difficulties relating to the Facilities and the water distribution system.
27. There are no other Agreements or understandings, either oral or written, by and among the parties effecting this Agreement. No changes, addition or deletions of any portions of this Agreement shall be valid or binding upon the parties hereto, unless the same is approved in writing by the parties.
28. This Agreement may not be assigned by any party, in whole or in part, without the prior written consent of both parties.

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29. This Agreement shall be binding upon and shall inure to the benefit of both of the parties hereto and their respective successors and permitted assigns.

30. This Agreement and any transactions by and between the parties hereunder shall be governed by, construed and interpreted in accordance with the Laws of the State of New York.

31. The parties shall execute such further instruments, documents or certificates as may be necessary or desirable to effectuate the purpose and intent of this Agreement.

32. No waiver of compliance with any provision or condition of this Agreement, and no consent provided for herein, shall be effective, unless evidenced by instrument in writing, duly executed by the parties sought to be charged therewith.

33. No failure on the part of either party to exercise and/or any delay in exercising any of its rights hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise by either party of any right preclude any other or future exercise thereof or the exercise of any other right.

34. All the rights and duties of the parties created by this Agreement shall survive with respect to the services performed prior to such terminations.

35. This Agreement may be executed in several counterparts, each of which shall be an original and all which shall constitute the same instrument herein.

36. The term of this Agreement shall be for a period of forty (40) years, with the following provisions:

A. This Agreement may be terminated or extended upon a written instrument executed by both Towns.

B. This Agreement shall terminate on the effective date of any contract with any entity assuming operation of the Town of Batavia Water Supply System.

C. Bethany may terminate this Agreement upon at least 120 days prior written notice to Batavia. In the event that Batavia provides operation and maintenance services to Bethany water districts beyond the Water District, then Bethany must also terminate the services of Batavia for these additional areas in order to eliminate the possibility that there are any “gaps” in areas of water facilities for which Batavia is providing operation and maintenance.

D. Batavia may terminate this Agreement upon at least 120 days prior written notice to Bethany.

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E. Upon termination of this agreement, master meters must be installed (if not already installed) by the Water District at no cost to the Town Batavia.

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IN WITNESS WHEREOF the parties have last signed this Agreement the day and year first written above.

TOWN OF BATAVIA (SEAL)

Gregory H. Post, Supervisor

TOWN OF BETHANY (SEAL)

Carl Hyde, Jr., Supervisor

State of New York}
County of Genesee}ss.

On this _____ day of _____, 20____, before me, the undersigned, personally appeared Gregory H. Post, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

State of New York}
County of Genesee}ss.

On this _____ day of _____, 20____, before me, the undersigned, personally appeared Carl Hyde, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

RESOLUTION NO. 70:

Councilwoman Michalak offered the following:

**MARCH 18, 2020
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**FINANCIAL SERVICES AGREEMENT
REFUNDING RURAL DEVELOPMENT SERIAL BOND
BORROWING CONTRACT
MUNICIPAL SOLUTIONS, INCORPORATED**

WHEREAS, the Town of Batavia requested a proposal of services from Municipal Solutions for assistance with Refunding Rural Development Serial Bond Borrowing for various water districts; and

WHEREAS, Municipal Solutions, Incorporated submitted a proposal of services agreement (agreement proposal attached).

NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Batavia, New York, that a proposed Financial Services Agreement by and between the Town of Batavia and Municipal Solutions, Incorporated for Refunding Rural Development Serial Bond Borrowing; a copy of which is annexed hereto and made a part of the Town Board Minutes, is hereby approved, and the Town Supervisor is hereby authorized and directed to sign this Agreement on behalf of the Town of Batavia.

Second by: Deputy Supervisor Underhill

Ayes: Michalak, Underhill, Zambito, White, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 71

Councilman Zambito offered the following:

**RESOLUTION ACKNOWLEDGING THAT THE REQUIRED AUDIT OF THE COURT
RECORDS AND DOCKETS WAS CONDUCTED**

WHEREAS, Section 2019-a of the Uniform Justice Court Act requires that Town Justices annually provide their court records and dockets to their respective Town Auditing Board, and that such records be audited and that fact be entered into the minutes of the Board's proceedings; and

WHEREAS, an audit was conducted of the Town Justices records and dockets by Freed, Maxick & Battaglia, P.C.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby acknowledges that the required audit of the Court Records and Dockets was conducted and hereby directs the Supervisor to forward a copy of the auditor's report along with a copy of this resolution to Joan Casazza, Internal Control Liaison, New York State Office of Court Administration, 2500 Pond View, Suite LL01, Castleton-on-Hudson, New York 12033.

