

**SEPTEMBER 5, 2018
SPECIAL 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 7:01 P.M.

RESOLUTION NO. 181:

Councilwoman White offered the following:

A Meeting of the Town Board of the Town of Batavia, in the County of Genesee, State of New York, was held at the Town Hall, in said Town, on the 5th day of September, 2018.

PRESENT:

Hon. Gregory H. Post, Supervisor
Daniel Underhill, Councilperson
Sharon White, Councilperson
Patti Michalak, Councilperson
Chad Zambito, Councilperson

In the Matter of the Establishment of Batavia-Bethany Townline Road Water District, in the Town of Batavia, in the County of Genesee, New York, pursuant to Article 12 of the Town Law.

**FINAL ORDER ESTABLISHING DISTRICT
SEPTEMBER 5, 2018**

WHEREAS, the Town Board of the Town of Batavia (herein called "Town Board" and "Town", respectively), in the County of Genesee, New York, has, pursuant to Town Law Article 12, caused the Town Engineer, duly licensed by the State of New York, to prepare a map, plan and report for the establishment of Batavia-Bethany Townline Road Water District (the "District") in the Town, with proposed improvements consisting of the construction and installation of approximately 4,400 linear feet of 8-inch diameter watermain along a portion of Batavia-Bethany Townline Road, including land or rights in land, road crossings, furnishings, valves, hydrants, fittings, connections, fill, services, appurtenances

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and related site work and other ancillary work, preliminary costs and other improvements and costs incidental thereto; and

WHEREAS, a “Petition to Request Water District” was filed in the Batavia Town Clerk’s Office on March 12, 2018, signed by the required number of property owners within the proposed district, namely, pursuant to the latest completed assessment roll of the Town of Batavia, the owners of taxable real property located in the proposed Batavia Bethany Townline Road Water District owning in the aggregate at least one-half of the assessed valuation of all of the taxable real property of the proposed Water District; and also constituting the signatures of resident owners who own taxable real property aggregating at least one-half of the assessed valuation of all of the taxable real property of the proposed Water District owned by residents, and

WHEREAS, on March 21, 2018, the Town Board adopted an Order Calling Public Hearing, and

WHEREAS, pursuant to the Order Calling Public Hearing, the Town Board determined to proceed with the proposed establishment of the District and adopted an Order reciting a description of the boundaries of the District in a manner sufficient to identify the lands included therein as in a deed of conveyance, the improvements proposed, the maximum amount proposed to be expended for the construction of water improvements in connection with the establishment of the District, the proposed method of financing to be employed, the fact that a map, plan and report describing the same are on file in the Town Clerk’s office for public inspection and specifying April 18, 2018, at 7:20 o’clock p.m. (Prevailing Time) as the time when, and the Batavia Town Hall, located at 3833 West Main Street Road, in the Town, as the place where, the Town Board would meet to consider the proposed establishment of the District and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board in relation thereto, as may be required by law; and

WHEREAS, certified copies of such Order were duly published and posted pursuant to the provisions of Article 12 of the Town Law and a Notice of Public Hearing was mailed by first class mailed to each owner of taxable real property in the District, and

WHEREAS, following publication and posting of certified copies of said Order pursuant to Article 12 of the Town Law and the mailing of the Notice of Public Hearing and after a public hearing duly held by the Town Board at the time and place herein referred to, the Town Board, by resolution duly adopted April 18, 2018, determined that the Petition to Request Water District was duly filed as required by law and was otherwise sufficient; that the notice of public hearing was duly published and posted as required by law and was otherwise sufficient; that the Notice of Public Hearing was mailed by first class mail to each owner of taxable real property in the District; that all the property and property owners included within the proposed District were benefited thereby; that all the property and property owners benefited were included within the limits of the proposed District; that it was in the public interest to establish the District and approved the establishment of the District and the construction of water improvements in connection with the District as hereinabove described at a cost not to exceed \$230,400.00; and that the plan of financing is the issuance of serial bonds in the amount of \$126,800.00, said amount to be offset by the receipt of any funds from the United States of America, and the balance of the costs will be assessed by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine to be especially benefited by said District, so

