

**TWENTIETH DAY  
GENESEE COUNTY LEGISLATURE  
BATAVIA, NEW YORK  
WEDNESDAY, NOVEMBER 22, 2021  
ZOOM RECORDING WAS AVAILABLE**

The Genesee County Legislature met in Regular Session on Wednesday, November 22, 2021 at 5:30 PM in the Legislative Chambers of the Old Courthouse. Legislature Chair Stein stated, “all attending the Legislature meeting in person who are fully vaccinated more than two weeks past the date of their final shot are no longer required to wear face coverings or maintain 6-ft social distance”. Legislator Yunker offered to assist with the audit. The prayer was offered by Legislator Dibble followed by the Pledge to the Flag.

Public hearing to discuss Local Law Introductory No. 6 Year 2021, to replace the County of Genesee Hotel and Motel occupancy Tax Law opened at 5:31 p.m. One speaker: Erik Fix, Executive Director of the Genesee County Chamber of Commerce spoke, commending the County for continuing the placement of tax law for hotel and motel occupancy.

Minutes of the November 10, 2021 Legislature meeting were approved upon motion of Legislator Clattenburg seconded by Legislator Yunker, carried unanimously.

Committee & Special Assignments: Legislator Maha discussed a zoom call with Inter-County of Western New York this past Friday. There was a lengthy conversation from Executive Director of the NYS Association of Counties Stephen J. Acquario regarding vaccinations mandates over 100 employees in the workplace. He believes it will be overturned. He also mention a four billion dollar infrastructure water upgrade, hopefully the County can get some of that money. Chair Stein discussed additional conversations of the NYSAC leader, he talked about the clean water competitive grants he talked about the social infrastructure bill being just as important to us, because we are going to have to make those social justice parody measures that will be put forward by the Federal Government. In addition, there was a conversation in regards to cannabis and reservations. Reservations are allowed to have cannabis sales without any licensing process, so those counties that have that host, a reservation, should be aware that cannabis sales will be taking place and there is no licensing requirement. The County Manager and Chair Stein sat in on Common Ground Communications. As to their opportunity to put forward, a media campaign for encouraging folks to get vaccinated get booster and to help recover those good public health that we are really seeking helping to keep our children in school. New cases in all the surrounding counties gave an update on the new cases over the weekend and when you add this up, it is in the thousands. Contact tracers cannot keep up and there hospitalizations are being over-run. Hospital staff is stressed.

Legislator Maha will be taking on the helm of leadership for Inter-county of Western New York, starting in January. He will do a great job. Congratulations

Legislator Comments: Legislator Clattenburg would like to comment on retirement of Councilwoman Rose Mary Christian whom she worked alongside when Legislator Clattenburg was a Councilmember. The Legislature would like to give Rose Mary heartfelt congratulations on her retirement for her service to the City of Batavia. A few legislators will be attending the celebration

and providing a commendation to Rose Mary tonight. In addition, Chair Stein mentioned: Tomorrow there's also the dedication of a portion of route 77 as the Jay Hall Memorial highway in the Town of Pembroke.

County Manager Landers Reports - a census from other County Administrators on the rural counties regarding the increased testing resources.

On a positive note, the budget will be passing today. Big thank you to Tammi Ferringer, Anita Cleveland, HR Director and Ashlee Reigle, Scott German, County Treasurer and a very special thanks goes out to Vicky Muckle, Executive Secretary for the tremendous work on the 2022 Budget. Very appreciative of all the work behind the scenes.

The Clerk proceeded with the resolutions:

**RESOLUTION NO. 479** **AMENDMENTS TO THE 2022 TENTATIVE BUDGET - APPROVAL OF**

Legislator Clattenburg offered the following resolution:

**WHEREAS**, The 2022 Tentative Budget was reviewed by the Legislature and certain amendments to the Tentative Budget were recommended. Now, therefore be it

**RESOLVED**, That the Genesee County Legislature does hereby approve the following amendments and does authorize the Budget Officer to effect these amendments into the 2022 Budget:

**INCREASE IN GENERAL FUND REVENUES**

A.1000.9999	Balancing Appropriated	\$ 680,809
A.1231.4089.3	County Manager- Federal Aid - ARPA	\$ 5,000
A.4310.4090	Mental Health – Federal Aid – Block Grant	\$ 86,000
A.6010.3610	Social Services – St. Aid, Social Svcs Admin	\$ 900
A.6010.4610	Social Services – Federal Aid – Social Svcs Admin	\$ 1,300

**DECREASE IN GENERAL FUND REVENUES**

A.1000.1001	Revenue – Real Property Taxes	\$ 678,519
A.1170.3025	Public Defender –Indigent Legal Services	\$ 124,922

**INCREASE IN GENERAL FUND APPROPRIATIONS**

A.1231.4800.0700	County Manager- ARPA – ARPA Contractual Exp	\$ 5,000
A.4310.4700.0000	Mental Health – Specialized Supplies	\$ 86,000
A.6010.8030.0000	Social Services - Medical	\$ 7,680

**DECREASE IN GENERAL FUND APPROPRIATIONS**

A.1170.1010.0000	Public Defender, Personal Services	\$ 79,270
A.1170.2010.0019	Public Defender, Bookcase	\$ 284
A.1170.2010.0020	Public Defender, Desk	\$ 534
A.1170.2010.0022	Public Defender, Chair	\$ 316
A.1170.2010.0025	Public Defender, Files/Cabinets	\$ 300
A.1170.2022.0001	Public Defender, Micro Computer	\$ 806
A.1170.2026.0035	Public Defender, Computer Accessories	\$ 212
A.1170.4160.0000	Public Defender, Publications	\$ 2,702
A.1170.4290.0035	Public Defender, Cell Phone/Air Card	\$ 280
A.1170.4290.0400	Public Defender, NY Phone – Basic Svcs	\$ 262
A.1170.4800.0000	Public Defender, Program Expense	\$ 500
A.1170.8010.0000	Public Defender, Social Security Tax	\$ 4,915

A.1170.8011.0000	Public Defender, Medicare Tax	\$ 1,149
A.1170.8020.0000	Public Defender, Retirement	\$ 10,305
A.1170.8030.0000	Public Defender, Medical	\$ 22,685
A.1170.8040.0000	Public Defender, Dental	\$ 330
A.1170.8070.0000	Public Defender, Vision	\$ 72
A.6010.1010.0000	Social Services, Personal Services	\$ 2,590
A.6010.8010.0000	Social Services, Social Security Tax	\$ 160
A.6010.8011.0000	Social Services, Medicare Tax	\$ 30
A.6010.8020.0000	Social Services, Retirement	\$ 410

**INCREASE IN COUNTY WORKERS COMPENSATION FUND REVENUES**

S.1000.9999	Workers Comp – Balancing Appropriated	\$ 500,000
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**INCREASE IN COUNTY WORKERS COMPENSATION FUND APPROPRIATIONS**

S.1720.4800.0000	Work Comp – Benefits & Awards – Program Exp	\$ 500,000
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Budget Impact Statement: General Fund net appropriation and revenue changes offset to (\$29,432) from the Budget Officers Tentative Budget

Legislator Maha seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 480**

**2022 GENESEE COUNTY BUDGET -  
ADOPTION OF**

Legislator Clattenburg offered the following resolution:

**WHEREAS**, A public hearing was held on the Tentative Budget for the year 2022 on Wednesday, November 3, 2021, at which time all interested persons were heard, and

**WHEREAS**, Amendments to the 2022 Tentative Budget have been presented and duly adopted by Resolution No.479 on November 22, 2021, and

**WHEREAS**, The Committee on Ways and Means does recommend adoption at this time. Now, therefore be it

**RESOLVED**, That the 2022 Tentative Budget presented by the Budget Officer, as amended, be and hereby is adopted as the Budget for the County of Genesee for 2022 with a total amount to be raised by property tax of \$31,451,727 and a tax rate equivalent to \$9.18.

**Budget Impact Statement:** 2022 property tax levy remains the same as the 2021 tax levy. The 2022 budget is within the NYS mandated tax levy limit.

Legislator Torrey seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 481**

**MAKING APPROPRIATIONS FOR THE  
CONDUCT OF COUNTY GOVERNMENT FOR  
FISCAL YEAR 2022 – APPROVAL OF**

Legislator Clattenburg offered the following resolution:

**WHEREAS**, The Genesee County Legislature adopted a Budget for fiscal year 2022 by Resolution No.480 dated November 22, 2021. Now, therefore, be it

**RESOLVED**, That the adopted amounts in the 2022 Budget be and hereby are appropriated for the objects and purposes specified, effective January 1, 2022, and Be it further

**RESOLVED**, That the sum of \$31,451,727 is hereby levied against the taxable property in the County and the Director of Real Property Tax Services is hereby authorized and directed to apportion and spread the said sum against the properties within the county which are subject to taxation.

**Budget Impact Statement:** 2022 property tax levy remains the same as the 2021 tax levy. The 2022 budget

is within the NYS mandated tax levy limit.