Second by: Councilwoman White

Ayes: Zambito, White, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

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RESOLUTION NO. 72:

Councilwoman White offered the following:

**RESOLUTION IN CONTINUED SUPPORT OF NEW YORK GREEN, INC. AND TO
APPOINT
STANDING MEMBER FOR THIS CORPORATION**

WHEREAS, New York Green, Inc. (NYG), a nonprofit organization with a mission to facilitate informed and creative land use decisions to stimulate economic vitality and protect our natural environment, which also support the objectives that are part of the municipal functions of the Town of Batavia; and

WHEREAS, in May 2013 the Town of Batavia adopted a resolution in full support of designating individual representatives to serve as standing members to the NYG Board of Directors, as stated in NYG Bylaws, original adopted by the NYG Board of Directors on July 16, 2012, amended February 21, 2019.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that it does hereby formally acknowledge the Bylaws, amended February 21, 2019 and the Environmental objectives of New York Green, Inc., a copy of which is annexed hereto and made a part of the minutes and

BE IT FURTHER RESOLVED that the Town Board does hereby appoint the Town Supervisor as the representative on behalf of the Town of Batavia to serve as the Standing Member on the Board of Directors of New York Green, Inc.

Second by: Councilman Zambito

Ayes: White, Zambito, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 73:

Deputy Supervisor Underhill offered the following:

**APPROVAL OF BORROWING \$2,000,000 TO FINANCE STATION 2,
5045 CLINTON STREET ROAD, BATAVIA, NEW YORK
TOWN OF BATAVIA FIRE DEPARTMENT**

WHEREAS, Town of Batavia Fire Department is in the process of financing the proposed new fire station; and

WHEREAS, on February 19, 2020 the Batavia Town Board appointed a hearing officer to conduct the Public Hearing relating to the financing of the proposed new fire station for exemption from income taxation; and

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WHEREAS, the Town of Batavia Fire Department held said Public Hearing on March 11, 2020 with no comments or written statements being submitted; and

WHEREAS, to continue the closing on the term loan, the Town of Batavia Town Board must approve of the borrowing.

NOW, THEREFORE, BE

RESOLVED, the Batavia Town Board hereby approves of the Town of Batavia Fire Department borrowing two-million dollars (\$2,000,000) to finance Fire Station 2, located at 5045 Clinton Street Road, Batavia, New York; and be it further

RESOLVED, the Supervisor is hereby authorized and directed to execute any and all instruments necessary to carry out this resolution.

Second by: Councilwoman White

Ayes: Underhill, White, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 74:

Supervisor Post offered the following:

COOPERATIVE INVESTMENT AGREEMENT
NEW YORK CLASS

WHEREAS, New York General Municipal Law, Article 5-G, Section 119-o (“Section 119-o” empowers municipal corporations [defined in Article 5-G, Section 119-n to include school districts, boards of cooperative educational services, counties, cities, town and villages, and districts] to enter into, amend, cancel and terminate agreements for the performance among themselves (or one for the other) of their respective functions, powers and duties on a cooperative or contract basis; and

WHEREAS, the Town of Batavia wishes to invest portions of its available investment funds in cooperation with other corporations and/or districts pursuant to the NYCLASS Municipal Cooperation Agreement Amended and Restated as of March 28, 2019; and

WHEREAS, the Town of Batavia wishes to assure the safety and liquidity of its funds.

NOW, THEREFORE, BE IT

RESOLVED , that the Town of Batavia Town Board hereby directs and authorizes Gregory H. Post, Town Supervisor to execute and deliver the Cooperative Investment Agreement in the name of and on behalf of the Town of Batavia.

Second by: Deputy Supervisor Underhill

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Ayes: Post, Underhill, Michalak, Zambito, White
APPROVED by unanimous vote (5-0)

RESOLUTION NO. 75:

Councilwoman Michalak offered the following:

**A REFUNDING BOND RESOLUTION, DATED MARCH 18, 2020,
AUTHORIZING THE ISSUANCE OF REFUNDING BONDS IN AN
AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED
\$1,390,000 OF THE TOWN OF BATAVIA, GENESEE COUNTY,
NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW AND
PROVIDING FOR OTHER MATTERS IN RELATION THERETO.**

WHEREAS, the Town of Batavia, Genesee County, New York (the “Town”) heretofore issued its General Obligation Serial Bonds, Series 2004A, dated April 16, 2004, in the original aggregate principal amount of \$547,800 with \$412,900 of such bonds being scheduled to mature in the years 2021 through 2041, inclusive (the “2004 Bonds”); and

WHEREAS, the Town heretofore issued its General Obligation Serial Bonds, 2007, dated December 14, 2007, in the original aggregate principal amount of \$139,000 with \$115,000 of such bonds being scheduled to mature in the years 2021 through 2045, inclusive (the “2007 Bonds”); and

WHEREAS, the Town heretofore issued its General Obligation Serial Bonds, 2008, dated December 10, 2008, in the original aggregate principal amount of \$219,000 with \$182,000 of such bonds being scheduled to mature in the years 2021 through 2046, inclusive (the “2008 Bonds”); and

WHEREAS, the Town heretofore issued its General Obligation Serial Bonds, 2009A (Pearl), dated June 24, 2009, in the original aggregate principal amount of \$130,000 with \$108,000 of such bonds being scheduled to mature in the years 2021 through 2046, inclusive (the “2009A Bonds (Pearl)”); and

WHEREAS, the Town heretofore issued its General Obligation Serial Bonds, 2009B (Putnam), dated June 24, 2009, in the original aggregate principal amount of \$373,000 with \$309,000 of such bonds being scheduled to mature in the years 2021 through 2046, inclusive (the “2009B Bonds (Putnam)”); and

