

A public hearing was held pursuant to AD-026-19, adopted by the Legislature on November 19, 2019, for the purpose of hearing public comments on the Assessment Tax Roll for the Niagara County Water District. Legislator Syracuse opened the hearing at 6:20 p.m. and closed it at approximately 6:24 p.m.

A public hearing was held pursuant to AD-027-19, adopted by the Legislature on November 19, 2019, for the purpose of hearing public comments on the Assessment Tax Roll for the Niagara County Sewer District #1. Legislator Syracuse opened the hearing at 6:30 p.m. and closed it at approximately 6:33 p.m.

A public hearing was held pursuant to AD-028-19, adopted by the Legislature on November 19, 2019, for the purpose of hearing public comments on Assessment Tax Roll for the Niagara County Disposal District. Legislator Syracuse opened the hearing at 6:40 p.m. and closed it at approximately 6:43 p.m.

A public hearing was held pursuant to AD-025-19, adopted by the Legislature on November 19, 2019, for the purpose of hearing public comments on the Tentative Budget for the Year 2020. Legislator Nemi opened the hearing at 6:50 p.m. and closed it at approximately 6:54 p.m.

OFFICIAL RECORD

Lockport, New York
December 3, 2019

The meeting was called to order by Chairman McNall at 7:00 p.m.

Clerk Tamburlin called the roll. All Legislators were present, with the exception of Legislators Andres, Steed

Moment of Silence was held for former Sheriff Investigator Roger Andrews.

CORRESPONDENCE / RECOGNITION:

Legislator Syracuse introduces the Cornell Cooperative Executive Director Justin Rogers, Justin is looking forward to working with the County and their continued support

PRESENTATIONS:

Legislator Collins called Stephen Brady to the lectern to read a proclamation on his retirement from the IDA Board. Chairman McNall thanked Stephen for his hard work and dedication on the board.

0 Citizens spoke

Recess

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

Resolution No. AD-029-19

From: Administration Committee.

Dated: December 3, 2019

**ACCEPTANCE OF FUNDS AND COMMITMENT OF FUNDS
TO CONTINUE TO RETAIN EXPERT LEGAL COUNCIL**

WHEREAS, by resolution IL-034-04 and IL-003-05, which outlined many health safety issues as a result of the only sited toxic hazardous waste facility in New York State, Chemical Waste Management (CWM), located on Balmer Road, Town of Porter, and

WHEREAS, these resolutions detailed plans for oversight and review of issues raised as the result of past present and future operations at CWM, and

WHEREAS, the County upon unanimous passage of these two resolutions entered into a legal engagement with attorney Gary Abraham of Allegany, New York, and

WHEREAS, this agreement developed a coalition between the County, the Town of Lewiston and others that may join in and it was agreed that Niagara County would expend the first \$50,000 for services by attorney Gary Abraham and when that \$50,000 was expended, the Town of Lewiston would contribute the next \$50,000 and this agreement would be in effect until or unless it was terminated earlier, and

WHEREAS, the issue concerning the expansion of the CWM facility through the siting of Residual Management Unit 2 (RMU2), a toxic hazardous waste landfill, continues to be an issue of health and safety concern and requires excellent legal representation in order to protect Niagara County residents, and

WHEREAS, it is felt desirable to continue with attorney Gary Abraham to insure continuity at this crucial time, and

WHEREAS, the Niagara County Attorney entered into a formal agreement with the Town of Lewiston to fully cover the financial obligation to engage legal services, and

WHEREAS, the Town of Lewiston has continuously budgeted at least \$50,000 to insure the quality of legal representation, and the County has done the same, and

WHEREAS, pursuant to this obligation of at least \$50,000 from both the County and the Town, and the continued retainer of Mr. Gary Abraham, it is the desire of the County Attorney's Office to insure that the funds are dedicated solely for that purpose, now, therefore, be it

RESOLVED, that the funds received from the Town of Lewiston as well as the County funds appropriated and unspent in account A.11.1930.110 74350.01 be set aside as committed fund balance to be used for future purposes as stated above.

Moved by Bradt, seconded by Virtuoso.

Adopted. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. CSS-029-19

From: Community Safety & Security Committee.

