



## LEGISLATIVE SUPPORT AGENDA THURSDAY, SEPTEMBER 7, 2023

### MINUTES

- Approval of August 10, 2023 minutes

### FINANCIAL

- Year to Date Budget Report
- County Auditor Accounts Payable Update

### OLD BUSINESS

- August 2023 Meetings
- Department Head Evaluations – due 9/8/23
- Legislative Conference Room Chairs
- Sales Tax Extender Bill
- Local Law No. 2 of 2023
- Local Law Introductory No. C of 2023
- Local Law Introductory No. D of 2023

### NEW BUSINESS

- September 2023 Legislative Meeting

### PERSONNEL

- None

### RESOLUTIONS

- 106 – Adopt Local Law No. 3 of 2023 (Collection of Hotel and Motel Tax)
- 107 – Adopt Local Law No. 4 of 2023 (Establish Position of County Administrator)

### PROCLAMATIONS

- None

### ADJOURNMENT

# Office of the Legislative Clerk

Ronald E. Dougherty County Office Building 56 Main Street Owego, NY 13827



☎ 607 687 8240 📠 607 687 8232 🌐 www.TiogaCountyNY.gov

**Cathy Haskell** Legislative Clerk **Amy Eiklor** Deputy Legislative Clerk

## Legislative Support Minutes

August 10, 2023

1:00 p.m.

### ATTENDANCE

**Legislators:** Legislators Ciotoli, Flesher, Monell, Mullen, Roberts, Sauerbrey, Standinger, and Weston were present with Legislator Brown being absent.

**Staff:** Legislative Clerk Haskell, Deputy Legislative Clerk Eiklor, County Attorney DeWind, Personnel Officer Parke, Commissioner of Public Works Hammond, and Director of Community Services Morgan.

**Guests:** None

### APPROVAL OF MINUTES

Legislator Monell made the motion, seconded by Legislator Ciotoli to approve the July 6, 2023 Legislative Support minutes, as written. Motion carried.

### FINANCIAL

**2023 YTD Budget Report:** The 2023 Legislative Office YTD Budget Report is included in today’s committee agenda packet and was emailed to all Legislators prior to this meeting. To date, budget utilization is 51.4%, which is slightly less than last year at this time. Ms. Haskell reported there is nothing significant of note.

**County Auditor Accounts Payable Report:** Legislative Clerk Haskell presented the following accounts payable report for the month of July with nothing significant of note:

MONTH/ QUARTER	AP INVOICES	AP TOTAL	P-CARD TRANSACTIONS	P-CARD TOTAL
July	704	\$1,528,529.74	152	\$42,856.45

**2024 Legislative Office Budget:** Ms. Haskell presented the 2024 Legislative Office budget noting compliance with the zero-based budget directive and no recommended changes expressed by the Legislature.

Ms. Haskell reported the Legislative Office Budget Report with Notes identifies the following budgetary line decreases and increases:

FROM:	540390 Mileage	\$1,000
	540420 Office Supplies	\$ 300
	540480 Postage	\$ 100
	540485 Printing/Paper	\$ 100
	540660 Telephone	\$ 250
TO:	540732 Training/County Required	\$1,750

# Office of the Legislative Clerk

Ronald E. Dougherty County Office Building 56 Main Street Owego, NY 13827



☎ 607 687 8240 📠 607 687 8232 🌐 [www.TiogaCountyNY.gov](http://www.TiogaCountyNY.gov)

**Cathy Haskell** Legislative Clerk **Amy Eiklor** Deputy Legislative Clerk

FROM: 540485 Printing/Paper \$100

TO: 540520 Recording/Microfilm \$100

Ms. Haskell noted the \$1,750 increase to the training line is based on actual 2023 training expenses and anticipated 2024 training expenses for the Legislators and Legislative Clerk.

Ms. Haskell noted the \$100 increase to the Recording/Microfilm line is based on actual 2023 microfilming expenses for the annual Journal of Proceedings.

Ms. Haskell reported there will be an increase to the 510050 All Other Salary line as she is selling back five (5) days of vacation for payout in January 2024.

Upon Ms. Haskell's request, Budget Officer Bailey reviewed the Legislative Budget with no recommended changes. Following today's meeting, Ms. Haskell will notify the Budget Officer that the 2024 Legislative Budget is complete.

## OLD BUSINESS

### **July 2023 Meetings:**

Minutes were taken, typed, copied, indexed, and put on disc for the Legislature and Journal of Proceedings for the following Legislature meetings in July 2023:

- Seventh Regular Meeting – July 11, 2023
- Third Special Legislature Meeting – July 20, 2023

The Legislative Clerk attended the following meetings, trainings & events in July 2023:

- Legislative Standing Committees – July 5 and 6, 2023
- Legislative Worksessions – July 6 and 20, 2023
- Finance, Legal & Safety Committee – July 11, 2023
- Seventh Regular Legislature Meeting – July 11, 2023
- ITCS Online Password Training – July 14, 2023
- Public Hearing: Local Law Introductory No. B of 2023 – July 20, 2023
- Third Special Legislature Meeting – July 20, 2023

