

## AGENDA

**NASSAU COUNTY INTERIM FINANCE AUTHORITY  
MONDAY, NOVEMBER 24, 2014, 6:00 PM  
MARRIOTT LONG ISLAND HOTEL & CONFERENCE CENTER  
101 JAMES DOOLITTLE BLVD., UNIONDALE, NY 11553**

Call to Order

Action Items

- I. Approval of the Minutes of October 15, 2014 Meeting
- II. Consideration of the County's Multi-Year Financial Plan for Fiscal 2015 - 2018
- III. Consideration of Issuance of General Obligation Bonds by Nassau County
- IV. Consideration of Issuance of Tax Anticipation Notes Borrowing by Nassau County
- V. Adoption of Revised Guidelines for the Review of Nassau County Contracts
- VI. Consideration of Contracts from the County Attorney's Office

Adjournment

DRAFT – SUBJECT TO REVIEW AND REVISION

NASSAU COUNTY INTERIM FINANCE AUTHORITY  
MINUTES OF THE MEETING OF THE DIRECTORS  
HELD ON OCTOBER 15, 2014

Pursuant to notice dated October 6, 2014, a meeting of the Nassau County Interim Finance Authority (“NIFA”) was convened at 4:15 PM at the Marriott Long Island Hotel & Conference Center located at 101 James Doolittle Blvd, Uniondale, NY 11553.

The following Directors of the Authority were present:

Jon Kaiman, Chairman  
Paul Annunziato  
John Buran  
Paul Leventhal  
Lester Petracca  
Dermond Thomas  
Christopher Wright

Also present from the Authority were Evan Cohen, Executive Director; Jeremy Wise, General Counsel; Maria Kwiatkowski, Deputy Director; Laurie Boucher, Corporate Secretary and Carl Dreyer, Treasurer.

Upon determining that a quorum was present, the Chairman called the meeting to order.

The Chairman stated that the first item on the agenda was a resolution to approve the minutes of the September 10, 2014 Directors’ meeting.

Upon motion duly made and seconded, the following resolution was approved

DRAFT – SUBJECT TO REVIEW AND REVISION

unanimously:

Resolution No. 14-524

APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE  
SEPTEMBER 10, 2014 MEETING OF THE DIRECTORS OF THE NASSAU COUNTY  
INTERIM FINANCE AUTHORITY

---

RESOLVED, that the Minutes of the meeting of the Authority held on September 10, 2014 are hereby approved and all actions taken by the Directors present at such meeting, as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Authority.

\* \* \*

Chairman Kaiman stated the next item on the agenda was a resolution to authorize the hiring of McGladrey LLP as Independent Financial Auditors for NIFA, which was approved by the Audit and Internal Controls Committee at its meeting today, prior to this Board meeting.

Upon motion duly made and seconded, the following resolution was approved unanimously:

Resolution No. 14-525

AUTHORIZATION TO HIRE MCGLADREY LLP AS INDEPENDENT FINANCIAL  
AUDITORS FOR THE AUTHORITY AND THE TAKING OF RELATED ACTIONS

---

RESOLVED, that the materials presented to this meeting (the “Materials”) are ordered to be filed with the records of the Nassau County Interim Finance Authority (“NIFA”); and be it further

RESOLVED, that in accordance with the Materials, the Chairman or his designee(s) are hereby authorized to select McGladrey LLP as NIFA’s independent financial auditing firm; and be it further

RESOLVED, that the Chairman or his designee(s) are hereby further authorized to hire and pay McGladrey LLP for services related to inclusion of NIFA’s audited financial statements in any offering circulars related to the issuance of NIFA’s bonds or notes at the maximum rate of \$10,000 per offering; and be it further

RESOLVED that the Chairman or his designee(s) are further authorized to take all actions deemed

DRAFT – SUBJECT TO REVIEW AND REVISION

necessary or appropriate to implement the foregoing, however, if a contract cannot be successfully executed between NIFA and McGladrey LLP, then NIFA’s Audit and Internal Controls Committee is authorized to select another Firm upon similar terms and conditions as those authorized for McGladrey LLP.

\* \* \*

Chairman Kaiman stated that the next item on the agenda was a resolution for consideration of system revenue bonds by the Nassau County Sewer and Storm Water Authority.

General Counsel Wise stated that the Sewer and Storm Water Finance Authority is requesting authorization to refund outstanding debt for approximately \$130 million and borrow \$37 million of new money for capital needs.

Upon motion duly made and seconded, the following resolution was approved unanimously:

Resolution No. 14-526

**CONSIDERATION OF ISSUANCE OF SYSTEM REVENUE BONDS BY THE NASSAU COUNTY SEWER AND STORM WATER FINANCE AUTHORITY**

---

RESOLVED, that the materials presented to this meeting of the Directors (the “Materials”) are incorporated into this Resolution and are ordered to be filed with the records of the Nassau County Interim Finance Authority (the “Authority”); and be it further

RESOLVED, that based upon the discussions in the Materials and pursuant to Section 3669 2(e) of the Authority Act, the Authority has reviewed the terms of the proposed issuance(s) of bonds by the Nassau County Sewer and Storm Water Finance Authority and approves such issuance(s) in the amounts and upon the conditions outlined in the Materials, including the execution of a new Financing Agreement and any other related agreements that are deemed necessary or appropriate to complete the transaction; and be it further

RESOLVED, that the Chair of the Authority or such staff as he may designate, may take all actions

DRAFT – SUBJECT TO REVIEW AND REVISION

and do all things that they deem necessary to carry out the intent of this resolution.

