

**ERIE COUNTY LEGISLATURE
MEETING NO. 23
DECEMBER 7, 2023**

The Legislature was called to order by Chair Baskin.

All members present.

An Invocation was held, led by Mr. Johnson, who requested a moment of silence.

The Pledge of Allegiance was led by Ms. Vinal.

Chair Baskin directed that the agenda be taken out of order and to bring the Miscellaneous Resolutions before the body.

MISCELLANEOUS RESOLUTIONS

Item 1 – Miscellaneous Resolutions were offered, as follows:

BASKIN	In Remembrance of Paul Woods
BASKIN & VINAL	Honoring and Celebrating National Women Support Women Day
MAJORITY CAUCUS	Acknowledging and Honoring National Entrepreneur's Day
JOHNSON	Acknowledging and Honoring National Pearl Harbor Remembrance Day
KOOSHOIAN	Honoring and Recognizing Christopher Billoni
VINAL	Congratulating and Honoring Deputy Supervisor Deborah Bruch Bucki on Her Extraordinary Service in Erie County
KOOSHOIAN	Congratulating and Recognizing the Honorable Kevin J. Keane on His Extraordinary Work as Buffalo City Court Judge
MALCZEWSKI	Honoring the East Aurora Girls Cross Country Team as the New York State Class C Champions
MALCZEWSKI	Honoring the East Aurora Boys Varsity Soccer Team as the New York State Class B Champions
MALCZEWSKI	Honoring the East Aurora Boys Cross Country Team as the New York State Class C Champions
GREENE	Recognizing Dante Marconi for 60 Years of Service with the Akron Lions Club

GREENE	Honoring Tanner Gurnett on Attaining Rank of Eagle Scout
MILLS	Honoring Steven Michael Blidy on Earning the Rank of Eagle Scout
MILLS	Honoring Jakob Johnathon Joy-Ford on Earning the Rank of Eagle Scout
MILLS	Recognizing Ava Mills and Ashley Rozic on Being Named ECIC Doubles All-Stars
GREENE	Congratulating Paul Burgio on Being Named 2023 All-Bee Football Coach of the Year
MILLS	Honoring Daniel R. Wright on Earning the Rank of Eagle Scout
TODARO	Congratulating Muscarella's Pizza Lancaster on Its One-Year Anniversary
MILLS	Honoring Patrick Joseph Blidy on Earning the Rank of Eagle Scout
KOOSHOIAN	In Remembrance of Gabe Michael
MILLS	Celebrating Frederick J. Shear on His 100th Birthday

MR. MEYERS moved for consideration of the above twenty-one items. MR. GILMOUR seconded.

CARRIED UNANIMOUSLY.

MR. MEYERS moved to amend the above twenty-one items by including Et Al Sponsorship. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

MR. MEYERS moved for approval of the above twenty-one items as amended. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

TABLED ITEMS

Item 2 – MR. MEYERS moved to take Report No. 1 of the FINANCE & MANAGEMENT/BUDGET COMMITTEE from the table. MR. GILMOUR seconded.

CARRIED UNANIMOUSLY.

MR. MILLS moved to separate Budget Resolutions Nos. 58-61 for the purpose of conducting a roll call vote on these items.

CHAIR BASKIN directed that a roll-call vote be taken.

AYES: MR. GREENE, MR. MALCZEWSKI, MR. MILLS, MR. TODARO, MR. BARGNESI, CHAIR BASKIN, MR. GILMOUR, MR. JOHNSON, MR. KOOSHOIAN, MR. MEYERS and MS. VINAL. NOES: None. (AYES: 11; NOES: 0)

CARRIED UNANIMOUSLY.

MR. MILLS moved to approve the separated item. MR. TODARO seconded.

CHAIR BASKIN directed that a roll-call vote be taken.

AYES: None. NOES: MR. GREENE, MR. MALCZEWSKI, MR. MILLS, MR. TODARO, MR. BARGNESI, CHAIR BASKIN, MR. GILMOUR, MR. JOHNSON, MR. KOOSHOIAN, MR. MEYERS and MS. VINAL. (AYES: 0; NOES: 11)

FAILED.

MR. MILLS moved to separate Budget Resolution No. 111 for the purpose of conducting a roll call vote on this item.

MR. MILLS moved to approve the separated item. MR. TODARO seconded.

CHAIR BASKIN directed that a roll-call vote be taken.

AYES: MR. BARGNESI, CHAIR BASKIN, MR. GILMOUR, MR. JOHNSON, MR. KOOSHOIAN and MR. MEYERS. NOES: MR. GREENE, MR. MALCZEWSKI, MR. MILLS, MR. TODARO and MS. VINAL. (AYES: 6; NOES: 5)

CARRIED.

MR. MEYERS moved to separate item Number 2-a, and approve the balance of the report. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 187

November 9, 2023, following recess, reconvened on December 5, 2023.	FINANCE & MANAGEMENT/BUDGET COMMITTEE REPORT NO. 1
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ALL MEMBERS PRESENT, EXCEPT LEGISLATOR GREENE.
CHAIR BASKIN PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:

- a. COMM. 18E-4 (2023)
COUNTY EXECUTIVE: “2024-2027 Four-Year Financial Plan”
(Chair’s Ruling)
- b. COMM. 20E-7 (2023)
COMPTROLLER: “2024 Tentative Budget Revenue and Major Expenditure Estimates”
(Chair’s Ruling)
2. COMM. 18E-3 (2023)
COUNTY EXECUTIVE AS AMENDED
- a. MAJORITY CAUCUS
RESOLVED, that the Erie County Legislature hereby approves the County Executive’s 2024 Tentative Budget with the amendments attached hereto.
(7-0)

TIMOTHY J. MEYERS
CHAIR

MR. MEYERS moved to further amend item Number 2-a. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

MR. MEYERS moved to further amend item Number 2-a. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

MR. GILMOUR moved to further amend item Number 2-a. MR. MEYERS seconded.

CHAIR BASKIN directed that a roll-call vote be taken.

AYES: MR. GREENE, MR. MALCZEWSKI, MR. MILLS, MR. TODARO, MR. GILMOUR, MR. KOOSHOIAN, MR. MEYERS. NOES: MR. BARGNESI, CHAIR BASKIN, MR. JOHNSON and MS. VINAL. (AYES: 7; NOES: 4)

CARRIED.

MR. GILMOUR moved to further amend item Number 2-a. MR. MEYERS seconded.

CHAIR BASKIN directed that a roll-call vote be taken.

AYES: MR. GREENE, MR. MALCZEWSKI, MR. MILLS, MR. TODARO, MR. GILMOUR, MR. KOOSHOIAN, MR. MEYERS. NOES: MR. BARGNESI, CHAIR BASKIN, MR. JOHNSON and MS. VINAL. (AYES: 7; NOES: 4)

MR. GILMOUR moved to further amend item Number 2-a. MR. MEYERS seconded.

CHAIR BASKIN directed that a roll-call vote be taken.

AYES: MR. GREENE, MR. MALCZEWSKI, MR. MILLS, MR. TODARO, CHAIR BASKIN, MR. GILMOUR, MR. JOHNSON, MR. KOOSHOIAN and MR. MEYERS. NOES: MR. BARGNESI and MS. VINAL. (AYES: 9; NOES: 2)

CARRIED.

MR. MEYERS moved to further amend item Number 2-a. MR. JOHNSON seconded.

CARRIED. (AYES: 10; NOES: 1)

MR. MEYERS moved to further amend item Number 2-a. MR. GILMOUR seconded.

CHAIR BASKIN directed that a roll-call vote be taken.

AYES: MR. BARGNESI, CHAIR BASKIN, MR. GILMOUR, MR. JOHNSON, MR. KOOSHOIAN, MR. MEYERS. NOES: MR. GREENE, MR. MALCZEWSKI, MR. MILLS, MR. TODARO and MS. VINAL. (AYES: 6; NOES: 5)

CARRIED.

MR. MEYERS moved to further amend item Number 2-a. MR. GILMOUR seconded.

CARRIED UNANIMOUSLY.

MR. MEYERS moved to further amend item Number 2-a. MR. GILMOUR seconded.

CARRIED UNANIMOUSLY.

MR. MEYERS moved to approve item Number 2-a as amended. MR. JOHNSON seconded.

CHAIR BASKIN directed that a roll-call vote be taken.

AYES: MR. GREENE, MR. MALCZEWSKI, MR. MILLS, MR. TODARO, MR. BARGNESI, CHAIR BASKIN, MR. GILMOUR, MR. JOHNSON, MR. KOOSHOIAN, MR. MEYERS and MS. VINAL. NOES: None. (AYES: 11; NOES: 0)

CARRIED UNANIMOUSLY.

Item 3 – No items for reconsideration from previous meeting.

Item 4 – MR. MEYERS moved for the approval of the minutes for Meeting Number 21 from 2023. MR. GILMOUR seconded.

CARRIED UNANIMOUSLY.

Item 5 – No Public Hearings.

LOCAL LAWS

Item 6 – CHAIR BASKIN directed that Local Law No. 1 (Print #1) 2022 remain on the table and in the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

Item 7 – CHAIR BASKIN directed that Local Law No. 3 (Print #1) 2022 remain on the table and in the HEALTH & HUMAN SERVICES COMMITTEE.

GRANTED.

Item 8 – CHAIR BASKIN directed that Local Law No. 3 (Print #1) 2023 remain on the table and in the FINANCE & MANAGEMENT COMMITTEE.

GRANTED.

Item 9 – MR. MEYERS moved to take Local Law No. 3 (Print #2) 2023 from the table. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

COUNTY OF ERIE

LOCAL LAW INTRO NO. 3-2-2023

LOCAL LAW NO. ____-2023

A LOCAL LAW entitled: The Occupancy Tax Modernization Act

BE IT ENACTED BY THE COUNTY OF ERIE AS FOLLOWS:

Section 1. Legislative Intent.

a. In 1974, Erie County, through the passage of Chapter 664 of the New York Sessions Law of the same year was granted the power to impose an occupancy tax on per diem rentals of rooms for persons renting those rooms for limited periods of time. The Erie County occupancy tax was established via local law by the Erie County Legislature in September 1974 and was amended via local law in 1975, 1983, 1987, and 2007. There has not been a comprehensive review of the various local laws governing the occupancy tax nor an effort to modernize and update the law in decades.

b. The Erie County Legislature (“Legislature”) hereby finds that the forums and mechanisms for renting rooms to non-permanent residents has evolved over the past half century with the widespread per diem rental of short-term and vacation rental properties in Erie County and

elsewhere, via various online hosting platforms such as Airbnb, VRBO, Homestay, or by other means.

c. Unlike other counties in New York State that maintain occupancy tax collection agreements with hosting or “home-sharing” platforms such as Airbnb, Erie County does not have any such agreements with such platforms and/or operators that provide short term and vacation rental properties.

d. The Legislature finds that there are unjustified variances and inconsistencies with this state of affairs, as hotels are required to collect taxes from guests pursuant to the County of Erie’s hotel occupancy tax law, but owners of other per diem rented rooms for occupancy, and operators and platforms for short term and vacation rentals have not been collecting such tax, are not readily subject to any health and safety regulations, and are not registered with the County, despite offering services which are identical or substantially similar to traditional hotels and motels.

e. The Legislature finds that the law should apply equally to all individuals and entities engaged in the rental of temporary accommodations, and that the current state of affairs has resulted in an unequal “playing field” for traditional hotels and motels compared to other types of short term and vacation rental properties. The Legislature further finds that this discrepancy also results in a loss of occupancy tax revenue to Erie County and its taxpayers.

f. The Legislature finds that, pursuant to Chapter 614 of the Laws of 1974 of the State of New York, operators of these transient lodging facilities should be subject to the same occupancy taxes as their counterparts in the traditional lodging industry to help ensure fairness across the lodging sector in Erie County.

g. The Erie County Legislature hereby finds that there is a need to bring the definition and administration of occupancy tax into the 21st Century by updating the various functions of the tax to meet the demands of the modern short-term rental industry within the parameters of the taxing authority delegated by the State of New York.

h. The Legislature hereby intends this that this Local Law will perform the following functions and beneficial purposes:

1. Clarify the reach of the tax to include non-traditional short-term and vacation rentals within Erie County;

2. Require all operators of properties used for non-permanent occupancy, or short-term and vacation rentals to register with the County for the collection of the tax;

3. Bring all manner of short-term rental properties above ground to better ensure the safety of occupants and quality of life for the broader community;

4. Modernize and enhance enforcement capabilities of the County to pursue scofflaws who fail to collect and remit the tax or misappropriate the same;

5. Allow hosting platforms that have executed voluntary collection agreements with the County to collect and remit the tax on the operator's behalf;
6. Establish the methodology used to determine taxable rent for all properties used for transient lodging. Accordingly, collection and remittance of the tax for short-term and vacation rentals will be principally placed on the corporate hosting platform through a voluntary collection agreement and secondarily placed on individual operators opting not to enter into any such agreement;
7. Reinvest in the continued development of the tourism to maintain and enhance infrastructure, create economic opportunity for residents, and increase the recreational appeal of Erie County; and
 - i. Therefore, except for the limited purposes provided by Section 25 of this Local Law, Erie County Local Law No. 12-1974, Erie County Local Law No. 8-1975, Erie County Local Law No. 5-1983, Erie County Local Law No. 1-1987, and Erie County Local Law No. 4-2007 are hereby repealed in their entirety and replaced with this Local Law.

