

Item #1

The following is a report of the licenses issued and collections made in the Office of the City Clerk during the month of April, 2008

			<u>CONTROLLER</u>		<u>TOTAL</u>
A1255-001					
A012	Vital Statistics		\$ 7,009.00	\$	7,009.00
A1255-004					
A013	Certificates of Marriage		\$ 520.00	\$	520.00
A1255-004					
A013	Copies of Records		\$ 492.50	\$	492.50
A2501-006					
A042	Tour Agency		\$ 1,400.00	\$	1,400.00
A2501-006					
A042	Tour Agency Additional Site		\$ 900.00	\$	900.00
A2501-006					
A042	Tour Attendant		\$ 250.00	\$	250.00
A2501-006					
A042	Tour Driver/Guide		\$ 700.00	\$	700.00
A2501-011					
A044	Peddler		\$ 300.00	\$	300.00
A2501-016					
A047	Stationary Engineers		\$ 120.00	\$	120.00
A2501-016					
A047	Boilers		\$ 450.00	\$	450.00
A2542-000					
A053	Dogs/N County Treasurer	\$ 274.72	\$ -	\$	274.72
A2542-000					
A053	Dogs/NYS Agr. & Mkts	\$ 120.00	\$ -	\$	120.00
A2542-000					
A053	Additional Dogs		\$ 1,610.78	\$	1,610.78
A2545-001					
A054	Marriage License/NYSHD	\$ 1,170.00	\$ 390.00	\$	1,560.00
A1255-002					
A123	Commissioners of Deeds		\$ 10.00	\$	10.00
A2501-005					
A126	Junk Dealers		\$ 600.00	\$	600.00
A2545-010					
A128	Petroleum- Retail		\$ 490.00	\$	490.00
A2545-010					
A128	Petroleum- Storage		\$ 120.00	\$	120.00
A2501-599					
A130	Second Hand Dealer		\$ 150.00	\$	150.00
A2501-015	Home Improvement		\$ 7,375.00	\$	7,375.00

A266				
A2545-023				
A318	Hunters/NYS DEC RAU	\$ 728.73	\$ -	\$ 728.73
A2545-023				
A318	Hunters Fees		\$ 41.27	\$ 41.27
A1255-003				
A499	Notary Fee		\$ 2.00	\$ 2.00
A1255-005				
A528	Dog Release		\$ 550.00	\$ 550.00
A2501-027				
A597	Marriage Performance		\$ 700.00	\$ 700.00
A2501-027				
A696	Photos / Passport - License		\$ 72.00	\$ 72.00
TOTAL:		<u>\$ 2,293.45</u>	<u>\$ 24,252.55</u>	<u>\$ 26,546.00</u>

Check #	<u>36051</u>	Niagara County Treasurer	\$ 274.72
Check #	<u>36077</u>	NYS Dept.of Arg. & Mkts	\$ 120.00
Check #	<u>36048</u>	NYS Health Department	\$ 1,170.00
		NYS DEC	
Check #	<u>ET</u>	RAU	\$ 728.73

Item #2

The following claims have been filed in the Office of the City Clerk during the month of April, 2008. The claims were subsequently referred to the Office of the Corporation Counsel.

NOTICE OF CLAIM

ALLEGED DAMAGE

David M. Riford
Deborah Lane

Automobile damage sustained from a pothole in a 6923
City street

Robert M. Johnson
1775 Falls Street

Automobile damage sustained from a pothole in a
City street

GEICO
A/S/O: Kitty Fritton

Automobile damage sustained from a City snow plow

Michael Grzeskowiak
68 Brentwood Drive
North Tonawanda, New York 14120

Automobile damage sustained from a pothole in a
City street

Angeline B. Freeman
1353 104th Street

Property damage sustained form a City snow plow

Anne R. Trane
2750 Woodlawn Avenue

Automobile damage sustained from a pothole in a
City street

Anthony Harris
140 72nd Street

Automobile damage sustained from a pothole in a
City street

Gerald T. Tierney
Niagara Street

Automobile damage sustained from a pothole in a 1967
City street

Herbert Luffman
Lockport Road

Automobile damage sustained from a pothole in a 2138
City street

Michael John Dusen
Street

Automobile damage sustained from a falling City tree 641 4th
limb

Brianna Brundidge
2905 Michigan Avenue

Automobile damage and personal injuries sustained
from a pothole in a City street

