

AGENDA
NIAGARA COUNTY LEGISLATURE
FEBRUARY 21, 2012 – 7:00 P.M.


Resolutions not on previous agenda:

CS-002-12 Community Services & Administration, re Budget Modification – Acceptance of Banfield Charitable Pet Food Grant – Aging

Regular Meeting – February 21, 2012

- *AD-004-12** Administration, re Authorizing Niagara County to Renew Contract with Masiello, Martucci, Calabrese & Associates for Homeland Security Consulting & Lobbying Services – County Manager
- *CS-003-12** Community Services & Administration, re Budget Modification – Cancer Services Program – Public Health
- *CS-004-12** Community Services & Administration, re Budget Modification – Children with Special Needs Division – Public Health
- *CS-005-12** Community Services & Administration, re Budget Modification – Accept COLA Funds – Public Health
- *CS-006-12** Community Services & Administration, re Budget Modification – Carry Balance of Regional Grant – Emergency Planning Program – Public Health
- *CS-007-12** Community Services & Administration, re Abolish & Create Positions – DSS
- *CSS-008-12** Community Safety & Security & Administration, re Homeland Security Grant Interoperable & Emergency Communications Award – Sheriff
- *CSS-009-12** Community Safety & Security, re Niagara Regional Traffic Safety Program – Sheriff
- *CSS-010-12** Community Safety & Security & Administration, re Budget Modification – Niagara County Emergency Management – Sheriff
- *ED-001-12** Economic Development & Administration, re Budget Modification – Reappropriate Grant Funds Brownsfield Petroleum Assessment

- ***ED-002-12** Economic Development & Administration, re Budget Modification – Reappropriate Grant Funds Brownsfield Revolving Fund
- ***ED-003-12** Economic Development & Administration, re Budget Modification – Reappropriate Grant Funds Brownfields ARRA Revolving Loan Fund
- ***ED-004-12** Economic Development & Administration, re Approval of Low Cost Power Benefit to Snow Park LLC under the Agreement for the Sale & Purchase of Niagara Project Power & Energy (ASPNPPE)
- ***ED-005-12** Economic Development & Administration, re Budget Modification to Cover Empower Niagara Allocations to Snow Park LLC
- ***ED-006-12** Economic Development & Administration, re 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
- ***ED-008-12** Economic Development & Administration, re Acceptance of Grant Funds from National Grid’s Brownfield Redevelopment Program for Barker Chemical Site Environmental Investigation in the Town of Somerset
- ***ED-009-12** Economic Development & Administration, re Acceptance of Grant Funds from National Grid’s Brownfield Redevelopment Program for Old Military Base Demolition & Rehabilitation Project in the Town of Cambria
- ***IL-007-12** Legislators Richard E. Updegrave, Paul B. Wojtaszek, Economic Development & Administration, re Authorizing Niagara County to Enter into a Contract with CapitolPublicStrategies, LLC for Lobbying Services
- IL-008-12** Legislators John Syracuse, David E. Godfrey & Michael A. Hill, re Recognizing the Importance of Agriculture to New York’s Economy and Calling on Federal and Statewide Officials to Support Important Initiatives that Benefit New York Farms


Mary Jo Tamburlin, Clerk
Niagara County Legislature


*** Indicates Preferred Agenda items**

Attachments for resolutions may be obtained in the office of the Clerk of the Legislature upon request.

The next meeting of the Legislature will be held on March 6, 2012.

NIAGARA COUNTY LEGISLATURE

FROM: Administration Committee DATE: 02/21/12 RESOLUTION # AD-004-12

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	AD - 2/14/12	Approved: Ayes ___ Abs. ___ Noes ___
			Rejected: Ayes ___ Abs. ___ Noes ___
			Referred: _____

RESOLUTION AUTHORIZING NIAGARA COUNTY TO RENEW CONTRACT WITH MASIELLO, MARTUCCI, CALABRESE & ASSOCIATES FOR HOMELAND SECURITY CONSULTING AND LOBBYING SERVICES

WHEREAS, Niagara County is home to several sites of strategic importance to the homeland security interests of the United States of America, and

WHEREAS, the Legislature of the County of Niagara deems securing the safety of its residents its principal responsibility, and

WHEREAS, Masiello, Martucci, Calabrese & Associates, a Western New York-based consultancy and lobbying firm, has been engaged since 2011 to provide consultation on homeland security and emergency management operations, as well as direct appropriate resources to lobbying various regulatory agencies, legislative bodies, and other entities to ensure Niagara County is appropriated sufficient levels of funding to ensure the safety of its population, and

WHEREAS, it is in the security and financial interests of Niagara County to maintain its presence on the Federal Sustainment List, as well as have a directed presence at meetings of various other state and local homeland security agencies, and

WHEREAS, Mr. Carl Calabrese, who oversaw all homeland security and lobbying for Erie County from 2001 to 2005, has been engaged directly as Niagara County's consultant for homeland security, and