WHEREAS, the Town heretofore issued its General Obligation Serial Bonds, 2009C (Wilkinson), dated June 24, 2009, in the original aggregate principal amount of \$202,000 with \$167,000 of such bonds being scheduled to mature in the years 2021 through 2046, inclusive (the “2009C Bonds (Wilkinson)”); and

WHEREAS, the 2004 Bonds, the 2007 Bonds, the 2008 Bonds, the 2009A Bonds (Pearl), the 2009B Bonds (Putnam) and the 2009C Bonds (Wilkinson) are hereinafter sometimes referred to collectively as the “Refunded Bonds”; and

WHEREAS, in order for the Town to realize the potential for certain long-term debt service savings

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with respect to the Refunded Bonds, the Town Board of the Town (the “Board”) has determined, after consultation with the municipal advisor and bond counsel firms retained by the Town, that it would be in the public interest for the Town to refinance the Refunded Bonds by the issuance of refunding bonds of the Town pursuant to Section 90.00 and/or Section 90.10 of the Local Finance Law (the “Refunding Law”); and

WHEREAS, the Refunded Bonds are, by their terms, either scheduled for payment or subject to the possibility of the call for redemption prior to their stated maturity dates, and the Town has determined to conduct such a call for redemption, to achieve future debt service savings; and

WHEREAS, the 2004 Bonds were issued pursuant to a bond resolution that was adopted by the Town Board on December 19, 2001, authorizing the issuance of bonds to finance the establishment of the Hartshorn/Hopkins/Pearl Street Water District in the Town and the construction of improvements therein (the “2004 Bonds Bond Resolution”); and

WHEREAS, the 2007 Bonds were issued pursuant to a bond resolution that was adopted by the Town Board on July 20, 2005, authorizing the issuance of bonds to finance the construction of improvements to the Lovers Lane Water Improvement Area (the “2007 Bonds Bond Resolution”); and

WHEREAS, the 2008 Bonds were issued pursuant to a bond resolution that was adopted by the Town Board on August 15, 2007, authorizing the issuance of bonds to finance the establishment of the Town of Batavia Ellicott Street Road and Townline Road Water District and the construction of improvements therein (the “2008 Bonds Bond Resolution”); and

WHEREAS, the 2009A Bonds (Pearl) were issued pursuant to a bond resolution that was adopted by the Town Board on June 20, 2007, authorizing the issuance of bonds to finance the establishment of the Town of Batavia Pearl Street Road Water District and the construction of improvements therein (the “2009A Bonds (Pearl) Bond Resolution”); and

WHEREAS, the 2009B Bonds (Putnam) were issued pursuant to a bond resolution that was adopted by the Town Board on June 20, 2007, authorizing the issuance of bonds to finance the establishment of the Town of Batavia Putnam and Shepard Roads Water District and the construction of improvements therein (the “2009B Bonds (Putnam) Bond Resolution”); and

WHEREAS, the 2009C Bonds (Wilkinson) were issued pursuant to a bond resolution that was adopted by the Town Board on June 20, 2007, authorizing the issuance of bonds to finance the establishment of the Town of Batavia Wilkinson Road Water District and the construction of improvements therein (the “2009C Bonds (Wilkinson) Bond Resolution”); and

WHEREAS, the 2004 Bonds Bond Resolution, the 2007 Bonds Bond Resolution, the 2008 Bonds Bond Resolution, the 2009A Bonds (Pearl) Bond Resolution, the 2009B Bonds (Putnam) Bond Resolution and the 2009C Bonds (Wilkinson) Bond Resolution are hereinafter sometimes referred to collectively as the “Refunded Bond Resolutions”; and

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WHEREAS, the Town has the power and authority to issue refunding bonds of the Town for the purpose of refunding (and thereby refinancing) the Refunded Bonds at more favorable rates of interest, including provision for the payment of incidental costs of issuance in connection therewith, pursuant to the provisions of the Refunding Law; and

WHEREAS, the Town has received an estimated savings plan dated February 24, 2020 (the "Refunding Financial Plan") from an underwriter in connection with the proposed refunding of the Refunded Bonds, and such Refunding Financial Plan is attached hereto as Exhibit A; and

WHEREAS, the Board has reviewed and considered the Refunding Financial Plan in consultation with the Supervisor of the Town and the municipal advisor and bond counsel firms retained by the Town; and

WHEREAS, the Town desires to refund all or a portion of the Refunded Bonds by issuing certain new refunding bonds and selling such bonds pursuant to a private sale to a purchaser yet to be determined in accordance with the Refunding Financial Plan; and

WHEREAS, the Refunding Law requires that the Town adopt a refunding bond resolution which includes a refunding financial plan setting forth all of the pertinent details in connection with the proposed refunding transaction;

NOW, THEREFORE, BE IT RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of the total voting strength of the Town Board) as follows:

SECTION 1. Based on the recommendation of Municipal Solutions, Inc. ("Municipal Solutions"), the municipal advisor retained by the Town, the Board hereby determines to undertake a current refunding of the Refunded Bonds, through the issuance of refunding bonds of the Town, such refunding bonds to be offered and sold at private sale to a purchaser yet to be determined under arrangements that are to be in general accord with the Refunding Financial Plan.