Section 2. Definitions.

- a. Charter. The Charter of Erie County as established by Local Law 1-1959 and amended thereafter.
- b. Clerk. The elected Clerk of Erie County.
- c. Comptroller. The elected Comptroller of Erie County.
- d. Exempt Entity. A government, corporation, or association exempt from taxation under Section 4 of this local law.
- e. Hosting Platform. An application, technology, and/or similarly based service through which a third party desiring to offer an accommodation (a "host") and a third party desiring to book an accommodation (a "guest") have the opportunity to communicate, negotiate, and consummate a booking transaction for transient lodging accommodations pursuant to a direct agreement between a host and guest to which the hosting platform is not a party but still facilitates payments for rent on behalf of or for the host, and/or otherwise acts as intermediary between the host and the guest. Merely publishing an advertisement for transient accommodations does not make the publisher a hosting platform.
- f. Hotel. "Hotel" or "motel" shall mean and include any facility providing lodging on an overnight basis and shall include those facilities designated and commonly known as per diem rentals, "bed and breakfast" and "tourist" facilities. For the purposes of this Local Law, the terms "hotel" and "short-term rental" shall be interchangeable.
- g. Operator. Any person or entity operating premises where short-term rental occupancy transactions are conducted in Erie County, including but not limited to the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such premises.

- h. Occupancy. The use or possession, or the right to the use or possession of any room in a premises that is the subject of short-term rental occupancy transactions.
- i. Permanent Resident. A person occupying any room or rooms in a premises that is the subject of a short-term rental occupancy transaction for at least thirty consecutive days.
- j. Permanent Occupancy. The rental of a room for longing for a period of greater than thirty days.
- k. Person. An individual, partnership, society, association, joint stock company, corporation, limited liability company, 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.
- l. Rent. The consideration received for occupancy valued in money, whether received in monetary form or otherwise.
- m. Room. Any room or rooms of any kind in any part or portion of a premises that is the subject of a short-term rental occupancy transaction, which is available for or let out for any purpose other than a place of assembly.
- n. Return. Any return filed or required to be filed as herein provided.
- o. Sheriff. The elected Sheriff of Erie County.
- p. Short-Term Rental. A building or portion of it which is regularly used, advertised for use, or kept open as such for lodging on an overnight basis. Such use, advertisement, public availability need not be continuous to be considered regular. The term ‘short-term rental’ includes a hotel, motel, hostel, apartment hotel, motor court or inn, boardinghouse or club, campground with cabins, home-sharing property or vacation rental, or similar hotel or motel type of accommodations by whatever name designated, whether or not meals are served, and shall include those facilities commonly known as ‘bed-and-breakfast’ and ‘tourist’ facilities. “Short-term” and “vacation rentals” shall mean and include those units rented or leased to occupants – other than permanent residents – that are furnished apartments or living units in or consisting of a dwelling place ordinarily occupied for residential purposes or location that is otherwise made available for sleeping accommodations, directly by the owner or through an owner’s agent or hosting platform. A ‘short-term rental’ shall not include month-to-month residential lease agreements where the tenant occupies a unit as his or her primary residence.

Section 3. Imposition of Tax.

- a. Except as otherwise provided by this Section, on and after the first day of June, 2023, there is hereby imposed and there shall be paid a tax of three percent upon the rent for every occupancy of a room or rooms in the County.
- b. For all short-term rental transactions where rental capacity of the premises exceeds thirty (30) rooms, the rate of tax on occupancy shall be five percent.

c. If the charge for occupancy of a room includes only the cost of the room, board, and cleaning fees, any other charges that are separately stated and are only incurred at the option of the occupant and/or charged by a hosting platform shall not be included in the calculation of the occupancy tax imposed by this Local Law.

d. If the operator does not separate the charge for room and board from other charges, excluding cleaning fees but including those added by a hosting platform, the entire charge to the occupant is taxable until the occupant becomes a permanent resident as defined by this Local Law.

e. No tax shall be imposed upon a permanent resident as defined by this Local Law.

Section 4. Exempt Organizations

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

1. The State of New York, or any of its agencies, instrumentalities, public corporations (including public corporations created pursuant to agreement or compact with another state or Canada), improvement districts or political subdivisions of the State;

2. The United States of America, or any of its agencies and instrumentalities, insofar as it is immune from taxation;

3. The United Nations or other world-wide international organizations of which the United States is a member; and

4. Any corporation, association, 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 part of the activities of which is carrying out propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph 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 paragraph.

b. Where any organization described in paragraph three (3) of subdivision (a) of this Section conducts its activities in furtherance of the purposes for which it was organized, and, as part of said activities, it engages in short-term rental transactions on the premises in which such not-for-profit activities are conducted, occupancy of rooms in the premises and rent therefrom received by such corporation or association shall not be subject to tax hereunder.

Section 5. Territorial Limitations

The tax imposed by this local law shall apply only within the territorial limits of the County of Erie.

Section 6. Registration

a. Within ten days after the effective date of this local law, or in the case of operators commencing business after such effective date, within three days after such commencement or opening, every owner and/or operator shall file with the Comptroller a Certification of Registration in a form prescribed by the Comptroller.

b. The Comptroller shall, within five business days after such registration issue without charge to each operator a Certificate of Authority empowering such operator to collect the tax from the occupant and duplicate thereof for each additional short-term rental of such operator. Each certificate or duplicate shall be certified, bear the seal of Erie County, and state the short-term rental to which it is applicable. Such Certificate of Authority shall be prominently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy.

c. Where a host or operator uses a hosting platform that has executed a voluntary collection agreement with the County, such host or operator shall submit an application for a Certificate of Authority clearly stating all information required under applicable law but may otherwise designate such hosting platform as primarily and solely liable for collection and remittance of the tax.

d. If a Certificate of Authority is lost, stolen, or otherwise misplaced by an operator, such operator may apply, in a form prescribed by the Comptroller, for a replacement Certificate of Authority. Replacements shall be certified and issued to the operator at a cost of \$50.00.

e. Failure to register a short-term rental with the Comptroller as required by this Section shall result in the imposition of a penalty amounting to one hundred dollars per day of non-registration. The Comptroller may, upon a showing of good cause by an owner or operator, waive up to 75% of the total amount of penalties incurred under this Subsection. Good cause shall be determined by the Comptroller on a case-by-case basis and shall require, at minimum, a demonstration that the owner or operator lacked intent to violate the provisions of this Section and exercised reasonable diligence.

f. Such certificates shall be non-assignable and non-transferrable and shall be surrendered immediately to the Comptroller upon:

1. the cessation of business at the short-term rental;
2. the sale, lease, assignment, or other transfer to another host or operator; or
3. the designated hosting platform service named as designee on the certificate provided by this Section is sold, renamed, or otherwise transferred.

a. For the purposes of this Subsection, a change in ownership of the owner, hosting platform, operator, or the parent company of the same greater than or equal to 50% shall be considered a transfer.

g. Violation of Subsection (e) of this Section shall immediately void any Certificate of Authority previously issued, in addition to any additional penalties otherwise imposed by this Local Law.

Section 7. Administration and Collection

- a. The tax imposed by this local law shall be administered and collected by the Comptroller of the County of Erie or the Comptroller's designee by such means and in such manner as are other taxes which are now collected and administered by such officers in accordance with the Charter or as otherwise are provided by this Local Law.
- b. The tax to be collected pursuant to this Local Law shall be stated, charged, and shown separately from the rent. At the time when the occupancy is arranged, contracted for or charged for, and upon any and all evidence of occupancy, any charge made shall be paid by the occupant to the operator as trustee for and on behalf of the County.
- c. 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. In respect to non-payment of the tax by the occupant payable at the time such tax shall become due and owing, the operator retains all applicable rights including, but not limited to, rights of eviction, repossession, and enforcement of any innkeeper's lien that the operator may have in the event of non-payment of rent by the occupant. An operator shall join the Comptroller as a party in any action or proceeding brought by the operator against an occupant under this Local Law.
- d. The tax imposed by this Local Law shall be paid upon any occupancy on and after the effective date of this Local Law except for any such occupancy reserved pursuant to a contract, lease or other arrangement made prior to such date. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the Comptroller may by regulation provide for credit and/or refund of the amount of such tax upon application therefore as provided by this Local Law.
- e. For the purpose of the proper administration of this Local Law and to prevent evasion of the tax hereby imposed, the following presumptions and burdens shall apply:
 1. It shall be presumed that all rents are subject to tax until the contrary is established.
 2. The burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator or the occupant.
 3. Where an occupant claims exemptions from the tax under the provisions of Section 4 of this Local Law, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a copy of a certificate issued by the Comptroller certifying that the named entity is exempt from taxation under Section 4 of this Local Law, together with a writing duly executed by the exempt entity named in the certificate issued by the Comptroller certifying that the occupant is its agent, representative or employee and that the occupancy is paid or to be paid by, and is necessary or required in the course of or in connection with the affairs of said exempt entity.
- f. A hosting platform may enter into a voluntary collection agreement with the County containing and specifying the following:

1. The hosting platform shall be solely responsible and liable for collecting and remitting the applicable tax to the County for booking transactions completed through the respective hosting platform for short-term rentals as defined by Subsection 2(l) of this local law.

2. The host or operator of the short-term rental who is not the hosting platform shall not be responsible for collecting and remitting the tax to the County on any transaction for which it has received confirmation that the hosting platform has collected the aforementioned tax and remitted it back to the County pursuant to a voluntary collection agreement.

3. Neither the County, its officers, agents, and employees, or a hosting platform, its officers, agents, and employees, shall be required or made to furnish a copy or any portion of a voluntary collection agreement entered into between the County and a hosting platform. The hosting platform shall furnish to any operator using the hosting platform, a certificate, in a form to be determined by the Comptroller, confirming the existence and enforceability of such agreement.

g. Where an operator of a short-term rental uses a hosting platform that has voluntarily entered into and executed a voluntary collection agreement with the County pursuant to Subsection 7(f) of this Local Law, such hosting platform, for the purposes of tax registration, collection, and remittance under this Local Law, shall only be liable for transactions completed through the respective hosting platform pursuant to the terms of such agreement.

h. If the operator of a short-term rental uses a hosting platform that has not entered into and executed an agreement with the County pursuant to Subsection 7(f) of this Local Law, such operator shall be liable for the collection and remittance of the tax.

Section 8. Records.

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 Comptroller may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the Comptroller or the Comptroller's duly authorized agent or employee and shall be preserved for a period of five years.

Section 9. Returns.

a. Every operator or, in the case where a hosting platform has entered into voluntary collection agreement pursuant to Section 7(f) of this Local Law, such hosting platform, shall file with the Comptroller a return of occupancy and of rents, and of the taxes payable thereon for quarterly periods ending the last day of February, May, August, and November of each year, on and after the effective date of this Local Law subject to the limitations prescribed by Section 7(d) of this Local Law.

b. Such returns shall be filed within twenty days from the expiration of the period covered thereby. The Comptroller may permit or require returns to be made by other periods and upon such dates as the Comptroller or his duly authorized designee may specify. If the Comptroller deems it necessary in order to ensure the payment of the tax imposed by this Local Law, the Comptroller 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 the Comptroller may specify.

c. Where a hosting platform has entered into a voluntary collection agreement with the County pursuant to Section 7(f) of this Local Law, the mechanism for increasing the number of return dates per calendar year must be included in such voluntary collection agreement.

d. The form of returns shall be prescribed by the Comptroller and shall contain such information as the Comptroller may deem necessary for the proper administration of this Local Law. The Comptroller may require amended returns to be filed. Such returns shall be delivered not later than twenty days following notice of the operator or hosting platform by the Comptroller and shall contain the information specified in the notice.

e. If the return required by this Section is not filed, or if a return as filed is incorrect or facially insufficient, the Comptroller shall take all necessary steps to enforce the filing of such return or a corrected return. The Comptroller shall not waive tax liability or suspend collection of tax imposed by this Local Law.

