

A public hearing was held pursuant to ED-013-18, adopted by the Legislature on September 18, 2018, for the purpose of hearing public comments on A Local Law Imposing a Tax on the Occupancy of Hotel Rooms Pursuant to Tax Law § 1202-t Hotel or Motel Taxes in Niagara County. Chairman McNall opened the hearing at 6:15 p.m. and closed it at approximately 6:20 p.m.

A public hearing was held pursuant to ED-014-18, adopted by the Legislature on September 18, 2018, for the purpose of hearing public comments on the inclusion of predominantly viable agricultural land within agricultural district #2, #7, and #8. Six parcels have been proposed for inclusion. The Niagara County Agricultural and Farmland Protection Board recommends the inclusion of four the following parcels of predominantly viable agricultural land into the nearest Agricultural District: Parcel 69.00-1-35, consisting of 5 acres, located on Ridge Road in Gasport; Agricultural District #2. Parcel 165.01-1-2.2, consisting of 26 acres, located on Bear Ridge Road in Pendleton; Agricultural District #7. Parcel 137.00-2-38.1, consisting of 5 acres, located on Fisk Road in Pendleton; Agricultural District #7. Parcel 13.00-1-22.122, consisting of 20 acres, located on East Lake Road in Burt; Agricultural District #8. Legislator Hill opened the hearing at 6:30 p.m. and closed it at approximately 6:35 p.m.

A public hearing was held pursuant to ED-015-18, adopted by the Legislature on September 18, 2018, for the purpose of hearing public comments on the consolidation of Niagara County's Agricultural Districts in the Towns of Cambria, Hartland, Lewiston, Lockport, Newfane, Niagara, Pendleton, Porter, Royalton, Somerset, Wheatfield, Wilson, and the City of Lockport. The Niagara County Agricultural and Farmland Protection Board recommends that all districts be consolidated into Agricultural District #7. The consolidated district will have an 8-year anniversary date of November 5<sup>th</sup>. One modification request has been received. A landowner has requested a parcel with SBL#149.03-1-2.1 in the town of Wheatfield be removed from the Agricultural District. Legislator Hill opened the hearing at 6:45 p.m. and closed it at approximately 6:57 p.m.

## **OFFICIAL RECORD**

Lockport, New York  
October 16, 2018

The meeting was called to order by Chairman McNall at 7:03 p.m.

Clerk Tamburlin called the roll. All Legislators were present with the exception of Legislators Nemi and Zona.

### **CORRESPONDENCE & RECOGNITION:**

Chairman McNall took a moment to recognize the Director of Mental Health Laura Kelemen for her education and training on Mental Health and Substance Abuse she conducted for Nimac.

Chairman McNall reminded the Legislators and Department Heads of the Niagara County Fallen Firefighters Memorial held on October 27<sup>th</sup> at 12:00pm at the Warren J. Rathke Public Safety Training Building.

Chairman McNall called President Bill Cowell and Pat Proctor from the Niagara Falls International Film Festival to the lectern to present a check to Jonathan Schultz for \$1000.00 the Niagara Falls International Film Festival vowed to give back to the local heroes from the showing of the "Man in the Red Bandana."

Chairman introduced this year's Legislative interns.

## **PRESENTATIONS:**

1. Lockport Blue Mary Brennan Taylor was called to the lectern to discuss the upcoming events for Lockport Blue which runs the whole month of November, which has exceeded all expectations. Mary thanked the community, volunteers and Legislature for all their support over the years.

2. Director of Public Health Dan Stapleton called Dr. Andrew Hyland from Roswell Cancer Institute of Buffalo to the lectern to speak on raise the age that would prohibit the sale of any tobacco products to anyone younger than 22 years of age.

1 citizen spoke at this time.

Recess

Chairman McNall announced that resolution IF-130-18 was being removed from the Agenda.  
Moved by Syracuse, seconded by Hill.

Chairman McNall announced that CW-017-18 was rescinded.  
Moved by Collins, seconded by Godfrey.

Chairman McNall announced that IF-112-18 was rescinded.  
Moved by Syracuse, seconded by Andres.

Moved by Bradt, seconded by Virtuoso to accept the preferred agenda.  
Carried.

### **Resolution No. AD-020-18**

From: Administration Committee.

Dated: October 16, 2018

## **ADOPTION OF THE COUNTY OF NIAGARA SEXUAL HARASSMENT PREVENTION POLICY PURSUANT TO SECTION 201-G OF THE LABOR LAW**

WHEREAS, it is the policy of the County of Niagara to prevent and eliminate discrimination in all of its operations and services as well as all aspects of employment, and

WHEREAS, the County of Niagara has long been committed to ensuring that all individuals have an equal opportunity to enjoy a fair, safe and productive work environment, and

WHEREAS, pursuant to NYS Section 201-g of the Labor Law every employer in New York State is required to establish a sexual harassment prevention policy, sexual harassment prevention policy training for all new employees as soon as possible, and current employees to be trained by October 9, 2019, including annual training that is interactive, and establish a reporting form for the filing of complaints by victims of harassment or witnesses of harassment, and

WHEREAS, the Department of Labor in consultation with the Division of Human Rights has established a model sexual harassment prevention policy for employers to adopt, a model sexual harassment prevention policy training, and model sexual harassment complaint form, and

WHEREAS, the County of Niagara has determined to adopt the NYS model sexual harassment prevention policy for employers to ensure compliance with the new NYS requirement, and



WHEREAS, all administrators, managers, supervisors and employees will be directed to comply with this law and requirement, and

WHEREAS, this policy supersedes previously issued County of Niagara Sexual Harassment Prevention Policies, and

WHEREAS, the Human Resources Director and Department will be responsible for implementing and administering this policy effective immediately, now, therefore, be it

RESOLVED, that the County of Niagara hereby adopts the County of Niagara Sexual Harassment Prevention Policy incorporated herein and made a part hereof by reference.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. CS-042-18**

From: Community Services and Administration Committees.

Dated: October 16, 2018

**BUDGET MODIFICATION – SNAP BONUS FUND AWARD**

WHEREAS, the United States Department of Agriculture has awarded \$12,097,336 in Supplemental Nutrition Assistance Program (SNAP) High Performance Bonus Award funds to the New York State Office of Temporary and Disability Assistance (OTDA) for best payment accuracy and most improved payment accuracy, and

WHEREAS, this award is as a result of positive efforts on the part of the local social services departments and the State to ensure SNAP payment accuracy, and

WHEREAS, the State has allocated over \$9 million in SNAP bonus funds to the local social services departments and Niagara County’s allocation is \$96,027, and

WHEREAS, the State has indicated that bonus award funds shall be used only on SNAP-related expenses, including, but not limited to, investments in technology; improvements in administration and distribution and actions to prevent fraud, waste and abuse, and

WHEREAS, the Niagara County Department of Social Services (NCDSS) has identified items that would assist staff in their day-to-day processing of SNAP applications and identification of potential fraud, now, therefore, be it

RESOLVED, that the following budget modification be effectuated to the 2018 Social Services Budget:

**INCREASE REVENUE:**

A.22.6010.000 44611.00	Food Stamps Revenue	\$96,027
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**INCREASE APPROPRIATION:**

A.22.6010.000 72100.05	Computer Equipment	\$46,027
A.22.6010.000 74200.02	Copier Rental	\$30,000
A.22.6010.000 74500.01	Contractual Expense	\$20,000

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. CS-042-18**

From: Community Services Committee.

Dated: October 16, 2018

## **RESOLUTION IN SUPPORT OF ALTERNATIVE TO STATE CPS TRAINING INITIATIVE**

WHEREAS, the State and local departments of social services have been working together to update and modernize state training initiatives for CPS caseworkers, and

WHEREAS, the State has decided to centralize all training for CPS caseworkers at a site in Rensselaer County, and

WHEREAS, counties, such as Niagara County, located furthest from the new training center have expressed concerns as to how this will increase travel costs to send new caseworkers for training, and

WHEREAS, said training is over a twelve (12) week period and will result in an increase in overtime and travel costs, and

WHEREAS, the fact that this training is in Rensselaer County for an extended period of time may provide a hardship for new caseworkers and could impact the Department's ability to hire caseworkers, and

WHEREAS, the Department has determined that there will be the need to train 12 new caseworkers between now and December 31, 2019 which could result in an increase in travel costs of \$31,620 and an increase in overtime of \$27,865 due to having to travel to the training center in Rensselaer County, and

WHEREAS, due to the high number of new caseworkers needed to be trained over this same time period throughout the State, it is unlikely that this new training center will be able to accommodate all of the counties to ensure that said caseworkers will be trained within 90 days of hire which is a State requirement, and

WHEREAS, due to the high training demand there are some temporary training options, such as using existing trainers within the counties and the expanded use of internet-based training which can be successfully utilized, now, therefore, be it

RESOLVED, that the Niagara County Legislature calls upon the Office of Children and Family Services to continue to work with the local department of social services on a transitional training program that allows for a temporary training system in Western New York to be led by qualified county staff in the region, and be it further

RESOLVED, that copies of this resolution be sent to Governor Andrew Cuomo, Senate Majority Leader John Flanagan, Speaker of the Assembly Carl Heastie, Senator Robert Ort, Assemblyman Angelo Morinello and Assemblyman Michael Norris.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

### **Resolution No. CS-043-18**

From: Community Services and Administration Committees.