SECTION 2. For the object or purpose of refunding the Refunded Bonds, including providing moneys which, together with the interest earned from the investment of certain of the proceeds of the refunding bonds herein authorized, shall be sufficient to pay (A) such applicable outstanding principal amount of the Refunded Bonds, (B) the aggregate amount of unmatured interest payable on the Refunded Bonds to and including the date(s) on which the Refunded Bonds mature or are to be redeemed in accordance with the Refunding Financial Plan, (C) redemption premiums, if any, payable on the Refunded Bonds as of such redemption date(s), (D) the costs and expenses incidental to the issuance of the refunding bonds herein authorized, including, but not limited to, the development of the Refunding Financial Plan, the fees and costs of the municipal advisor to the Town, the fees and costs of the bond counsel to the Town, the costs and expenses of executing and performing the terms and conditions of the escrow contract, as hereinafter defined, and the fees and charges of the escrow holder, as hereinafter defined, and (E) the premium or premiums for the policy or policies of municipal bond insurance or other form of credit enhancement facility or facilities for the refunding bonds herein authorized, or any portion thereof, there are hereby authorized to be issued the Refunding Serial Bonds, 2020 of the Town in an aggregate principal

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amount not to exceed \$1,390,000 (the “Refunding Bonds”) pursuant to the provisions of the Refunding Law, it being anticipated that the principal amount of the Refunding Bonds actually to be issued will be approximately \$1,075,000 as described in the Refunding Financial Plan and in Section 6 hereof. The Refunding Bonds shall be dated such date as shall hereafter be determined by the Town Supervisor pursuant to Section 6 hereof, shall be of the denominations of \$5,000 or any integral multiple thereof not exceeding the principal amount of each respective maturity (unless a bond of an odd denomination is required), and shall mature annually and shall bear interest semi-annually thereafter on such dates as shall be determined by the Town Supervisor pursuant to Section 6 hereof, at the rate or rates of interest per annum as may be necessary to sell the same, all as shall be determined by the Town Supervisor.

SECTION 3. The Town Supervisor is hereby delegated all of the powers of this Board with respect to agreements for credit enhancement, derived from and pursuant to Section 168.00 of the Local Finance Law, for the Refunding Bonds including, but not limited to, the determination of the provider of such credit enhancement facility or facilities and the terms and contents of any agreement or agreements related thereto.

SECTION 4. The Refunding Bonds shall be executed in the name of the Town by the manual or facsimile signature of the Town Supervisor and the Town’s corporate seal (or a facsimile thereof) shall be imprinted thereon and attested by the Town Clerk. The Refunding Bonds shall contain the recital(s) required by the Refunding Law and the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form, and contain such recitals, as the Town Supervisor shall determine.

SECTION 5. It is hereby determined that:

(A) The maximum amount of the Refunding Bonds authorized to be issued pursuant to this resolution does not exceed the limitation imposed by the Local Finance Law; and

(B) The maximum period of probable usefulness permitted by law at the time of the issuance of the Refunded Bonds for each of the objects or purposes for which the Refunded Bonds were issued is as shown upon Exhibit B; and

(C) The last installment of the Refunding Bonds will mature not later than the expiration of the maximum period of probable usefulness of each of the objects or purposes for which the Refunded Bonds were issued, or in the alternative, the weighted average remaining period of probable usefulness of the objects or purposes (or classes of objects or purposes) financed with the Refunded Bonds or the weighted average remaining period of probable usefulness of all objects or purposes (or classes of objects or purposes) financed with the Refunded Bonds, in accordance with the provisions of the Refunding Law; and

(D) The estimated present value of the total debt service savings anticipated as a result of the issuance of the Refunding Bonds, computed in accordance with the provisions of the Refunding Law, is as shown in the Refunding Financial Plan described in Section 6 hereof.

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SECTION 6. The Refunding Financial Plan showing the sources and amounts of all moneys required to accomplish such refunding, the estimated present value of the total debt service savings and the basis for the computation of the aforesaid estimated present value of total debt service savings, is set forth in Exhibit A attached hereto and hereby made a part of this resolution. The Refunding Financial Plan has been prepared based upon the assumption that the Refunding Bonds will be issued in the aggregate principal amount of \$1,075,000 and that the Refunding Bonds will mature, be of such terms, and bear interest as set forth in Exhibit A. This Town Board recognizes that the amount and/or structure of the Refunding Bonds, and the maturities, terms, and interest rate or rates borne by the Refunding Bonds to be issued by the Town will most probably be different from such assumptions and that the final details of the sale will also most probably be different from that attached hereto as Exhibit A. The Town Supervisor is hereby authorized and directed to determine the purchaser (upon the recommendation of Municipal Solutions), the amount and particular maturities of the Refunded Bonds to be refunded, the details as to the redemption of the Refunded Bonds, including the date and amount of such redemption or redemptions and authorizing and directing the escrow holder, as hereinafter defined, to cause notice of such redemption, the amount and particular maturities of the Refunding Bonds to be issued, the date of such bonds and the date of issue, maturities and terms thereof, the provisions relating to any redemption of the Refunding Bonds prior to maturity (including the presence or absence of an early call feature, as referred to above), whether the Refunding Bonds will be insured by a policy or policies of municipal bond insurance or otherwise enhanced by a credit enhancement facility or facilities, the escrow arrangements (if any) to be entered into with respect to the proceeds of the Refunding Bonds, the terms of the private sale of the Refunding Bonds to the purchaser thereof, the amount of the annual installments of the Refunding Bonds to be paid pursuant to the Refunding Law, whether the Refunding Bonds shall be sold at a discount in the manner authorized by Section 57.00(e) of the Local Finance Law, and the rate or rates of interest to be borne thereby, and to prepare, or cause to be prepared a final Refunding Financial Plan for the Refunding Bonds, whether the Refunding Bonds are sold in conjunction with or consolidated with the issuance of certain other refunding bonds to be issued by the Town to refund any other general obligation bonds issued by the Town (including, but not limited to, the structuring of the annual installments of a consolidated issue), and all powers in connection therewith are hereby delegated to the Town Supervisor; provided, that the terms of the Refunding Bonds to be issued, including the rate or rates of interest borne thereby, shall comply with the requirements of the Refunding Law.