Section 10. Payment of Tax.

a. At the time of the filing a return of occupancy and of rents, each operator, or, in the case where a hosting platform has entered into voluntary collection agreement pursuant to Section 7(f) of this Local Law, such hosting platform shall pay to the Comptroller 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 operator or hosting platform acting or purporting to act under the provisions of this Local Law.

b. Where the Comptroller, as a matter of discretion, deems it necessary to protect revenues to be obtained under this Local Law, the Comptroller may require any operator or hosting platform required to collect the tax imposed by this Local Law to file a bond with the Office of Comptroller, issued by a surety company authorized to transact business in the State of New York and approved by the Superintendent of the New York State Department of Financial Services as to the solvency and responsibility, in such amount as the Comptroller may fix to secure the payment of any tax and/or penalties and interest due or which may become due from such operator or hosting platform.

c. In the event that the Comptroller determines that an operator or hosting platform is to file such bond, the Comptroller shall give notice to such operator or hosting platform to that effect. The Comptroller shall specify the amount of the bond required in writing and send it to such operator or hosting platform by certified mail at the address provided by such operator or hosting platform. Evidence of such mailing shall create a presumption that such operator or hosting platform has been notified.

d. Where an operator or hosting platform has been notified by the Comptroller that a bond shall be required pursuant to this Section, such operator or hosting platform shall file such bond within ten business days.

e. An operator or hosting platform may, within ten business days, request in writing a hearing before the Comptroller or the Comptroller's designee at which the necessity, propriety, and amount

of the bond shall be determined by the Comptroller, notice of which shall be sent by certified mail to the address provided by such operator or hosting platform. Such determination shall be final and shall be complied with within ten business days after the Comptroller notifies such operator or hosting platform.

f. In lieu of the bond described in Subsection 10(b) of this Local Law, securities approved by the Comptroller or cash in such amount as the Comptroller may prescribe may be deposited. Such deposit shall be kept in the custody of the Comptroller who may at any time and without notice to the depositor, apply such deposit to any tax, interest, and/or penalties due. For that purpose, any securities may be sold by the Comptroller at public or private sale without notice to the depositor.

Section 11. Determination of Tax.

a. If a return required by this Local Law is not filed, or if a return when filed is incorrect or facially insufficient, the amount of the tax due shall be determined by the Comptroller from such information as may be obtainable.

b. If necessary, the tax may be estimated on the basis of external indices, including but not limited to, the number of rooms, location, scale of rents, comparable rents, type of accommodations and service, number of employees and publicly reported earnings.

c. Notice of such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within thirty days following receipt of notice from the Comptroller of such determination shall apply to the Comptroller for a hearing. The Comptroller may redetermine the same sua sponte.

d. After such hearing, the Comptroller shall give notice of such determination to the person against whom the tax is assessed. The determination of the Comptroller shall be reviewable by the Supreme Court of Erie County for error, illegality, unconstitutionality, or abuse of discretion pursuant to Article Seventy-Eight of the Civil Practice Law and Rules.

e. No party aggrieved by the determination of the Comptroller shall have standing to bring an action under Article 78 of the Civil Practice Law and Rules challenging the Comptroller's determination unless the amount of any tax sought to be reviewed, with any and all penalties and interest thereon, shall be first deposited with the Comptroller.

f. In addition to the requirements of Section 11(e) of this Local Law, any party challenging the determination of the Comptroller pursuant to Article 78 of the Civil Practice Law and Rules shall first file with the Comptroller an undertaking, issued by a surety company authorized to transact business in the State of New York and approved by the Superintendent of the New York State Department of Financial Services as to solvency and responsibility, in such amount as a Justice of the Supreme Court of Erie County shall approve to the effect that if such proceeding is dismissed or the tax confirmed, the petitioner shall pay all costs and charges which may accrue in the prosecution of the proceeding.

g. At the option of the petitioner, such undertaking filed with the Comptroller 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.

Section 12. Disposition of Revenues.

- a. All revenues resulting from the imposition of the tax under this local law shall be paid into the treasury of the County and shall be credited to and deposited in the general fund of the County.
- b. Within sixty days of the effective date of this Local Law, the Comptroller shall create a special account, the sole purpose of which shall be the distribution of revenues to not-for-profit corporations and public benefit corporations dedicated to the promotion and facilitation of tourism in Erie County.
- c. Notwithstanding any provision of law to the contrary, with respect to tax imposed by this Local Law on and after January 1, 2024, all revenue resulting from such tax, including any interest and/or penalties thereon, shall be credited to and deposited in the account created by the Comptroller pursuant to Subsection 12(b) of this Local Law.
- d. On and after January 1, 2024, all amounts deposited in the account created pursuant to Subsection 12(b) of this Local Law shall be made available and distributed to Buffalo Niagara Convention & Visitors Bureau, Inc. pursuant to a lawfully executed agreement between Buffalo Niagara Convention & Visitors Bureau, Inc. and the County of Erie. Such agreement shall include a requirement that Buffalo Niagara Convention & Visitors Bureau, Inc. shall submit an annual report to the County Executive, County Legislature, and County Comptroller concerning the expenditure of distributions received from the County, the annual budget and business plan, and any additional information as may be required pursuant to such agreement.
- e. An agreement entered into pursuant to Subsection 12(d) of this Local Law shall be approved as to form by the County Attorney, approved by the County Legislature, for a period of three years. The County Executive shall, no later than January 1 of each year of the agreement term, execute a renewal of such agreement and shall file such renewal with the Clerk of the Legislature on or before the date of the first meeting of the Legislature for that year.
- f. In the event that Buffalo Niagara Convention & Visitors Bureau, Inc. to cease operations, lose or alter its 501(c)(6) status, or alter its purpose so that its mission and/or significant activities no longer fulfill the legislative intent of this Local Law, distributions pursuant to Subsection 12(c) of this Local Law shall immediately cease. Thereafter, all revenues received by the County pursuant to this Local Law shall be credited to and deposited in the general fund of the County until such time as an agreement is lawfully executed between the County and a qualifying entity to fulfill the legislative intent of this Local Law.
- g. All entities receiving distributions under this Section are subject to oversight by the Comptroller.

Section 13. Refunds.

- a. In the matter provided by this Section, the Comptroller shall refund or credit, without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the Comptroller for such refund shall be made within one year from the payment thereof. Whenever a refund is made by the Comptroller, the reasons therefore shall be stated in writing. Such application may be made by the occupant, operator, or hosting platform who has actually paid the tax.
- b. Such application may be made by an operator who has collected and paid over such tax to the Comptroller provided that the application is made within one year of the payment by the occupant to the operator, but not actual refund of moneys shall be made to such operator until it shall first be established to the satisfaction of the Comptroller, under such regulations as the Comptroller may prescribe, that the occupant has been repaid in the amount for which the application was made. The Comptroller may, in lieu of any refund, allow credit therefore on payments due from the applicant.
- c. An application for a refund or credit made as provided herein shall be deemed an application for a revision of any tax, penalty, or interest complained of and the Comptroller may receive evidence with respect thereto. After making a determination, the Comptroller shall notify the applicant who shall be entitled to review such determination by a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided that such proceeding is instituted within thirty days following final notice of such determination and a final determination of tax due was not previously made. Such a proceeding shall not be instituted unless an undertaking is filed with the Comptroller in such amount and with such sureties as a Justice of the Supreme County of Erie County shall approve to the effect that if such proceedings be dismissed or the tax confirmed, the petitioner shall pay all costs and charges which may accrue in the prosecution of such proceeding.
- d. A person or entity shall not be entitled to a revision, refund or credit under this Section of a tax, interest or penalty which has been determined to be due pursuant to the provisions of Section 13 of this Local Law where such person or entity has had a hearing or an opportunity for a hearing, as provided by this Section, or has failed to avail himself or herself of the remedies therein provided.
- e. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the Comptroller made pursuant to Section 11 of this Local Law unless it is found that such determination was erroneous, illegal or unconstitutional, either by the Comptroller after a hearing pursuant to this Section, or by a Court under Article 78 of the Civil Practice Law and Rules, pursuant to the provisions of this Local Law.

Section 14. Reserves.

In cases where the occupant, operator, or hosting platform has applied for a refund and has instituted a proceeding under Article 78 of the Civil Practice Law and Rules to review an adverse determination on an application for refund pursuant to Section 13 of this Local Law, the comptroller shall set up appropriate reserves to meet any decision adverse to the County.

Section 15. Remedies Exclusive.

- a. The remedies provided by Section 11 and Section 13 of this Local Law shall be the exclusive remedies available to any entity for the review of tax liability imposed by this Local Law.

b. No determination or proposed determination of tax or determination on any application for refund shall be enjoined or reviewed by an action for declaratory judgment, or any other action not brought under Article 78 of the Civil Practice Law and Rules.

Section 16. Proceedings for Recover Tax.

a. Whenever any operator, hosting platform or other person or entity required to collect and remit occupancy tax pursuant to this Local Law fails to collect and remit and tax, penalty or interest imposed by this Local Law, the Erie County Attorney shall, upon the request of the Comptroller bring or cause to be brought an action to enforce the payment of the same on behalf of Erie County in the Supreme Court of Erie County within sixty days of such request. Should the County Attorney fail to bring such action within sixty days of the Comptroller's request, the Comptroller may bring or cause to be brought such action on behalf of Erie County.

b. If the Comptroller believes that any such operator, hosting platform, or any 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, the Comptroller may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.

c. As an additional or alternate remedy, the Comptroller may issue a warrant, directed to the Sheriff commanding the Sheriff or the Sheriff's duly authorized designee, to levy upon and sell the real and personal property of the operator, hosting platform, or any person liable for the tax as described by this Local Law which may be found within Erie County for payment of the amount thereof with any penalties, interest, and the cost of executing the warrant.

d. The Sheriff shall, within five business days following the receipt of the warrant, file a copy of such warrant with the Clerk. In the discretion of the Comptroller, a warrant of like terms, force and effect may be issued and directed to any officer or employee who shall have all the powers conferred by law upon the Sheriff under this Local Law, provided that such designee shall not be entitled to any fee or compensation in excess of the actual expenses paid in the performance of such duty.

e. The Clerk shall, within five business days after a warrant has been filed by the Sheriff or the Comptroller's designee, enter in the judgment docket the name of the person or entity named in the warrant and the amount of the tax penalties, penalties, and interest for which the warrant is issued and the date when such copy is filed. For the purposes of this subsection, electronic recording of such information into the public-facing records database maintained by the Clerk shall constitute entry into the judgment docket. If the Clerk fails to enter such information onto the judgment docket within five days, the Comptroller may cause such information to be entered on his or her own accord. At such time as warrant information specified by this Subsection is entered onto the judgment docket, the amount of such warrant so docketed shall become a lien upon the interest in real and personal property of the operator, hosting platform, or persons liable for the tax pursuant to this Local Law against which the warrant is issued.

f. The Sheriff or the Comptroller's designee shall proceed upon the warrant, in the same manner and with like effect, as provided by law in respect to executions issued against property upon judgments of a court of record.

g. If a warrant is returned not satisfied in full, the Comptroller 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 had recovered judgment therefore and execution thereon had been returned unsatisfied.

