

Item #1

**SUBJECT: LETTER OF AWARD FOR LASALLE WATERFRONT COMFORT STATION RENOVATION**

The following was the result of bids received on March 26, 2009, for the above referenced project:

<b><u>CONTRACTOR</u></b>	<b><u>BASE BID</u></b>
David Gross Contracting Co. 2104 Niagara Street Niagara Falls, NY 14303	\$ 64,900.00
Walter S. Johnson Bldg. Co.	\$ 81,300.00

It is the recommendation of the undersigned that this project be awarded to David Gross Contracting Co. at its Base Bid of \$64,900.00. Funding is available under Greenway Funding code H0813.2008.0813.0449.599.

Will the Council vote to so approve and authorize the Mayor to execute a contract in a form acceptable to the Corporation Counsel?

Item #2

**SUBJECT: Budget Amendment for Engineering Department**

The 2009 adopted budget included \$1,000.00 for overtime for the Engineering Department. Due to the current lack of a City Engineer on staff, additional duties have been performed by Engineering personnel and the overtime allotment is depleted.

I am requesting that the Council again amend the budget to increase the Engineering overtime fund an additional \$10,000.00. Funds are available in A1440.0000.0110.000 (Biweekly Payroll).

Will the Council so approve?

Item #3

**SUBJECT: CHANGE ORDER #1 FOR EMERGENCY GENERATOR INSTALLATIONS AT CITY OF NIAGARA FALLS FIREHALLS**

A contract for the above referenced project was awarded to Industrial Power and Lighting Corp. on November 9, 2006 in the amount of \$263,400.00.

Subsequent to the start of the project, unknown obstacles below grade necessitated the relocation of associated fuel tanks, pressure regulators and ancillary supply/return piping at two of the five new generator sites. The work performed to either remove or accommodate the existing obstacles was not included in the original contract scope. The total cost of the fuel tank relocation or obstacle removals, and the related site restoration is \$20,023.12.

Will the Council vote to so approve and authorize the Mayor to execute a contract in a form acceptable to the Corporation Counsel?

Item #4

**SUBJECT:** Re-Award of Bid #7-09 for Tree Removal Services

At its meeting of March 9, 2009, the Council awarded the above referenced bid to Affordable Tree Co. (see attached Council letter). Despite the fact that our insurance requirements were clearly stated in the request for bids and despite the fact that the City was assured by the contractor that the company had proper coverage, we have recently been notified that the contractor is unable to obtain the necessary insurance coverage.

We have contacted the next low bidder. They are willing to honor their bid. The contractor's insurance agent has provided a statement that the contractor can and will obtain the appropriate coverage upon award of the bid.

Therefore, we respectfully request you re-award the above referenced bid as follows:

TO: CDL Tree Co.  
465 Church Street  
Youngstown, NY 14174

FOR: Removal of Seventy-One (71) trees on City margins including  
stump removal and ground restoration: \$93,457.00

A separate item is on the Council's agenda requesting approval of the funding source for this expenditure.

Item #5

**SUBJECT:** Bid #8-09 Landscaping Services

We respectfully request you award the above referenced bid as follows:

TO: J.E.S. Enterprises  
725 College Terrace  
Niagara Falls, NY 14305

FOR: Landscape maintenance of the medians on Niagara Street,  
John B. Daly Boulevard and Rainbow Boulevard plus planting  
and maintenance of five (5) flower beds (option 1): \$23,640.00

The City Purchasing Agent certifies that all bids were solicited in accordance with Section 103 of the General Municipal Law.

Notice that bids were to be received was advertised in the Niagara Gazette and bids were sent to seven (7) vendors. Five (5) bids were received. The above referenced company submitted the lowest bid.

A separate item is on the Council's agenda requesting approval of the funding source for this expenditure.

Item #6

**SUBJECT:** Bid #10-09 Agricultural Chemicals

We respectfully request you award the above referenced bid as follows:

TO: Andre & Son, Inc.  
2 Mill Street  
Montrose, PA 18801

FOR: Items 1, 3, 4, 6 and 7 as per the attached tally sheet.