WHEREAS, Mr. Calabrese has, in this consultancy, been primarily or partially responsible for vendor selection for the upgrade to Niagara County's emergency communication system, development of a Request for Proposals to select a consultant to update Niagara County's Emergency Response Plan and the interview process resulting from said RFP process, working directly to restore Buffalo-Erie-Niagara UASI funding including lobbying and engagement of Members of Congress, and

WHEREAS, Mr. Calabrese has identified new potential sources of state funding for emergency communication upgrades and has devised strategies for Niagara County and the Buffalo-Erie-Niagara UASI Group to secure such funding, and

WHEREAS, Mr. Calabrese has initiated discussions with Emergency Response officials in the County of Monroe to coordinate efforts between the two regions to secure various funding for emergency communications, and

WHEREAS, such efforts and accomplishments as identified in the preceding WHEREAS clauses are ongoing and require additional consultancy and oversight, and

WHEREAS, the funding is available in the Emergency Management 2012 adopted budget, now, therefore, be it

RESOLVED, that Niagara County enter into a contract extension with Masiello, Martucci, Calabrese & Associates for a period of six (6) months at a cost of \$30,000, payable in six (6) monthly installments of \$5,000 per month, and commencing on the first day of January, 2012, to lobby on behalf of Niagara County on all matters related to homeland security, and be it further

RESOLVED, that the Legislature of the County of Niagara mandates that Masiello, Martucci, Calabrese & Associates shall serve as principal consultant to the County Manager with the ongoing implementation of new homeland security policies, as well as in the development of a 2013 Homeland Security budget, and be it further


RESOLVED, that the Chairman of the Legislature be, and hereby is, authorized to execute said contract on behalf of the County of Niagara, following review and approval by the County Attorney as to legal form, language, and compliance.

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Community Services and Administration DATE: 02/21/12 RESOLUTION # CS-003-12

Committees

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	CS - 2/13/12	Approved: Ayes _____ Abs. _____ Noes _____
		AD - 2/14/12	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

**BUDGET MODIFICATION – CANCER SERVICES PROGRAM
DEPARTMENT OF HEALTH**

WHEREAS, the Cancer Services Program of the Niagara County Department of Health provides essential services to citizens of Niagara County through 100% grant funding, and

WHEREAS, the Cancer Services Program has donations of \$767.13 in the County Trust Account (TA 2085.05) to be used for cancer services not covered by the grant, and

WHEREAS, the Cancer Services Program wishes to use the funding, now, therefore, be it

RESOLVED, that the following budget modification be made:

INCREASE REVENUE:

CD.20.4189.407 42705.00 Gifts and Donations Revenue \$767.13

INCREASE APPROPRIATIONS:

CD.20.4189.407 74400.09 Payments Other Agencies 767.13


COMMUNITY SERVICES COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Community Services and Administration DATE: 02/21/12 RESOLUTION # CS-004-12

Committees

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	CS - 2/13/12	Approved: Ayes _____ Abs. _____ Noes _____
		AD - 2/14/12	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

**BUDGET MODIFICATION
CHILDREN WITH SPECIAL NEEDS DIVISION DEPARTMENT OF HEALTH**

WHEREAS, the Children with Special Needs (CWSN) Division of the Niagara County Department of Health provides a wide-range of mandated services to handicapped children and their families, and

WHEREAS, the Children with Special Needs Division has donations of \$1,421.60 in the County Trust Account (TA 2085.05) to be used for preschool supplies, and

WHEREAS, the Children with Special Needs Division wishes to use the funding, now, therefore, be it

RESOLVED, that the following budget modification be made:

INCREASE REVENUE:

A.20.2960.000 42705.00	Gifts and Donations Revenue	\$1,421.60
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INCREASE APPROPRIATIONS:

A.20.2960.000 74750.02	Supplies, General Supplies/Materials	1,421.60
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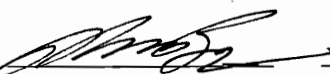
COMMUNITY SERVICES COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Community Services and Administration DATE: 02/21/12 RESOLUTION # CS-005-12

Committees

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	CS - 2/13/12	Approved: Ayes _____ Abs. _____ Noes _____
		AD - 2/14/12	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

BUDGET MODIFICATION-ACCEPT COLA FUNDS DEPARTMENT OF HEALTH

WHEREAS, Cancer Services, Healthy Neighborhoods, Children with Special Healthcare Needs & Lead Primary Prevention Programs of the Niagara County Department of Health provide essential community services, and

WHEREAS, the Niagara County Department of Health Divisions of Cancer Services, Healthy Neighborhoods, Children with Special Healthcare Needs & Lead Primary Prevention Programs have been awarded, and wish to accept, cost of living increases in funding from the New York State Department of Health, now, therefore, be it

RESOLVED, that the following budget modification be effectuated:

INCREASE REVENUE:

