THE ERIE COUNTY LEGISLATURE

GOVERNMENT AFFAIRS COMMITTEE

John J. Gilmour
Chair

Lisa M. Chimera
Vice-Chair

Meeting No. 2 – April 22, 2021 – 2:15 PM

			TAB	R&F	APP
1.	**INTRO. 12-4 (2020)** Session 12	**LORIGO, RATH, TODARO & MILLS** *"Support for Local Control in Easing Open Container Restrictions"*			
2.	**INTRO. 14-2 (2020)** Session 14	**BASKIN & JOHNSON** *"Supporting the Establishment of Juneteenth as an Observed EC Holiday"*			
3.	**COMM. 14E-2 (2020)** Session 14	**BASKIN** *"Letter Supporting the Declaration of Juneteenth as an Annually Observed EC Holiday"*			
4.	**COMM. 15E-21 (2020)** Session 15	**HARDWICK** *"WROTB Receipt of Paycheck Protection Program Funds & Furloughs"*			
5.	**LL INTRO. 5-1 (2020)** Session 16	**LORIGO, RATH, TODARO & MILLS** *"A LL Requiring Timely Reports on County Mandated Business Closures Made Pursuant to Local or State Regulations"*			

			TAB	R&F	APP
6.	**LL Intro. 8-1 (2020)** Session 23	**LORIGO, RATH, TODARO & MILLS** *"A LL titled, "Third Party Food Delivery Services Law" "*			
7.	**INTRO. 6-3 (2021)** Session 6	**TODARO, LORIGO, GREENE & MILLS** *"Opposition to Proposed Changes to NYS Insurance Laws Aimed at Gun Ownership"*			
8.	**COMM. 8E-5 (2021)** Session 8	**COUNTY CLERK** *"2020 Annual Report of County Clerk's Office"*			
9.	**COMM. 8E-29 (2021)** Session 8	**COUNTY CLERK** *"Authorization for Second Contract Extension for Zombie Property Outreach Services"*			

ECLEG JUN02'20 AM 9:49

A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS LORIGO, RATH, TODARO, AND MILLS

Re: Support for Local Control in Easing Open Container Restrictions

WHEREAS, with the spread of COVID-19 it appears likely that New York will impose strict limitations on restaurant seating capacity upon their reopening; and

WHEREAS, many people are uncomfortable returning to restaurants where social distancing is difficult or even impossible. This honorable body seeks to rethink entertainment options for residents and businesses alike in light of policies and practices necessitated by the spread of COVID-19; and

WHEREAS, open-container laws are intended to limit public intoxication and the operation of vehicles under the influence, the latter of which is regulated by New York State; and

WHEREAS, Municipal Home Rule Law provides local municipalities with the authority to make any law or ordinance that is not inconsistent with any state laws; and

WHEREAS, New York State laws explicitly prohibits the consumption of alcohol in automobiles under vehicle and traffic law. However, New York State has left it to local municipalities to regulate local streets and parks on their own; and

WHEREAS, many municipalities restrict open containers to establishments that are licensed by the state liquor authority, the Village of East Aurora is one of the few municipalities that does not have restrictions on the use of alcohol on public sidewalks; and

WHEREAS, residents across Erie County should have the opportunity to responsibly enjoy alcoholic beverages in areas where they have traditionally been banned and there are many laws in place that would govern their behavior.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body fully supports the prohibition against open containers in motor vehicles and areas traditionally reserved for minors; and, be it further

RESOLVED, that this honorable body hereby supports local municipalities who wish to reconsider their restrictions against open containers on public streets and parks so as to encourage residents to utilize local restaurants and establishments; and, be it further

RESOLVED, that certified copies of this resolution be sent to every municipality located in Erie County and any other party deemed necessary and proper.

Fiscal Impact: None for resolution

ECLEG JUL06'20 AM 3:23

A RESOLUTION SUBMITTED BY LEGISLATORS BASKIN AND JOHNSON

Re: Supporting the Establishment of Juneteenth as an Observed Erie County Holiday

WHEREAS, Juneteenth is the oldest nationally celebrated commemoration of the ending of slavery in the United States; and

WHEREAS, Juneteenth commemorates June 19, 1865, when Union Army soldiers, led by Major General Gordon Granger, landed at Galveston, Texas with news that the Civil War had ended and Black slaves were now free; and

WHEREAS, General Granger read to the residents of Galveston General Order Number 3, which stated: "The people of Texas are informed that in accordance with a Proclamation from the Executive of the United States, all slaves are free. This involves an absolute equality of rights and rights of property between former masters and slaves"; and

WHEREAS, the celebration of June 19th was termed "Juneteenth" and grew with participation from descendants of those freed Black slaves, with the date becoming highly revered in Texas decades later, with many former slaves and descendants making an annual pilgrimage back to Galveston on this date; and

WHEREAS, Juneteenth has become a national day of celebration, parades, picnics, and prayer events; and

WHEREAS, along with parties, barbecues, sporting activities, and family gatherings, Juneteenth also focuses on education and self-improvement, featuring celebrations with guest speakers and prayer services; and

WHEREAS, historically, little interest existed outside the African American community in participation in the celebrations and White Americans have traditionally had little participation or involvement in Juneteenth commemorations or events; and

WHEREAS, recent tragic and senseless events in our country and community involving African Americans and law enforcement have led to public outcry and introspection about the state of racial relations in our country and community; and the need for more improvements and progress in addressing racial inequity; and

WHEREAS, as a part of the public outcry and expressions of concern, many elected officials and activists have called for more awareness of the contributions of African Americans to our society, and the naming of Juneteenth as an observed public and government holiday, to allow persons of all ethnicities to recognize the legacy of slavery and racism in our country, and to celebrate all of the positive accomplishments and contributions of African Americans in the United States; and

WHEREAS, Juneteenth is also a time to focus on advancing racial equity and fighting racial injustice; and

WHEREAS, Buffalo features one of the largest annual Juneteenth celebrations in the country; and

WHEREAS, on January 1, 1980, Juneteenth became an official state holiday in Texas through the efforts of Al Edwards, an African American state legislator; and

WHEREAS, Governor Andrew Cuomo named June 19, 2020 as an observed state government holiday for State employees and he is proposing legislation to make it an official state holiday in 2021, and Buffalo Mayor Byron Brown announced that Juneteenth will become a paid holiday for City of Buffalo employees beginning in 2021; and

WHEREAS, Erie County government can and should make an affirmative expression of support for the naming of Juneteenth annually as an Erie County government observed holiday to commemorate the ending of slavery, and to be a day of reflection of race relations in this country and to stress the importance of racial parity and justice.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby expresses its support for the naming of Juneteenth as an annual observed Erie County government holiday and urges the Erie County Executive to act to designate Juneteenth as an observed holiday; and be it further

RESOLVED, that certified copies of this resolution be transmitted to the County Executive, Commissioners of Labor Relations and Personnel, and the NAACP Buffalo Chapter.

Fiscal Impact: To be determined.

ERIE COUNTY LEGISLATURE

HON. APRIL N.M. BASKIN
CHAIR OF THE LEGISLATURE
2ND DISTRICT LEGISLATOR

❑ 792 E. Delavan Ave.
Buffalo, NY 14215
716/895-1849
FAX: 716/895-1910

❑ 92 Franklin St., 4th Fl.
Buffalo, NY 14202
716/858-8869
FAX: 716/858-8895

❑ *Legislative Assistant*
Pedro Gonzalez-Ortiz
E-Mail:
Pedro.Gonzalez-Ortiz@erie.gov

ECLEG JUN23'20 PM 3:13

June 23, 2020

Hon. Mark C. Poloncarz
Erie County Executive
95 Franklin Street, 16th Floor
Buffalo, New York 14202

Re: Support for Declaring Juneteenth an Annual Erie County Observed Holiday

Dear County Executive Poloncarz:

I am writing to express my support for Erie County government making Juneteenth an observed County holiday and to encourage you to take steps to make this annual day a paid holiday for County employees.

Last week, Governor Andrew Cuomo declared Juneteenth to be a state holiday on June 19, 2020 for state employees, and he is proposing legislation to make it an official state holiday in 2021. Buffalo Mayor Byron Brown also announced that Juneteenth will become a paid holiday for City of Buffalo employees beginning in 2021.

This day commemorates the end of slavery and is observed around the country every June 19th to mark the day on June 19, 1865 that enslaved workers in Texas were told they were free after the Civil War ended. Juneteenth is a time to focus on advancing racial equity and fighting racial injustice. Buffalo features one of the largest annual Juneteenth celebrations in the country, a tradition I am proud to commemorate and join. I believe that the County should also act to commemorate this day and stress the importance of racial parity and justice.

I look forward to hearing from you concerning this request and to working with you and the Commissioners of Labor Relations and Personnel to explore and implement Juneteenth as an observed County holiday. Thank you in advance for your consideration.

