

## OFFICIAL RECORD

Lockport, New York  
April 17, 2018

A public hearing was held pursuant to resolution ED-005-18, adopted by the Legislature on March 20, 2018, to hear 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. Legislator Nemi opened the hearing at 6:45 p.m. and closed it at approximately 6:49 p.m.

The meeting was called to order by Vice Chairman Burmaster at 7:01 p.m.

Clerk Tamburlin called the roll. All Legislators were present with the exception of Legislator Collins and McNall.

### PRESENTATIONS:

1. Legislator Lance Economic Development was called to the lectern to give the 2018 Economic Address and also announced this year's Address will be dedicated to Sam Ferraro who is greatly missed. Legislator Lance highlighted the 2018 accomplishments and discussed the goals for 2018 and how Economic Development and the IDA continue to market Niagara County as a key business location.
2. Legislator Godfrey, Undersheriff Michael J. Filicetti, Marc Kasprzak, Patrick G. Weidel and Director of Emergency Management, Jonathan Schultz to the lectern to read a proclamation in honor of National Safety Telecommunicator Week. Undersheriff Michael Filicetti thanked all his staff and the Legislature for all their support.
3. Legislator Godfrey called John Cooper, Chairman of Nimac to the lectern to give a update on the Niagara Falls Air Base and how the Airbase serves as a liaison for the community and is Niagara County's largest employer. John thanked the County and the communities for all their support and is truly proud of the volunteers that have helped.
4. Kate Banks, Executive Director of the Niagara Wine Trail was called to the lectern to read a proclamation declaring April, 2017 as Wine Month in Niagara County.. Thank you for support
5. Dan Stapleton, Director of Public Health and Director of Nursing, Kathleen Cavagnaro were called to the lectern to give a presentation on the updates of the department and their improvements in the care of Sexual Health Services in the County, by extending hours and days in the express clinics and educating the public on the risks and preventative care of the diseases. is a real specialty, vaccinations, prevent the spread of disease, self management of diseases and prevention.
6. Dan Stapleton, Director of the Niagara County Health Department congratulated Kathleen A. Cavagnaro, Director of Nursing on her retirement. 32 years. Dan thanked Kathy for all her hard work and dedication she has given to the Public Health Department for the last 32 years. Legislator Andres read a proclamation recognizing May 6-12, 2018 as National Nurses Week. Kathy thanked the Legislature and the staff in the Public Health Nursing division is a real specialty, vaccinations, prevent the spread of disease, self management of diseases and prevention.
7. Legislator Andres called Commissioner of Social Services Anthony Restaino and his staff to the Lectern to read a proclamation declaring April Child Abuse Awareness Month. One thing that is evident with staff is how dedicated they are working with the family and children in the county and the Legislators

for all their support.

0 citizens spoke at this time.

Recess

Legislator Syracuse announced that resolution ED-006-18 was being removed from the preferred agenda and being brought back at a later time.

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

**Resolution No. AD-007-18**

From: Administration Committee

Dated: April 17, 2018

**POSITION APPOINTMENT  
DIRECTOR OF OFFICE FOR THE AGING**

WHEREAS, under the Local Law establishing an Administrative Code for (sic) the County of Niagara, the County Manager shall make appointments for the position of Director, Niagara County Office for (sic) the Aging subject to the confirmation of the County Legislature, and

WHEREAS, the Director position became vacant effective March 31, 2018, and

WHEREAS, the position was advertised, resumes were received and reviewed based on experience, expertise, and qualifications, and candidates were interviewed in April by the County Manager, Legislator(s), and Human Resources Director, and

WHEREAS, the County Manager has determined that Darlene S. DiCarlo best meets the qualifications for the position and, therefore, should be appointed to the position, subject to the appointment being confirmed by the County Legislature, now, therefore, be it

RESOLVED, that Darlene S. DiCarlo be permanently appointed as Director, Office for (sic) the Aging effective April 23, 2018 and shall be entitled to all the benefits normally granted to a permanent department head, and be it further

RESOLVED, that Darlene S. DiCarlo appointment shall be subject to a minimum eight (8) week to maximum fifty-two (52) week probationary period and that continued employment shall be contingent upon satisfactory work performance in meeting established standards, and be it further

RESOLVED, that Darlene S. DiCarlo at time of appointment shall be compensated as a FLSA exempt Flat Salary Grade 11 Step 3 at \$62,740, pro-rated for the remainder of the year; effective January 1, 2019 shall be compensated at Flat Salary Grade 11 Step 4, and with future step increases in accordance with the policy for flat salaried, non-union employees.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent—Collins and McNall

**Resolution No. AD-008-18**

From: Administration Committee

Dated: April 17, 2018

## **CONTRACT WITH DISCOVER EGOV**

WHEREAS, the Niagara County Human Resources Director and Niagara County Personnel Officer seeks a digital and automated system to process employment and examination applications, provide online applicant registration and tracking, eligible list administration, exam processing, and personnel transaction maintenance, and

WHEREAS, the Director and Personnel Officer have evaluated available software solutions and have determined that Discover eGov provides the desired features and would like to grant the contract to Discover eGov, located at 263 East Street, Pittsford, New York 14534, and

WHEREAS, the professional services vendor has been selected based upon the Cayuga County RFP process, and

WHEREAS, funds were allocated for this purpose in the 2018 budget, and

WHEREAS, prior to the execution of the contract, the County Attorney will review the contract for approval as to legal form, language and compliance, 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 contract on behalf of Niagara County.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

### **Resolution No. AD-009-18**

From: Administration Committee

Dated: April 17, 2018

### **APPROVAL OF VOTING MACHINE AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND THE NIAGARA FALLS, LOCKPORT, NORTH TONAWANDA, BARKER, LEW-PORT, NEWFANE, NIAGARA WHEATFIELD, ROY-HART, STARPOINT, SCHOOL DISTRICTS (§3-224, NEW YORK STATE ELECTION LAW)**

WHEREAS, the Niagara Falls, Lockport, North Tonawanda, Barker, Lew-port, Newfane, Niagara Wheatfield, Roy-Hart, Starpoint School Districts will be conducting an election on May 15, 2018 and requires the use of the Niagara County Board of Elections voting equipment in connection with this election and

WHEREAS, the Niagara County Attorney's Office has prepared a formal agreement for use between the County of Niagara and the Niagara Falls, Lockport, North Tonawanda, Barker, Lew-port, Newfane, Niagara Wheatfield, Roy-Hart, Starpoint School District, which has been fully approved by the District, a copy of which has been filed with the Clerk of the Legislature, and

WHEREAS, time is of the essence in connection with the approvals by the Niagara County Legislature and

WHEREAS, under the terms of the agreement the County will provide, and be reimbursed for transportation of the voting machine preparation, programming, and packaging of the voting machine and all necessary Niagara County personnel: the District, among other things, shall furnish at its expense, election custodians and inspectors and also insurance in form, content and amounts as approved by the Niagara County Attorney, and

WHEREAS, the final written agreement between the parties is subject to the review and approval by the parties' respective legal counsel, now therefore, be it

