

SEVENTEENTH DAY
GENESEE COUNTY LEGISLATURE
OLD COURT HOUSE – 7 MAIN STREET, BATAVIA, NY
WEDNESDAY, OCTOBER 23, 2024

The Genesee County Legislature met in Regular Session on Wednesday, October 23, 2024 at 5:30 PM in the Legislative Chambers of the Old Courthouse.

Legislator Klotzbach assisted with the audit, the prayer and the Pledge to the Flag.

Roll Call was taken to establish a quorum with 9 in attendance and 0 absences.

Chair Stein called a public hearing for A Local Law Introductory C of the Year 2024, Extending Genesee County Hotel and Motel Occupancy Tax Law by Amending Local Law No. 8 of the Year 2021, In Regards to Genesee County Hotel and Motel Occupancy Tax Law opened at 5:32.

Proclamations & Commendations: *National Cybersecurity Month*: presented by Legislator Klotzbach and accepted by Michael Burns, Information Technology Director.

National Fire Prevention Awareness Month: presented by Legislator Maha and accepted by Tim Yaeger, Office of Emergency Management Coordinator and Representatives from Alexander, City of Batavia, East Pembroke and Oakfield Fire Departments.

Approval of Minutes: October 9, 2024 minutes approved by Chair Stein.

Committee & Special Assignment Reports: Legislator Maha and Chair Stein attended ICAWNY meeting in Watkins Glenn hosted by Schyler County. There were several speakers in attendance. Assemblyman Philip Palmesano spoke about the New York State Climate Control Act that passed without a cost analysis. Alex Regan from NYSAC spoke of the desire to shift preschool cost to school districts. Lastly, Schuyler County mentioned the venue used for the meeting utilized ARPA funds to pay for the Community Center.

Communications & Petitions: None.

Legislator Comments: Chair Stein announced that many department heads sat in on a tabletop session with CISA, Homeland Security to discuss cybersecurity. It was a great exercise and well received. Chair Stein acknowledge IT Director Michael Burns for organizing and keeping everyone informed of the importance of internet security.

County Manager Report: County Manager Matt Landers filed the 2025 proposed budget with the Clerk of the Legislature on October 21, 2024.

Resolutions: Consent Agenda Items - Ways And Means:

1. Memorialization, Supporting Operation Green Light For Active Military Service Members In Transition To Civilian Life
2. Reappointments – Job Development Bureau /Glow Workforce Development Board/Ireland
3. Reappointments – Job Development Bureau /Glow Workforce Development Board/Pollock
4. Authorizing And Approving A Settlement Agreement To An Action Against Certain Opioid Distributors/Target
5. Authorizing And Approving A Settlement Agreement To An Action Against Certain Opioid Distributors/Schein
6. Appointment/STOP-DWI Advisory Board
7. Budget For 2025 - Setting Public Hearing
8. Agreement Amendment – Job Development Bureau And County Of Genesee/2024 ARPA
9. Agreement – ARPA Vendor Agreement/ Genesee-Orleans Regional Arts Council And County Of Genesee
10. Reappointments – Sheriff/Traffic Safety Board
11. Grant Acceptance/Budget Amendment – Sheriff/GTSC Child Passenger Safety Program

12. Grant Acceptance/Budget Amendment – Sheriff/GTSC Police Traffic Services Program
13. Budget Amendment-Sheriff/Additional Police Services Overtime
14. Budget Transfer–Sheriff/Jail/Medical, Female Housing, Prescription-Females & Facility Electric

15. Change Order–DPW/Phase 2 Water Supply –Golden Rd Pump Station

16. Change Order–DPW/Engine House

17. Service Agreement–DPW/HVAC Controls

18. Amendment – Water Resources Agency /Decrease Membership From Ten (10) To Nine (9)

19. Reappointments For Multiple Boards – Water Resource Agency, Agricultural Farmland Protection Board And Fish And Wildlife Management Board

20. Distribution of Mortgage Tax-Second Payment 2024

Legislator Clattenburg moved for the adoption of resolutions 1 through 20 of the Ways and Means Committee, seconded by Legislator Yunker followed by a roll call of 9 ayes, 0 opposed and 0 absences for a total vote of 200.

Consent Agenda - Public Service Committee:

21. Rejection Of Bid #24-07–DPW/Asset Acquisition/6x4 Dump Truck

22. Memorialization- DPW/Resolution Concerning The Impacts Of Efforts To Electrify Highway Department Vehicles By Adoption Of The Advanced Clean Truck Rule

23. Setting Public Hearing For Agricultural District No. 2 Review

Legislator Maha moved for the adoption of resolutions 21 through 23 of the Public Service Committee, seconded by Legislator Deleo followed by a roll call of 9 ayes, 0 opposed and 0 absences for a total vote of 200.

Chair Stein, closed the public hearing A Local Law Introductory C of the Year 2024, Extending Genesee County Hotel and Motel Occupancy Tax Law by Amending Local Law No. 8 of the Year 2021, In Regards to Genesee County Hotel and Motel Occupancy Tax Law at 5:55 p.m.

Non-Consent Items:

24. County Audit – October 23, 2024

Legislator Clattenburg moved for the adoption of resolution 24, seconded by Legislator Klotzbach followed by a roll call of 9 ayes, 0 opposed and 0 absences for a total vote of 200.

Resolution 25

25. To Adopt a Local Law Introductory C of the Year 2024, Extending Genesee County Hotel And Motel Occupancy Tax Law By Amending Local Law No. 8 Of The Year 2021, In Regards To Genesee County Hotel And Motel Occupancy Tax Law

Legislator Clattenburg moved for the adoption of resolution 25, seconded by Legislator Klotzbach followed by a roll call of 9 ayes, 0 opposed and 0 absences for a total vote of 200.