\* \* \*

General Counsel Wise stated that the next item on the agenda was a resolution to authorize the County to borrow \$85 million for general purposes. He stated that the County originally asked for \$115 million, but reduced the amount at the insistence of NIFA.

Upon motion duly made and seconded, the following resolution was approved unanimously:

Resolution No. 14-527A

**CONSIDERATION OF ISSUANCE OF GENERAL OBLIGATION BONDS BY NASSAU COUNTY**

---

RESOLVED, that the materials presented to this meeting of the Directors (the “Materials”) are incorporated into this Resolution and are ordered to be filed with the records of the Nassau County Interim Finance Authority (the “Authority”); and be it further

RESOLVED, that based upon the discussions in the Materials and pursuant to Section 3669 2(e) of the Authority Act, the Authority has reviewed the terms of the County’s proposed issuance(s) of bonds and approves the issuance of up to \$85,000,000 in bonds (plus costs of issuance) for the purposes described in Attachment lettered A in the Materials and upon the conditions outlined in the Materials; and be it further

RESOLVED, that the Chairman or staff may take all actions and do all things that they deem necessary to carry out the intent of this resolution.

\* \* \*

General Counsel Wise stated that the next item on the agenda was a resolution to authorize the County to issue \$35 million of bond anticipation notes for Superstorm Sandy assessment relief. He stated that NIFA suggested the County issue the bond anticipation notes instead of bonds in the hope that some of the money will be reimbursed by the State.

DRAFT – SUBJECT TO REVIEW AND REVISION

Upon motion duly made and seconded, the following resolution was approved with Chairman Kaiman recusing:

Resolution No. 14-527B

**CONSIDERATION OF ISSUANCE OF GENERAL OBLIGATION BONDS AND BOND ANTICIPATION NOTES BY NASSAU COUNTY**

---

RESOLVED, that the materials presented to this meeting of the Directors (the “Materials”) are incorporated into this Resolution and are ordered to be filed with the records of the Nassau County Interim Finance Authority (the “Authority”); and be it further

RESOLVED, that based upon the discussions in the Materials and pursuant to Section 3669 2(e) of the Authority Act, the Authority has reviewed the terms of the County’s proposed issuance(s) of bonds and bond anticipation notes and approves the issuance of up to \$35,000,000 in bonds and notes (plus costs of issuance) for the purposes described in Attachment lettered B in the Materials and upon the conditions outlined in the Materials; and be it further

RESOLVED, that the Chairman or staff may take all actions and do all things that they deem necessary to carry out the intent of this resolution.

\* \* \*

General Counsel Wise stated that the next item on the agenda was a request from the County to issue \$20 million of bonds for termination pay. He stated that the County originally requested \$28.5 million, but reduced it to \$20 million at the insistence of NIFA.

Upon motion duly made and seconded, the following resolution was approved with Directors Thomas and Wright opposing:

Resolution No. 14-527C

DRAFT – SUBJECT TO REVIEW AND REVISION

CONSIDERATION OF ISSUANCE OF GENERAL OBLIGATION BONDS BY NASSAU COUNTY

---

RESOLVED, that the materials presented to this meeting of the Directors (the “Materials”) are incorporated into this Resolution and are ordered to be filed with the records of the Nassau County Interim Finance Authority (the “Authority”); and be it further

RESOLVED, that based upon the discussions in the Materials and pursuant to Section 3669 2(e) of the Authority Act, the Authority has reviewed the terms of the County’s proposed issuance(s) of bonds and approves the issuance of up to \$20,000,000 in bonds (plus costs of issuance) for the purposes described in Attachment lettered C in the Materials and upon the conditions outlined in the Materials; and be it further

RESOLVED, that the Chairman or staff may take all actions and do all things that they deem necessary to carry out the intent of this resolution.

\* \* \*

General Counsel Wise stated that the next item on the agenda was a request from the County to borrow approximately \$8.5 million for judgments and settlements.

Upon motion duly made and seconded, the following resolution was approved with Directors Buran, Thomas and Wright opposing:

Resolution No. 14-527D

CONSIDERATION OF ISSUANCE OF GENERAL OBLIGATION BONDS BY NASSAU COUNTY

---

RESOLVED, that the materials presented to this meeting of the Directors (the “Materials”) are incorporated into this Resolution and are ordered to be filed with the records of the Nassau County Interim Finance Authority (the “Authority”); and be it further

RESOLVED, that based upon the discussions in the Materials and pursuant to Section 3669 2(e) of the Authority Act, the Authority has reviewed the terms of the County’s proposed issuance(s) of bonds and approves the issuance of up to \$8,554,963 in bonds (plus costs of issuance) for the purposes described in Attachment lettered D in the Materials and upon the conditions outlined in the

DRAFT – SUBJECT TO REVIEW AND REVISION

Materials; and be it further

RESOLVED, that the Chairman or staff may take all actions and do all things that they deem necessary to carry out the intent of this resolution.

\* \* \*

Chairman Kaiman stated that the next item on the agenda was a resolution to accept the NIFA staff report on the County's proposed multi-year plan. He then asked Executive Director Cohen to give an overview.