Dated: October 16, 2018

## **BUDGET MODIFICATION – ENVIRONMENTAL DIVISION HEALTHY NEIGHBORHOODS PROGRAM - DEPARTMENT OF HEALTH**

WHEREAS, the Environmental Division Healthy Neighborhoods Program of the Niagara County Department of Health provides essential services to reduce morbidity and/or environmental hazards in the home, and



WHEREAS, a fund balance due to a temporary position vacancy will enable the Niagara County Department of Health Healthy Neighborhoods Program to replenish home safety supplies, and

WHEREAS, the Niagara County Department of Health Environmental Division Healthy Neighborhoods Program requests a budget modification to transfer personnel funds to the supply line, now, therefore, be it

RESOLVED, that the following budget modification be effectuated:

**DECREASE APPROPRIATIONS:**

CM.20.4189.405 71010.00	Position Expense Position #13108	\$ 6,000.00
CM.20.4189.405 78100.00	Retirement Expense	950.00
CM.20.4189.405 78200.00	FICA	450.00
CM.20.4189.405 78400.01	Health Insurance	\$1,600.00

**INCREASE APPROPRIATIONS:**

CM.20.4189.405 74750.02	Supplies/Materials	\$9,000.00
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Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. CS-044-18**

From: Community Services and Administration Committees.

Dated: October 16, 2018

**BUDGET MODIFICATION – OPIOID CRISIS FUNDING-EMERGENCY PLANNING  
DEPARTMENT OF HEALTH**

WHEREAS, the Emergency Planning Division of the Niagara County Department of Health provides services, information and training to protect the health and safety of the citizens of Niagara county, and

WHEREAS, the Center for Disease Control (CDC) through the New York State Department of Health Public Health Emergency Planning program has awarded Niagara County Department of Health funds to address the opioid epidemic, and

WHEREAS, the Niagara County Department of Health is requesting approval to accept Opioid Crisis funding CFDA# 93.354, now, therefore, be it

RESOLVED, that the following budget modification, be effectuated:

**INCREASE REVENUE:**

CM.20.4189.406 44401.00	Public Health Federal Aid	\$75,000.00
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**INCREASE APPROPRIATIONS:**

CM.20.4189.406 71050.00	Overtime	\$1,378.89
CM.20.4189.406 74250.01	Office Supplies	2,950.00
CM.20.4189.406 74250.03	Printing/Duplicating	2,900.00
CM.20.4189.406 74300.01	Travel Conference	2,557.00
CM.20.4189.406 74300.03	Travel/Mileage	3,300.00
CM.20.4189.406 74500.01	Contractual	58,893.00
CM.20.4189.406 74650.09	Professional Transportation	2,400.00
CM.20.4189.406 78100.00	Retirement	258.04
CM.20.4189.406 78200.00	FICA	344.47

CM.20.4189.406 78300.00 Worker's Comp  
Moved by Bradt, seconded by Virtuoso.  
Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

18.60

**Resolution No. CS-045-18**

From: Community Services and Administration Committees.  
Dated: October 16, 2018

**BUDGET MODIFICATION – EDUCATION OF HANDICAPPED CHILDREN  
DEPARTMENT OF HEALTH**

WHEREAS, the Education of Handicapped Children Program of the Niagara County Department of Health provides essential mandated services to preschool age children with disabilities, and

WHEREAS, funds enable the Niagara County Department of Health to satisfy New York State Education Department requirements, as they relate to Education of Handicapped Preschool Children, as well as the corresponding reporting requirements, and

WHEREAS, an increase in number of services provided and increase in children attending full day programs has resulted in increased cost, and

WHEREAS, the Niagara County Education of Handicapped Children Program requests a budget modification for additional revenues and appropriations, now, therefore, be it

RESOLVED, that the following budget modification be effectuated:

**INCREASE REVENUE:**

A.20.2960.000 41601.03	Medicaid Fees	\$803,089
A.20.2960.000 42701.01	Prior Year Expense	120,480
A.20.2960.000 43277.01	Ed Handicapped Children General	904,057

**INCREASE APPROPRIATIONS:**

A.20.2960.000 74550.09	Program Ed Handicapped Children	\$1,827,626
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Moved by Bradt, seconded by Virtuoso.  
Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. CS-046-18**

From: Community Services and Administration Committees.  
Dated: October 16, 2018

**COUNTY CLERK'S OFFICE CONTRACT ADDENDUM**

WHEREAS, the appropriate management of local government records is essential for efficient and effective government, and

WHEREAS, the County Clerk performs the duties prescribed by law as register and must provide all books, files, and other necessary equipment for the filing, recording and depositing of documents for indexing as directed by law, and

WHEREAS, the County has entered into an agreement with Info Quick Solutions, Inc. (IQS) to provide comprehensive and integrated indexing, recording, imaging, cash fee management and online public records access system services, and



WHEREAS, the County Clerk has determined that 6,308 subdivision map images, all requiring permanent retention, and ranging in date from the early 1800's to 2017 are in need of conversion to electronic format via digitization and archival microfilm production, and

WHEREAS, this process will improve records access and reduce further wear, tear and eventual loss of the subdivision maps, and

WHEREAS, IQS possesses the necessary skill and expertise to assist in this endeavor, now, therefore, be it

RESOLVED, that Niagara County enter a contract addendum with Info Quick Solutions, Inc. commencing immediately to image all subdivision map images from source documents; generate TIFF IV images of source documents; edit for completeness and proper ordering; report and reconcile any missing pages or discrepancies with County Clerk staff; install Infodex software on all County Clerk workstations and web, to enable retrieval of source documents; pickup and return all maps; provide 35.M archival security microfilm; install and configure Infodex software on County Clerk's network; provide training to County Clerk staff and others identified by the County Clerk (ie. Abstractors and surveyors); follow up as needed to address any further training needs; install and configure web version, and be it further

RESOLVED, that the Chairman of the Legislature be, and hereby is, authorized to execute the attached agreement, subject to the review by the County Manager and the approval of the County Attorney.

INCREASE REVENUE:

A.10.1410.000 40599.01	Appropriated Fund Bal-Committed Funds	\$59,926.00
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INCREASE APPROPRIATION:

A.10.1410.000 74550.25	Records Maintenance	\$59,926.00
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Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. CSS-074-18**

From: Community Safety & Security and Administration Committees.

Dated: October 16, 2018

**2018 BUDGET MODIFICATION - FIRE COORDINATOR'S OFFICE  
HAZ-MAT INCIDENT PAYMENT FOR MAY 2, 2018**

WHEREAS, the County Haz-Mat team responded to an incident on May 2, 2018 and some supplies used at the scene are not reusable, and

WHEREAS, under New York State's Navigation and Environmental Conservation Laws, the responsible party is liable for all costs associated with containment, cleanup and removal of spilled and contaminated materials, and

WHEREAS, the Fire Coordinator's Office invoiced and received payment for the replacement of these supplies from the responsible party in the amount of \$1,158.38, and

WHEREAS, the Fire Coordinator's Office needs to replenish the supplies used by the Haz-Mat, at no cost to the County, now, therefore, be it

RESOLVED, that the following 2018 budget modifications be effectuated:

INCREASE REVENUE:

A.19.3410.000 42690.02	Other Compensation for Loss Reimbursements	\$1,158.38
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INCREASE APPROPRIATION:

A.19.3410.000 74750.10	Supplies, Gen Hazmat Inventory	1,158.38
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Moved by Bradt, seconded by Virtuoso.  
Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. CSS-075-18**

From: Community Safety & Security and Administration Committees.

Dated: October 16, 2018

**ACCEPTANCE OF 2018 HAZARDOUS MATERIALS  
EMERGENCY PREPAREDNESS GRANT - HOMELAND SECURITY GRANTS**

WHEREAS, the County of Niagara is required to certify its acceptance of the 2018 Hazardous Materials Emergency Preparedness (HMEP) grant through the Department of Homeland Security for the period of October 1, 2018 to September 30, 2019, at some cost to the County, and

WHEREAS, the grant for HMEP 2018 to be awarded will be in the amount of \$1,768 (80%) and the matching County funds will be in the amount of \$442 (20%). The funds will be used for the purchase of mobile data terminals and associated software, now, therefore, be it

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute said agreement.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. CSS-076-18**

From: Community Safety & Security and Administration Committees.

Dated: October 16, 2018

**ACCEPTANCE OF 2018 EMERGENCY MANAGEMENT PERFORMANCE (EMPG) GRANT -  
HOMELAND SECURITY GRANTS**

WHEREAS, the County of Niagara is required to certify its acceptance of the 2018 Emergency Management Performance (EMPG) grant through the Department of Homeland Security for the period of 10/1/18 through 9/30/19, at some cost to the County, and

WHEREAS, the grant for EMPG 2018 to be awarded is in the amount of \$85,388.00 (50%) and the matching County funds will be in the amount of \$85,388.00 (50%). The funds will be used for updating and improvements to the EOC, now, therefore, be it

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to executive said agreement, and be it further

RESOLVED, that the Department of Emergency Services is given authorization to accept the grant with the effectuation of the following budget modification, effective immediately:

INCREASE APPROPRIATION FUND BALANCE - ASSIGNED:

A.40599.00	Appropriated Fund Balance	\$ 85,388.00
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INCREASE REVENUE:

A.19.3645.000 44305.02	Civil Defense HS	\$ 85,388.00
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INCREASE APPROPRIATION:

A.19.3645.000 72100.14	M&E Misc. Equip. Project Code: E1	\$170,776.00
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Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. CSS-077-18**

From: Community Safety & Security and Administration Committees.