Rule 19:

Legislator Yunker motioned to suspend the rules of the Genesee County Legislature to add one timely resolution: 2024 Employee Salary Schedule Amendment –Job Development/Temporary Accounting Supervisor, seconded by Legislator Hawley followed by a 2/3 majority vote of 9 ayes, 0 opposed and 0 absences for a total of 200.

Resolution 26

26. 2024 Employee Salary Schedule Amendment–Job Development/ Temporary Accounting Supervisor

Legislator Yunker moved for the adoption of resolution 26, seconded by Legislator Hawley followed by a roll call of 9 ayes, 0 opposed and 0 absences for a total vote of 200.

RESOLUTION NO. 437

**MEMORIALIZATION, SUPPORTING OPERATION
GREEN LIGHT FOR ACTIVE MILITARY SERVICE
MEMBERS IN TRANSITION TO CIVILIAN LIFE**

Legislator Clattenburg offered the following resolution:

WHEREAS, the residents of Genesee County have great respect, admiration, and the utmost gratitude for all of the men and women who have selflessly served their country and this community in the Armed Forces and

WHEREAS, the contributions and sacrifices of the men and women that served in the Armed Forces have been vital in maintaining the freedoms and way of life enjoyed by our citizens; and

WHEREAS, Genesee County seeks to honor these individuals who have paid the high price for freedom by placing themselves in harm's way for the good of all; and

WHEREAS, New York States Veteran Population has decreased by 44% over the last 20 years; and

WHEREAS, Veterans continue to serve their community in the American Legion, Veterans of Foreign Wars, church groups, civil service; and

WHEREAS, approximately 200,000 service members transition to civilian communities annually; and

WHEREAS, an estimated 20% increase of service members will transition to civilian life in the near future; and

WHEREAS, studies indicate that 44% to 72% of service members experience high levels of stress during transition from military to civilian life; and

WHEREAS, active Military Service Members transitioning from military service are at a high risk for suicide during their first year after military service; and

WHEREAS, the Genesee County appreciates the sacrifices our United State Military Personnel made while defending freedom and believes accord them specific recognition in appreciation of their service and to demonstrate the honor and support they have earned. Now, therefore, be it

RESOLVED, with designation as a Green Light for Military Service County, Genesee County hereby declares from October through Veterans Day, November 11th 2024 a time to salute and honor the service and sacrifice of our men and women in uniform transitioning from Active Service; therefore, be it further

RESOLVED, that in observance of Operation Green Light, the Genesee County Legislature encourages its citizens in patriotic tradition to recognize the importance of honoring all those who the immeasurable sacrifices helped to preserve freedom by displaying a green light in a window of their place of business or residence.

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

RESOLUTION NO. 438

**REAPPOINTMENTS–JOB DEVELOPMENT
BUREAU/GLOW WORKFORCE DEVELOPMENT
BOARD/IRELAND–APPROVAL OF**

Legislator Clattenburg 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 reappointment to the GLOW Workforce Development Board:

Daniel Ireland, President of Rochester Regional Health/ United Memorial Medical Center (UMMC) for reappointment to the GLOW Workforce Development Board. He would continue to represent Private Sector Business, Healthcare Services for a term of membership of 10/1/24 – 10/1/26.

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 Yunker seconded the resolution, which was adopted by 200 votes.

RESOLUTION NO. 439

**REAPPOINTMENTS–JOB DEVELOPMENT
BUREAU/GLOW WORKFORCE DEVELOPMENT
BOARD/POLLOCK–APPROVAL OF**

Legislator Clattenburg 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 reappointment to the GLOW Workforce Development Board: Shawn Pollock, Human Resource Manager at Bonduelle USA representing Private Sector Business for a term of 10/1/24 – 10/1/26.

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 Yunker seconded the resolution, which was adopted by 200 votes.

RESOLUTION NO. 440

**AUTHORIZING AND APPROVING A SETTLEMENT
AGREEMENT TO AN ACTION AGAINST CERTAIN
OPIOID DISTRIBUTORS/TARGET–APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, there is pending a matter on behalf of the County of Genesee, regarding the opioid addiction crisis, in which the County of Genesee is a named plaintiff in the action (the “Action”); and

WHEREAS, the Action is against several defendants, including manufacturers of opioids, distributors of opioids and chain pharmacies; and

WHEREAS, the Action alleges several causes of action against distribution defendant Target based upon claims that Target contributed to the opioid epidemic by failing to comply with their obligations under the Federal Controlled Substances Act and the New York Controlled Substance Act, in order to implement adequate measures to prevent diversion of the prescription opioids that they distributed to pharmacies, all of which contributed to a public health crisis in the County of Genesee; and

WHEREAS, Target offered to settle the claims of the County of Genesee against it by paying the sum of \$14,000,000.00. All of the monies paid will be distributed in a one-time payment among the various participating political subdivisions according to an allocation formula based on population, market share and other factors to be used for restitution, prevention, abatement and enforcement; together with agreeing to implement injunctive relief under a controlled substance monitoring program, and

WHEREAS, it is in the best interest of the County of Genesee to resolve this matter with respect to

Target without further litigation and to enter into the proposed Agreement as it shall settle all allegations against Target and avoid protracted litigation; and

WHEREAS, the County of Genesee has retained the law firm of Napoli Shkolnik PLLC, 360 Lexington Avenue, 11th Floor, New York, NY 10017, to prosecute Opioid related claims against Target and other defendants, and this firm has recommended the proposed settlement and;

WHEREAS, the County Attorney has reviewed all of the settlement documents and also recommends the same, and

WHEREAS, the Committee of Ways and Means does concur and approves this recommendation.