Dated: December 3, 2019

**AID TO DEFENSE PROGRAM RENEWAL 2019-2020
PUBLIC DEFENDER**

WHEREAS, the Niagara County Public Defender's Office has applied for and was awarded funding from the New York State Division of Criminal Justice Services under the Aid to Defense Program for the purpose of continuing aid in the defense of repeat violent and serious felony offenders in Niagara County, and

WHEREAS, funding has been awarded in the amount of \$15,520 for the period October 1, 2019 through September 30, 2020 with no matching funds requirement, and

WHEREAS, the funds have been appropriated in the Niagara County Public Defender=s 2020 budget, now, therefore, be it

RESOLVED, that the County of Niagara does hereby accept the renewal of this grant, and be it further

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

RESOLVED, that following the County Attorney=s review, the Chairman of the Niagara County Legislature be, and hereby is, authorized to execute the grant award documents.

Moved by Bradt, seconded by Virtuoso.

Adopted. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. ED-024-19

From: Economic Development Committee.

Dated: December 3, 2019

**APPROVING THE INCLUSION OF VIABLE AGRICULTURAL LAND WITHIN
NIAGARA COUNTY’S AGRICULTURAL DISTRICT PURSUANT TO SECTION 303-B
OF THE NEW YORK STATE AGRICULTURE AND MARKETS LAW**

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

WHEREAS, that thirty day period began June 1, 2019, and ended June 30, 2019, and

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

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

WHEREAS, a public hearing was held on Tuesday, October 15, 2019 at 6:45 p.m. relating to such requested inclusions, now, therefore, be it

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

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

2019 Additions:

Agricultural District	Town	Owner	Tax Map Number	Acreage
7	Wheatfield	Glenn and Michele Teeto	163.02-1-71	1.97
7	Pendleton	Brett Lombardo	164.00-3-6	53.4
7	Pendleton	Christopher Guadagno	137.00-2-372	4.91

Moved by Bradt, seconded by Virtuoso.

Adopted. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. ED-026-19

From: Economic Development and Administration Committees.

Dated: December 3, 2019

**APPROVAL OF LOW COST POWER BENEFIT TO
DELFINGEN U.S. – NEW YORK, INC. UNDER AGREEMENT FOR THE
SALE AND 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 County of Niagara has previously awarded to Delfingen U.S. – New York, Inc. for this same project under resolution ED-009-16, 150 kW (at 70% load factor), which agreement expired on October 31, 2019 and for which Delfingen U.S. – New York, Inc. has met each part of the previous application, including the number of jobs and capital investment, and

WHEREAS, the Empower Niagara Board has reviewed the initial application of Delfingen U.S. - New York, Inc. for the use of low cost power for developing and expanding its business in Niagara County, and

WHEREAS, Delfingen U.S. - New York, Inc. has exceeded its job and capital investment for its project for consideration and the Empower Niagara Board is recommending approval of a three (3)-year extension of the agreement, and

WHEREAS, the demand usage of Delfingen U.S. - New York, Inc. has increased from its original demand of 150 kw of low cost power benefits to 300 kW (at 70% load factor) of low cost power due to increased production at the facility, and

WHEREAS, the approval of Niagara County's extension of low cost power will not only maintain economic development in the Town of Wheatfield and Niagara County; but also assist Delfingen U.S. - New York, Inc. to remain competitive in the manufacture of insulation and wire harness protection industry and have a good economic effect on the community in Niagara County, and

WHEREAS, the Empower Niagara Board recommended the extension and continuation of the low cost power allocations of 150 kW (at 70% load factor) for a period of three (3) years commencing November 1, 2019, for a period of thirty-six (36) months, now, therefore, be it

RESOLVED, that the Niagara County Legislature hereby approves Delfingen U.S. - New York, Inc. agreement extension for three (3) years commencing November 1, 2019 for 150 kW (at 70% load factor) low cost power benefits from Niagara County, pursuant to low cost power allocation received through the June 25, 2005 HCRSA and ASPNPPE, 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 Empower User Agreement extension of the agreement for Low Cost Power with Delfingen U.S. - New York, Inc.

Moved by Bradt, seconded by Virtuoso.

Adopted. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. ED-027-19

From: Economic Development Committee.