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much upon and from each as shall be in just proportion to the amount of benefit which the District shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable; and determine that permission of the State Comptroller was required with respect to the formation of the District and directing an application to be submitted; and

WHEREAS, the permission of the State Comptroller is required with respect to the District because the estimated cost of the District to the Typical Property as defined in the Town Law is above the Average Estimated Cost to the Typical Properties for the establishment of similar types of districts, or computed by the State Comptroller; and

WHEREAS, the Town Board did cause to be filed an application with the State Comptroller seeking its permission to form the district, which permission was granted for a project cost not to exceed \$126,800.00 by Order dated August 24, 2018; and

WHEREAS, the Town Board has given due consideration to the impact that the District may have on the environment and on the basis of such consideration, the Town Board has found no substantial adverse environmental impact will be caused by such District; and

WHEREAS, the Town and the Town Board have complied in every respect with all applicable laws and regulations regarding environmental matters including compliance with the New York State Environmental Quality Review Act (SEQR);

NOW, THEREFORE, be it

ORDERED, that the establishment of the District is hereby approved, in the Town of Batavia, to be known as Batavia-Bethany Townline Road Water District in the Town of Batavia, situate wholly outside of any incorporated village or city, and bounded and more particularly described in annexed Schedule "A".

ORDERED, that Batavia-Bethany Townline Road Water District hereinabove referred to shall be constructed as set forth in the said Order Calling Public Hearing, at a cost not to exceed \$126,800.00; and that the plan of financing is the issuance of serial bonds in the amount of \$126,800.00, said amount to be offset by the receipt of any funds from the United States of America, and the balance of the costs will be assessed by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine to be especially benefited by said District, so much upon and from each as shall be in just proportion to the amount of benefit which the District shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable; and be it further

ORDERED, that within ten (10) days after adoption of this Order, the Town Clerk shall record with the Clerk of the County of Genesee and file with the Department of Audit and Control in Albany, New York copies of this Order, certified by said Town Clerk

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Dated: September 5, 2018

TOWN BOARD OF THE
TOWN OF BATAVIA

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

SCHEDULE A
TOWN OF BATAVIA
PROPOSED BETHANY TOWNLINE WATER DISTRICT

The boundary of the proposed Town of Batavia, Bethany Townline Water District includes all that tract or parcel of land situated in the Town of Batavia, County of Genesee, State of New York, being described as follows:

Beginning at a point which is the northwesterly corner of Tax Parcel number 20.-1-98.21; thence,

1. Southerly, following the existing Shepard & Putnam Road Water District along a westerly line of Tax Parcel number 20.-1-98.21, a distance of 499 feet, more or less, to the northeasterly corner of Tax Parcel number 20.-1-96; thence,
2. Westerly, following the existing Shepard & Putnam Road Water District along the northerly line of Tax Parcel number 20.-1-96, a distance of 1,159 feet, more or less, to the intersection of the northerly line of Tax Parcel number 20.-1-96 and an easterly boundary of the Shepard & Putnam Road Water District; thence,
3. Southerly, following the Shepard & Putnam Road Water District through the lands of Tax Parcel number 20.-1-96 and across Batavia-Bethany Townline Road (49.5 feet wide right-of-way), a distance of 416 feet, more or less, to the intersection of the boundary of the existing Shepard & Putnam Road Water District and the centerline of Batavia-Bethany Townline Road; thence,
4. Easterly, along the centerline of the Batavia-Bethany Townline Road, a distance of 4,559 feet, more or less, to the intersection of the centerline of Batavia-Bethany Townline Road and the boundary of the existing Ellicott Street Road & Townline Road Water District; thence,
5. Northerly, following the existing Ellicott Street Road & Townline Road Water District across Batavia-Bethany Townline Road (49.5 feet wide right-of-way) and through the lands of Tax Parcel number 20.-1-32.113, a distance of 1,172 feet, more or less, to a turning point in the Ellicott Street Road and Townline Road Water District that is 500 feet westerly of Bethany Center Road and 500 feet southwesterly of Ellicott Street Road; thence,
6. Northwesterly, following the existing Ellicott Street Road & Townline Road Water District through the lands of Tax Parcel number 20.-1-32.113, a distance of 679 feet, more or less, to the