Now, therefore, be it

RESOLVED, that the Genesee County Legislature does hereby approve the proposed settlement with Target as set forth in documents provided by the Napoli Shkolnik law firm, and does hereby authorize and direct the Chair of the Legislature and the County Attorney to execute a Settling Subdivision Participation and Release Form; together with such documents as may be necessary and appropriate to effectuate the settlement with Target.

Budget Impact:

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

RESOLUTION NO. 441

**AUTHORIZING AND APPROVING A SETTLEMENT
AGREEMENT TO AN ACTION AGAINST CERTAIN
OPIOID DISTRIBUTORS/SCHEIN—APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, there is pending a matter on behalf of the County of Genesee, regarding the opioid addiction crisis, in which the County of Genesee is a named plaintiff in the action (the “Action”); and

WHEREAS, the Action is against several defendants, including manufacturers of opioids, distributors of opioids and chain pharmacies; and

WHEREAS, the action alleges several causes of action against distribution defendant Henry Schein Inc. and Henry Schein Medical Systems, Inc. (Henry Schein) based upon claims that Henry Schein contributed to the opioid epidemic by failing to comply with their obligations under the Federal Controlled Substances Act and the New York Controlled Substance Act, in order to implement adequate measures to prevent diversion of the prescription opioids that they distributed to pharmacies, all of which contributed to a public health crisis in the County of Genesee; and

WHEREAS, Henry Schein offered to settle the claims of the County of Genesee against it by paying the sum of \$900,000.00. All of the monies paid will be distributed in a one-time payment among the various participating political subdivisions according to an allocation formula based on population, market share and other factors to be used for restitution, prevention, abatement and enforcement; together with agreeing to implement injunctive relief under a controlled substance monitoring program, and

WHEREAS, it is in the best interest of the County of Genesee to resolve this matter with respect to Henry Schein without further litigation and to enter into the proposed Agreement as it shall settle all allegations against Henry Schein and avoid protracted litigation; and

WHEREAS, the County of Genesee has retained the law firm of Napoli Shkolnik PLLC, 360 Lexington Avenue, 11th Floor, New York, NY 10017, to prosecute Opioid related claims against Henry Schein and other defendants, and this firm has recommended the proposed settlement and;

WHEREAS, the County Attorney has reviewed all of the settlement documents and also recommends the same, and

WHEREAS, the Committee of Ways and Means does concur and approves this recommendation. Now therefore, be it

RESOLVED, that the Genesee County Legislature does hereby approve the proposed settlement with Henry Schein as set forth in documents provided by the Napoli Shkolnik law firm, and does hereby authorize and direct the Chair of the Legislature and the County Attorney to execute a Settling Subdivision Participation and Release Form; together with such documents as may be necessary and appropriate to

effectuate the settlement with Henry Schein Inc. and Henry Schein Medical Systems, Inc. (Henry Schein).
Budget Impact:

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

**RESOLUTION NO. 442 APPOINTMENT/STOP-DWI ADVISORY BOARD –
APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, the Genesee County STOP-DWI Coordinator has identified a qualified individual who has expressed interest in serving on the STOP-DWI Advisory Board as a citizen member, and

WHEREAS, the Genesee County STOP-DWI Advisory Board has reviewed the application and does recommend the appointment, and

WHEREAS, the Committee on Ways and Means does recommend the appointment to fill a vacancy of citizen member. Now, therefore, be it

RESOLVED, that Daniel Coffey of Batavia, New York be appointed as a citizen member of the Genesee County STOP-DWI Advisory Board to serve a term beginning January 1, 2025 to December 31, 2027.

Budget Impact: None – these are volunteer Board Members.

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

RESOLUTION NO. 443 BUDGET FOR 2025 - SETTING PUBLIC HEARING

Legislator Clattenburg offered the following resolution:

WHEREAS, the Tentative Budget for 2025 is being prepared by the Genesee County Budget Director and will be duly filed with the Clerk of the County Legislature, and

WHEREAS, the Committee on Ways and Means does recommend setting a public hearing for the 2025 Budget. Now, therefore, be it

RESOLVED, that a Public Hearing on the 2025 Genesee County Budget will be held on Wednesday, November 6, 2024 at 5:30 p.m. at the Old County Courthouse, 7 Main Street, in the City of Batavia, New York.

Budget Impact: None.

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

**RESOLUTION NO. 444 AGREEMENT AMENDMENT – JOB
DEVELOPMENT BUREAU AND COUNTY OF
GENESEE/2024 ARPA-APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, the American Rescue Plan Act (ARPA) was signed into law March 11, 2021 with Genesee County scheduled to receive a total of \$11,125,969 million in Coronavirus State and Local Fiscal Recovery Funds, and

WHEREAS, Treasury issued a Final Rule for ARPA Fiscal Recovery Funds effective April 1, 2022 and ARPA provides that Coronavirus State and Local Fiscal Recovery Funds may be used to respond to the public health emergency or its negative economic impacts, and

WHEREAS, Genesee County Job Development Bureau has a continued increased demand from Genesee County residents for job training and related services but have experienced delays in service delivery due to inadequate project administration, and

WHEREAS, the County of Genesee desires to amend the 2024 ARPA agreement with Job Development Bureau by increasing the agreement amount by \$60,000 to be used for project administration in years 2025 and 2026, and

WHEREAS, the County Manager, County Attorney, County Treasurer and Job Development Director have reviewed and approve of the Amended Agreement between the County of Genesee and the Job Development Bureau, and

WHEREAS, the Committees on Public Service and Ways & Means do recommend these reappointments. Now, therefore, be it

RESOLVED, that the following Traffic Safety Board members are approved to be reappointed to an additional three-year term (10/1/2024 – 9/30/2027).