TO: Lesco, Inc.  
1301 East 9<sup>th</sup> Street  
Suite 1300  
Cleveland, OH 44114-1849

FOR: Items 2, 5, 8 and 9 as per the attached tally sheet.

The City Purchasing Agent certifies that all bids were solicited in accordance with Section 103 of the General Municipal Law.

Notice that bids were to be received was advertised in the Niagara Gazette and bid requests were sent to five (5) vendors. Four (4) bids were received. The above referenced companies submitted the lowest bids for each respective item.

Funds for this expenditure are available in the Golf Course Fund code: GC7250.0200.0419.009.

Item #7

**FROM:** Mayor Paul A. Dyster

**SUBJECT:** Bid #11-09 Three (3) Tandem Axle Dump Trucks with Plows

We respectfully request you award the above referenced bid as follows:

TO: Hunter Buffalo Peterbilt  
2370 Walden Avenue  
Buffalo, NY 14225

FOR: Three (3) Peterbilt tandem axle  
dump trucks with plows:

\$152,051.00 ea.      \$456,153.00

The City Purchasing Agent certifies that all bids were solicited in accordance with Section 103 of the General Municipal Law.

Notice that bids were to be received was advertised in the Niagara Gazette and bid requests were sent to twelve (12) vendors. Four (4) bids were received. The above referenced company submitted the lowest bid.

Funds for this expenditure are available in 2009 Capital budget code: H0912.2009.0230.000.

Item #8

**SUBJECT:** Bid #12-09 Boarding Up of Various Dilapidated and Fire Damaged Buildings

We respectfully request you award the above referenced bid as follows:

**TO:** Santo Candella Const. Co., Inc.  
118 74<sup>th</sup> Street  
Niagara Falls, NY 14304

**FOR:** Boarding up of various dilapidated and fire damaged structures, privately and publicly owned, deemed hazardous by the Inspections Department and Fire Department.

Price per square foot of sheathing used: \$1.78/sq. ft.

The City Purchasing Agent certifies that all bids were solicited in accordance with Section 103 of the General Municipal Law.

Notice that bids were to be received was advertised in the Niagara Gazette and bids were sent to Seven (7) vendors. The above referenced company submitted the lowest bid. One other bid was received from CDL Tree Co. (\$1.93/sq. ft.).

Funds for this expenditure are available in the Inspections Department code: A3620.0000.0449.599.

Item #9

**SUBJECT:** Bid #13-09 Meals for Prisoners

We respectfully request you award the above referenced bid as follows:

TO: Frankies Donuts, inc.  
717 Portage Road  
Niagara Falls, NY 14301

FOR: Meals for prisoners at the Public Safety Building:	Breakfast (est. 4,900)	\$1.00
	Lunch (est. 5,800)	1.50
	Supper (est. 1,900):	1.50

The City Purchasing Agent certifies that all bids were solicited in accordance with Section 103 of the General Municipal Law.

Notice that bids were to be received was advertised in the Niagara Gazette and bids were sent to 5 (five) vendors. The above referenced company submitted the lowest bid. One other bid was received from Burger King (breakfast \$1.25, Lunch \$2.25 and Supper \$2.25).

Funds for this expenditure are available in A3120.0001.0449.599.

Item #10

**SUBJECT:** Bid #14-09 Sale of Street Millings

We respectfully request you award the above referenced bid as follows:

TO: Modern Landfill, Inc.  
4746 Model City Road  
PO Box 209

Model City, NY 14107-0209

FOR: Sale of Street Millings (approx. 23,000 tons): \$4.75/ton  
located at the Corporation Yard.

The City Purchasing Agent certifies that all bids were solicited in accordance with Section 103 of the General Municipal Law.