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- intersection of a southwesterly boundary of the Ellicott Street Road & Townline Road Water District and the northwesterly line of Tax Parcel number 20.-1-32.113; thence,
7. Southwesterly, following the existing Ellicott Street Road & Townline Road Water District along the northwesterly line of Tax Parcel number 20.-1-32.113, a distance of 618 feet, more or less, to the southerly corner of Tax Parcel number 20.-1-36.1; thence,
 8. Northerly, following the existing Ellicott Street Road & Townline Road Water District along an easterly line of Tax Parcel number 20.-1-44.111, a distance of 848 feet, more or less, to the intersection of the easterly line of Tax Parcel number 20.-1-44.111 and a southwesterly boundary of the Ellicott Street Road & Townline Road Water District; thence,
 9. Northwesterly, following the existing Ellicott Street Road & Townline Road Water District along a line and parallel to, and 500 feet southwesterly from, the centerline of Ellicott Street Road, a distance of 616 feet, more or less, to intersection of the Ellicott Street Road and Townline Road Water District and the northwesterly line of Tax Parcel number 20.-1-44.111; thence,
 10. Southwesterly, following the existing Ellicott Street Road & Townline Road Water District along the northwesterly line of Tax Parcel number 20.-1-44.111, a distance of 74 feet, more or less, to the southerly corner of Tax parcel number 20.-1-44.2; thence,
 11. Westerly, following the existing Ellicott Street Road & Townline Road Water District along a northerly line of Tax Parcel number 20.-1-44.111, a distance of 714 feet, more or less, to a northwesterly corner of Tax Parcel number 20.-1-44.111; thence,
 12. Southerly, following the Ellicott Street Road & Townline Road Water District along the westerly line of Tax Parcel number 20.-1-44.111, a distance of 1,601 feet, more or less, to the northeasterly corner of Tax Parcel number 20.-1-98.21; thence,
 13. Westerly, following the existing Ellicott Street Road & Townline Road Water District along the northerly line of Tax Parcel number 20.-1-98.21, a distance of 1,289 feet, more or less, to the point of beginning.

All as shown on a map prepared by the Town of Batavia entitled, "Bethany Townline Road Water District - Water System Improvements" dated 4/2014. The Town of Batavia, Bethany Townline Water District, as described above, contains approximately 134.2 acres of land.

RESOLUTION NO. 182:

Deputy Supervisor Underhill offered the following:

A BOND RESOLUTION, DATED SEPTEMBER 5, 2018, OF THE TOWN BOARD OF THE TOWN OF BATAVIA, GENESEE COUNTY, NEW YORK (THE "TOWN"), AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT WITHIN THE BATAVIA-BETHANY TOWNLINE ROAD WATER DISTRICT IN THE TOWN AND THE CONSTRUCTION OF IMPROVEMENTS THEREIN, AT AN ESTIMATED MAXIMUM COST OF \$126,800 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$126,800 OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED BY THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO

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FINANCE SAID PURPOSE AND DELEGATING THE POWER TO
ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE
SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Batavia, Genesee County, New York (the "Town"), pursuant to Article 12 of the Town Law, created a water district designated and known as the Batavia-Bethany Townline Road Water District (the "District"); and

WHEREAS, the Town Board has determined to undertake a water system capital improvements project (the "Project") generally consisting of the construction of the infrastructure for the District; and