Sincerely,

April Baskin

April N.M. Baskin
Chair of the Legislature

cc: Howard Johnson, Erie County Legislator

ERIE COUNTY LEGISLATURE

HON. KEVIN HARDWICK
4TH DISTRICT LEGISLATOR

92 Franklin St., 4th Fl.
Buffalo, NY 14202
716/858-8672
FAX: 716/858-8895

July 20, 2020

Henry Wojtaszek, Chief Executive Officer and President
Western Regional Off-Track Betting Corporation
8315 Park Road
Batavia, New York 14020

Re: WROTB Receipt of Paycheck Protection Program Funds and Furloughs

Dear Mr. Wojtaszek:

On May 1, 2020 Western Regional Off-Track Betting Corporation ("WROTB") quietly announced that you had sought and received $3.2 million of federal financial assistance under the US Small Business Administration's Paycheck Protection Program ("PPP"), allegedly to help pay for WROTB payroll and other expenses for an eight-week period.

On July 14, 2020, the media outlet Investigative Post reported that via a July 7, 2020 letter, you furloughed 300 WROTB employees (out of 400 or 450 total employees) effective July 10, 2020.

I am writing to request detailed information from WROTB concerning these July 2020 furloughs, prior employee furloughs since March 2020, and pay reductions for WROTB employees. I also have a number of questions. For instance: How many employees were furloughed? Are you and the corporation's chief financial officers and senior management staff taking any pay cuts or furloughs (at any time since March or now or in the future)? Are WROTB board members' stipends and health insurance continuing to be covered by WROTB during this process? How much money did WROTB receive from the PPP program? How much of the PPP funds were used for payroll and fringe benefits? Have you sought other financial assistance from any level of government, or any financial or banking institution? Are you using WROTB cash reserves or fund balance or other sources of funding to continue to pay some employees, and if so, how much?

When Beverly Mazur, your current Erie County representative on the WROTB Board of Directors appeared before this body twice in the past 10 months at our request, she assured the Erie County Legislature that WROTB would operate transparently and she, or WROTB management, would report on developments to this body. However, we have never received any communication from you or Ms. Mazur about these furloughs, nor your solicitation and receipt and use of PPP funds.

I look forward to your timely and detailed response to these questions. Thank you in advance for your anticipated cooperation.

Sincerely,

Kevin R. Hardwick, Chair
Government Affairs Committee

cc: Richard D. Bianchi, WROTB Board Chairman

LEG AUG04 '20 AM10:32

LOCAL LAW TO BE ENACTED BY

THE ERIE COUNTY LEGISLATURE

IN THE

COUNTY OF ERIE

LOCAL LAW INTRO. – NO. 5-1 - 2020

LOCAL LAW – NO. _____ - 2020

A local law requiring timely reports on county mandated business closures made pursuant to local or state regulations.

SECTION 1. Short title

This law shall be known as the Business Closure Reporting Act

SECTION 2. Legislative Intent

The use of government authority to close a business should not be taken lightly. It is the intent of this law to ensure that any decision made by a representative of Erie County Government resulting in the closure of a business is transparent, subject to reasonable public oversight, and consistent with rules, regulations, and laws promulgated to protect the public. To that end, it is the decision of this body to require the creation and publication of a "Report of Justification" detailing the County's legal reasoning and justification for the closure.

SECTION 3. Requirement to Report Closures

Should any Erie County official, elected, appointed, or otherwise, use any power granted to them to close a place of business for any reason or any length of time, that official shall be responsible for delivering a Report of Justification to the Clerk of the Legislature within forty–eight (48) hours of the ordered closure via email or hardcopy. It shall be incumbent upon the Clerk to forward a copy of the Report to every member of the Erie County Legislature and ensure the Report is entered into the Legislature's official record. If receipt of said Report occurs outside of operating hours of the Erie County Legislature, the Clerk shall forward the Report to every legislator and submit it to the legislative record as soon as practicable, but in any event no later than 10:00 am the next business day. A copy of the Report of Justification shall also be delivered to the owner(s) of the impacted business within the same timeframe via Certified US Mail, Return Receipt Requested.

The Report of Justification shall include:

1) A detailed written report that provides justification for the decision to order the closure, signed by the Erie County government official ordering the closure;

2) A copy of the official order or communication closing the place of business; and

3) Any and all evidence in the possession of Erie County government on which the closure was based.

The Report of Justification shall document the entire basis for ordering the closure. Any and all factors leading to the decision to order a business closure shall be included in the Report. Any information omitted from the Report cannot be used later to justify the Order of closure.

SECTION 4. Effective Date

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

SECTION 5. Severability

If any clause, sentence, paragraph, subdivision, section or part of this Local Law or the application thereof, 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 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: Legislator Lorigo

Co-Sponsors: Legislators Rath, Todaro, and Mills

LOCAL LAW TO BE ENACTED BY
THE ERIE COUNTY LEGISLATURE
IN THE
COUNTY OF ERIE
LOCAL LAW INTRO. – NO. 8-1 - 2020
LOCAL LAW – NO. _____ - 2020

This law shall be known as the "Third Party Food Delivery Services Law"

SECTION 1. Intent

It is the intent of this body to prevent potentially predatory rate-hikes imposed by third-party food delivery services on businesses in Erie County during a declared emergency.

SECTION 2. Definitions

1) Declared emergency – The term "declared emergency" means the period during which a state disaster emergency has been declared by Governor of the State of New York or a state of emergency has been declared by the County Executive, such declaration is in effect in the County, and there are restrictions on on-premises dining at food service establishments in the County.

2) Delivery fee – the term "delivery fee" means a fee charged by a third-party food delivery service for providing a food service establishment with a service that delivers food from such establishment to customers. The term does not include any other fee that may be charged by a third-party food delivery service to a food service establishment, such as fees for listing or advertising the food service establishment on the third-party food delivery service platform or fees related to processing the online order.

3) Food Service Establishment – The term "food service establishment", means any fixed or mobile restaurant; drive-in; coffee shop; cafeteria; short-order cafe; delicatessen; luncheonette; grill; tearoom; sandwich shop; soda fountain; bar; tavern; cocktail lounge; night club; roadside stand; take-out prepared food place; retail bakery; industrial feeding establishment; private, public or nonprofit organization or institution, including: schools; nursing homes; day care centers and hospitals; religious and fraternal organizations routinely serving food; catering kitchens; commissary or similar places in which food is prepared for sale or for service on the premises or elsewhere; and any other establishment or operation where food is served or provided for the public, with or without charge.

4) Online Order – the term "online order" means any order placed by a customer through or with the assistance of a platform provided by a third-party food delivery services, including a telephone order.

5) Purchase Price – the term "purchase price" means the total price of the items contained in an online order that are listed on the menu of the food service establishment where such order is placed. Such term does not include taxes, gratuities, and any other fees that may make up the total cost to the customer of an online order.

6) Third-Party Food Delivery Service – the term "third-party food delivery service" means any website, mobile application or other internet service that offers or arranges for the sale of food and beverages prepared by, and the same-day delivery or same-day pickup of food and beverages from food service establishments located in the County that are owned and operated by different persons.

SECTION 3. Fee Limits during Declared Emergencies

1) It shall be unlawful for a third-party food delivery service to charge a food service establishment a delivery fee that totals more than 15% of the purchase price of each online order.

2) It shall be unlawful for a third-party food delivery service to charge a food service establishment any fee or fees other than a delivery fee for the use of their service greater than 5% of the purchase price of each online order. Any fees or other charges from a third-party food delivery service to a food service establishment beyond such a maximum 5% fee per order, and a delivery fee collected pursuant to subdivision (1) of this section, are unlawful, provided that such cap shall not apply to a credit card fee that is charged to the third-party food delivery service and is charged in the same amount by the third-party food delivery service to such food service establishment.

3) It shall be unlawful for a person to cause a third-party food delivery platform to reduce the compensation rate paid to a delivery service driver or garnish gratuities in order to comply with this section.

4) The requirements of this section apply only during a declared emergency and for a period of 90 days after the end of a declared emergency.

SECTION 4. Enforcement and Penalties

If a third-party food delivery service charges a food service establishment fees in violation of this law, the food service establishment shall provide written notice to the third-party food delivery service requesting a refund within seven (7) days. If the third-party food delivery service fails to provide a full refund for excessive fees within seven (7) days of the initial notice, the food service establishment may file proof of the notice with the Erie County Office of Consumer Protection, which shall review the claim and do everything legally permissible to ensure the third-party food delivery service refunds the food service establishment.

If the Erie County Office of Consumer Protection determines that any third-party food delivery service is in violation of this law on three (3) or more separate occasions in any seven (7) day period, the Office of Consumer Protection is authorized to issue fines of up to $2,000 per additional occurrence against the third-party food delivery service. Fifty percent (50%) of all fines collected by the county shall be held in reserve to compensate food service establishments that the Office of Consumer Protection determines should be eligible for a refund. The amount of payment shall be determined by the Office of Consumer protection based on fund availability and third-party food delivery service overcharge; but, in no instance shall a food service establishment receive any refund in excess of the value of actual fees imposed in violation of this law. Any refunds received by a food service establishment from a third-party food delivery service shall offset any payment to the food service establishment out of this fund.