RESOLVED, that pursuant to the provisions of §3-224 of New York State Election Law, the Chair of the Niagara County Legislature and the Niagara County Election Commissioners are authorized and directed to execute and deliver an agreement, in substantially the form of agreement now filed with the Clerk of the Legislature between and among the County of Niagara, the Niagara County Election Commissioners and the Niagara Falls, Lockport, North Tonawanda, Barker, Lew-port, Newfane, Niagara Wheatfield, Roy-Hart, Starpoint School Districts for the provision, by the County of Niagara, of sufficient voting equipment, including the programming thereof, to the Niagara Falls, Lockport, North Tonawanda, Barker, Lew-port, Newfane, Niagara Wheatfield, Roy-Hart, Starpoint School Districts in connection with any election scheduled to be held during 2018, and be it further

RESOLVED, that the execution and delivery of this equipment, is subject to the approval of the Board of the Niagara Falls, Lockport, North Tonawanda, Barker, Lew-port, Newfane, Niagara Wheatfield, Roy-Hart, Starpoint School Districts and the review and approval of the Niagara County Attorney's Office and counsel to the Niagara Falls, Lockport, North Tonawanda, Barker, Lew-port, Newfane, Niagara Wheatfield, Roy-Hart, Starpoint School Districts, and be it further

RESOLVED, that a true copy of the fully signed and approved agreement be filed by the Clerk of this Legislature simultaneously with the delivery of the or as soon as reasonably possible thereafter.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. AD-010-18**

From: Administration Committee

Dated: April 17, 2018

**ABOLISH TWO (2) PART TIME CLERKS, CREATE TWO (2)  
FULL TIME CLERK/ ASSISTANT MACHINE TECHNICIANS AND  
ADJUST PAY GRADE FOR CLERK/MACHINE TECHNICIAN POSITIONS**

WHEREAS, the Board of Elections works in a bi-partisan manner, and

WHEREAS, the duties of Clerk/Assistant Machine Technicians represent the duties of two positions necessary for the Board of Elections, and

WHEREAS, the flexibility and scope of duties of Clerk/Assistant Machine Technician better serves the Board of Elections, now, therefore, be it

RESOLVED, that (2) Part time clerks at \$17,678 annually be abolished effective April 20, 2018, and be it further

RESOLVED, that (2) Full time Clerks/Assistant Machine Technician positions be created with benefits, non-union, Grade 60 effective April 23, 2018, and it be further

RESOLVED, that effective April 23, 2018, the two (2) positions of Clerk/ Machine Technicians, non-union hourly Job Grade 60, be moved into non-union hourly Job grade 61 at Steps 1-8, and be it further

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

**INCREASE APPROPRIATIONS:**

A.14.1450.000 71010.00.XXX	Positions	24,910
A.14.1450.000 71010.00.XXX	Positions	24,910

A.14.1450.000 71010.00.XXX	Positions	382
A.14.1450.000 78100.00	Retirement	3,628
A.14.1450.000 78200.00	FICA	1,527
A.14.1450.000 78300.00	Workers Comp	342
A.14.1450.000 78400.01	Health Insurance	25,208
A.14.1450.000 78400.05	HRA	2,975
A.14.1450.000 78800.00	Flex	1,092
A.14.1450.000 78700.00	Disability	100

**DECREASE APPROPRIATIONS:**

A.14.1450.000 71030.00 5016	Part Time	12,608
A.14.1450.000 71030.00 5030	Part Time	17,608
A.08.1990.000 74500.01	Contingency	54,788

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. CS-016-18**

From: Community Services and Administration Committee

Dated: April 17, 2018

**BUDGET MODIFICATION  
CREATE AND FILL**

WHEREAS, the County Clerk serves as agent for the New York State Commissioner of Motor Vehicles, and

WHEREAS, on behalf of the State of New York, the County Clerk is responsible for the operation and administration of three motor vehicle offices across Niagara County, and

WHEREAS, staffing at all three offices has been pared to minimal maintenance levels in response to budgetary concerns, and

WHEREAS, under normal conditions (as in 2017) the number of annual license renewals was 10,332, and

WHEREAS, in years 2018, 2019 and 2020 it is anticipated that our offices will be experiencing an average additional 22,400 license renewal transactions annually due to the 8-year license renewal cycle set by the State of New York, and

WHEREAS, the local revenue share realized from the additional transactions will average \$183,467 annually, and

WHEREAS, this influx is creating an unanticipated excessive workload, long lines, unrealistic customer wait times and security risks for both customers and staff, and

WHEREAS, it has been determined that additional staff will be necessary to address the needs of the customers, and

WHEREAS, the anticipated revenue realized from the increased volume of work will cover the personnel salary and associated costs, now, therefore, be it

**RESOLVED**, that the Niagara County Clerks Office be authorized to create and fill two (2) Permanent FTE Motor Vehicle Representatives, CSEA Job Group 5, Step 1, Salary Range \$17.78 - \$20.04 per hour, effective 05/01/2018, and be it further

RESOLVED, that the following budget modification be effectuated to the 2018 DMV A1411 Budget:

**INCREASE REVENUE:**

A.10.1410.103 41255.01	County Clerk Fees	\$70,752
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**INCREASE APPROPRIATIONS:**

A.10.1410.103 71010.00.XXX	Positions	\$21,905
A.10.1410.103 71010.00.XXX	Positions	\$21,905
A.10.1410.103 78100.00	Retirement	\$4,076
A.10.1410.103 78200.00	FICA	\$3,352
A.10.1410.103 78300.00	Worker's Comp	\$746
A.10.1410.103 78400.01	Medical Insurance	\$15,844
A.10.1410.103 78400.05	HRA	\$1,700
A.10.1410.103 78700.00	Disability	\$104
A.10.1410.103 74650.11	Physical Exams	\$392

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. CS-016-18**

From: Community Services and Administration Committee

Dated: April 17, 2018

**INCREASE IN SPECIE FUND  
COUNTY CLERK DMV OFFICES**

WHEREAS, the New York State Vehicle and Traffic Law denotes the responsibility of operating a Department of Motor Vehicles to 51 Counties through their respective County Clerks, and

WHEREAS, local DMV offices are charged with ensuring effective office operation and compliance with applicable regulations and departmental procedures, and

WHEREAS, offices process and collect revenues for various license and registration transactions, as well as various sales and automobile use taxes, and

WHEREAS, it has been determined that in order to continue the proper functioning of audit controls associated with these transactions, it will be necessary to provide additional monies in the specie fund of each office for proper cashing of cash and coin transactions, now, therefore, be it

RESOLVED, that the sum of \$700.00 be added to the current specie fund of each DMV Office, and be it further

RESOLVED, that \$1,400.00 be authorized as the maximum limit for each specie fund, and be it further

RESOLVED, that the following line item transfer be effectuated immediately:

**FROM:**

A.1200.10	Cash-M&T General Depository	\$2,100.00
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**TO:**

A.210.02	Petty Cash – County Clerk	\$2,100.00
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Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. CSS-029-18**