Legislator Maha seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 482**

**HEALTH BENEFITS PLAN 2022 PREMIUM RATES - APPROVAL OF**

Legislator Yunker offered the following resolution:

**WHEREAS**, The Genesee County Manager and Self-Funded Health Benefits Plan Consultant did review the self-insured health plan and monthly participation fee and does recommend monthly premium rates be adjusted effective January 1, 2022, and

**WHEREAS**, The Committee on Ways and Means did review the rates proposed and does recommend adoption at this time. Now, therefore, be it

**RESOLVED**, That the following rates for the Genesee County Self-Insured Health Benefits Plan be adopted, effective January 1, 2022:

<u>Partnership Plus and Traditional Plans Classification</u>	<u>Rate per Month</u>
Single	\$876
2 Members (1 Adult/1 Child or 2 Adults)	\$1,752
Family, 3 or more	\$2,844
Retired, single	\$876
Retired, 2 Members	\$1,752
Retired, Family 3 or more	\$2,844
<u>Health and Wellness Plan Classification</u>	<u>Rate per Month</u>
Single	\$727
2 Members (1 Adult/1 Child or 2 Adults)	\$1,454
Family, 3 or more	\$2,363
Retired, single,	\$727
Retired, 2 Members	\$1,454
Retired, Family 3 or more	\$2,363
<u>GCC \$5/\$20 Drug Card Classification</u>	<u>Rate per Month</u>
Single	\$154
2 Members (1 Adult/1 Child or 2 Adults)	\$308
Family	\$508
<u>Dental Classification</u>	<u>Rate per Month</u>
Dental, single	\$ 11
Dental, family	\$ 27.50
<u>Vision Classification</u>	<u>Rate per Month</u>
Vision, single	\$ 4
Vision, family	\$ 6

Budget Impact Statement: medical/Rx premium rates are increasing 4.5% over the 2021 rate.

Legislator Hawley seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 483**

**CAPITAL PROJECTS APPROVAL – GENESEE COMMUNITY COLLEGE – APPROVAL OF**

Legislator Torrey offered the following resolution:

**WHEREAS**, The Genesee Community College Board of Trustees formally approve the Facility Master Plan on October 5, 2020, and

**WHEREAS**, State of New York provided appropriations for the following projects from the Facilities Master Plan totaling \$3,400,000, which includes these projects and approximate budgets:

Turf Field Replacement	\$ 950,000
Conable Technology Building – Roof Replacement	\$1,060,000
Technology Parking Lot (Lot T) Replacement	\$ 800,000
Cooling Tower Replacement	\$ 410,000
Arts Center Connector Replacement	\$ 180,000

**WHEREAS**, The State of New York requires Sponsor commitment of funds of specific approved Capital Projects to obtain SUNY approval to progress, and financing capital projects would be borne half by the State of New York, and when the project(s) are approved, half by the County, and

**WHEREAS**, The Committee on Ways and Means does recommend the funding of these projects to the Legislature. Now, therefore, be it

**RESOLVED**, That the Genesee County Legislature does hereby approve proceeding with the approved Capital Projects not to exceed \$3,400,000, and Genesee County being responsible for up to \$1,700,000.

Budget Impact: As the host community, Genesee County will be responsible for up to \$1,700,000 for these projects.

Legislator Deleo seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 484** **SHARED SERVICES PLAN - SETTING PUBLIC HEARING – APPROVAL OF**

Legislator Dibble offered the following resolution:

**WHEREAS**, the Genesee County Shared Services panel has compiled proposals to be filed in the 2021 Shared Services Plan to New York State Department of State by December 31, 2021, and

**WHEREAS**, Part of the process for discussing and developing said a Shared Services plan is to have public meetings/opportunities for citizen input and to take suggestions on possible public sector shared services opportunities that have not already occurred and are in place, and

**WHEREAS**, The Committee on Ways and Means does recommend setting public hearings for shared services discussion. Now, therefore, Be it

**RESOLVED**, That Public Hearings on the 2021 Shared Services Plan will be held on Monday, November 29, 2021 at 9:00am, 11:00am, and 4:00pm at the Old Courthouse, 7 Main Street, Batavia, NY.

Budget Impact Statement: None

Legislator Yunker seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 485** **2021 BUDGET AMENDMENT- SELF-INSURANCE WORKERS COMPENSATION - APPROVAL OF**

Legislator Clattenburg offered the following resolution:

**WHEREAS**, The Assistant County Manager has requested an increase to the 2021 benefit & award expense of the Workers’ Compensation 2021 Budget in the amount of \$325,000 due to unanticipated expenses, and

**WHEREAS**, The Assistant County Manager recommends utilizing funds from the Workers Compensation Fund Balance to cover the additional costs, and

**WHEREAS**, The Committee on Ways and Means did review this request and does recommend approval at this time. Now, therefore, Be it

**RESOLVED**, The County Treasurer is hereby authorized and directed to amend the 2021 Genesee County Budget by increasing S.1720.4800.0000 Self Insurance Benefits & Awards - Program Expense in the amount of \$325,000 offset by an increase in S.1000.9999 – Balancing Appropriated in a like amount.

**Budget Impact:** \$325,000 will be taken from the WC Fund Balance. 2020 year-end balance of the WC Fund Balance is \$1,491,369  
Legislator Deleo seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 486**

**RENEWAL OF CONTRACT – THIRD PARTY ADMINISTRATOR OF SELF-FUNDED HEALTH PLAN/INDEPENDENT HEALTH/NOVA HEALTHCARE ADMINISTRATOR – APPROVAL OF**

Legislator Hawley offered the following resolution:

**WHEREAS**, Resolution No. 359 duly adopted on September 23, 2020, did award a contract to Independent Health/Nova Healthcare as the Third Party Administrators for Genesee County’s Self-Funded Health Plan, and

**WHEREAS**, The RFP issued in 2020 and the 2020 Resolution No. 359 did allow for two additional one-year period renewals and the Genesee County Human Resources Director has recommended the renewal of this contract for 2022, and

**WHEREAS**, The Genesee County Health Benefits Review Committee does recommend that Independent Health/Nova Healthcare be awarded the contract to provide third party administration for the Genesee County self-funded medical benefits plan, and

**WHEREAS**, The Committee on Ways and Means did review this recommendation and does concur. Now, therefore, Be it

**RESOLVED**, That the Chair of the Genesee County Legislature is hereby authorized and directed to enter into the first of two one-year renewal contracts with Independent Health/Nova Healthcare Administrators, 511 Farber Lakes Drive, Buffalo, New York for the provision of third-party administration services for the County’s Self-Funded Health Plan effective January 1, 2022 through December 31, 2022.

Per Member Per Month

2022 Medical/Vision and COBRA Administration Fee:	\$43.25
Prescription Drug Coordination with Outside Vendor	<u>2.00</u>
	\$45.25

Budget Impact Statement: \$391,000 is included in the 2022 budget for the administration of the Self-Funded Health Plan

Legislator Maha seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 487**

**RENEWAL OF CONTRACT – HEALTH BENEFITS/THIRD PARTY ADMINISTRATOR /DENTAL – APPROVAL OF**

Legislator Torrey offered the following resolution:

**WHEREAS**, Resolution No. 482 duly adopted on November 26, 2019 did award a contract to Health Economics Group, Inc. for third party administration services for the County's self-funded dental benefits plan, and

**WHEREAS**, The RFP issued in 2019 and 2019 Resolution No. 482 did allow for four one year renewals under the same terms and conditions, and the Genesee County Human Resources Director has recommended the renewal of this contract for 2022, and

**WHEREAS**, The Committee on Ways and Means did review this recommendation and does concur. Now, therefore be it

**RESOLVED**, That the Chair of the Genesee County Legislature is hereby authorized and directed to enter into the second of four one-year renewal contracts with Health Economics Group, 1050 University Avenue, Rochester, NY for the provision of third party administration services for the County's self-funded dental benefits plan at the following rates effective

January 1, 2022 through December 31, 2022:

Dental Administration Fee per Member per Month: \$2.40

COBRA Administration per COBRA Participant per Month: \$2.40 + 2% of premium

Budget Impact Statement: No increase in the Administration Fee. Annual cost estimated to be \$21,000.

Legislator Dibble seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

#### **RESOLUTION NO. 488**

#### **SELF-INSURED HEALTH BENEFITS PLAN CONSULTANT/AWARD OF CONTRACT – APPROVAL OF**

Legislator Clattenburg offered the following resolution:

**WHEREAS**, The County of Genesee has retained the services of a health benefits plan consultant since mid-2003 to initiate and facilitate on-going efforts by the County and its joint Labor/Management Health Benefits group to effectuate cost savings in the self-funded health benefits plans and to provide assistance with general administration of the plans, and

**WHEREAS**, The current consultant's agreement expires in February 2022 and the Genesee County Purchasing Director did issue RFP 2021-109 for a Health Benefits Plan Consultant with two proposals received, and

**WHEREAS**, The Genesee County Manager, Assistant County Manager, Human Resources Director, Executive Assistant to the County Manager, Purchasing Director and the Vice President of Finance & Operations at Genesee Community College did review proposals received and have recommended that the services of AP Benefit Advisor, LCC, dba Premier Consulting Associates be retained as the County's health benefits plan consultant, and

**WHEREAS**, The Committee on Ways and Means has reviewed this recommendation and does concur. Now, therefore, Be it

**RESOLVED**, That the Chair of the Genesee County Legislature be and hereby is authorized and directed to execute an agreement with AP Benefits, dba Premier Consulting Associates, 1416 Sweet Home Road, Amherst, New York to provide Health Benefits Plan Consulting services said contract to commence February 1, 2022 through January 31, 2023 with the option for four additional one-year renewals upon written mutual agreement of the parties at a cost of:

Medical and Prescription Drug Plan Consulting \$50,000/Annual Fee

Claims Data Integration, Reporting and Analytics

through PremierLinx

\$1.30 per employee per month

Budget Impact Statement: Funds are budgeted in the 2022 Health Plan budget for Consulting annual fee and PremierLinx.