Executive Director Cohen stated that NIFA projects significant deficits in each year of the plan on a GAAP basis totaling approximately \$243 million in 2015. He stated that while the County has made progress toward aligning its revenues and expenses through headcount reductions, a proposed increase in the property tax levy, raised fees and rolling out its school zone speed camera program, the County continues to borrow for items that should be paid for out of operating expenses, such as, tax certiorari refunds, judgments and settlements and termination expenses. He stated that the County plans to borrow \$100 million annually through 2018 to pay the property tax refunds. He stated that the County's ongoing fiscal challenges have been made more difficult by the significant decline in sales tax revenue. He further stated that while the County projects the baseline gaps will grow from approximately \$50 million in 2016 to \$73 million in 2017 and \$92 million in 2018, NIFA's analysis indicates these gaps may be understated by approximately \$210 million in 2016, \$223 million in 2017 and \$233 million in 2018. He further stated that despite the County's proposed gap-closing initiatives, it is unlikely that the County can achieve GAAP Basis balance during the term of the Multi-Year Plan.

DRAFT – SUBJECT TO REVIEW AND REVISION

Upon motion duly made and seconded, the following resolution was approved unanimously:

Resolution No. 14-528

ADOPTING THE STAFF REPORT CONCERNING THE PROPOSED NASSAU COUNTY MULTI-YEAR FINANCIAL PLAN, FISCAL 2015-2018 AND THE RECOMMENDATIONS CONTAINED THEREIN

---

WHEREAS, Nassau County continues to operate in a control period, which the Nassau County Interim Finance Authority (“NIFA”) imposed on January 26, 2011; and

WHEREAS, on September 15, 2014, as required by law, the County Executive submitted to NIFA his proposed Multi-Year Financial Plan for Fiscal 2015 – 2018 (“Proposed Plan”), the first year of which is his proposed 2015 Budget; and

WHEREAS, the NIFA Staff has prepared a report (the “Staff Report”) on the County Executive’s Proposed Plan in which the Staff identified a number of risks; and

WHEREAS, the County Legislature has the opportunity to address the risks that NIFA staff has identified; and

WHEREAS, in accordance with Section 3667(2) the NIFA Act, NIFA will not take further action in regard to the Proposed Plan until “approval by the county of a budget in accordance with the provisions of the county charter and approval of the financial plan by the legislature;”

NOW, THEREFORE, BE IT RESOLVED, that the NIFA Directors adopt the Staff Report on the County Executive’s Proposed Plan.

\* \* \*

Chairman Kaiman then entertained a motion to adjourn. Upon motion duly made and seconded, the Directors voted unanimously to adjourn the meeting at 4:46 PM.

Respectfully submitted,

DRAFT – SUBJECT TO REVIEW AND REVISION

Laurie A. Boucher  
Corporate Secretary

Sent Under  
Separate Cover

# NASSAU COUNTY INTERIM FINANCE AUTHORITY

## **FOR CONSIDERATION**

November 24, 2014

TO: NIFA Directors

FROM: Evan Cohen

SUBJECT: County General Obligation Bonds

REQUEST FOR: Consideration of Issuance of General Obligation Bonds by Nassau County

---

### **Introduction:**

The County has communicated with NIFA its desire to raise money for certain projects through its sale of general obligation bonds in the following categories and in the following amounts (plus costs of issuance):

Categories

A. Judgment	\$ 11,508,000 (plus costs of issuance)
B. Tax Certiorari	\$125,000,000 (plus costs of Issuance)

The bonds have all been authorized by the County Legislature.

### **Background:**

The reason for the County's request is found in section 3369 2(e) of the NIFA Act, which states that during a Control Period:

“The authority shall review the terms of each proposed long-term and short-term borrowing by the county and any covered organization to be effected during any control period, and no such borrowing shall be made during any control period unless it is approved by the authority.”

### **Discussion:**

The issuance of the bonds is expected in early December of 2014. Background data related to each of the aforementioned categories of bonds can be found in attachments lettered A and B.

The amount of bonds issued shall be reduced if premium bonds are issued, such that total proceeds are sufficient to cover the projects plus any necessary costs of issuance.

**Requested Action:**

You are requested to approve/disapprove the County's proposed issuance of bonds, subject to the terms and conditions outlined in these materials and the attached resolution.

**Attachments:**

Attachments Lettered A and B

Resolution

**NASSAU COUNTY INTERIM FINANCE AUTHORITY**

**RESOLUTION NO. 14-531**

**CONSIDERATION OF ISSUANCE OF GENERAL OBLIGATION BONDS BY NASSAU COUNTY**

---

RESOLVED, that the materials presented to this meeting of the Directors (the “Materials”) are incorporated into this Resolution and are ordered to be filed with the records of the Nassau County Interim Finance Authority (the “Authority”); and be it further

RESOLVED, that based upon the discussions in the Materials and pursuant to Section 3669 2(e) of the Authority Act, the Authority has reviewed the terms of the County’s proposed issuance(s) of bonds and approves such issuance(s) in the amounts described in the materials and in the following categories: A and B upon the conditions outlined in the Materials; and be it further

RESOLVED, that staff may take all actions and do all things that they deem necessary to carry out the intent of this resolution.