Ernest W. Calandrelli
477 18th Street

Automobile damage sustained from a falling City tree
limb

Joseph A. Dante II
Street

Automobile damage sustained from a pothole in a 528 26th
City street

Lisa Needham
503 Hyde Park Blvd. #1

Automobile damage sustained from a pothole in a
City street

Allstate Insurance Company A/S/O: Patricia D. Whitehead	Automobile damage sustained from a City vehicle
Jeffrey LaBarber 2798 Niagara Falls Blvd.	Automobile damage sustained from a pothole in a City street
Donald H. Carey Street	Automobile damage sustained from a pothole in a 220 62 nd City street
Alan D. Sutton 40 Grant Street	Automobile damage sustained from a pothole in a City street
Nationwide Mutual Fire Insurance Company A/S/O: Justin A. Zolandz 2422 South Avenue	Automobile damage sustained from a City snow plow
Salvatore Zabaldo III 935 91 st Street	Automobile damage sustained from a pothole in a City street
Melinda J. Presley 32F Packard Court	Personal injuries sustained from a fall outside of the Hyde Park Ice Pavilion
Emily Keller Malec Rivershore Drive	Automobile damage sustained from a pothole in a 9354 City street
Kitty C. Fritton Box 194 Wilson, New York 14172	Personal injuries sustained in an automobile accident PO with a City snow plow
Joseph A. Dante II Street	Automobile damage sustained from a pothole in a 528 26 th City street
Pearl Mohammed 2 Elm Terrace Stratford, Connecticut 06615	Automobile damage sustained from a pothole in a City street
Erica Weiser DeVeaux Street	Automobile damage sustained from a pothole in a 3817 City street
Carmella Gentile Street	Automobile damage sustained from a pothole in a 146 60 th City street
Ronald A. Hawes 1425 Ferry Avenue	Automobile damage sustained form a City snow plow
David M. Riford Deborah Lane	Automobile damage sustained from a pothole in a 6923 City street
Robert James Kennerknecht Jr. Petroleum Street	Damages sustained in an automobile accident with a 3017 City vehicle

Lance C. Zurek
136 Park Street #6 Upper
Buffalo, New York 14201

Automobile damage sustained from a pothole in a
street in the Town of Niagara

Alan D. Sutton
40 Grant Street
Lockport, New York 14094

Automobile damage sustained from a pothole in a
City street

Cynthia J. Harris
140 72nd Street

Automobile damage sustained from a pothole in a
City street

Michele Schreiner
86 Pine Street
North Tonawanda, New York 14120

Automobile damage sustained form a City snow plow

Anthony T. Benfante
Caravelle Drive

Automobile damage sustained from a pothole in a 1647
City street

Alfred, Charella, & Al'maud Sagere
518 10th Street

Damages arising from an incident on 4th Street

Charles Dolce
54 W. Summerset Lane
Amherst, New York 14228

Automobile damage sustained from a pothole in a
City street

Allstate Insurance Company
A/S/O: Patricia D. Whitehead

Automobile damage sustained from a City vehicle

Aaron Conrad
Porter Road

Motorcycle damage sustained from a pothole in a 7900
City street

SUMMONS AND COMPLAINT

CV2, LLC
9370 Niagara Falls Blvd.

Index No. 132972

Ernest A. & Frances E. Lavigueur

Index No. 133326

NOTICE OF PENDENCY OF ACTION

CV2, LLC
9370 Niagara Falls Blvd.