WHEREAS, by Resolutions the Town Board took the following actions with respect to the Project: (a) prepared maps, plans and reports and identified the boundaries for the District and the Project, (b) held public hearings with respect to the Project, (c) determined that the Project would not have a significant adverse effect on the environment under Article 8 of the Environmental Conservation Law, (d) determined that the requirements of Article 12 of the Town Law had been satisfied with respect to the Project and further determined to undertake the Project and (e) received permission to establish the District from the New York State Comptroller; and

WHEREAS, the Town Board desires to issue obligations of the Town to finance the costs of the Project;

NOW, THEREFORE, be it

RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The Town is hereby authorized to undertake a certain capital improvements project generally consisting of (but not limited to) the construction and installation of approximately 4,400 linear feet of 8-inch diameter watermain along a portion of Batavia-Bethany Townline Road, including land or rights in land, road crossings, furnishings, valves, hydrants, fittings, connections, fill, services, appurtenances and related site work and other ancillary work, as well as other such improvements as more fully identified in (or contemplated by) such map, plan and report prepared in connection with such Project, all of the forgoing to include all necessary equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The estimated maximum cost of the Purpose is \$126,800.

SECTION 2. The Town Board plans to finance the estimated maximum cost of said purpose by the issuance of serial bonds in an aggregate principal amount not to exceed \$126,800 said amount to be offset by the receipt of any federal, state, county and/or local funds received. Unless paid from other sources or charges, the costs for the establishment of the District will be by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine to be especially benefited by said District, so much upon and from each as shall be in just proportion to the amount of benefit which the District shall confer upon the same, to pay

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the principal of and interest on said bonds as the same shall become due and payable, except as provided by law.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such 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 bonds or notes becoming due and payable in such year. Unless paid from other sources or charges, the costs of said establishment of the District shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on such bonds or notes as the same shall become due and payable, except as provided by law. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all the taxable real property of said Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town. 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 any bonds or notes of the Town.

SECTION 8. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the earlier of (a) the date hereof or (b) the date of any earlier expression by the Town of its intent to reimburse such expenditures) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration (or reaffirmation) of the Town's "official intent" to reimburse the expenditures authorized by

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Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9. 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 bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and may designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3) of the Code.

SECTION 10. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The Town has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under SEQRA is necessary.

SECTION 12. In the absence or unavailability of the Town Supervisor, the Deputy Town Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in this resolution.

SECTION 13. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

- (1) (a) such obligations are authorized for an object or purpose for which the 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 14. 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 said Local Finance Law, in a newspaper having a general circulation in the Town and hereby designated as the official newspaper of the Town for such publication.

SECTION 15. This resolution is effective immediately.

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

AYES:

NOES:

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ABSENT:

The foregoing resolution was thereupon declared duly adopted.

Second by: Councilwoman White

Ayes: Underhill, White, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 183:

Supervisor Post offered the following:

**TOWN OF BATAVIA
BATAVIA BETHANY TOWNLINE ROAD WATER DISTRICT**

BID AWARD

WHEREAS, the Town of Batavia received bids August 9, 2018 at 2:00 P.M. for the procurement of material to be used in the construction of approximately 4,400 linear feet of 8 inch water main, valves, hydrants, water services and appurtenances along Batavia Bethany Townline Road between Bethany Center and Shepard Roads; and

WHEREAS, Blair Supply, Corp. from Rochester, New York was the lowest responsible bidder with a total bid amount of Sixty Eight Thousand, Six Hundred dollars and no cents (\$68,600.00) (recommendation summarizing the bid is attached).

NOW THEREFORE BE IT RESOLVED, that the Batavia Town Board hereby awards the Bid to Blair Supply, Corp., at a cost of Sixty Eight Thousand, Six Hundred dollars and no cents (\$68,600.00) to be used in the construction of approximately 4,400 linear feet of 8 inch water main, valves, hydrants, water services and appurtenances along Batavia Bethany Townline Road between Bethany Center and Shepard Roads, contingent upon required insurance being in place as approved by the Town Attorney; and

BE IT FURTHER RESOLVED, that the Batavia Town Board hereby authorizes the Supervisor to execute Agreements and issue the Notice to Proceed once the aforementioned conditions are met.