Section 17. Notice Upon Sale.

a. Whenever an operator shall make a sale, transfer or assignment in bulk or in part or the whole of a short-term rental operation or a lease, license or other agreement or right to possess or operate such short-term rental operation, the seller, transferor or assignor shall notify the Comptroller by registered mail of the proposed sale and of the price, terms and conditions thereof. Failure to do so shall result in a fine not to exceed ten thousand dollars imposed against the seller, transferor, assignor, and, in the case of a corporate entity, the officers, partners, members, or owners of such entity.

b. Whenever an operator shall make a sale, transfer or assignment in bulk or in part or the whole of such operator's operation, lease, license or other agreement or right to possess or operate such short-term rental operation, otherwise than in the ordinary and regular course of business, the purchaser, transferee or assignee, shall at least ten days before taking possession of the subject of said sale, transfer or assignment or paying therefor, notify the Comptroller by registered mail 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.

c. Whenever the purchaser, transferee or assignee shall fail to give notice to the Comptroller as required by the Subsection 17(a), or whenever the Comptroller shall inform the purchaser, transferee or assignee that a possible claim for such tax exists, any sums of money, property, causes of action, or other consideration which the purchaser, transferee or assignee is required to remit 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.

d. The purchaser, transferee or assignee is forbidden to transfer to the seller, transferor or assignor any such sums of money, property, causes of action, or other consideration to the extent of the amount of the County's claim.

e. Where a purchaser, transferee or assignee fails to comply with the provisions of this Section, the purchaser, transferee or assignee shall be liable for the payment to the County of all taxes, penalties, and interest theretofore or thereafter determined to be due to the County from the seller, transferor, or assignor.

f. All such liability imposed by this Section may be assessed and enforced in the same manner as the liability for the tax under this Local Law.

Section 18. General Powers of the Comptroller.

In addition to the powers granted to the Comptroller elsewhere in this Local Law, the Comptroller is hereby authorized and empowered:

- a. To make, adopt and amend rules and regulations appropriate to the carrying out of this local law and the purposes thereof;
- b. To extend for cause shown, the time of filing any return for a period not exceeding thirty days; and for cause shown, to remit penalties but not interest computed at the rate of six percent per annum; and to compromise disputed claims in connection with the taxes hereby imposed;
- c. To request information from the New York State Department of Taxation and Finance or the Treasury Department of the United States relative to any person; and to afford information to such tax commission or such treasury department relative to any person, notwithstanding any other provision of this Local Law to the contrary;
- d. To delegate any functions hereunder to the Deputy Comptroller or any officer or employee of the Office of Comptroller;
- e. To prescribe methods for determining the rents for occupancy and to determine the taxable and non-taxable rents;
- f. To require any operator within the County to keep detailed records of the nature and type of hotel maintained, nature and type of service rendered, the 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 imposed by this Local Law, and to furnish such information upon request to the Comptroller;
- g. To require any operator within the County to maintain any and all records required by this Local Law for a concrete length of time in excess of the five-year period required under Section 8 of this Local Law not to exceed five additional years;
- h. To permit an operator or hosting platform, upon a showing of good cause, to enter into an agreement with the County allowing the operator or hosting platform to make periodic payments in a manner and at such intervals to be prescribed by the Comptroller, provided that no such payment plan exceeds two years following the date that the return was due pursuant to Section 9 of this Local Law;
- i. To assess and determine the taxes imposed under this Local Law.

Section 19. Administration of Oaths.

- a. The Comptroller or the Comptroller's duly authorized employees or agents 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 Comptroller 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 this 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 state or unable to attend in person or excused from attendance.

- b. A Justice of the Supreme Court of Erie County either in court or at chambers shall have power to summarily 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 Comptroller 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 Comptroller under this Local Law shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than five thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment.
- d. The officers who serve the summons or subpoena of the Comptroller 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 Sheriff of Erie County, the Sheriff's duly appointed deputies or any officers or employees of the Comptroller who have been designated by the Comptroller to serve such process.

Section 20. Reference to Tax.

- a. Whenever reference is made in placards, promotion, publication or other form of public-facing signage or advertisement to the tax imposed by this Local Law, such reference shall be substantially in the following form: "Tax on occupancy of rooms for short-term accommodation."
- b. Whenever reference is made in any bill, receipt, statement or other evidence or memorandum of occupancy or rent charge issued or employed by the operator or hosting platform to the tax imposed by this Local Law, the phrase "occupancy tax" will suffice.

Section 21. Penalties and Interest.

- a. Any person failing to file a return or to pay over any tax to the Comptroller within the time required by this Local Law shall be subject to a penalty of five percent of the amount of tax due, plus interest at the rate of one 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.
- b. The Comptroller may, if satisfied that the delay was excusable, waive all or any part of a penalty imposed by this Section. The Comptroller may not waive interest accrued at the rate of six percent annually. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this Local Law. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this Local Law.
- c. Any operator, occupant, or hosting platform failing to file a return required by this Local Law, or filing or causing to be filed any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this Local Law, which is willfully false shall be subject to a fine not to exceed ten thousand dollars. The individual who engages in such conduct

while acting as the agent of such operator, occupant or hosting platform shall be guilty of a misdemeanor. The Comptroller may, in his discretion, refer such violations to the Erie County District Attorney.

d. Any occupant, operator, or hosting platform who violates the provisions of this local law, in addition to any other penalties so specified by this Local Law, shall be subject to a fine not to exceed ten thousand dollars. Such violations include, but are not limited to:

1. Failing to file a bond required to be filed pursuant to Section 11 of this Local Law;
2. Failing to file a registration certificate and such data in connection therewith as the Comptroller may by regulation or otherwise require;
3. Failure to display or surrender the Certificate of Authority as required by this Local Law or assigning or transferring such Certificate of Authority;
4. Failing to charge the tax imposed by this Local Law altogether or separately from the rent;
5. Failing to keep the records required by Section 8 of this Local Law or otherwise required by the Comptroller by regulation.

e. In addition to the penalties imposed by this Section and otherwise imposed elsewhere by this Local Law, entities in violation thereof shall be subject to daily fines not to exceed five hundred dollars per day for each day such entity remains in violation of this Local Law. Such penalties shall be collected in the same manner as otherwise prescribed elsewhere in this Local Law.

f. The certificate of the Comptroller, to the effect that a tax has not been paid, that a return bond or registration certificate has not been filed or that information has not been supplied pursuant to the provisions of this Local Law, shall be presumptive evidence thereof.

Section 22. Returns to be Secret.

a. Within 120 days of the effective date of this Local Law, the County shall establish a confidential mechanism permitting owners and operators to submit returns, pay amounts owed, and transmit all other information required by this Local Law in electronic form.

b. Except as provided by a proper judicial order, or as otherwise provided by law, it shall be unlawful for the Comptroller or any officer or employee of the Office of Comptroller 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 under the Local Law. The officers charged with the custody of such returns shall not be required to produce any return required by this Local Law or evidence of any information contained in them in any action or proceeding in any court or administrative proceeding except on behalf of the Comptroller in an action or proceeding brought under the provisions of this Local Law when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit into evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more.

- c. Nothing herein shall be construed to prohibit the following:
1. delivery to a taxpayer or a taxpayer's duly authorized representative of a certified copy of any return filed in connection with such taxpayer's obligation under this Local Law; or
 2. the publication of statistics so classified as to prevent the identification of particular returns and the items thereof;
 3. the inspection of 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; or
 4. confirming for any person or entity that a named operator does not have any undue outstanding tax liabilities, interest and/or penalties pursuant to this Local Law.
- d. Returns shall be preserved for five years and thereafter until the Comptroller permits them to be destroyed.
- e. Any violation of subdivision (b) of this Section shall be punishable by a fine not exceeding \$1,000. Any willful violation of subdivision (b) of this Section by an officer or employee of the County shall result in that officer or employee's immediate dismissal from office and prohibition from holding any public office for a period of five years thereafter.
- f. In the event that any person or operator fails to timely and accurately file a return and/or collect and remit the tax due and owing to the County, and/or fails to adhere to the terms and conditions of any agreement said party enters into with the County for the payment of taxes due hereunder, the restriction contained in subdivision (b) of this Section shall be lifted. Only authorized officers and employees of the Office of Comptroller, Division of Budget and Management, and Department of Law are permitted to release limited identifying information regarding the delinquency, including, but not limited to, an operator, person or taxpayer's name, names of the principals of said owner and/or operator, and the amount of the delinquency.

Section 23. Notices and Limitations of Time.

- a. Any notice authorized or required under the provisions of this local law may be given by sending the same by certified mail:
1. In the case of an operator or hosting platform, to the address provided on the last return filed pursuant to the provisions of this Local Law; or
 2. In the case of an occupant, to the address provided by such occupant on the most recent application made to the Comptroller pursuant to Section 11 or Section 13 of this Local Law.
- b. The mailing of such notice shall be presumptive evidence of receipt by the entity to which the notice is addressed. Any time period which is determined according to the notice provisions of this Local Law shall commence to run from the date of mailing of such notice.

- c. The provisions of the Civil Practice Law and Rules or any other law conflicting with Chapter 614 of the Laws of 1974 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, interest, or penalty provided by this Local Law.
- d. Where an operator or hosting platform files 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 years from the date of the filing of a return.
- e. Where no return has been filed by an operator or hosting platform as provided by Section 9 of this Local Law, the tax may be assessed at any time.
- f. 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. No extension authorized by this subsection shall, by itself or cumulatively, exceed two years past the original date of the return required by Section 9 of this Local Law.

Section 24. Effective Date.

This Local Law shall take effect upon filing with the New York Secretary of State and shall not be applied retroactively to the collection and remittance of taxes prior to the amendment to this local law taking effect.

Section 25. Completion of Unfinished Business.

Any matter undertaken or initiated and liabilities incurred under the provisions of the local laws repealed by Section 1 of this Local Law which are pending on the effective date of this Local Law shall be completed in the same manner and under the same terms and conditions and with the same effect as if conducted and completed in accordance with the provisions of the Local Laws herein repealed. Such matters include but are not limited to tax liability, interest and penalties previously incurred, warrants previously issued, and applications for refund previously made. Nothing in this Section shall be interpreted to exempt or excuse any operator or hosting platform from filing a certificate of registration with the Comptroller pursuant to Section 6(a) of this Local Law.

Section 26. Severability.

If any clause, sentence, paragraph, section, subsection, subdivision, or any part of this Local Law or the application therefore to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order of judgment 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 of this Local Law and its subsequent amendments or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

Sponsor:

Howard J. Johnson, Jr.

MR. MEYERS moved to approve Local Law No. 3 (Print #2). MR. JOHNSON seconded.

CHAIR BASKIN directed that a roll-call vote be taken.

AYES: MR. GREENE, MR. MALCZEWSKI, MR. MILLS, MR. TODARO, MR. BARGNESI, CHAIR BASKIN, MR. GILMOUR, MR. JOHNSON, MR. KOOSHOIAN, MR. MEYERS and MS. VINAL. NOES: None. (AYES: 11; NOES: 0)

CARRIED UNANIMOUSLY.

Item 10 – MR. MEYERS moved to take Local Law No. 7 (Print #1) 2023 from the table. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

COUNTY OF ERIE

LOCAL LAW INTRO – NO. 7-1-2023

LOCAL LAW – NO. _____ - 2023

A local law providing for the extended lease of real property generally known as the Wendt Mansion located at 7676 Old Lakeshore Road, Evans, New York, 14047. This Local Law supersedes New York State County Law Section 215, subdivisions (4) and (6).

Be it enacted by the Legislature of the County of Erie as follows:

Section 1 – Intent

The Erie County Legislature intends to supersede the real property lease term restrictions as well as the competitive bidding and public advertisement requirements provided for in New York State County Law Section 215 subdivisions (4) and (6) by authorizing Erie County to lease county owned real property located at 7676 Old Lakeshore Road, in the Town of Evans for a term not-to-exceed thirty years to one or more entities who will provide recreational, dining, lodging, and other related services and activities to members of the community.

Section 2 – Public Use Determination and Authorization of Extended Lease Length

The Erie County Legislature hereby determines that the real property located at 7676 Old Lakeshore Road, Evans, New York, 14047 (“subject property”) is not required for public use. Furthermore, notwithstanding the provisions of section 215 of New York State County Law or any special act or local law to the contrary, the County is hereby authorized to lease the subject property to one or more entities who will use the leased real property to provide recreational, dining, lodging, and other related services and activities to members of the community for a term not-to exceed 30 years.

Section 3 – Competitive Bidding and Public Advertisement

Notwithstanding the provisions of section 215 of New York State County Law or any special act or local law to the contrary, the County is hereby authorized to lease the subject property without public advertisement and is not bound to follow a competitive bidding scheme or to lease only to the highest responsible bidder.

Section 4 - Severability

If any article, section, subsection, paragraph, phrase or sentence of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereof.