Index No. 132972

Item #3

RE: Mayor's Approval of Resolution 2008-47

Please be advised that on May 6, 2008 Mayor Paul A. Dyster duly approved Resolution 2008-47, relative to amending Chapter 502 of the Codified Ordinances entitled "Towing-Rules and Regulations".

Item #4

SUBJECT: Budget Amendment for Engineering Department

The 2008 adopted budget included \$1,000.00 for overtime for the Engineering Department. Due to the lack of a City Engineer on staff, additional duties have been performed by Engineering personnel and the overtime allotment is presently close to depletion. I am requesting that the Council again amend the budget to increase the Engineering overtime fund an additional \$5,000.00. Funds are available in A1440.0000.0110.000 (Biweekly Payroll).

Will the Council so approve?

Item #5

SUBJECT: Fireworks Displays

We respectfully request you award a contract for fireworks display as follows:

TO: Premier Pyrotechnics, Inc.
Produced and Distributed by
Skylighters of Western new York, Inc.
3362 Baker Road
Orchard Park, NY 14127

FOR: Fireworks displays on July 4th at Hyde Park: \$25,000.00

Requests for proposals were sent to five (5) companies. The above referenced company submitted the only proposal. This company provided our July 4th fireworks display last year.

Funds are available in the Tourism Fund account code T6410.0000.0449.599.

Item #6

SUBJECT: LETTER OF AWARD - SIDEWALK REPLACEMENTS AT VARIOUS LOCATIONS - 2008

The following is the result of bids received on May 1, 2008, for the above referenced project:

CONTRACTOR

Valeri Concrete Construction, Inc.
6655 Errick Rd.
North Tonawanda, NY 14120

BASE BID

\$250,937.50

It is the recommendation of the undersigned that this contract be awarded to the sole bidder, Valeri Concrete Construction, Inc. in the amount of \$210,000.00. Funds are available under Public Works Code A5110.0200.0300.000 with the remainder funded from the 2007-08 CHIPS balance. Please note all costs are totally reimbursable by New York State CHIPS Funds.

Additionally, the Contractor has agreed to extend the unit prices of his bid to complete sidewalk replacements for the Niagara Falls Water Authority, in an amount not to exceed \$20,000.00, under the Niagara Falls Water Board budget, pending authorization by the Niagara Falls Water Board. Therefore, the City of Niagara Falls and the Niagara Falls Water Board will enter into a contract with Valeri Concrete Construction, Inc., to total \$270,937.50.

Will the Council vote to so approve and authorize the Mayor to execute a contract for the City Of Niagara Falls portion of this work, in a form acceptable to the Corporation Counsel?

RE: City Council Agenda Item:
\$250,000 Casino Revenues Grant
Family & Children's Service of Niagara, Inc.
1522 Main Street Project

Council Members:

Family & Children's Service of Niagara, Inc. has provided services throughout Niagara Falls for over 100 years. Family & Children's Service is seeking to consolidate its administrative operations and client services at 1522 Main Street (corner of Linwood Avenue).

The 1522 Main Street Project will result in the expenditure of over \$2 Million for the purchase and renovation of the building. In addition to the renovations, the vacant building at 1518 Main Street will be purchased and demolished, with the lot graded, seeded and available for future expansion. The Project costs will be paid for through a combination of conventional financing, fundraising and grants.

The City has previously committed \$200,000.00 of Community Development Block Grant funds to the project. Family & Children's Services has requested a grant of \$250,000.00 of casino revenues for the project.

Casino revenues allocated to the City pursuant to §99-h of the State Finance Law may be used for such public purposes as determined by the City to be necessary and desirable to accommodate and enhance neighborhood revitalization. This project will renovate a blighted building which has long been an eyesore on Main Street. The project will also relocate 60 Family & Children's Service employees to Main Street. We believe that these employees and clients, along with the customers who patronize the new courthouse and police station, will contribute to the demand for new services on Main Street, thereby spurring further revitalization.