Second by: Deputy Supervisor Underhill

Ayes: Post, Underhill, Michalak, Zambito, White

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 184:

Councilwoman Michalak offered the following:

PROFESSIONAL SERVICES AGREEMENT

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**BETWEEN THE TOWN OF BATAVIA AND THREE + ONE
CASH VEST LIQUIDITY ANALYSIS**

WHEREAS, Three + One provides professional services to complete a comprehensive liquidity analysis to identify and quantify the time horizon and worth of all the Town's operating capital, which can be used to achieve new sources of income through financial institutions; and

WHEREAS, Genesee County recently entered into an agreement with Three + One for this service and has increased the County's interest earnings; and

WHEREAS, Three + One has prepared an agreement for the Town at a cost of \$9,900.00 for the initial analysis and a quarterly liquidity, monitoring, and reporting fee of \$1,875.00 per quarter; and

WHEREAS, the initial analysis fee is guaranteed, if Three + One does not show \$10,000 in new savings or income in the initial action plan report that can be achieved in the next 12 months, then the one-time fee is waived.

NOW, THEREFORE, BE IT RESOLVED, the Batavia Town Board hereby authorizes the Supervisor to execute the agreement for professional services with Three + One, a copy of which is annexed hereto and made a part of the Town Board Minutes, for a cash VEST liquidity analysis at a cost of nine thousand, nine hundred dollars (\$9,900.00), and a quarterly liquidity, monitoring, and reporting fee of \$1,875.00 per quarter; and be it

FURTHER RESOLVED, if Three+One does not show \$10,000 in new savings or income in the initial action plan report that can be achieved in the next 12 months, then the one-time fee is waived; and be it

FURTHER RESOLVED, the expenditure will be appropriated from line item A1381.400.

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

RESOLUTION NO. 185:

Councilman Zambito offered the following:

RESOLUTION TO APPROVE A WATER CUSTOMER AGREEMENT

WITH RICHARD P. AND SANDRA D. KOSCIOLEK

WHEREAS, the Town of Bethany has received a request from two of its residents, namely, Richard P. and Sandra D. Kosciolk, residing at 2592 Pratt Road, in the Town of Pembroke, and

WHEREAS, the Town of Pembroke desires to provide water service to their residence,

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however, Pembroke does not currently have a water district servicing their property location, and

WHEREAS, the Town of Pembroke has requested that the Town of Batavia provide water service to these residents upon the same terms and conditions of other residents of the Town of Batavia, that are served pursuant to an out of district Agreement.

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 Water Customer Agreement, by and between the Town of Batavia, Richard P. and Sandra D. Kosciolik, residing at 2592 Pratt Road, in the Town of Pembroke, and the Town of Pembroke, New York, and

BE IT FURTHER RESOLVED that the sale of water to these out of district customers in the Town of Pembroke 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 completion of the execution of the Water Customer Agreement, employees of the Town are hereby authorized and directed to take all steps necessary to provide water service to Richard P. and Sandra D. Kosciolik and invoice them for the required charges set forth therein.

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

WATER CUSTOMER AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2018, by and between the **TOWN OF BATAVIA, NEW YORK**, a municipal corporation having its office and principal place of business at 3833 West Main Street Road in the Town of Batavia, County of Genesee and State of New York, (hereinafter referred to as “Batavia”), and Richard P. Kosciolik and Sandra D. Kosciolik, owners of property at 2592 Pratt Road in the Town of Pembroke County of Genesee and State of New York, (hereinafter referred to as “Customer”), and the **TOWN OF Pembroke**, a municipal corporation having its office and principal place of business at 1145 Main Road in the Town of Pembroke County of Genesee and State of New York, (hereinafter referred to as “Pembroke”).