**Sales Tax Extender Bill:** Ms. Haskell reported Senator O'Mara's office notified the Legislative Office on Friday, July 28, 2023 that the Governor signed Tioga County's two-year sales tax extender. Ms. Haskell reported she revised the resolution with the new legislation information and sent to our assigned New York State Taxation & Finance Attorney for final review, as well as County Attorney DeWind. Resolution is included in the meeting agenda for Legislature consideration at the August 15, 2023 Legislature meeting. Following the August 15, 2023 Legislature meeting, Ms. Haskell will certify the resolution and send to the required State and County entities before the

# Office of the Legislative Clerk

Ronald E. Dougherty County Office Building 56 Main Street Owego, NY 13827



☎ 607 687 8240 📠 607 687 8232 🌐 [www.TiogaCountyNY.gov](http://www.TiogaCountyNY.gov)

**Cathy Haskell** Legislative Clerk **Amy Eiklor** Deputy Legislative Clerk

September 2, 2023 deadline. The enactment shall take effect December 1, 2023 through November 30, 2025.

**Department Head Evaluations:** Ms. Haskell reminded the Legislature that evaluations are due in the Personnel Office by September 8, 2023.

**Legislative Conference Room Chairs:** Ms. Haskell received quotes for the replacement of the 12 Legislative Conference Room chairs. Ms. Haskell provided options for both high-back and mid-back chairs for Legislature consideration. Ms. Haskell reported one vendor is willing to do a "try before you buy" option, so the Legislators can physically see the chairs before purchasing. Based on the chair options offered, the Legislature expressed interest in moving forward with one of the vendors. Ms. Haskell reported she spoke with Commissioner of Public Works Hammond to determine if he could absorb the cost of the chairs in his budget, as this was done previously. Cost estimates were sent to Mr. Hammond to determine his preference for purchase from the 2023 or 2024 budget. Ms. Haskell thanked Mr. Hammond for his willingness to purchase the chairs. Ms. Haskell will contact the vendor to plan to have one of each chair style delivered for the Legislature to determine the chair style they wish to purchase.

**Local Law Introductory No. B of 2023:** Ms. Haskell reported the resolution to adopt Local Law No. 2 of 2023 – A Local Law Providing Real Property Tax Exemptions for Volunteer Firefighters and Ambulance Workers is included in the agenda for Legislature consideration at the August 15, 2023 Legislature meeting. Upon adoption of the resolution, Ms. Haskell reported a press release will be prepared. This local law will take effect on January 1, 2024 and shall apply to taxable status dates occurring on or after this date.

## NEW BUSINESS

Ms. Haskell reported the following two local laws will be introduced at the August 15, 2023 Legislature meeting. Below is the timeline for each local law:

### **Local Law Introductory No. C of 2023 – A Local Law Providing for the Collection of a Hotel and Motel Tax in Tioga County:**

- 8/15/23 – Legislator Roberts to introduce Local Law at Legislature Meeting.
- 8/15/23 – Legislature to adopt resolution setting the Public Hearing.
- 8/24/23 - Legislature to conduct Public Hearing at 2<sup>nd</sup> Legislative Worksession.  
ED&P Director Tinney will provide a brief presentation.
- 9/12/23 - Legislature to adopt Local Law No. 3 of 2023 at Legislature Meeting.
- 12/1/23 – Local Law Effective Date.

# Office of the Legislative Clerk

Ronald E. Dougherty County Office Building 56 Main Street Owego, NY 13827



☎ 607 687 8240 📠 607 687 8232 🌐 [www.TiogaCountyNY.gov](http://www.TiogaCountyNY.gov)

**Cathy Haskell** Legislative Clerk **Amy Eiklor** Deputy Legislative Clerk

## **Local Law Introductory No. D of 2023 – A Local Law Establishing the Position of County Administrator for the County of Tioga:**

- 8/15/23 – Legislator Standinger to introduce Local Law at Legislature Meeting.
- 8/15/23 – Legislature to adopt resolution setting the Public Hearing.
- 8/24/23 - Legislature to conduct Public Hearing at 2<sup>nd</sup> Legislative Worksession.  
Chair Sauerbrey will provide a brief presentation.
- 9/12/23 - Legislature to adopt Local Law No. 4 of 2023 at Legislature Meeting.

## **August 2023 Legislative Meeting:**

- **Prayer, Pledge, Voting:** Legislator Flesher will lead us in the prayer, pledge and voting process at the August 15, 2023 Legislature meeting.
- **Recognition Resolutions:** There is one (1) Recognition Resolution:
  - ✓ **Recognize Anita T. Teed's 34 Years of Dedicated Service – Department of Social Services**
- **Proclamations:** There are two (2) proclamations that have been read/presented in previous years therefore will just be noted in the minutes of the August 15, 2023 Legislature Meeting:
  - ✓ **National Suicide Prevention Awareness Month in Tioga County**
  - ✓ **National Recovery Month in Tioga County**
- **Resolutions:** All resolutions presented by the Departments at their respective Legislative Standing Committees were reviewed for Legislature consideration at the August 15, 2023 Legislature meeting.