From: Community Safety & Security and Administration Committee

Dated: April 17, 2018

**2018 BUDGET MODIFICATION - FIRE COORDINATOR'S OFFICE  
HAZ-MAT INCIDENT PAYMENT**

WHEREAS, the County Haz-Mat team responded to an incident on February 16, 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 \$7,098.88, 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	\$ 7,098.88
	Reimbursements	

**INCREASE APPROPRIATION:**

A.19.3410.000 74750.10	Supplies, Gen Hazmat Inventory	\$ 7,098.88
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Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. CSS-030-18**

From: Community Safety & Security and Administration Committee

Dated: April 17, 2018

**MASIELLO MARTUCCI CALABRESE AND ASSOCIATES AWARD  
TO PROVIDE NIAGARA COUNTY HOMELAND SECURITY  
CONSULTING AND LOBBYING SERVICES**

WHEREAS, RFP #2015-60 was issued by Niagara County for Homeland Security Consulting and Lobbying Services, and

WHEREAS, in 2016 Masiello Martucci Calabrese and Associates (MMCA) was awarded a contract to develop strategy for securing the future of the Niagara Falls Air Reserve Station (NFARS) by continuing their participation and involvement in a special working group of county elected and business leaders to retain the base and expand its mission at federal and state levels, and

WHEREAS, MMCA pursued leads of new sources of funding for planning, training and equipment in response to the increased threat of domestic terrorism as it relates to Niagara County's local major power generation plants, fuel storage and distribution facilities, and chemical manufacturers, and

WHEREAS, MMCA drafted policy summary memos that County officials required and requested, and

WHEREAS, MMCA worked with and reported to the Niagara County Legislature/CSS Committee on a regular basis and submitted a Monthly Activity Report to the County Manager for the length of this contract, and

WHEREAS, the County desires to issue a Request for Proposals for the work that MMCA has performed, and

WHEREAS, until such time as the RFP process is completed, it is the desire of the County to continue to have these same services provided by MMCA on a month-to-month basis, funding is available in the Emergency Management (3640) budget, now, therefore, be it

RESOLVED, that the County enter into an agreement with Masiello Martucci Calabrese and Associates in an amount not to exceed a fixed monthly fee of \$5,000 plus travel expenses to provide consulting and lobbying services to Niagara County on a month-to-month basis unless sooner terminated by the County, and be it further

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

RESOLVED, that the Chair of the County Legislature be, and hereby is, authorized to execute the contract.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. CSS-031-18**

From: Community Safety & Security and Administration Committee

Dated: April 17, 2018

**NIAGARA COUNTY SHERIFF'S OFFICE**

**BUDGET MODIFICATION – COMPLEX COORDINATED TERRORISM ATTACK GRANT**

WHEREAS, the Niagara County Sheriff's Office has been awarded \$29,700 as part of a Complex Coordinated Terrorism Attack Grant for the performance Period of March 1, 2018 through August 31, 2020, and

WHEREAS, the Complex Coordinated Terrorism Attack Grant is a cooperative grant for the BEN UASI region, and

WHEREAS, the Niagara County Sheriff's Office participation in this grant will enhance the preparedness of Niagara County for the safety of its citizens, and

WHEREAS, the 2018 budget will need to be modified to allow for these funds to be used, now, therefore, be it

RESOLVED, that the following line item transfers be effectuated:

**INCREASE REVENUE:**

A.17.3645.000.44305.02	Civil Defense Homeland Security	\$29,700
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**INCREASE APPROPRIATIONS:**

A.17.3645.000.71050.00	Overtime Expense	\$24,750
A.17.3645.000.78100.00	Retirement Expense	2,637
A.17.3645.000.78200.00	FICA Expense	1,893
A.17.3645.000.78300.00	Worker's Compensation Expense	420

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. CSS-032-18**

From: Community Safety & Security and Administration Committee

Dated: April 17, 2018

**NIAGARA COUNTY SHERIFF'S OFFICE-BUDGET MODIFICATION  
TOWN OF PENDLETON TRAFFIC ENFORCEMENT**

WHEREAS, the Niagara County Sheriff's Office has been contacted by the Town of Pendleton requesting an enhanced police protection focusing on additional traffic enforcement, and

WHEREAS, the Town of Pendleton would like to pay the Niagara County Sheriff's Office for a total of four(4) shifts of four(4) hours each involving a Deputy Sheriff dedicated to Town of Pendleton traffic enforcement through June 2018, and

WHEREAS, an agreement with the Town of Pendleton will need to be reached and the 2018 budget revised to include the revenue and expense, and

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

RESOLVED, that the County of Niagara enter into an agreement with the Town of Pendleton for the provision of additional patrol for traffic enforcement , 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 agreement with the County of Orleans, and be it further

RESOLVED, that the 2018 budget be revised as follows

**INCREASE REVENUE:**

A.17.3110.000.42210.01	General Services, Other Gov General	\$984
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**INCREASE APPROPRIATIONS:**

A.17.3110.000.71050.00	Overtime expense	\$766
A.17.3110.000.78100.00	Retirement expense	146
A.17.3110.000.78200.00	FICA Expense	59
A.17.3110.000.78300.00	Worker's Compensation	13

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. CSS-033-18**

From: Community Safety & Security and Administration Committee

Dated: April 17, 2018

**NIAGARA COUNTY SHERIFF'S OFFICE BACK UP CENTER CHANGE ORDER NO. 2**

WHEREAS, by Resolution No. CSS-054-17, dated October 17, 2017 the Legislature awarded the contract for the Niagara County Sheriff's Office Back Up Center to Collectric Electrical, LLC, 6615 Towpath Road, E. Syracuse, New York 13057 for a contract amount of \$284,900.00, and

WHEREAS, by Resolution No. CSS-070-17, dated November 21, 2017 the Legislature increased that contract by \$15,599.00 for a total contract amount of \$300,499.00, and

WHEREAS, it is necessary to increase the contract in the amount of \$2,784.71 for a revised contract amount of \$303,283.71, 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 Change Order No. 2 increase the contract by \$2,784.71 for the Niagara County Sheriff's Office Back Up Center to Collectric Electrical, LLC, for a revised contract amount of \$303,283.71 to Collectric Electrical, LLC, 6615 Towpath Road, E. Syracuse, New York 13057, be approved, 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 – Collins and McNall

**Resolution No. ED-006-18 was withdrawn.**

**Resolution No. ED-007-18**

From: Economic Development Committee

Dated: April 17, 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  
FOR A PERIOD OF SEVEN MONTHS**

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 April 17, 2018 at 6:45 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, 0 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 May, 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 May 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 May 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 May 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 choses 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 seven (7) month period, from May 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 – Collins and McNall

**Resolution No. IF-042-18**

From: Infrastructure & Facilities and Administration Committees.