CM.20.4046.418 43401.01	PH State Aid COLA	\$2,180
CM.20.4070.419 43401.01	PH State Aid COLA	17,413
CM.20.4189.405 43401.01	PH State Aid COLA	14,754
CM.20.4189.407 43401.01	PH State Aid COLA	16,387

INCREASE APPROPRIATIONS:

CM.20.4046.418 74375.01	Adv. & Promo	2,180
CM.20.4070.419 74750.02	Supplies/Materials	17,413
CM.20.4189.405 74750.02	Supplies/Materials	14,754
CM.20.4189.407 74375.01	Advertising & Promotion	16,387

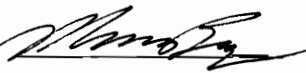
COMMUNITY SERVICES COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Community Services and Administration DA TE: 02/21/12 RESOLUTION # CS-006-12

Committees

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	CS - 2/13/12	Approved: Ayes _____ Abs. _____ Noes _____
		AD - 2/14/12	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

BUDGET MODIFICATION-CARRY BALANCE OF REGIONAL GRANT-EMERGENCY PLANNING PROGRAM - DEPARTMENT OF HEALTH

WHEREAS, the Emergency Planning Program of the Niagara County Department of Health provides services, information and training to protect the health and safety of the citizens of Niagara County through 100% grant funding, and

WHEREAS, the US Department of Homeland Security and Federal Emergency Management Agency through the New York State Division of Homeland Security and Emergency Services awarded Niagara County Emergency Planning Program a \$60,000 regional grant for the period November 30, 2010 to July 31, 2013 dedicated to Companion Animal Sheltering Equipment emergency planning efforts, and

WHEREAS, this funding was accepted in resolution #CS-007-11; the Emergency Planning Program wishes to carry the unused balance forward into 2012 budget, now, therefore, be it

RESOLVED, that the following budget modification be effectuated:

INCREASE REVENUE:

CM.20.4189.422 44960.01	Emergency Disaster Assistance General	\$39,758.51
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INCREASE APPROPRIATIONS:

CM.20.4189.422 72100.14	Miscellaneous Equipment	39,758.51
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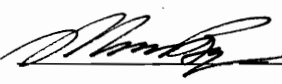
COMMUNITY SERVICES COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Community Services and Administration **DATE:** 02/21/12 **RESOLUTION #** CS-007-12

Committees

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	<u>CS - 2/13/12</u>	Approved: Ayes _____ Abs. _____ Noes _____
		<u>AD - 2/14/12</u>	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

ABOLISH AND CREATE POSITIONS – SOCIAL SERVICES

WHEREAS, the Department of Social Services consistently evaluates its organizational structure reviewing what would be the most cost-effective manner in which to administer programs that are the responsibility of the department, and

WHEREAS, it is critical for the department to have supervisory functions performed in order to ensure that programs are being administered appropriately, so that people who are in need receive assistance if they are indeed eligible in accordance with state rules and regulations, and

WHEREAS, in reviewing the supervisory needs of the department it has been determined that it would be more appropriate to create two (2) Principal Social Services Worker positions, Job Group X at \$26.09 per hour, and

WHEREAS, this can be accomplished by the abolishment of the following positions: one (1) Senior Case Manager, Job Group XI at 28.43 per hour, one (1) Senior Social Services Worker, Job Group VIII at \$22.25 per hour and one (1) Social Services Worker, Job Group VII at \$20.94 per hour, which would result in a cost savings and the reduction of one position in the overall Social Services budget, now, therefore, be it

RESOLVED, that the following positions be abolished: one (1) Senior Case Manager, Job Group XI at \$28.43 per hour, one (1) Senior Social Services Worker, Job Group VIII at \$22.25 per hour and one (1) Social Services Worker, Job Group VII at \$20.94 per hour, and that two (2) Principal Social Services Worker positions, Job Group X at \$26.09 per hour be created and filled effective Monday March 5, 2012, and be it further

RESOLVED, that the following line item transfer be effectuated to the Social Services 2012 budget:

FROM:

A.22.6010.000 71010.00.884	Senior Case Manager	\$51,941
A.22.6010.000 71010.00.1069	Social Services Wkr Stp 3458	26,957

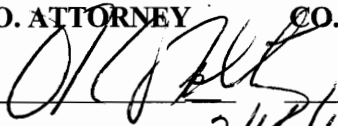
TO:

A.22.6010.000 71010.00.XXXX	Principal Social Services Wkr	39,449
A.22.6010.000 71010.00.XXXX	Principal Social Services Wkr	39,449

NIAGARA COUNTY LEGISLATURE

FROM: Community Safety & Security and DATE: 02/21/12 RESOLUTION # CSS-008-12

Administration Committees

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	CSS - 2/7/12	Approved: Ayes _____ Abs. _____ Noes _____
		AD - 2/14/12	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