Timothy Hens

Genesee County Department of Public Works

Timothy Yaeger

Genesee County Office of Emergency Management

Budget Impact: None.

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

RESOLUTION NO. 447

**GRANT ACCEPTANCE/BUDGET AMENDMENT –
SHERIFF/GTSC CHILD PASSENGER SAFETY
PROGRAM-APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, the Sheriff requested authorization to accept grant funding from the NYS Governor's Traffic Safety Committee in the amount of \$2,600, to participate in the statewide Child Passenger Safety Program, for the time period of October 1, 2024 through September 30, 2025, and

WHEREAS, the Committees on Public Service and Ways and Means did review this request and do recommend approval at this time. Now, therefore, be it

RESOLVED, that the Chair of the Genesee County Legislature is hereby authorized and directed to accept the NYS GTSC CPS Grant award in the amount of \$2,600. Be it further

RESOLVED, that the Genesee County Treasurer is hereby authorized and directed to amend the 2024 budget by increasing Sheriff's account A3110.4800.3318 (Child Passenger Safety) in the amount of \$2,600, to be offset by an increase in revenue account A3110.4511 (Federal Aid Traffic Safety) in a like amount.

Budget Impact: Increase in Sheriff's 2024 appropriations in the amount of \$2,600, offset by an increase in revenue in a like amount with funds coming from the NYS GTSC Child Passenger Safety Program.

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

RESOLUTION NO. 448

**GRANT ACCEPTANCE/BUDGET AMENDMENT –
SHERIFF/GTSC POLICE TRAFFIC SERVICES
PROGRAM-APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, the Sheriff requested authorization to accept grant funding from the NYS Governor's Traffic Safety Committee in the amount of \$18,400, to participate in the statewide Police Traffic Services Program, for the time period of October 1, 2024 through September 30, 2025, and

WHEREAS, the Committees on Public Service and Ways and Means did review this request and do recommend approval at this time. Now, therefore, be it

RESOLVED, that the Chair of the Genesee County Legislature is hereby authorized and directed to accept the NYS GTSC PTS Grant award in the amount of \$18,400. Be it further

RESOLVED, that the Genesee County Treasurer is hereby authorized and directed to amend the 2024 budget by increasing Sheriff's account A3110.1020.0700 (Overtime-STEP) in the amount of \$18,200, and increasing Sheriff's account A3110.4550.0000 (Personnel Training) in the amount of \$200; to be offset by an increase in revenue account A3110.4511 (Federal Aid Traffic Safety) in the amount of \$18,400.

Budget Impact: Increase in Sheriff's 2024 appropriations in the amount of \$18,400, offset by an increase in revenue in a like amount with funds coming from the NYS GTSC Police Traffic Services Program.

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

RESOLUTION NO. 449**BUDGET AMENDMENT-SHERIFF/ADDITIONAL
POLICE SERVICES OVERTIME-APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, the Sheriff's Additional Police Services Overtime account is in need of funds to cover the current shortage and projected cost through year end, and

WHEREAS, this account covers the cost of overtime pay associated with the provision of police services to outside agencies who contract for such services, and all overtime pay and fringe expenses related to these overtime details are reimbursed by the agencies being provided services, and

WHEREAS, the Committees on Public Service and Ways and Means did review this request and do recommend approval at this time. Now therefore be it,

RESOLVED, that the Genesee County Treasurer is hereby authorized and directed to amend the 2024 budget as follows:

\$100,000 to A3110.1020.0800 (OT Additional Polices Services)

\$6,200 to A3110.8010.0000 (Social Security Tax)

\$1,450 to A3110.8011.0000 (Medicare Tax)

\$23,200 to A3110.8020.0000 (Retirement)

Offset by an increase in Sheriff's Revenue Account A3110.2804.1 (Shared Services-Additional Police Services) of \$130,850.

Budget Impact: Increase in Sheriff's appropriations of \$130,850 to cover the cost of overtime pay and related fringe for police services provided to outside agencies; offset by an increase in revenue in a like amount from reimbursement from those outside agencies.

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

RESOLUTION NO. 450**BUDGET TRANSFER-SHERIFF/JAIL/MEDICAL,
FEMALE HOUSING, PRESCRIPTION-FEMALES &
FACILITY ELECTRIC-APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, the Jail requires budget transfers to cover current shortages and projected costs through year end in the Contracted Medical, Female Housing, Prescription – Females, and Facility Electric line items, and

WHEREAS, there are funds available to transfer in the Jail Personal Services line item, as well as the Sheriff's Personal Services, Vehicle Lease, and Vehicle Fuel line items, and

WHEREAS, the Committees on Public Service and Ways and Means did review this request and do recommend approval at this time. Now, therefore, be it

RESOLVED, that the Genesee County Treasurer is hereby authorized and directed to make the following budget transfers:

\$178,000 from A3150.1010.0000 (Jail/Personal Services)

\$70,000 to A3150.4650.0000 (Jail/Contracted Medical)

\$75,000 to A3150.4660.0005 (Jail/Female Housing)

\$20,000 to A3150.4650.0005 (Jail/Prescription – Females)