Dated: April 17, 2018

**RESOLUTION AUTHORIZING THE NIAGARA COUNTY ENVIRONMENTAL COORDINATOR  
TO SIGN AND ENTER INTO ORDER ON CONSENT NO. R9-20010213-12 WITH THE  
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
PERTAINING TO CLOSURE AND POST-CLOSURE REQUIREMENTS  
IN REGARDS TO LANDFILL NO. 1 LOCATED ATRICHFIELD STREET IN THE  
CITY OF LOCKPORT, NEW YORK IN THE COUNTY OF NIAGARA – A SOLID WASTE  
MANAGEMENT FACILITY OWNED AND CONTROLLED BY THE  
NIAGARA COUNTY REFUSE DISPOSAL DISTRICT**

WHEREAS, by proceedings heretofore duly had and taken pursuant to Article 5-A of the County Law, the County Legislature of the County of Niagara, New York, has established a County Refuse Disposal District designated and known as the Niagara County Refuse Disposal District (hereinafter referred to as "NCRDD"), and

WHEREAS, the NCRDD Landfill No. 1 was constructed in a mined area of a former rock quarry and began operation in June 1969, and

WHEREAS, the twenty (20) acre landfill accumulated more than 700,000 tons of municipal and commercial waste and was ordered to cease operation in 1983 by the New York State Department of Environmental Conservation (hereinafter referred to as "NYSDEC"), and

WHEREAS, NCRDD entered into Order on Consent No. R9-2539-88-07 with NYSDEC in 1989 which Order on Consent set forth various closure and post-closure requirements for Landfills No. 1 and No. 2 to be implemented after acceptance of waste ceased in Landfill No. 1 on before October 1, 1989, and

WHEREAS, despite NCRDD's multiple concerted best efforts and ongoing consistent cooperation to comply with the remedial, closure, and post-closure requirements set forth in Order on Consent No. R9-2539-88-07 and with NYSDEC's solid waste regulations in an attempt to stabilize Landfill No. 1, the NYSDEC in 1998 communicated their significant environmental concerns related to Landfill No. 1 and required NCRDD to take various additional remedial actions to Landfill No. 1, and

WHEREAS, NCRDD was cognizant of the potentially onerous costs associated with the implementation of the aforementioned remedial actions to Landfill No. 1 and, therefore, NCRDD explored various options to minimize the costs, and potentially recover a portion of the costs, associated with the performance of the required remedial actions to Landfill no. 1, and

WHEREAS, NCRDD filed a petition with the NYSDEC seeking a reclassification of Landfill No. 1 in an effort to secure a greater percentage of grant reimbursement expenses from New York State, and thereby, potentially minimize the costs of the required remedial actions to Landfill No. 1, and

WHEREAS, NYSDEC denied NCRDD's petition to reclassify Landfill No. 1 on December 31, 2007, and

WHEREAS, NCRDD pursued an Article 78 proceeding against NYSDEC in a further effort to resolve the aforementioned deficiencies cited by NYSDEC at Landfill No. 1, and

WHEREAS, said Article 78 proceeding was adjourned by the New York Attorney General conditioned upon NCRDD submitting a work plan detailing proposed actions and remedial solutions in an attempt to alleviate all the site deficiencies documented by NYSDEC at Landfill No. 1, and

WHEREAS, on June 29, 2010, NYSDEC issued a draft Order on Consent requiring NCRDD to address the site deficiencies at Landfill No. 1 with said Order on consent detailing the remedial, closure, and post-closure actions to be taken by NCRDD and further stating the respective time periods in which said actions were to be completed, and

WHEREAS, NCRDD began to systematically implement the remedial, closure, and post-closure actions in January 2013 in an attempt to fully comply with all the terms of the Order on Consent, including, but not limited to, historical review of groundwater trends, completion of preliminary Groundwater Impact Assessment, and installation of additional monitoring points per the NYSDEC approved work plan, and

WHEREAS, despite NCRDD's ongoing and consistent cooperation and best efforts to comply with the closure and post-closure requirements set forth in order on consent No. R9-2539-88-07 and in NYSDEC's solid waste regulations, subsequent new information has necessitated that additional closure and post-closure measures be implemented at Landfill No. 1, and

WHEREAS, pursuant to the subsequent new information necessitating that additional closure and post-closure measures be implemented a Landfill No. 1, several extensive negotiations were conducted between the Niagara County Environmental Coordinator Dawn Timm on behalf of NCRDD, representatives from engineering firm CHA consulting, Inc., and with representatives from NYSDEC concerning the historical documented deficiencies from Landfill No. 1, and

WHEREAS, the Niagara County Environmental Coordinator Dawn Timm on behalf of NCRDD and representatives from the engineering firm CHA Consulting, Inc., vigorously and determinedly pursued closure and post-closure measures during the above-referenced negotiations that would not only address and remediate the documented deficiencies at Landfill No. 1, but would be the most cost efficient measures, and

WHEREAS, various meetings were held at different stages of the aforementioned negotiations with NYSDEC by and between the Niagara County Environmental Coordinator Dawn Timm, the County Manager, attorneys from Niagara County Attorney's Office, representatives from the Niagara County Public Works Department, and representatives from the engineering firm CHA Consulting, Inc. to inform said individuals of the progress and results of said negotiations and to obtain their input and recommendations, and

WHEREAS, pursuant to the aforementioned meetings and input from the above-referenced individuals, NCRDD agreed in principle with the NYSDEC to the terms of Order on Consent No. R9-20010213-12 with attached and incorporated schedule A on March 13, 2018 which includes, but is not limited to, the installation of one additional monitoring well, installation of one permanent landfill gas monitoring probe, closure plans including the installation of leachate collection system and upgraded final cover system, and encapsulation of the waste buried outside the western portion of the landfill, and

WHEREAS, the aforementioned closure and post-closure measures contemplated by Order on consent No. R9-20010213-12 with attached and incorporated Schedule A are estimated to cost approximately 4.5 million dollars, and

WHEREAS, part of the strategy to tailor the terms of Order on Consent No. R9-20010213-12 with attached and incorporated Schedule A as to minimize the cost to NCRDD, the said terms permit NCRDD to seek reimbursement of fifty percent (50%) of the above-referenced 4.5 million dollars from the NYS Landfill Closure Grant, and

WHEREAS, based upon the foregoing negotiations and considerations, input from Niagara County Environmental Coordinator Dawn Timm, the County Manager, attorneys from the Niagara County Attorney's Office representatives from the Niagara County Public works Department, and representatives from the engineering firm CHA Consulting, Inc., it is deemed advisable for Niagara County Environmental Coordinator Dawn Timm on Behalf of NCRDD to be authorized to sign and enter into Order on Consent No. R9-20010213-12 with attached and incorporated Schedule A with NYSDEC, now, therefore, be it

RESOLVED, after review and approval by the Niagara County Attorney's Office, Niagara County Environmental Coordinator Dawn Timm as Director of said NCRDD and on behalf of said NCRDD, be authorized by the Niagara County Legislature forthwith to sign and enter in to Order on Consent No. R9-20010213-12 with attached and incorporated Schedule A with the Commissioner, New York State Department of Environmental Conservation.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

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

From: Infrastructure & Facilities Committee

Dated: April 17, 2018

### **BID AWARD FOR HIGHWAY MATERIALS**

WHEREAS, specifications for the 2018 Highway Maintenance Program have been prepared by the Highways, Bridges & Structures Division of the Department of Public Works, and