Dated: December 3, 2019

**BUDGET MODIFICATION – TO COVER
EMPOWER NIAGARA ALLOCATIONS TO DELFINGEN U.S. – NEW YORK, INC.**

WHEREAS, Delfingen U.S. – New York, Inc. is a Niagara County business that has been approved to receive low cost hydropower allocations through the Empower Niagara Program, and

WHEREAS, these benefits will be transferred to Delfingen U.S. – New York, Inc. as stipulated in the Empower Niagara Program agreement, through the Niagara County Economic Development 2019 through 2022 budget, now therefore, be it

RESOLVED, that the following budget modifications be effectuated to the Niagara County Economic Development 2019 budget, and annually thereafter until October 31, 2022 as set forth below:

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
INCREASE REVENUE:				
A.15.1620.108 42655.03 Sale of Excess Power	\$8,166.50 (Value of 150 kw at 70% load for 2 months)	Value of 150 kw	Value of 150 kw	Value of 150 kw at 70% load for 10 months

INCREASE APPROPRIATION:

A.15.1620.108 74500.01	Contractual	\$8,166.50 (Value of 150 kw at 70% load for 2 months)	Value of 150 kw	Value of 150 kw	Value of 150 kw at 70% load for 10 months
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INCREASE REVENUE:

A.28.8020.813 42189.01	Activities – Eco Dev	\$8,166.50 (Value of 150 kw at 70% load for 2 months)	Value of 150 kw	Value of 150 kw	Value of 150 kw at 70% load for 10 months
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INCREASE APPROPRIATION:

A.28.8020.813 74550.30	Empower Niagara	\$8,166.50 (Value of 150 kw at 70% load for 2 months)	Value of 150 kw	Value of 150 kw	Value of 150 kw at 70% load for 10 months
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Moved by Bradt, seconded by Virtuoso.

Adopted. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. ED-028-19

From: Economic Development and Administration Committees.

Dated: December 3, 2019

**APPROVAL OF LOW COST POWER BENEFIT TO VISHAY THIN FILM, INC.
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 County of Niagara has previously awarded to Vishay Thin Film, Inc. for this same project under resolution ED-012-16, 100 kW (at 70% load factor), which agreement expired October 31, 2019, and for which Vishay Thin Film, Inc. has met each part of the previous application, including the number of jobs and capital investment, and

WHEREAS, the Empower Niagara Board has reviewed the initial application of Vishay Thin Film, Inc. for the use of low cost power for developing and expanding its business in Niagara County, and

WHEREAS, Vishay Thin Film, Inc. has met and exceeded all the criteria qualifying its project for consideration and the Empower Niagara Board is recommending approval of a three-year extension of the agreement, and

WHEREAS, the demand usage of Vishay Thin Film, Inc. has remained at its original demand of 100kW (at 70% load factor) of low cost power, and

WHEREAS, the approval of Niagara County's extension of low cost power will not only maintain economic development in the Niagara County, but also assist Vishay Thin Film, Inc. to remain cost competitive, obtain new business opportunity, retain its existing customer base and create another ten positions in 2020, and

WHEREAS, the Empower Niagara Board recommended the extension of low cost power allocation to Vishay Thin Film, Inc. of 100kW (at 70% load factor) for a period of thirty-six months commencing November, 1, 2019, now, therefore, be it

RESOLVED, that the Niagara County Legislature hereby approves Vishay Thin Film, Inc.'s Agreement extension for thirty-six months (36) months commencing November 1, 2019 for 100kW (at 70% load factor) of low cost power benefits from Niagara County, pursuant to low cost power allocation received through the June 25, 2005 HCRSA and ASPNPPE, 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 Empower User Agreement extension of the agreement for Low Cost Power with Vishay Thin Film, Inc.

Moved by Bradt, seconded by Virtuoso.

Adopted. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. ED-029-19

From: Economic Development and Administration Committees.