\$13,000 to A3150.4230.0000 (Jail/Facility Electric)

\$35,000 from A3110.4330.0000 (Sheriff/Vehicle Lease)

\$10,000 from A3110.4310.0000 (Sheriff /Vehicle Fuel)

\$12,000 from A3110.1010.0000 (Sheriff/Personal Services)

\$57,000 to A3150.4230.0000 (Jail/Facility Electric)

Budget Implications: There is no budget impact as these funds will be transferred within the Jail budget. Transfer of \$178,000 from the Jail–Personal Services line item to the following line items:

\$70,000 to Jail Contracted Medical, \$75,000 to Jail Female Housing, \$20,000 to Jail Prescription – Female and \$13,000 to Jail Facility Electric. Additionally, transfer \$35,000 from the Sheriff – Vehicle Lease line item to the Jail Facility Electric. Transfer \$10,000 from Sheriff – Vehicle Fuel line item to the Jail Facility Electric. Transfer \$12,000 from Sheriff – Personal Services line item to the Jail Facility Electric.

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

**RESOLUTION NO. 451 CHANGE ORDER–DPW/PHASE 2 WATER SUPPLY
–GOLDEN RD PUMP STATION–APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, Kaplan-Schmidt Electric reached substantial completion of the Golden Road Pump Station on August 15, 2024, and

WHEREAS, remaining work includes closeout documents, operation and maintenance information, and pump startup certifications, and

WHEREAS, unused electrical allowances are to be reconciled, and

WHEREAS, the County Commissioner of Public Works has reviewed this change request for need and accuracy of pricing, and

WHEREAS, the Committees on 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 Order #1 deduct in the amount of (\$39,687.67) for Kaplan-Schmidt Electric, Inc., 50 Saginaw Drive, Rochester, NY 14623 to account for unused allowances.

Budget Impact: The total amount for the change order deduct is (\$39,687.67). The change to Kaplan-Schmidt's contract brings the total contract amount to \$555,312.33. This contract is funded through the Water Fund.

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

**RESOLUTION NO. 452 CHANGE ORDER–DPW/ENGINE HOUSE–
APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, Genesee County has commenced demolition and construction at the Engine House, and

WHEREAS, the scope of the demolition requires changes based on unforeseen conditions, and

WHEREAS, Michael A. Ferrauilo Plumbing and Heating, Inc. was required to remove additional 18-inch water main that entered into the building, and

WHEREAS, LeChase Construction Services LLC was required to demolish additional ceiling on the second floor to accommodate an unforeseen structural issues, and

WHEREAS, Pike Construction and the Deputy County Commissioner of Public Works has reviewed these change requests for need and accuracy of pricing, and

WHEREAS, the County Commissioner of Public Works recommends approval of these change orders 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, that the Chair of the Genesee County Legislature does hereby authorize Change Order #1 in the amount of \$5,745.00 for Michael A. Ferrauilo Plumbing and Heating, Inc., 1600 Jay Street, Rochester, NY 14611 to remove additional 18-inch water main entering the building, and be it further

RESOLVED, that the Chair of the Genesee County Legislature does hereby authorize Change

Order #1 in the amount of \$10,817 for LeChase Construction Services LLC, 205 Indigo Creek Drive, Rochester, NY 14626 to demolish additional ceiling on the second floor to accommodate an unforeseen structural issue.

Budget Impact: The total amount for the change orders is \$16,562, which will be covered from contingency budget factored into the capital project.

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

**RESOLUTION NO. 453 SERVICE AGREEMENT–DPW/HVAC CONTROLS–
APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, the County of Genesee has Schneider Electric HVAC Controls installed within all of its facilities, and

WHEREAS, the Deputy Commissioner of Public Works recommends entering into a service agreement for this equipment to provide preventative maintenance that will extend the life of the equipment, and

WHEREAS, the County Commissioner of Public Works does recommend entering into a 1-year service agreement with U&S Services, LLC, and

WHEREAS, the Committees on Public Service and Ways and Means do concur with this recommendation. Now, therefore, be it

RESOLVED, That the Chair of the Genesee County Legislature is hereby authorized and directed to enter into a one year service agreement with U&S Services, LLC, located at 95 Stark Street, Tonawanda, New York 14150 for the preventative maintenance and repair of Schneider Electrical HVAC Control Equipment located at various county facilities for the period of January 1, 2025 through December 31, 2025 at an annual cost of \$18,420 and then from year-to-year thereafter unless at least 30 days prior to the expiration date of the original term or any extended term, either party gives the other written notice of its intention to terminate.

Budget Impact: Facilities Management budgets for this contract within its operating budget. The total cost of the contract at all facilities is \$18,420.

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

**RESOLUTION NO. 454 AMENDMENT – WATER RESOURCES AGENCY
/DECREASE MEMBERSHIP FROM TEN (10) TO
NINE (9)-APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, The Genesee County Legislature did, pursuant to Section 251 of the County Law and by Resolution No. 495 of the Year 1998, create the Genesee County Water Resources Agency as a board consisting of nine (9) members, and

WHEREAS, The Genesee County Legislature did, by Resolution No. 129 of the Year 2014, increase the number of members for this Agency from nine (9) to ten (10), and

WHEREAS, a vacancy has existed on the Agency for several years and a nine (9) member Board is more conducive to establishing a quorum, and

WHEREAS, the Agency and the Committee on Ways and Means do concur with this action. Now, therefore be it

RESOLVED, Amend Resolution No. 129 of the Year 2014 to decrease membership of the Water Resources Agency ten (10) to nine (9) members to better execute the operation of this program.