WHEREAS, the Purchasing Department advertised for bids and publicly opened and read bids on March 27, 2018, and

WHEREAS, the New York State Department of Audit and Control, has, in the past, requested the Purchasing Agent to refer the results of the bid to the Niagara County Legislature for its approval, and

WHEREAS, the Public Works Committee has examined and found the bids acceptable, and

WHEREAS, the bids have traditionally been used or made available to all the Niagara County municipalities, and

WHEREAS, funds are available in the 2018 budget of the Department of Public Works, now, therefore, be it

RESOLVED, that the below bids, as outlined on the result sheets, be awarded to the respective lowest responsible bidder, and be it further

RESOLVED, that the Commissioner of Public Works is authorized to purchase the required materials from the bid awards, and be it further

RESOLVED, that copies of the bid results be distributed to the Niagara County municipalities for their use.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. IF-044-18**

From: Infrastructure & Facilities Committee

Dated: April 17, 2018

**AWARD OF CONTRACT - COUNTY ROAD PAINTING AND STRIPING**

WHEREAS, the Department of Public Works, Division of Highways, Bridges & Structures has prepared specifications and the Niagara County Purchasing Department has advertised for bids for painting traffic lines on county roads, and

WHEREAS, funds are available in the 2018 budget of the Highways, Bridges & Structures Division of the Department of Public Works, and

WHEREAS, the following bids were publicly opened and read by our Purchasing Department on March 27, 2018, and tabulated below:

Waterborne Paint Application	Price Per Mile Of Centerline	Price Per Mile Of Edge Line
1. Seneca Pavement Marking Inc. 3526 Watkins Road Horseheads, NY 14845	\$296.00	\$176.00
2. Accent Stripe, Inc. 3275 N. Benzing Road Orchard Park, NY 14127	\$322.90	\$197.90

and

WHEREAS, the Public Works Committee has examined the bid, 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 painting traffic lines on County roadways be awarded to the lowest responsible bidder, Seneca Pavement Marking Inc., 3526 Watkins Road, Horsehead, NY 14845, 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 – Collins and McNall

**Resolution No. IF-045-18**

From: Infrastructure & Facilities Committee

Dated: April 17, 2018

**AWARD OF CONTRACT FOR CONTROL OF ROADSIDE VEGETATION**

WHEREAS, the Commissioner of Public Works prepared specifications and the Niagara County Purchasing Department advertised for bids for the chemical weed control of roadside vegetation on County roadways, and

WHEREAS, funds are available in the 2018 budget of the Department of Public Works, and

WHEREAS, the Purchasing Department advertised for bids and publicly opened and read bids on March 27, 2018, and

	Guide Railing Per Side Mile	Vegetation Control Per Gal. Mat. Applied
1. DeAngelo Brothers, LLC 100 N. Conahan Drive Hazleton, PA 18201	\$21.89	\$0.69
2. Allen Chase Enterprises, Inc. 24 County Route 1A Oswego, NY 13126	\$23.75	\$1.15

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 roadside vegetation control be awarded to DeAngelo Brothers, LLC, 100 N. Conahan Drive, Hazleton, PA 18201, and be it further

RESOLVED, that 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 – Collins and McNall

**Resolution No. IF-046-18**

From: Infrastructure & Facilities Committee

Dated: April 17, 2018

**AWARD BRIDGE NEW YORK CONSULTANT CONTRACT - 2018**

WHEREAS, the Department of Public Works evaluated proposals from pre-qualified consulting engineering firms to assist the County with developing and preparing applications for two (2) bridge and three (3) culvert projects for Bridge New York for 2018, 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 for developing and preparing applications for two (2) bridge and three (3) culvert projects for Bridge New York for 2018 be awarded to CHA Consulting Inc., 2200 Main Place Tower, Buffalo, NY 14202, for a contract amount not to exceed \$17,000, 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 – Collins and McNall

**Resolution No. IF-047-18**

From: Infrastructure & Facilities Committee

Dated: April 17, 2018

**AWARD BRIDGE NEW YORK CONSULTANT CONTRACT - 2019**

WHEREAS, the Department of Public Works evaluated proposals from pre-qualified consulting engineering firms to assist the County with developing and preparing applications for two (2) bridge and three (3) culvert projects for Bridge New York for 2019, 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 for developing and preparing applications for two (2) bridge and three (3) culvert projects for Bridge New York for 2019 be awarded to Bergmann Associates, Inc., 280 East Broad Street, Suite 200, Rochester, NY 14604, for a contract amount not to exceed \$16,624, 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 – Collins and McNall

**Resolution No. IF-048-18**

From: Infrastructure & Facilities and Administration Committees

Dated: April 17, 2018

**TROTT BUILDING NORTHPOINTE RENOVATIONS PROJECT  
CONSULTANT AMENDMENT NO. 1**

WHEREAS, Resolution No. IF-004-17, dated February 21, 2017, authorized the contract for consultant services to assist the County with construction documents for the Trott Access Center to Foit Albert Associates, 763 Main Street, Buffalo, NY 14203, for a fee not to exceed \$49,089, and

WHEREAS, it is necessary to amend the contract to develop revised construction documents for rebid of a reduced project, cost estimate, and construction services, in the amount of \$48,113, for a revised contract amount of \$97,202, 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 \$48,113 for developing revised construction documents to Foit Albert Associates, 763 Main Street, Buffalo, NY 14203, for a fee not to exceed \$97,202, 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 – Collins and McNall

**Resolution No. IF-049-18**

From: Infrastructure & Facilities and Administration Committees

Dated: April 17, 2018

**CAPITAL BUDGET MODIFICATION  
UPGRADE OF FIRE/SECURITY PANELS**

WHEREAS, Resolution IF-090-16, dated September 22, 2016, awarded the contract for the upgrade of fire/security panels to Buffalo Security and Fire, PO Box 823, Buffalo, NY 14207, for a contract amount of \$144,200, and

WHEREAS, Resolution IF-109-17, dated August 1, 2017, approved Change Order No. 1 for the installation of a new central station receiver for an amount of \$5,876.00, for a revised contract amount of \$150,076.00, and

WHEREAS, the work for Change Order No. 1 has been completed and payment needs to be made for this work, and

WHEREAS, additional funds are required, now, therefore, be it

RESOLVED, that the following budget modification be effectuated:

DECREASE REVENUE		
H611.15.1620.000.45031.10	Transfer from Capital	\$1,446
DECREASE APPROPRIATIONS		
H611.15.1620.000.72200.01	Building Improvements	\$1,446
INCREASE REVENUE		
H636.15.1620.000.45031.10	Transfer from Capital	\$1,446
INCREASE APPROPRIATIONS		
H636.15.1620.000.72200.01	Building Improvements	\$1,446

Moved by Bradt, seconded by Virtuoso.  
Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. IF-050-18**