**Late-File Resolutions:** Ms. Haskell reported she anticipates two late-file resolutions for Legislature consideration at the August 15, 2023 Finance, Legal & Safety Committee and Legislature meeting.

## **PERSONNEL**

None

## **RESOLUTIONS:**

H01 – Schedule Public Hearing Local Law Introductory No. C of 2023 – Providing for the Collection of a Hotel and Motel Tax in Tioga County.

H02 – Adopt Local Law No. 2 of 2023 – Real Property Tax Exemptions for Volunteer Firefighters and Ambulance Workers.

H05 – Schedule Public Hearing Local Law Introductory No. D of 2023 – Establishing the Position of County Administrator for the County of Tioga.

# Office of the Legislative Clerk

Ronald E. Dougherty County Office Building 56 Main Street Owego, NY 13827



☎ 607 687 8240 📠 607 687 8232 🌐 [www.TiogaCountyNY.gov](http://www.TiogaCountyNY.gov)

**Cathy Haskell** Legislative Clerk **Amy Eiklor** Deputy Legislative Clerk

H17 – Resolution of the Legislature of Tioga County Amending Resolution No. 118-20 to Extend Imposition of an Additional One Percent Rate of Sales and Compensating Use Tax for a Period of Two Years through November 30, 2025.

The Legislative Support resolutions were reviewed for Legislature consideration at the August 15, 2023 Legislature meeting.

## EXECUTIVE SESSION

None

## ADJOURNMENT

Meeting adjourned at 2:16 p.m.

Respectfully submitted,

*Cathy Haskell*

Legislative Clerk

DRAFT



# TIOGA COUNTY, NEW YORK

## Tioga County YEAR-TO-DATE BUDGET REPORT

FOR 2023 09

ACCOUNTS FOR: A	General Fund	ORIGINAL APPROP	TRANFRS/ ADJSTMTS	REVISED BUDGET	YTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	PCT USED
<b>A1010 Legislative Board</b>								
A1010	510010 Full Time	269,807	0	269,807	169,567.19	.00	100,239.81	62.8%
A1010	510050 All other(On Call,	9,894	0	9,894	4,254.86	.00	5,638.79	43.0%
A1010	540010 Advertising	350	0	350	164.26	.00	185.74	46.9%
A1010	540140 Contracting Servic	100	0	100	.00	.00	100.00	.0%
A1010	540180 Dues	100	60	160	160.00	.00	.00	100.0%
A1010	540320 Leased/Service Equ	2,600	-500	2,100	1,503.39	.00	596.61	71.6%
A1010	540340 Literature	545	0	545	314.02	.00	230.98	57.6%
A1010	540390 Mileage Expense	4,650	-1,195	3,455	1,624.42	.00	1,830.58	47.0%
A1010	540420 Office Supplies	1,000	0	1,000	245.17	.00	754.83	24.5%
A1010	540480 Postage	315	0	315	94.24	.00	220.76	29.9%
A1010	540485 Printing/Paper	350	155	505	501.28	.00	3.72	99.3%
A1010	540520 Recording/Microfil	350	40	390	388.00	.00	2.00	99.5%
A1010	540640 Supplies (Not Offi	400	243	643	395.00	.00	248.00	61.4%
A1010	540660 Telephone	1,205	-60	1,145	367.88	.00	777.12	32.1%
A1010	540732 Training/County Re	2,200	1,500	3,700	2,448.55	.00	1,251.45	66.2%
A1010	581088 State Retirement F	35,538	0	35,538	20,144.89	.00	15,393.53	56.7%
A1010	583088 Social Security Fr	19,834	0	19,834	12,681.77	.00	7,151.75	63.9%
A1010	584088 Workers Compensati	15,917	0	15,917	9,494.16	.00	6,423.08	59.6%
A1010	585588 Disability Insuran	204	0	204	88.74	.00	114.98	43.6%
A1010	586088 Health Insurance F	192,221	0	192,221	102,162.39	.00	90,058.81	53.1%
A1010	588988 Eap Fringe	190	0	190	113.56	.00	76.80	59.7%
TOTAL Legislative Board		557,770	243	558,013	326,713.77	.00	231,299.34	58.5%
TOTAL General Fund		557,770	243	558,013	326,713.77	.00	231,299.34	58.5%
TOTAL EXPENSES		557,770	243	558,013	326,713.77	.00	231,299.34	



**Tioga County  
YEAR-TO-DATE BUDGET REPORT**

FOR 2023 09

	ORIGINAL APPROP	TRANFRS/ ADJSTMTS	REVISED BUDGET	YTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	PCT USED
GRAND TOTAL	557,770	243	558,013	326,713.77	.00	231,299.34	58.5%

\*\* END OF REPORT - Generated by Haskell, Cathy \*\*

# Office of the Legislative Clerk

Ronald E. Dougherty County Office Building 56 Main Street Owego, NY 13827



☎ 607 687 8240 🖨 607 687 8232 🌐 [www.TiogaCountyNY.gov](http://www.TiogaCountyNY.gov)