SECTION 7. Without in any way limiting the scope of the foregoing delegation of powers, the Town Supervisor, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for the Refunding Bonds.

SECTION 8. The Town Supervisor shall file a copy of a certificate determining the details of the Refunding Bonds and the final Refunding Financial Plan with the Town Clerk not later than ten days after the delivery of the Refunding Bonds, as herein provided.

SECTION 9. The Town Supervisor is hereby authorized and directed to enter into an escrow contract (the "Escrow Contract") with a bank or trust company located and authorized to do business in this State as he shall designate (the "Escrow Holder") for the purpose of having the Escrow Holder act, in connection with the Refunded Bonds, as the escrow holder to perform the services described in the Refunding Law.

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SECTION 10. The Town Supervisor is hereby delegated all of the powers of this Board with respect to agreements for credit enhancement, derived from and pursuant to Section 168.00 of the Local Finance Law, for the Refunding Bonds, including, but not limited to the determination of the provider of such credit enhancement facility or facilities and the terms and contents of any agreement or agreements related thereto.

SECTION 11. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on the Refunding Bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such Refunding Bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of the Town a tax sufficient to pay the principal of and interest on such Refunding Bonds as the same become due and payable.

SECTION 12. All of the proceeds from the sale of the Refunding Bonds, including the premium, if any, but excluding accrued interest thereon, shall immediately upon receipt thereof be placed in escrow with the Escrow Holder. Accrued interest, if any, on the Refunding Bonds shall be paid to the Town to be expended to pay interest on the Refunding Bonds on the next bond payment date of such Refunding Bonds. Such proceeds as are deposited in the escrow deposit fund to be created and established pursuant to the Escrow Contract, whether in the form of cash or investments, or both, inclusive of any interest earned from the investment thereof, shall be irrevocably committed and pledged to the payment of the principal of and interest on the Refunded Bonds in accordance with the Refunding Law, and the holders, from time to time, of the Refunded Bonds shall have a lien upon such moneys held by the Escrow Holder. Such pledge and lien shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder for the Refunded Bonds in the escrow deposit fund shall immediately be subject thereto without any further act. Such pledge and lien shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Town irrespective of whether such parties have notice thereof.

SECTION 13. In accordance with the provisions of Section 53.00 of the Local Finance Law, subject to the determination by the Town Supervisor regarding the redemption of the Refunded Bonds described in Section 6 above, the Town hereby elects to redeem the Refunded Bonds with the proceeds of the Refunding Bonds prior to their stated maturity dates on the date or dates provided in the Refunding Financial Plan. The sums to be paid therefor on such redemption date or dates shall be the par value thereof plus the redemption premium, if any, and the accrued interest to such redemption date or dates. The Escrow Holder is hereby authorized and directed to cause notice of such call for redemption to be given in the name of the Town in the manner and within the times provided in the Refunding Financial Plan. Upon the issuance of the Refunding Bonds, the election to call in and redeem the Refunded Bonds and the direction to cause notice thereof to be given as provided in this section shall become irrevocable, provided that this section may be amended from time to time as may be necessary in order to comply with the publication requirements of Section 53.00(a) of the Local Finance Law, or any successor law thereto.

SECTION 14. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the Refunding Bonds as

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excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and, if applicable, to designate the Refunding Bonds authorized by this resolution as "qualified tax-exempt obligations" in accordance with Section 265 of the Code.

SECTION 15. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the Refunding Bonds authorized by this resolution, if required, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 16. The Town Supervisor is further authorized to call in and redeem any outstanding obligations that were authorized hereunder (at such times and in such amounts and maturities as may be deemed appropriate after consultation with Town officials and the Town's municipal advisor), to approve any related notice of redemption, and to take such actions and execute such documents as may be necessary to effectuate any such calls for redemption pursuant to Section 53.00 of the Local Finance Law, with the understanding that no such call for redemption will be made unless such notice of redemption shall have first been filed with the Town Clerk.

SECTION 17. The Town hereby determines that the issuance of the Refunding Bonds is a Type II action that will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act ("SEQRA") is required.