Section 5 – Effective Date

This local law shall take effect upon filing with the New York State Secretary of State.

Sponsors:

John Gilmour

John Mills

MR. MEYERS moved to approve Local Law No. 7 (Print #1). MR. GILMOUR seconded.

CARRIED UNANIMOUSLY.

Item 11 – MR. MEYERS moved to take Local Law No. 8 (Print #1) 2023 from the table. MR. GILMOUR seconded.

CARRIED UNANIMOUSLY.

COUNTY OF ERIE

LOCAL LAW INTRO – NO. 8-1-2023

LOCAL LAW – NO. _____ - 2023

A local law providing for the extended lease of real property generally known as the Jesse Nash Health Clinic located at 608 William Street, Buffalo, New York, 14206. This Local Law supersedes New York State County Law Section 215, subdivisions (4) and (6).

Be it enacted by the Legislature of the County of Erie as follows:

Section 1 – Intent

The Erie County Legislature intends to supersede the real property lease term restrictions as well as the competitive bidding and public advertisement requirements provided for in New York State

County Law Section 215 subdivisions (4) and (6) by authorizing Erie County to lease county owned real property located at 608 William Street in the City of Buffalo for a term not-to-exceed fifteen years to one or more entities who will use the leased real property to provide health care and related services to members of the community.

Section 2 – Public Use Determination and Authorization of Extended Lease Length

The Erie County Legislature hereby determines that the real property located at 608 William Street, Buffalo, New York 14206 (“subject property”) is not required for public use. Furthermore, notwithstanding the provisions of section 215 of New York State County Law or any special act or local law to the contrary, the County is hereby authorized to lease the subject property to one or more entities who will use the leased real property to provide health care and related services to members of the community for a term not-to-exceed 15 years.

Section 3 – Competitive Bidding and Public Advertisement

Notwithstanding the provisions of section 215 of New York State County Law or any special act or local law to the contrary, the County is hereby authorized to lease the subject property without public advertisement and is not bound to follow a competitive bidding scheme or to lease only to the highest responsible bidder.

Section 4 – Reporting Requirements

The Erie County Legislature requires any entity who leases real property at the Jesse Nash Health Clinic from the County to submit an annual report. The annual report shall include a review of their operations from the previous year, with a focus on the entity’s impact on the immediate neighborhood where Jesse Nash Health Clinic is located, including the 14206, 14210, 14204, and 14211 zip codes. The report shall also include the entity’s plan for the year ahead to improve and expand access to its services and programs.

Section 5 - Severability

If any article, section, subsection, paragraph, phrase or sentence of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereof.

Section 6 – Effective Date

This local law shall take effect upon filing with the New York State Secretary of State.

Sponsor:
Howard Johnson

MR. MEYERS moved to approve Local Law No. 8 (Print #1). MR. GILMOUR seconded.

CARRIED UNANIMOUSLY.

Item 12 – CHAIR BASKIN directed that Local Law No. 9 (Print #1) 2023 be directed to the HEALTH & HUMAN SERVICES COMMITTEE.

GRANTED.

COMMITTEE REPORTS

Item 13 – MR. MEYERS presented the following report and moved for immediate consideration and approval. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 188

November 30, 2023	FINANCE & MANAGEMENT COMMITTEE REPORT NO. 11
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ALL MEMBERS PRESENT.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 20M-4 (2023)
BUFFALO PLACE EXECUTIVE DIRECTOR: “Buffalo Place - 2024 Budget”
(Chair’s Ruling)
 - b. COMM. 21E-1 (2023)
COMPTROLLER: “Interim Financial Report - 3rd Quarter 2023”
(Chair’s Ruling)
 - c. COMM. 21D-1 (2023)
DIRECTOR OF BUDGET & MANAGEMENT: “November Capital Projects Update”
(Chair’s Ruling)
 - d. COMM. 21M-3 (2023)
ECIDA ACCOUNTING MANAGER: “2024 Budgers for ECIDA, RDC & ILDC”
(Chair’s Ruling)
 - e. COMM. 21M-5 (2023)
ASSIGNED COUNSEL PROGRAM: “Quarterly Report of the Assigned Counsel Program”
(Chair’s Ruling)
2. COMM. 21E-6 (2023)
COUNTY EXECUTIVE

WHEREAS, Erie County is a municipal corporation and is bound by the New York State Taylor Law to negotiate terms and conditions of employment with duly-elected employee organizations; and

WHEREAS, the Teamsters Local 264 (“Teamsters” or “Unit”) represents the Captain and Lieutenant employees who work at the Erie County Holding Center; and

WHEREAS, the existing collective bargaining agreement between Employer and the Unit is set to expire on December 31, 2023; and

WHEREAS, Employer and the Unit negotiated a collective bargaining agreement, covering the period between January 1, 2024 and December 31, 2026; and

WHEREAS, Unit membership recently ratified the agreement; and

WHEREAS, unbudgeted 2024 expenses associated with this contract will need to be address as part of 2023 budget balancing through the designation of year-end surplus.

NOW, THEREFORE, BE IT

RESOLVED, the agreement between Employer and the Unit for the period January 1, 2024-December 31, 2026, is hereby approved; and be it further

RESOLVED, all terms and conditions of the successor agreement shall be implemented in full; and; be it further

RESOLVED, that the remaining additional costs associated with this contract for 2023 will be covered by vacancy savings within the Sheriff’s Office’s Division of Jail Management’s Operating Budget; and be it further

RESOLVED, that the Director of Budget and Management is hereby authorized to make any and all required budgetary adjustments to properly fund the increased costs associated with the Unit agreement and the Commissioner of Personnel is authorized to make any necessary personnel adjustments to implement the terms of the agreement for County employees; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Erie County Executive’s Office, Sheriff’s Office, Comptroller’s Office, Division of Budget and Management, Department of Labor Relations, Department of Personnel, and the Erie County Fiscal Stability Authority.

(5-0)

TIMOTHY J. MEYERS
CHAIR

Item 14 – MR. MEYERS presented the following report and moved for immediate consideration and approval. MR. GILMOUR seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 189

November 30, 2023	ENERGY & ENVIRONMENT COMMITTEE REPORT NO. 14
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ALL MEMBERS PRESENT.

1. RESOLVED, the following item is hereby received and filed:

a. COMM. 21E-10 (2023)
COUNTY EXECUTIVE: “ECSD No 4 - Engineer Term Contract Agreement”
(Chair’s Ruling)

2. COMM. 21E-11 (2023)
COUNTY EXECUTIVE

WHEREAS, pursuant to Legislative Comm. 3E-20 (2022), Contract No. 45 was awarded to CMH Company, Inc. to construct the North Seine Drive Sanitary Sewer Replacement Project in Erie County Sewer District No. 1; and

WHEREAS, the Erie County Division of Sewerage Management has advised that all scheduled improvements are now complete; and

WHEREAS, the Erie County Department of Environment and Planning has recommended the acceptance of Contract No. 45 in the final contract amount of \$421,082.14 which includes Change Order No. 1, a decrease of \$80,917.86, and Change Order No. 2 (final, no-cost time extension), and recommends approval for final payment.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby accepts Contract No. 45 between the County of Erie and CMH Company, Inc. (12750 North Road, Alden, NY 14004) in the final contract amount of \$421,082.14 which includes Change Order No. 1, a decrease of (\$80,917.86) and is allocated in Capital Account C.21150 (American Rescue Plan funds) and Change Order No. 2 (final), a no-cost time extension; and be it further

RESOLVED, that authorization is hereby given to the County Comptroller and Director of the Division of Budget and Management to implement any adjustments necessary to facilitate this funding; and be it further

RESOLVED, that the Erie County Comptroller be directed to make final payment for Contract No. 45 to CMH Company, Inc. for a total contract amount of \$421,082.14; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one (1) certified copy of this resolution to the County Executive, the Erie County Comptroller, the Director of Budget and

Management, Richard Stanton, Assistant County Attorney, and Joseph Fiegl, P.E., Deputy Commissioner, Department of Environment and Planning.
(5-0)

3. COMM. 21E-12 (2023)
COUNTY EXECUTIVE

WHEREAS, the New York State Department of Transportation (NYSDOT) in the calendar year 2024 proposes the construction, reconstruction, or improvement capital projects of State highways within the boundaries of the Erie County Sewer Districts; and

WHEREAS, the State will include adjustment of sanitary sewer facilities as part of their capital projects pursuant to Section 10, Subdivision 24, of the State Highway Law, as shown on contract plans relating to the projects and satisfying the requirements of the Erie County Sewer Districts; and

WHEREAS, the service life of the adjusted utilities has not been extended; and

WHEREAS, the Erie County Department of Environment and Planning, Division of Sewerage Management recommends that the County of Erie enter into NYSDOT Utility Work Agreements (HC-140) in the year 2024 to allow for adjustment of Erie County Sewer District assets required for NYSDOT capital projects at the NYSDOT's expense.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature approves the proposed adjustments for the County owned sanitary sewer facilities as shown on contract plans relating to NYSDOT capital projects, and completed at the NYSDOT's expense; and be it further

RESOLVED, that the affected Erie County Sewer District will maintain or cause to be maintained facilities adjusted by the NYSDOT as above stated; and it be further

RESOLVED, that the Commissioner of the Erie County Department of Environment and Planning or his/her designee is hereby authorized, on behalf of the County of Erie, to sign NYSDOT Utility Work Agreements; and be it further

RESOLVED, that the Commissioner of the Erie County Department of Environment and Planning or his/her designee is hereby authorized, on behalf of the County of Erie, to sign any additional documentation relating to a project to be completed under an aforementioned NYSDOT Utility Work Agreements; and it be further

RESOLVED, that the Clerk of the Legislature send one (1) certified copy of this resolution to the New York State Department of Transportation with each package of NYSDOT Utility Work Agreements for each NYSDOT capital project approved by Erie County Department of Environment and Planning, and one (1) certified copy each of this resolution to the County Executive, the County Comptroller, Richard Stanton, Assistant County Attorney, and Joseph Fiegl, P.E., Department of Environment and Planning.

(5-0)

4. COMM. 21E-14 (2023)
COUNTY EXECUTIVE

WHEREAS, the Erie County Legislature established the Erie County Agricultural and Farmland Protection Board on March 18, 1993 in accordance with AML Article-25AA, Section 302(a); and

WHEREAS, the Erie County Agricultural and Farmland Protection Board is an advisory board on agricultural matters to the Erie County Legislature; and

WHEREAS, the Erie County Agricultural and Farmland Protection Board and the Department of Environment and Planning utilize the current Agricultural and Farmland Protection Plan to guide decision making on agricultural matters; and

WHEREAS, the *Erie County Agricultural and Farmland Protection Plan* was last updated in 2012 and accepted by the Erie County Legislature on March 21, 2013; and

WHEREAS, the Erie County Agricultural and Farmland Protection Board, Erie County Department of Environment and Planning and Erie County Legislature desires to update the 2013 Erie County Agricultural and Farmland Protection Plan to address changes in the last ten years and address emerging issues impacting the agricultural industry; and

WHEREAS, Article 25-AA of the New York State Agriculture and Markets Law (“AML”) authorizes the New York State Department of Agriculture and Markets (“AGM”) to maintain a state agricultural and farmland protection program to provide financial assistance to assist counties in developing and updating agricultural and farmland protection plans; and

WHEREAS, AGM has released a Request for Applications for State Assistance Payments for County Agricultural and Farmland Protection Planning Grants; and

WHEREAS, Erie County applied and was awarded a \$50,000 grant from AGM; and

WHEREAS, the AGM County Agricultural and Farmland Protection Planning Grants program requires counties to provide a local match; and

WHEREAS, the Department of Environment and Planning released a Request of Proposals for agricultural planning services in compliance with Section 26.08 of the Erie County Administrative Code; and

WHEREAS, Labella Associates was selected for the Update of the Erie County Farmland Protection Plan.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the County Executive to accept the New York State Agricultural and Markets grant in the amount of \$50,000 from the AGM Farmland Protection Planning Grant program and amend the 2023 General Fund Budget (Fund 110 Fund Center 16200) as follows:

Department of Environment and Planning
Fund 110, Funds Center 16200

<u>ACCOUNT</u>	<u>REVENUE</u>	<u>CHANGE</u>
409000	State Aid Revenue	<u>\$50,000</u>
	TOTAL	<u>\$50,000</u>

<u>ACCOUNT</u>	<u>APPROPRIATION</u>	<u>CHANGE</u>
516020	Professional Service Contracts & Fees	<u>\$50,000</u>
	TOTAL	<u>\$50,000</u>

and be it further

RESOLVED, that authorization is hereby given to provide the local match to the AGM grant in the amount of \$59,000 from the following source Fund 110, Funds Center 16200, GL 516020 (Professional Service Contracts & Fees); and be it further;

RESOLVED, that authorization is hereby provided for the County Executive to execute a contract for consulting services for the Agricultural and Farmland Protection Plan update in an amount not to exceed \$109,000 with LaBella Associates, D.P.C; and be it further

RESOLVED, that authorization is hereby given to the County Executive to approve contract amendments with Labella Associates, or other entities as necessary, not to exceed \$21,000 from Fund 110, Funds Center 16200, GL 516020 (Professional Service Contracts & Fees); and be it further

RESOLVED, that authorization is hereby given to the Division of Budget and Management to implement any necessary technical or budget adjustments as required to comply with funding requirements; and be it further

RESOLVED, that the Clerk of the Legislature is directed to send two certified copies of this resolution to the Department of Environment and Planning and one copy each to County Executive's Office, Comptroller's Office, and Division of Budget Management.
(5-0)

TIMOTHY J. MEYERS
CHAIR

Item 15 – MR. GILMOUR presented the following report and moved for immediate consideration and approval. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 190

November 30, 2023	HEALTH & HUMAN SERVICES COMMITTEE REPORT NO. 13
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ALL MEMBERS PRESENT.