A portion of the casino revenues is proposed for preparation of the construction documents. The balance of the grant is proposed for hard construction costs. If the grant is approved, the casino revenues will be transferred when Family & Children's Service has incurred the costs to be paid for with the revenues. Hard construction costs funding will be transferred after Family & Children's Service has purchased the property and has funding in place to pay for the construction costs.

The City must comply with the requirements of the State Environmental Quality Review Act (SEQRA) whenever it undertakes, funds or approves a project (Community Development funding undergoes federal environmental clearance under the CDBG regulations). The use of casino revenues to fund this project constitutes a Type 2 action under SEQRA, as the project is replacement reconstruction or rehabilitation of a structure or facility in kind on the same site. As a Type 2 action, the funding of this Project is not subject to review under SEQRA.

Will the Council vote to approve the grant of \$250,000.00 of casino revenues to Family & Children's Service of Niagara, Inc. for the 1522 Main Street Project as set forth herein, and authorize the Mayor to execute any documents necessary to effectuate the same?

RE: HOPE VI Casino Revenues Grant Amendment

Council Members:

Under the February 2007 grant agreement, a copy of which is attached, the City appropriated \$3 Million in casino revenues for Phase 1 of the Niagara Falls Housing Authority (“NFHA”) HOPE VI project. Under the grant agreement, the funds are to be used only for Phase 1 demolition costs and hard construction costs. The funds may not be used for any architects, lawyers, engineers, developers, project administrative costs, NFHA administrative costs or other soft costs. NFHA is required to provide quarterly reports to the City detailing the use of the funds.

On February 27, 2007, the City transferred \$1 Million to NFHA. The City requested that USA Niagara/ Empire State Development Corp. release the \$1 Million of the City casino funds held by ESDC. NFHA is currently negotiating directly with ESDC for the release of that \$1 Million for use in Phase 1 of the Project. The ESDC grant agreement provides for transfer of funds for hard costs as the costs are incurred.

The City also transferred about 6.1 acres of Center Court Park to NFHA for no consideration. The City obtained approval for the transfer of park land from the State legislature and from the National Park Service (due to an Urban Park and Recreation Recover (“UPARR”) grant). Under the terms of the approvals, the City is required to provide replacement parkland of equivalent acreage, fair market value and recreational utility by December 31, 2008.

Upon reviewing the closing documents for Phase 1 of the HOPE VI Project, it was discovered that only \$2 Million of casino revenues was budgeted for Phase 1. The last \$1 Million is budgeted for Phase 2. The project timetable for Phase 2 shows demolition and construction starting January 18, 2009.

The Phase 1 closing documents also show that NFHA is to receive a \$654,367 Developer Fee for Phase 1 (\$76,845 goes into the project as a deferred portion of the fee; \$94,716 was paid to NFHA at closing). The budget shows a \$773,794 NFHA developer fee for Phase 2, and a \$439,853 NFHA developer free for Phase 3. In addition, the Phase 1 budget provides \$1,498,332 for administrative costs to the PHA (“Public Housing Authority,” which is NFHA), Community Services and unspecified “fees and costs.” These are in addition to the costs specifically to be paid in the project budget (*e.g.*, \$130,000 for the NFHA inspector).

The 2007 casino revenue grant agreement requires all \$3 Million of the funds to be expended for Phase 1. Due to the fact that \$1 Million of the revenues is currently budgeted for Phase 2, it is necessary to amend the grant agreement if the final \$1 Million is to be obligated.

Attached is a proposed grant agreement amendment which provides that the final \$1 Million be used for Phase 2 demolition and construction hard costs. The expenditure of the funds must commence by January 1, 2013, and be complete by December 31, 2013, with any unexpended funds to be returned on December 31, 2013.