Dated: December 3, 2019

**BUDGET MODIFICATION – TO COVER
EMPOWER NIAGARA ALLOCATIONS TO VISHAY THIN FILM, INC.**

WHEREAS, Vishay Thin Film, Inc. is a Niagara County business that has been approved to receive low cost hydropower allocations through the Empower Niagara Program, and

WHEREAS, these benefits will be transferred to Vishay Thin Film, Inc. as stipulated in the Empower Niagara Program agreement, through the Niagara County Economic Development 2019 through 2022 budget, now therefore, be it

RESOLVED, that the following budget modifications be effectuated to the Niagara County Economic Development 2019 budget, and annually thereafter until November 1, 2022 as set forth below:

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
INCREASE REVENUE:				
A.15.1620.108 42655.03 Sale of Excess Power	\$5,444.33 (Value of 100 kw at 70% load for 2 months)	Value of 100 kw at 70% load for 12 months	Value of 100 kw at 70% load for 12 months	Value of 100 kw at 70% load for 10 months

INCREASE APPROPRIATION:

A.15.1620.108 74500.01 Contractual	\$5,444.33 (Value of 100 kw at 70% load for 2 months)	Value of 100 kw at 70% load for 12 months	Value of 100 kw at 70% load for 12 months	Value of 100 kw at 70% load for 10 months
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INCREASE REVENUE:

A.28.8020.813 42189.01 Activities – Eco Dev	\$5,444.33 (Value of 100 kw at 70% load for 2 months)	Value of 100 kw at 70% load for 12 months	Value of 100 kw at 70% load for 12 months	Value of 100 kw at 70% load for 10 months
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INCREASE APPROPRIATION:

A.28.8020.813 74550.30 Empower Niagara	\$5,444.33 (Value of 100 kw at 70% load for 2 months)	Value of 100 kw at 70% load for 12 months	Value of 100 kw at 70% load for 12 months	Value of 100 kw at 70% load for 10 months
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Moved by Bradt, seconded by Virtuoso.

Adopted. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. ED-029-19

From: Economic Development and Administration Committees.

Dated: December 3, 2019

AUTHORIZATION TO CONVEY CERTAIN TAX LIEN PROPERTY (COMMONLY KNOWN AS 3505 HYDE PARK BOULEVARD) TO NORLIC

WHEREAS, pursuant to Section 902 of the Real Property Tax Law of the State of New York the Niagara County Treasurer, acting in his capacity as Tax Enforcing Officer, acquired a tax lien on property commonly known as 3505 Hyde Park Boulevard, Niagara Falls, New York in the Town of Niagara, New York assessed as SBL#130.19-2-3.1 (the “Property”), and

WHEREAS, the Property is an abandoned Industrial Factory that requires environmentally remediation, and

WHEREAS, Section 1616 of the Not-for-Profit Law of the State of New York authorizes a municipality to enter into a contract to sell some or all of the delinquent tax liens held by it to a land bank, and

WHEREAS, the Niagara County Treasurer has requested legislative approval to transfer the above tax lien to the Niagara Orleans Land Improvement Corporation (“NORLIC”) with the understanding that the Property will be remediated and developed by a private tax paying purchaser, and

WHEREAS, the above Property if foreclosed upon by the County is not needed for municipal purposes, and

WHEREAS, the benefits accruing the County of Niagara (avoidance of the costs of environmental remediation, demolition and other expenses) are in excess of the potential auction value of this property, now, therefore, be it

RESOLVED, pursuant to County Law Section 215 and Real Property Tax Law Section 902, the Chairman of the Niagara County Legislature be, and hereby is authorized and directed to sign and enter into a contract with NORLIC to sell the tax lien on 3505 Hyde Park Boulevard, Niagara Falls, New York for one and no more dollars and all other reasonable and necessary title transfer documents, subject to the review and approval of the Niagara County Attorney.

Moved by Bradt, seconded by Virtuoso.

Adopted. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. IF-135-19

From: Infrastructure & Facilities and Administration Committees.

Dated: December 3, 2019

NIAGARA COUNTY REFUSE DISPOSAL DISTRICT LANDFILL 1 LANDFILL CAP AND SITE UPGRADES PROJECT CHANGE ORDER NO. 1

WHEREAS, by Resolution No. IF-061-19, dated May 21, 2019, the Legislature awarded the contract for the Landfill 1 Landfill Cap and Site Upgrades project to Zoladz Construction, 13600 Railroad Street, PO Box 157 Alden, New York 14004, for a contract amount of \$2,297,494.98, and

WHEREAS, field conditions necessitated relocating and redesigning of Tank 1 which exceeded the line item value from the original bid by, and

WHEREAS, field conditions necessitated the purchase and placement of a longer electrical pole, which exceeded the line item value from the original bid,

WHEREAS, at the request of the County, Zoladz Construction removed a chain link fence structure and steel drums that was outside the original scope of work, and

WHEREAS, as a result of relocation and redesign of Tank 1, Zoladz Construction has requested an additional 45 working days to reach substantial completion or December 26, 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 approval of Change Order #1 and the granting of the said extension of the “Substantial Completion” date shall not be, nor shall it be construed or interpreted as, a waiver of any other terms and obligations of the Niagara County Refuse Disposal District Landfill 1 Landfill Cap and Site Upgrades project, 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. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. IF-136-19

From: Infrastructure & Facilities and Administration Committees.