---

Jon Kaiman  
Chairperson

November 24, 2014

**Attachment A**  
**Non-tax Judgments and Settlements**

In re Nassau County Strip Search Cases, Index No. 99-CV-2844

Bond Ordinance #149-2014 (\$11,738,160.00 = judgment amt. \$11,508,000 + 2% COI of \$230,160);

This is a class action lawsuit concerning the county's former policy of strip searching non-felony arrestees upon their admission to the County Correctional Center even if there was no suspicion that they were secreting drugs, weapons or other contraband. The purpose of the searches were to ensure safety of arrestees, the prison population, and officers. These searches were ended in 1999 as a result of another lawsuit. Three cases were later consolidated into this class action and filed against the County seeking damages for arrestees searched during the last three years that the policy was still in effect. Key decisions by U.S. Second Circuit Court of Appeals in August 2006 and March 2008 certified the case as a class action on behalf of approximately 17,000 non felony arrestees admitted to the correctional center between May 20, 1996 and June 1, 1999. A non-jury trial was held in 2009 and on Sept 22, 2010 Judge Hurly issued a decision awarding each of these class members \$500 for approximately 23,000 searches sustained by the 17,0000 class members, regardless of how many actually filed claims. An appeal is pending with the Second Circuit to overturn Judge Hurley's ruling based on inconsistent rulings in the Circuit on this issue. The County is appealing also Judge Hurley's ruling to enforce the judgment while appeal is pending.

**Attachment B**  
**Rationale for Tax Certiorari Borrowing**

The County requests approval from the NIFA board to borrow \$125 million to finance tax certiorari payments. This is the first piece of the County's transitional financing related to the Disputed Assessment Fund. With NIFA working as a partner, the County was successful in achieving historic assessment legislation that will greatly aid the County in achieving structural balance. The bill, which passed with bi-partisan local and State (New York State Assembly and the New York State Senate) support, creates a Disputed Assessment Fund that will establish a manageable and fiscally-sound process to satisfy the lion's share of tax certiorari refunds and end the need to borrow to pay for tax refunds, which has been the practice of the County since the 1970s. The structural benefits from the commercial tax certiorari reform legislation will begin to be realized in 2017. This legislation is projected to save the County more than \$730 million in debt service payments over the next 20 years and has been recognized by Moody's Investors Service as a credit positive that would provide recurring funding for successful tax challenges.

Simply put, this is the largest structural reform that Nassau County has ever achieved. Establishing a Disputed Assessment Fund to satisfy commercial cases will also result in a more equitable allocation of taxes between residential and commercial property owners. Currently, all property owners bear the burden of paying tax certiorari refunds. This creates an inequity between residential and commercial property owners because commercial property owners generate a vast majority of the refunds. This legislation will address this gross unfairness by properly placing the burden of these refunds on commercial property owners. This will protect homeowners from paying for the refunds attributable to commercial tax challenges.

Until the County realizes the full benefit of the Disputed Assessment Fund the County will aggressively address the tax cert backlog. The staffs of the County Treasurer, County Attorney, Assessment Review Commission and Assessment will be working diligently to process the tax cert claims. This process is contingent on the County's ability to finance the payments. The County's need to borrow is made necessary by the County guaranty which requires the County (unlike any other county in New York) to fund the property tax refunds of the towns, school districts and special districts. It is imperative that the County receives NIFA's approval because the financing and payment of the claims will enable the County to stop accruing additional interest costs on outstanding claims. The pre-judgment interest rate for non-SCAR Article 7 cases is currently 2% and the post-judgment interest rate is 9%.

The County is anticipating that it will be financing \$125 million in 2014, and \$60 million in each of 2015, 2016 and 2017 to address these commercial claims based on an agreement between the County Executive and the County Legislature. This transitional borrowing is consistent with the

borrowing assumptions in the revised 2015-2018 MYP. In the County's revised MYP borrowing for tax certiorari payments will end after 2017. The \$125 million for 2014 is based on the total number of claims that are in the various stages of review and verification and are nearly ready to be paid by the County Treasurer. The Nassau County Legislature approved the bond ordinance for the \$125 million on October 29, 2014.

## NASSAU COUNTY INTERIM FINANCE AUTHORITY

### **FOR CONSIDERATION**

November 24, 2014

TO: NIFA Directors

FROM: Evan Cohen

SUBJECT: Tax Anticipation Note Borrowing, 2015 Series A&B TANs

REQUEST FOR: Consideration of Tax Anticipation Notes Borrowing by Nassau County

---

### **Introduction:**

Nassau County has requested NIFA's approval of a proposed sale of Tax Anticipation Notes ("TANs"). The maximum amount of proceeds will be \$202,351,000, but after costs of issuance they will retain \$200,000,000. The TANs will be sold at the same time, but one will mature in September (\$141,597,400-proceeds) and the other in October (\$60,753,600-proceeds) of 2015.

The reason for the County's request is found in section 3669 2(e) of the NIFA Act, which states that during a Control Period:

"The authority shall review the terms of each proposed long-term and short-term borrowing by the county and any covered organization to be effected during any control period, and no such borrowing shall be made during any control period unless it is approved by the authority."

Issuance of the County's TANs was delegated to the County Executive by Ordinance 116-1959; consequently, it does not require new authorization by the County Legislature.

### **Discussion:**

TANs are a common device used by public entities to help with cash flow until taxes are received.

The County typically does two cash flow borrowings each year – a Revenue Anticipation Notes issue in May / June and a Tax Anticipation Notes ("TAN") issue in November / December. The Notes are issued to provide monies to meet cash flow deficits expected to occur during the period the Notes are outstanding.

The County's lowest cash positions are typically in January and July, just prior to the receipt of the tax levy in March and September.

After discussions between NIFA and County staff, we are convinced that this issuance is needed in order to meet the County's financial obligations.

The Finance Committee (Directors Leventhal, Annunziato, Buran and Kaiman) met on November 24, 2014 and reviewed and approved the County's request to issue TANs in accordance with the terms described in these materials.