Nothing in this section shall prohibit any individual food service establishment from bringing any claim against a third-party food delivery service for a refund pursuant to this law in a court of competent jurisdiction.

SECTION 5. Effective Date

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

SECTION 6. Severability

If any clause, sentence, paragraph, subdivision, section or part of this Local Law or the application thereof, 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 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.

SECTION 7. Reverse Preemption

This section shall be null and void on the day that statewide legislation goes in effect, incorporating either the same or substantially similar provision as are contained in this law, unless state law specifically exempts from preemption earlier enacted local laws in this area. The Erie County Legislature may determine via resolution whether or not identical or substantially similar statewide legislation or pertinent preempting state or federal regulations have been enacted for the purposes of triggering the previsions of this section.

Sponsor: Legislator Lorigo

Co-Sponsor: Legislators Rath, Todaro, and Mills

A RESOLUTION TO BE SUBMITTED BY
LEGISLATOR TODARO, LORIGO, GREENE, AND MILLS

Re: Opposition to proposed changes to NYS Insurance laws aimed at gun ownership

WHEREAS, the use of firearms during the commission of a crime is deplorable and should be condemned by all elected officials; however, as happens far too often, well-meaning lawmakers seek to introduce gun-ownership laws without having a full understanding of the topic; and

WHEREAS, bill S4946 has been introduced in the New York State Senate to require owners of firearms to obtain liability insurance and to be liable for any acts carried out with said firearm prior to the filing of the reported loss or theft; and

WHEREAS, the law directs residents to acquire specific firearms liability insurance within 30 days of passage of the bill and to maintain such coverage in perpetuity. This proposal would neither reduce gun related violence, nor help potential victims of firearm related violence; and

WHEREAS, according to Jimi Grande, a vice president for the National Association of Mutual Insurance Companies, while likely well-intentioned, the requirement to carry firearm liability insurance "demonstrates a misunderstanding of the fundamental principles of insurance – that it is designed to cover fortuitous, or accidental events." Accidental shootings are already covered under most homeowners and renters insurance policies. It is not a practice of the insurance industry to cover intentional criminal acts, nor should it be; and

WHEREAS, firearm liability insurance is not a product the insurance industry is even interested in providing. As a result, it is expensive and difficult to acquire. Claims brought under the policy, where available, are often disclaimed by insurance companies if a victim seeks compensation. It would only serve to impose an additional restriction on, and barrier to, firearm ownership while not offering protection to any parties involved; and

WHEREAS, the bill also imposes liability on owners of firearms for acts committed with those firearms if lost or stolen until they are reported to the appropriate law enforcement agency; and

WHEREAS, on its face, the burden to report a theft or loss is not significant; however, in practice the timing may be problematic. If residents are unaware of the theft or loss at the time the firearm is no longer in their possession, imposing additional liability on gun owners for the illegal acts of another is excessive and heavy handed; and

WHEREAS, NYS does not impose liability on the owners of cars that are stolen where the thief gets in an accident. Firearm owners should not be held to an impossible to meet standard when it comes to liability for damages for the unrelated desire to restrict gun ownership.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body hereby condemns the use of firearms during the commission of a crime and encourages all gun owners to practice gun safety; and, be it further

RESOLVED, that this honorable body hereby opposes Senate Bill S4946 (2021) as impractical to implement and an undue burden on registered gun owners across the state; and, be it further

RESOLVED, that certified copies of this resolution be sent to the Western New York Delegation to the New York State Senate and Assembly, Governor Andrew Cuomo's office, and any other party deemed necessary and proper.

Fiscal Impact: None for resolution

STATE OF NEW YORK

4946

2021-2022 Regular Sessions

IN SENATE

February 19, 2021

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring owners of firearms to obtain liability insurance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The insurance law is amended by adding a new section 2354
2 to read as follows:
3 **§ 2354. Firearm owners insurance policies. 1. Any person in this**
4 **state who shall own a firearm shall, prior to such ownership, obtain and**
5 **continuously maintain a policy of liability insurance in an amount not**
6 **less than one million dollars specifically covering any damages result-**
7 **ing from any negligent acts involving the use of such firearm while it**
8 **is owned by such person. Failure to maintain such insurance shall result**
9 **in the immediate revocation of such owner's registration, license and**
10 **any other privilege to own such firearm.**
11 **2. For purposes of this section, a person shall be deemed to be the**
12 **owner of a firearm if such firearm is lost or stolen until such loss or**
13 **theft is reported to the police department or sheriff which has juris-**
14 **diction in the county, town, city or village in which such owner**
15 **resides.**
16 **3. Any person who owns a firearm on the effective date of this section**
17 **shall obtain the insurance required by this section within thirty days**
18 **of such effective date.**
19 **4. The provisions of this section shall not apply to any peace offi-**
20 **cer, as defined in section 2.10 of the criminal procedure law, police**
21 **officer, as defined in subdivision thirty-four of section 1.20 of the**
22 **criminal procedure law, or any member of the military who is on "active**
23 **duty" or "in active military service of the United States" as defined in**
24 **section one of the military law, who is authorized to carry a firearm.**

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD09303-01-1

5. The department is hereby authorized and directed to promulgate rules and regulations necessary to carry out the provisions of this section.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.

FILED 2021 AM 10:41

COUNTY OF ERIE

MICHAEL P. KEARNS
COUNTY CLERK

Hon. Robert M. Graber
92 Franklin Street
Buffalo, NY 14202

Dear Hon. Robert M. Graber,

I have enclosed the 2020 Annual Report on the accomplishments and status of the work done by the Erie County Clerk's Office.

My hope is that you find the Annual Report both educational and informative. Please contact my office if you would like to discuss the report or if I could explain any of the topics further to you.

Your contact for questions or concerns regarding any services provided by the County Clerk's Office is Kelly Krug at 858-6985.

It is my pleasure to serve the residents of Erie County.

Sincerely,

Michael P. Kearns
Erie County Clerk

Enclosure

ERIE COUNTY HALL • 92 FRANKLIN STREET • BUFFALO, N.Y. • 14202 • PHONE: (716) 858-8866 • FAX: (716) 858-6550

Annual Report 2020

"Certainty in Uncertain Times"

MICHAEL P. KEARNS
Erie County Clerk

Your Business Office in Erie County

COUNTY OF ERIE

MICHAEL P. KEARNS

ERIE COUNTY CLERK

March 16, 2021

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

Re: Erie County Clerk's Office – Annual Report 2020

Dear Chairwoman Baskin:

It's been a tough year due to COVID-19 and the unpredictable circumstances our community endured on a daily basis. Through it all, I am proud to say the Erie County Clerk's Office persevered as the business office for the County.

Although the year was a difficult one, I am proud to present this Honorable Body with the Erie County Clerk's Annual Report for 2020. Despite battling through the pandemic, this Office continued transforming and expanding the services offered to the public. My top priority was providing a safe and healthy environment for my staff and our customers while making the services of the County Clerk's Office accessible for all taxpayers of Erie County. Through the resourcefulness and dedication of all our employees, we have maintained certainty in uncertain times.

I am pleased to report to this Honorable Body that the Clerk's Office processed $141 million dollars in transactions, almost the same amount as we had conducted the year prior. The Office still was able to generate a $2.4 million surplus in added, unanticipated revenues, which is transferred directly to the general fund to support County services for taxpayers.

Among the most challenging and disruptive developments in 2020 was Governor's PauseNY orders, issued in March, which mandated the temporary closure of Erie County's Auto Bureau facilities. One of the biggest obstacles the need for essential workers to register their vehicles, surrender their license plates or obtain or renew a driver's license with New York State during this mandated closure.

My office was flooded with phone calls and emails from our mutual constituents begging us to "do something, anything". We have people throughout our community who rely on their vehicle to get to work, bring their children or parents to appointments or to grocery shop. Folks needed to get a vehicle on the road literally that day, it was an impossible situation for everyone, but we did what we needed to do, safely, in order to assist the motorists in Erie County.

In April, our Auto Bureau Division introduced emergency "curbside service" for first responders and frontline workers that needed to register a vehicle in order to get to work. Motorists submitted a request online, a motor vehicle representative would then contact them by phone, provide instructions on all the documents and forms

required to complete the transaction and schedule a date and time to arrive at an Auto Bureau branch to drop off their paperwork and wait in their car for the transaction to be completed in order to minimize contact. Not long after its initial rollout, the "curbside service" was available to all motorists at three Auto Bureau locations. In total, over 16,000 curbside transactions were conducted by Auto Bureau staff prior to re-opening the brick and mortar locations to the public in June of 2020 for transactions by appointments only.

The Erie County Supreme and County Courts remained operational throughout the pandemic to handle essential matters, such as emergency medical treatment proceedings, and our Actions and Proceedings Department maintained continuity of operations to ensure court documents were filed timely. Surprisingly, the real estate market and the associated banking transactions continued at its near-normal volume. During the critical months of the pandemic response, our Land Records department processed more than $2 billion in Erie County real estate transactions. The Archive Records Department offered limited services; however, they were able to issue business certificates and provide support to title searchers to ensure mortgages could be issued.