Dated: December 3, 2019

HIGHWAY BUDGET MODIFICATION

WHEREAS, due to the early commencement of the 2019 fall snow and ice removal season, additional funds are required to purchase road chloride abrasives, and

WHEREAS, funds are available in the Position line item due to various positions being vacant throughout 2019, and

RESOLVED, that the following budget modification be effectuated:

DECREASE APPROPRIATIONS:

D.15.5110.000.71010.00.1672	Positions – Truck Driver	\$ 8,000
D.15.5110.000.71010.00.1675	Positions – Truck Driver	\$12,000
D.15.5110.000.71010.00.1699	Positions – Truck Driver	\$ 9,000
D.15.5110.000.71010.00.1706	Positions – Truck Driver	\$14,000
D.15.5110.000.71010.00.3140	Positions – Truck Driver	\$ 9,000

INCREASE APPROPRIATIONS:

D.15.5110.000.74750.14	Supplies, General Chloride Abrasives	\$52,000
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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. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. IF-137-19

From: Infrastructure & Facilities Committee.

Dated: December 3, 2019

**AWARD OF CONTRACT – TONAWANDA CREEK ROAD REHABILITATION/
SLIDE STABILIZATION PROJECT**

WHEREAS, the Department of Public Works has prepared specifications and the Niagara County Purchasing Department has advertised for bids for the Tonawanda Creek Road Rehabilitation/Slide Stabilization project, and

WHEREAS, funds are available in account number H630.15.5112.000 72600.01, Roads, and

WHEREAS, the following bids were publicly opened and read by our Purchasing Department on November 20, 2019 as tabulated below:

- | | | |
|----|--|----------------|
| 1. | Union Concrete & Construction
PO Box 410
West Seneca, NY 14224 | \$7,258,779.82 |
| 2. | Edbauer Construction
2790 Clinton Street
West Seneca, NY 14224 | \$7,432,829.80 |

3.	Concrete Applied Technologies Corp. d/b/a CATCO 1266 Townline Road Alden, NY 14004	\$7,759,795.00
4.	Oakgrove Construction Inc. 6900 Seneca Street Elma, NY 14004	\$8,250,918.60
5.	Accadia Site Contracting Inc. 5636 Transit Road Depew, NY 14043	\$8,386,033.00
6.	Zoladz Construction Co. Inc. 13600 Railroad Street Alden, NY 14004	\$8,417,113.64
7.	Mark Cerrone Inc. 2368 Maryland Avenue Niagara Falls, NY 14305	\$9,284,261.40
8.	Marcy Excavation Services 5835 Route 5 Herkimer, NY 13350	\$9,442,560.68

and

WHEREAS, the Infrastructure & Facilities 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 the Tonawanda Creek Road Rehabilitation/Slide Stabilization project be awarded to the lowest responsible bidder, Union Concrete & Construction, PO Box 410, West Seneca, NY 14224, in the amount of \$7,258,779.82, 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, and be it further

RESOLVED, that this award is contingent upon approval of the Award Package by New York State Department of Transportation.

Moved by Bradt, seconded by Virtuoso.

Adopted. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. IF-138-19

From: Infrastructure & Facilities and Administration Committees.

Dated: December 3, 2019

**REPLACEMENT OF CARMEN ROAD BRIDGE OVER
GOLDEN HILL CREEK-NORTH
CHANGE ORDER NO. 1 - FINAL**

WHEREAS, by Resolution No. IF-015-19, dated February 19, 2019, the Legislature awarded the contract for the Replacement of Carmen Road Bridge over Golden Hill Creek-North project to 4th Generation Construction, 5650 Simmons Avenue, Niagara Falls, NY 14304, for a contract amount of \$793,891, and

WHEREAS, it is necessary to decrease the contract in the amount of \$56,713.15 in order to release contract funds within items with surplus quantities in order to pay for overruns of existing contract item quantities, for a revised contract amount of \$737,177.85, 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. 1-Final to decrease the contract by \$56,713.15 for the Replacement of Carmen Road Bridge over Golden Hill Creek-North project, for a revised contract amount of \$737,177.85, to 4th Generation Construction, 5650 Simmons Avenue, Niagara Falls, NY 14304, 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. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. IF-139-19

From: Infrastructure & Facilities and Administration Committees.