Dated: October 16, 2018

**2018 BUDGET MODIFICATION - FIRE COORDINATOR'S OFFICE –  
ACCEPT DONATION FROM NIAGARA FALLS INTERNATIONAL FILM FESTIVAL**

WHEREAS, Niagara County Emergency Services has received a donation of \$1,000 through the Fire Coordinator's Office by the Niagara Falls International Film Festival to be used toward the purchase of smoke-generating liquid and a burn pan for the training towers, and

WHEREAS, the materials will be purchased through the Emergency Services budget, now, therefore, be it

RESOLVED, that the following 2018 budget modification be effectuated:

INCREASE REVENUE:

A.19.3410.000 42705.00	Gift & Donate	\$1,000.00
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INCREASE APPROPRIATION:

A.19.3640.000 74750.20	Training Supplies	\$1,000.00
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Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. CSS-078-18**

From: Community Safety & Security and Administration Committees.

Dated: October 16, 2018

**NIAGARA COUNTY SHERIFF'S OFFICE  
ACCEPT MOTOR VEHICLE THEFT AND INSURANCE FRAUD PREVENTION GRANT**

WHEREAS, the Niagara County Sheriff's Office was notified by the New York State Division of Criminal Justice Services that it has been awarded \$20,000 under the Motor Vehicle Theft and Insurance Fraud Prevention Program, and

WHEREAS, the Motor Vehicle Theft and Insurance Fraud Prevention Grant has been awarded to the Niagara County Sheriff's Office for many years, and

WHEREAS, the performance period for this grant is January 1, 2019 through December 31, 2019, and

WHEREAS, the grant is used to coordinate efforts to reduce the incidents of motor vehicle theft and motor vehicle insurance fraud County-wide. This partnership provides an integrated means to prevent and deter motor vehicle theft and insurance fraud related crime through the expanded use of crime data, crime analysts, technology and information sharing, and

WHEREAS, the funds are included in the 2019 budget, now, therefore, be it

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute this grant.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. CSS-079-18**

From: Community Safety & Security and Administration Committees.

Dated: October 16, 2018

**NIAGARA COUNTY SHERIFF'S OFFICE  
ACCEPT PUBLIC SAFETY ANSWERING POINTS GRANT**

WHEREAS, the Niagara County Sheriff's Office been notified by the New York State Department of Homeland and Security Services that a grant in the amount of \$171,295 is being awarded to the Sheriff's Office through the Public Safety Answering Points Grant for the period January 1, 2019 through December 31, 2019, and

WHEREAS, the Public Safety Answering Points Grant assists with personnel operating costs in the Niagara County Communications Center, and

WHEREAS, the revenue and equal expense are in the 2019 budget, now, therefore, be it

RESOLVED, that prior to the execution of the grant, the County Attorney will review the grant for approval to legal form, language and compliance, and be it further

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute this grant.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. CSS-080-18**

From: Community Safety & Security and Administration Committees.

Dated: October 16, 2018

**NIAGARA COUNTY SHERIFF'S OFFICE-BUDGET MODIFICATION  
FBI REGIONAL COMPUTER FORENSICS LABORATORY**

WHEREAS, the Niagara County Sheriff's Office has been notified by the FBI Regional Computer Forensics Laboratory that it has budgetary funds available to be used by September 30, 2018, and

WHEREAS, the FBI Regional Computer Forensics Laboratory has offered to purchase a computer to be used by the NCSO Deputy at the FBI RCFL, and backup hard drives and flash drives to be used in the Niagara County Sheriff's Office Criminal Investigation Bureau for investigations, and

WHEREAS, a modification to the 2018 budget is needed to accept the revenue and reimburse the expense, now, therefore, be it

RESOLVED, that the following budget modifications be made:

INCREASE REVENUE

A.17.3110.000.2210.01

General Services

\$4008



Other Gov General

INCREASE APPROPRIATIONS

A.17.3110.000.72100.21	Machinery and Equipment	\$2,049
	Law Enforcement Equipment	
A.17.3110.000 74800.10	Misc. Equip. under \$500	\$1,959

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. CW-022-18**

From: Committee of the Whole.

Dated: October 16, 2018

**CAPITAL BUDGET PROJECT CREATION  
ENERGY PERFORMANCE CONTRACT IMPLEMENTATION**

WHEREAS, the Department of Public Works, in accordance with Federal/State guidelines, evaluated proposals from firms to assist the County with performing an energy audit as the first step to evaluating the feasibility of executing an Energy Performance Contract, and

WHEREAS, Resolution Number IF-70-17, dated April 4, 2017, authorized JW Danforth, 930 Old Dutch Road, Victor, NY 14564, to assist the County with an energy audit, and

WHEREAS, Resolution Number IF-051-18, dated April 17, 2018, awarded the contract for facility improvements to JW Danforth, in the amount of \$6,647,851 and also authorized the Chief Fiscal Officer to secure financing for the energy performance contract, and

WHEREAS, a capital budget project needs to be established to record revenue and expenditures for the Energy Performance Contract, now, therefore, be it

RESOLVED, that the following budget modification be effectuated:

INCREASE APPROPRIATED FUND BALANCE:

A 40599.01	Appropriated Fund Balance – NYPA	\$265,146
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INCREASE APPROPRAITIONS

A.07.9950.000 79010.00	Transfer to Capital Projects	\$265,146
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INCREASE ESTIMATED REVENUE:

H671.15.1620.000.45785.00	Installment Purchase Debt	\$6,250,000
H671.15.1620.000.42770.01	Project Rebates	\$ 152,704
H671.15.1620.000 45031.02	Interfund Transfers Committed Funds	\$ 265,146

INCREASE APPROPRIATIONS:

H671.15.1620.72200.01	Building Improvements	\$6,667,850
	A – HR RTU	\$ 278,194
	B – Ross Bldg RTU	\$ 470,959
	C – Brooks RTU	\$ 765,499
	D – 111 Main St	\$ 794,960
	E – PSTF A/C	\$ 241,886
	F – 199 So Niagara	\$ 113,133

G – CH Windows	\$2,356,654
H – Lighting	\$1,094,458
I – Building Envelope	\$ 223,820
J – Digital Control Upgrades	\$ 303,679
K – Pipe Insulation	\$ 8,968
L – 111 Main St Meters	\$ 15,640

Moved by Burmaster, seconded by Bradt.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. ED-016-18**

From: Economic Development Committee.

Dated: October 16, 2018

**APPROVING THE INCLUSION OF VIABLE AGRICULTURAL LAND WITHIN CERTIFIED AGRICULTURAL DISTRICTS PURSUANT TO SECTION 303-B OF THE NEW YORK STATE AGRICULTURE AND MARKETS LAW**

WHEREAS, Section 303-b of Agriculture and Markets Law provides land owners with an annual thirty day period to submit requests for the inclusion of predominantly viable agricultural lands within certified agricultural districts, and

WHEREAS, that thirty day period began June 1, 2018, and ended June 30, 2018, and

WHEREAS, land owners have filed a request for inclusion of predominantly viable agricultural land within certified agricultural districts, and

WHEREAS, the County Legislature referred the requests to the Niagara County Agricultural and Farmland Protection Board, and that Board has reviewed the requests and provided its recommendations that such property consists predominantly of viable agricultural land and that the inclusion of such land would serve the public interest by assisting in maintaining a viable agricultural industry within the district, and

WHEREAS, a public hearing was held on Tuesday, October 16, 2018 at 6:30 p.m. relating to such requested inclusions, now, therefore, be it

RESOLVED, that based on the recommendations of the Agricultural and Farmland Protection Board, this Niagara County Legislature hereby adopts and approves the inclusion of the requested viable agricultural land within certified Agricultural District #2, #7, and #8, and, be it further

RESOLVED, that in accordance with Section 303-b of Agriculture and Markets Law the modifications to Agricultural District #2, #7, and #8, are hereby described as follows, and include the following parcels listed by agricultural district, town, owner, tax map number, and acreage:

**2018 Additions**

<b>Agricultural District</b>	<b>Town</b>	<b>Owner</b>	<b>Tax Map Number</b>	<b>Acreage</b>
2	Gasport	Patricia McCarthy	69.00-1-35	5
7	Pendleton	Andrew Rawe	165.01-1-2.2	26
7	Pendleton	Christopher Guadagno	137.00-2-38.1	5
8	Wilson	Chanel Rannet-Carat	13.00-1-22.122	20

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona



**Resolution No. ED-017-18**

From: Economic Development Committee.

Dated: October 16, 2018

**RESOLUTION TO CONSOLIDATE NIAGARA COUNTY'S AGRICULTURAL DISTRICTS**

WHEREAS, Niagara County currently has 5 Agricultural Districts, with sections of the Districts in the Towns of Cambria, Hartland, Lewiston, Lockport, Newfane, Niagara, Pendleton, Porter, Royalton, Somerset, Wheatfield, and Wilson, and the City of Lockport, and

WHEREAS, to increase efficiency of 8-year Agricultural District reviews, Niagara County's Agricultural and Farmland Protection Board has recommended to consolidate Niagara County's Agricultural Districts into one, and

WHEREAS, required by New York State Agriculture and Markets Law 25AA, Section 303-c, a 30-day review period and public hearing, were held with respect to the consolidation of Niagara County's Agricultural Districts, with the one modification requested; a landowner request to remove a parcel with SBL#149.03-1-2.1 in the Town of Wheatfield from the Agricultural District, and

WHEREAS, no objection to the consolidation of the district was raised, therefore, the Niagara County Agricultural and Farmland Protection Board's recommendation is to consolidate all Niagara County Agricultural Districts into Agricultural District #7. The consolidated district will have an 8-year anniversary date of November 5<sup>th</sup>, now, therefore, be it

RESOLVED, that the Niagara County Legislature recommends to the New York State Commissioner of Agriculture that Niagara County Agricultural Districts be consolidated, and parcel with SBL# 149.03-1-2.1 be removed from the district.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. ED-018-18**

From: Economic Development and Administration Committees.