**Requested Action:**

Although cash flow borrowings of any kind are not the sign of a robust financial position, they are commonly used by public entities. In this case, the County's rationale appears to be sound. You are requested to approve the County's proposed cash flow borrowing through TANs, subject to the final review and approval of the Chairman or his designee(s).

**Attachment:**

Resolution

**NASSAU COUNTY INTERIM FINANCE AUTHORITY**  
**RESOLUTION NO. 14-530**

**CONSIDERATION OF ISSUANCE OF TAX ANTICIPATION NOTES BY NASSAU COUNTY**

---

RESOLVED, that the materials presented to this meeting of the Directors (the “Materials”) are ordered to be filed with the records of the Nassau County Interim Finance Authority (the “Authority”); and be it further

RESOLVED, that based upon the discussion in the Materials and pursuant to Section 3669 2(e) of the Authority Act, the Authority has reviewed the terms of the County’s proposed issuance of TANs and hereby approves said borrowing on the condition that total proceeds, consisting of par and original issue premium, cannot exceed \$202,351,000 including costs of issuance, and be it further

RESOLVED, that the final terms of the sale are subject to the review and approval of the Chairman of the Authority or his designee(s); and be it further

RESOLVED, that staff may take all actions and do all things that they deem necessary to carry out the intent of this resolution.

---

Jon Kaiman  
Chairperson

November 24, 2014

## NASSAU COUNTY INTERIM FINANCE AUTHORITY

### **FOR CONSIDERATION**

November 24, 2014

TO: NIFA Directors

FROM: Evan Cohen

SUBJECT: Nassau County Contracts

REQUEST FOR: Adoption of Revised Guidelines for the Review of Nassau County Contracts

---

### **Background**

Section 3669 of the NIFA Act requires that during a control period all contracts entered into by the County or any Covered Organization must comply with the requirements of the financial plan approved by the Authority. Furthermore, NIFA must approve any contract or other obligation which NIFA determines to be subject to review under NIFA's guidelines.

### **Discussion**

On March 24, 2011 NIFA approved contract guidelines ("Guidelines") and forwarded those Guidelines to the County for implementation. In summary the Guidelines held as follows:

1. Staff shall approve all contracts over \$50,000, but less than \$500,000.
2. Staff shall submit any contract in the amounts between \$500,000 and under \$5,000,000 to the Chairman or such other Director(s) as he may delegate, for approval.
3. Staff shall submit all contracts over \$5,000,000 to the entire Board of Directors, for approval.

On July 14, 2011, the adopted Guidelines were amended to allow certain contracts to be "exempt from review as follows:

- Emergency contracts (upon prior oral notice to NIFA).
- Contract Advisements and "cent" contracts within specific parameters.
- Electronic purchase orders and blanket purchase orders, unless they are for personal service contracts of \$50,000 or greater.

Staff is now recommending an additional change to the amended Guidelines which we believe will advance the interests of both NIFA and the County.

The changes that we are proposing are consistent with the intent of the NIFA statute; namely, to assist the County in managing expenses by ensuring that its proposed expenditures are consistent with its adopted financial plan. Therefore, we suggest that the following categories of contracts, which are discussed in greater detail below, be “exempt” from review:

- Grant contracts that are fully (100%) funded by third party sources (e.g., Federal grant funding).

#### CONTRACTS THAT ARE FULLY (100%) FUNDED BY GRANT SOURCES

There are contracts that receive 100% funding from a third party (i.e., Federal or New York State government) and may include more than one grant funding source. These contracts provide vital services such as but not limited to day care, physical therapy and housing services. Many of these contracts are time-sensitive in that the County has to execute the contracts by a certain date or the third party will withdraw the funding. Therefore, the contracts that are excluded from NIFA review are those contracts entered into with vendors who will be paid entirely with grant funding and do not include any portion that is funded by the County’s own operating fund. This exclusion includes the provision that NIFA will receive a monthly report of all 100% grant excluded contracts so that we can continue to monitor the grant contract process regarding expenditures, service categories and vendors providing services.

#### **Requested Action**

Approval of the recommendations outlined in this memo, together with authorization for staff to do all things deemed necessary or appropriate to carry out the intent of these materials and the accompanying resolution.

Attachments:

Resolution

Contract Approval Guidelines

Contract Approval Request Form

**NASSAU COUNTY INTERIM FINANCE AUTHORITY**

**RESOLUTION NO. 14-532**

**ADOPTION OF REVISED GUIDELINES FOR THE REVIEW OF NASSAU COUNTY  
CONTRACTS AND THE TAKING OF RELATED ACTIONS**

---

RESOLVED, that the materials presented to this meeting of the Directors (the “Materials”) are ordered to be filed with the records of the Nassau County Interim Finance Authority (the “Authority”) and are incorporated into this Resolution by reference; and be it further

RESOLVED, that the Authority hereby approves the staff recommendations in the Materials, which exclude certain types of County contracts from the review of the Authority; and be it further

RESOLVED, that Authority staff may take all actions and do all things that they deem necessary to carry out the intent of this resolution.

---

Jon Kaiman  
Chairperson

November 24, 2014

## ***Contract Approval Guidelines***

Section 3669 of the NIFA Act requires that during a control period all contracts entered into by the County or any Covered Organization must comply with the requirements of the financial plan approved by the Authority. Therefore, the following parameters and guidelines have been adopted by the NIFA Directors and are to be met in order for the County to be in compliance with NIFA's Contract Review Process.