WITNESSETH:

WHEREAS, Batavia is the owner of the Pratt Road Water District in the Town of Batavia, New York, which Water District provides water service to residents in a portion of the Town of Batavia; and

WHEREAS, the Customer owns 2592 Pratt Road in the Town of Pembroke, New York, which parcel of property is in close proximity to the Town’s Consolidated Water District facilities; and

WHEREAS, the Customer has requested permission to become a customer of and to purchase water from Batavia; and

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WHEREAS, the Customer resides in the Town of Pembroke, and Pembroke intends to provide permission for the Town of Batavia to service the Customer as set forth herein; and

WHEREAS, the Town of Batavia has, by a Resolution, dated September 5, 2018, determined that the sale of water to the Customers will not at this time reduce the supply of its water so as to render the same insufficient to service all water districts within the Town of Batavia or their inhabitants;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties, pursuant to Section 198 (3)(b) of the New York State Town Law, covenant and agree as follows:

1. Customers shall, at his own expense, extend water from a new curb box to his residence at 2592 Pratt Road, Pembroke, New York. Batavia shall install a water meter and pit at a location to be selected by Batavia, and the Customer shall pay for the installation cost, as per paragraph 2(B) below. Customer shall maintain all lines so placed from said curb box to his residence, as well as all internal plumbing.

2. Customer shall make the following payments to Batavia when billed:

A. An annual debt service payment, if any is due, to be paid in January of each year based upon the same formula used for customers within the Consolidated Water District. If service to Customer begins during a calendar year after January 1st, then within 10 days of service, payment will be made on a pro rata basis from the date of service to the end of this year.

B. Such charges as apply as set forth on the Town of Batavia "Water and Sewer Fee Schedule, April 2015", a copy of which is annexed hereto and made a part hereof as **EXHIBIT A**; as well as any future charges that may apply pursuant to this fee schedule, or any amendments thereof.

C. User charges based on water consumption as billed by the Town of Batavia.

D. Legal expenses incurred by Batavia in connection with the negotiation, preparation and execution of this Agreement not in excess of Three Hundred Dollars (\$300.00).

E. The sum of Five Hundred Dollars (\$500.00) to be deposited in an account to be used to pay any delinquent water charges that may arise in the future. The right to deduct delinquent charges from this sum of money is in addition to the Town of Batavia's right to terminate service.

3. Customers further covenants and agrees as follows:

A. To use said water only for residential purposes for the residence located at 2592 Pratt Road, Pembroke, New York.

B. Not to permit any tap-in to any of the water lines installed by him for the benefit of any person, firm or corporation.

C. To abide by and obey all presently existing and future enacted rules, regulations and ordinances of the Town of Batavia pertaining to the use of and payment for water sold to residents of the Town of Batavia water districts as if said Customer was a resident of the Consolidated Water District.

D. To become a part of any water district or extension which geographically encompasses his property, and shall affirmatively sign any petition that seeks to establish such water district; as well as refraining from any acts in opposition to such a water district, such as voting against the same in any referendum.

E. Not to assign this Agreement without the prior written consent of the Towns of Batavia and Pembroke.

4. This Agreement shall automatically terminate upon the happening of any of the following events:

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A. The formation of a water district or extension geographically encompassing the property at 2592 Pratt Road, Pembroke, New York, owned by the Customers.

B. A determination by the Town of Batavia, in its sole judgment, that the sale of water hereunder will reduce the supply of water to a level insufficient to meet the needs of any water district within the Town of Batavia or the inhabitants thereof.

C. A determination by appropriate State, County or Local officials that the supplying of water pursuant to this Agreement either alone or in conjunction with the supplying of water to others inside or outside of the territorial limits of the Town of Batavia or of any of its districts or extensions constitutes a community water supply system.