2/16/12

NIAGARA COUNTY SHERIFF'S OFFICE-HOMELAND SECURITY GRANT INTEROPERABLE & EMERGENCY COMMUNICATIONS AWARD

WHEREAS, the New York State Division of Homeland Security and Emergency Services, Office of Interoperable and Emergency Communications has awarded Niagara County a grant in the amount of \$2,000,000 for the period December 21, 2011 through December 20, 2012, and

WHEREAS, this grant will be used to improve interoperable communications by ensuring capability for National Interoperability Channels, meeting narrowbanding requirements and developing and implementing solutions to achieve operating procedures (SOPs), and

WHEREAS, the funds will be used to purchase communication equipment and services and to train appropriate personnel in the proper use of equipment, now, therefore, be it

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

RESOLVED, that the following budget modification be made:

INCREASE REVENUE:

H581 17.3020.000 43397.01 St. Aid, Public Safety Cap Project \$2,000,000

INCREASE APPROPRIATION:

H581 17.3020.000 72100.XX Machinery & Equipment 2,000,000

COMMUNITY SAFETY & SECURITY COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Community Safety & Security Committee DATE: 02/21/12 RESOLUTION # CSS-009-12

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	<u>CSS - 2/7/12</u>	Approved: Ayes _____ Abs. _____ Noes _____
<hr/>			Rejected: Ayes _____ Abs. _____ Noes _____
<hr/>			Referred: _____

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2/16/12

NIAGARA REGIONAL TRAFFIC SAFETY PROGRAM

WHEREAS, the Niagara Regional Traffic Safety Program will be held in the month of May, 2012, and

WHEREAS, young men and women need to know that the choices they make every day affect their lives and the lives of the people around the, and

WHEREAS, high school junior and seniors from Niagara County schools will participate in the above month at the Niagara Falls Air Reserve Station, and

WHEREAS, Erie County will be invited to send students during this time, along with Orleans, Cattaraugus and Alleghany Counties, and

WHEREAS, each County will be responsible for their own expenses incurred throughout the program, now, therefore, be it

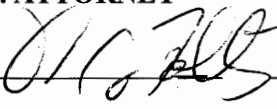

RESOLVED, that the seventeenth annual Niagara Regional Traffic Safety Program will be held in May, 2012.

COMMUNITY SAFETY & SECURITY
COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Community Safety & Security and DATE: 02/21/12 RESOLUTION # CSS-010-12

Administration Committees

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	CSS - 2/7/12	Approved: Ayes _____ Abs. _____ Noes _____
		AD - 2/14/12	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

BUDGET MODIFICATION-NIAGARA COUNTY EMERGENCY MANAGEMENT

WHEREAS, the State of New York, Department of State has granted Niagara County Emergency Management Radio Amateur Civil Emergency Services (RACES) a grant in the amount of \$15,000, and

WHEREAS, RACES provides auxiliary emergency communications for emergencies and disasters within Niagara County, and

WHEREAS, Senator Maziarz was able to secure a member item to improve radio equipment that allows for increased communication capabilities within the RACES organization which augments emergency communications between all first responders in Niagara County, and

WHEREAS, the funds will be used to purchase a radio repeater devices which allows amateur radio operators to communicate with each other, now, therefore, be it

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

RESOLVED that the following budget modification be effectuated:

INCREASE REVENUE

A.19.3640.000.43389.05 Other Public Safety Emergency Management \$15,000

INCREASE APPROPRIATION

A.19.3640.000.72100.15 Communications Equipment 15,000


COMMUNITY SAFETY & SECURITY COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Economic Development and Administration DATE: 02/21/12 RESOLUTION # ED-001-12

Committees

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	ED - 2/8/12	Approved: Ayes _____ Abs. _____ Noes _____
		AD - 2/14/12	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

**BUDGET MODIFICATION – REAPPROPRIATE GRANT FUNDS
BROWNFIELD PETROLEUM ASSESSMENT**

WHEREAS, Resolution ED-002-07 authorized acceptance of a grant in the amount of Two Hundred Thousand Dollars (\$200,000) from the United States Environmental Protection Agency for a Brownfield Petroleum Assessment Project, and

WHEREAS, there are unexpended funds in the amount of Four Hundred Seventy-One Dollars (\$471) to be carried over to the 2012 Brownfield Petroleum Assessment, which was not budgeted for 2012, now, therefore, be it

RESOLVED, that the following budget modification be effectuated:

INCREASE REVENUE:

CM.28.6989.607.44989.03 BrownPetroAssessment \$471

INCREASE APPROPRIATION:

CM.28.6989.607. 74300.01 Travel Conference 471

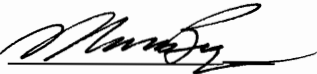
ECONOMIC DEVELOPMENT COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Economic Development and Administration DATE: 02/21/12 RESOLUTION # ED-002-12

Committees

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION		
CO. ATTORNEY	CO. MANAGER	ED - 2/8/12	Approved: Ayes	Abs.	Noes
		AD - 2/14/12	Rejected: Ayes	Abs.	Noes
			Referred:		