2023 to 2024: \$50,000 per contract year plus \$1.30 PEPM

2024 to 2025: \$52,000 per contract year plus \$1.30 PEPM

2025 to 2026: \$52,000 per contract year plus \$1.30 PEPM

2026 to 2027: \$52,000 per contract year plus \$1.30 PEPM

Legislator Maha seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 489**

**RENEWAL OF CONTRACT – EMPLOYEE ASSISTANCE PROGRAM – HUMAN RESOURCES DEPARTMENT - APPROVAL OF**

Legislator Torrey offered the following resolution:

**WHEREAS**, Resolution No. 466 duly adopted on November 24, 2020 did award a contract to Royal Employer Services to provide Employee Assistance Program (EAP) services for Genesee County employees, and

**WHEREAS**, The RFP issued in 2020 and 2020 Resolution No. 466 did allow for four (4) one-year renewals under the same terms and conditions, and the Genesee County Human Resources Director has recommended the renewal of this contract for 2022, and

**WHEREAS**, The Committee on Ways and Means did review this recommendation and does concur. Now, therefore Be it

**RESOLVED**, That the Chairperson of the Genesee County Legislature is hereby authorized and directed to enter into the first of four one-year renewal contracts with Royal Employer Services, 430 East Main Street, Batavia, New York to provide Employee Assistance Program services to the employees of Genesee County for the period January 1, 2022 through December 31, 2022 at a cost of \$8,175 per year with a provision of three additional one-year renewals.

Budget Impact Statement: Funds are included in the Human Resources 2022 budget.

Legislator Deleo seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 490**

**RENEWAL OF CONTRACT – FLEXIBLE SPENDING BENEFITS PLAN MANAGEMENT/ ADMINISTRATOR – APPROVAL OF**

Legislator Yunker offered the following resolution:

**WHEREAS**, Resolution No. 356 duly adopted on November 23, 2020 did award a contract to P & A Group, Inc. for administration services for the County’s Flexible Spending Benefits Plan, and

**WHEREAS**, The RFP issued in 2020 and 2020 Resolution No. 356 did allow for three one-year renewals under the same terms and conditions, and the Genesee County Human Resources Director has recommended the renewal of this contract for 2022, and

**WHEREAS**, The Committee on Ways and Means did review this recommendation and does concur. Now, therefore Be it

**RESOLVED**, That the Chair of the Genesee County Legislature is hereby authorized and directed to enter into the first of three one-year renewal contracts with P & A Group, 17 Court Street, Buffalo, NY 14202 for the provision of administration services for the County’s Flexible Spending Benefits Program effective January 1, 2022 through December 31, 2022 under the same terms and conditions upon mutual consent between the parties.

Flexible Benefits Program Administration Fee Per Member Per Month: \$3.25

Budget Impact Statement: Flex Plan Administration costs are paid utilizing the County’s FICA savings generated by employee participation in the flexible benefits program.

Legislator Clattenburg seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 491**

**SCHEDULE “A” 2022 EMPLOYEE SALARY**



## **SCHEDULE – APPROVAL OF**

Legislator Clattenburg offered the following resolution:

**WHEREAS**, It is necessary to establish a schedule for payment of wages in 2022 for positions covered in negotiated agreements and for other positions not included in the Genesee County Schedule A Employee Salary Schedule, and

**WHEREAS**, The Committee on Ways and Means did review the schedule as presented by the Human Resources Director and does recommend adoption at this time. Now, therefore, Be it

**RESOLVED**, That the Genesee County Treasurer and the Human Resources Director are hereby authorized and directed to implement payroll certifications, effective January 1, 2022 based upon the recommended Genesee County Employee Salary Schedule.

Legislator Hawley seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

### **RESOLUTION NO. 492**

## **SCHEDULE “B” 2022 MANAGEMENT SALARY SCHEDULE – APPROVAL OF**

Legislator Torrey offered the following resolution:

**WHEREAS**, The Committee on Ways and Means did review the Management Salary Schedule “B” for 2022 and does recommend adoption at this time. Now, therefore, Be it

**RESOLVED**, That the County Supervisory and Non-Union Salary Schedule for 2022 be and hereby is adopted, and Be it further

**RESOLVED**, That the Genesee County Treasurer and the Human Resources Director are hereby authorized and directed to implement payroll certifications and payments based on the titles and salaries contained in Schedule “B” 2022 Management Salary Schedule, effective January 1, 2022.

Legislator Clattenburg seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

### **RESOLUTION NO. 493**

## **APPOINTMENTS TO THE GLOW WORKFORCE DEVELOPMENT BOARD MEMBERSHIP – APPROVAL OF**

Legislator Torrey offered the following resolutions:

**WHEREAS**, The Chief Elected Officials of Genesee, Livingston, Orleans, and Wyoming Counties (GLOW) petitioned the Governor of the State of New York to designate the four County area as a Workforce Innovation and Opportunity Area under the Workforce Innovation and Opportunity Act of 2014, and

**WHEREAS**, The Federal Workforce Innovation and Opportunity Act of 2014 mandates that each local Workforce Innovation and Opportunity Area create a Workforce Development Board to administer and oversee the local Workforce Innovation and Opportunity System, and

**WHEREAS**, The Chief Elected officials are charged with the responsibility of soliciting and appointing members to this Workforce Development Board. Now, therefore, Be it

**RESOLVED**, That the Genesee County Legislature does hereby approve the following appointment to the GLOW Workforce Development Board:

Molly Haungs, Marketing Manager of LandPro Equipment has agreed to renew her term as a GLOW Workforce Representative for Private Sector Business to serve a term from 11/19/2021 – 11/19/2023.

**RESOLVED**, That the GLOW Workforce Development Board will be in effect until such time that the Workforce Innovation and Opportunity Act of 2014 is repealed.

Legislator Deleo seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 494**

**TO APPROVE A SUBORDINATION AGREEMENT  
– APPROVAL OF**

Legislator Yunker offered the following resolution:

**WHEREAS**, the County of Genesee previously allocated funds in the amount of \$16,285.50 and \$28,798 respectively, to Batavia Home Rentals for property it owns at 54 Hutchins Street in the City of Batavia NY as part of a HUD lead abatement program, and

**WHEREAS**, the County of Genesee filed two mortgages for these amounts in the Genesee County Clerk’s office on May 4, 2021 and on September 20, 2021, and

**WHEREAS**, Batavia Home Rentals is obtaining a refinancing mortgage from the Bank of Castile upon the property at 54 Hutchins Street; as well as upon numerous other properties, and

**WHEREAS**, the Bank of Castile has asked the County of Genesee to execute a Subordination Agreement, and

**WHEREAS**, the County Attorney has recommended approval of this Subordination Agreement which will not adversely affect the County of Genesee. Now, therefore, Be it

**RESOLVED**, that a proposed Subordination Agreement by and between the Bank of Castile and the County of Genesee is hereby approved, and the Chair of the Legislature is hereby authorized and directed to sign this Subordination Agreement on behalf of the County, together with any other necessary recording documents, with the Bank of Castile to pay any and all recording costs and expenses.

Budget Impact Statement None.

Legislator Deleo seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 495**

**SET PUBLIC HEARING - INTRODUCTORY  
LOCAL LAW NO. 7 YEAR 2021 – SALARIES OF  
COUNTY FIXED TERM OFFICERS-APPROVAL  
OF**

Legislator Clattenburg offered the following resolution:

**WHEREAS**, There is hereby introduced to the Genesee County Legislature a proposed Local Law entitled: **A LOCAL LAW IN RELATION TO THE SALARIES OF COUNTY OFFICERS OF THE COUNTY OF GENESEE ELECTED OR APPOINTED FOR A FIXED TERM,**” and

**WHEREAS**, Subdivision 5 of Section 20 of the Municipal Home Rule Law requires a Public Hearing to be held on such Local Law. Now, therefore, be it

**RESOLVED**, That a Public Hearing shall be held on the Proposed Local Law Introductory No. 7, Year 2021 on Wednesday, December 8, 2021 at 5:30 p.m. at the Genesee County Courthouse, 7 Main Street, Batavia, New York.