**Cathy Haskell** Legislative Clerk **Amy Eiklor** Deputy Legislative Clerk

## COUNTY AUDITOR ACCOUNTS PAYABLE UPDATE – AUGUST 2023

<b>MONTH</b>	<b>AP INVOICES</b>	<b>AP INVOICE TOTALS</b>	<b>P-CARD TRANSACTIONS</b>	<b>P-CARD TOTAL</b>
August	766	\$1,918,606.86	146	\$40,696.10

REFERRED TO:

LEGISLATIVE WORKSESSION

RESOLUTION NO. -23

ADOPT LOCAL LAW NO. 3 OF 2023

WHEREAS: A public hearing was held on August 24, 2023, following due notice thereof to consider the adoption of Local Law Introductory No. C of the Year 2023; A Local Law providing for the Collection of a Hotel and Motel Tax in Tioga County; and

WHEREAS: It is in the best interest of the residents of Tioga County to adopt such Local Law which will be Local Law No. 3 of 2023; therefore be it

RESOLVED: That the following Local Law be and hereby is adopted:

County of Tioga

Local Law No. 3 of the Year 2023.

A Local Law providing for the collection of a hotel and motel tax in Tioga County.

Be It Enacted by the Legislature of the County of Tioga as follows:

SECTION 1: TITLE.

This local Law shall be known as the "Hotel/Motel Tax Law."

SECTION 2: PURPOSE.

The purpose of this Local Law is to enhance the general economy of Tioga County, its cities, towns, and villages through promotion of tourists, activities, conventions, trade shows, special events, and other directly related and supporting activities.

SECTION 3: DEFINITIONS.

HOTEL/MOTEL - Any facility or a portion thereof providing lodging on an over-night basis, in exchange for any consideration, and shall include those facilities designated and commonly known as "bed and breakfast" and "tourist" facilities.

OCCUPANCY - The use or possession, or the right to the use or possession of any room in a hotel or motel.

OCCUPANT - A person who, for a charge or any consideration uses, possesses, or has the right to use or possess, any room in a hotel or motel under any lease, concession, permit, right, license, agreement, or otherwise.

OPERATOR - Any person operating a hotel or motel in Tioga County including but not limited to the owner, proprietor, lessee, sub-lessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel or motel.

PERMANENT RESIDENT - A person occupying any room or rooms in a hotel or motel for at least fourteen (14) consecutive days.

PERSON - An individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

RENT – The consideration received for occupancy valued in money, whether received in money, or otherwise.

RETURN - Any return filed or requested to be filed as herein provided.

ROOM - Any room or rooms of any kind in any part or portion of a hotel or motel, which is available for rent or otherwise let out for the lodging of guests.

TREASURER – Tioga County Treasurer

#### SECTION 4: TAX.

A tax in the amount of four percent (4%) of the per diem rental rate for each room occupied, is hereby assessed on all hotels and motels in Tioga County, provided, however, that such tax shall not be applicable to a permanent resident of a hotel or motel.

#### SECTION 5: EXEMPTION.

Such tax shall not be imposed on any transaction, by or with any of the following:

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

(B) The United States of America, insofar as it is immune from taxation;

(C) Any corporation or association, or trust, or community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals,

and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this 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.

#### SECTION 6: REGISTRATION.

Within three (3) days after commencing business or opening, every operator shall file with the Treasurer a registration application in a form prescribed by the Treasurer.

#### SECTION 7: ADMINISTRATION AND COLLECTION.

(A) The tax imposed by this local law shall be administered and collected by the Treasurer, or other fiscal officers of Tioga County, by such means and in such manner as other taxes which are now collected and administered by such officers or as otherwise may be provided by such local law.

(B) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted for and charged for, and upon every evidence of occupancy or any bill or statement of charge made for said occupancy issued or delivered by the operator. The tax shall be paid by the occupant to the operator or to the person entitled to be paid the rent or charge for the hotel or motel occupied for and on account of the County, and the operator or person entitled to be paid the rent or charge shall be liable for the collection and payment of the tax.

(C) The operator or any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this local law, and such operator or person entitled to be paid the rent or charge shall have the same right in respect to collecting the tax from the occupant, or in respect to non-payment of the tax by the occupant, as if the tax were a part of the rent or charge and payable at the same time as the rent or charge; provided, however, that the Treasurer or other fiscal officers, employees or agents specified in this local law, shall be joined as a party in any action or proceeding brought to collect the tax by the operator or by the person entitled to be paid the rent or charge.

(D) The Treasurer may, whenever deemed necessary for the proper enforcement of this local law, provide that the occupant shall file returns and pay directly to the Treasurer, the tax herein imposed.

(E) For the purpose of the proper administration of this local law and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator, except that, where by regulation pursuant to subdivision (d) of this section, an occupant is required to file returns and pay directly to the Treasurer the tax herein imposed, the burden of proving that a rent for occupancy is not taxable shall be upon the occupant.