SECTION 18. Subject to compliance with the provisions of the Refunding Law, the Refunding Bonds shall be sold at private sale and the Town Supervisor is hereby authorized to negotiate for such private sale. The Town Supervisor is hereby authorized to execute and deliver, if necessary, a bond purchase agreement with the purchaser of the Refunding Bonds in the name and on behalf of the Town providing the terms and conditions for the sale and delivery of the Refunding Bonds to the purchaser. After the Refunding Bonds have been duly executed, they shall be delivered by the Town Supervisor, in accordance with the terms of any such bond purchase agreement, upon the receipt by the Town of such purchase price, including any premium or accrued interest.

SECTION 19. The Town Supervisor and Town Clerk, the Town Attorney and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the bond purchase agreement.

SECTION 20. All other matters pertaining to the terms and manner and details of issuance of the Refunding Bonds shall be determined by the Town Supervisor and all powers in connection therewith are hereby delegated to the Town Supervisor.

SECTION 21. In the event of the absence or unavailability of the Town Supervisor, the Deputy Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in

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this resolution.

SECTION 22. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of such Local Finance Law, in the official newspaper(s) of the Town for such publications.

SECTION 23. The validity of the Refunding Bonds may be contested only if:

(1) (a) Such obligations are authorized for an object or purpose for which such Town is not authorized to expend money, or

(b) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within 20 days after the date of such publication; or

(2) Such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 24. This resolution shall take effect immediately upon its adoption.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

AYES: Councilwoman Michalak
Deputy Supervisor Underhill
Councilman Zambito
Councilwoman White
Supervisor Post

NOES:

ABSENT:

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The foregoing resolution was thereupon declared duly adopted.

Second by: Deputy Supervisor Underhill

Ayes: Michalak, Underhill, Zambito, White, Post

APPROVED by unanimous vote (5-0)

EXHIBIT A

REFUNDING FINANCIAL PLAN

DATED FEBRUARY 24, 2020

[PLEASE INSERT THE REFUNDING SUMMARY FOLLOWING THIS PAGE]

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EXHIBIT B

**DESCRIPTION OF CAPITAL IMPROVEMENTS
FINANCED WITH THE PROCEEDS OF THE REFUNDED BONDS**

<u>Dated Date</u>	<u>Original Amount Financed</u>	<u>Outstanding Amount to be Refunded</u>	<u>Object or Purpose</u>	<u>Period of Probable Usefulness</u>
April 16, 2004	\$547,800	\$412,900	(A) The establishment of the Hartshorn/Hopkins/Pearl Street Water District in the Town and the construction of improvements therein.	40 years
December 14, 2007	\$139,000	\$115,000	(B) The construction of improvements of the Lovers Lane Water Improvement Area.	40 years
December 10, 2008	\$219,000	\$182,000	(C) The establishment of the Town of Batavia Ellicott Street Road and Townline Road Water District and the construction of improvements therein.	40 years
June 24, 2009	\$130,000	\$108,000	(D) The establishment of the Town of Batavia Pearl Street Road Water District and the construction of improvements therein.	40 years
June 24, 2009	\$373,000	\$309,000	(E) The establishment of the Town of Batavia Putnam and Shepard Roads Water District and the construction of improvements therein.	40 years
June 24, 2009	\$202,000	\$167,000	(F) The establishment of the Town of Batavia Wilkinson Road Water Dsitric and the construction of improvements therein.	40 years

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RESOLUTION NO. 76:

Councilman Zambito offered the following:

**PROFESSIONAL SERVICES AGREEMENT FOR
ON-CALL TRAFFIC ENGINEERING SERVICES
BETWEEN THE TOWN OF BATAVIA AND SRF ASSOCIATES**

WHEREAS, the Town of Batavia has a continued need for On-Call Traffic Engineering services for on-going development, growth and transportation related needs; and

WHEREAS, SRF Associates has provided a letter proposal for such services for a Not-To-Exceed amount of twenty-thousand dollars (\$20,000.00); and

WHEREAS, Specific scope of work assignments will be developed with Town staff, and reviewed and approved by the Town Engineer.

NOW, THEREFORE, BE IT RESOLVED, the Batavia Town Board authorizes the Supervisor to retain SRF Associates for On-Call Traffic Engineering services for the not-to-exceed amount of twenty-thousand dollars (\$20,000.00).

Second by: Councilwoman White

Ayes: Zambito, White, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 77

Councilwoman White offered the following:

**RESOLUTION TO APPROVE AN INTERMUNICIPAL AGREEMENT WITH
THE VILLAGE OF BOLIVAR FOR SHARED SERVICES**

WHEREAS, the Village of Bolivar (Bolivar) desires to use certain portable sewer flow meter equipment owned by the Town of Batavia, and

WHEREAS, a proposed “Intermunicipal Agreement for Shared Services with Bolivar has been drafted”, which has been reviewed and approved by the Town Engineer.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Batavia, New York, that a proposed “Intermunicipal Agreement for Shared Services with the Village of Bolivar”, a copy of which shall be made a part of the Town Board Minutes, is hereby approved, and the Town Supervisor is authorized and directed to sign this Agreement on behalf of the Town of Batavia.