Legislator Maha seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 496**

**ACCEPTANCE OF CONTRACT AMENDMENT-  
NYS OFFICE OF INDIGENT LEGAL  
SERVICES/GENESEE COUNTY-APPROVAL OF**

Legislator Yunker offered the following resolution:

**WHEREAS**, The Public Defender does recommend the acceptance of the amendment to contract between Genesee County and the New York State Office of Indigent Legal Services, Contract Number: C900018, Distribution # 9, to amend the contract by providing a one (1) year extension of the term to December 31, 2022. This contract funds two (2) attorneys’ salary and fringe benefits, a portion of a

paralegal's salary and fringe benefits and various other costs and expenses related to the department's staff.

**WHEREAS**, The Committees of Public Service and Ways and Means did review the contract and does recommend acceptance at this time. Now, therefore, be it

**RESOLVED**, that the Chair of the Genesee County Legislature is hereby authorized and directed to execute this Amendment for Contract Number: C900018, Distribution # 9, with the New York State Office of Indigent Legal Services, A. E. Smith Building, 11<sup>th</sup> Floor, 80 South Swan Street, Albany, New York 12210.

**Budget Impact Statement:** Total contract revenue for 2022 in the amount of \$159,769 is contained within the 2022 Department Head Requested Budget in line A.1170.3025 Indigent Legal Services offset by like amounts in expenses.

Legislator Hawley seconded the resolution which was passed by 298 votes, Klotzbach (28) absent.

#### **RESOLUTION NO. 497**

#### **2021 BUDGET AMENDMENT/CAPITAL PROJECT AMENDMENT – 8-BAY T-HANGAR PHASE IV – APPROVAL OF**

Legislator Maha offered the following resolution:

**WHEREAS**, The Highway Superintendent recommends amending the capital project established for the 8-Bay T-Hangars Phase IV in order to allow for the full value of all contracts and necessary work, and

**WHEREAS**, The Committees on Public Service and Ways and Means have reviewed this request and do concur with the recommendation at this time. Now, therefore, be it

**RESOLVED**, That the Genesee County Legislature does hereby authorize and direct the Genesee County Treasurer to amend the 2021 County Budget by increasing A.9950.9000.0000 Transfer to Capital in the amount of \$3,188.75, to be offset by A1000.1110.1 1% Sales in the amount of \$3,188.75, increasing H5997.5031 Interfund Transfer in the amount of \$3,188.75, and increasing H5997.2080 8-Bay T-Hangar Phase IV Capital Project Expense in the amount of \$3,188.75,

**Budget Impact:** This \$3,188.75 increase in funding will bring the total funding in the project to \$878,188.75. The additional funding allows for the full payment and release of retainage on all contracts. The project bids were awarded under a very tight budget and the cost of additional special inspections required to comply with Building Code exceeded expectations.

Legislator Deleo seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

#### **RESOLUTION NO. 498**

#### **INTERMUNICIPAL AGREEMENT – COUNTYWIDE WATER PHASE 2 – TOWN OF BERGEN – APPROVAL OF**

Legislator Yunker offered the following resolution:

**WHEREAS**, Genesee County desires to advance certain portions of water improvements being made by the Town of Bergen which benefits the County and are described in the Master Plan and Engineering Report for Phase 2 of the Countywide Water Project, and

**WHEREAS**, the Genesee County Highway Superintendent and the County Attorney have prepared an agreement that provides a reimbursement to the Town of Bergen under terms acceptable to the County and recommend its approval at this time, and

**WHEREAS**, the Committees on Public Service and Ways and Means have reviewed this request and do concur at this time. Now, therefore, be it

**RESOLVED**, that Genesee County Legislature does hereby authorize the Chairperson of the Genesee County Legislature to approve the Intermunicipal Agreement between Genesee County and the Town

of Bergen related to the upgrades of certain water mains constructed by the Town related to Water Improvement Benefit Area #1. Amount not to exceed \$47,121.

Budget Impact Statement: Per the agreement, the County Water Fund will reimburse the Town of Bergen up to \$47,121 for completing water main upgrades that benefit the countywide system. Reimbursements will be made within 45 days after the Town of Bergen completes construction of the mains and they are certified complete by their Engineer.

Legislator Maha seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 499**

**CHANGE ORDER – ALBION RD BRIDGE PILE  
CAP REPAIRS – BVR CONSTRUCTION –  
APPROVAL OF**

Legislator Hawley offered the following resolution:

**WHEREAS**, The Genesee County Highway Superintendent recommends authorizing additional work with BVR Construction, Inc. as part of the Albion Rd Bridge Pile Cap Repairs project, and

**WHEREAS**, The Committees of Public Service and Ways and Means did review this recommendation and does concur. Now, therefore, be it

**RESOLVED**, That the Chair of the Genesee County Legislature does hereby authorize change orders in the amount of \$7,500 for BVR Construction, Inc., 8 King Rd, Churchville, NY 14428 related to the epoxy painting of C-Channel in lieu of providing galvanized C-channel, to be funded from the Large Span Culvert capital project.

Budget Impact Statement: The total amount for the change order is \$7,500. This change brings the total contract amount to \$99,500. The contract is funded from the Large Span Culvert capital project.

Legislator Yunker seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 500**

**AMENDMENT TO SUPPLEMENTAL  
CONSULTANT AGREEMENT – FLYNN &  
BATTAGLIA ARCHITECTS – 14 WEST MAIN  
ST/JAIL STONEWORK**

Legislator Dibble offered the following resolution:

**WHEREAS**, The Genesee County Highway Superintendent re-engaged with Flynn & Battaglia Architects to renew and update the set of construction document and the Genesee County Legislature authorized a consultant agreement in the amount of \$38,000, and

**WHEREAS**, Flynn & Battaglia has completed a thorough re-inspection of the exterior of the building under this agreement and has determined that significantly more work will be required for restoration, and

**WHEREAS**, The Highway Superintendent reviewed and negotiated an amendment to the consultant agreement with Flynn & Battaglia and does recommend that additional services be authorized at this time, and

**WHEREAS**, The Committees on Public Service and Ways and Means did review this recommendation and does concur. Now, therefore, be it

**RESOLVED**, the Genesee County Legislature does hereby authorize the Chairperson of the Genesee County Legislature to amend the supplemental agreement with Flynn-Battaglia Architects, P.C., 617 Main St, Buffalo, NY 14203 in an amount not to exceed \$18,500 for the purposes of updating the construction documents to reflect the current condition of the of the former Genesee County Sheriff's Office and Jail building so it may be repaired. Funded by the Genesee Justice Stone Work Capital Project.



to service the County and community. The project will be located on a 19.7± acre County owned parcel with Tax Map No. 7.-1-21.1. The development will also include construction of off-street parking, improvements to the existing driveway entrance to the County Building located on the site (to serve as main jail entrance too), sidewalks, concrete curb improvements, stormwater management above-ground infiltration facility, multiple municipal utility connections, area landscaping/lighting, screening/fencing, E&SC measures, and fire access road around the entire building.

**IT IS FURTHER RESOLVED**, that:

The Genesee County Legislature hereby designates itself lead agency pursuant to 6 NYCRR § 617.6(b)(2) and § 617.6(b)(3) with respect to the Project.

**IT IS FURTHER RESOLVED**, that:

Based upon an examination of the components of the Project, the Full Environmental Assessment Form, and the criteria contained in 6 NYCRR § 617.7(c), and based upon its knowledge of the areas including and surrounding the Project site, and discussions with professionals retained by the County, the Genesee County Legislature, as lead agency, hereby makes the following determinations with respect to the Project pursuant to SEQRA:

- A. The Project constitutes a “Type I Action.”
- B. Based upon review by the Genesee County Legislature of the Full Environmental Assessment Form, any input provided by other involved agencies, and other necessary criteria set forth in SEQRA, the Genesee County Legislature hereby finds and determines that the Project will result in no significant impacts and, therefore, (a) the action is not one which “may include the potential for at least one significant adverse environmental impact,” (b) “there will be no significant adverse environmental impacts,” and (c) no “environmental impact statement” need be prepared, as such quoted terms are defined in SEQRA. This determination constitutes a negative declaration for purposes of SEQRA and it has been prepared in accordance with Article 8 of the Environmental Conservation Law.
- C. A copy of this resolution, together with notice of negative declaration, shall be placed on file in the office of the Genesee County Department of Planning where the same shall be available for public inspection during business hours and such notice of negative declaration shall be filed in such offices, posted in such places and published in such manner as shall be necessary to conform to the requirements of SEQRA.

Budget Impact: New County jail project estimated at \$70 million with a projected annual debt service payment of \$3.5 million. Annual operating cost increase at new County Jail is estimated between \$1-2 million depending on NYSCOC mandated post requirements. A combination of sales tax, property tax, fund balance reserves, and inmate boarding-in revenue is projected to cover the cost increases.