(F) Where an occupant claims exemption from the tax under the provisions of section five of this local law, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a certificate duly executed by an exempt corporation or association certifying that the occupant is its agent, representative, or employee, together with a certificate executed by the occupant that his occupancy is paid or to be paid by such exempt corporation or association, and is necessary or required in the course of or in connection with the occupant's duties as a representative of such corporation or association. Where deemed necessary, the operator may further require that any occupant claiming exemption from the tax furnish a copy of a certificate issued by the Treasurer certifying that the corporation or association therein named is exempt from the tax under section five of this local law.

#### SECTION 8: RECORDS TO BE KEPT.

Every operator shall keep records of every occupancy and of all rent paid, charged and due thereon and of the tax payable thereon, in such form as the Treasurer may require. Such records shall be available for inspection and examination at any time upon demand by the Treasurer or the Treasurer's duly authorized agents or employees, and shall be preserved for a period of not less than three (3) years, except that the Treasurer may consent in writing to their destruction within that period or may in writing require that such records be kept and maintained for a specified period in excess of three (3) years.

#### SECTION 9: RETURNS.

(A) The filing of returns and the payment of the tax shall be paid to the Treasurer on a quarterly basis. Such returns shall be filed within twenty (20) days from the expiration of the period covered thereby. The Treasurer may permit or require returns to be made by other periods and upon such dates as may be specified. If the Treasurer deems it necessary in order to insure the payment of the tax imposed by this local law, the Treasurer 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 may be specified.

(B) The forms of returns shall be prescribed by the Treasurer and shall contain such information as may be deemed for the proper administration of this local law. The Treasurer may require amended returns to be filed within twenty (20) days after notice and to contain the information specified in the notice.

(C) If the return required by this local law is not filed, or a return filed is incorrect or insufficient on its face, the Treasurer shall take the necessary steps to enforce the filing of such return or of a corrected return.

#### SECTION 10: PAYMENT OF TAX.

(A) Upon the time of filing a return of occupancy and of rents, each operator shall pay to the Treasurer the taxes imposed by this local law upon the rents required to be included in such return, as well as other monies collected by the operator acting or purporting to act under the provisions of this local law.

(B) Where the Treasurer, in his discretion, deems it necessary to protect revenues to be obtained under this local law, the Treasurer may require any operator obligated to collect the tax imposed by this local law to file with the Treasurer's office a bond, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as the Treasurer may fix to secure the payment of any tax and/or penalties and interest due or which may become due from such operator.

(C) In the event the Treasurer determines that an operator is to file such bond, notice shall be given by the Treasurer to such operator to that effect specifying the amount of the bond required.

(D) The operator shall file such bond within five (5) days after the issuance of such notice, unless within five (5), days the operator shall serve upon and deliver to the Treasurer a written request for a hearing before the Treasurer at which the necessity, propriety and amount of the bond shall be determined by the Treasurer. Any determination by the Treasurer upon such hearing shall be final and shall be complied with by the operator within fifteen (15) days after the giving of notices thereof.

(E) In lieu of such bond, securities approved by the Treasurer or cash in such amount as may be prescribed, may be deposited which shall be kept in the custody of the Treasurer who may at any time without notice of the depositor apply them to any tax and interest and penalties due, and for that purpose

the securities may be sold by the Treasurer at public or private sale without notice to the depositor thereof.

SECTION 11: DETERMINATION OF TAX.

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

(A) The amount of tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law or regulation shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as a justice of the Supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or

(B) At the option of the petitioner, such undertaking may be in a sum sufficient to cover the taxes, interests, and penalties stated in such determination plus the costs and charges which may accrue against such petitioner in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interests or penalties as a condition precedent to the application.

SECTION 12: JUDICIAL REVIEW.

(A) Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason

whatsoever by a proceeding under article seventy-eight of the civil practice law and rules if application therefore is made to the supreme court within thirty days after the giving of the notice of such final determination, provided, however, that any such proceeding under article seventy-eight of the civil practice law and rules shall not be instituted unless:

1. The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for, shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or
2. At the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, interests and penalties stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest or penalties as a condition precedent to the application.

(B) Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the Treasurer, and he shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under article seventy-eight of the civil practice law and rules, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking is filed with the proper fiscal officer or officers in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

#### SECTION 13: PENALTY AND INTEREST.

There shall be a penalty for failure to file said return and pay over the tax to the Treasurer on the date due in the amount of ten (10%) percent of the amount of the tax due plus interest at the rate of one percent (1%) 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.

SECTION 14: LIMITATION OF TIME.

Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return, provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.

SECTION 15: RESERVES.

In cases where the occupant or operator has applied for a refund and has instituted a proceeding under article seventy-eight of the Civil Practice Law and Rules to review a determination adverse to such occupant or operator on such application for a refund, the Treasurer shall set aside sufficient monies to meet any decision adverse to the County.

SECTION 16: APPLICATION OF FUNDS.

All revenues resulting from the imposition of the tax under this local law shall be paid into the treasury of Tioga County and shall be credited to and deposited in the general fund of the County, thereafter to be allocated at the discretion of the County Legislature of the County of Tioga for the purposes of tourism and economic development; provided, however, that the County shall be authorized to retain up to a maximum of five percent of such revenue to defer the necessary expenses of the County in administering such tax. The revenue derived from the tax, after deducting the amount provided for administering such tax, shall be allocated to enhance the general economy of Tioga County, its cities, towns, and villages, through promotion of tourist activities, conventions, trade shows, special events, and other directly related and supporting activities.