D. A determination by appropriate State, County or Local officials that the sampling and/or monitoring by the Town of Batavia of water supplied by this Agreement must be increased or altered from the procedures presently being following by the Town in sampling and/or monitoring.

E. Any breach of this Agreement by Customers.

F. The County of Genesee, from whom the Town of Batavia purchases its water, objecting to this Agreement.

5. The Town of Pembroke does hereby approve the terms and conditions as set forth in this Agreement, and allows and authorizes the Town of Batavia to provide the water service as set forth herein to the Customer, who is located within the boundaries of the Town of Pembroke.

6. This Agreement is subject to Pembroke obtaining approval from the Monroe County Water Authority for the implementation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

TOWN OF BATAVIA, NEW YORK

By: _____
Gregory H. Post, Supervisor

TOWN OF PEMBROKE, NEW YORK

By: _____
John Worth, Supervisor

Richard P. Kosciolk, Customer

Sandra D. Kosciolk, Customer

RESOLUTION NO. 186:

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Councilwoman White offered the following:

**RESOLUTION TO AUTHORIZE INTER-MUNICIPAL AGREEMENT BETWEEN THE CITY
OF BATAVIA AND THE TOWN OF BATAVIA
TO INSTALL ADDITIONAL ANTENNAS FOR
NEW WATER METER READING RADIO ANTENNA SYSTEM**

WHEREAS, the Town of Batavia is purchasing and installing a new water meter reading radio antenna system, and

WHEREAS, the most beneficial placement of the antennas to the Town and the City is on the City of Batavia owned Water Tower situated on a parcel of land identified as tax map parcel no. 71.13-3-1.111; and

WHEREAS, both the Town and the City have determined that it would be in the best interest to enter into an Intermunicipal Agreement for the placement of the antennas on the Water Tower.

NOW THEREFORE BE IT

RESOLVED, by the Town Board of the Town of Batavia, New York, that a proposed “Intermunicipal Agreement to Install Additional Antennas for the New Water Meter Reading Radio Antenna System”, by and among the City of Batavia and the Town of Batavia, a copy of which is annexed hereto and made a part of the Town Board minutes; and be it

FURTHER RESOLVED, the Town Supervisor is hereby authorized to execute the agreement.

Second by: Councilman Zambito

Ayes: White, Zambito, Underhill, Michalak, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO. 187:

Deputy Supervisor Underhill offered the following:

RESOLUTION OF THE TOWN OF BATAVIA, NEW YORK (THE "TOWN") (A) ACKNOWLEDGING THAT (i) THE TOWN HAS "OPTED IN" TO THE REAL PROPERTY TAX EXEMPTION PROVIDED BY SECTION 487 OF THE REAL PROPERTY TAX LAW OF THE STATE OF NEW YORK (THE "RPTL") WITH RESPECT TO SOLAR FARM PROJECTS, AND (ii) THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") WILL FROM TIME TO TIME ENTER INTO AGREEMENTS WITH DEVELOPERS OF SOLAR PROJECTS PROVIDING FOR PAYMENT IN LIEU OF TAXES (THE "TAX AGREEMENTS"), (B) WAIVING ANY RIGHT OF THE TOWN TO

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**RECEIVE ANY SHARE OR PORTION OF PAYMENTS MADE UNDER
ANY SUCH TAX AGREEMENTS.**

WHEREAS, the State of New York (the "State") is undertaking significant changes as to how it generates and delivers electricity and has adopted a strategy to build a clean, resilient, and affordable energy system for the State; and

WHEREAS, as part of the State's strategy, the State has adopted a "Clean Energy Standard" which requires that fifty percent (50%) of the State's electricity come from renewable energy sources, like wind and solar, by 2030; and

WHEREAS, in order to meet the Clean Energy Standard, the State has commenced a public-private initiative to provide financial support for the installation of solar and wind energy systems, which includes, among other things, a fifteen year real property tax exemption for properties located in the State that install renewable energy systems, as set forth in Section 487 of the Real Property Tax Law of the State (the "RPTL"); and