Second by: Councilman Zambito

Ayes: White, Zambito, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

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**INTERMUNICIPAL AGREEMENT FOR
SHARED SERVICES WITH THE
VILLAGE OF BOLIVAR**

THIS AGREEMENT made the _____ day of _____, 2020, by and between the **TOWN OF BATAVIA**, a municipal corporation organized and existing under the Laws of the State of New York, having its principal office located at 3833 West Main Street Road, Batavia, New York 14020, (hereinafter referred to as “Batavia”), and the **VILLAGE OF BOLIVAR**, a municipal corporation organized and existing under the Laws of the State of New York, having its principal office located at 252 Main Street, Bolivar, New York 14715, (hereinafter referred to as “Bolivar”).

WHEREAS, pursuant to Article 5-G of the General Municipal Law, Batavia and Bolivar are authorized to enter into an intermunicipal cooperative agreement for the provisions of shared services, as set forth herein, and

WHEREAS, Bolivar desires to use certain equipment owned by Batavia.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is agreed as follows:

1. Until August 1, 2020, Batavia, on a shared basis, will allow Bolivar to use the following portable sewer flow meter equipment owned by the Town of Batavia:

Isco 2150 Area Velocity Flow Module	Town ID #105	Serial # 210A00162
Isco 2150 Area Velocity Flow Module	Town ID#102 –	Serial # 210A00167
Isco 2150 Area Velocity Flow Module	Town ID#110 –	Serial # 209M00783
Isco 2150 Area Velocity Flow Module	Town ID#106 –	Serial # 210A01176
Isco 2150 Area Velocity Flow Module	Town ID#104 –	Serial # 210A00163
Isco 2150 Area Velocity Flow Module	Town ID#50 –	Serial # 209M00782
Two (2)	8 inch Rings	
One (1)	15 inch Ring	
Six (6)	Pick-up Cables	

2. At the end of the term of this Agreement, as aforesaid, Bolivar will return the equipment in a clean and working order.

3. During the use of the equipment, Bolivar will be responsible for any necessary maintenance and/or repair.

4. In the event that any portion of the equipment is damaged beyond repair, Bolivar will replace said damaged equipment on an in-kind basis.

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5. Bolivar hereby agrees to indemnify and hold Batavia harmless from all claims, losses, costs and damages arising out of any activities of Bolivar pursuant to the terms and conditions of this Agreement, including costs of settling any action and reasonable attorney's fees for defense. Each party will provide the other with timely notice of any claims and shall fully cooperate with each other to defend the same.

6. This Agreement may not be assigned by either party, in whole or in party, without the prior written consent of the other party. Any assignment in violation of the foregoing shall be deemed void.

7. This Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto and their successors and permitted assigns.

8. This Agreement and any transactions between the parties hereunder shall be governed by, construed and interpreted in accordance with the Laws of the State of New York.

9. There are no other agreements or understandings, either oral or written, between the parties affecting this Agreement. No changes, additions or deletions of any portions of this Agreement shall be valid or binding upon the parties hereto unless the same is approved in writing by both parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

TOWN OF BATAVIA

VILLAGE OF BOLIVAR

By: Gregory H. Post, Town Supervisor

By: Robert Mitchell, Mayor

State of New York}
County of Genesee}ss.

On this _____ day of _____, 2019, before me, the undersigned, personally appeared Gregory H. Post, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

State of New York}

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County of Allegany}ss.

On this _____ day of _____, 2019, before me, the undersigned, personally appeared Robert Mitchell, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

RESOLUTION NO. 78:

Deputy Supervisor Underhill offered the following:

CREW LEADER APPOINTMENT

JAMIE WAFF

RESOLVED, the Batavia Town Board hereby appoints Jamie Waff as Crew Leader for the Water/Wastewater Department at an hourly rate of \$32.51.

Second by: Councilman Zambito

Ayes: Underhill, Zambito, White, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 79:

Supervisor Post offered the following:

AMENDMENT 1 TO RESOLUTION 2 OF 2020

ADOPTION OF SALARIES FOR 2020

RESOLVED, the Batavia Town Board hereby amends resolution number 2 of 2020, entitled "Adoption of Salaries for 2020", as follows:

Add :

Crew Leader	\$27.46 - \$33.98
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Second by: Deputy Supervisor Underhill

Ayes: Post, Underhill, Michalak, Zambito, White

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 80:

Councilwoman Michalak offered the following:

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CREW LEADER APPOINTMENT

JAMIE WAFF

RESOLVED, the Batavia Town Board hereby appoints Jamie Waff as Crew Leader for the Water/Wastewater Department at an hourly rate of \$32.51.

Offered by: Councilwoman Michalak
Second by: Councilman Zambito
Ayes: Michalak, Zambito, White, Underhill, Post
APPROVED by unanimous vote (5-0)

RESOLUTION NO. 81:

Councilman Zambito offered the following:

**AUTHORIZATION TO HIRE GENERAL UTILITY CONTR
ACTORS ON AN
ON-CALL EMERGENCY BASIS**

WHEREAS, the Supervisor of the Town of Batavia duly declared a State of Emergency on March 18, 2020 at 6:00pm; and

WHEREAS, as part of such emergency, the Town of Batavia has identified the need to secure general utility contractors to strengthen the Town's preparedness and Continuity of Water and Wastewater Operations, and

WHEREAS, as part of the Town's Emergency Response to address the rapidly evolving concerns related to the COVID-19 pandemic and other future potential local or state emergencies, the Town needs to be prepared for all situations including potential absenteeism, and