Another issue which is addressed in the grant agreement amendment is the interest earned by NFHA on the casino revenues. Normally, the use of interest earned by a grantee on grant funds is not an issue, as grant funds are transferred only as the funds are needed to pay for project costs. Other funding for the HOPE VI Project is transferred upon requisition, as costs are incurred. This is the normal funding method for all City grants, including Community Development, HOME, Emergency Shelter Grant and other federal programs. This is the procedure which the state is requiring for the casino revenues under control of ESDC. The transfer of grant funds prior to the grantee incurring costs is a departure from standard and long-standing City practice and procedure. However, City Council has clearly stated that it intended to allow NFHA to earn interest on the grant funds and to use that interest for the Project.

No interest earned on the grant funds is budgeted for Phase 1 of the HOPE VI Project. None of the \$1 Million principal or interest transferred by the City to NFHA in February 2007 has yet been spent. This grant amendment allows NFHA to expend interest earned on the grant funds for the same purposes as the principal, *i.e.*, demolition and construction hard costs and not soft costs or NFHA administrative costs. The amendment allows the use of the interest for either Phase 1 or Phase 2 Project hard costs.

Will the Council vote to approve the attached amendment, and authorize the Mayor to execute the same?

Item #9

RE: Reappropriation of casino interest funds for small equipment purchases in the Department of Parks and Public Works

Council Members:

At your March 10, 2008 meeting, as part of the approval of the capital plan, you approved the expenditure of casino interest funds for certain purchases in the Department of Parks and Public Works.

All of the approved items have been acquired and there is a surplus amount of \$29,075. Attached hereto is a recommendation from the department head for the purchase of additional items with these funds.

Will the Council so approve?

Item #10

RE: Harley Owners Group Motorcycle Event

Council Members:

As the Council is aware, the local Harley Owners Group is sponsoring a New York State Rally on July 10, 11 and 12, 2008 in the City of Niagara Falls.

Based on the estimated number of participants and the average amount that each spends at this type of event, it is expected that this will have a multi-million dollar impact on the local economy.

The Group has asked for sponsorship support in the amount of \$5,000 to provide entertainment and to help defray administrative expenses related to the rally.

It is recommended that \$5,000 from the 2006 Tourism Fund balance be appropriated to the New York State Rally, Inc. to sponsor this event.

Will the Council so approve?

Item #11

*RE: Budget appropriation for retroactive pay in the matter of Thomson v Anello
Niagara County Index No. 131157*

Council Members:

The above referenced matter was a lawsuit filed by the Police Captains and Lieutenants Association seeking the filling of a vacant police captain position.

Judge Kloch ruled in favor of the Union and ordered the City to fill the captain's position retroactive to May 31, 2007.

The filling of the position has been complied with and in order to pay the retroactive salary and fringe benefits in the total amount of \$6,130.16, it is necessary to appropriate fund balance.

Will the Council so approve?

Item #12

RE: Approval of 2004-2007 Memorandum of Understanding between the Niagara Falls Police Captains and Lieutenants Association and the City of Niagara Falls

Council Members:

Enclosed(on file in the City Clerk's Office) please find the proposed Memorandum of Understanding between the Niagara Falls Police Captains and Lieutenants Association and the City of Niagara Falls.

Will the Council so approve?

Item #13

RE: Approval of 2004-2007 Collective Bargaining Agreement between the Niagara Falls Fire Department Officers Association and the City of Niagara Falls

Council Members:

Enclosed(on file in the City Clerk's office) please find the proposed Collective Bargaining Agreement between the Niagara Falls Fire Department Officers Association and the City of Niagara Falls.

This Agreement is a compilation of the Contract that expired in 2003 and the Memorandum of Agreement 2004-2007. It does not alter or amend any provision currently in effect.

Will the Council so approve?

Item #13

*RE: Request for Approval to Settle and Pay Claim of Charifa M. Lee
1744 Welch Avenue Upper, Niagara Falls, New York*

Council Members:

Date Claim Filed:	February 28, 2008
Date Action Commenced:	N/A
Date of Occurrence:	January 30, 2008
Location:	1744 Welch Avenue, Niagara Falls, NY
Nature of Claim:	Damage caused by City tree.
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay.
Amount to be Paid:	\$2,345.22
Make Check Payable to:	Charifa M. Lee
Conditions:	General Release to City, approved by Corporation Counsel.