Budget Impact: None.

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

RESOLUTION NO. 455

**REAPPOINTMENTS FOR MULTIPLE BOARDS –
WATER RESOURCE AGENCY, AGRICULTURAL
FARMLAND PROTECTION BOARD AND FISH
AND WILDLIFE MANAGEMENT BOARD -
APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, the following Boards are requesting reappointments:

WHEREAS, the Water Resource Agency established under resolution No. 495-98 created for planning and implementation of future water improvements for Genesee County. Diane Fowler and Danielle Cummins are recommended for reappointment:

Water Resource Agency – Diane Fowler Term: 1/1/2025 – 12/31/2027

Water Resource Agency – Danielle Cummins Term: 1/1/2025 – 12/31/2027

WHEREAS, Agricultural and Farmland Protection Board was established on January 13, 1993 in accordance with Section 302 of New York State Agriculture and Markets Law. Anthony Colangelo is recommended for reappointment:

Agricultural Farmland Protection Board–Anthony Colangelo Term: 1/1/2025-12/31/2027

WHEREAS, Fish and Wildlife Management Board is responsible to review and discuss mutual problems, recommend policy and suggest new legislation for the lawmakers and DEC on a state-wide basis, Michael Ciociola is recommended for reappointment:

Fish and Wildlife Management Board – Michael Ciociola Term: 1/1/2025 – 12/31/2026

WHEREAS, the Committees on Public Service and Ways and Means do recommend reappointment. Now, therefore, be it

RESOLVED, the following board reappointments for the Genesee County are approved at this time by the Genesee County Legislature:

Water Resource Agency – Diane Fowler Term: 1/1/2025 – 12/31/2027

Water Resource Agency – Danielle Cummins Term: 1/1/2025 – 12/31/2027

Agricultural Farmland Protection Board–Anthony Colangelo Term: 1/1/2025 - 12/31/2027

Fish and Wildlife Management Board – Michael Ciociola Term: 1/1/2025 – 12/31/2026

Budget Impact: None.

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

RESOLUTION NO. 456

**DISTRIBUTION OF MORTGAGE TAX-SECOND
PAYMENT 2024-APPROVAL OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, the Genesee County Clerk and Treasurer have reported to this Legislature that there is now available for distribution to the several towns, villages, and the City of Batavia, mortgage tax money amounting to \$504,734.48, and

WHEREAS, the Committee on Ways & Means did review the mortgage tax money available and recommends distribution of said sum among the several towns, villages, and the City of Batavia, according to the provisions of Section 261. Now, therefore, be it

RESOLVED, that the Genesee County Treasurer be and hereby is authorized and directed to pay the towns, villages, and the City of Batavia the following amounts of mortgage tax:

City of Batavia	\$83,983.00
Town of Alabama	\$11,275.13
Town of Alexander	\$15,680.53
Town of Batavia	\$50,704.70
Town of Bergen	\$31,432.60

Town of Bethany	\$7,805.15
Town of Byron	\$23,154.70
Town of Darien	\$14,484.98
Town of Elba	\$12,676.74
Town of LeRoy	\$30,712.91
Town of Oakfield	\$16,642.28
Town of Pavilion	\$20,423.81
Town of Pembroke	\$136,785.84
Town of Stafford	\$21,895.93
Village of Alexander	\$1,410.28
Village of Attica	\$484.87
Village of Bergen	\$4,174.35
Village of Corfu	\$7,870.05
Village of Elba	\$1,542.34
Village of LeRoy	\$8,932.81
Village of Oakfield	\$2,661.48
Total Distribution	<u>\$504,734.48</u>

Budget Impact:

2023 2 nd Payment \$562,507.30	2016 2 nd Payment \$379,929.40
2022 2 nd Payment \$636,882.14	2015 2 nd Payment \$340,055.66
2021 2 nd Payment \$546,430.58	2014 2 nd Payment \$272,880.58
2020 2 nd Payment \$418,882.58	2013 2 nd Payment \$326,302.91
2019 2 nd Payment \$392,051.45	2012 2 nd Payment \$313,581.21
2018 2 nd Payment \$408,348.50	2011 2 nd Payment \$264,130.74
2017 2 nd payment \$411,573.27	

Legislator Yunker seconded the resolution, which was adopted by 200 votes.

RESOLUTION NO. 457

**REJECTION OF BID #24-07–DPW/ASSET
ACQUISITION/6X4 DUMP TRUCK–APPROVAL OF**

Legislator Maha offered the following resolution:

WHEREAS, the County Commissioner of Public Works did advertise local bid specifications for a 6 x 4 Dump Truck for use within the Road Machinery Fund, and

WHEREAS, the County is having a difficult time finding vendors that can supply trucks within an appropriate amount of time, and

WHEREAS, the County Commissioner of Public Works recommends the rejection of this bid, and

WHEREAS, the Committees on Public Service did review this recommendation and does concur.

Now, therefore, be it

RESOLVED, that the Genesee County Legislature does hereby reject any and all bids received for the 6X4 Dump Truck as specified in RFB#24-07.

Budget Impact: No impact to the budget.

Legislator Deleo seconded the resolution, which was adopted by 200 votes.