SECTION 17: REMEDIES EXCLUSIVE.

The remedies provided by sections eleven (11) and twelve (12) of this local law shall be the exclusive remedies available to any person for the review of the tax liability imposed by this local law; and no determination or proposed determination of tax or determination on any application for refund or credit shall be enjoined, contested or reviewed by any action or proceeding, except by a proceeding under article seventy-eight of the Civil Practice Law and Rules provided, however, that a taxpayer may proceed by declaratory judgment if suit is instituted within thirty (30) days after a deficiency assessment to the Treasurer prior to the institution of such suit and posts a bond for costs pursuant to section twelve (12) of this local law.

SECTION 18: PROCEEDINGS TO RECOVER TAX.

(A) Whenever any operator or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this local law as herein provided, or whenever any occupant shall fail to pay any such tax,

penalty or interest, the County Attorney shall, upon the request of the Treasurer bring or cause to be brought an action to enforce the payment of the same on behalf of Tioga County in any court of the State of New York or of any other state or of the United States.

(B) Notwithstanding any other provision of this section, if the Treasurer, in its discretion, believes that any such operator, occupant or other person is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, the Treasurer may declare such tax or penalty to be immediately due and payable and may issue a warrant, as provided in this section, immediately.

(C) As an additional alternate remedy, the Treasurer may issue a warrant, directed to the Tioga County Sheriff or to the Sheriff of any other county commanding said Sheriff to levy upon and sell the real and personal property of the operator, occupant, or other person liable for the tax, which may be found within the County for the payment of the amount thereof, with any penalties and interest and the cost of executing the warrant, and to return such warrant to the Treasurer and to pay to the Treasurer the money collected by virtue thereof within sixty (60) days after the receipt of such warrant. The sheriff shall, within five (5) days after the receipt of the warrant, file with the County Clerk a copy thereof, and thereupon such Clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of tax, penalties and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the interest in real and personal property of the person against whom the warrant is issued. The Sheriff shall then proceed upon the warrant, in the same manner, and with like effect, as that provided by in respect to executions issued against property judgments of a court of record and for services in executing the warrant the Sheriff shall be entitled to the same fees, which may be collected in the same manner. In the discretion of the Treasurer, a warrant of like terms, force and effect may be issued and directed to any officer or employee of the Treasurer and in the execution thereof such officer or employee shall have all the powers conferred upon by the Sheriff, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the Treasurer may from time to time issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the County has recovered judgment therefor and execution thereon has been returned unsatisfied.

(D) Whenever an operator shall make a sale, transfer, or assignment in bulk of any part of the whole of a hotel, motel, or lease, or of such operator's business

assets, otherwise than in the ordinary course of business, the purchaser, transferee or assignee shall at least ten (10) days before taking possession of the subject of the said sale, transfer or assignment, or paying therefor, notify the Treasurer 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 any tax is owed 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.

(E) Whenever the purchaser, transferee or assignee shall fail to give notice to the Treasurer as required by sub-section eighteen (18) (d), of this section or whenever the Treasurer shall inform the purchaser, transferee, or assignee that a possible claim for such tax or taxes exists, any sums of money, property or choses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferor or assignor shall be subject to a first priority right and lien of any such taxes theretofore or thereafter determined to be due the seller, transferor or assignor to the County, and the purchaser, transferee or assignee is forbidden to transfer to the seller, transferor or assignor any such sums of money, property or choses in action to the extent of the amount of the County's claim. For failure to comply with the provisions of this sub-section, the purchaser, transferee or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of article six of the Uniform Commercial Code, shall be personally liable for the payment determined to be due to the County from the seller, transferor or assignor, and such liability may be assessed and enforced in the same manner as the liability for tax under this local law.

#### SECTION 19: GENERAL POWERS OF THE TREASURER.

In addition to the powers granted to the Treasurer by County Law and this local law, the Treasurer is hereby authorized and empowered:

(A) To make, adopt and amend rules and regulations, and to issue orders, 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 (30) days; and for cause shown, to remit or waive penalties but not interest; and to compromise disputed claims in connection with the taxes hereby imposed.

(C) To request information from the tax commissioner of the State of New York or the treasury department of the United States relative to any person; and to afford information to such tax commissioner or such treasury department relative to any person, any other provision of this local law to the contrary notwithstanding

(D) To delegate said functions hereunder to any employee or employees of the Treasurer

(E) To prescribe methods for determining the rents for occupancy and to determine the taxable and nontaxable rents

(F) To require any operator within the County to keep detailed records of the nature and type of hotel or motel 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 Treasurer

(G) To assess, determine, revise and readjust the taxes imposed under this local law

SECTION 20: ADMINISTRATION OF OATHS AND COMPELLING TESTIMONY.

(A) The Treasurer, or the Treasurer's duly designated and authorized employees or agents, shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of the Treasurer's powers and duties under this local law.