Legislator Maha seconded the resolution which was passed by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 503**

**INTERMUNICIPAL AGREEMENT RENEWAL –  
SHERIFF / MONROE COUNTY DEPARTMENT  
OF PUBLIC SAFETY CRIME LABORATORY –  
APPROVAL OF**

Legislator Clattenburg offered the following resolution:

**WHEREAS**, the current agreement for forensic laboratory services with Monroe County expired December 31, 2020; and

**WHEREAS**, the Sheriff did present an agreement renewal, approved by the County Attorney, for the time period, retroactively, of January 1, 2021, through December 31, 2021, at a cost of \$113,324 and **WHEREAS**, it is recommended the County Legislature approve this agreement for this time period and cost, and

**WHEREAS**, the Committee on Public Service did review this agreement and does recommend approval at this time. Now, therefore, be it

**RESOLVED**, that the Chair of the Genesee County Legislature is authorized and directed to execute the agreement between the County of Genesee and the County of Monroe for forensic laboratory services for the period, retroactively, of January 1, 2021, through December 31, 2021, at a cost of \$113,324.

**Budget Impact:** Appropriation of \$113,324 was included in the 2021 Sheriff's budget for this contracted service.

Legislator Maha seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

#### **RESOLUTION NO. 504**

#### **AGREEMENT EXTENSION - SHERIFF'S OFFICE /JUSTICE BENEFITS, INC. - APPROVAL OF**

Legislator Dibble offered the following resolution:

**WHEREAS**, the County of Genesee entered into an Agreement with Justice Benefits, Inc., pursuant to Resolution 245, dated June 26, 2019, for the provision of professional assistance with revenue enhancement services, with the option to extend this agreement for four (4) additional one-year periods, approved each year, at the same terms and conditions, upon written mutual agreement of both parties), and

**WHEREAS**, the first extension period expired on June 30, 2021, and

**WHEREAS**, it is mutually agreed that both parties wish to enter into the second extension period commencing, retroactively, on July 1, 2021, and will continue through June 30, 2022, and

**WHEREAS**, the Sheriff does recommend extending this contract for the second period, and

**WHEREAS**, the Committee on Public Service did review this request and does recommend approval at this time. Now, therefore, be it

**RESOLVED**, that the Chair of the Genesee County Legislature is hereby authorized and directed to extend this agreement as described above with Justice Benefits, Inc., 1711 East Beltline Road, Coppell, Texas 75019, for professional assistance with revenue enhancement services.

Budget Impact: Increase in Jail revenue.

Legislator Hawley seconded the resolution, which was adopted by 298 votes, Klotzbach (28) absent.

#### **RESOLUTION NO. 505**

#### **REAPPOINTMENT - SOIL & WATER CONSERVATION DISTRICT FOR FARM BUREAU KINGSTON-APPROVAL OF**

Legislator Yunker offered the following resolution:

**WHEREAS**, The Soil & Water Conservation District was established according to State Law known as the Soil Conservation Districts Law (1940) on October 16, 1944 and the first Directors were appointed by Resolution No. 63-1945, and

**WHEREAS**, The Board of Directors sets policy and guides District employees with types of conservation problems in the county, and

**WHEREAS**, The Committees of Public Service and Ways & Means do recommend James Kingston to be reappointed as the Farm Bureau Director. Now, therefore, Be it

**RESOLVED**, That the Genesee County Legislature does hereby re-appoint James Kingston of Elba, New York to the Genesee County Soil & Water Conservation District Directors from January 1, 2022 through December 31, 2024.

Budget Impact Statement: none.

Legislator Hawley seconded the resolution which was passed by 298 votes, Klotzbach (28) absent.

6:00 PM: Closing of the Public Hearing for Local Law Introductory No. 6 Year 2021, to replace the County of Genesee hotel and motel occupancy tax law.

**RESOLUTION NO. 506**

**LOCAL LAW INTRODUCTORY NO. 6, YEAR 2021, TO REPLACE THE COUNTY OF GENESEE HOTEL AND MOTEL OCCUPANCY TAX**

Legislator Clattenburg offered the following resolution:

**WHEREAS**, On September 13, 1995, the County of Genesee (hereinafter “County”) adopted Local Law No. 2, Year 1995, with an effective date of October 1, 1995, and expiration date of September 30, 1998; and

**WHEREAS**, The County Legislature did enact nine Local Laws thereafter, which all modified Section 702 of Local Law No. 2, Year 1995, to extend the effective dates and expiration dates, and

**WHEREAS**, the nine amendments were made by Local Law No. 4, Year 1998; Local Law No. 6, Year 2001; Local Law No. 4, Year 2004; Local Law No. 2, Year 2007; Local Law No. 1, Year 2010; Local Law No. 2, Year 2013; Local Law No. 2, Year 2016; Local Law No. 2, Year 2019; and Local Law No. 3, Year 2021

**WHEREAS**, Local Law No. 2, Year 1995, plus the nine Amending Local Laws thereto, shall expire on December 31, 2021, and

**WHEREAS**, the County Legislature by enacting the existing Local Law intends to replace its current Hotel and Motel Occupancy Tax Law in order to update the terms and conditions thereof that will streamline and clarify certain existing provisions, and add provisions to allow application of the occupancy tax to rentals booked through third parties, including, but not limited to, Airbnb, Flipkey, Home Away, VRBO and Relators; and

**WHEREAS**, the following proposed Local Law Introductory No. 6, Year 2021 was duly introduced to the Genesee County Legislature in accordance with the Law: **LOCAL LAW INTRODUCTORY NO. 6, YEAR 2021 TO REPLACE THE COUNTY OF GENESEE HOTEL AND MOTEL OCCUPANCY TAX**; Now, therefore,

**BE IT ENACTED** by the Genesee County Legislature as follows:

**Section 1. REPLACE LOCAL LAW**

Local Law No. 2, Year 1995 as well as the nine Amendments thereto, are hereby replaced by a new County Hotel and Motel Occupancy Tax Law, to read as set forth herein; provided further that all of the terms and conditions of Local Law No. 2, Year 1995 and its nine amendments shall remain in full force and effect with regard to all transactions, occupancy taxes due, interest, penalties, operator obligations, etc., for the time period starting in 1995 when it was first adopted, until the expiration date of December 31, 2021

**ARTICLE I – GENERAL PROVISIONS:**

101. Short Title: This Local Law shall be known as the Genesee County Hotel and Motel Room Occupancy Tax Law.

102. Intent: This Local Law is adopted to implement the provisions of Chapter 253 of the Laws of 1995, effective October 1, 1995, enacting Section 1202 of the Tax Law of the State of New



York; as well as to implement the provisions of Chapter 62 of the Laws of 2011, effective October 3, 2011, enacting Section 1202-r of the Tax Law of the State of New York.

103. Definitions: Unless the context requires a different meaning, when used in this Local Law, the following terms shall mean:

- a. "County" shall mean the County of Genesee.
- b. "Person" shall mean an individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.
- c. "Operator" shall mean any person operating a hotel or motel in the County of Genesee, including but not limited to, the owner or proprietor of such premises, lessee, sub lessee, mortgagee in possession, licensee, Management Company, booking company or any other person otherwise operating such hotel or motel.
- d. "Hotel or Motel" or either term singly shall mean any facility or portion thereof providing lodging on an overnight basis for greater than fourteen (14) days during any calendar year. The term "hotel" or "motel" including, but not limited to, an apartment, hotel, motor court or inn, boarding house, cabin, cottage, club, recreational vehicle rentals, condominium, tourist facilities, facilities designated or commonly known as a "bed and breakfast", private homes or other accommodations rented via booking companies or similar hotel or motel type of accommodations by whatever name designated, whether or not meals are served.
- e. "Occupancy" shall mean the use or possession, or the right to use or possession of any room in a hotel or motel.
- f. "Occupant" shall mean a person or persons who, for a consideration uses, possesses, or has the right to use or possess, any room in a hotel or motel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.
- g. "Permanent Resident" shall mean any occupant of any room or rooms in a hotel or motel for a period in excess of thirty (30) consecutive days.
- h. "Rent" shall mean the consideration received for occupancy valued in money, whether received in money or otherwise.
- i. "Room" shall mean any room of any kind in any part or portion of a hotel or motel, which is available for or let out for any purpose other than a place of assembly.
- j. "Return" shall mean any return filed or required to be filed as herein provided.
- k. "Tax" shall mean the tax imposed pursuant to this Local Law and any increase, reduction or modification hereafter authorized that may also be referred to herein as an occupancy tax.
- l. "Treasurer" shall mean the Treasurer of Genesee County or the Treasurer's designee.
- m. "Common Charge" shall mean any and all charges to an occupant for rent that relates only to the cost of occupancy, and excludes all other charges.
- n. "Other charges" shall mean the charge or charges which an operator imposes for every service or cost other than a common charge.
- o. "Booking Company" shall mean a person collecting rent for room or rooms in a hotel/motel via an online platform or otherwise, including, but not limited to entities such as Airbnb, FlipKey, Homeaway, VRBO, and Realtors.
- p. "Package Deal" shall mean when an operator imposes one price for the "Common

charge” and all “other charges”.