WHEREAS, part of the plan to respond to these rapidly evolving concerns is to augment work which was planned to be completed by Town forces with private contractors to both free up water and wastewater operators to attend to Public Health and other emergency response efforts, and

WHEREAS, as the Town Engineer has requested interest from qualified local general utility contractors to be available on an On-Call and time and expense basis, and

WHEREAS, as the following list of qualified contractors have expressed their interest:

1. Kandey Company, Inc.
2. Villager Construction Inc.

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3. Visone Construction Inc.
4. Sergi Construction Inc.
5. Morsch Pipeline
6. STC Construction, Inc.
7. Turner Underground
8. Randsco Pipeline
9. Mar-Wal Construction
10. Delmar-Electric

WHEREAS, as the Town Engineer has reviewed all contractor's qualifications and recommends approval of the above contractors to work on an On-Call basis.

NOW THEREFORE, BE IT

RESOLVED, the Town Supervisor is authorized to contract, in his discretion, with any of the following contractors on an On-Call basis for any work which he determines, upon consultation with the Town Engineer, to be in the public interest:

1. Kandey Company, Inc.
2. Villager Construction Inc.
3. Visone Construction Inc.
4. Sergi Construction Inc.
5. Morsch Pipeline
6. STC Construction, Inc.
7. Turner Underground
8. Randsco Pipeline
9. Mar-Wal Construction
10. Delmar-Electric
11. Other specialized contractors as deemed necessary
- 12.

and,

Be it Further Resolved, that any such work so contracted shall be at the rates set forth on time and expense rate sheets as reviewed and approved by the Town Engineer
and,

Be it further Resolved, that this authorizing resolution shall remain in effect until the expiration of the State of Emergency, unless revoked or extended by resolution of the Town Board.

Second by: Deputy Supervisor Underhill

Ayes: Zambito, Underhill, Michalak, White, Post

APPROVED by unanimous vote (5-0)

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RESOLUTION NO. 82:

Councilwoman White offered the following:

PURCHASE OF DELL COMPUTERS

REMOTE ACCESS

WHEREAS, with the recent events of the Covid-19 pandemic there is a need for laptop computers for many staff members to work remotely.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby approves the purchase of five (5) Dell Latitude 5500 laptop computers at a cost of \$984.65 each, NYS Contract #C000000005000, Customer Agreement #PM20820 to be utilized for employees to work remotely.

Second by: Deputy Supervisor Underhill

Ayes: White, Underhill, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 83:

Deputy Supervisor Underhill offered the following:

RESOLUTION TO HIRE

**WATER/WASTEWATER MAINTENANCE WORKER OR LABORER
FOR WATER/WASTEWATER DEPARTMENT ON AN EMERGENCY BASIS**

WHEREAS, the Supervisor of the Town of Batavia duly declared a State of Emergency on March 18, 2020 at 6:00pm; and

WHEREAS, as part of such emergency, the Town of Batavia has identified the need to secure additional personnel for the water and wastewater to strengthen the Town's preparedness and Continuity of Water and Wastewater Operations, and

WHEREAS, as part of the Town's Emergency Response to address the rapidly evolving concerns related to the COVID-19 pandemic and other future potential local or state emergencies, the Town needs to be prepared for all situations including potential absenteeism.

NOW, THEREFORE, BE IT

RESOLVED, the Batavia Town Board hereby authorizes the Town Supervisor to hire Water Wastewater Maintenance Workers or Laborers on an as needed basis.

Second by: Councilwoman Michalak

Ayes: Underhill, Michalak, Zambito, White, Post

APPROVED by unanimous vote (5-0)

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Abstract No. 3-2020: Motion Deputy Supervisor Underhill, second Councilwoman White to authorize the Supervisor to pay the following vouchers:

General	\$71,901.87
Highway	18,766.99
Sewer No. 1	5,939.12
Sewer No. 2	6,610.97
Water	41,530.02
Kings PS	225.50
Bigelow Creek	1179.00
Ag Park	14,924.12
Ellicott Trail	32,322.42
Total	\$193,400.01

Check numbers 22781- 22820, 22822-22847, 22849-22852 ACH: \$71,403.71

Ayes: Underhill, White, Michalak, Zambito, Post

MOTION CARRIED by unanimous vote (5-0)

DEPARTMENT REPORTS:

Supervisor's Report:

Declaration of a State of Emergency was issued at 6:00 P.M. and will be issuing an emergency order effective at 12:00 a.m. March 19, 2020.

Status Report on expenditures and revenues is available for the Board's review.

COMMUNICATIONS:

The Town Clerk reported on the following:

February Town Clerk monthly report collected a total of \$2,968.00, remitted \$2,843.50 to the Supervisor for the Local Share.

February Tax Collector report collected a total of \$462,163.02, remitted \$4,575.93 to the Supervisor for the penalties collected and the remainder to the Genesee County Treasurer.

ADJOURNMENT:

Motion Deputy Supervisor Underhill, second Councilman Zambito to adjourn the Regular Town Board Meeting at 7:20 P.M.

Ayes: Underhill, Zambito, White, Michalak, Post

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teresa M. Morasco
Town Clerk