From: Infrastructure & Facilities Committee

Dated: April 17, 2018

**STATE ENVIRONMENTAL QUALITY REVIEW ACT  
NOTICE OF DETERMINATION OF NON-SIGNIFICANCE  
ENERGY PERFORMANCE CONTRACT**

WHEREAS, the Legislature has considered the Energy Performance Contract Project scope and reviewed the criteria set forth in 617.5 Type II Actions, in order to determine whether the Project will have a significant effect on the environment, and

WHEREAS, the proposed Energy Performance Contract Project has been determined to meet the criteria for a Type II Action, and does not have a significant impact on the environment under Environmental Conservation Law, article 8, and is not subject to review, and

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

RESOLVED, that based upon the information set forth in 617.5 Type II Actions, the Niagara County Legislature hereby determines that there will be no significant environmental impacts with regard to the Energy Performance Contract Project, and the Project is not subject to review under this part, and be it further

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

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. IF-051-18**

From: Infrastructure & Facilities and Administration Committees

Dated: April 17, 2018

**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, the energy audit has suggested several facility improvement projects for the County's office buildings for review by the Department of Public Works, and

WHEREAS, the Department of Public Works is recommending the implementation of fifty-two (52) facility improvement projects, with an estimated value of \$6,647,851, 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 JW Danforth, 930 Old Dutch Road, Victor, NY 14564, be awarded the contract to implement the fifty-two (52) facility improvements projects, in the amount of \$6,647,851, 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 Hill, seconded by Zona to make amendment to the resolution.

Amendment:

Change in the second RESOLVED clause "...required document, and be it further..."

Addition of third RESOLVED clause "RESOLVED, that the following the Chairman of the Legislature's execution of the required documents, the Chief Fiscal Officer is hereby authorized to secure financing for the energy performance contract."

Carried.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. IF-052-18**

From: Infrastructure & Facilities Committee

Dated: April 17, 2018

**CAPITAL PROJECT BUDGET MODIFICATION  
PARKS EQUIPMENT**

WHEREAS, the County Parks Department is responsible for 1,143 acres of parkland, and

WHEREAS, the department has experienced an equipment failure, which is not economically prudent to repair, now, therefore, be it

RESOLVED, that the following budget modification be effectuated:

**INCREASE APPROPRIATED FUND BALANCE**

AH 40511.00	Appropriated Capital Reserve	\$81,103
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**INCREASE APPROPRIATIONS**

AH.07.9950.000.79010.00	Transfer to Capital Projects	\$81,103
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**INCREASE ANTICIPATED REVENUE:**

H658.15.7110.000.45031.10	Interfund Transfers – From Capital Reserve	\$81,103
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**INCREASE ANTICIPATED EXPENSES:**

H658.15.7110.000.72100.10	Machinery and Equipment	\$81,103
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Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. IF-053-18**

From: Infrastructure & Facilities Committee

Dated: April 17, 2018

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND THE KRULL OLCOTT  
DEVELOPMENT COMMITTEE AND OLCOTT FIRE COMPANY**

WHEREAS, the Krull Olcott Development Committee and the Olcott Fire Company have requested that the County of Niagara grant them permission to use the north section of Krull Park for the purpose of holding a Pirate's Festival, and

WHEREAS, this Festival has been successful for the past several years in attracting thousands of visitors from across Niagara County and Greater Western New York, and

WHEREAS, it is the wish of the local community to hold the Pirate's Festival on July 6 through July 8, 2018, and

WHEREAS, the event coordinator will provide all insurances required by the Risk Management Office, and agree to cover all extraordinary expenses associated with event, and

WHEREAS, it is the desire of Niagara County to enter into a formal agreement with the Krull Olcott Development Committee and the Olcott Fire Company, and

WHEREAS, prior to the execution of the license agreement between the County of Niagara and the Krull Olcott Development Committee and the Olcott Fire Company, the County Attorney will review said Agreement for approval as to legal form, language and compliance, now, therefore, be it

RESOLVED, that following the County Attorney's review, the Chair of the County Legislature be, and hereby is, authorized to execute the license agreement between the County of Niagara and the Krull Olcott Development Committee and the Olcott Fire Company.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. IF-053-18**

From: Infrastructure & Facilities Committee

Dated: April 17, 2018

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA  
AND THE OLCOTT FIRE COMPANY SOFTBALL LEAGUE**

WHEREAS, the Olcott Fire Company Softball League has requested that the County of Niagara grant them permission to use existing ball fields in an area situated in the eastern portion of Krull Park for the purpose of softball games, and

WHEREAS, this program benefits the residents of Niagara County as a whole, and

WHEREAS, such program is operated on a not-for-profit basis, and

WHEREAS, the event coordinator will provide all insurances required by the Risk Management Office, and agree to cover all extraordinary expenses associated with event, and

WHEREAS, it is the desire of Niagara to enter into a formal agreement with the Olcott Fire Company Softball League, and

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

RESOLVED, that the terms and conditions of the agreement between the County of Niagara and the Olcott Fire Company Softball League, as appears on the proposed agreement, is hereby approved in all respects, and be it further

RESOLVED, that following the County Attorney's review, the Chairman of the County Legislature be, and hereby is, authorized to execute the license agreement between the County of Niagara and the Olcott Fire Company Softball League.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. IF-055-18**

From: Infrastructure & Facilities Committee

Dated: April 17, 2018

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND THE NEWFANE YOUTH  
FOOTBALL LEAGUE AND CHEERLEADING**

WHEREAS, the Newfane Youth Football League and Cheerleading has requested that the County of Niagara grant them exclusive rights to operate a football program in an area situated in the County owned property on Lake Road, and

WHEREAS, this program benefits the youth and other residents of both the Town of Newfane in addition to Niagara County as a whole, and

WHEREAS, such program is operated on a not-for-profit basis, and

WHEREAS, the event coordinator will provide all insurances required by the Risk Management Office, and agree to cover all extraordinary expenses associated with event, and

WHEREAS, prior to the execution of the license agreement between the County of Niagara and the Newfane Youth Football League and Cheerleading, the County Attorney will review said agreement for approval as to legal form, language and compliance, and

WHEREAS, it is the desire of Niagara County to enter into a formal agreement with the Newfane Youth Football League, now, therefore, be it

RESOLVED, that the terms and conditions of the agreement between the County of Niagara and the Newfane Youth Football League and cheerleading, as appears on the proposed agreement, is hereby approved in all respects, and be it further

RESOLVED, that the Chairman of the Legislature is authorized and directed to execute and deliver the agreement with the Newfane Youth Football League and Cheerleading.