**BUDGET MODIFICATION – REAPPROPRIATE GRANT FUNDS
BROWNFIELD REVOLVING LOAN FUND**

WHEREAS, Resolution ED-015-08 authorized acceptance of a grant in the amount of One Million Dollars (\$1,000,000), and

WHEREAS, per Resolution ED-015-08, One Hundred Thousand Dollars (\$100,000) was appropriated for programmatic expenses which are 100% reimbursable from EPA, and

WHEREAS, there are unexpended funds in the amount of Four Thousand Eighty-One Dollars (\$4,081) over the 2012 Brownfield Revolving Loan Fund budgeted amount of Eleven Thousand Four Hundred Ninety Dollars (\$11,490), now, therefore, be it

RESOLVED, that the following budget modification be effectuated:

INCREASE REVENUE:

CM.28.6989.606.44989.04	BrownDev	\$4,081
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INCREASE APPROPRIATION:

CM.28.6989.606.74550.26	BrownDevAdmin	4,081
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ECONOMIC DEVELOPMENT COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Economic Development and Administration DATE: 02/21/12 RESOLUTION # ED-003-12

Committees

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	ED - 2/8/12	Approved: Ayes _____ Abs. _____ Noes _____
		AD - 2/14/12	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

**BUDGET MODIFICATION – REAPPROPRIATE GRANT FUNDS
BROWNFIELDS ARRA REVOLVING LOAN FUND**

WHEREAS, Resolution ED-030-09 authorized acceptance of a grant in the amount of Nine Hundred Thousand Dollars (\$900,000), and

WHEREAS, per Resolution ED-007-10, Ninety Thousand Dollars (\$90,000) was appropriated for programmatic expenses which are 100% reimbursable from EPA, and

WHEREAS, there are unexpended funds in the amount of Five Thousand Eighty-Eight Dollars (\$5,088) over the 2012 ARRA Brownfields Revolving Loan Fund budgeted amount of Seventy-Three Thousand Three Hundred Seventy-One Dollars (\$73,371), now, therefore, be it

RESOLVED, that the following budget modification be effectuated:

INCREASE REVENUE:

CM.28.6989.608.44989.89	Other Home &Community Services	\$5,088
	Federal Stimulus Aid	

INCREASE APPROPRIATION:

CM.28.6989.608.74550.26	Brownfield Development Administration	5,088
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ECONOMIC DEVELOPMENT COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Economic Development and Administration DATE: 02/21/12 RESOLUTION # ED-004-12

Committees

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	<u>ED - 2/8/12</u>	Approved: Ayes _____ Abs. _____ Noes _____
		<u>AD - 2/14/12</u>	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

APPROVAL OF LOW COST POWER BENEFIT TO SNOW PARK LLC UNDER THE AGREEMENT FOR THE SALE & PURCHASE OF NIAGARA PROJECT POWER & ENERGY (ASPNPPE)

WHEREAS, the County of Niagara entered into the Host Community Relicensing and Settlement Agreement ("HCRSA") on June 25, 2005, and

WHEREAS, the HCRSA entitles the County of Niagara to 9 megawatts of low cost power allocation (at 70% load) from the New York Power Authority, and

WHEREAS, the County of Niagara has made the use of this low cost power allocation for economic development purposes as the top priority for that allocation, and

WHEREAS, there is presently an Agreement for the Sale and Purchase of Niagara Project Power and Energy ("ASPNPPE") that has been approved by the County of Niagara and NYPA and the Governor of the State of New York, and

WHEREAS, the ASPNPPE specifically provides that the County of Niagara could use its low cost power allocation for economic development purposes, and

WHEREAS, the County of Niagara has taken the necessary actions to fully implement the benefits contained in the HCRSA and the ASPNPPE, and

WHEREAS, the County of Niagara established the Empower Niagara Board by Resolution ED-021-07 to review applications for the use of low cost power for economic development by reviewing applications and to make recommendation to Legislature of Niagara County, and

WHEREAS, the Empower Niagara Board has reviewed the existing agreement of Snow Park LLC for the use of low cost power, and

WHEREAS, the project of Snow Park LLC continues to meet all the criteria qualifying its project for consideration and the Empower Niagara Board is recommending approval of this application, and

WHEREAS, the application and agreement was originally approved for 400kw (at 70% load factor) of low cost power, the actual usage created full-time jobs immediately, required a new load of electricity, with a cash influx by Snow Park LLC, it has been determined that Snow Park, LLC only requires the usage of 300 KW (at 70% of load factor), and

WHEREAS, the approval of the Snow Park LLC allotment of 300kw (at 70% load factor) of low cost power will continue to support, increase and maintain economic development in the City of Niagara Falls and Niagara County, and

WHEREAS, the Empower Niagara Board recommends the low cost power allocations be continued through the agreed period of three (3) years, now, therefore, be it

RESOLVED, that the Niagara County Legislature hereby approves Snow Park LLC's agreement modification from 400kw to 300kw (at 70% load factor) low cost power benefits to be received from Niagara County, and be it further

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute this modification to its Empower User Agreement for Low Cost Power with Snow Park LLC.