104. Territorial Limitations: A tax imposed by this Local Law shall apply only within the territorial limits of the County of Genesee.
105. Reference to Tax: Wherever reference is made to placards, advertisements or other publications to the tax imposed by this Local Law, such reference shall be substantially in the following form: “Tax on occupancy of hotel or motel rooms”, except that in any bill, receipt, statement or other agreement or memorandum of occupancy or rent charge issued or employed by an operator, the words “occupancy tax” shall suffice.

## **ARTICLE II – ADMINISTRATION**

201. Administration: The tax imposed by this Local Law shall be administered and collected by the Treasurer or other fiscal officers of the County as he may designate by such means and in such manner as are other taxes which are now collected and administered by such officers or as otherwise provided by this Local Law.
202. General Powers of the Treasurer: In addition to the powers granted to the Treasurer in this Local Law, the Treasurer is hereby authorized and empowered to:
  - a. make, adopt and amend rules and regulations appropriate to the carrying out of this Local Law and the purposes thereof, provided, however, that no rule or regulation shall become effective until 30 days after such rule or regulation shall have been filed with the Clerk of the County Legislature;
  - b. extend for cause shown, the time of filing any return for a period not exceeding three months, provided not less than 90 percent of the estimated tax for the period for which the return is required to be filed shall be paid together with the request for such extension on or before the due date; and for cause shown to remit penalties but not interest computed at the rate and in the manner provided in Section 924-a of the Real Property Tax Law on taxes not paid; and to compromise disputed claims in connection with the tax imposed by this Local Law;
  - c. request information from the Department of Taxation and Finance of the State of New York or the Treasury Department of the United States relative to any person; and to afford information to such taxation department or treasury department relative to any person, any other provision of this Local Law to the contrary notwithstanding;
  - d. delegate his functions hereunder to a deputy treasurer or any employee or employees of the Treasurer,
  - e. prescribe methods for determining the rents for occupancy and to determine the taxable and nontaxable rents;
  - f. require any operator within the County to keep detailed records of the nature and type of hotel maintained, nature and type of service rendered, rooms available and rooms occupied daily, leases or occupancy contracts or arrangements, rents received, charged and accrued, the names and addresses of the occupants, whether or not any occupancy is claimed to be subject to the tax and to furnish such information upon request to the Treasurer
  - g. assess, determine, revise and readjust the taxes imposed under this Local Law, and require the filing of estimated tax returns and payment of estimated tax where necessary;
  - h. direct the County Attorney to take such action as may be required to enforce this Local Law, including but not limited to providing representation in any administrative proceeding conducted by the Treasurer for enforcement of this Local Law brought in

the name of the County in any court of appropriate jurisdiction without any further authorization of the County Legislature.

203. Administration of Oaths and Compelling Testimony:

a. The Treasurer or his employees or agents duly designated and authorized by him shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this Local Law. The Treasurer shall have power to subpoena and require the attendance of witnesses and the production of books, papers, and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this Local Law and to examine them in relation thereto, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before him or excused from attendance.

b. A justice of the Supreme Court either in court or at chambers shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the Treasurer under this Local Law.

c. Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material matter pending before the Treasurer under this Local Law shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment.

d. The officers who serve the summons or subpoena of the Treasurer and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided. Such officers shall be the County Sheriff and his duly appointed deputies or any officers or employees of the Treasurer, designated to serve such process.

**ARTICLE III – TAX RATE, PERSONS LIABLE, TAXABLE RENT, EXEMPTIONS**

301. Imposition of Tax: On and after the 1<sup>st</sup> day of January 2022, there is hereby imposed and there shall be paid a tax of three percent (3%) upon the rent for common charges and certain other charges, for every occupancy of a room or rooms in a hotel or motel in this County, except that the occupancy tax shall not be imposed upon:

a. permanent residents for a period of occupancy in excess of thirty (30) days, or  
b. persons that are placed in a hotel or motel by the Department of Social Services, the Red Cross, the Salvation Army or other similar organizations due to emergency housing needs, housing for indigent or homeless persons.

c. any Federal, New York State, Local or other Municipal taxes.

d. exempt organizations as hereinafter set forth.

302. Statement of Tax to be Collected: Person Liable for Payment of Tax:

a. The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted for and charged for, and upon every evidence of occupancy or any bill or statement or charge made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the County, and the operator shall be liable for the collection thereof and for the tax. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this Local Law, and the operator

shall have the same right in respect to collecting the tax from the occupant, or in respect to nonpayment of the tax by the occupant as if the tax were a part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he may have in the event of non-payment of rent by the occupant; provided, however, that the Treasurer or other fiscal officer or officers, employees or agents duly designated by him shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

b. Where the occupant has failed to pay and the operator has failed to collect a tax as imposed by this Local Law, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the occupant directly to the Treasurer, and it shall be the duty of the occupant to file a return thereof with the Treasurer and to pay the tax imposed thereon to the County Treasurer within 15 days after such tax was due.

c. The Treasurer may, whenever he deems it necessary for the proper enforcement of this Local Law, provide by regulation that the occupant shall file returns and pay directly to the Treasurer the tax herein imposed at such times as returns are required to be filed and payment made over by the operator.

d. The tax imposed by this Local Law shall be paid upon any occupancy on and after January 1, 2022, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. Where rent is paid or charged or billed, or falls due on either a weekly, monthly or other term basis, the rent so paid charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after January 1, 2022. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless the Treasurer may by regulation provide for credit and/or refund of the amount of such tax upon application therefor as provided in Section 406 of this Local Law.

e. For the purpose of the proper administration of this Local Law and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established and the burden of providing that a rent for occupancy is not taxable hereunder shall be upon the operator, except that, where by regulation pursuant to Section 302(d) an occupant is required to file returns and pay directly to the Treasurer the tax herein imposed, the burden of proving that a rent for occupancy is not taxable shall be upon the occupant. Where an occupant claims exemption from the tax under the provisions of Section 304, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a certificate duly executed by an exempt corporation or association certifying that the occupant is its agent, representative, or employee, together with a certificate executed by the occupant that his occupancy is paid or to be paid by such exempt corporation or association, and is necessary or required in the course of or in connection with the occupant's duties as a representative of such corporation or association. Where deemed necessary by the operator, he may further require that any occupant claiming exemption from the tax furnish a copy of a certificate issued by the Treasurer certifying that the corporation or association therein named is exempt from the tax under Section 304.

### 303. Determination of Taxable Rent:

a. The tax imposed by this Local Law shall be calculated for purposes of Section 301 herein, upon the following:

i. The common charge

ii. Whether or not itemized separately, all of those other charges above and beyond the common charges, which are not optional at the request of an Occupant, but nonetheless, are required to be paid by the Occupant.

iii. In the event that there are some or all other charges imposed by the Operator at the optional request of an Occupant, which are included in one pricing figure, (commonly referred to as a “package deal”), in order to prevent the artificial lowering of the amount subject to the Occupancy Tax, the amount to be allocated subject to the Occupancy Tax shall not be lower than the amount imposed for a common charge standing alone.

iv. In the event that the operator has no accommodations that impose a common charge separately (ex. all “package deals”), 80% of the total charges shall be allocated to be subject to the Occupancy Tax.

v. When an Operator gratuitously does not impose any charges to the Occupant, the Operator shall still collect the Occupancy Tax based upon the rate for a common charge or based upon 80% of the lowest package deal rate.

304. Exempt Organization:

a. Except as otherwise provided in this section, any use or occupancy by any of the following shall not be subject to the tax imposed by this Local Law:

i. The State of New York or any public corporation (including a public corporation created pursuant to agreement or compact with another state or Canada), improvement district or political subdivision of the state;

ii. The United States of America, insofar as it is immune for taxation;

iii. Any corporation or association, or trust, or community chest, fund or foundation organized and operated exclusively for religious, charitable or education purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this section shall include an organization operated for the primary purpose of carrying on a trade or business for profit whether or not all of its profits are payable to one or more organizations described in this section.

b. Where any organization described in Section 304 (a) (iii) carries on its activities in furtherance of the purposes for which it was organized, in premises in which, as part of said activities, it operates a hotel or motel occupancy of rooms in the premises and rents therefrom received by such corporation or association shall not be subject to tax hereunder.

**ARTICLE IV – REGISTRATION RECORDS, RETURNS, PAYMENT, REFUNDS**

401. Registration: With the exception of all operators that have already received a certificate of authority, within ten days after the effective date of this Local Law, or in the case of operators commencing business after such effective date of this Local Law, within three days after such commencement or opening, every operator shall file with the Treasurer an application for a

certificate of authority empowering such operator to collect the tax from the occupant. Upon receipt of such application, the Treasurer shall issue a certificate of authority to such operator which when authenticated shall constitute the authority for the purposes of this Local Law. Each application for a certificate of authority shall state the hotel or motel to which it is applicable; the name of the operator of such hotel or motel, the address of such operator, the taxpayer identification number assigned to such operator, the state of incorporation and the date upon which such corporation obtained authority to do business in this state, if not organized in this state, the names of each partner, if a partnership, and such other information as the Treasurer may by rule require. Such certificates of authority shall be prominently displayed by the operator in such manner that it may be seen and come to the note of all occupants and persons seeking occupancy. Such certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the Treasurer upon the cessation of business at the hotel or motel named or upon its sale or transfer.