Notice that bids were to be received was advertised in the Niagara Gazette and bids were sent to four (4) vendors. Three (3) bids were received. The above referenced company submitted the highest price for the street millings. Bids were also received from LaFarge North America (\$4.00/ton) and Armand Cerrone, Inc. (\$2.05/ton).

Item #11

*RE: Appropriation for Boundary Waters Treaty Centennial Committee*

Council Members:

As the Council is aware 2009 marks the Centennial of the signing of the Boundary Waters Treaty between the United States and Canada.

Various levels of government including the International Joint Commission, the Canadian Consulate and local governments on both sides of the Niagara River have formed a committee to organize various public events celebrating the Centennial of the Treaty.

It is requested that the Council appropriate \$10,000 from the Tourism fund balance as the City's contribution to these events.

Will the Council so approve?

Item #12

*RE: Appropriation of Casino Funds for Downtown Street Median*

Council Members:

Elsewhere on your agenda is an item awarding a bid for the maintenance of the plantings in the various street medians in the downtown area.

It is requested that the Council appropriate \$23,640 from Casino funds to fund this.

Will the Council so approve?

Item #13

*RE: Additional Funding for Tree Removal Services*

Council Members:

Earlier this year the Council appropriated \$42,900 of Casino funds to finance the award of the bid to lowest responsible bidder for the removal of seventy-one trees.

After the award of the bid the low bidder was unable to obtain the required insurance and, therefore, it is requested that you (in an item elsewhere on your agenda) award the bid to the next lowest bidder. It is requested that the Council appropriate \$50,557 of Casino funds to cover the additional cost.

Will the Council so approve?

Item #14

*RE: Budget Amendment for Tourism Fund*

Council Members:

It is requested that the following sums be allocated from the Tourism Fund balance for the events listed:

1. \$1,000 to Main Street Business Association for "Positively Main Street" Festival entertainment on June 27-28, 2009.

2. \$1,000 to Pine Avenue Business Association for concert series during July and August, 2009 and for the Italian Festival entertainment on August 1-2, 2009.

3. \$1,000 to Niagara Street Business Association concert series during July and August, 2009 and for the International Festival entertainment on August 15-16, 2009.

Will the Council so approve?

Item #15

*RE: Budget Amendment for Municipal Safety Complex Cleaner Position*

Council Members:

The 2009 budget contains cleaner positions for the Courthouse portion of the Municipal Safety Complex. These positions are fully reimbursed by the Office of Court Administration to the City.

After discussions with the court staff it is recommended that one of the cleaner positions be changed to a MW2 position to give greater flexibility to the cleaning staff.

The additional annual cost of salary and benefits would be \$5,263.37. This amount will be reimbursed by the court system.

Will the council vote to amend the 2009 budget to reflect this change?

Item #16

*RE: Appropriation of Casino Interest for Change Order No.1 for Emergency Generator Installations at City Fire Halls*

Council Members:

Elsewhere in your agenda is a change order for the contract for the installation of emergency generators at the City fire halls. The contract was funded with a grant of homeland security funds and an application has been made for additional funds for this change order.

In order to pay the contractors who have performed the work on a timelier basis it is requested that the Council appropriate \$20,023.12 of Casino interest to fund this change order with the understanding that if the City receives additional homeland security funds that it will used to replenish this account.

Will the Council so approve?

Item #17

RE: Mayor's Approval of Ordinance 2009-16

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Please be advised that on February 18, 2009 Mayor Paul A. Dyster duly approved Resolution 2009-16 relative to amending Chapter 1121 of the codified Ordinances entitled "Signs and Billboards" by amending Section 1121.05 entitled "Zoning"

Item #18

SUBJECT: Second Hand Dealers License

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Chapter 338 of the Codified Ordinances states: “338.03...City Council may grant a license to carry on the business of secondhand dealer within the City...”

The following have submitted applications for secondhand dealer licenses. These applications have all been approved by the N.F. Police Department.

Diamond Enterprises – 1606 Pine Avenue  
Niagara Coins – 509 Third Street  
Niagara Tools Buy N Sell – 2028 Pine Avenue

Will Council so approve?