### ***County Funds Subject to Review***

NIFA's review will include the following funds/entities:

#### **Major Funds:**

General Fund  
Police District Fund  
Police Headquarters Fund  
Fire Commission Fund  
County Parks & Recreation Fund

#### **Other Funds/Entities:**

Capital Improvement Fund  
Red Light Camera Fund  
Sewer & Storm Water District Fund  
Sewer & Storm Water Finance Authority  
Public Utility Authority  
Grant Fund

### ***County Funds/Entities Exempt from Review***

All Covered Organizations

### ***Threshold Dollar Amount $\geq$ \$50,000***

The NIFA enabling legislation does not establish a dollar threshold for contract review under the control period. The minimum dollar threshold for contract review required will be equal to or greater than \$50,000. We also require that when the aggregate of contracts issued to a particular vendor for the provision of similar services is equal to or greater than \$50,000 in any 12 month period they be submitted for review even if each individual contract is less than \$50,000.

### ***Contracts Excluded***

#### **Contracts that are Fully (100%) Funded by Grant Sources**

There are contracts that receive 100% funding from a third party (i.e. Federal or New York State government) and may include more than one grant funding source. These contracts provide vital services such as but not limited to day care, physical therapy and housing services. Many of these contracts are time-sensitive in that the County has to execute the contracts by a certain date or the third

party will withdraw the funding. Therefore, the contracts that are excluded from NIFA review are those contracts entered into with vendors who will be paid entirely with grant funding and do not include any portion that is funded by the County's own operating fund. This exclusion includes the provision that NIFA will receive a monthly report of all 100% grant excluded contracts so that we can continue to monitor the grant contract process regarding expenditures, service categories and vendors providing services.

#### Emergency Contracts

There are occasions when the County must act immediately to address issues of public health or safety. Under these circumstances the County Executive ("CE") or his designee issues a Notice of Emergency to the Chair of NIFA or his designee and will enter into the emergency contract having received verbal approval. As soon thereafter as is practicable, the CE or his designee submits the formal contract to NIFA for approval.

#### Contract Adviselements and "Cent" Contracts

A Contract Adviselement is a request to encumber additional funds under an existing contract. A "cent" contract is a contract that is put into the system with a cent amount (e.g. .02¢) to enable claims to be made against it as they are received. These types of contracts are exempt from the NIFA review process under the following circumstances:

1. The Contract Adviselement/cent contract is not increasing the amount of the original or previously amended and approved contract.
2. The Contract Adviselement/cent contract is not increasing the monetary amount of the contract, but is processed to: amend; add a line item to the scope; or extend a contract for an additional time period.

#### Purchase Orders/Blanket Purchase Orders

Purchase orders and blanket orders are normally used for general County-wide and equipment expenses (e.g. office supplies, fuel). Only a purchase or blanket order that is both encumbered against the contractual line and is for the purchase of personal services must be sent to NIFA for review if it meets the \$50,000 threshold amount.

#### *Supporting Documentation and Analysis*

Pursuant to the Act, the documentation must include "an analysis of the projected costs of such contract or other obligation and certification that performance thereof will be in accordance with the financial plan" and the County must also respond to queries or requests for additional information that NIFA may prescribe.

The NIFA Board and staff will also require, as a condition precedent to our review and approval, that the County complete a Contract Approval Request Form (attached). Among other requirements the form will require the County to certify that that contract process has been legally followed and that the contract conforms to the multi-year financial plan.

#### *NIFA Staff Review, Approval and Disapproval*

Contracts will only be submitted to NIFA for approval upon completion of the County's internal approval process.

## ***Contract Approval Guidelines***

Section 3669 of the NIFA Act requires that during a control period all contracts entered into by the County or any Covered Organization must comply with the requirements of the financial plan approved by the Authority. Therefore, the following parameters and guidelines have been adopted by the NIFA Directors and are to be met in order for the County to be in compliance with NIFA's Contract Review Process.

### ***County Funds Subject to Review***

NIFA's review will include the following funds/entities:

#### **Major Funds:**

General Fund  
Police District Fund  
Police Headquarters Fund  
Fire Commission Fund  
County Parks & Recreation Fund

#### **Other Funds/Entities:**

Capital Improvement Fund  
Red Light Camera Fund  
Sewer & Storm Water District Fund  
Sewer & Storm Water Finance Authority  
Public Utility Authority  
Grant Fund

### ***County Funds/Entities Exempt from Review***

All Covered Organizations

### ***Threshold Dollar Amount $\geq$ \$50,000***

The NIFA enabling legislation does not establish a dollar threshold for contract review under the control period. The minimum dollar threshold for contract review required will be equal to or greater than \$50,000. We also require that when the aggregate of contracts issued to a particular vendor for the provision of similar services is equal to or greater than \$50,000 in any 12 month period they be submitted for review even if each individual contract is less than \$50,000.

### ***Contracts Excluded***

#### **Contracts that are Fully (100%) Funded by Grant Sources**

There are contracts that receive 100% funding from a third party (i.e. Federal or New York State government) and may include more than one grant funding source. These contracts provide vital services such as but not limited to day care, physical therapy and housing services. Many of these contracts are time-sensitive in that the County has to execute the contracts by a certain date or the third

party will withdraw the funding. Therefore, the contracts that are excluded from NIFA review are those contracts entered into with vendors who will be paid entirely with grant funding and do not include any portion that is funded by the County's own operating fund. This exclusion includes the provision that NIFA will receive a monthly report of all 100% grant excluded contracts so that we can continue to monitor the grant contract process regarding expenditures, service categories and vendors providing services.