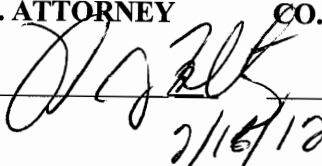
ECONOMIC DEVELOPMENT COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Economic Development and Administration **DATE:** 02/21/12 **RESOLUTION #** ED-005-12

Committees

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	ED - 2/8/12	Approved: Ayes _____ Abs. _____ Noes _____
		AD - 2/14/12	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

**BUDGET MODIFICATION TO COVER
EMPOWER NIAGARA ALLOCATIONS TO SNOW PARK LLC**

WHEREAS, Snow Park LLC is a Niagara County business that has been approved to receive low cost hydropower allocations through the Empower Niagara Program, and

WHEREAS, these benefits as transferred to Snow Park LLC have been modified, and

WHEREAS, the Snow Park LLC agreement with Empower Niagara Program has been modified, now, therefore, be it

RESOLVED, that the following budget modifications be effectuated to the Niagara County Economic Development 2012 budget:

INCREASE REVENUE:

A.15.1620.108 42655.03	Sale of Excess Power	\$93, 667
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INCREASE APPROPRIATION:

A.15.1620.108 74500.01	Contractual	93, 667
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INCREASE REVENUE:

A.28.8020.813 42189.01	Activities-Economic Dev.	93, 667
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INCREASE APPROPRIATION:

A.28.8020.813 74550.30	Empower Niagara	93, 667
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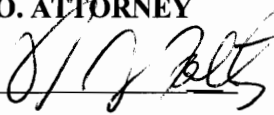
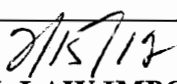
ECONOMIC DEVELOPMENT COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Economic Development and Administration DATE: 02/21/12 RESOLUTION # ED-006-12

Committees

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	ED - 2/8/12	Approved: Ayes _____ Abs. _____ Noes _____
		AD - 2/14/12	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

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

WHEREAS, the Economic Development and Administration Committees present in writing the following proposed 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:

Be it enacted by the Legislature of the County of Niagara 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, 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 twelve, 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 twelve, 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 twelve. 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 twelve. 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 or 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 therefor, 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 three (3) year period from May 1, 2012. 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.

RESOLVED, that the Niagara County Legislature shall conduct a public hearing upon said proposed Local Law at the Legislative Chambers, Courthouse, Lockport, New York, on the 6th day of March, 2012 at 6:45 p.m., and be it further

RESOLVED, that the Clerk of the Legislature, at least six (6) days in advance of such hearing, shall post a notice upon the bulletin boards in the Courthouse at Lockport, the Civic Building in Niagara Falls, and the County Building in North Tonawanda and shall publish such notice once in the Union-Sun & Journal, the Niagara Gazette, and the Tonawanda News; such notice shall contain the title of the Local Law and an abstract of the text to be prepared by the Clerk of the Legislature with the assistance of the County Attorney's Office.

ECONOMIC DEVELOPMENT COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Economic Development and Administration Committees DATE: 02/21/12 RESOLUTION # ED-008-12

APPROVED CO. ATTORNEY REVIEWED CO. MANAGER COMMITTEE ACTION ED - 2/8/12 AD - 2/14/12 LEGISLATIVE ACTION Approved: Ayes Abs. Noes Rejected: Ayes Abs. Noes Referred:

ACCEPTANCE OF GRANT FUNDS FROM NATIONAL GRID'S BROWNFIELD REDEVELOPMENT PROGRAM FOR BARKER CHEMICAL SITE ENVIRONMENTAL INVESTIGATION IN THE TOWN OF SOMERSET

WHEREAS, on September 14, 2011, the Economic Development Committee authorized the Niagara County Department of Economic Development to apply for a grant from National Grid's Brownfields Redevelopment Program, and

WHEREAS, National Grid has approved a grant of up to Twenty Five Thousand (\$25,000) from its Brownfields Redevelopment Program to the Niagara County Department of Economic Development, to complete a Phase II Environmental Site Assessment at the Barker Chemical Site, 8473 West Somerset Road in the Town of Somerset, and

WHEREAS, this grant is a reimbursement grant, which requires up front funding by Niagara County and is 100% reimbursable by National Grid, now, therefore, be it,

RESOLVED, that the Chairman of the Niagara County Legislature be, and hereby is, authorized to execute the Economic Development Program Public Customer Agreement Between National Grid and the Niagara County Department of Economic Development; Application Number 11111, subject to the approval of the County Attorney, and be it further

RESOLVED, that the following budget modification be effectuated to accept the full amount of this grant:

INCREASE REVENUE:

A.28.8020/808 41289.02 National Grid Brownfield Grant \$25,000

INCREASE APPROPRIATIONS:

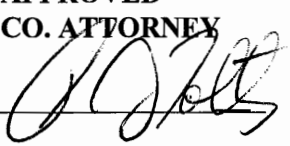

A.28.8020.808 74500.01 Barker Chemical Site Investigation 25,000

ECONOMIC DEVELOPMENT COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Economic Development and Administration DATE: 02/21/12 RESOLUTION # ED-009-12

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	ED - 2/8/12	Approved: Ayes _____ Abs. _____ Noes _____
		AD - 2/14/12	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

ACCEPTANCE OF GRANT FUNDS FROM NATIONAL GRID'S BROWNFIELD REDEVELOPMENT PROGRAM FOR OLD MILITARY BASE DEMOLITION AND REHABILITATION PROJECT IN THE TOWN OF CAMBRIA

WHEREAS, on September 14, 2011, the Economic Development Committee authorized the Niagara County Department of Economic Development to apply for a grant from National Grid's Brownfields Redevelopment Program, and

WHEREAS, National Grid has approved a grant of up to Three Hundred Thousand Dollars (\$300,000) from its Brownfields Redevelopment Program to the Niagara County Department of Economic Development, to assist with the demolition and rehabilitation of the Old Military Base known as the Lockport Air Force Base on Unicorn and Eagle Drives in the Town of Cambria, and

WHEREAS, the National Grid grant is part of a larger remediation and rehabilitation project occurring at the Lockport Air Force Base, and

WHEREAS, the Town of Cambria intends to competitively award the entire remediation project in Spring 2012, and will submit invoices up to Three Hundred Thousand Dollars (\$300,000) to Niagara County that will be applied to the National Grid grant, and

WHEREAS, this grant is a reimbursement grant, which requires up front funding by Niagara County and is 100% reimbursable by National Grid, now, therefore, be it

RESOLVED, that the Chairman of the Niagara County Legislature be, and hereby is, authorized to execute the Economic Development Program Public Customer Agreement between National Grid and the Niagara County Department of Economic Development; Application Number 11109, subject to the approval of the County Attorney, and be it further

RESOLVED, that the following budget modification be effectuated to accept the full amount of this grant:

INCREASE REVENUE:


A.28.8020.808 41289.02	National Grid Brownfield Grant	\$300,000
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INCREASE APPROPRIATIONS:

A.28.8020.808 74500.01	Lockport Air Force Base Project	300,000
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NIAGARA COUNTY LEGISLATURE

FROM: Legislators Richard E. Updegrove, **DATE:** 02/21/12 **RESOLUTION #** IL-007-12
Paul B. Wojtaszek and Economic Development Committee
and Administration Committee

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	ED - 2/8/12	Approved: Ayes _____ Abs. _____ Noes _____
		AD - 2/14/12	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

**RESOLUTION AUTHORIZING NIAGARA COUNTY TO ENTER INTO A CONTRACT WITH
CAPITOLPUBLICSTRATEGIES, LLC FOR LOBBYING SERVICES**

WHEREAS, Niagara County's efforts to secure funding for projects and programs is ongoing and includes a range of public and private sources, and

WHEREAS, Niagara County has prepared and submitted funding requests to the U.S. Federal Government through the American Recovery and Reinvestment Act of 2009, also known as the federal stimulus package, and New York State through the Western New York Regional Economic Development Council, and

WHEREAS, Niagara County's funding requests will include hundreds of millions of dollars for Niagara County projects and programs, which has potential to create thousands of jobs and tens of millions of dollars in private investment and economic spinoff in the County, and

WHEREAS, the process of securing funding from the U.S. Federal Government and New York State, as well as private sources, can be a difficult and complicated process, and

WHEREAS, funding for local projects and programs is often linked to complicated policy matters that require skillful negotiation and advocacy, and

WHEREAS, lobbying firms possess experience in navigating complicated policy matters and can play an important role in securing funding for local projects and programs, and

WHEREAS, Erie County recently hired a lobbying firm to assist with policy matters and to help secure funding for local projects and programs, and

WHEREAS, Niagara County contracted a lobbying firm that was successful in assisting the Niagara Military Affairs Council in its efforts to lobby the U.S. Federal Government to save the Niagara Falls Air Reserve Station from closure as recommended by the Defense Base Closure and Realignment Commission and has since helped secure \$100 million for base projects, and

WHEREAS, the Niagara County Legislature has made economic development one of its chief priorities and the funding requests being prepared to the U.S. Federal Government and New York State include a range of priority economic development projects, and

WHEREAS, CapitolPublicStrategies, LLC possessed outstanding skill, expertise and experience to lobby effectively for Niagara County, and entered into a six (6) month contract with the County of Niagara pursuant to IL-062-09, and

WHEREAS, CapitolPublicStrategies, LLC has made progress in its efforts on behalf of Niagara County, and

WHEREAS, the Niagara County Industrial Development Agency has agreed to provide \$15,000 funds to match the \$15,000 provided by County of Niagara to be paid directly in monthly installments to CapitolPublicStrategies, LLC for a period of six (6) months, now, therefore, be it

RESOLVED, that Niagara County extend their contract with CapitolPublicStrategies, LLC for a period of six (6) months commencing March 1, 2012 until August 31, 2012 at a cost of \$30,000, payable in six (6) monthly installments of \$5,000 per month, to lobby on behalf of Niagara County to secure funding through the Western New York Regional Council and for other Niagara County economic development initiatives, and be it further

RESOLVED, that the Chairman of the Legislature be, and hereby is, authorized to execute said extension agreement on behalf of the County of Niagara, following review and approval by the County Attorney as to legal form, language, and compliance.