402. Records to be Maintained: Every operator shall keep records of every occupancy and of all rent paid, charged, or due thereon and of the tax payable thereon, in such form as the Treasurer by regulation requires. Such records shall be available for inspection and examination at any time upon demand by the Treasurer or his duly authorized agent or employee and shall be preserved for a period of three years, except that the Treasurer may consent to their destruction within that period or may require that they be kept longer.

403. Returns:

a. Every operator shall file with the Treasurer a return of occupancy and of rents, and of the taxes payable thereon for the quarterly periods ending March 31, June 30, September 30 and December 31 of each year, on and after the first day of 2022. Such returns shall be filed within twenty days from the expiration of the period covered thereby. The Treasurer may permit or require returns to be made by other periods and upon such dates as he may specify. If the Treasurer deems it necessary in order to insure the payment of the tax imposed by this Local Law, he may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this section and upon such dates as he may specify.

b. The forms of returns shall be prescribed by the Treasurer and shall contain such information as he may deem for the proper administration of this Local Law. The Treasurer may require amended returns to be filed within twenty (20) days after notice and to contain the information specified in the notice.

c. If a return required by this Local Law is not filed, or a return filed is incorrect or insufficient on its face, the Treasurer shall take the necessary steps to enforce the filing of such a return or of a corrected return.

404. Payment of Tax:

a. Except as set forth in subparagraph (b) below, at the time of filing a return of occupancy and of rents each operator shall pay to the Treasurer the taxes imposed by this Local Law upon the rents required to be included in such return, as well as all other moneys collected by the operators acting or purporting to act under the provisions of this Local Law. Where the Treasurer, in his discretion, deems it necessary to protect revenues to be obtained under this Local Law, the Treasurer may require an operator to file with him a bond, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as the Treasurer may fix to secure the payment of any tax and/or penalties and interest due or which may become due from such operator. In the event that the Treasurer determines

that an operator is to file such bond he shall give notice to such operator to that effect specifying the amount of the bond required. The operator shall file such bond within five days after the giving of such notice unless within such five days the operator shall request in writing a hearing before the Treasurer at which the necessity, propriety and amount of the bond shall be determined by the Treasurer. Such determination shall be final and shall be compiled with within fifteen (15) days after the giving of such notice thereof. In lieu of such bond, securities approved by the Treasurer or cash in such amount as he may prescribe, may be deposited which shall be kept in the custody of the Treasurer who may at any time without notice to the depositor apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by him at public or private sale without notice to the depositor thereof.

b. When a person rents room(s) through a booking company, the person and the booking company are deemed to be co-operators, but it shall be permissible for a booking company to file tax returns and make payment of tax on behalf of the person as to rental transactions handled by the booking company. With the approval of the Treasurer, a booking company may make payments of occupancy taxes on behalf of a person without filing a return, and without specifically identifying the persons on whose behalf the tax was paid, but in such case the person for whom the booking company paid the tax shall remain responsible for filing a tax return indicating the amount of tax expected to be paid by the booking company.

405. Determination of Tax: If a return required by this Local Law is not filed, or if a return when filed is incorrect or insufficient the amount of tax due shall be determined by the Treasurer from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, type of accommodations and service, number of employees and/or other factors. Notice of such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within thirty (30) days after giving of notice of such determination, shall apply to the Treasurer for a hearing, or unless the Treasurer of his own motion shall re-determine the same. After such hearing, the Treasurer shall give notice of his determination to the person against whom the tax is assessed. The determination of the Treasurer shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by proceeding under article seventy-eight of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within thirty (30) days after the giving of the notice of such determination. A proceeding under article seventy-eight of the Civil Practice Law and Rules shall not be instituted unless:

a. The amount of any tax sought to be reviewed, with penalties and interest thereof, if any, shall be first deposited with the Treasurer and there shall be filed with the Treasurer an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of the proceeding or

b. At the option of the applicant such undertaking filed with the Treasurer may be in a sum sufficient to cover the taxes, penalties and interest thereon stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the applicant shall not be required to deposit such taxes,

penalties and interest as a condition precedent to the application.

406. Refunds:

a. In the manner provided in this Section the Treasurer shall refund or credit, without interest, any tax penalty or interest erroneously illegally or unconstitutionally collected or paid if application to the Treasurer for such refund shall be made within one year from the payment thereof. Whenever a refund is made by the Treasurer, he shall state his reason therefor in writing. Such application may be made by the occupant, operator or other person who has actually paid the tax. Such application may also be made by an operator who has collected and paid over such tax to the Treasurer provided the application is made within one year of the payment by the occupant to the operator, but no actual refund of money, shall be to such operator until he shall first establish to the satisfaction of the Treasurer, under such regulations as the Treasurer may prescribe, that he has repaid to the occupant the amount for which the application for refund is made. The Treasurer may in lieu of any refund required to be made, allow credit therefor on payments due from the applicant.

b. An application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty or interest complained of and the Treasurer may receive evidence with respect thereto. After making his determination the Treasurer shall give notice thereof to the applicant, who shall be entitled to review said determination by a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided the proceeding is instituted within thirty (30) days after the giving of the notice of determination and provided a final determination of tax due was not previously made. Such a proceeding shall not be instituted unless an undertaking is filed with the County Treasurer in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceedings be dismissed or the charges which may accrue in the prosecution of such proceeding.

c. a person shall not be entitled to a revision, refund or credit under this Section of a tax, interest or penalty which had been determined to be due pursuant to the provisions of Section 405 of this Local Law where he has had a hearing or an opportunity for a hearing, as provided in said Section or has failed to avail himself of the remedies therein provided. No refund or credit shall be made of the tax, interest or penalty paid after a determination by the Treasurer made pursuant to Section 405 of this Local Law unless it is found that such determination was erroneous, illegal or unconstitutional or otherwise improper by the Treasurer after a hearing on the petition of a person liable for payment of the tax brought within thirty (30) days after the filing of a determination of the Treasurer after a hearing pursuant to Section 405 of this Local Law, or upon his own motion, or in a proceeding under article 78 of the Civil Practice Law and Rules, pursuant to the provisions of said Section. In that event a refund or credit without interest shall be made of the tax, credit or penalty found to have been overpaid.

407. Reserves: In cases where the occupant or operator has applied for a refund and has instituted a proceeding under article seventy-eight of the Civil Practice Law and Rules to review a determination adverse to him on his application for refund, the Treasurer shall set up appropriate reserves to meet any decision adverse to the County.

408. Remedies Exclusive: The remedies provided by Section 405 and 406 of this Local Law shall be exclusive remedies available to any person for the review of tax liability imposed by this Local Law, and no determination or proposed determination or any application for refund shall be enjoined or reviewed by an action for declaratory judgement, an action for



money had and received or by an action or proceeding in a nature of a certiorari proceeding under article seventy-eight of the Civil Practice Law and Rules; provided, however, that a taxpayer may proceed by declaratory judgment if he institutes suit within thirty (30) days after a deficiency assessment is made and pays the amount of the deficiency assessment to the Treasurer prior to the institution of such suit and posts a bond for costs and provided in Section 405 of this Local Law.

## **ARTICLE V – ENFORCEMENT OF COLLECTION OF TAX, PENALTIES AND INTEREST**

### **501. Proceedings to Recover Tax:**

- a. Whenever any operator or any officer of a corporate operator or any occupant or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this Local Law as therein provided, the County Attorney shall, upon the request of the Treasurer bring or cause to be brought an action to enforce the payment of the same on behalf of the County of Genesee in any court of the State of New York or of any other state of the United States. If, however, the Treasurer in his discretion believes that any such operator, officer, occupant or other person is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, he may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.
- b. As an additional or alternate remedy, the Treasurer may issue a warrant, directed to the Sheriff commanding him to levy upon and sell the real and personal property of the operator or officer of a corporate operator or other person liable for the tax, which may be found within the County for the payment of the amount thereof, with any penalties and interest and the cost of executing the warrant and to return such warrant to the Treasurer and to pay to him the money collected by virtue thereof within sixty (60) days after the receipt of such warrant. The Sheriff shall, within five (5) days after the receipt of the warrant file with the County Clerk, a copy thereof, and thereupon such Clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the interest in real and personal property of the person against whom the warrant is issued. The Sheriff shall then proceed upon the warrant, in the same manner, and with like effect, as that provided by law in respect to executions issued against property judgments of a court of record and for services in executing the warrant he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the Treasurer, a warrant of like terms, force and effect may be issued and directed to any officer or employee of the Treasurer and in the execution thereof such officer or employee shall have all the powers conferred by law upon Sheriffs, but shall be paid in the performance of such duty. If a warrant is returned not satisfied in full, the Treasurer may from time to time issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the County has recovered judgment therefor and execution thereon has been returned unsatisfied.
- c. Whenever an operator shall make a sale, transfer, or assignment in bulk of any part or the whole of his hotel or motel or his lease/license or other agreement or right to possess or operate such hotel or motel or of the equipment, furnishings, fixtures, supplies or stock of merchandise, or the said premises or lease, license or other agreement or right to possess or operate such hotel or motel and the equipment, furnishings, fixtures, supplies

and stock of merchandise pertaining to the conduct or operation of said hotel or motel, otherwise than in the ordinary and regular prosecution of business, the purchaser, transferee or assignee shall at least ten (10) days before taking possession of the subject of the sale, transfer or assignment, or paying therefore, notify the Treasurer by registered or certified mail, return receipt requested, of the proposed sale and of the price, terms and conditions thereof whether or not the seller transferor or assignor, has represented to or informed the purchaser, transferee or assignee that it owes any tax pursuant to this Local Law, and whether or not the purchaser, transferee or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing.