Due to limited space in the Pistol Permit office, all in-person services were suspended. However, we continued to accept the following transactions by mail: new applications, replacement of lost/stolen permits, and registering, deleting and transfers of a firearm.

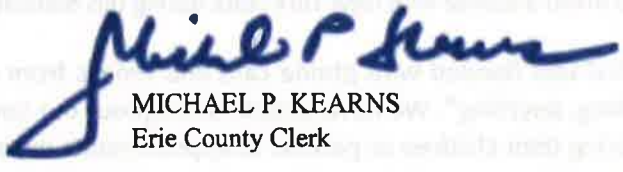
Looking forward, many challenges remain for 2021 and beyond. Due to COVID-19, the federal government has extended the REAL ID compliance deadline. Commencing October 1, 2021, driver's licenses and non-driver identification cards will need to meet REAL ID federal standards for domestic air travel and to enter federal facilities. The additional year means that the increased customer volume at our Auto Bureaus will continue and that will bring much needed revenue for the County.

The NYSDMV has notably stepped up their technology efforts and introduced many online services that could potentially reduce transaction volume in our local offices in the years to come. Without changes to the revenue sharing between State and County, this would translate to less revenue in the Auto Bureau Division. This will not stop our staff from providing superior customer service and develop innovative service options that ensure vital revenues are retained here in Erie County.

In closing, the primary goal of the County Clerk is to continue to provide efficient, cost-effective services in a healthy manner to residents of Erie County while increasing and identifying new revenue streams.

I would be remiss if I did not mention how proud I am of my staff. In March of 2020, the way our office conducted business changed, potentially forever. By changing the mold of their past routines and day-to-day workflow, they went above and beyond and did everything imaginable to make sure our customers, the residents of Erie County, were able to complete their business transactions during unparalleled times. This report demonstrates the financial success of their efforts, but they should also be commended for their intangible devotion to their work and the County.

Sincerely,



MICHAEL P. KEARNS
Erie County Clerk

OLD COUNTY HALL • 92 FRANKLIN STREET • BUFFALO, N.Y. • 14202 • PHONE: (716) 858-8866 • FAX: (716) 858-6550

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COUNTY CLERK'S OFFICE

The Erie County Clerk is an independently elected official responsible for recording, filing and maintaining a central repository of legal documents and records affecting property titles (including land and real estate transactions), those related to corporate filings, assumed names, and, as Clerk of the Supreme and County Courts, all court pleadings and papers. Responsibility for maintaining all court records was transferred to the County Clerk from the State Court System in 1986. In 1987, the responsibility of processing pistol permits and maintenance of those records was transferred to the County Clerk from the State Court System. The above-described duties are carried out pursuant to the laws of the State of New York, the Erie County Charter and Administrative Code.

In addition, the Erie County Auto Bureaus (the "ECAB" or "Auto Bureau"), as agent for the State Department of Motor Vehicles, are managed by the County Clerk, staffed by Clerk Office personnel and budgeted separately from the Registrar Division. The County Clerk oversees the operations of two Auto Bureau branches, four satellite offices and one Mobile unit serving four locations on a weekly schedule. In 2020, due to COVID-19, the Mobile unit and two satellite offices were closed until further notice.

Fees are mandated by New York State and local law. The operations of the Erie County Clerk's Office (the "ECCO" or "Clerk's Office") garner revenue primarily from recording, filing or processing legal records and documents, and for services provided by the Clerk's Office, such as copying and certifying the records maintained as public records in the Clerk's Office. More specifically, the Clerk's Office, as an agent of the State, collects mortgage and real estate transfer taxes that are then apportioned between the State, State agencies, the County and cities, towns and villages located within Erie County. Recording fees, filing fees, licensing fees and fees such as criminal surcharges and fines paid to the County Clerk are divided between various State agencies, such as the New York State Department of Education, the Department of Finance, the Department of Motor Vehicles, the State of New York Mortgage Agency (SONYMA), the Unified Court System and the Niagara Frontier Transportation Agency (NFTA). The funds required for office expenses, administrative costs, and New York State document and record retention requirements are drawn from the County general fund, into which the balance of revenues collected by the Clerk's Office are deposited.

ACCOMPLISHMENTS

FINANCIAL

- Generated $5.4 million in revenue surplus, which is transferred directly to Erie County's general fund and used to support county services.
- Processed over $141 million in transactions (just about equal to 2019 despite COVID-19).
- Generated $14.4 million for the County Road fund.

AUTO BUREAU

- Began relocation efforts of our Eastern Hills Mall branch to a larger and more suitable location inside the mall to better meet the overcrowding and improve overall customer service.
- Implemented "appointment only" for all in-person transactions at all Auto Bureau locations in order to decrease both transaction and wait times as well as meet COVID-19 re-opening guidelines.
- Turnaround completion times for local auto dealer vehicle registration work is now completed in 7-10 days versus 3-4 weeks.
- Reduced scheduling of reservations at all branches from a 6 week wait to same or next day appointments.
- While closed to the public due to COVID-19 pandemic, auto bureau operations continued to service the residents in Erie County that required essential DMV transactions utilizing the following methods:
    1. "Curbside Services" were put into place in order to meet the demand to register vehicles for all frontline employees in Erie County. This amenity was soon rolled out to all Erie County residents who required vehicle registrations. This service allowed the Erie County Auto Bureau to complete over 16,000 transactions.
    2. License Plate Surrender "Drop Box" was made available at our downtown branch, allowing motorists to surrender their vehicle license plates for cars no longer owned or on the road. This amenity was also available at all Erie County residents who required such services.
    3. Continued to process any and all DMV transactions permitted by mail.
- By offering the above services through the Erie County Auto Bureau, this office was able to generate revenues that are vital to many services and programs that are important to residents across Erie County.

PISTOL PERMIT DEPARTMENT

- Continued with cross-training of staff on various aspects of pistol department duties & responsibilities; previously, functions were staff member specific.
- Continued digitizing of historic documents to eliminate decades of paper files in storage.
- Created a detailed process to accept new applications by mail; previously handled by appointment only.

VETERANS SERVICES

All special projects and public events that were in the planning phase between January – March of 2020 were put on pause at the onset of the COVID-19 Pandemic. The Erie County Clerk's top priority was to maintain the delivery of essential services to taxpayers in a safe environment for staff and constituents. However, the Clerk's Office is proud of the additional resources and programming it was able to maintain, adjust and expand, despite restrictions caused by the pandemic.

Erie County Clerk's S.A.L.U.T.E.S. Program.

"Showing Appreciation, Loyalty and Unity Towards Erie County Service Members"

Thank A Vet Discount Program

- Continuation and expansion of Thank A Vet Discount Program.
- Offered S.A.L.U.T.E.S. services up until COVID-19 shut down.
- Offered S.A.L.U.T.E.S services through Erie County Clerk's Outreach Center.
- Offered a "Take Away Pen" Donation Opportunity to Thank A Vet Businesses as a way to slow the spread of viruses, save taxpayer dollars, and promote local businesses.
- Hosted a "Suits for Troops" Event offering 200 free new suits to veterans, donated by Tuxedo Junction. Suit sizes were coordinated on the phone/email and set aside for pick up to limit personal contact. Remaining suits were donated to the Salvation Army.
- Planned the second annual "Thank A Vet Day" at the Buffalo Bisons Ballpark. The event was cancelled due to COVID-19 restrictions.

William J. Donovan Purple Heart Book of Merit

- Collected 2020 Book of Merit applications for the William J. Donovan Purple Heart Book of Merit to include over 700 Erie County Purple Heart Veterans.
- Coordinated "Purple Heart Week" (instead of the annual Purple Heart Day Ceremony due to COVID-19 restrictions). Throughout Purple Heart Week, Clerk Kearns personally visited the front lawns of each of the Purple Heart Recipients (or their surviving relatives). Accompanied by the Local Chapter of the Military Order of the Purple Heart, Clerk Kearns delivered Purple Heart lawn signs, certificates and a commemorative coin in honor of their service and sacrifice.

- The kickoff to Purple Heart Week began with a small outdoor event at the Charles DeGlopper Memorial, Medal of Honor Recipient in Grand Island.
- On Wednesday of Purple Heart Week, Clerk Kearns unveiled a new "Wounded Warriors" Parking Space at the Orchard Park Town Hall with the Town Supervisor.
- On Friday, to conclude "Purple Heart Week", Clerk Kearns and the Military Order of the Purple Heart honored the final Purple Heart veteran added in the 2020 section of the Book of Merit in Lackawanna with the Lackawanna Mayor and Lackawanna Councilmen. At this small outdoor event, taking place on national Purple Heart Day, August 7, each of the members of the Military Order of the Purple Heart also brought a photo and short message to honor a friend that did not make it back from the war with them. This was to honor all Purple Heart Veterans living and deceased.

Operation Appreciation (Collaboration with Veterans Post Restoration of Erie County, NY Inc.)

- Planned a luncheon with guest speaker and Medal of Honor Recipient, David Bellavia, in collaboration with Bank on Buffalo, Russell's Steaks Chops and More and the Veterans Post Restoration. This event was intended to bring together the local business community and raise awareness for the needs of Veterans posts in dire need of accessibility improvements. The event was canceled one week before the COVID-19 shut down.