Dated: December 3, 2019

**GRISWOLD STREET BRIDGE OVER A TRIBUTARY OF MUD CREEK
CHANGE ORDER NO. 1 - FINAL**

WHEREAS, by Resolution No. IF-013-19, dated February 19, 2019, the Legislature awarded the contract for the Griswold Street Bridge over a Tributary of Mud Creek project to 4th Generation Construction, 5650 Simmons Avenue, Niagara Falls, NY 14304, for a contract amount of \$519,809, and

WHEREAS, it is necessary to decrease the contract in the amount of \$27,888.56 to release contract funds within items with surplus quantities in order to pay for overruns of existing contract item quantities, for a revised contract amount of \$491,920.44, 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. 1-Final to decrease the contract by \$27,888.56 for the Griswold Street Bridge over a Tributary of Mud Creek project, for a revised contract amount of \$491,920.44, to 4th Generation Construction, 5650 Simmons Avenue, Niagara Falls, NY 14304, 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. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. IF-140-19

From: Infrastructure & Facilities and Administration Committees.

Dated: December 3, 2019

**KHM INC. - GASPORT ROAD EMERGENCY CULVERT REPAIRS
FINAL PAYMENT**

WHEREAS, by Resolution No. IF-075-19, dated June 18, 2019, the Legislature authorized emergency repairs for the Gasport Road Culvert over the East Branch of Eighteen Mile Creek, and

WHEREAS, the County, pursuant to County purchasing guidelines, sent a quote request to three (3) area vendors for the labor and materials to add the foaming agent to the grout for the lining of the Gasport Road Culvert, and

WHEREAS, the contract for the application of the grout foaming agent was awarded to KHM Inc., PO Box 2672, Binghamton, NY 13902, for a contract amount of \$12,950, and

WHEREAS, Resolution No. IF-116-19, dated October 15, 2019, authorized Change Order No. 1 to increase the contract in the amount of \$4,800 for additional labor to install the foaming agent for the grout beyond the contractual scope of work, for a revised contract amount of \$17,750, and

WHEREAS, the contract has been completed to specifications for the contract amount of \$17,750, 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 final payment is authorized to be processed to KHM Inc., PO Box 2672, Binghamton, NY 13902, for a final contract amount of \$17,750, 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. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. IF-141-19

From: Infrastructure & Facilities and Administration Committees.

Dated: December 3, 2019

**EDBAUER CONSTRUCTION - GASPORT ROAD EMERGENCY CULVERT REPAIRS
FINAL PAYMENT**

WHEREAS, by Resolution No. IF-075-19, dated June 18, 2019, the Legislature authorized emergency repairs for the Gasport Road Culvert over the East Branch of Eighteen Mile Creek, and

WHEREAS, the County, pursuant to County purchasing guidelines, sent a request to the Chairman of the Legislature to waive the said purchasing guidelines, to allow for the immediate repair of the Gasport Road Culvert, and

WHEREAS, the contract to provide labor and materials to perform the lining of the Gasport Road Culvert, Grouting, and Slop Stabilization was awarded to McLaughlin Construction Corp., DBA Edbauer Construction, 2790 Clinton Street, West Seneca, NY 14224, for a contract amount of \$169,200, and

WHEREAS, Resolution No. IF-115-19, dated October 15, 2019, authorized Change Order No. 1 to increase the contract in the amount of \$27,642.15 for additional labor and materials to install the culvert liner and grout beyond the estimated cost, for a revised contract amount of \$196,842.15, and

WHEREAS, the contract has been completed to specifications for the contract amount of \$196,842.15, 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 final payment is authorized to be processed to McLaughlin Construction Corp., DBA Edbauer Construction, 2790 Clinton Street, West Seneca, NY 14224, for a final contract amount of \$196,842.15, 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. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. IF-142-19

From: Infrastructure & Facilities and Administration Committees.