LEGISLATOR RICHARD E. UPDEGROVE

LEGISLATOR PAUL B. WOJTASZEK

ECONOMIC DEVELOPMENT COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Legislators John Syracuse, David E. Godfrey & Michael A. Hill DATE: 02/21/2012 RESOLUTION # IL-008-12

APPROVED BY CO. ATTORNEY Katherine D. Alexander REVIEWED BY CO. MANAGER COMMITTEE ACTION LEGISLATIVE ACTION Approved: Ayes Abs. Noes Rejected: Ayes Abs. Noes Referred:

RESOLUTION RECOGNIZING THE IMPORTANCE OF AGRICULTURE TO NEW YORK'S ECONOMY AND CALLING ON FEDERAL AND STATEWIDE OFFICIALS TO SUPPORT IMPORTANT INITIATIVES THAT BENEFIT NEW YORK FARMS

WHEREAS, New York's vast farming industry contributions to the State's health and economic wellbeing every day by creating jobs, fueling the economy and providing New Yorkers with access to fresh local food, and

WHEREAS, New York farmers act as environmental stewards, working to protect animals and promote animal welfare, and

WHEREAS, despite agriculture being one of the top industries in New York State, the current economic crisis has made it increasingly hard on New York farmers to compete in the global marketplace and to secure credit for investing in the viability of their farm operations, and

WHEREAS, Governor Cuomo is calling for an expansion of the New York State Linked Deposit Program to provide more affordable access to credit and financing for farmers throughout the State, and

WHEREAS, as an organization of county government leaders, the New York State Association of counties (NYSAC) understands the significant economic benefit provided by our state's food and agriculture system and in February 2010 created a special Blue Ribbon Task Force on the Future of New York Farming in order to discuss and recommend measures to assist farmers and promote agriculture in New York, and

WHEREAS, more that 50 county officials are actively participating in the Blue Ribbon Rask Force to confront a number of critical topics and significant issues that have a direct impact on New York's farms and the agricultural industry, and

WHEREAS, the Blue Ribbon Task Force members visited the Hunts Point Terminal Market in November 2011 to understand how this market works and find ways for New York Farmers to work collaboratively to take advantage of their proximity to Hunts Point, the produce from which feeds 9 percent of the population of the United States, and

WHEREAS, the Blue Ribbon Task Force prepared a new report "Growing the Farm Economy" issued in December 2011 including recommendations to Governor Cuomo, the New York State Department of Agriculture & Markets, and the State Legislature on how to promote agriculture as part of New York's overall economic development strategy, and specific recommendations for federal elected officials on the needs of New York State and what should be considered in the creation of the 2012 Federal Farm Bill, now, therefore, be it

RESOLVED, that the Niagara County Legislature urges our statewide elected officials and federal officials to partner with counties to implement the recommendations contained in the Blue Ribbon Task Force 2011 report "Growing the Farm Economy" and help maintain the economic viability of farming in New York, and be it further

RESOLVED, that the Niagara County Legislature recognizes the allocation of steady funding levels in the 2012/2013 State Budget but encourages additional funding in future budgets for agricultural local assistance programs and the Environmental Protection Fund, which provide farmers with important financial and programmatic assistance needed to maintain viable farms in New York State, and be it further

RESOLVED, that the Clerk of the Niagara County Legislature shall forward copies of this resolution to Governor Andrew M. Cuomo, Congresswoman Louise Slaughter, Congresswoman Kathy Hochul, Senate Vice President Pro Tem George D. Maziarz; Senator Mark J. Grisanti; Senate Temporary President Dean G. Skelos; Senate Deputy Majority Leader Thomas W. Libous; Member of the Assembly Jane L. Corwin; Member of the Assembly John D. Ceretto; Member of the Assembly Raymond Walter; Member of the Assembly Stephen Hawley; Member of the Assembly Robin Schimminger; Speaker of the Assembly Sheldon Silver; Assembly Majority Leader Ronald J. Canestrari; Assembly Minority Leader Brian M. Kolb; Darrel J. Aubertine, Commissioner, NYS Department of Agriculture and Markets; Joe Martens, Commissioner, NYS Department of Environmental Conservation; and all others deemed necessary and proper.

LEGISLATOR JOHN SYRACUSE

LEGISLATOR DAVID E. GODFREY

LEGISLATOR MICHAEL A. HILL