Dated: October 16, 2018

**ADOPTION OF A LOCAL LAW IMPOSING A TAX ON THE OCCUPANCY OF HOTEL ROOMS PURSUANT TO TAX LAW § 1202-t HOTEL OR MOTEL TAXES IN NIAGARA COUNTY**

WHEREAS, the Economic Development and Administration Committees recommend the adoption of the following Local Law:

A Local Law Imposing a Tax on the Occupancy of Hotel Rooms Pursuant to Tax Law § 1202-t Hotel or Motel Taxes in Niagara County:

WHEREAS, a public hearing was held on October 16, 2018 at 6:15 p.m. in the Legislative Chambers, Courthouse, Lockport, New York, on said Local Law, and

WHEREAS, no people appeared to speak on said Local Law, and

WHEREAS, no amendment(s) was (were) made to said Local Law, now, therefore, be it

RESOLVED, that a Local Law imposing a tax on the occupancy of hotel rooms pursuant to Tax Law §1202-t hotel or motel taxes in Niagara County be enacted by the Legislature of the County of Niagara, New York as follows:

Section 1. Short Title.

This Local Law shall be known as the Niagara County Hotel Room Occupancy Tax Law.

Section 2. Definitions.

When used in this Local Law, the following terms shall mean:

(a) Person. An individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

(b) Operator. Any person operating a hotel in the County of Niagara, including but not limited to, the owner or proprietor of such premises, lessee, sub-lessee, mortgagee in possession, licensee or any other person otherwise operating such hotel.

(c) Hotel. A building or portion of it which is regularly used and kept open as such for the lodging of guests on an overnight basis. The term "hotel" includes a motel, motor court, motor lodge or inn, bed and breakfast and tourist homes, AirBNB, rentals, (including through online booking sites) or similar hotel or motel type of accommodations by whatever name designated.

(d) Occupancy. The use or possession, or the right to use or possession of any room in a hotel.

(e) Occupant. A person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(f) Permanent Resident. A person occupying any room or rooms in a hotel for at least thirty consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(g) Rent or Charge. The consideration received for occupancy valued in money, whether received in money or otherwise.

(h) Room. Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

(i) Return. Any return filed or required to be filed as herein provided.

(j) County Treasurer. The Treasurer of the County of Niagara, New York.

Section 3. Imposition of Tax.

On and after the 1st day of December, two thousand eighteen, there is imposed and there shall be paid a tax of four percent (4%) per day upon the rent for every occupancy of a room or rooms in a hotel in the County of Niagara except that the tax shall not be imposed upon a permanent resident of a hotel or exempt organizations as hereinafter set forth.

Section 4. Exempt Organizations.



(a) Except as otherwise provided in this section, any use or occupancy by any of the following shall not be subject to the tax imposed by this Local Law:

(1) The State of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada) improvement district or political subdivision of the state;

(2) The United States of America, insofar as it is immune from taxation; and

(3) Any corporation, or association, or trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.

#### Section 5. Territorial Limitations.

The tax imposed by this Local Law shall apply only within the territorial limits of the County of Niagara except for within the limits of any city of the County of Niagara imposing a hotel or motel tax pursuant to authority granted by the State of New York at any prior time. In the event that any city within the County of Niagara not currently imposing such a hotel and motel bed tax shall obtain authorization from the State of New York to impose such a tax; said city shall have the right to impose such tax up to the maximum rate of the tax authorized for such city by the State of New York. In the event that the imposition of the new tax by any such city would require a reduction in the County tax rate imposed pursuant to this section and to this Local Law, then said tax shall not become effective before the commencement of the County's next succeeding fiscal year and then only if such city shall have given notice to such County of its imposition of such a tax at least six (6) months prior to the commencement of such fiscal year. The County of Niagara waives the right of said notice and the postponement of the effective date of such a hotel occupancy tax. Cities within the County of Niagara who currently are authorized to and who collect a hotel occupancy tax shall continue to maintain a prior right to collect such hotel and motel bed tax.

#### Section 6. Registration.

Within ten days after the effective date of this local law, or in the case of operators commencing business after such effective date, within three days after such commencement or opening, every operator shall file with the County Treasurer a certificate of registration in a form prescribed by the County Treasurer. The County Treasurer shall, within five days after such registration, issue without charge to each operator, a certificate of authority empowering such operator to collect the tax from the occupant and duplicate thereof for each additional hotel of such operator. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificates of authority shall be prominently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such Certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the County Treasurer upon the cessation of business at the hotel named or upon its sale or transfer.

#### Section 7. Administration and Collection.

(a) The tax imposed by this Local Law shall be administered and collected by the County Treasurer.



(b) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted for and charged for, and upon every evidence of occupancy or any bill or statement or charge made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the County, and the operator shall be liable for the collection thereof and for the tax. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this Local Law, and the operator shall have the same right in respect to collecting the tax from the occupant, or in respect to non-payment of the tax by the occupant as if the tax were a part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he may have in the event of non-payment of rent by the occupant; provided, however, that the County Treasurer shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

(c) Where the occupant has failed to pay and the operator has failed to collect a tax as imposed by this Local Law, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the occupant directly to the County Treasurer, and it shall be the duty of the occupant to file a return thereof with the County Treasurer and to pay the tax imposed thereon to the County Treasurer within fifteen days after such tax was due.

(d) The County Treasurer may, wherever he deems it necessary for the proper enforcement of this Local Law, provide by regulation that the occupant shall file returns and pay directly to the County Treasurer the tax herein imposed, at such times as returns are required to be filed and payment over made by the operator.

(e) The tax imposed by this Local Law shall be paid upon any occupancy on and after December first, two thousand eighteen, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. Where rent is paid or charged or billed, or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after December first, two thousand eighteen. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the County Treasurer may by regulation provide for credit and/or refund of the amount of such tax application therefore as provided in section twelve of this Local Law.

(f) For the purpose of the proper administration of this Local Law and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator or the occupant. Where an occupant claims exemptions from the tax under the provisions of section four hereof, the rent shall, be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a copy of a certificate issued by the County Treasurer certifying that the corporation or association therein named is exempt from the tax under section four hereof, together with a certificate duly executed by the corporation or association named in the certificate of the County Treasurer certifying that the occupant is its agent, representative or employee and that his occupancy is paid or to be paid by, and is necessary or required in the course of or in connection with the affairs of said corporation or association.

#### Section 8. Records to be Kept.

Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the County Treasurer may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the County Treasurer or his duly authorized agent or employee and shall be preserved for a period of three years, except that the County Treasurer may consent to their destruction within that period or may require that they be kept longer.

#### Section 9. Returns.



(a) Every operator shall file with the County Treasurer a return of occupancy and of rents, and of the taxes payable thereon for the periods ending March thirty-first, June thirtieth, September thirtieth and December thirty-first of each year, on and after December first, two thousand eighteen. Such returns shall be filed within twenty days from the expiration of the period covered thereby. The County Treasurer may permit or require returns to be made by other periods and upon such dates as he may specify. If the County Treasurer deems it necessary in order to insure the payment of the tax imposed by this Local Law, he may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this section and upon such dates as he may specify.

(b) The forms of returns shall be prescribed by the County Treasurer and shall contain such information as he may deem necessary for the proper administration of this Local Law. The County Treasurer may require amended returns to be filed within twenty days after notice and to contain the information specified in the notice.

(c) If a return required by this Local Law is not filed, or if a return when filed is incorrect or insufficient on its face, the County Treasurer shall take the necessary steps to enforce the filing of such a return or of a corrected return.

#### Section 10. Payment of Tax.

At the time of filing a return of occupancy and of rents each operator shall pay to the County Treasurer the taxes imposed by this Local Law upon the rents required to be included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions in this Local Law. Even though it be judicially determined that the tax collected is invalidly required to be filed, it shall be due from the operator and payable to the County Treasurer on the date limited for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and the taxes due thereon. Where the County Treasurer, in his discretion, deems it necessary to protect revenues to be obtained under this Local Law he may require any operator required to collect the tax imposed by this local law to file with him a bond, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as the County Treasurer may fix to secure the payment of any tax and/or penalties and interest due or which may become due from such operator. In the event that the County Treasurer determines that an operator is to file such bond he shall give notice to such operator to that effect specifying the amount of the bond required. The operator shall file such bond within five days after the giving of such notice unless within such five days the operator shall request in writing a hearing before the County Treasurer at which the necessity, propriety and amount of the bond shall be determined by the County Treasurer. Such determination shall be final and shall be complied with within fifteen days after the giving of notices thereof. In lieu of such bond, securities approved by the County Treasurer or cash in such amount as he may prescribe, may be deposited which shall be kept in the custody of the County Treasurer who may at any time without notice to the depositor apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by him at public or private sale without notice to the depositor thereof.