It is the recommendation of this Department that the above claim be paid under the terms set forth above. Will the Council so approve?

The following have requested City Council approval for Commissioner of Deeds for a term from July 1, 2008 to June 30, 2010.

This is in accordance with provision of the Niagara Falls City Charter, Article II, Section 7, Subdivision 5.

Jeffrey Bancroft-Billings	Niagara Falls Police Dept.
Daniel Dobrasz Jr.	Niagara Falls Police Dept.
Roger Freeman	Niagara Falls Police Dept.
Raymond Maietta	Niagara Falls Police Dept.
Morris Shamrock	Niagara Falls Police Dept.
Frank Tedesco	Niagara Falls Police Dept.
Julie Kunecki	Inspections
Anita Zona	Human Resources
William James Bradberry	2500 Hyde Park Blvd., NF, NY 14305
Catherine O. Byrd-Sistarsk	537 Memorial Pkwy., NF, NY 14301
Stephanie Churakos	126 81 st Street, NF, NY 14304
Frances Curcione	3302 Walnut Ave., NF, NY 14301
Richard D. Hague Jr.	736 4 th Street, NF, NY 14301
Jean Kennedy	1423 Wyoming Ave., NF, NY 14305
Richard McClelland	800 Niagara Ave., NF, NY 14305
Maureen Minicucci	2953 McKoon Ave., NF, NY 14305
Mary Anne Nelson-Loefke	2125 Lockport St., NF, NY 14305
Kevin Peploe	669 78 th Street, NF, NY 14304
Holley Porter	1700 Pine Ave. Ste. 205, NF, NY 14301
Jemelie E. Raybon	1716 Ferry Ave., NF, NY 14301
Christianer Smith	9234 Niemel Dr. Apt. #7, NF, NY 14304
Joseph J. Swartz	1319 Willow Ave., NF, NY 14305
Richard Williams	2761 Falls St., NF, NY 14303

**RE: 1112 South Avenue Sacred Heart Roman Catholic Church Complex
Historic Preservation Commission Recommended Historic
Designation
Church, Rectory (but not garage), Convent and School Exteriors and
Interior of Church, including Nave, Transepts, Apse, Choir Loft and
Narthex**

Council Members:

Attached is the report from the Niagara Falls Historic Preservation Commission recommending designation of 1112 South Avenue, the Sacred Heart Roman Catholic Church complex, as an historic landmark under the City Historic Preservation Ordinance. The elements designated for landmark status will be the church, rectory (but not attached garage), convent and school exteriors, and the interior of the church, including the nave, transepts, apse, choir loft and narthex. This proposed designation was approved based on the action of the Commission on its own initiative pursuant to the Historic Preservation Ordinance. The property is listed in the assessor records as owned by Sacred Heart Roman Catholic Church.

The Historic Preservation ordinance provides:

133.05-02(I) At its next scheduled meeting after receipt of any recommendation from the Commission, the City Council shall consider the designation or acquisition of the landmark site or historic structure, or the designation of the historic district. A majority vote shall be required by the City Council for the designation or acquisition. The Mayor shall approve or veto said designation or acquisition as provided by law.

Will the Council vote to approve the historic landmark designation of the exterior of the church, school, convent, garage and rectory, together with the interior of the church nave, apse and narthex for the Sacred Heart Roman Catholic Church complex at 1112 South Avenue, and forward the designation to the Mayor, as provided by City Ordinance?