RESOLUTION NO. 458

**MEMORIALIZATION- DPW/RESOLUTION
CONCERNING THE IMPACTS OF EFFORTS TO
ELECTRIFY HIGHWAY DEPARTMENT VEHICLES BY
ADOPTION OF THE ADVANCED CLEAN TRUCK
RULE- APPROVAL OF**

Legislator Maha offered the following resolution:

WHEREAS, in 2019, the Climate Leadership and Community Protection Act (CLCPA) was signed into law to require New York to reduce economy-wide greenhouse gas emissions 40 percent by 2030 and no less than 85 percent by 2050 from 1990 levels, and

WHEREAS, the CLCPA directs the development of performance-based standards for sources of greenhouse gas (GHG) emissions including for the transportation sector by reducing GHG emissions from motor vehicles, and

WHEREAS, New York State adopted California's Advanced Clean Trucks (ACT) Rule in December 2021 that requires applicable medium and heavy-duty (M/HD) vehicle manufacturers to sell a percentage of their total sales in New York as zero-emission vehicles (ZEVs) starting in model year 2025 with increasing ZEV sales through model year 2035, and

WHEREAS, the cost of transitioning the state and local highway departments' utility and construction vehicles, snowplows and equipment to run on battery power as mandated by ACT and other state strategies is at this juncture incalculable, but expected to exceed the ability to be financed without substantial sources of new revenues directed strictly for the retrofit or procurement of such ZEVs and equipment, and

WHEREAS, as commercial production of M/HD large-scale, electric construction vehicles is today a nascent industry, the ability of local highway departments to plan for this transition, with its concomitant mandates that fuel and electricity charging sources be carbon-free, is of tremendous concern considering that the transportation system at all levels of New York government is significantly underfunded, and

WHEREAS, while ACT regulations do not require M/HD fleets, owners, operators, or dealerships to purchase ZEVs, the sales mandates on vehicle manufacturers are expected to lead to shortages in supply of not only complying electric vehicles but of traditional gasoline and diesel vehicles as well, and

WHEREAS, alarmingly, some M/HD vehicle dealerships have notified highway departments that, due to manufacturers' need to plan for the sales mandates adopted by New York and some other states, many orders for trucks are being delayed or canceled, and

WHEREAS, notably, Maine, North Carolina and Connecticut among other states recently stepped back from adopting ACT regulations citing concerns over the availability of heavy-duty vehicle charging stations and the high cost of zero-emission trucks, and

WHEREAS, in July 2024, the New York State Comptroller released an audit on the State's progress in meeting Climate Act goals and noted several deficiencies including the need to increase communication with stakeholders and provide more accurate cost estimates. The audit goes on to add that the lack of cost estimates jeopardizes the chances of success in meeting climate goals. The comptroller urges the state to clarify for key stakeholders, especially energy ratepayers, the extent to which ratepayers will be responsible for Climate Act implementation costs, and

WHEREAS, New York's climate goals must be implemented in a way that is affordable while assuring adequate supplies of these specialized vehicles and functional highway construction equipment that meet state specifications, estimated to increase the cost of a new truck by about one-third, and

WHEREAS, the rush to introduce electric vehicles in New York can be counterproductive to the environment as the bulk of the power generation used to charge new vehicle batteries is produced by fossil fuels, and is a reason to move more slowly to sync with the pace of the transition to a zero-emission electric grid by 2040, and

WHEREAS, recognizing these potential impacts on the ability of local governments to continue to deliver necessary transportation services and facilities to the traveling public it is vital that state elected representatives and agencies assist county highway departments in developing strategies, funding sources and realistic timelines for achieving these aggressive GHG emissions reduction goals in the face of market and fiscal barriers to the transition, and

WHEREAS, all levels of government need to work together throughout the regulatory process to assure strategies and mandates put in place to meet the CLCPA goals for the transportation sector are realistic and achievable and will benefit the environment. Now, therefore be it

RESOLVED, that Genesee County of New York State calls on the Governor, the NYS Department of Transportation (NYSDOT) and NYS Department of Environmental Conservation (NYSDEC), NYSERDA, PSC, Commissioners and legislative leaders to commit to providing support for addressing these concerns

in the regulatory and implementation process and to dedicate the funding necessary to fully cover the counties' costs of complying with the state mandates under the CLCPA, Be it Further

RESOLVED, that the Governor consider a pause or suspension of the implementation of ACT until there is strong evidence that the state has in place the necessary direct financial assistance and incentives and charging infrastructure necessary, and can definitively determine that vehicle manufacturers are prepared to effectively supply the New York market without disruption to the critical work needed to maintain the state's vast and aging infrastructure, Be it Further

RESOLVED, that the state recognize that highway construction, maintenance vehicles, and equipment are critical to governments' mission to maintain a safe and functional transportation system by designating these municipally owned vehicle and equipment as a category among "transit buses, motor coaches, and emergency vehicles," and thus exempt from ACT regulation, Be it Further

RESOLVED, that Genesee County Clerk of the Legislature shall forward copies of this resolution to Governor Kathy Hochul, the New York State Legislature; and the commissioners of NYSDOT, NYSDEC, NYSERDA, PSC and all others deemed necessary and proper.

Budget Impact: None.

Legislator Deleo seconded the resolution, which was adopted by 200 votes.

**RESOLUTION NO. 459 SETTING PUBLIC HEARING FOR
AGRICULTURAL DISTRICT NO. 2 REVIEW –
APPROVAL OF**

Legislator Maha offered the following resolution:

WHEREAS, The creation of Agricultural District No. 2 was approved by the Genesee County Legislature by Resolution No. 162 adopted July 9, 1975 and certified by the State of New York on October 25, 1975, and

WHEREAS, Article 25AA of the New York State Agriculture and Markets Law, Section 303-a specifies that the County Legislative Body shall review any agricultural district created under this section eight years after the date of its creation and every eight years thereafter, and

WHEREAS, Article 25AA of the New York State Agriculture and Markets Law, Section 303-a specifies that the County Legislative Body shall hold a public hearing to review any modifications and recommendations proposed as a result of this review. Now, therefore, be it

RESOLVED, That a Public Hearing shall be held as part of the eight-year review of Agricultural District No. 2 on Wednesday, April 23, 2025 at 5:30 PM at the Genesee County Old Courthouse, 7 Main Street, Batavia, New York.