#### Section 11. Determination of Tax.

If a return required by this Local Law is not filed, or if a return when filed is incorrect or insufficient the amount of tax due shall be determined by the County Treasurer from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, type of accommodations and service, number of employees and/or other factors. Notice of such determination shall be given to the person liable for the collection and/or payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within thirty days after giving of notice of such determination, shall apply to the County Treasurer for a hearing, or unless the County Treasurer of his own motion shall re-determine the same. After such hearing, the County



Treasurer shall give notice of his determination to the person against whom the tax is assessed. The determination of the County Treasurer shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under Article seventy-eight of the Civil Practice Law and Rules, provided however, that such proceeding is instituted in the Supreme Court within thirty days after the giving of the notice of such determination. A proceeding under Article seventy-eight of the Civil Practice Law and Rules shall not be instituted unless

(a) the amount of any tax sought to be reviewed, with penalties and interest thereon, if any, shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or (b) at the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, penalties and interest thereon stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, penalties and interest as a condition precedent to the application.

#### Section 12. Refunds.

(a) In the manner provided in this section, the County Treasurer shall refund or credit without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the County Treasurer for such refund shall be made within one year from the payment thereof. Whenever a refund is made by the County Treasurer, he shall state his reason therefore in writing. Such application may be made by the occupant, operator or other person who has actually paid the tax. Such application when made by an operator who has collected and paid over such tax to the County Treasurer, provided that the application is made within one year of the payment by the occupant to the operators shall be acted upon and refunded any moneys, due, only after such operator shall first establish to the satisfaction of the County Treasurer, under such regulations as the County Treasurer may prescribe, that he has repaid or will simultaneously repay to the occupant the amount for which the application for refund is made. The County Treasurer may, in lieu of any refund required to be made, allow credit therefore on payments due from the petitioner.

(b) Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the County Treasurer, and such County Treasurer shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under Article seventy-eight of the Civil Practice Law and Rules, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking be filed with the County Treasurer in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

(c) A person shall not be entitled to a revision, refund or credit under this section of a tax, interest or penalty which had been determined to be due pursuant to the provisions of section twelve of this Local Law where he has had a hearing or an opportunity for a hearing, as provided in said section, or has failed to avail himself of the remedies therein provided. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the County Treasurer made pursuant to section twelve of this Local Law unless it be found that such determination was erroneous, illegal or unconstitutional or otherwise improper by the County Treasurer after a hearing or of his own motion or in a proceeding under Article seventy-eight of the Civil Practice Law and Rules, pursuant to the provisions of said section, in which event refund or credit without interest shall be made of the tax, interest or penalty found to have been overpaid.

#### Section 13. Disposition of Revenues.



All revenues resulting from the imposition of this tax under this Local Law shall be paid into the treasury of the County of Niagara and shall be credited to and deposited in the General Fund account of the County of Niagara. Thereafter, said funds are to be allocated and paid to a not-for-profit corporation under contract with the County for the promotion of tourism in the County. The County Treasurer is authorized to retain up to a maximum of five percent (5%) of such revenue to defer the necessary expenses of the County in administering such tax.

#### Section 14. Reserves.

In cases where the occupant or operator has applied for a refund and has instituted a proceeding under Article seventy-eight of the Civil Practice Law and Rules to review a determination adverse to him on his application for refund, the County Treasurer shall set up appropriate reserves to meet any decision adverse to the County.

#### Section 15. Remedies Exclusive.

The remedies provided by sections eleven and twelve of this Local Law shall be exclusive remedies available to any person for the review of tax liability imposed by this Local Law and no determination or proposed determination of tax or determination on any application for refund shall be enjoined or reviewed by an action for declaratory judgment, an action for money had and received or by any action or proceeding other than a proceeding in a nature of a certiorari proceeding under Article seventy-eight of the Civil Practice Law and Rules; provided, however, that a taxpayer may proceed by declaratory judgment if he institutes suit within thirty days after a deficiency assessment is made and pays the amount of the deficiency assessment to the County Treasurer prior to the institution of such suit and posts a bond for costs as provided in section eleven of this Local Law.

#### Section 16. Proceedings to Recover Tax.

(a) Whenever any operator or any officer of a corporate operator or any occupant or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this Local Law as therein provided, the Niagara County Attorney shall, upon the request of the County Treasurer, bring or cause to be brought an action to enforce the payment of the same on behalf of the County of Niagara in any court of the State of New York or of any other state or of United States. If, however, the County Treasurer, in his discretion, believes that any such operator, officer, occupant or other person is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, he may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.

(b) As an additional or alternate remedy, the County Treasurer may issue a warrant, directed to the sheriff commanding him to levy upon and sell the real and personal property of the operator or officer of a corporate operator or of the occupant or other person liable for the tax, which may be found within the County for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the County Treasurer and to pay to him the money collected by virtue thereof within sixty days after the receipt of such warrant. The sheriff shall, within five days after the receipt of the warrant, file with the County Clerk a copy thereof, and thereupon such clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon any interest in real and personal property of the person against whom the warrant is issued. The sheriff shall then proceed upon the warrant, in the same manner, and with like effect, as that provided by law in respect to executions issued against property upon judgments of a court of record and for services in



citing the warrant he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the County Treasurer, a warrant of like terms, force and effect may be issued and directed to any officer or employee of the County Treasurer and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the County Treasurer may, from time to time, issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the County has recovered judgment therefore and execution thereon has been returned unsatisfied.

(c) Whenever an operator shall make a sale, transfer, or assignment in bulk of any part or the whole of his hotel or his lease, license of other agreement or right to possess or operate such hotel, apartment hotel, or of the equipment, furnishings, fixtures, supplies or stock of merchandise, of the said premises or lease, license or other agreement or right to possess or operate such hotel, apartment hotel and the equipment, furnishings, fixtures, supplies and stock of merchandise pertaining to the conduct or operation of said hotel, otherwise than in the ordinary and regular prosecution of business, the purchaser, transferee or assignee shall at least ten days before taking possession of the subject of said sale, transfer or assignment, or paying therefore, notify the County Treasurer by registered mail of the proposed sale and of the price, terms and conditions thereof whether or not the seller, transferor or assignor, has represented to or informed the purchaser, transferee or assignee that it owes any tax pursuant to this Local Law, and whether or not the purchaser, transferee or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing. Whenever the purchaser, transferee or assignee shall fail to give notice to the County Treasurer as required by the preceding paragraph or whenever the County Treasurer shall inform the purchaser, transferee or assignee that a possible claim for such tax or taxes exists, any sums of money, property or chooses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferor or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the seller, transferor or assignor to the County, and the purchaser, transferee or assignee is forbidden to transfer to the seller, transferor or assignor any such sums of money, property or choses in action to the extent of the amount of the County's claim. For failure to comply with the provisions of this subdivision, the purchaser, transferee or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of section 6-101 through 6-111 of the Uniform Commercial Code, shall be personally liable for the payment to the County of any such taxes theretofore or thereafter determined to be due to the County from the seller, transferrer, or assignor, and such liability may be assessed and enforced in the same manner as the liability for tax under this Local Law.

#### Section 17. General Powers of the County Treasurer.

In addition to the powers granted to the County Treasurer in this Local Law, he is hereby authorized and empowered:

(a) To make, adopt and amend rules and regulations appropriate to the carrying out of this Local Law and the purposes thereof;

(b) To extend for cause shown, the time of filing any return for a period not exceeding thirty days; and for cause shown, to waive penalties but not interest computed at the rate of six percent per annum; and to compromise disputed claims in connection with the taxes hereby imposed;

(c) To request information from the Tax Commission of the State of New York or the Treasury Department of the United States relative to any person; and to afford information to such tax commission or such treasury department relative to any person, any other provision of this Local Law to the contrary notwithstanding;



(d) To delegate his functions hereunder to a Deputy County Treasurer or any employee or employees of the office of County Treasurer;

(e) To prescribe methods for determining the rents for occupancy and to determine the taxable and nontaxable rents;

(f) To require any operator within the County to keep detailed records of the nature and type of hotel maintained, nature and type of service rendered, the rooms available and rooms occupied daily, leases or occupancy contracts or arrangements, rents received, charged and accrued, the names and addresses of the occupants, whether or not any occupancy is claimed to be subject to the tax imposed by this Local Law, and to furnish such information upon request to the County Treasurer.

(g) To assess, determine, revise and readjust the taxes imposed under this Local Law.

#### Section 18. Administration of Oaths and Compelling Testimony.

(a) The County Treasurer or his employees or agents duly designated and authorized by him shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this Local Law. The County Treasurer shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this Local Law and to examine them in relation thereto, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before him or excused from attendance.

(b) A Justice of the Supreme Court, either in court or at chambers, shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the County Treasurer under this Local Law.

(c) Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material manner pending before the County Treasurer under this Local Law shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment.

(d) The officers who serve the summons or subpoena of the County Treasurer and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided. Such officers shall be the County Sheriff and his daily appointed deputies or any officers or employees of the County Treasurer, designated to serve such process.

#### Section 19. Reference to Tax.

Wherever reference is made in placards or advertisements or in any other publications to this tax, such reference shall be substantially in the following form: "Tax on occupancy of hotel rooms," except that in any bill, receipt, statement or other evidence or memorandum of occupancy or rent charge issued or employed by the operator, the words "occupancy tax" will suffice.

#### Section 20. Penalties and Interest.

(a) Any person failing to file a return or to pay or pay over any tax to the County Treasurer within the time required by this Local Law shall be subject to a penalty, of five percent of the amount of tax due; plus interest at the rate of one percent of such tax for each month of delay excepting the first month after such return was required to be filed or such tax became due; but the County Treasurer, if satisfied that the delay was



excusable, may waive all or any part of such penalty, but not interest at the rate of six percent per year. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this Local Law. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this Local Law.