1. RESOLVED, the following item is hereby received, filed and printed:
 - a. COMM. 21E-5 (2023)
COUNTY EXECUTIVE: “Appointment to the Mental Hygiene Community Services Board”
(Chair’s Ruling)

November 13, 2023

Erie County Legislature
92 Franklin St, 4th Floor
Buffalo, NY 14202

RE: Appointment to the Mental Hygiene Community Services Board

Dear Honorable Members,

Pursuant to the powers vested in me by Section 1303 of the Erie County Charter, I hereby appoint the following person to the Erie County Mental Hygiene Community Services Board for a term ending December 31, 2026.

Emma L. Fabian
14 Brayton Street
Buffalo, NY 14213

Should you have any questions regarding this appointment please feel free to contact my office at (716)858-8500.

Sincerely,
Mark C. Poloncarz
Erie County Executive

2. COMM. 21E-15 (2023)
COUNTY EXECUTIVE
WHEREAS, the Erie County Department of Health (ECDOH) participates in the New York State Public Health Corps. (NYSPHC) Fellowship Program and currently has over 91 fellows with an additional 10 planned by end of 2023; and

WHEREAS, the NYSPHC Fellowship Program is designed to build expertise for healthcare including community outbreak response and infection prevention and control among local health departments; and

WHEREAS, the NYSPHC Fellowship Program assists ECDOH in direct health education services to inform and protect communities, improves outreach and assistance to vulnerable populations, and response to public health activities such as vaccination, prevention campaigns, testing, logistics, operations, and data collection; and

WHEREAS, Erie County was granted funds by NYS for the development of the public health fellows for all expenses related to the program for items such supplies, technology, and travel costs; and

WHEREAS, Erie County would cover these costs through Public Health Consulting LLC.

NOW, THEREFORE, BE IT

RESOLVED, the County Executive is hereby authorized to enter into a contract with Public Consulting Group LLC, waiving the procedures in Section 26.08 of the Erie County Administrative Code; and be it further

RESOLVED, that sufficient funding exists within the Department of Health's "New York State Public Health Corps Fellowship Program" Grant, 127FELLOWSHIP2123 to cover all associated costs of the program; and be it further

RESOLVED, that the Erie County Legislature hereby authorizes the Department of Budget and Management to make any other technical adjustments necessary to properly execute the terms of the agreement; and be it further

RESOLVED, that certified copies of this resolution will be forwarded to the Erie County Executive, the Office of the Comptroller, the Division of Budget and Management, Department of Law and the Department of Health.
(5-0)

3. **COMM. 21E-16 (2023)**
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Health's Children with Special Needs Division currently contracts with many Special Education programs providing Related Services; and

WHEREAS, according to the New York State Education Department (NYSED), if a Committee on Preschool Special Education mandates Related Services, the county must contract with agencies who can provide those services; and

WHEREAS, the Erie is experiencing capacity issues and children are waiting to receive mandated services; and

WHEREAS, Hope Speech Pathology, PLLC, is able to provide Related Services to some children on waiting lists.

NOW, THEREFORE, BE IT

RESOLVED, the Erie County Legislature hereby authorizes the County Executive to enter into a contract with Hope Speech Pathology, PLLC, waiving the procedures in Section 26.08 of the Erie County Administrative Code; and be it further

RESOLVED, that sufficient funds to cover this contract exist within the Health Department's Division of Children With Special Needs 2023 Operating Budget, (Fund 110, Funds Center 12750) Account 528000 – Services to Special Needs Children; and be it further

RESOLVED, that authorization is hereby given to the Division of Budget and Management to make any other technical adjustments necessary to properly execute the terms of the agreement; and be it further

RESOLVED, that certified copies of this resolution will be forwarded to the Erie County Executive, the Office of the Comptroller, the Division of Budget and Management, and to the Commissioner of the Department of Health.
(5-0)

4. COMM. 21E-17 (2023)
COUNTY EXECUTIVE

WHEREAS, between 2012 and 2022, there were more than 2,000 opioid-related deaths in Erie County; and

WHEREAS, in 2016, County Executive Mark Poloncarz declared the opioid epidemic a public health crisis and created an Opioid Epidemic Task Force to coordinate a community-wide response to the crisis; and

WHEREAS, in 2022, Erie County, as part of multiple settlements with opioid manufacturers and distributors, was notified that it will receive tens of millions of dollars over a sixteen-year period; and

WHEREAS, Erie County is expected to receive a total of \$56,174,033 between 2022 and 2038 as a result of a lawsuit against opioid drug manufacturers and distributors. Of the total distribution, \$34,335,446 will be restricted to spending on opioid-epidemic-related activities, including: treatment, prevention, and other epidemic-related strategies; and

WHEREAS, in July of 2022, your Honorable Body passed resolution COMM. 13E-31 Opioid Settlement, which was a strategy developed by the Departments of Health, Mental Health, Probation, and Social Services with the Division of Budget and Management and County Attorney's Office; and

WHEREAS, the annual funding budgeted for in the County's Pharmaceutical Settlement Fund (Fund 295) will support the county departments of Health, Mental Health, Probation, Sheriff, and Social Services which have identified viable initiatives to use these funds to help combat the opioid crisis; and

WHEREAS, part of the strategy presented was to allocate \$1,000,000 for an opioid marketing and education services RFP; and

WHEREAS, a request for proposals review committee reviewed the 8 submissions, interviewed 3, and selected Impact Marketing and Communications Inc., a New York State MWBE company; and

WHEREAS, Impact will play a key role in the awareness, education, and communications around the opioid crisis that will save lives.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the County Executive to enter into a 2-year contract with Impact Marketing and Communications, Inc. for opioid marketing and educational services in an amount not to exceed \$1,000,000; and be it further

RESOLVED, that sufficient funding exists in the Department of Health’s 2024 Pharmaceutical Settlement Budget (Fund 295, Funds Center 12700) Account 516020 – Professional Services, Contracts and Fees and will be budgeted for in 2025 to cover the \$1,000,000 expense of this RFP award over the 2-year period; and be it further

RESOLVED, that the Erie County Legislature hereby authorizes the Department of Budget and Management to make any other technical adjustments necessary to properly execute the terms of the agreement; and be it further

RESOLVED, the Clerk of the Legislature shall forward certified copies of this Resolution to the County Executive, the Director of the Division of Budget and Management, the Office of the Comptroller, the County Attorney’s Office, and the Commissioner of Health.
(5-0)

**JOHN J. GILMOUR
CHAIR**

Item 16 – MR. JOHNSON presented the following report and moved for immediate consideration and approval. MR. MEYERS seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 191

November 30, 2023	ECONOMIC DEVELOPMENT COMMITTEE REPORT NO. 16
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ALL MEMBERS PRESENT.

1. COMM. 21E-7 (2023)
COUNTY EXECUTIVE

WHEREAS, this project is part of a larger multi-phased Power Distribution/Wiring and Mechanical upgrade project as capital funds are secured and become available, and is consistent with JMZ Architect's Masterplan; and

WHEREAS, Bretschger Hall has been identified as the most urgent need for power and mechanical upgrades at North Campus; and

WHEREAS, a large majority of classrooms are conditioned using wall steam heat unit ventilators and are original to the 1958 and 1968 buildings, at the end of their useful service life and in poor condition. The building uses low pressure steam as one of its heating sources from (4) TRIAD boilers that were installed in 2008. These boilers have a typical service life of between 15 to 20 years, however, have required a significant amount of maintenance in the last several years and are near the end of their useful life. The general exhaust system, building entry and hallway heating steam convector units, pneumatic control systems, are original to the buildings and have reached the end of their useful service life and in poor condition. The original steam boiler plant consisting of (3) boilers have been abandoned in place, is consuming floor space in the mechanical room and should be removed so that the equipment does not become a risk to the environment; and

WHEREAS, the low-voltage panelboards, transformer and main switchboards, and feeders are original to the buildings, and will not provide for safe modifications to support a renovation or large HVAC system replacements; and

WHEREAS, in order to reduce maintenance costs associated with temporary "stop-gap" measures to keep the heating equipment functioning, a full replacement is warranted. Significant energy savings will be achieved utilizing energy efficient upgraded mechanical heating systems with advance control operations like demand control ventilation, night setback and ventilation control strategies; and

WHEREAS, the project may be eligible for rebates and incentives from various agencies such as National Grid, NYSERDA and/or utility companies; and

WHEREAS, the County of Erie received bids for the SUNY Erie Community College North Campus Bretschger Hall Power and Mechanical Upgrades project on Thursday, October 19, 2023; and

WHEREAS, the lowest responsible bidder for the General Construction Work is Lake Side Contracting Co., Inc.; Mechanical/Plumbing Construction Work is MLP Plumbing & Mechanical, Inc.; and Electrical Construction Work is Weydman Electric Inc.; and

WHEREAS, the County of Erie will receive 50% reimbursement from New York State for this project; and

WHEREAS, the Department of Public Works and IBC Engineering PC are recommending award of the contract to the lowest responsible bidders for the SUNY Erie Community College North Campus Bretschger Hall Power and Mechanical Upgrades project.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the County Executive to enter into a contract with the lowest responsible bidders for the SUNY Erie Community College North Campus Bretschger Hall Power and Mechanical Upgrades project for an amount not to exceed as follows:

<u>General Construction Work</u>		
Lake Side Contracting Co., Inc.	Base Bid:	\$ 1,558,000.00
	Add Alt G-05:	\$ 44,900.00
Total Award of General Construction Contract:		\$ 1,602,900.00
<u>Mechanical/Plumbing Construction Work</u>		
MLP Plumbing & Mechanical, Inc.	Base Bid:	\$ 4,532,000.00
	Add Alt MP-04:	\$ 299,000.00
Total Award of Mechanical/Plumbing Construction Contract:		\$4,831,000.00
<u>Electrical Construction Work</u>		
Weydman Electric Inc.	Base Bid:	\$ 1,497,000.00
	Add Alt E-04:	\$ 10,000.00
Total Award of Electrical Construction Contract:		\$ 1,507,000.00

and be it further

RESOLVED, that authorization is hereby given for the sum of \$559,100.00 be allocated to a Construction Contingency Fund with authorization for the County Executive to approve change orders in an amount not to exceed the Contingency Fund; and be it further

RESOLVED, that change order reductions will result in these funds being returned to the Construction Contingency Fund; and be it further

RESOLVED that authorization is hereby provided to the Division of Budget and Management and the Comptroller’s Office to accept any rebates and incentives and deposit it into E.23050 – 2023 SUNY Erie Facility Master Plan – Phase 2, Fund 480, Funds Center 122; and be it further

RESOLVED, that authorization is hereby given to the Comptroller’s Office to make payment for all the above from the approved Capital Budgets, Fund 480, Funds Center 122, as follows:

E.17005	2017 ECC Code Compliance (Collegewide)	\$ 208.48
E.17006	2017 ECC MEP and Miscellaneous Improvements (Collegewide)	\$ 58,296.79
E.18006	2018 ECC MEP and Miscellaneous Improvements (Collegewide)	\$ 15,512.47
E.19001	2019 Collegewide Improvements and Renovations	\$ 118,388.97
E.20001	2020 Collegewide Improvements and Renovations	\$2,015,770.67
E.22001	2022 SUNY ECC Facility Master Plan – Phase 1	\$3,000,000.00
E.23050	2023 SUNY Erie Facility Master Plan – Phase 2	\$3,291,822.62
For a Total Amount Not to Exceed		\$8,500,000.00

and be it further

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Commissioner’s Office, and one copy each to the Office of the County Executive, the Division of Budget and Management, Erie Community College, Director of Finance, and the Office of the Comptroller.