Budget Impact: The only direct budget impact will be the cost for printing the legal ad itself.

Legislator Deleo seconded the resolution, which was adopted by 200 votes.

**RESOLUTION NO. 460 COUNTY AUDIT–OCTOBER 23, 2024-APPROVAL
OF**

Legislator Clattenburg offered the following resolution:

WHEREAS, Legislator Klotzbach, did review the following claims:

2024 General Fund	5,950,365.95
3 rd Quarter 2024 Sales Tax Distribution	4,623,482.78
2024 Highway	71,263.93
2024 Self Insurance	38,882.90
2024 Water Fund	903,236.65
DSS Abstracts	275,472.16
Capital Projects	
Sheriff/Jail – Jail Construction	31,290.30
County Manager – Building Security Upgrades	6,151.36
Facilities Management – Engine House Renovations	115,156.81

Highway – Large Span Culverts	307,177.74
Highway – Colby Road over Crooked Creek	3,581.93
Highway – Silver Road over Little Tonawanda	1,648.84
Sheriff – Radio Tower & Backup 911 Center	467,929.25
Payroll – General	
October 4, 2024	2,135,622.39
Medicaid	
October 15, 2024	181,406.00
October 22, 2024	<u>181,406.00</u>
Total Audit	\$ 15,294,074.99

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 Klotzbach seconded the resolution, which was adopted by 200 votes.

RESOLUTION NO. 461

TO ADOPT A LOCAL LAW INTRODUCTORY C OF THE YEAR 2024, EXTENDING GENESEE COUNTY HOTEL AND MOTEL OCCUPANCY TAX LAW BY AMENDING LOCAL LAW NO. 8 OF THE YEAR 2021, IN REGARDS TO GENESEE COUNTY HOTEL AND MOTEL OCCUPANCY TAX LAW – APPROVAL OF

Legislator Clattenburg offered the following resolution:

WHEREAS, on November 22, 2021, the County of Genesee (hereinafter “County”) adopted Local Law No. 8, Year 2021, replacing Genesee County Hotel and Motel Occupancy Tax Law originally enacted on January 1, 2022, with an expiration date of December 31, 2024, and

WHEREAS, the County would like to extend the Local Law an additional three (3) years from January 1, 2025 to December 31, 2027. Now Therefore,

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

Section 1. - PURPOSE

The purpose of this Local Law is to amend Section 702 of Local Law 8 of 2021 extending expiration of the Local Law date to December 31, 2027, Genesee County Hotel and Motel Room Occupancy Tax Law.

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.

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 1st 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 complied 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 judgment, 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, 2025, and expire on December 31, 2027, 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 will post a certified notice of the public hearing on said proposed Local Law on the bulletin board in the Old Courthouse and the Genesee County website; and

WHEREAS, the Clerk of the Genesee County Legislature will cause to be published in *The Daily News* the Official Newspaper of the County of Genesee, the Notice of Public Hearing to introduce Local Law C of the Year 2024, Extending the Genesee County Hotel and Motel Occupancy Tax Law, and

WHEREAS, the public hearing will be held at 5:30 p.m. on the 23rd Day of October 2024 at the Genesee County Old Courthouse, 7 Main Street, Batavia, New York, at which time all interested persons who wish to speak will be heard. Now, therefore, be it

RESOLVED, that a LOCAL LAW INTRODUCTORY C OF THE YEAR 2024, EXTENDING THE GENESEE COUNTY HOTEL AND MOTEL OCCUPANCY TAX LAW BY AMENDING LOCAL LAW NO. 8 OF THE YEAR 2021, IN REGARDS TO GENESEE COUNTY HOTEL AND MOTEL OCCUPANCY TAX LAW.” to be known as Local Law Number 4 of the Year 2024 for the County of Genesee, is hereby formally adopted.

Legislator Klotzbach seconded the resolution, which was adopted by 200 votes.

**RESOLUTION NO. 462 2024 EMPLOYEE SALARY SCHEDULE
AMENDMENT – JOB DEVELOPMENT/
TEMPORARY ACCOUNTING SUPERVISOR -
APPROVAL OF**

Legislator Yunker offered the following resolution:

WHEREAS, the Employment and Training Director of the Job Development Bureau has requested adding a temporary, part-time Accounting Supervisor position due to an employee resigning, and

WHEREAS, the Employment and Training Director is requesting an amendment of the 2024 Employee Salary Schedule to create one (1) temporary, part-time (up to 19 ½ hours per week) Accounting Supervisor position to allow the current employee to assist with the transition. Now, therefore, be it

RESOLVED, that the Genesee County Treasurer and Human Resources Director are hereby authorized and directed to amend the 2024 Employees Salary schedule by creating one (1) part-time (up to 19 ½ hours per week), temporary, Accounting Supervisor position CSEA Grade 18, effective October 24, 2024 through December 31, 2024 at a cost not to exceed \$2,500.

Budget Impact: Neutral. No impact on County Funds – Grant Funding in the amount of \$2,500.00 will be used to offset the costs of this position.

Legislator Hawley seconded the resolution, which was adopted by 200 votes.

Unfinished Business: None.

Adjournment: Chair Stein adjourned the meeting at 5:58 p.m.