(b) Any operator or occupant and any officer of a corporate operator or occupant failing to file a return required by this Local Law, or filing or causing to be filed, or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information testimony or statement required or authorized by this Local Law, which is willfully false, and any operator and any officer of a corporate operator willfully failing to file a bond required to be filed pursuant to section eleven of this Local Law, or failing to file a registration certificate and such data in connection therewith as the County Treasurer may be regulation or otherwise require or to display or surrender the certificate of authority as required by this Local Law or assigning or transferring such certificate or authority and any operator and any officer of a corporate operator willfully failing to charge separately from the rent the tax herein imposed, or willfully failing to state such tax separately on any evidence of occupancy and on any bill of statement or receipt of rent issued or employed by the operator, or willfully failing or refusing to collect such tax from the occupant, and any operator and any officer of a corporate operator who shall refer or cause reference to be made to this tax in a form or manner other than that required by this Local Law, and any operator failing to keep the records required by section eight of this Local Law, shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars, or imprisonment for not more than one year, or both such fine and imprisonment. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this Local Law, and subject to the penalties herein above imposed.

(c) The certificate of the County Treasurer to the effect that a tax has not been paid, that a return, bond or registration certificate has not been filed, or that information has not been supplied pursuant to the provisions of this Local Law, shall be presumptive evidence thereof.

#### Section 21. Returns to be Secret.

(a) Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the County Treasurer or any officer or employee of the office of County Treasurer to divulge or make known in any manner the rents or either information relating to the business of a taxpayer contained in any return required under this Local Law. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the County Treasurer in an action or proceeding under the provisions of this Local Law, or on behalf of any party to any action or proceeding under the provisions of this Local Law when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his duly authorized representative of a certified copy of any return filed in connection with his tax nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the Niagara County Attorney or other legal representatives of the County or by the District Attorney of Niagara County, of the return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for three years and thereafter until the County Treasurer permits them to be destroyed.

(b) Any violation of subdivision (a) of this section shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or both, in the discretion of the court, and if the offender be an officer or employee of the County he shall be dismissed from office and be incapable of holding any public office for a period of five years thereafter.



Section 22. Notices and Limitations of Time.

(a) Any notice authorized or required under the provisions of this local law may be given by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him pursuant to the provisions of this Local Law, or in any application made by him or, if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this Local Law by the giving of notice shall commence to run from the date of mailing of such notice.

(b) The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the County to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this Local Law. However, except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return; provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.

(c) Where, before the expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented in writing that such period be extended, the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

Section 23. Separability.

If any provision of this Local Law, or the application thereof to any person or circumstance shall be held invalid, the remainder of this Local Law, and the application of such provisions to other persons or circumstances shall not be affected thereby.

Section 24. Effective Date.

This local law shall take effect upon filing in the office of the Secretary of State as provided by the Municipal Home Rule Law. The Hotel and Motel tax enacted herein shall remain in effect for a three (3) year period, from December 1, 2018. Nothing contained in Tax Law § 1202-t Hotel or Motel Taxes in Niagara County shall prohibit the adoption and enactment of Local Laws pursuant to provisions of this section upon the expiration and any other Local Law adopted pursuant to this section.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. ED-019-18**

From: Economic Development and Administration Committees.

Dated: October 16, 2018

**FIXING DATE AND NOTICE FOR THE PUBLIC HEARING  
CONSIDERING THE USE OF COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
INCOME FUNDS**

WHEREAS, Niagara County was the recipient of New York State administered grants from the New York State Housing Trust Fund Corporation through the Community Development Block Grant (CDBG) Program, and

WHEREAS, the use of the CDBG Grants by the County resulted in the generation of Program Income, as defined in the CDBG regulations which is subject to certain rules and regulations promulgated by the United



States Department of Housing and Urban Development and the New York State Office of Community Renewal (OCR) regarding its use, and

WHEREAS, OCR has notified the County and other recipients of CDBG funds that it is requiring that all Program Income not spent on, or committed to, CDBG-eligible activities by March 31, 2019 or be paid to the OCR by April 30, 2019, and

WHEREAS, any proposed use of Program Income prior to March 31, 2019 must be approved by OCR, and

WHEREAS, the County wishes to utilize the Program Income to advance community development within Niagara County that conform with CDBG rules and regulations, and

WHEREAS, Niagara County is required to hold a public hearing to provide information to the public and to consider citizen comments regarding community needs prior to submitting a proposal for the use of CDBG funding, now; therefore, be it

RESOLVED, that the Niagara County Legislature shall conduct a public hearing upon said proposal for use of CDBG Fund at the Legislative Chambers, Courthouse, Lockport, New York on the 20th day of November, 2018 at 6:30 p.m., and be it further

RESOLVED, that the Clerk of the Legislature, at least eight days in advance of such hearing, shall post a notice upon the bulletin boards in the Courthouse at Lockport, and the Civic building at Niagara Falls, and shall publish such notice once in the Lockport Union Sun & Journal, and the Buffalo News; such notice shall contain the title of the proposal to be submitted for use of CDBG funds, with the assistance of the County Attorney's Office, and be it further

RESOLVED, that copies of said proposal will be available for review by any interested party with the Clerk of the Niagara County Legislature.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. ED-020-18**

From: Economic Development and Administration Committees.

Dated: October 16, 2018

**FIXING DATE AND NOTICE FOR THE PUBLIC HEARING  
FOR EMPIRE EMERGENCY APPARATUS, INC.  
COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION**

WHEREAS, the County Legislature wishes to assess the advisability of submitting a Community Development Block Grant ("CDBG") application to the New York State Office of Community Renewal (the "OCR") for a grant to support the expansion of the Empire Emergency Apparatus, Inc. facility at 3995 Lockport Road, in the Town of Niagara, New York, and

WHEREAS, Niagara County is required to hold a public hearing to provide information to the public and to consider citizen comments regarding community needs and the plan proposal prior to submitting an application for CDBG funding, now, therefore, be it

RESOLVED, that the Niagara County Legislature shall conduct a public hearing whereat all interested parties shall be heard regarding the CDBG program, the County's community needs, and the proposed funding application. to consider citizen comments for community needs and proposal for the application for CDBG



Funds at the Legislative Chambers, Courthouse, Lockport, New York on the 20th day of November, 2018 at 6:45 p.m., and be it further

RESOLVED, that the Clerk of the Legislature, at least eight days in advance of such hearing, shall post a notice upon the bulletin boards in the Courthouse at Lockport, and the Civic building at Niagara Falls, and shall publish such notice once in the Lockport Union Sun & Journal, and the Buffalo News; such notice shall contain the title of the application to be submitted for use of CDBG funds, and be it further

RESOLVED, that copies of proposed application will be available for review by any interested party with the Clerk of the Niagara County Legislature.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. IF-123-18**

From: Infrastructure & Facilities Committee.

Dated: October 16, 2018

**RESOLUTION PURSUANT TO SECTION 268 OF THE COUNTY LAW DECLARING IT IS IN THE PUBLIC INTEREST TO UNDERTAKE THE INCREASE AND IMPROVEMENT OF NIAGARA COUNTY REFUSE DISPOSAL DISTRICT FACILITIES PROJECT CONSISTING OF THE CONSTRUCTION AND PLACEMENT OF A CAP ON THE DISTRICT'S LANDFILL #1 AND IMPROVMENTS TO THE LECHATE COLLECTION SYSTEM AND RELATED MATTERS.**

WHEREAS, the County of Niagara, New York (the "County"), has duly caused the firm of CHA, engineers duly licensed in the State of New York, to prepare and file with the Clerk of the Legislature a map, plan and report (the "Map, Plan and Report") including an estimate of the cost relating to the proposed increase and improvement of the facilities for the Niagara County Refuse Disposal District, consisting of construction and placement of a cap on Landfill No. 1 located off County Route 93 Bypass, Lockport, New York, and the construction of improvements to the leachate collection system of Landfill No. 1, including all related, incidental, and ancillary improvements, equipment, machinery, apparatus, costs and expenses in connection therewith (collectively, the "Project"), and

WHEREAS, the Niagara County Legislature has determined that the Project is a Type II action under the State Environmental Quality Review Act ("SEQRA"), requiring no further review under SEQRA, and

WHEREAS, at a meeting of the County Legislature duly called and held on August 7, 2018, a resolution was duly adopted by it and entered in the minutes specifying the County Legislature would hold a public hearing on said increase and improvement of facilities at a maximum estimated cost of \$4,500,000, to hear all persons interested in the subject concerning the same on September 18, 2018 at 6:45 p.m. at the Niagara County Courthouse, 175 Hawley St., Lockport, New York, and

WHEREAS, notice of said public hearing certified by the Clerk of the Legislature was duly published and posted as required by law, to wit: a duly certified copy thereof was published in the official newspapers of the County, on September 6, 2018 and a copy of such order was posted on September 6, 2018 on the signboard maintained by the County Clerk, and

WHEREAS, a public hearing was duly held at the time and place set forth in said notice, at which all persons desiring to heard were duly heard;

NOW THEREFORE, THE COUNTY LEGISLATURE OF THE COUNTY OF NIAGARA, NEW YORK, HEREBY RESOLVES, AS FOLLOWS:

SECTION 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to undertake the Project of an increase and improvement of the facilities of the Niagara County Refuse Disposal District, consisting of the construction and placement of a cap on Landfill No. 1 located off County Route 93 Bypass, Lockport, New York, and the construction of improvements to the leachate collection system for Landfill No. 1, including all related, incidental and ancillary improvements, equipment, machinery, apparatus, costs and expenses in connection therewith all as more particularly described in the Map, Plan and Report, at a maximum estimated cost of \$4,500,000.