(5-0)

2. COMM. 21E-13 (2023)
COUNTY EXECUTIVE

WHEREAS, Erie County previously authorized the following Projects RENEW Plan Phase 6, through Comm. 22-E-13 on December 1, 2022 and RENEW Plan Phase 7, through Comm.11E-34 on June 8, 2023:

<u>Amount</u>	<u>Scope of Work</u>	<u>Contract Awardee</u>
\$30,000	Kenmore Volunteer Fire Department Floor Replacement	Kenmore Volunteer Fire Department
\$17,000	Town of Tonawanda Pool Liner Replacement	Town of Tonawanda
\$50,000	Bellevue Fire District Ambulance	Bellevue Fire District #9

and

WHEREAS, the following organizations have requested project scopes of work and grantee be amended as follows:

<u>Amount</u>	<u>Scope of Work</u>	<u>Contract Awardee</u>
\$30,000	Capital Improvements to Kenmore Fire Department	Village of Kenmore
\$17,000	Capital Improvements to Kenmore Pool site	Town of Tonawanda
\$50,000	Capital Improvements to Bellevue Fire District #9	Bellevue Fire District #9

and

WHEREAS, the Legislature deleted the Small Business Park Project, as proposed and authorized in American Rescue Plan Omnibus Spending Package – the “RENEW Plan” Comm. 13E-15 (2021) with funding reallocated and any remainder held in reserve for future projects in RENEW Plan Contracts Authorizations – Phase 7 Comm. 11E-34 (2023); and

WHEREAS, the Legislature deleted the GBUAHN Health Home Project, as proposed and authorized in RENEW Plan Contracts Authorization – Phase 1 Comm. 18E-18 (2021) with funding reallocated and any remainder held in reserve for future projects in RENEW Plan Contracts Authorizations – Phase 6 Comm. 22E-13 (2022).

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the following amendments:

<u>Amount</u>	<u>Scope of Work</u>	<u>Contract Awardee</u>
\$30,000	Capital Improvements to Kenmore Fire Department	Village of Kenmore
\$17,000	Capital Improvements to Kenmore Pool site	Town of Tonawanda
\$50,000	Capital Improvements to Bellevue Fire District #9	Bellevue Fire District #9

and be it further

RESOLVED, that authorization is hereby given for the remaining \$65,000 of RENEW Plan funding originally reserved for the GBAUHN Health Home in Fund 110, Funds Center 16200, Account # 570050 – Interfund Transfer Capital to be reallocated as follows:

<u>Amount</u>	<u>Funds Center</u>	<u>Account</u>	<u>Name</u>
\$ 5,000	1332010	518118	Jury Diversification Project
\$ 50,000	14030	575000	Interfund Expenditure Non-Subsidy

and be it further

RESOLVED that authorization is hereby given for the remaining \$76,934 of RENEW Plan funding originally reserved for the Erie County Small Business Park Project in Fund 110, Funds Center 16200, Account # 570050 – Interfund Transfer Capital to be reallocated as follows:

<u>Amount</u>	<u>Funds Center</u>	<u>Account</u>	<u>Name</u>
\$ 76,934	14030	575000	Interfund Expenditure Non-Subsidy

and be it further

RESOLVED, that authorization is hereby given to the Director of the Division of Purchasing to create any necessary documents to facilitate the granting of \$15,000 in funding to the Jury Diversification Project; and be it further

RESOLVED, that authorization is hereby given for the County Executive to execute a contract with SUNY Erie Community College in the amount of \$126,934 for the South Campus Cafeteria Kitchen Equipment Project; and be it further

RESOLVED, that authorization is hereby given for the County Executive/Deputy County Executive to execute contracts, agreements, or inter-municipal agreement with the above noted contract awardees; and be it further

RESOLVED, that authorization is hereby given to the Director of Budget and Management to make any necessary budgetary adjustments as needed to administer these projects including the creation of subsequent capital projects or general fund accounts; and be it further

RESOLVED, that the Clerk of the Legislature shall forward certified copies of this Resolution to the County Executive's Office; the Comptroller's Office; the Division of Budget and Management, and the Department of Environment and Planning.
(5-0)

**HOWARD J. JOHNSON, JR.
CHAIR**

Item 17 – MR. JOHNSON presented the following report and moved for immediate consideration and approval. MR. MEYERS seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 192

November 30, 2023	PUBLIC SAFETY COMMITTEE REPORT NO. 16
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ALL MEMBERS PRESENT.

1. COMM. 21E-3 (2023)

SHERIFF

WHEREAS, nationwide inflationary pressures on staple food costs have severely impacted the Erie County Sheriff's Office; and

WHEREAS, the Erie County Sheriff's Office is responsible to provide hundreds of thousands of meals to incarcerated individuals each year; and

WHEREAS, as 2023 progresses it has been determined that the Erie County Sheriff's Office will not have the necessary funds budgeted for kitchen operations and the provision of proper food and drinks for the incarcerated population; and

WHEREAS, after review of current budget lines within the Erie County Sheriff's Office it has been determined that transfers can be made to cover this budget shortfall.

NOW, THEREFORE, BE IT

RESOLVED, the Erie County Legislature does hereby authorize the following budget adjustments within the Erie County Sheriff's Office Jail Management Division Fund 110, Fund Center 11610:

Decrease – 505200 Clothing	\$ 80,000
Decrease – 505600 Automotive Supplies	\$ 20,400
Decrease – 510100 Out of Area Travel	\$ 8,000
Decrease – 516020 Professional Services	\$ 120,000
Decrease – 530000 Other Expenses	\$ 20,000
Decrease - 561440 Motor Vehicles	\$ 34,270

Total	\$ 282,670
Increase – 505400 Kitchen	\$ 282,670
Total	\$ 282,670

and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Erie County Executive, Erie County Division of Budget and Management, Erie County Sheriff and Erie County Comptroller.

(5-0)

2. COMM. 21E-4 (2023)

SHERIFF

WHEREAS, the Erie County Sheriff’s Office needs to continue to train new Tactical Flight Officers as utilization of Air One continues to increase as a regional law enforcement and rescue asset; and

WHEREAS, Tactical Flight Officers are a required component for ECSO Pilots to safely and effectively operate Air One; and

WHEREAS, several previous Tactical Flight Officers have moved on to other positions or retired; and

WHEREAS, the Erie County Sheriff’s Office has determined that Tactical Flight Operations, Inc, is the appropriate firm to engage with to provide these specialized training services; and

WHEREAS, funds necessary for this item are available in the Erie County Sheriff’s Office budget Fund 110; Cost Center 11510; Account 516020 – Professional Services.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby authorize the Erie County Sheriff’s Office to engage Tactical Flight Operations, Inc in an amount not to exceed \$22,000; and be it further

RESOLVED, that the Erie County Legislature hereby waives the procedures, as impractical, provided for in Section 26.08 of the Erie County administrative code for the purposes of providing Tactical Flight Officer training; and be it further

RESOLVED, that the Erie County Legislature does hereby authorize the Division of Purchase to process all necessary documents to engage Tactical Flight Operations, Inc; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Erie County Executive, the Division of Budget and Management, the Erie County Comptroller and the Erie County Sheriff.

(5-0)

3. COMM. 21E-8 (2023)

COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Mental Health (ECDMH), through its Forensic Mental Health Division (FMH) and sometimes in collaboration with the Erie County Sheriff's Office (ECSO), is responsible for the delivery of a comprehensive range of mental and behavioral health services to the residents of Erie County; and

WHEREAS, the need to provide interventions for individuals in custody and housed within General Population Units of the ECSO/Correctional Facility in Alden, NY, and which may include Medication Assisted Therapy (MAT) program services, is vital to certain incarcerated individuals; and

WHEREAS, ECSO, in conjunction with ECDMH and BestSelf Behavioral Health, can enhance and maintain its current MAT program with this additional funding reallocated by ECDMH via an ID Billing.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the Department of Mental Health to take \$192,500 in funding from the New York State Office of Addiction Services and Supports (OASAS) and transfer it to the Sheriff's Office Division of Correctional Health's 2023 Operating Budget (Fund 110, Fund Center 11650) via interdepartmental billing to be used as part of the MAT program as follows:

Department of Mental Health
Division of Program Administration
Fund 110, Fund Center 12410

<u>ACCOUNT</u>	<u>REVENUE</u>	<u>CHANGE</u>
406860	State Aid - OASAS	<u>\$192,500</u>
	TOTAL	<u>\$192,500</u>

<u>ACCOUNT</u>	<u>APPROPRIATION</u>	<u>CHANGE</u>
911650	ID Correctional Health Services	<u>\$192,500</u>
	TOTAL	<u>\$192,500</u>

Sheriff's Office
Division of Correctional Health
Fund 110, Fund Center 11650

<u>ACCOUNT</u>	<u>APPROPRIATION</u>	<u>CHANGE</u>
516020	Professional Services, Contracts & Fees	\$ 192,500
911650	ID Correctional Health Services	<u>\$(192,500)</u>
	TOTAL	<u>\$ 0</u>

and be it further

RESOLVED, that authorization is hereby given to amend the Department of Mental Health’s Division of Program Administration’s (Fund 110, Fund Center 12410) and Sheriff’s Office’s Division of Correctional Health’s 2024 Operating Budget upon adoption (Fund 110, Fund Center 11650) as follows:

Department of Mental Health
Division of Program Administration
Fund 110, Fund Center 12410

<u>ACCOUNT</u>	<u>REVENUE</u>	<u>CHANGE</u>
406860	State Aid - OASAS	<u>\$192,500</u>
	TOTAL	<u>\$192,500</u>

<u>ACCOUNT</u>	<u>APPROPRIATION</u>	<u>CHANGE</u>
912400	ID Mental Health Services	<u>\$192,500</u>
	TOTAL	<u>\$192,500</u>

Sheriff’s Office
Division of Correctional Health
Fund 110, Fund Center 11650

<u>ACCOUNT</u>	<u>APPROPRIATION</u>	<u>CHANGE</u>
516020	Professional Services, Contracts & Fees	\$ 192,500
912400	ID Mental Health Services	<u>\$(192,500)</u>
	TOTAL	<u>\$ 0</u>

and be it further

RESOLVED, that authorization is hereby given to re-appropriate any remaining funds within the Division of Correctional Health (Fund 110, Fund Center 11650) Account #516020 – Professional Services, Contracts & Fees designated for the MAT program from 2023 as a funds reservation into 2024, no transfer required; and be it further

RESOLVED, that authorization is hereby given for the Director of Budget and Management to make any technical adjustments necessary to effectuate this resolution; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive's Office, Sheriff's Office, Comptroller's Office, Division of Budget and Management and Department of Mental Health.

(5-0)

**HOWARD J. JOHNSON, JR.
CHAIR**

LEGISLATOR RESOLUTIONS

There are none.