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. IF-056-18**

From: Infrastructure & Facilities Committee

Dated: April 17, 2018

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND**

## **THE NIAGARA FRONTIER CROSS COUNTRY CLUB**

WHEREAS, the Niagara Frontier Cross Country Club has requested that the County of Niagara grant them exclusive rights to operate a Cross Country program in an area situated in the County owned property at Bond Lake Park, and

WHEREAS, this program benefits the residents of the Town of Wheatfield in addition to Niagara County as a whole, and

WHEREAS, such program is operated on a not-for-profit basis, and

WHEREAS, the event coordinator will provide all insurances required by the Risk Management Office, and agree to cover all extraordinary expenses associated with event, and

WHEREAS, it is the desire of Niagara County to enter into a formal agreement with the Niagara Frontier Cross Country Club, and

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

RESOLVED, that the terms and conditions of the agreement between the County of Niagara and the Niagara Frontier Cross Country Club, as appears on the proposed agreement, is hereby approved in all respects, and be it further

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

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

### **Resolution No. IF-057-18**

From: Infrastructure & Facilities Committee

Dated: April 17, 2018

## **AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND THE LOCKPORT SOCCER CLUB**

WHEREAS, the Lockport Soccer Club has requested that the County of Niagara grant them exclusive rights to operate a Soccer program in an area situated in the County owned property on Davison Road, and

WHEREAS, this program benefits the youth and other residents of both the Town of Lockport in addition to Niagara County as a whole, and

WHEREAS, such program is operated on a not-for-profit basis, and

WHEREAS, the event coordinator will provide all insurances required by the Risk Management Office, and agree to cover all extraordinary expenses associated with event, and

WHEREAS, it is the desire of Niagara County to enter into a formal agreement with the Lockport Youth Soccer Club, and

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

RESOLVED, that the terms and conditions of the agreement between the County of Niagara and the Lockport Soccer Club, as appears on the proposed agreement, is hereby approved in all respects, and be it further

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

Moved by Bradt, seconded by Virtuoso.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. IL-016-18**

From: Legislators Wm. Keith McNall, Anthony J. Nemi and William J. Collins

Dated: April 17, 2018

**RESOLUTION IN SUPPORT OF FUNDING LOCKPORT IN BLOOM  
THROUGH THE USE OF CASINO FUNDING**

WHEREAS, Niagara County is in receipt of funds generated from the Seneca Niagara Casino, as per New York statute, and

WHEREAS, Lockport in Bloom is a not-for-profit organization, chartered in 2005, that promotes the beautification of Lockport by encouraging residents to share with others their beautiful and creative gardens, and

WHEREAS, by encouraging neighborhood beautification, Lockport in Bloom helps promote community pride by bringing people to the area to view the many beautiful gardens, and

WHEREAS, through their annual Garden Festival, Lockport in Bloom brings thousands of visitors to the City of Lockport to view the 40 plus gardens that are put on display every summer, and

WHEREAS, local businesses and restaurants benefit greatly from the increase in foot traffic that Lockport in Bloom generates throughout the City of Lockport, and

WHEREAS, Niagara County is interested in supporting efforts that generate increased revenue for businesses and create a sense of pride throughout the community, now, therefore, be it

RESOLVED, that Niagara County supports Lockport in Bloom as follows:

Lockport in Bloom	\$1,500.00
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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	\$1,500.00
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**INCREASE APPROPRIATIONS:**

A.28.8020.812 74400.15	Seneca Niagara Community Development Fund	\$1,500.00
Referred to Economic Development Committee		

**Resolution No. IL-017-18**

From: Legislators John Syracuse and Dennis F. Virtuoso

Dated: April 17, 2018

**RESOLUTION URGING GOVERNOR CUOMO AND THE STATE LEGISLATURE TO AMEND  
STATE INSURANCE LAW TO ALLOW SHARED MUNICIPAL HEALTH INSURANCE  
CONSORTIUMS**

WHEREAS, health insurance costs are among the fastest growing costs for local governments across the state, and

WHEREAS, to address this challenge, counties are reviewing options to create municipal health insurance consortiums to jointly self-fund their health plans with other local governments at a significantly lower cost for taxpayers, and

WHEREAS, these plans would reduce costs for taxpayers and increase flexibility while ensuring quality coverage for counties, municipalities, and local government employees, and

WHEREAS, many local governments across the state would like to become part of their county's self-insured plan, and

WHEREAS, in order to lower health insurance costs for property taxpayers, these consortiums need to be allowed to purchase stop-loss insurance to cover the most serious and costly injuries and sickness, and

WHEREAS, Governor Andrew M. Cuomo is strongly encouraging local governments to pool resources, share services, and consolidate operations to improve efficiency and reduce costs to taxpayers, and

WHEREAS, whenever two or more local governments want to join forces to provide employee health insurance, Article 47 of the Insurance Law is triggered, and

WHEREAS, the onerous regulations and reserve requirements of Article 47 have allowed only one consortium to form since 1991, and

WHEREAS, current State Insurance Law §§ 4237-a and 3231 prohibits local governments with fewer than 100 employees from purchasing stop-loss insurance policies, and

WHEREAS, these State laws represent significant barriers to local government efficiency, shared services cost savings for property taxpayers, and

WHEREAS, counties have on numerous occasions asked the state to review its current legal and regulatory requirements that allow counties to establish shared health insurance risk pools help lower costs for local governments, and

WHEREAS, recent state legislation would have authorized municipalities to join county self-funded or self-insured health plans without triggering the barriers presented by these onerous state laws, now, therefore, be it further

RESOLVED, that the Niagara County Legislature does hereby urge Governor Andrew M. Cuomo and the state Legislature to amend State Insurance Law to make it easier to form municipal health insurance consortiums and allow these consortiums to include local governments with fewer than 100 employees to purchase stop-loss health insurance policies, 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, Senator Robert G. Ort, Assemblyman Angelo Morinello, Assemblyman Michael J. Norris and others deemed necessary and proper.

Moved by Syracuse, seconded by Bradt, to implement the portion of Rule 15 that pertains to voting on a resolution as opposed to referring it to committee.

Carried

Moved by Syracuse, seconded by Bradt.

Adopted. 13 Ayes, 0 Noes, 2 Absent – Collins and McNall

**Resolution No. IL-018-18**

From: Legislator Clyde L. Burmaster

Dated: April 17, 2018

**RESOLUTION THANKING SENATOR ROBERT G. ORTT FOR HIS OPPOSITION  
TO EXPANSION OF CWM CHEMICAL WASTE LANDFILL AND ENDORSING FULLY HIS  
POSITION AS EXPRESSED IN HIS LETTER TO NYSDEC**

WHEREAS, CWM Chemical Services, a subsidiary of Waste Management, has sought to expand its chemical waste landfill acreage by 43.5 acres via construction of Residual Management Unit 2, RMU-2, and

WHEREAS, the Department of Environmental Conservation did seek public comment on the proposed construction of the RMU-2 chemical waste landfill site, and

WHEREAS, the Honorable Robert G. Ort, Senator for the 62nd District, did transmit a letter on February 8 of this year to the New York State Department of Environmental Conservation expressing his opposition to the expansion of the RMU-2, and his concern said expansion would result in “environmental stress,” and

WHEREAS, Senator Ort did state, “I believe that I state for every resident of Niagara County when I say that enough is enough. Once the original CWM landfill reached capacity, residents were relieved that this chapter was behind them,” and

WHEREAS, Senator Ort further stated “I ask you to please reject this application with the understanding that Niagara County repeatedly held up its bargain in environmental issues and waste—it is time for another community to step forward,” and

WHEREAS, the Niagara County Legislature has repeatedly endorsed efforts to block the development of the RMU-2 chemical waste landfill site, including through funding litigation, now, therefore be it