SECTION 2. The Niagara County Environmental Coordinator shall proceed with these improvements in the manner set forth in County Law Section 262.

SECTION 3. That this Legislature has determined that the improvement of facilities Project is in the public interest and will not constitute an undue burden on the property which will bear the cost thereof, and that the required Part 85 application for permission to proceed shall be submitted to the Office of the State Comptroller and any such additional information as is further requested and required shall be submitted to the Office of the State Comptroller.

SECTION 4. This order shall take effect immediately.  
Moved by Bradt, seconded by Virtuoso.  
Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. IF-124-18**

From: Infrastructure & Facilities and Administration Committees.

Dated: October 16, 2018

**DPW-BUILDINGS AND GROUNDS BUDGET MODIFICATION  
GASOLINE ACCOUNT**

WHEREAS, additional funds are required to pay for gasoline and diesel fuel expenditures for the remainder of 2018, and

WHEREAS, funds are available in the position number 13353, Building Maintenance Mechanic, due to a retirement earlier in the year, now, therefore, be it

RESOLVED, that the following budget modification be effectuated:

**DECREASE APPROPRIATIONS:**

A.15.1620.000.71010.00.13353	Positions – Building Maintenance Mechanic	\$15,000
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**INCREASE APPROPRIATIONS:**

A.15.1620.000.74750.21	Gas and Oil Purchases	\$15,000
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Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. IF-125-18**

From: Infrastructure & Facilities and Administration Committees.

Dated: October 16, 2018

**REJECT BIDS FOR TROTT AND HUMAN SERVICES PARKING LOT RESTORATION**



WHEREAS, the Department of Public Works, Engineering Division proceeded with the Trott and Human Services Parking Lot Restoration Project, as per prepared specifications and drawings, and

WHEREAS, sealed bids for the Parking Lot Restoration Project at the Trott and Human Services Buildings, were received and publicly opened by the Purchasing Department on September 6, 2018, and

WHEREAS, Resolution IF-112-18, dated September 18, 2018, awarded the resolution to the lowest responsible bidder, Mark Cerrone, Inc., and

WHEREAS, the lowest responsible bidder was unable to meet the contract schedule or specifications, set forth by the Department of Public Works, now, therefore, be it

RESOLVED, that Resolution IF-112-18, dated September 18, 2018, be rescinded in its entirety, and be it further

RESOLVED, that the bids for the Trott and Human Services Building Parking Lot Restoration Project be rejected, and be it further

RESOLVED, that following budget modification be effectuated:

DECREASE APPROPRIATIONS:

A.15.1620.000.72400.00	Land Improvements	\$90,000
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INCREASE APPROPRIATIONS:

A.07.9950.000.79010.00	Transfer to Capital Projects	\$90,000
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INCREASE ESTIMATED REVENUE:

H661.15.1620.000.45031.00	Transfer from Operating	\$90,000
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INCREASE APPROPRIATIONS:

H661.15.1620.000.72400.00	Land Improvements	\$90,000
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Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. IF-126-18**

From: Infrastructure & Facilities and Administration Committees.

Dated: October 16, 2018

**NIAGARA COUNTY JAIL SALLY PORT  
CONSULTANT AMENDMENT NO. 3-FINAL**

WHEREAS, by Resolution No. IF-003-16, dated February 23, 2016, the Legislature awarded the design for the enclosure of the existing Niagara County Jail Sally Port to Foit Albert Associates, 763 Main Street, Buffalo, NY 14203, for a fee not to exceed \$80,997, and

WHEREAS, Resolution No. IF-072-16, dated August 2, 2016, authorized Amendment No. 1 to decrease the contract by \$35,487, for a revised contract amount of \$45,510, and

WHEREAS, Resolution No. IF-006-17, dated February 21, 2017, authorized Amendment No. 2 to increase the contract for construction administration and construction inspection by \$21,198, for a revised contract amount of \$66,708, and

WHEREAS, it is necessary to decrease the contract by \$22,161, for a revised contract amount of \$44,547, and

WHEREAS, prior to the execution of the required documents, the County Attorney will review them for approval as to legal form, language, and compliance, now, therefore, be it

RESOLVED, that the consultant services contract with Foit Albert Associates, 763 Main Street, Buffalo, NY 14203, be decreased by \$22,161, for a revised contract amount of \$44,547, and be it further

RESOLVED, that, following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute the required documents.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. IF-127-18**

From: Infrastructure & Facilities and Administration Committees.

Dated: October 16, 2018

**JAIL ROOF AND HVAC REPLACEMENT PROJECT-  
BUILDINGS 1 AND 2-CONSULTANT AMENDMENT NO. 4-FINAL**

WHEREAS, Resolution No. PW-141-14, dated December 9, 2014, awarded the contract for consulting services for the design of the replacement of the Jail Roof and HVAC Replacement Project on Building No. 2 to Foit-Albert Associates, 763 Main Street, Buffalo, NY 14203, in the amount of \$221,583, and

WHEREAS, Resolution No. PW-007-15, dated February 17, 2015, authorized Amendment No. 1 to include Building No. 1 in the HVAC replacement project for a fee not to exceed \$42,765, of which \$2,900 was for Building No. 1 and \$39,865 was for Building No. 2, for a revised contract amount of \$264,348, and

WHEREAS, Resolution No. IF-078-16, dated August 2, 2016, authorized Amendment No. 2 to increase the contract by \$84,668 for the Jail Roof System/HVAC System Replacements for Building No. 1, for a revised contract amount of \$349,016, and

WHEREAS, Resolution No. IF-052-17, dated March 21, 2017, authorized Amendment No. 3 to increase the contract by \$19,111 for construction administration and construction inspect for Building No. 1 HVAC, for a revised contract amount of \$368,127, and

WHEREAS, it is necessary to decrease the contract by \$40,346.07, for a revised contract amount of \$327,780.93, and

WHEREAS, prior to the execution of the required documents, the County Attorney will review them for approval as to legal form, language, and compliance, now, therefore, be it

RESOLVED, that the consultant services contract with Foit-Albert Associates, 763 Main Street, Buffalo, NY 14203, be decreased by \$40,346.07, for a revised contract amount of \$327,780.93, and be it further

RESOLVED, that, following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute the required documents.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. IF-128-18**

From: Infrastructure & Facilities and Administration Committees.



Dated: October 16, 2018

**NIAGARA COUNTY SHERIFF'S OFFICE FENCING/SECURITY PROJECT  
CONSULTANT AMENDMENT NO. 2-FINAL**

WHEREAS, Resolution No. IF-073-16, dated August 2, 2016, authorized the contract for consultant services for the Niagara County Sheriff's Office Fencing/Security Project to Foit Albert Associates, 763 Main Street, Buffalo, NY 14203, for a fee not to exceed \$40,412, and

WHEREAS, Resolution No. IF-051-17, dated March 21, 2017, amended the contract for construction inspection and construction administration, in the amount of \$9,511, for a revised contract amount of \$49,923, and

WHEREAS, it is necessary to decrease the contract by \$10,019.01, for a revised contract amount of \$39,903.99, and

WHEREAS, prior to the execution of the required documents, the County Attorney will review them for approval as to legal form, language, and compliance, now, therefore, be it

RESOLVED, that the consultant services contract with Foit Albert Associates, 763 Main Street, Buffalo, NY 14203, be decreased by \$10,019.01, for a revised contract amount of \$39,903.99, and be it further

RESOLVED, that, following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute the required documents.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. IF-129-18**

From: Infrastructure & Facilities and Administration Committees.

Dated: October 16, 2018

**REHABILITATION OF NORTH CANAL ROAD FROM  
OLD NIAGARA ROAD TO THE ERIE CANAL  
CONSULTANT AMENDMENT NO. 1**

WHEREAS, Resolution No. IF-083-17, dated May 16, 2017, authorized the contract for consultant services for the preliminary design for the Rehabilitation of North Canal Road from Old Niagara Road to the Erie Canal Project, to Urban Engineers of New York DPC, 403 Main Street, Suite 530, Buffalo, NY 14203, for a fee not to exceed \$202,028, and

WHEREAS, it is necessary to amend the contract to allow for acquisition of right-of-way, in the amount of \$49,583.24, for a revised contract amount of \$251,611.24, and

WHEREAS, prior to the execution of the required documents, the County Attorney will review them for approval as to legal form, language, and compliance, now, therefore, be it

RESOLVED, that the contract for consulting services be amended by \$49,583.24 for acquisition of right-of-way to Urban Engineers of New York DPC, 403 Main Street, Suite 530, Buffalo, NY 14203, for a fee not to exceed \$251,611.24, and be it further

RESOLVED, that, following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute the required documents.

Moved by Bradt, seconded by Virtuoso.



Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. IF-131-18**

From: Infrastructure & Facilities and Administration Committees.