TECHNOLOGY

- Server upgrade continuation.
- Began development on a Pistol Permit Dealer Portal.
- Installed Remote Control Software to better manage all offsite devices.
- Phone upgrades at Northtown Auto Bureau.
- Centralized Queuing System with live dashboards, customer flow integration and detailed reporting for Auto Bureaus and Land Records.
- Upgraded appointment system to handle the increased volume in our Auto Bureaus due to COVID-19.
- New public computer area and self-help kiosk to promote social distancing and better customer service in the Land Records department.
- Implemented work from home procedures for staff due to COVID-19 shutdowns.
- Created a work schedule system to manage all Auto Bureau locations and staffing.
- Created an auto dealer database to monitor and log all our large dealer drop off transactions.
- Developed statistical reports to help stream line processes and make calculated business decisions.

ERIE COUNTY CLERK'S ZOMBIES INITIATIVE

- Since it began in June 2019 and through December 2020, the Erie County ZOMBIES Task Force has met with nearly every municipality in Erie County and advised supervisors, mayors, code enforcement officers, clerks, municipal attorneys, town and village boards regarding NY's Zombie Property and Foreclosure laws.
- Thus far, approximately 175 vacant and abandoned properties have been researched. At least one quarter of these properties have been brought into compliance and/or the deed has transferred to a new owner since the initial complaint.
- The task force has fielded over a hundred calls and reported over 30 addresses to the Department of Financial Services (DFS). Several of those properties have since been brought into compliance.
- The number of active DFS investigations in each municipality is as follows: Akron 1, Angola 1, Buffalo 1, Clarence 3, Colden 4, Elma 2, Evans 3, Gowanda 1, and Sloan 1. For each of these cases, the team has been corresponding with DFS as well as the mortgage servicer and/or property maintenance company to ensure the health and safety violations are remedied.
- The task force was successful in pushing HSBC to maintain the property at 93 Erie Avenue in Gowanda. HSBC demolished and rebuilt the back and front porch and plans to demolish the garage. In addition, the bank is looking to donate the property to the Land Bank or ensure the Land Bank obtains title through the tax foreclosure auction.
- The task force worked with the Mayor of Kenmore to ensure the property at 18 Euclid Avenue was safely demolished and paid for by the mortgage servicer, Ocwen. The total cost of the demolition and asbestos abatement was just under $50,000.
- The task force filed suit on behalf of the Town of Clarence against Nationstar d/b/a Mr. Cooper and U.S. Bank regarding the property at 4765 Shisler Road in Clarence. In the complaint, the Town is seeking just under $75,000 in fees for failure to maintain the property. Nationstar has filed an answer and the case will now move to discovery if necessary. The ultimate goal is to have the property demolished and the lot sold to a new family.
- Since the initiative launched, there have been numerous print and broadcast media stories. There is a website and an active Facebook page for the public to report on vacant and abandoned properties in their neighborhoods.
- On February 21, 2020, we held a press conference in front of a problem property on Shisler Road in Clarence. We were joined by Erie County Legislator Ed Rath and Clarence Town Supervisor Patrick Casillo in placing the first "ZOMBIE Watch" sign on the front lawn. This event was covered by WGRZ (Channel 2 News), WKBW (Channel 7 News), WBEN, Buffalo Rising, and the Clarence Bee, among other outlets. Over the past few months, we have reached over 2,800 people on the Erie County Clerk's ZOMBIES Initiative Facebook page.
- In addition to working with municipalities, and community outreach the Erie County ZOMBIES Task Force, has worked with individual homeowners like Norman D. He was forced to leave his South Wales, NY property several years earlier because he could no longer maintain the property due to kidney failure and heart failure. Norman tried for years to work with the bank on a deed-in-lieu, which allows a borrower to satisfy a defaulted loan by deeding the property to the bank.

After he reached out to our office, we worked vigorously to help him obtain a deed-in-lieu. Norman now has a final resolution that allows him to put all of this behind him. The deed has transferred to the bank and Norman can move on with the next chapter of his life.

- At the end of the year, the task force focused its efforts on partnering with Habitat for Humanity and the Land Bank in order to more effectively address vacant properties. The discussions are ongoing on how to combine our skill sets to come up with creative solutions. Meanwhile task force members have supported legislative efforts to increase compliance with zombie properties.

Erie County ZOMBIES Task Force

- On February 11th, May 12th, September 15th, and January 12th of this year, we held our quarterly Erie County ZOMBIES Foreclosure Task Force meeting. At each meeting, we had over 35 people in attendance from municipalities, legislator's offices, nonprofits, real estate agencies, businesses, and bank representatives from across the country. We had in-depth conversations about enforcement of the zombie laws, legislation, policy, and code enforcement, among other matters, and we held breakout committee meetings.

- In April, we released a Code Enforcement survey report. The final results were distributed to all Task Force members and Erie County municipalities. The goal of the survey was to determine what was needed to support Code Enforcement in the fight against zombie properties in Erie County. The largest need was for additional code enforcement staff, court personnel dedicated to this issue, and servicer points of contact.

- The Task Force held Code Enforcement Officer roundtable discussions on April 14th and August 25. In the fall, the Task Force launched the "Stay in Your Home" campaign. The "Stay in Your Home" campaign was created in response to the inevitable foreclosure crisis due to the current COVID-19 pandemic. Members of the Erie County ZOMBIES Foreclosure Task Force became concerned about the number of homeowners in default on their mortgages. With many forbearances expiring in 2021, Task Force members are compiling materials for homeowners who are facing challenges in keeping up with their mortgage payments so they can become current, stay in their homes, and prevent issues from snowballing, as well as become educated about their rights and options.

CONSTITUENT COMMUNICATION

- Continued "Catching Up with the Clerk" episodes on a City of Buffalo cable station.
- Continued new podcast: "Conversations with the Clerk".
- Created "Constant Contact" account allowing the Clerk to communicate with approximately 10,000 constituents via email.
- Continued to connect with constituents through social media platforms including: Instagram, Twitter, Facebook, and new YouTube platform.
    - Instagram @mickey.kearns
    - Twitter @ErieCountyClerk
    - Facebook @ErieCountyClerkMickeyKearns
    - YouTube: Erie County Clerk Michael P. Kearns

CLERK ON THE GO 2020

Prior to COVID-19 closure:

- Attended six Naturalization Ceremonies and spoke, offered assistance and free passport pictures for newly sworn US Citizens. Promoted the Outreach Center and began to see an increase in Passport Applications.
- In February, County Clerk Michael Kearns accepted one of only two awards out of 7,700 passport acceptance facilities nationwide for "The Most Innovative Passport Acceptance Facility of 2019" on behalf of the Clerk's Office.
- The office was recognized with a "Leadership Award" from the Bureau of Consular Affairs for expanding Passport services in Erie County in a time of increasing demand.
- Clerk On The Go visited several senior centers and businesses (five in total) during the months of January and February. Unfortunately, 27 already on schedule for 2020 had to be cancelled due to the pandemic.
- Clerk On The Go participated in Brides World at the Buffalo Convention Center where we spoke with over 5,000 brides and grooms regarding Passports and REAL ID for honeymoon travel.
- The Federal government extended the REAL ID deadline until October 2021. LAMAR Advertising updated the date on the 2 billboards and have extended the advertising for the REAL ID public awareness campaign. The billboards are located by the airport and off the 190 South near Seneca Street. Impression amounts are still running as they did last year with 20,000 per week estimated.
- Corrected and updated the REAL ID banner with the new 2021 deadline.

CLERK'S OUTREACH CENTER 2020 **Prior to COVID-19 Closure 2020**

- February 3, 2020 was the Grand Opening of the Outreach Center. We began to assist people with all services of the Clerk's Office and were on our way to a busy year.
- We averaged over dozen passports each month.
- Began offering evening hours and operated on a "no appointment necessary" format.
- COVID-19 forced the closure of the Outreach Center on March16, 2020 and remained closed until the end of May.

CLERK'S OUTREACH CENTER **Post COVID-19 Closure 2020**

- Upon reopening, the center picked up with "no appointment necessary" service and served people having questions on how to do business with the Clerk's Office.
- Transitioned into a call center to make required appointments for the Auto Bureau.
- Provided additional assistance and support to the Auto Bureau with "RENEW LOCAL" envelope requests, researched registration renewal fees and offered appointment assistance.
- Continued to provide passport and pistol permit application assistance.

HEALTH

Erie County Clerk's Wellness Collaborative.

Healthiest Districts Initiative (HDI)

- Continued monthly meetings (virtually) with five HDI School Districts, introducing numerous health partners and resources each month in partnership with the Wellness Institute of Buffalo.

Partnership with Catholic Health System

- Continued "Heart Healthy Blood Pressure Screenings" at the Erie County Auto Bureaus during American Heart Month in February.
- Multiple patients called to say the screening alerted them of problems of which they were previously unaware. "This saved my life, I was just a heart attack away from a stroke" – Mr. Robert Henry (constituent served at 2019 October health screening who shared his story at the February 2020 kickoff event).