#### Emergency Contracts

There are occasions when the County must act immediately to address issues of public health or safety. Under these circumstances the County Executive ("CE") or his designee issues a Notice of Emergency to the Chair of NIFA or his designee and will enter into the emergency contract having received verbal approval. As soon thereafter as is practicable, the CE or his designee submits the formal contract to NIFA for approval.

#### Contract Advisements and "Cent" Contracts

A Contract Advisement is a request to encumber additional funds under an existing contract. A "cent" contract is a contract that is put into the system with a cent amount (e.g. .02¢) to enable claims to be made against it as they are received. These types of contracts are exempt from the NIFA review process under the following circumstances:

1. The Contract Advisement/cent contract is not increasing the amount of the original or previously amended and approved contract.
2. The Contract Advisement/cent contract is not increasing the monetary amount of the contract, but is processed to: amend; add a line item to the scope; or extend a contract for an additional time period.

#### Purchase Orders/Blanket Purchase Orders

Purchase orders and blanket orders are normally used for general County-wide and equipment expenses (e.g. office supplies, fuel). Only a purchase or blanket order that is both encumbered against the contractual line and is for the purchase of personal services must be sent to NIFA for review if it meets the \$50,000 threshold amount.

#### *Supporting Documentation and Analysis*

Pursuant to the Act, the documentation must include "an analysis of the projected costs of such contract or other obligation and certification that performance thereof will be in accordance with the financial plan" and the County must also respond to queries or requests for additional information that NIFA may prescribe.

The NIFA Board and staff will also require, as a condition precedent to our review and approval, that the County complete a Contract Approval Request Form (attached). Among other requirements the form will require the County to certify that that contract process has been legally followed and that the contract conforms to the multi-year financial plan.

#### *NIFA Staff Review, Approval and Disapproval*

Contracts will only be submitted to NIFA for approval upon completion of the County's internal approval process.



Nassau County Interim Finance Authority

Contract Approval Request Form (As of January 1, 2015)

1. Vendor: \_\_\_\_\_

2. Dollar amount requiring NIFA approval: \$ \_\_\_\_\_

Amount to be encumbered: \$ \_\_\_\_\_

This is a \_\_\_\_\_ New Contract \_\_\_\_\_ Advisement \_\_\_\_\_ Amendment

If new contract - \$ amount should be full amount of contract
If advisement - NIFA only needs to review if it is increasing funds above the amount previously approved by NIFA
If amendment - \$ amount should be full amount of amendment only

3. Contract Term: \_\_\_\_\_

Has work or services on this contract commenced? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please explain: \_\_\_\_\_

4. Funding Source:

General Fund (GEN) Grant Fund (GRT)
Capital Improvement Fund (CAP) Federal %
Other State %
County %

Is the cash available for the full amount of the contract? Yes No
If not, will it require a future borrowing? Yes No

Has the County Legislature approved the borrowing? Yes No N/A

Has NIFA approved the borrowing for this contract? Yes No N/A

5. Provide a brief description (4 to 5 sentences) of the item for which this approval is requested:

[Empty box for description]

6. Has the item requested herein followed all proper procedures and thereby approved by the:

Nassau County Attorney as to form Yes No N/A
Nassau County Committee and/or Legislature Yes No N/A

Date of approval(s) and citation to the resolution where approval for this item was provided:

[Empty box for date and citation]

7. Identify all contracts (with dollar amounts) with this or an affiliated party within the prior 12 months:

[Empty box for identifying contracts]

## AUTHORIZATION

To the best of my knowledge, I hereby certify that the information contained in this Contract Approval Request Form and any additional information submitted in connection with this request is true and accurate and that all expenditures that will be made in reliance on this authorization are in conformance with the Nassau County Approved Budget and not in conflict with the Nassau County Multi-Year Financial Plan. I understand that NIFA will rely upon this information in its official deliberations.

---

Signature	Title	Date
-----------	-------	------

---

Print Name \_\_\_\_\_

---

## COMPTROLLER'S OFFICE

To the best of my knowledge, I hereby certify that the information listed is true and accurate and is in conformance with the Nassau County Approved Budget and not in conflict with the Nassau County Multi-Year Financial Plan.

Regarding funding, please check the correct response:

\_\_\_\_\_ I certify that the funds are available to be encumbered pending NIFA approval of this contract.

If this is a capital project:

\_\_\_\_\_ I certify that the bonding for this contract has been approved by NIFA.

\_\_\_\_\_ Budget is available and funds have been encumbered but the project requires NIFA bonding authorization

---

Signature	Title	Date
-----------	-------	------

---

Print Name \_\_\_\_\_

---

## NIFA

Amount being approved by NIFA: \_\_\_\_\_

---

Signature	Title	Date
-----------	-------	------

---

Print Name \_\_\_\_\_

**NOTE: All contract submissions MUST include the County's own routing slip, current NIFS printouts for all relevant accounts and relevant Nassau County Legislature communication documents and relevant supplemental information pertaining to the item requested herein.**

**NIFA Contract Approval Request Form MUST be filled out in its entirety before being submitted to NIFA for review.**

**NIFA reserves the right to request additional information as needed.**

# NASSAU COUNTY INTERIM FINANCE AUTHORITY

## FOR CONSIDERATION

November 24, 2014

TO: NIFA Directors

FROM: Evan Cohen

SUBJECT: Contracts from County Attorney's Office

REQUEST FOR: Consideration of Contracts from the County Attorney's Office

---

### Introduction:

Pursuant to Section 3669 2(d) of the Authority Act, NIFA may require the review of certain contracts during a control period. The Directors have determined that all contracts arising from the Nassau County Legal Department shall, for the foreseeable future, be voted upon by the Directors at a public meeting.