Dated: October 16, 2018

**TOWN PAYMENT BUDGET MODIFICATION**

WHEREAS, the Niagara County Department of Public Works and the various towns maintain a contract for snow and ice control on county roadways, and

WHEREAS, due to a hard snow and ice 2017-2018 season, additional funds are required in the Town Payment account line to allow final payment to some towns and to make payment of the 1<sup>st</sup> installment to all towns, which is due prior to October 15, 2018, now, therefore, be it

RESOLVED, that the following budget modifications be effectuated:

**INCREASE APPROPRIATED FUND BALANCE:**

D.40599.00	Appropriated Fund Balance	\$500,000.00
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**INCREASE APPROPRIATION:**

D.15.5142.000.74725.04	Other Town Payments	\$500,000.00
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Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. IL-038-18**

From: Legislator Wm. Keith McNall and Economic Development Committee

Dated: October 16, 2018

**RESOLUTION IN SUPPORT OF THE ROTARY CLUB OF LOCKPORT  
THROUGH THE USE OF CASINO FUNDING**

WHEREAS, the Rotary Club of Lockport needs were chartered May 1, 1919 making it the oldest service organization in Lockport, who's mission has always been to fulfill community needs, and

WHEREAS, the Rotary Club's mission has always been to fulfill community needs, and

WHEREAS, to commemorate their 100<sup>th</sup> year in 2019 the Rotary Club of Lockport has pledged to restore the city owned O.B. McClintock post clock on the corner of Main and Pine St., now, therefore, be it

RESOLVED, that the Niagara County Legislature supports funding to the Rotary Club of Lockport as follows:

Rotary Club of Lockport	Renovation of O.B. McClintock post clock	\$3,000.00
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and be it further

RESOLVED, that the following budget modification be effectuated to the Niagara County Economic Development 2018 budget:

**INCREASE APPROPRIATED FUND BALANCE:**

A.28.8020.812 40599.01	Appropriated Fund Balance - Committed Funds	\$3,000.00
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**INCREASE APPROPRIATION:**



A.28.8020.812 74400.15 Seneca Niagara Community Development Fund \$3,000.00

Moved by McNall, seconded by Collins.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. IL-039-18**

From: Legislators Richard L. Andres, Randy R. Bradt and Economic Development Committee.

Dated: October 16, 2018

**RESOLUTION IN SUPPORT OF THE NORTH TONAWANDA HISTORY MUSEUM  
THROUGH THE USE OF CASINO FUNDING**

WHEREAS, the North Tonawanda History Museum has come far in its 13 year existence, from a small interest group to a fully functional museum having been granted its Absolute Charter by the NYS Department of Education, and

WHEREAS, a museum of the rich immigrant heritage of North Tonawanda, known as the “Lumber Capital of the World” and its role as an important shipping and manufacturing center on the historic Erie Canal and the mighty Niagara River , and

WHEREAS, the History Museum has completed its move to its new home and is currently building exhibits and bringing the building to meet all codes, and

WHEREAS, the Museum is in need of four wheelchair ramps to make the building and exhibits handicapped accessible and meet ADA standards, now, therefore, be it

RESOLVED, that the Niagara County Legislature supports funding to the North Tonawanda History Museum as follows:

The North Tonawanda History Museum	Wheelchair Ramps	\$4,000.00
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and be it further

RESOLVED, that the following budget modification be effectuated to the Niagara County Economic Development 2018 budget:

**INCREASE APPROPRIATED FUND BALANCE:**

A.28.8020.812 40599.01	Appropriated Fund Balance - Committed Funds	\$4,000.00
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**INCREASE APPROPRIATION:**

A.28.8020.812 74400.15	Seneca Niagara Community Development Fund	\$4,000.00
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Moved by Andres, seconded by Bradt.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

**Resolution No. IL-040-18**

From: Legislators Owen T. Steed, Rebecca J. Wydysh, Dennis F. Virtuoso, et al.

Dated: October 16, 2018

**A RESOLUTION CALLING FOR VOTING TRANSIT-DEPENDENT MEMBERS ON THE  
NFTA BOARD OF COMMISSIONERS**

WHEREAS, the majority of Niagara Frontier Transportation Authority (NFTA) riders/users are low-income residents known as ‘Captive Riders’ who live in areas where there is limited NFTA service, and



WHEREAS, for many years, patrons who use NFTA buses have expressed concern with limited or poor service, infrequent buses, schedule problems, and a lack of accessibility for users to get from their homes to locations where people work and employers are desperately seeking employees, resulting in a lack of job opportunities in certain communities and in some cases, employers to withdraw from the local market, and

WHEREAS, in order to best address the needs of the NFTA's riders, input from a 'Captive Rider' voting representative on the Board of Commissioners would provide valuable opportunities for transit-dependent users to have a seat at the table and to help educate NFTA management and commissioners on the needs of their patrons, and

WHEREAS, in addition to the lack of rider input on the Board of Commissioners, there is also a lack of participation and transparency at NFTA public hearings and board meetings that hinders input from the public as well and blocks riders and the public from having a voice to share their concerns and ask questions to NFTA management and the Board of Commissioners, and

WHEREAS, to help address the 'Captive Rider' issue and a lack of a transit voice on the voting membership of the NFTA Board of Commissioners, Senate Bill S.5106 has been introduced in the New York State Senate by Senator Timothy Kennedy to add two voting members to the NFTA Board of Commissioners who are transit-dependent and para-transit-dependent, now, therefore, be it

RESOLVED, that the Niagara County Legislature does hereby support the concept of adding a 'Captive Rider' voting member to the NFTA Board of Commissioners who has shown an extreme commitment to community service and is a resident of a community lacking quality NFTA services; and be it further

RESOLVED, that this Honorable Body expresses support for S.5106 and the intention behind adding two voting members to the NFTA Board of Commissioners to represent the transit community and para-transit community who use NFTA bus services; and be it further

RESOLVED, that certified copies of this resolution be sent to Governor Andrew Cuomo, the Western New York delegation of the State Legislature, NFTA Executive Director Kimberley A. Minkel, and any other party deemed necessary and proper.

Moved by Steed, seconded by Wydysh.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

#### **Resolution No. IL-041-18**

From: Legislators Richard L. Andres and Randy R. Bradt

Dated: October 16, 2018

### **RESOLUTION IN SUPPORT OF THE NORTH TONAWANDA CHILDREN'S REMEMBRANCE GARDEN WALK THROUGH THE USE OF CASINO FUNDING**

WHEREAS, the City of North Tonawanda Children's Remembrance Garden Walk is a quiet place where families can go to remember their children and heal, and

WHEREAS, the Children's Remembrance Garden Walk is to provide a place of healing, support, compassion and hope for family members, friends, and the community who have experienced the death of child of any age, and

WHEREAS, funds to purchase a sculpture by a local artist are needed, this sculpture will only enhance this beautiful garden, now, therefore, be it

RESOLVED, that the Niagara County Legislature supports funding to the City of North Tonawanda Children's Remembrance Garden Walk as follows:

City of North Tonawanda	Sculpture	\$4,500.00
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and be it further

RESOLVED, that the following budget modification be effectuated to the Niagara County Economic Development 2018 budget:

INCREASE APPROPRIATED FUND BALANCE:

A.28.8020.812 40599.01	Appropriated Fund Balance - Committed Funds	\$4,500.00
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INCREASE APPROPRIATION:

A.28.8020.812 74400.15	Seneca Niagara Community Development Fund	\$4,500.00
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Referred to Economic Development

**Resolution No. IL-042-18**

From: Legislators Richard L. Andres and Randy R. Bradt

Dated: October 16, 2018

**THE NIAGARA COUNTY LEGISLATURE REAFFIRMS OUR SUPPORT OF THE  
2<sup>ND</sup> AMENDMENT**

WHEREAS, the Niagara County Legislature has consistently gone on record unanimously opposing New York States infringement on an individual's 2<sup>nd</sup> amendment "Right of the people to keep and Bear Arms", and

WHEREAS, resolutions IL-011-13 unanimously opposing the controversial "SAFE Act", IL-006-13 unanimously opposing the pistol permit registration and IL-036-11 unanimously opposing Microstamping are a few examples of such reaffirmations of our 2<sup>nd</sup> Amendment rights, and

WHEREAS, this Niagara County Legislature will continue to oppose and infringement on the 2<sup>nd</sup> Amendment such as, but not limited to, long-gun/hunting/sporting gun registry or Firearm Owner Identification Card (FOID card) and/or requiring gun owners to purchase insurance for each gun legally owned, now, therefore, be it

RESOLVED, that this Niagara County Legislature goes on record reaffirming our support of the 2<sup>nd</sup> Amendment "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and Bear Arms, shall not be infringed", and be it further

RESOLVED, that the clerk of the Legislature shall forward certified copies of this Resolution to the Governor of the State of New York Andrew Cuomo, Senate Majority Leader John Flanagan, Senator Robert Ort, Speaker of the New York State Assembly Carl Heastie, Assembly Minority Leader Brian M. Kolb, Assemblyman Angelo Morinello, Assemblyman Michael J. Norris and others deemed necessary and proper.

Moved by Syracuse, seconded by Godfrey.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Nemi, Zona

Chairman McNall reminded everyone of the Dedication of the Samuel M. Ferraro on October 23<sup>rd</sup> at 4:00 p.m.



Chairman McNall announced the formation of a Committee to review the need of a Public Relations Officer, on this Committee Chairman McNall asked Legislator Randy R. Bradt to serve as Chairman and Legislators Nemi, Wydysh, Collins and Virtuoso to serve as committee members.

Moved by Syracuse, seconded by Hill that the Board adjourn.

The Chairman declared the Board adjourned at 8:03p.m., subject to the call of the Clerk.

1 citizen spoke at this time on the General Welfare of the County.

  
Mary Jo Tamburlin, Clerk