RESOLUTION No. 2008–

RELATIVE TO THE REMOVAL OF THE PARKING METERS
FROM THE DOWNTOWN CITY DISTRICT

BY:

Council Chair Sam Fruscione

WHEREAS, it has been over a year since the installation in December of 2006 of the parking meters in downtown Niagara Falls was approved with the understanding that they would be up and running by Memorial Day 2007; and

WHEREAS, there has since been problems with the wireless communication of these meters; and

WHEREAS, black plastic hoods have been placed over many of the non-working meters, which many of our residents and tourists have called “eye sores;” and

WHEREAS, the agreement between the City and Photo Violations expired in 2007; and

WHEREAS, the problems with the meters are still unresolved.

THEREFORE BE IT RESOLVED, by the City Council of the City of Niagara Falls, New York that it asks the Mayor to end negotiations with Photo Violations for an extension of its agreement with the City and to have Photo Violations remove its equipment immediately and restore city property as soon as possible.

RESOLUTION No. 2008–

RELATIVE TO APPOINTMENT TO THE
NIAGARA FALLS HUMAN RIGHTS COMMISSION

BY:

Council Member Charles Walker

BE IT RESOLVED, that the following individuals are hereby appointed to the
City of Niagara Falls Human Rights Commission effective immediately for the
expiration date, which appears opposite his/her name:

<u>APPOINTMENT</u>	<u>TERM EXPIRES:</u>
Lee Whitaker 1324 Calumet Avenue Niagara Falls, NY 14305 285-2893	6/01/11
Jeff Paterson 826 – 90 th Street Niagara Falls, NY 14304 283-3726	6/01/11
William Bradberry 2500 Hyde Park Blvd. Niagara Falls, NY 14305 206-8637	6/01/11

RESOLUTION No. 2008-___

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NIAGARA FALLS, NIAGARA COUNTY, NEW YORK IN SUPPORT OF REMOVING THE 90-DAY ACCEPTANCE MORATORIUM ON PREVIOUSLY SUBMITTED BROWNFIELD CLEANUP PROGRAM APPLICATIONS

BY: Council Chair Samuel Fruscione

WHEREAS, New York State established the Brownfield Cleanup Program (BCP) under Title 14 of Article 27 of the Environmental Conservation Law as part of the 2003 Superfund/Brownfield Law to encourage and incentivize private sector remediation and development of contaminated real property threatening the public health and welfare because of the failure of publicly funded and other liability programs established to accomplish these same objectives, and

WHEREAS, through the BCP taxpayers are offered incentives in the form of tax credits and New York State liability relief to remediate and redevelop brownfield sites where investment would not otherwise be economically feasible and historically has not occurred, and

WHEREAS, Niagara County and the City of Niagara Falls have identified Brownfield remediation and redevelopment as an economic development priority, and

WHEREAS, one vital component of the Niagara County Brownfields Program is implementation of a \$1 million Niagara County Brownfields Cleanup Revolving Loan Fund Program, funded by the United States Environmental Protection Agency, which will provide financial incentives for remediation of brownfield sites throughout Niagara County, and

WHEREAS, participation in the Niagara County Brownfields Cleanup Revolving Loan Fund Program is directly tied to acceptance into the New York State BCP or the New York State Environmental Restoration Program, and

WHEREAS, the New York State BCP has generated \$1 billion in BCP tax credits for 54 projects throughout New York state to date, and

WHEREAS, less than .01%, or only \$100,000 of the \$1 billion in BCP tax credits are being delivered to Niagara County for a single BCP project, and

WHEREAS, two significant BCP projects have been proposed in Niagara County, the Northern Ethanol Project Northern Ethanol LLC (Canadian Company) – City of Niagara Falls \$240 million ethanol facility on industrial and contaminated site creating over 105 new jobs and the Remington Rand Building Project (Kissling Interests, LLC – City of North Tonawanda \$14 million work/live lofts and mixed use rehabilitation of contaminated former manufacturing facility creating over 100 new jobs) both of which are eligible for the BCP and both of which made submissions for acceptance into the BCP in December 2007, and