(B) The Treasurer shall have the power to subpoena and require the attendance of witnesses and the production of books, papers, and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this local law, and to examine them in relation thereto, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before the Treasurer or excused from attendance.

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

(D) Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material matter pending before the Treasurer under this local law shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than one year, or both such fine and imprisonment.

(E) The officers who serve the summons or subpoena of the Treasurer and witnesses attending in response thereto shall be entitled to the same fees as

are allowed to officers and witnesses in civil cases in courts or record, except as herein otherwise provided.

(F) The County Sheriff, the Sheriff's duly appointed deputies, and any officer or employee of the Treasurer designated to serve process under this local law, are hereby authorized and empowered to serve any summons, subpoena, order, notice, document, instrument, or other process to enforce or carry out this local law.

**SECTION 21: REFERENCE TO TAX.**

Wherever reference is made in placards or advertisements or in any other publications to this tax such reference shall be substantially in the following form: "Tax on occupancy of hotel or motel rooms"; except that in any bill, receipt, statement or other evidence of memorandum of occupancy or rent charge issued or employed by the operator, the word "tax" will suffice.

**SECTION 22: RETURNS TO BE SECRET.**

(A) Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the Treasurer or any officer or employee of the Treasurer to divulge or make known in any manner the rents or other information relating to the business of the taxpayer contained in any return required under this local law. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Treasurer in an action or proceeding under the provisions of this local law or on behalf of any party to any action or proceeding under 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 in evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his duly authorized representative or a certified copy of any return filed in connection with his tax nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the County Attorney or other legal representatives of the County of the return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for three (3) years and thereafter until the Treasurer permits them to be destroyed.

(B) Any violation of this section shall be punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment not exceeding one year, or both, in the discretion of the court.

SECTION 23: EFFECTIVE DATE.

This local law shall become effective December 1, 2023 and shall remain in effect until November 30, 2026.

SECTION 24: SEVERABILITY.

If any provision of this local law or the application thereof to any person or circumstance shall be held invalid, the remainder of this local law and the application of its provisions to other persons or circumstances shall not be affected thereby.

REFERRED TO:

LEGISLATIVE WORKSESSION

RESOLUTION NO. -23

ADOPT LOCAL LAW NO. 4 OF 2023

WHEREAS: A public hearing was held on August 24, 2023, following due notice thereof to consider the adoption of Local Law Introductory No. D of the Year 2023; A Local Law establishing the position of County Administrator for the County of Tioga; and

WHEREAS: It is in the best interest of the residents of Tioga County to adopt such Local Law which will be Local Law No. 4 of 2023; therefore be it

RESOLVED: That the following Local Law be and hereby is adopted:

County of Tioga

Local Law No. 4 of the Year 2023.

A Local Law Establishing the Position of County Administrator for the County of Tioga.

Be It Enacted by the Legislature of the County of Tioga as follows:

SECTION 1: LEGISLATIVE INTENT.

The Tioga County Legislature recognizes the growing complexities of County Government by the many mandated programs on both the Federal and State level of government and the need for increased direction, control and coordination of County governmental functions would provide a more efficient administration of the various departments and agencies of Tioga County.

It is the purpose and intent of this local law to provide administrative assistance to the County Legislature, in order to provide uniformity in the day-to-day operations and management of County affairs. It is not the purpose or intent of the County Legislature in the adoption of this local law to curtail, diminish, or transfer the power of any elected or appointed County official.

SECTION 2: COUNTY ADMINISTRATOR.

There shall be a County Administrator who shall be directly responsible to the Tioga County Legislature and perform the functions of a Chief Administrative Officer on behalf of the County Legislature with the County Legislature

retaining the final administrative authority. The position of County Administrator shall be unclassified for Civil Service purposes.

### SECTION 3: APPOINTMENT, TERM OF OFFICE.

The County Administrator shall be appointed by and serve at the pleasure of the Tioga County Legislature based on the minimum qualifications outlined in this local law and run coextensively on the same terms as the Legislative Clerk, County Attorney, and Public Defender. The position of County Administrator shall be unclassified for Civil Service purposes. Upon hiring, the County Administrator will work with the Chairperson of the Legislature for a period of up to 52 weeks.

### SECTION 4: MINIMUM QUALIFICATIONS.

At the time of appointment, the County Administrator shall have the following training and/or experience:

- A. Graduation from a regionally accredited or New York State registered college or university with a Master's degree preferably in Business or Public Administration or a related field and four (4) years of professional experience in the field of public or business administration, including experience in budgeting and financial management with government experience preferred; or
- B. Graduation from a regionally accredited or New York State registered college or university with a Bachelor's degree preferably in Business or Public Administration or a related field and six (6) years of professional experience in the field of public or business administration, including experience in budgeting and financial management with government experience preferred.