Dated: December 3, 2019

**MUNICIPAL COOPERATION AGREEMENT BETWEEN THE
COUNTIES OF ERIE AND NIAGARA
TONAWANDA CREEK ROAD REHABILITATION AND
TONAWANDA CREEK SLIDE STABILIZATION – AMENDMENT NO. 2**

WHEREAS, the Tonawanda Creek Road Rehabilitation and Tonawanda Creek Slide Stabilization Project, towns of Pendleton and Lockport, Niagara County, and the town of Clarence, Erie County, is eligible for funding under Title 23 US Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% federal funds and 20% non-federal funds,, and

WHEREAS, Niagara County has already advanced the project by making a commitment of 100% of the non-federal share of the costs of the project by Resolution No. IF-023-17 dated February 21, 2017, and

WHEREAS, the County of Erie, as a partner, desires to cooperate with the County of Niagara as sponsor in undertaking the above named project, as approved in Resolution No. IF-149-17, dated December 5, 2017, and

WHEREAS, Resolution No. IF-078-19, dated June 18, 2019, approved Amendment No. 1 to establish how the allocation of funds would be handled by the County of Erie in paying its share of the cost of the project to the County of Niagara, and how the County of Niagara would reimburse the County of Erie its portion of the state reimbursement, and

WHEREAS, an amendment to the current inter-municipal agreement is necessary between the County of Niagara and the County of Erie in order to further establish how the allocation of funds would be handled by the County of Erie in paying its share of the cost of the project to the county of Niagara, and how the County of Niagara would reimburse the County of Erie its portion of the state reimbursement, and

WHEREAS, prior to the execution of the Inter-municipal Agreement Amendment No. 2, the County Attorney will review the agreement for approval as to legal form, language, and compliance, and subject to the approval of Amendment No. 2 by the County of Erie Attorney and/or Erie County Legislature, now, therefore, be it

RESOLVED, that the Niagara County Legislature approves the Amendment No. 2 to the agreement between the County of Niagara and the County of Erie for the advancement of the project, and be it further

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute Amendment No. 2 to the inter-municipal agreement with the County of Erie.

Moved by Bradt, seconded by Virtuoso.

Adopted. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. IF-143-19

From: Infrastructure & Facilities Committee.

Dated: December 3, 2019

**BRIDGE WASHING OF 82 BRIDGES AND DECK SEALING OF 9 BRIDGES
VARIOUS TOWNS IN NIAGARA COUNTY
FEDERAL AID LOCAL PROJECT AGREEMENT**

WHEREAS, a project for the Bridge Washing and Deck Sealing of various bridges in various towns in Niagara County, PIN 5762.46, is eligible for funding under Title 23 US Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% federal funds and 20% non-federal funds, and

WHEREAS, the County of Niagara desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of the Construction/Construction Inspection phases of the project, 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 Legislature of the County of Niagara hereby approves the above-subject project, and be it further

RESOLVED, that the Legislature of the County of Niagara hereby authorizes the County of Niagara to pay in the first instance 100% of the federal and non-federal shares of the cost of the Construction/Construction Inspection phases of the Project or portions thereof, and be it further

RESOLVED, that the sum of \$200,000 is hereby appropriated in account D.15.5120.000 74800.06, Repairs and Maintenance, and made available to cover the cost of participation in the above phases of the project, and be it further

RESOLVED, that in the event the amount required to pay the full federal and non-federal shares of the cost of the project's Construction/Construction Inspection phases exceeds the amount appropriated above, the County of Niagara shall convene its Legislature as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation, and be it further

RESOLVED, that the Chairman of the Legislature of the County of Niagara be, and hereby is, authorized to execute all necessary Agreements, certifications, or reimbursement requests for Federal Aid and/or Marchiselli aid on behalf of the County of Niagara with the New York State Department of Transportation, in connection with the advancement or approval of the Project providing for the administration of the Project and the Municipality's first instance funding of Project costs and permanent funding of the local share of Federal Aid eligible Project costs and all Project costs within appropriations therefor that are not so eligible, and be it further

RESOLVED, that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, 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, and be it further

RESOLVED, that this Resolution shall take effect immediately.