WHEREAS, the New York State Department of Environmental Conservation (DEC) was required to make BCP eligibility determinations for both the Northern Ethanol and the Remington Rand Building Projects by March of 2008, and

WHEREAS, the remediation of the contaminants located at these two project sites will protect the public health and welfare, will generate approximately \$254 million in new investment within Niagara County, \$240 million of which will be targeted to the City of Niagara Falls in an industrial and contaminated site, and will create approximately 105 new jobs in the City of Niagara Falls and 274 new jobs overall in Niagara County, and

WHEREAS these two projects were conceived on the existence of and acceptance into the BCP, these projects are dependent upon BCP tax benefits and liability relief, these two projects would not even have been proposed but for the BCP, and BCP acceptance is a contingency for both projects to be undertaken, and

WHEREAS, letters of support for both projects were submitted to the DEC from New York State senators and assembly members, county agencies, and various private businesses, and

WHEREAS, Northern Ethanol LLC cannot effectively raise capital for its Northern Ethanol Project because of delays by the DEC in issuing BCP acceptance and delaying such a determination until July 24, 2008 (the running of the 90-day BCP acceptance moratorium) seriously jeopardizes the project given contamination concerns, BCP uncertainties, and today's already tight credit markets and down turning economy.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NIAGARA FALLS, NIAGARA COUNTY, NEW YORK HEREBY RESOLVES, AS FOLLOWS:

RESOLVED, that the Niagara Falls City Council go on record in support of the immediate removal of the 90-day moratorium on BCP applications specifically for BCP applications that were submitted prior to the April 23, 2008 effective date of the 90-day BCP acceptance moratorium and be it further

RESOLVED, that the Niagara Falls City Council asks our New York State Legislative Delegation to compel the New York State Legislature to meet immediately with Governor Paterson and the Regulatory Agencies involved, demanding that this 90-day moratorium not be applicable with respect to BCP applications submitted prior to April 23, 2008, the effective date of the 90-day moratorium, in order for these very important economic development projects to move forward in the City of Niagara Falls and Niagara County, and be it further

RESOLVED, that the Niagara Falls City Council requests the Commissioner of the DEC to immediately determine that the Northern Ethanol Project is eligible for participation in the BCP effective upon the earlier to occur of either the lifting of the BCP acceptance 90-day moratorium or July 24, 2008, and be it further

RESOLVED, that a copy of this resolution be forwarded to NYS Senator Antoine M. Thompson, NYS Senator George Maziarz, NYS Assemblywoman Francine DelMonte, NYS Assemblyman Steven Hawley, NYS Assemblyman Robin Schimminger, NYS Assemblyman Michael Cole, NYS Assemblyman Jim Hayes, Governor David Paterson, NYS Senate Majority Leader & President Pro Tem Joseph L. Bruno, Daniel C. Gundersen, Co-Chairman, Empire State Development, and Christina Orsi, and Director, ESD Buffalo Regional Office.

RESOLUTION No. 2008–

RELATIVE TO 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, AND APPROPRIATING FUNDS THEREFOR.

BY: Council Chairman Samuel Fruscione

WHEREAS, a Project, the Niagara Falls Signals Project; Signalization Improvements at Five (5) Isolated Intersections in the City of Niagara Falls, Niagara County, PIN 5755.42 (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 5755.42.

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 shares of the cost of the Preliminary Engineering and Construction & Construction Inspection phases of the Project or portions thereof; and it is further

RESOLVED, that the sum of \$98,000 is hereby appropriated (in addition to \$92,000 previously appropriated for the project’s Preliminary Engineering phase via City Resolution Nos. 2001-36, 2004-17 and 2006-80 adopted March 26, 2001, February 17, 2004 and July 17, 2006, respectively) 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 project’s Preliminary Engineering and Construction & Construction Inspection phases exceeds the amount appropriated, \$190,000 and/or 100% of the full Federal and Non-Federal shares of the cost of the Preliminary Engineering and Construction & Construction Inspection phases exceeds \$617,000, 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 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.