**RESOLUTION CALLING FOR A PUBLIC HEARING ON APRIL 20, 2009 RELATIVE TO  
RESTORE NY GRANT APPLICATIONS**

**South Junior Project and 39<sup>th</sup> Street School/Old Municipal Court Building Project**

**RESOLUTION 2009-**

**BY:**  
**Council Chair Chris Robins**

RESOLVED, that a public hearing be held on the 20<sup>th</sup> day of April, 2009 at 7:00 PM Eastern Daylight Time, in the City Hall Chambers of the City of Niagara Falls, New York at City Hall, 745 Main Street, and that the required notice of said hearing be published in the Niagara Gazette preceding said hearing. The purpose of the hearing is to hear public comments regarding a Restore NY Grant application for two (2) projects: the “South Junior” Project and “39<sup>th</sup> Street School/Old Municipal - Court Building” Projects. The application for the “South Junior” Project is for \$5 million for a portion of the costs of reconstruction of the building projected for residential/commercial mixed use. The application for the “39<sup>th</sup> Street School/Old Municipal - Court Building” Project is for \$1.3 million for a portion of the costs of reconstruction of the building(s) projected for residential/commercial mixed use.

And be it further

RESOLVED, that the City Clerk publish the notice of public hearing and also publish a property assessment list for three consecutive days prior to the hearing date, to comply with the Restore New York application requirements.

RESOLUTION No. 2009–

RELATIVE TO THE NIAGARA TOURISM AND CONVENTION CORPORATION  
PRODUCING A DETAILED BUDGET

BY:

Council Chair Chris Robins  
Council Member Robert A. Anderson, Jr.  
Council Member Steve Fournier  
Council Member Sam Fruscione  
Council Member Charles Walker

WHEREAS, the Niagara Tourism and Convention Corporation (NTCC) was formed as a result of a merger between the City of Niagara Falls Convention and Visitors Bureau and the Niagara County Tourism Office. As the county-wide successor of previously separate efforts, the NTCC is publicly funded by the City of Niagara Falls through bed tax money and casino money approved by the Legislature, along with government grants; and

WHEREAS, the NTCC has been reluctant to reveal the amount of monies spent by the organization and the staff. Because the corporation is unwilling to make public all their receipts and expenditures, it is requested that they produce a detailed budget showing all line items and expenses including a detail on all travel, operations and salaries of all employees. More transparency and accountability is needed since the City of Niagara Falls is the largest supporter of the NTCC financially; and

WHEREAS, the NTCC has said that it is a nonprofit, created through a contract and has shown a reluctance to disclose any figures. Niagara Falls is a premier tourism destination and a worldwide draw. The focus of the NTCC should be more on travelers within driving distance, especially in this down economy and also focus the majority of its marketing on the City of Niagara Falls which is the main contributor to its funding.

THEREFORE BE IT RESOLVED, that the City Council of the City of Niagara Falls is requesting the Niagara Tourism and Convention Corporation to provide the City Council with a true and complete copy of its 2009 budget complete with detail on all travel and operations expenses as well as salary information (with benefits) for each NTCC employee, including its president by April 20, 2009.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to NYS Comptroller Thomas DiNapoli; NYS Governor David A. Paterson; NYS Assemblywoman Francine DelMonte; NYS Senators Antoine Thompson and George Maziarz.

Item #21

RESOLUTION NO.

Authorizing the implementation and funding in the first instance 100% of the Federal-Aid and State "Marchiselli" Program-Aid eligible costs, of a Transportation Federal-Aid Project, (NY Route 104, PIN 5045.24) to fully fund the local share of Federal-Aid eligible and ineligible project costs, and appropriating funds therefore.