BUDGET VS. ACTUAL

ERIE COUNTY CLERK'S OFFICE
2020 Budget Summary

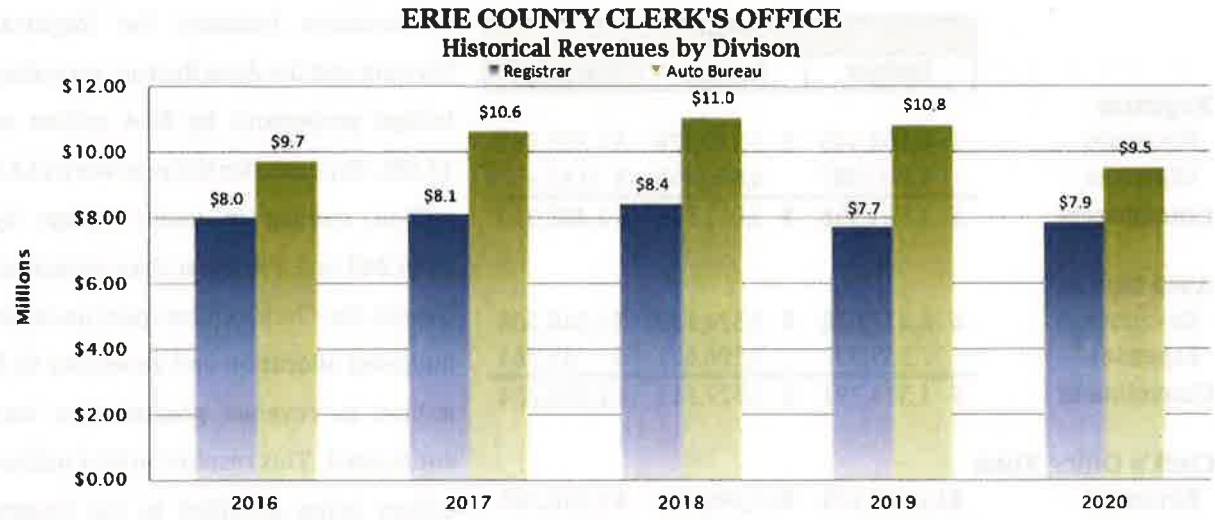
	2020		
	Budget	**Actuals**	**Variance**
Registrar			
Revenues	$ 6,568,545	$ 7,872,326	$1,303,781
Expenses	5,002,987	4,820,456	$ (182,532)
Commitment	$ 1,565,558	$ 3,051,871	$ 1,486,313
Auto Bureau			
Revenues	$ 8,477,628	$ 9,524,136	$1,046,508
Expenses	7,153,337	7,196,621	$ 43,284
Commitment	$ 1,324,291	$ 2,327,515	$ 1,003,224
Clerk's Office Total			
Revenues	$15,046,173	$17,396,462	$2,350,289
Expenses	$12,156,325	$12,017,077	$ (139,248)
Commitment	$ 2,889,848	$ 5,379,385	$ 2,489,537

The Clerk's Office generated $17 million in revenues between the Registrar Division and the Auto Bureau, exceeding budget projections by $2.4 million or 15.6%. Expenses for the year were $12.0 million, coming in under budget by $139,248 or 1.1% lower than estimated. Overall, the Clerk's Office spent under its budgeted allocation and generated $2.5 million in revenue greater than was anticipated. This resulted in $5.4 million dollars being provided to the County general fund to offset the need of taxpayer contributions.

HISTORICAL BUDGET PERFORMANCE

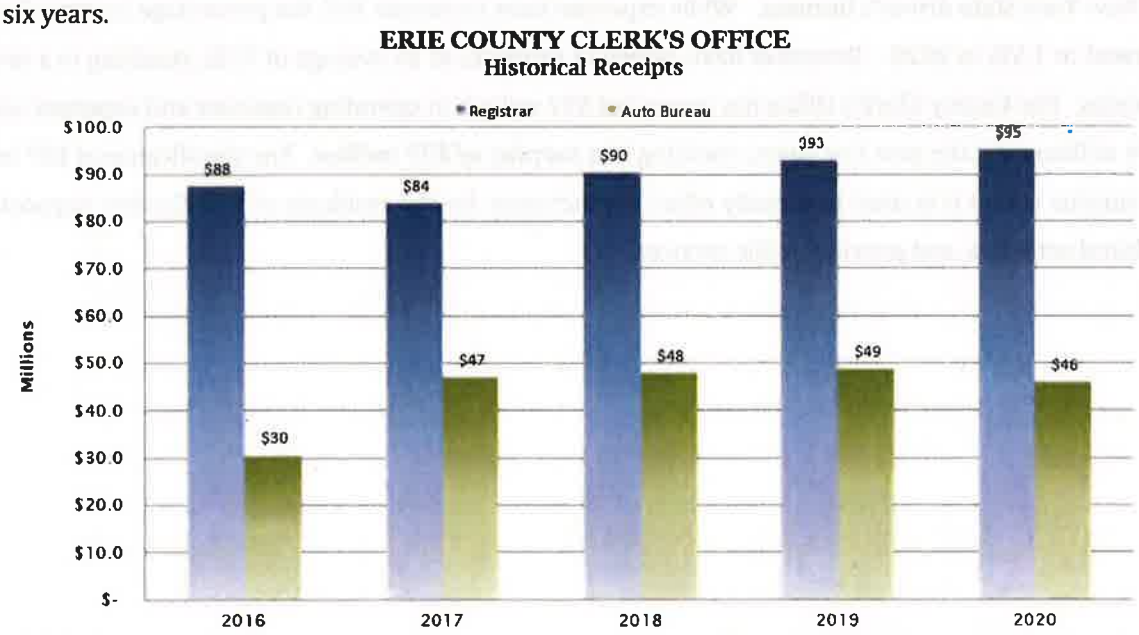
Since 2016 but prior to the 2020 COVID-19 pandemic, revenues remained steady due to the renewal cycle of New York State driver's licenses. While expenses have increased YoY, the percentage increase YoY has slowed to 1.5% in 2020. Revenues have exceeded expenses at an average of 71%, resulting in a revenue surplus. The County Clerk's Office has generated $92 million in operating revenues and expenses totaling $54 million over the past five years, resulting in a ***surplus of $37 million***. The significance of $37 million in surplus is that it is used to directly offset tax increases for the residents of Erie County, support local cultural activities, and provide public services.

The graph below shows historical revenues by division. The Registrar's Division experienced a slight increase over 2019, despite the COVID-19 pandemic. The Auto Bureaus experienced a decrease as a result of the pandemic with branch closures as well as changing from walk-in transactional activity to scheduling by appointment only.



RECEIPTS

While the Clerk's Office generated $19 million in revenues for the County this does not reflect the total receipts collected through the Clerk's Office. In 2020, the Clerk's Office processed over $141 million in transactions, $93 million in the Registrar's Division and $49 million through the Auto Bureaus. These receipts are then distributed on a monthly basis to various agencies including the State DMV, State Tax Department, NFTA, and various local towns and villages. Over the past six years the Clerk's office has generated over $745 million. The graph below is a historical summary of total receipts collected over the past six years.



EMPLOYEES PRODUCTION

There are a total of 145 fulltime equivalent employees (FTE) staffed in the Clerk's Office, 60 FTEs within the Registrar Division and 85 working at the Auto Bureau. During 2020, the 145 FTEs completed over ***544,000*** transactions, averaging 3,753 transactions per FTE. Further, each FTE processed $939,356 in receipts or $119,976 in revenue for the Clerk's Office.

ERIE COUNTY CLERK'S OFFICE
2020 Employee Production

	2020		
	Registrar	**Auto Bureau**	**Office**
Full Time Equivalents (FTE)	60	85	145
Transactions	145,045	399,197	544,242
Transactions per FTE	*2,417*	*4,696*	*3,753*
Receipts	$ 90,283,637	$ 45,923,009	$ 136,206,645
Receipts per FTE	*$ 1,504,727*	*$ 540,271*	*$ 939,356*
Revenues	$ 7,872,326	$ 9,524,136	$ 17,396,462
Revenues per FTE	*$ 131,205*	*$ 112,049*	*$ 119,976*

REGISTRAR DIVISION

The Registrar Division is responsible for recording, filing and maintaining records related to land transactions or affecting title to real estate, corporations, assumed name certificates, court papers and the Uniform Commercial Code filings affecting title to real property. It provides a central repository for legal documents which require recording or filing. It also serves as a repository for documents requested, but not necessarily required, to be filed by customers of the office. Responsibility for maintaining the records is required by State and local law once the document or record is accepted by the Registrar's Office.

As Clerk of the Supreme and County Courts in Erie County, the County Clerk is responsible for filing and maintaining all court records of the New York State Supreme and County Courts, in accordance with State law and regulations of the Administrative Office of the Unified Court System. This obligation was transferred to the County from the State Court System in 1986. In addition, the Clerk is responsible for those duties set forth in the New York Civil Procedure Law and Rules, which include the granting of default judgments.