COMMUNICATIONS DISCHARGED FROM COMMITTEE

Item 18 – MR. MEYERS moved to discharge the FINANCE & MANAGEMENT COMMITTEE of further consideration of COMM. 20M-4 (2023). MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 193

RE: Buffalo Place – 2024 Budget
(COMM. 20M-4, 2023)

WHEREAS, the Erie County Legislature approved Local Law No. 8-1984, establishing a downtown pedestrian/transit mall special district; and

WHEREAS, the Erie County Legislature approved on December 19, 1985, a resolution authorizing the County Executive to enter into agreement with Downtown Buffalo Management Corporation, now known as Buffalo Place Inc., designating Buffalo Place Inc. as the not-for-profit corporation with which Erie County shall contract for the performance of mall special district services, for which annual contracts were executed in 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023; and

WHEREAS, the said Local Law requires that the mall corporation present an annual budget to the Legislature regarding the amount to be raised by mall district special charges; and

WHEREAS, pursuant to the said Local Law, Buffalo Place Inc. held a public hearing, on due notice to property owners within the district, regarding the proposed 2024 annual budget on October 24, 2023; and

WHEREAS, on October 30, 2013 the Board of Directors of Buffalo Place Inc. approved a resolution approving a payment in lieu of service charges for the HSBC Atrium Building and have included the same as part of its proposed 2024 budget.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby determine that the total amount to be raised by mall district service charges in 2024 shall be the sum of \$1,832,457 as contained in the attached budget which shall be a part of this Resolution, which amount does not exceed 80% of the service charges that could be assessed or levied against properties in the district; and be it further

RESOLVED, that the County of Erie be and hereby is authorized to enter into agreement with Buffalo Place Inc., the not-for-profit corporation described in Section 9 of Erie County Local Law No. 8-1984, providing for the performance by Buffalo Place Inc. of the mall special services set forth in Section 8 of said Local Law; the payment to Buffalo Place Inc. of the proceeds of the mall special district charges, less administrative costs, to be used by Buffalo Place Inc. in providing mall special district services; and such other terms and conditions as to the County Attorney appear necessary or appropriate for the implementation of Erie County Local Law No. 8-1984 and Chapter 673 of the Laws of 1982; and be it further

RESOLVED, that the Buffalo Place Inc. revenues, in addition to the special charges assessed as above set forth, include for the year 2024, \$18,000 in payment in lieu of service charges for KeyBank Center (1 Seymour H. Knox III Plaza, Buffalo, NY) and \$36,429 for HSBC Atrium Building (95 Washington Street, Buffalo, NY) totaling \$54,429 as set forth in said budget; and be it further

RESOLVED, that the Erie County Commissioner of Finance shall, not later than November 17, 2023, cause to be established a Mall District Special Charge Roll apportioning the amount herein above determined to be raised by mall district special charges and payment in lieu of special charges for 2024 in conformance with the formula set forth in Section 7 of Erie County Local Law N. 8-1984 using the latest available final general or special assessment roll prepared by The City of Buffalo; and be it further

RESOLVED, that certified copies of this resolution in its final form be forwarded to the Erie County Executive, the Mayor of the City of Buffalo, the Chairman and the Executive Director of Buffalo Place Inc., and the Erie County Commissioner of Budget and Management.

SUSPENSION OF THE RULES

Item 19 - MR. MEYERS moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 23D-3 from the COUNTY ATTORNEY Re: Opinion as to Form Local Law Intro. No. 3-2 (2023)

Received, filed and printed.

September 6, 2023

Via Email Only

Hon. April N.M. Baskin, Chairwoman
Erie County Legislature
Old Erie County Hall
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Opinion as to Form Local Law Intro No 3-2 2023

Dear Chairwoman Baskin:

In accordance with the obligations of the Erie County Attorney set forth in subsection 3, Section 204 of Article 2 of the Erie County Charter, this legal opinion concerns Local Law Intro No. 3-2 2023 (3-2).

Preemption

Under New York state law, preemption occurs when a local law directly conflicts with a state statute, or where a state statute expressly states that local laws on a given subject matter are preempted. Preemption can also occur where the State Legislature has assumed full regulatory responsibility in a field related to the proposed local law.

Here, New York State Law provides specific authority which authorizes the governing board of a county to adopt a local law imposing occupancy tax. Since the State Legislature has granted county governing boards this specific authority, 3-2 does not present a preemption issue of concern.

Grammar

The stated purpose of 3-2 is to clarify the reach of occupancy tax to include non-traditional short-term and vacation rentals within Erie County. We find the grammar and usage of 3-2 to be sufficient in order to achieve the stated purpose.

Ambiguities

Section 1 subparagraph (a) erroneously references Chapter “664” of New York Sessions Laws of 1974. The correct Chapter reference is “614”. This is a technical correction which does not require a new Local Law to be introduced or a new public hearing to be held. Otherwise, although every hypothetical circumstance or eventuality cannot be addressed in the scope of this opinion, 3-2 does not present any facial ambiguities that would frustrate its implementation and enforcement.

Conclusion

We find that Local Law Intro. 3-2 2023 is sufficient as to form.

Very truly yours,

JEREMY C. TOTH
Erie County Attorney

Item 20 - MR. MEYERS moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 23E-20 from CHAIR BASKIN Re: Abstention from COMM. 20E-16 (2023)

Received, filed and printed.

December 5, 2023
Hon. Olivia M. Owens
Clerk of the Legislature
92 Franklin Street
Buffalo, NY 14202

Re: Abstention from Comm. 20E-16 (2023)

Dear Clerk Owens:

At Session 21 of the Erie County Legislature, I abstained from voting on Comm. 20E-16 to award additional funds to GHD, Inc for the design and engineering work on the Lackawanna WRRF & ORF Disinfection Systems Improvements Project. I am an employee of GHD, Inc. and desire to avoid the perception of any conflicts of interests.
Thank you for your attention to this letter.

Respectfully,

Chair April N.M. Baskin

COMMUNICATIONS FROM ELECTED OFFICIALS

FROM THE LEGISLATURE CLERK

Item 21 – (COMM. 23E-1) Minutes - 2023 Assessment Rolls Public Hearing

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 22 – (COMM. 23E-2) EC Emergency Medical Services Advisory Board Appointment

Received and referred to the PUBLIC SAFETY COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 23 – (COMM. 23E-3) EC Fisheries Advisory Board Appointments

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 24 – (COMM. 23E-4) Appointments to the Fire Advisory Board

Received and referred to the PUBLIC SAFETY COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 25 – (COMM. 23E-5) Appointments to the Senior Services Advisory Board

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 26 – (COMM. 23E-6) Authorization to Enter Into Agreement with the EC Federation of Snowmobile Clubs, Inc.

Received and referred to the PUBLIC SAFETY COMMITTEE.

FROM THE COMPTROLLER

Item 27 – (COMM. 23E-7) Department of Law Risk Retention Fund Spending - Sept. & Oct. 2023

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 28 – (COMM. 23E-8) NYSDOT Supplemental Agreement for Construction & Design

Item 29 – (COMM. 23E-9) Reconstruction of Maple Street - NYSDOT Agreement & Contract for Engineering Design Services

Item 30 – (COMM. 23E-10) Rehab of Bullis Road - Contracts for Construction & Construction Inspection Services

Item 31 – (COMM. 23E-11) Bridge Replacement of Four Rod Road

The above four items were received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 32 – (COMM. 23E-12) Contract with Cattaraugus County BOCES

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 33 – (COMM. 23E-13) Cultural Organization Capital Improvement Program - Phase 2. Authorization to Enter Into Contracts with Cultural Organizations

Item 34 – (COMM. 23E-14) Authorization to Enter Into Inter-Municipal Agreements to Implement the Municipal Planning Grant Program

The above two items were received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 35 – (COMM. 23E-15) Notice of Adoption - ECSD 2023 Assessment Rolls (2024 Levy)

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 36 – (COMM. 23E-16) Extension of Contract with NYS Pollution Prevention Institute

Item 37 – (COMM. 23E-17) PILOT Agreement for Westchester Park, Town of Tonawanda - Affordable Housing Development

Item 38 – (COMM. 23E-18) Renaissance Commerce Park - Amendment to Contract for Design & Construction of Water and Sewer Utilities

The above three items were received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 39 – (COMM. 23E-19) Department of Social Services Lease Extension - 290 Main Street

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

COMMUNICATIONS FROM THE DEPARTMENTS

FROM THE DIRECTOR OF BUDGET & MANAGEMENT

Item 40– (COMM. 23D-1) Budget Monitoring Report for Period Ending September 2023

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE BOARD OF ELECTIONS

Item 41 – MR. MEYERS presented the following resolution and moved for immediate consideration and approval. MR. GILMOUR seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 194

RE: Erie County Board of Elections Budget Revisions (COMM. 23D-2)

WHEREAS, New York State is entering into a presidential election where there will be two primary elections, one general election and a special election for a soon to be vacated congressional seat; and

WHEREAS, New York State has provided funding to Erie County in the amount of \$1,706,084.75 through the Technology Innovation and Election Resource (TIER) Grant Program for upgrades to software, technology, and equipment; and

WHEREAS, New York State, through the federal government Title II HAVA Funds, has provided funding to Erie County in the amount of \$1,222,252.57 for any purpose supporting a federal election; and

WHEREAS, Article 16 section 16.01(d) of the Erie County Charter provides the Board of Elections the power, without public advertisement for bids, to make all purchase of and contract for all primary and election supplies and services necessary for the operation of its office and the performance of its duties; and

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby authorize the recognition of \$1,560,317 in previously unbudgeted revenue in Fund 110, Funds Center 14010, Revenue Account #402520 – Gaming Facilities Aid and the appropriation of a like amount of funding into the Board of Elections 2023 General Fund Budget, Fund 110, Funds Center 150 Account #561410 Lab & Technical Equipment as follows:

2023 Budget
Fund 110, Funds Center 14010
Countywide Budget Accounts

REVENUES

402520 Gaming Facilities Aid	<u>\$1,560,317</u>
TOTAL	<u>\$1,560,317</u>

2023 Budget
Fund 110, Funds Center 150
Board of Elections

REVENUE

480020 Sale – Excess Materials	<u>\$532,750</u>
TOTAL	<u>\$532,750</u>

APPROPRIATIONS

561410 Lab & Technical Equipment	<u>\$2,093,067</u>
TOTAL	<u>\$2,093,067</u>

and be it further

RESOLVED, that authorization is hereby given to re-appropriate \$2,093,067 in 2023 funding into 2024; and be it further

RESOLVED, that authorization is hereby given to the Director of the Division of Budget and Management to make any necessary budget adjustments within the Board of Elections 2023 & 2024 General Fund (Fund 110, Funds Center 150) or Grant Fund (Fund 281, 150TIER2123 & 150HAVASHOEBOX0214) Budgets in order to effectuate this transfer and purchase; and be it further

RESOLVED, that authorization is hereby given to the Director of Purchasing to create all necessary documents to allow for the purchase polling place scanners and voting system components; and be it further

RESOLVED, that the Clerk of the Legislature is hereby instructed to forward certified copies of this resolution to the County Executive’s Office, Comptroller’s Office, Department of Law, Division of Budget and Management, Division of Purchasing, and Board of Elections.

COMMUNICATIONS FROM THE PEOPLE AND OTHER AGENCIES

FROM THE PRESIDENT & CEO OF VBN

Item 42 – (COMM. 23M-1) VBN & Buffalo Convention Center - Third Quarter Reports

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE TOWN OF MARILLA

Item 43 – (COMM. 23M-2) Marilla Town Board - SEQR Lead Agency Designation

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE CLERK OF THE NEW STADIUM INCLUSION COMMUNITY TASK FORCE

Item 44 – (COMM. 23M-3) New Stadium Inclusion Community Task Force Meeting Minutes

Received and referred to the MINORITY & WOMEN BUSINESS ENTERPRISE COMMITTEE.

ANNOUNCEMENTS

Item 45 – The Legislature will conduct committee meetings next Thursday, December 14th, and the schedule will be distributed. The next scheduled session of the Legislature is Thursday, December 21st. This will be the last session of the year.

MEMORIAL RESOLUTIONS

Item 46 – Legislator Todaro requested that when the Legislature adjourns, it do so in memory of Eleanor E. White.

Item 47 – Legislator Greene requested that when the Legislature adjourns, it do so in memory of Barbara A. Metzger.

Item 48 – Legislator Meyers requested that when the Legislature adjourns, it do so in memory of Hon. Thomas Kolbert.

ADJOURNMENT

Item 49 – At this time, there being no further business to transact, CHAIR BASKIN announced that the Chair would entertain a Motion to Adjourn.

MR. JOHNSON moved that the Legislature adjourn until Thursday, December 21, 2023 at 12:00 Noon. MR. GREENE seconded.

CARRIED UNANIMOUSLY.

CHAIR BASKIN declared the Legislature adjourned until Thursday, December 21, 2023 at 12:00 Noon.

OLIVIA M. OWENS
CLERK OF THE LEGISLATURE