WHEREAS, pursuant to Section 487(9) of the RPTL, a county, city, town or village may, by local law, remove the fifteen-year property tax exemption provided by Section 487(2) of the RPTL; and

WHEREAS, a county, city, town or village that does not remove the exemption provided by Section 487(2) of the RPTL may require that the owner or developer of a property which includes a solar or wind energy system enter into a contract with the county, city, town or village for payments in lieu of taxes, as set forth in Section 487(2) of the RPTL; and

WHEREAS, the Town has not acted to remove the exemption provided by Section 487(2) of the RPTL to encourage renewable energy development and investment in Genesee County, New York (the "County"), promote the County's overall economic development strategy of attracting solar manufacturing and related employment opportunities to the County and provide efficient and affordable access to clean energy; and

WHEREAS, the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") will be entering into Tax Agreements from time to time with developers of solar projects pursuant to which certain payments in lieu of real property taxes will be made for the benefit of the affected tax jurisdictions (the "Tax Agreements"); and

WHEREAS, the Agency is entering into such Tax Agreements to encourage the adoption of clean energy throughout the County and promote the County's overall economic development strategy of attracting solar manufacturing and related employment opportunities in the County; and

WHEREAS, after considering the positive impact of "opting in" to the real property tax exemption provided by Section 487 of the RPTL, requiring owners and developers of real property which includes solar and wind energy systems to enter into Tax Agreements, and having the Agency enter

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into the Tax Agreements, the Town desires to waive any and all right to receive any share of payments in lieu of taxes received under any such Tax Agreements.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF BATAVIA, NEW YORK AS FOLLOWS:

Section 1. The Town hereby waives any and all right to receive any share of payments made under the Tax Agreements from the date hereof.

Section 2. This Resolution shall take effect immediately.

Second by: Councilwoman White

Ayes: Underhill, White, Michalak, Zambito, Post

APPROVED by unanimous vote (5-0)

RESOLUTION NO.188 :

Supervisor Post offered the following:

TOWN OF BATAVIA
WATER & ENERGY CONSERVATION
ADVANCED METERING PROJECT

PROJECT AWARD

WHEREAS, the Town of Batavia has standardized on Sensus meter reading equipment for water/sewer usage in all residential/commercial places; and

WHEREAS, a proposal (attached) was received by Core and Main, L.P. to install and implement a Sensus based advanced meter infrastructure system and for an amount of \$120,491.57, including the first year of annual fees, to cover the Batavia Consolidated, Townline, and Alexander Water District No. 2 Public Water Supply; and

WHEREAS, the Town of Batavia has entered into an agreement with the New York State Energy Research and Development Authority through the Clean Energy Community program to receive a \$100,000 grant for the completion of this project; and

WHEREAS, the Water & Energy Conservation Advanced Metering Project will increase the efficiency of meter reading and leak detection, conserving water and reducing the amount of energy used in the production and transmission of that water and the treatment of that water as wastewater.

NOW THEREFORE BE IT RESOLVED, that the Batavia Town Board hereby awards the Water & Energy Conservation Advanced Metering Project to Core and Main, L.P., at a cost of \$120,491.57, contingent upon required insurance and bonding being in place as approved by the Town

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Attorney; and

BE IT FURTHER RESOLVED, that the Batavia Town Board hereby authorizes the Supervisor to execute Agreements and issue the Notice to Proceed once the aforementioned conditions are met.

Second by: Councilman Zambito

Ayes: Post, Zambito, White, Underhill, Michalak

APPROVED by unanimous vote (5-0)

ADJOURNMENT:

Motion Councilman Zambito, second Councilwoman White to adjourn the Regular Town Board Meeting at 7:10 P.M.

Ayes: Zambtio, White, Underhill, Michalak, Post

MOTION CARRIED by unanimous vote (5-0)

Respectfully submitted,

Teresa M. Morasco
Town Clerk