Moved by Bradt, seconded by Virtuoso.

Adopted. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. IF-144-19

From: Infrastructure & Facilities Committee.

Dated: December 3, 2019

**BRIDGE PAINTING AND STEEL REPAIRS OF ROBINSON ROAD
OVER THE ERIE CANAL, TOWNS OF PENDLETON AND LOCKPORT
FEDERAL AID LOCAL PROJECT AGREEMENT**

WHEREAS, the Bridge Painting and Steel Repairs of Robinson Road over the Erie Canal Project, PIN 5762.44 (the "Project"), towns of Pendleton and Lockport, Niagara County, is eligible for funding under Title 23 US Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% federal funds and 20% non-federal funds, and

WHEREAS, the County of Niagara desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of the Construction/Construction Inspection phases of the project, 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 Legislature of the County of Niagara hereby approves the above-subject project, and be it further

RESOLVED, that the Legislature of the County of Niagara hereby authorizes the County of Niagara to pay in the first instance 100% of the federal and non-federal shares of the cost of the Construction/Construction Inspection phases of the Project or portions thereof, and be it further

RESOLVED, that the sum of \$385,000 is hereby appropriated in account D.15.5120.000 74800.06 and made available to cover the cost of participation in the above phases of the project, and be it further

RESOLVED, that in the event the amount required to pay the full Federal and Non-Federal shares of the cost of the project's Construction/Construction Inspection phases exceeds the amount appropriated above, the County of Niagara shall convene its Legislature as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation, and be it further

RESOLVED, that the Chair of the Legislature of the County of Niagara be, and hereby is, authorized to execute all necessary Agreements, certifications, or reimbursement requests for Federal Aid and/or Marchiselli aid on behalf of the County of Niagara with the New York State Department of Transportation, in connection with the advancement or approval of the Project providing for the administration of the Project and the Municipality's first instance funding of Project costs and permanent funding of the local share of Federal Aid eligible Project costs and all Project costs within appropriations therefor that are not so eligible, and be it further

RESOLVED, that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, 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, and be it further

RESOLVED, that this Resolution shall take effect immediately.

Moved by Bradt, seconded by Virtuoso.

Adopted. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Resolution No. IF-145-19

From: Infrastructure & Facilities Committee.

Dated: December 3, 2019

**BUDGET MODIFICATION
CHLORINE SCRUBBER & VENTILATION UPGRADES - WATER DISTRICT**

WHEREAS, the Niagara County Water District received bids on the NCWD Chlorine Scrubber & Ventilation Upgrades, Contract No. 19-1, and

WHEREAS, the Niagara County Water District Administrative Board authorized the Administrative Director to award bids on the project which is estimated to be \$1,070,000 including construction, contingency, engineering and legal costs, and

WHEREAS, additional funds are need to take this project to completion, and

WHEREAS, there are sufficient funds in the Water District's 2019 Operating Budget to cover the additional cost of this project; now, therefore, be it

RESOLVED, that the following budget modification be effectuated:

DECREASE APPROPRIATIONS:

FX.31.1990.000 74500.01	Water Contingency Fund	\$120,000
FX.31.8320.000 74500.01	Source of Supply	30,000

INCREASE APPROPRIATIONS:

FX.31.9950.000.79010.00	Transfer to Capital Projects	\$150,000
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INCREASE ESTIMATED REVENUE:

H669.31.8397.000.45031.00	Interfund Trans, From Operating	\$150,000
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INCREASE APPROPRIATIONS:

H669.31.8397.000.72100.27	Water -Chlorine System Upgrades	\$150,000
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Moved by Bradt, seconded by Virtuoso.

Adopted. 12 Ayes, 0 Noes, 2 Absent – Andres, Steed.

Chairman McNall announced the formation of an Ad Hoc Committee in search for Hiring of PIO, appointed the following members:

Legislator Randy R. Bradt (Chairman)

Legislator Anthony J. Nemi

Legislator David E. Godfrey
Legislator William J. Collins
Legislator Dennis F. Virtuoso
Clerk of the Legislature, Mary Jo Tamburlin
County Manager, Richard Updegrove

Chairman McNall announced the following members to serve on the

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

The Chairman declared the Board adjourned at 7:34 p.m., subject to the call of the Clerk.

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


Mary Jo Tamburlin, Clerk