RESOLVED, that the Niagara County Legislature does hereby endorse and applaud the position taken by Senator Ort to oppose the CWM Landfill expansion, and be it further

RESOLVED, that the Niagara County Legislature does hereby direct that this resolution stating our endorsement of Senator Ort’s position in opposition of CWM expansion be forwarded to the New York State Department of Environmental Conservation, and specifically to the Honorable James T. McClymonds, Chief Administrative Law Judge, New York State DEC Office of Hearings and Mediation Services, and be it further

RESOLVED, that the Niagara County Legislature does hereby reiterate its opposition to CWM’s expansion plans, and be it further

RESOLVED, that the County of Niagara shall forward copies of this Resolution to Governor Andrew M. Cuomo, Senate Temporary President John J. Flanagan, Senator Robert G. Ort, Member of the Assembly Michael J. Norris, Member of the Assembly Angelo J. Morinello, Member of the Assembly Ray Walter, Member of the Assembly Robin Schimminger, Judge James T. McClymonds, Mr. Gary Abraham, Esq., and all others deemed necessary and proper..

Moved by Burmaster, seconded by Wydysh to make amendment to the resolution.

Amendment:

Deletion in the fifth WHEREAS clause "...it is time for community to step forward..."

Carried.

Moved by Burmaster, seconded by Wydysh, to implement the portion of Rule 15 that pertains to voting on a resolution as opposed to referring it to committee.

Carried.

Moved by Burmaster, seconded by Wydysh on the resolution as amended.

Adopted. 13 Ayes, 0 Noes, 2 Absent –Collins & McNall

Appointments:

	<u>Appt.</u>	<u>Expires</u>
<b><u>COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY COMMITTEE:</u></b>		
Kathryn L. Lance, Chair, Economic Development Committee 2985 Krueger Rd., North Tonawanda 14120	04/17/18	12/31/18
Michael A. Casale, Deputy Commissioner (replaces Samuel Ferraro) Vantage Ctr., 6311 Inducon Corp Dr., Sanborn 14132	04/17/18	12/31/18
William J. Collins, Niagara County Legislature 5913 Beattie Ave., Lockport 14094	04/17/18	12/31/18
Kevin MacDonald, Asst. Supt. Orleans-Niagara BOCES, 3181 Saunders Settlement Rd., Sanborn 14132	04/17/18	12/31/18
Lynn Oswald, Dir., Small Business Development Ctr. NCCC, 3111 Sauders Settlement Rd., Sanborn 14132	04/17/18	12/31/18
Brian Smith, Director, Community Development, City of Lockport One Locks Plaza, Lockport 14094	04/17/18	12/31/18
Paul E. Brown 1065 Walck Rd., North Tonawanda 14120	04/17/18	12/31/18
Kory Schuler, Executive Director, Niagara USA Chamber of Comm. Vantage Ctr., 6311 Inducon Corp Dr., Sanborn 14132	04/17/18	12/31/18
Don MacSwan , Supervisor, Town of Wheatfield 2800 Church Rd., North Tonawanda 14120	04/17/18	12/31/18
Cathy Oddo, Ex. Dir., Chamber of Comm. of the Tonawandas 254 Sweeny St, North Tonawanda 14120	04/17/18	12/31/18
Michael Zimmerman, North Tonawanda Community Development City Hall, 216 Payne Ave., No Tonawanda 14120	04/17/18	12/31/18
James Bittner 7171 East Lake Road, Appleton 14008	04/17/18	12/31/18
Donald Jablonski , Employment & Training Trott ACCESS Ctr., 1001 11th St., Niagara Falls 14301	04/17/18	12/31/18
Anthony Restaino, Commissioner of Social Services 20-40 East Ave., Lockport 14094	04/17/18	12/31/18
George Helfrich, Human Energies 18 Millar Pl., Lockport 14094	04/17/18	12/31/18
Wright Ellis, Supervisor, Town of Cambria 4160 Upper Mountain Rd., Sanborn 14132	04/17/18	12/31/18

Lee Wallace, Supervisor, Town of Niagara 7105 Lockport Rd., Niagara Falls 14305	04/17/18	12/31/18
Cathy Lovejoy Maloney, Cornell Cooperative Extension 4487 Lake Ave., Lockport 14094	04/17/18	12/31/18
Jerald Wolfgang, Dir., WNY Regional Education Center 355 Harlem Rd., West Seneca 14224	04/17/18	12/31/18
Thomas Weeks, Grand Island Transit Corp. 5355 Junction Rd., Lockport 14094	04/17/18	12/31/18
John Butcher, Summit Print & Mail 6042 Old Beattie Rd., Lockport 14094	04/17/18	12/31/18
Seth Piccirillo, Community Development, City of Niagara Falls City Hall, PO Box 69, Niagara Falls 14302-0069	04/17/18	12/31/18
Tom Tedesco, NF EDZ City Hall, PO Box 69, Niagara Falls 14302-0069	04/17/18	12/31/18
Tom DeSantis, NFC Development Corp. 1022 Main St., PO Box 69, Niagara Falls 14302-0069	04/17/18	12/31/18
Erik M. Solomon, National Fuel Gas Distribution Corp. Headquarters 6363 Main St., Williamsville 14221-5887	04/17/18	12/31/18
Paul Dyster, Mayor, City of Niagara Falls City Hall, PO Box 69, Niagara Falls 14302-0069	04/17/18	12/31/18
Andrea Klyczek, Director of Marketing, Niagara County IDA 6311 Inducon Corporate Dr., Sanborn 14132	04/17/18	12/31/18
Robert F. Bilson 9918 Cayuga Dr., Niagara Falls 14304	04/17/18	12/31/18
Daryl Bodewes 2462 Woodthrush Court, Niagara Falls 14304	04/17/18	12/31/18

Ex-officio:

Hon. Robert Ortt, State Senator, 175 Walnut St., Suite 6, Lockport 14094  
Hon. Angelo Morinello, Assemblyman, 800 Main St., Suite 2C, Niagara Falls 14301  
Hon. Michael Norris, Assemblyman, 8180 Main St., Clarence 14221  
Hon. Robin Schimminger, Assemblyman, 3514 Delaware Ave., Kenmore 14217  
Hon. Raymond Walter, Assemblyman, 5555 Main St., Williamsville 14221  
Hon. Chris Collins, Congressman, 2813 Wehrle Dr., Suite 13, Buffalo, 14221  
Hon. Brian Higgins, Congressman, 726 Exchange Street, Suite 601, Buffalo, 14120  
Christopher Schoepflin, Empire State Development Corp., 95 Perry St., Suite 500, Buffalo 14203  
Richard Updegrave County Manager, 59 Park Ave., Lockport 14094  
Moved by Bradt, seconded by Virtuoso.  
Carried

Moved by Bradt, seconded by Andres that the Board adjourn.

The Chairman declared the Board adjourned at 8:27p.m., subject to the call of the Clerk.

0citizen spoke at this time on the General Welfare of the County.

*Mary Jo Tamburlin*  
Mary Jo Tamburlin, Clerk

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