Responsibility for the processing of pistol permits and administration of the application files was transferred to the County Clerk from the State Court System in 1987. Accordingly, the Division accepts and processes pistol permits in addition to hunting and fishing licenses in the Pistol Permit Department.

All revenues attributed to the operation of the Division of the Registrar are derived from mandatory fees collected for the recording, processing and filing of legal documents and records and the issuance of licenses and permits. Mortgage and Real Property Transfer Taxes are collected by the Registrar and distributed to the appropriate state and local agencies.

Program and Service Objectives

The Erie County Clerk's Office is responsible for the following procedures:

- To record and file documents required or entitled to be filed under New York State law including deeds, mortgages, powers of attorney, certificates of incorporation, certificates of partnership, doing business under an assumed name, liens, real estate brokers entitlements to commissions, bail bond liens, local laws, wage assignments and pistol permits.
- To provide efficient, effective customer service to taxpayers and residents of Erie County.
- To provide access and assistance to the public for inspection of all fillings and recordings.
- To record all judgments entered in Erie County and the New York State Supreme Court as well as maintain current status of judgment records.
- To process all court papers submitted for civil actions and proceedings, and criminal cases on appeal.
- To administer the processing of pistol permit applications, the issuance of pistol permits upon the direction of an Erie County Court Judge and maintain existing permit files.
- To issue certificates, exemplifications, certified copies, executions, against real and personal property and notary public commissions.
- To serve as an agent of the state government with the sale of hunting and fishing licenses, the collection of mortgage, real property transfer taxes, capital gains taxes and the collection of court fees.
- To serve as an agent of the federal government by administering declarations of intent for individuals seeking U.S. citizenship.
- To accept United States Passport Applications for the U.S. Department of State.
- To administer and file oaths of public officials, notaries public and commissioner of deeds.
- To properly collect, record, deposit and monitor all fees and taxes collected, and to assure required distribution as prescribed by law, regulation or agreement.

Corporation and DBA Filings

There were just shy of 5,000 Corporate and DBA filings in the County Clerk's Office in 2020, down 20.2 percent from 2019 due to the COVID-19 pandemic. In 2019, business filings had taken a slight downward trend compared to the previous two years which were higher due to Erie County's resurgences. Over the last five years there have been just over 30,000 business filings in Erie County.

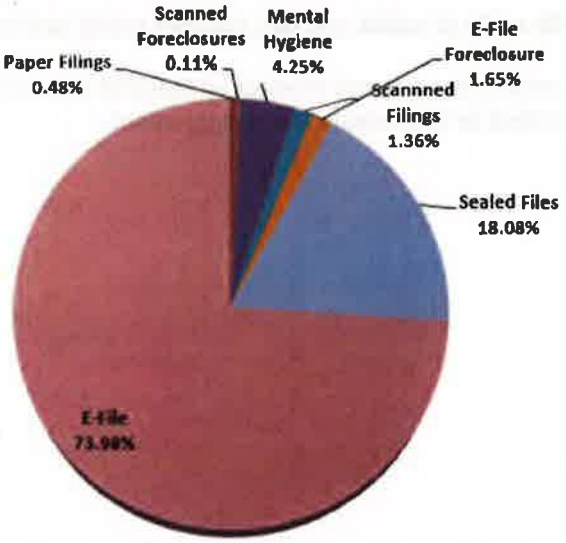
ERIE COUNTY CLERK'S OFFICE
DBA & Corporation Filings

	2016	2017	2018	2019	2020
Corporations	2,271	2,637	2,773	2,631	2,011
DBA	3,365	3,478	3,409	3,335	2,760
DBA Discontinuance	367	298	344	277	210
Total	**6,003**	**6,413**	**6,526**	**6,243**	**4,981**
Annual Growth		*6.8%*	*1.8%*	*-4.3%*	*-20.2%*

Index Numbers and Court Filings

ERIE COUNTY CLERK'S OFFICE
Actions & Proceedings

	Annual Case Filings				
	2016	2017	2018	2019	2020
Small Claims	64	73	70	36	17
Paper Filings	188	58	141	167	87
Scanned Foreclosures	248	291	245	155	20
Mental Hygiene	305	300	339	334	775
Scannned Filings	390	386	424	458	249
E-File Foreclosure	1,120	921	962	787	301
Sealed Files	3,181	2,826	2,827	2,706	3,298
E-File	8,979	10,941	12,639	13,137	13,498
Total	**14,475**	**15,796**	**17,647**	**17,780**	**18,245**
Annual Growth		*9.1%*	*11.7%*	*0.8%*	*2.6%*



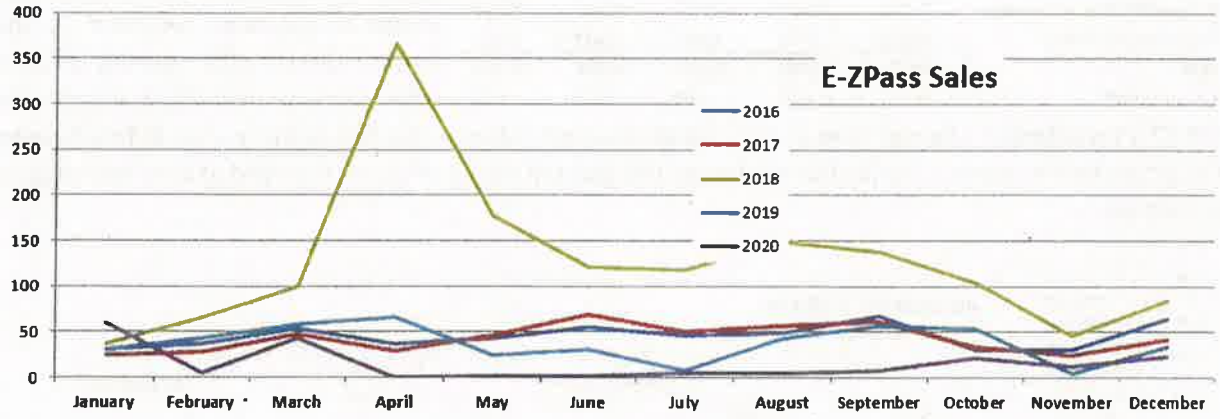
JUDGMENTS AND LIENS

ERIE COUNTY CLERK'S OFFICE
Judgements & Liens

	2016	2017	2018	2019	2020
Judgments	37,137	41,061	41,017	35,243	17,327
Liens	4,369	3,753	3,194	2,965	2,084
Satisfaction of Judgments	28,436	27,378	30,937	57,724	28,381
Total	**69,942**	**72,192**	**75,148**	**95,932**	**47,792**
Annual Growth		*3.2%*	*4.1%*	*27.7%*	*-50.2%*

E-ZPASS

The Clerk's Office sells New York State E-ZPasses for passenger and commercial vehicles for use on New York toll roads and other state toll roads. The cost of the E-ZPass is $25, in which the County Clerk's Office receives $4.00 for each unit or 16% of the total cost. The County Clerk's office sold 181 E-ZPasses in 2020, down 59.6 percent from the 2019 sales of 448 units. The sharp decrease is mainly due temporary office closures as a result of the COVID-19 pandemic.



Notary Public & Commissioner of Deeds

The County Clerk's Office is responsible for processing notary public applications and commissioner of deeds for the State, along with annual renewals. The commissioner of deeds are valid for two years depending on when the applicant first applies, regardless all applications expire on December 31st of an odd year. Notary public certifications are valid for four years, expiring four years from the certification date.

ERIE COUNTY CLERK'S OFFICE
Notary Public & Commissioner of Deeds

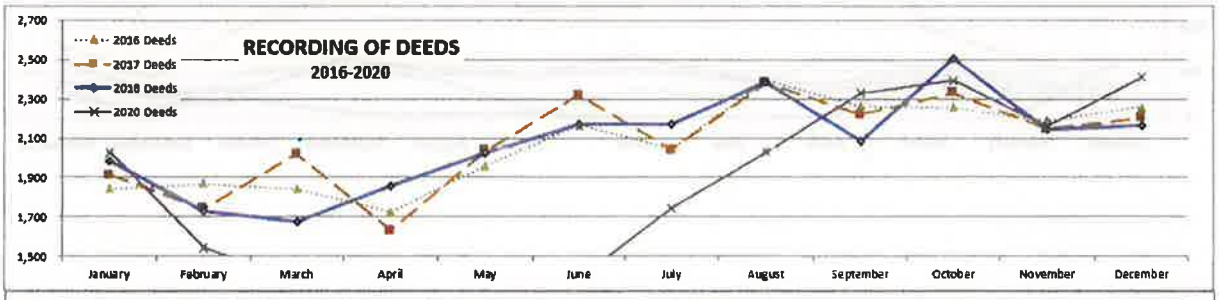
	2016	2017	2018	2019	2020
Notary	632	544	609	577	420
Notary Renewals	1,056	2,995	4,456	3,217	1,274
Commissioner of Deeds	1,376	448	1,356	347	1,078
Total	**3,064**	**3,987**	**6,421**	**4,141**	**2,772**
Annual Growth		*30.1%*	*61.0%*	*-35.5%*	*-33.1%*