By: Council Chairman Chris Robins

WHEREAS, a Project for the Rehabilitation (Multi Course Overlay) of NY Route 104, Main Street and Lewiston Road from Ontario Avenue to the Niagara Falls North City Line, in the City of Niagara Falls, Niagara County, PIN 5045.24 (the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% Non-Federal funds; and

WHEREAS, the City of Niagara Falls desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Preliminary Engineering and Construction & Construction Inspection phases of the Project, PIN 5045.24 .

NOW, THEREFORE, the City Council of the City of Niagara Falls, duly convened does hereby

RESOLVE, that the City Council of the City of Niagara Falls hereby approves the above-subject project; and it is hereby further

RESOLVED, that the City Council of the City of Niagara Falls hereby authorizes the City of Niagara Falls to pay in the first instance 100% of the Federal and Non-Federal share of the cost of the Preliminary Engineering and Construction & Construction Inspection phases for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$2,546,000 is hereby appropriated (in addition to \$ 286,000 previously appropriated for the project's Preliminary Engineering phases via City of Niagara Falls Resolution No. 2000-25 adopted on March 13th 2000) and made available to cover the cost of participation in the above phases of the Project; and it is further

RESOLVED, that in the event the amount required to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the Preliminary Engineering and Construction & Construction Inspection phases exceeds the amount appropriated, \$2,832,000 and/or 100% of the full Federal and Non-Federal shares of the cost of the Preliminary Engineering and Construction & Construction Inspection phases exceeds \$14,160,000, the project's current Total Cost , the City of Niagara Falls shall convene its Council as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and it is further

RESOLVED, that the Mayor of the City of Niagara Falls be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the City of Niagara Falls with the New York State Department of Transportation in connection with the advancement or approval of the Project and 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 and State-Aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is 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 it is further

RESOLVED, this Resolution shall take effect immediately.

BOND RESOLUTION DATED APRIL 1, 2009.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$2,546,000 BONDS OF THE CITY OF NIAGARA FALLS, NIAGARA COUNTY, NEW YORK, TO PAY THE CITY'S SHARE OF THE RECONSTRUCTION OF LEWISTON ROAD, IN AND FOR SAID CITY.

By: Council Chairman Chris Robins

RESOLVED by the affirmative vote of not less than two-thirds of the total voting strength of the City Council of the City of Niagara Falls, Niagara County, New York, as follows:

Section 1. For the purpose of paying the City's share of the reconstruction of Lewiston Road, in and for the City of Niagara Falls, Niagara County, New York, including sidewalks, curbs, gutters, drainage, landscaping, grading or improving rights-of-way, as well as incidental costs and expenses related thereto, there are hereby authorized to be issued \$2,546,000 bonds of said City pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid object or purpose is \$2,546,000, which is hereby authorized and the plan of financing consists of the \$2,546,000 bonds hereby authorized.

Section 3. It is hereby further determined that the period of probable usefulness of the aforesaid specific object or purpose is fifteen (15) years, pursuant to subdivisions 20(c) of paragraph (a) of Section 11.00 of the Local Finance Law.

Section 4. The faith and credit of said City of Niagara Falls, Niagara County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. To the extent not paid from other sources, there shall annually be levied on all the taxable real property of said City, a tax sufficient to pay the principal of and interest on such obligations as the same become due and payable.

Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the City Controller, the chief fiscal officer of said City. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Controller, consistent with the provisions of the Local Finance Law.

Section 6. All other matters, except as provided herein relating to such bonds herein authorized including date, denominations, maturities, interest payment dates, and whether said bonds shall be repaid in accordance with a schedule providing for substantially level or declining annual debt service, within the limitations prescribed herein and the manner of execution of the same and also including the consolidation with other issues, shall be determined by the City Controller, the chief fiscal officer of such City. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the City Controller shall determine consistent with the provisions of the Local Finance Law.

Section 7. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 8. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this bond resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 9. This resolution, which takes effect immediately, shall be published in summary form in the *Niagara Gazette*, the official newspaper of said City hereby designated for such purpose, together with a notice of the City Clerk in substantially the form set forth in paragraph a of Section 81.00 of the Local Finance Law.