d. Whenever the purchaser, transferee or assignee shall fail to give notice to the Treasurer as required by the preceding paragraph or whenever the Treasurer informs the purchaser, transferee or assignee that a possible claim for such tax or taxes exists, any sums of money, property or chooses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferor or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the seller, transferor or assignor to the County, and the purchaser, transferee or assignee is forbidden to transfer to the seller, transferor or assignor any such sums of money, property or chooses in action to the extent of the amount of the County's claim. For failure to comply with the provisions of this subdivision, the purchaser, transferee or assignee in addition to being subject to the liabilities and remedies imposed under the provisions of article six of the Uniform Commercial Code, shall be personally liable for the payment to the County of any such taxes theretofore or thereafter determined to be due to the County from the seller, transferor, or assignor, and such liability may be assessed and enforced in the same manner as the liability for tax under this Local Law.

e. The notifications required in subparagraph (c) and (d) above shall be made by the seller, transferor, or assignor with regard to hotels and/or motels as defined herein that are rented via booking companies.

502.

Penalties and Interest:

a. Any person failing to file a return or to pay over any tax to the Treasurer within the time required by this Local Law shall be subject to a penalty of five percent of the amount of tax due for each month or portion thereof, excepting the first month after such return was required to be filed or such tax became due, during which such tax due shall remain unpaid but in no event shall such penalty exceed twenty-five (25%) percent of the tax due; plus interest computed at the rate and in the manner provided in Section 924-a of the Real Property Tax Law but in no event shall such interest be less than one (1%) percent of such tax for each month of delay excepting the first month after such return was required to be filed or such tax became due; but the Treasurer, if satisfied that the delay was excusable, may remit all or part of the penalty, but not interest computed at the rate of six (6%) percent per year. Such penalties and interest shall be paid and disposed of in the same manner as other revenues of such tax. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this Local Law.

b. Any operator or occupant and any officer of a corporate operator or occupant failing to file a return required by this Local Law, or filing or causing to be filed, or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this Local Law, which is willfully false, and any operator and any officer of a corporate operator

willfully failing to file a bond required to be filed pursuant to Section 405 of this Local Law, or failing to file a registration certificate and such date in connection therewith as the Treasurer may be regulation or otherwise require or to display or surrender the certificate of authority as required by this Local Law or assigning or transferring such certificate of authority and any operator and any such certificate of authority and any operator and any officer of a corporate operator willfully failing to charge separately from the rent the tax herein imposed, or willfully failing to state such tax separately on any evidence or occupancy and on any bill or statement or receipt or rent issued or employed by the operator, or willfully failing or refusing to collect such tax from the occupant, and any operator and any officer of a corporate operator who shall refer or cause reference to be made to this tax in a form or manner other than the required by this Local Law, and any operator failing to keep the records required by Section 402 of this Local Law, shall in addition to the penalties herein or elsewhere prescribed be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand (\$1,000) dollars or imprisonment for not more than one year, or both such fine and imprisonment. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this Local Law, and subject to the penalties herein above imposed.

503.

Returns to be Secret:

a. Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the Treasurer or any officer or employee of the Treasurer to divulge or make known in any manner the rents or other information relating to the business of a taxpayer contained in any return required to be filed pursuant to this Local Law. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding under the provisions of this Local Law, or on behalf of any party to the action or proceeding under the provisions of this Local Law when the proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more.

Nothing herein shall be construed to prohibit the delivery to a taxpayer or his duly authorized representative of a certified copy of any return filed in connection with this tax nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the County Attorney or other legal representatives of the County of the return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for three (3) years and thereafter until the Treasurer permits them to be destroyed.

b. Any violation of Section 503(a) shall be punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment not exceeding one (1) year or both, in the discretion of the court, and if the offender be an officer or employee of the County he shall be dismissed from office and be incapable of holding any public office for a period of five (5) years thereafter.

504.

Notices and Limitations of Time:

a. Any notice authorized or required under the provisions of this Local Law may be given by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him pursuant to the provisions of this Local Law, or in any application made, then to such address as may be

obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this Local Law by giving the notice shall commence to run from the date of mailing of such notice.

b. The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the County to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this Local Law. Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three (3) years from the date of filing of a return; provided, however, that where no return has been filed as provided by the law the tax may be assessed at any time.

c. Where, before the expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented in writing that such period be extended, the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

#### **ARTICLE VI – DISPOSITION OF REVENUES**

601. Disposition of Revenues: All revenues resulting from the imposition of the tax under the Local Laws shall be paid into the treasury of Genesee County and shall be credited to and deposited in the general fund of such county and shall be available thereafter for the promotion of tourism and tourist attractions in Genesee County, as well as the promotion of tourism and tourist attractions of the larger region of which Genesee County is apart provided that funding for regional promotion shall not exceed fifty (50%) percent of the revenues received hereunder in any year and that not more than five (5%) percent of such revenue shall be used for the cost of administering such tax. Such promotion may be carried out by an appropriate organization or organizations as designated by the Genesee County Legislature.

#### **ARTICLE VII – SEPARABILITY AND EFFECTIVE DATE**

701. Separability: If any clause, sentence, paragraph, Section or part of this Local Law shall be adjudged by any court or competent jurisdiction to be invalid, such judgement, decree or order shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision Section or part thereof directly involved in the controversy in which such judgment, decree or order shall have been rendered and the remainder of this Local Law shall not be affected thereby and shall remain in full force and effect.

702. Effective Date: This Local Law shall take effect on January 1, 2022, and expire on December 31, 2024, except that the provisions of this Local Law relating to registration and the authority of the Treasurer to adopt regulations and take all necessary action to prepare for the implementation and enforcement of this Local Law shall take effect immediately.

**WHEREAS,** The Clerk of the Genesee County Legislature did post a certified notice of the Public Hearing on said proposed Local Law on the bulletin board in the Old Courthouse, and

**WHEREAS,** The Clerk of the Genesee County Legislature did cause to be published in *The Daily News* the Official Newspaper of the County of Genesee, the Notice of Public Hearing on Local Law Introductory Number 6, Year 2021 and

**WHEREAS,** The Public Hearing was held at 5:30 pm on the 22nd day of November 2021 in Batavia, New York, at which time all interested persons who wished to speak were heard. Now, therefore, be it

**RESOLVED**, That “**LOCAL LAW INTRODUCTORY NO. 6, YEAR 2021, TO REPLACE THE COUNTY OF GENESEE HOTEL AND MOTEL OCCUPANCY TAX.**” to be known as Local Law Number 8 of the Year 2021 for the County of Genesee is hereby adopted.  
 Legislator Torrey seconded the resolution which was adopted by 298 votes, Klotzbach (28) absent.

**RESOLUTION NO. 507 COUNTY AUDIT –NOVEMBER 22- APPROVAL OF**

Legislator Clattenburg offered the following resolution:

**WHEREAS**, Legislator Yunker, did review the following claims:

General Fund	\$	1,422,642.15
Highway		111,346.99
Water Fund		117,528.68
Worker’s Comp		9.80
DSS Abstracts		36,476.85

**Capital Projects**

Highway-Highway Overlay		208,343.74
Highway-Sharrick Road Bridge over Murder Creek		29,700.43
Highway – Hundredmark Road Bridge over Drainage Ditch		71,064.00
Highway – South Lyon Street Bridge over Tonawanda Creek		348.92
Highway-Highway Large Span Culvert		70,632.84
Highway-Darien-Alexander Tnl Road Bridge/Tunnery Creek		3,972.64
Highway-Judge Road Bridge over Whitney Creek		7,504.30
Highway-Highway Recycling		3,300.00
County Park – Area “D” Shelter Improvement		160.00
Office for the Aging-OFA Property Improvements		4,249.38
Sheriff/Jail-Public Safety Communication Tower		33,386.90

**Payroll – General**

November 19, 2021		1,734,787.66
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**Medicaid**

November 16, 2021		<u>146,087.00</u>
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**Total Audit** \$ 4,001,542.28

Now, therefore, Be it

**RESOLVED**, That the Genesee County Legislature has audited and does approve the claims as listed above, and Be it further

**RESOLVED**, That the Genesee County Treasurer be and hereby is authorized and directed to make payments as listed above.

Legislator Yunker seconded the resolution which was adopted by 298 votes, Klotzbach (28) absent.

At 6:04 PM the meeting adjourned upon motion of Legislator Hawley seconded by Legislator Yunker, carried unanimously.