### Discussion:

The County Legislature has approved the following contracts for legal services and the monies to pay the contracts have been encumbered. The descriptions of services are brief so as to avoid public dissemination of legal strategies; however, more detailed confidential descriptions are available and can be discussed in Executive Session.

### Brief Summary:

Vendor	Contract #	Amount	Purpose
<b>Bee, Ready, Fishbein Hatter &amp; Donovan</b>	CLAT14000021	\$350,000	Counsel provides legal services to the County with regard to labor and employment matters. This amendment increases funding to the contract from \$2,175,000 to \$2,525,000.
<b>Wilson, Elser, Moskowitz, Edelman &amp; Dicker LLP</b>	CQPW14000025	\$250,000	This is a new outside counsel contract to represent the County in litigation known as Elizabeth and Christopher Walsh, et al. v. Nassau County and Nassau County Dept. of Public Works, index # 600917/2014.

<b>Wilson, Elser, Moskowitz, Edelman &amp; Dicker LLP</b>	CLAT14000019	\$150,000	Amendment to outside counsel contract to represent the County in litigation known as Plainview Properties, SPE, LLC as successor in interest to Plainview Properties, LLC v. County of Nassau, under index number 005798/2010. This amendment increases funding to the contract from \$25,000 to \$175,000.
<b>Wilson, Elser, Moskowitz, Edelman &amp; Dicker LLP</b>	CQAT14000020	\$225,000	Amendment to outside counsel contract to represent the County in litigation related to asbestos claims in working in the Nassau County Coliseum, in the HAVA cases, and with EPA matters. This amendment increases funding to the contract from \$525,000 to \$750,000.
<b>Rivkin Radler, LLP</b>	CQAT14000022	\$24,900	This is a new outside counsel contract to represent the County in litigation known as Daniel Russell v. Nassau County, Nassau County Commission on Human Rights, Todd Goldfarb and Karle Kampe, index # CV-07-1686
<b>Pannone Lopes Devereaux &amp; West, LLC</b>	CLAT14000030	\$395,000	To represent the County with respect to the financing and development of the Nassau Coliseum and projects at the Nassau Hub and Mitchel Field. This amendment increases funding to the contract from \$525,000 to \$920,000.
<b>Rivkin Radler, LLP</b>	CLAT14000029	\$600,000	Counsel provides legal services to the County in connection with litigation known as New York Telephone Co. v. Town of North Hempstead v. Nassau County, Index No 12192/98. This amendment increases funding to the contract from \$1,275,000 to \$1,875,000.
<b>Rivkin Radler, LLP</b>	CQAT14000026	\$300,000	This is a new outside counsel contract to represent the County in proceedings initiated by E.R.A.S.E. Racism before HUD involving the County.
<b>Rivkin Radler, LLP</b>	CQAT14000025	\$250,000	This is a new outside counsel contract to represent the County in litigation known as Donald & Norman Boening v. the Nassau County

			Dept. of Assessment and the County of Nassau, Index NO. 1818-14.
<b>Pannone Lopes Devereaux &amp; West, LLC</b>	CQAT14000027	\$175,000	To represent the County with respect to various employment and labor law related legal issues.
<b>Orrick, Herrington &amp; Sutcliffe, LLP</b>	CLAT12000006	\$200,000	The purpose of this advisement is to provide for additional funds pursuant to contract CQAT05000001 for Bond Counsel services.
<b>Veritext Corp.</b>	CLAT14000025	\$75,000	Services to be provided shall consist of stenography services on an as-needed basis. This amendment increases funding to the contract from \$125,000 to \$200,000.
<b>Precise Court Reporting Services, Inc.</b>	CLAT14000022	\$25,000	Services to be provided shall consist of stenography services on an as-needed basis. This amendment increases funding to the contract from \$70,000 to \$95,000.

**Requested Action:**

You are requested to review and approve or disapprove entering into these contracts referenced in the prior discussion.

**Attachment:**

Resolution

**NASSAU COUNTY INTERIM FINANCE AUTHORITY**

**RESOLUTION NO. 14-533**

**REVIEW OF CONTRACTS FROM THE COUNTY ATTORNEY'S OFFICE**

---

RESOLVED, that the materials presented to this meeting of the Directors (the "Materials") are ordered to be filed with the records of the Nassau County Interim Finance Authority (the "Authority"); and be it further

RESOLVED, that the County struggles to regain fiscal balance, and it is operating under a financial plan that contemplates, among other measures, transitional borrowing for operating expenses; and be it further

RESOLVED, that County must continue to deliver essential services to County residents; and be if further

RESOLVED, that in these circumstances, NIFA must scrutinize contracts for expenditures that are not consistent with the County's current financial condition and the priorities, necessities, judgments and fiscal realities embodied in the County's adopted financial plan; and be it further

RESOLVED, that based upon the discussion in the Materials and pursuant to Section 3669 2(d) of the Authority Act, the Authority hereby approves contracts numbered XXX in the Materials and disapproves contract(s) numbered XXX for the foregoing reasons and because the Directors find that the expenditures required by these contract(s) are not consistent with the adopted financial plan; and be it further

RESOLVED, that staff may take all actions and do all things that they deem necessary to carry out the intent of this resolution.

---

Jon Kaiman  
Chairperson

November 24, 2014