The County Administrator position requires a thorough knowledge of the principles and procedures of public administration which includes management supervision, intergovernmental relations, thorough knowledge of the principles and procedures of governmental accounting and budget, good knowledge of report writing and statistical interpretation, knowledge of public relations practices and procedures, good knowledge of and experience with purchasing processes. Communication skills are critical in the ability to communicate effectively, both orally and written, ability to analyze problems and make recommendations, ability to prepare and maintain written reports and records, ability to follow and issue complex oral and written instructions, ability to establish and maintain good relationships both within the

County and with outside agencies, ability to supervise the work of others, ability to exercise good judgment in evaluating situations, establishing priorities, and making decisions.

The County Administrator shall be appointed on the basis of these, and such other qualifications as may be required for the responsibilities of the position.

#### SECTION 4: SALARY.

The County Administrator shall receive an annual salary to be fixed by the County Legislature.

#### SECTION 5: POWERS AND DUTIES.

Without curtailing, diminishing, or transferring the powers of any elected County official, the County Administrator shall be responsible for the overall administration of Tioga County Government under the direction of the Tioga County Legislature and shall provide and coordinate staff services to the County Legislature, Chairperson of the Legislature, and its Committees. The County Administrator will act as the Budget Officer and Public Information Officer and oversee the day-to-day departmental operations to carry out the directives of the County Legislators efficiently, economically, and effectively, as well as assist with short and long-term capital and fiscal planning. The County Administrator will also perform related work as required and assigned. The County Administrator shall have all the powers and perform all the duties necessarily implied or incidental thereto. Among such powers and duties, but not by way of limitation, are the following:

##### *A. Departmental Management & Labor Relations:*

- Act as day-to-day primary Operations Director in accordance with policies established by the Legislature.
- Provide interdepartmental leadership and unify overall management of County affairs by supporting the operations of Department Heads, implement administrative policies approved by the Legislature, address common issues among departments, identify interdepartmental efficiencies, attend and participate in monthly Department Head meetings.
- Work with Department Heads to implement and ensure compliance with New York State legislation.
- Make recommendations to the Legislature regarding appointment/termination of non-elected Department Heads.
- Conduct non-elected Department Head performance evaluations and prepare Department Head performance reports, including recommending to the Legislature any changes to salaries or benefits as

consistent with the current salary plan in conjunction with the Legislative Standing Committee Chairperson.

- Participate in collective bargaining negotiations with employee labor unions.
- Ensure that County policies are followed.

*B. Financial Management & Budgeting:*

- Act as Budget Officer monitoring expenditures, establishing budgetary controls, and updating the Legislature on the County's financial status.
- Review tentative operating and capital budgets with Department Heads and make recommendations to the Legislature.
- Serve as an advisor to the Legislature preparing and executing short and long-term capital plans.
- Facilitate grants and shared services activity, when appropriate.

*C. Administration & Communication:*

- Lead Purchasing Policy evaluation and improvement to current procedures.
- Execute contracts in the name of Tioga County, authorize filling vacant funded positions, authorize routine expenditures, budget transfers and modifications below a predetermined threshold, provide adequate insurance.
- Attend all regular Legislature meetings, special Legislature meetings, public hearings, and Legislative Standing Committee meetings.
- Act as Public Information Officer and spokesperson for the Legislature.
- Serve as liaison and represent the Legislature in contacts with political subdivisions, State and Federal officials and agencies.
- Prepare and present annual report on the State of the County to the Legislature and public.
- Create and deliver necessary projects and reports as required by the County and State of New York such as Shared Services, surveys, and information required by the State.
- Assist the Legislature with developing short and long-term policies and procedures, recommend and advise the Legislature of implications of policies and procedures under construction.
- Facilitate Leaders Meetings, participate in Executive Team Meetings, and other such related meetings that pertain to leadership activities with the County.

*D. Other Duties as Assigned*

SECTION 6: ACTING COUNTY ADMINISTRATOR.

The Chairperson of the Legislature shall be the acting County Administrator in the event of the County Administrator's absence from the County or inability to perform and exercise the powers and duties of the position. In the event of the Chairperson's inability to serve as acting County Administrator, the Chairperson, with the approval of the Legislature, shall appoint an acting County Administrator. In no event may a person serve as acting County Administrator for a period greater than sixty days in any calendar year, unless authorized by the Legislature. The acting County Administrator shall have all the powers and duties of the County Administrator during the period of their designation or until a new County Administrator shall be appointed, pursuant to this local law, and shall qualify to assume that position.

SECTION 7: NO DIVESTITURE OF POWERS AND DUTIES OF LEGISLATURE.

Nothing contained in this local law shall operate or be construed to divest the County Legislature of Tioga County of any of its functions, powers and duties.

SECTION 8: SEVERABILITY OF PROVISIONS.

If any clause, sentence, paragraph, subdivision, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment, decree, or order shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment, decree or order have been rendered.

SECTION 9: CONFLICT WITH PREVIOUS LOCAL LAWS AND RESOLUTIONS.

In the event of a conflict or inconsistency between this local law and any previous local law or resolution of the County Legislature, this local law shall govern.

SECTION 10: EFFECTIVE DATE.

This local law shall take effect when all applicable statutory requirements for its passage and adoption have been complied with fully and it has been duly filed as provided by the Municipal Home Rule Law.