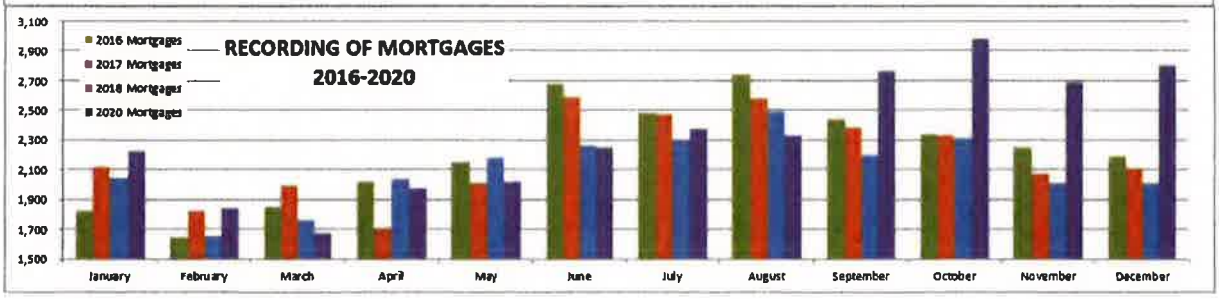
Deeds & Mortgage Filings

ERIE COUNTY CLERK'S OFFICE
Deeds & Mortgage Filings

	2016	2017	2018	2019	2020
Deeds	24,801	24,971	24,886	24,290	21,673
Mortgages	26,577	26,145	25,220	24,676	27,889
Mortgage Release & Discharge	27,395	29,551	27,527	25,809	29,499
Other Mortgage Filings	10,006	1,721	5,661	5,433	6,022
Total	**88,779**	**82,388**	**83,294**	**80,208**	**85,083**
Annual Growth		*-7.2%*	*1.1%*	*-3.7%*	*6.1%*

All real estate transactions such as deed and mortgage filings are processed through the County Clerk's office. There were over 85,000 real estate transactions recorded in the County Clerk's office during 2020, a 6.1% increase over 2019, despite the COVID-19 pandemic. The year to year increase gives an indication of the real estate market in Erie County. The graph below shows a comparison of the last five years of new mortgages recorded and the exchange of properties.





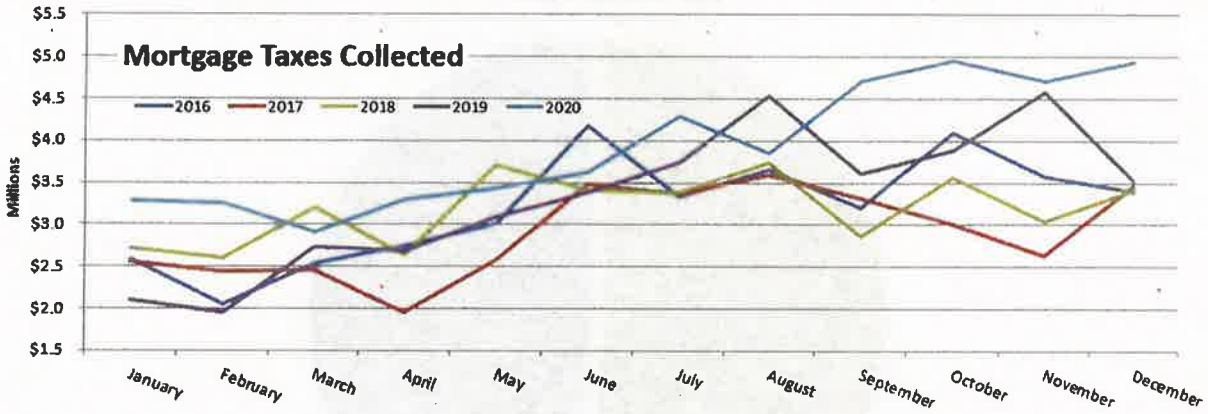
MORTGAGE TAX

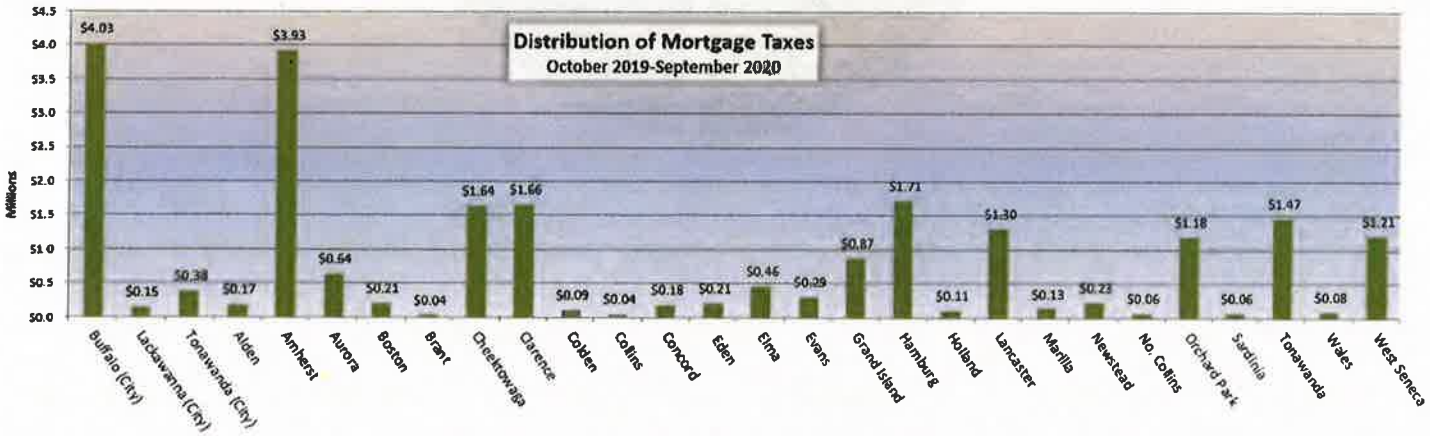
Erie County Clerk's Office

Mortgage Tax Distribution

	Annual				
	2016	2017	2018	2019	2020
Basic Tax	$ 19,444,000	$ 17,616,000	$ 19,311,000	$ 20,506,000	$ 24,063,000
NFTA	$ 15,416,000	$ 14,717,000	$ 15,652,000	$ 16,733,000	$ 20,921,000
SONYMA	$ 2,969,000	$ 1,986,000	$ 2,723,000	$ 2,560,000	$ 2,243,000
Total	**$ 37,829,000**	**$ 34,319,000**	**$ 37,686,000**	**$ 39,799,000**	**$ 47,227,000**
		-9%	10%	6%	19%

$47.2 million in mortgage taxes was collected in 2020, up 19 percent from 2019. Of the $47.2 million, $24.1 million is distributed to local cities and towns, $20.9 million to the Niagara Frontier Transit Authority (NFTA) and $2.2 million to the State of New York Mortgage Agency (SONYMA). The charts below are a summary of the mortgage taxes distributed to the local cities and towns and a comparison of the mortgage taxes collected over the past five years.





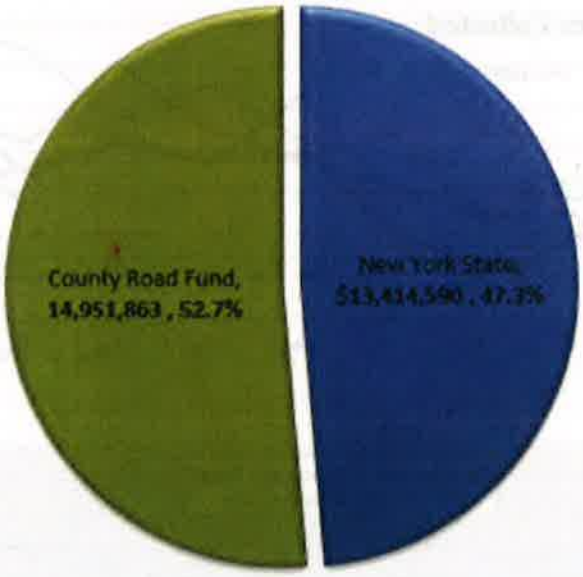
Transfer Tax

For every $500 of the property's recorded deed's sale price the County Clerk's Office collects $4.50 of which $2.00 is transferred to New York State and $2.50 is collected for Erie County's Road Fund. In 2020, transfer taxes collected were down 5 percent over 2019. During the last four years, the County Clerk's Office has collected over ***$57 million*** for the County's Road Fund.

Erie County Clerk's Office
Transfer Taxes

	Annual			
	2017	2018	2019	2020
New York State	$ 12,430,656	$ 13,414,590	$ 14,217,116	$ 13,666,473
County Road Fund	13,147,052	14,951,863	15,344,460	14,427,229
Total	$ 25,578,000	$ 28,366,000	$ 29,562,000	$ 28,094,000
		11%	4%	-5%

Transfer Taxes
2020 Collections



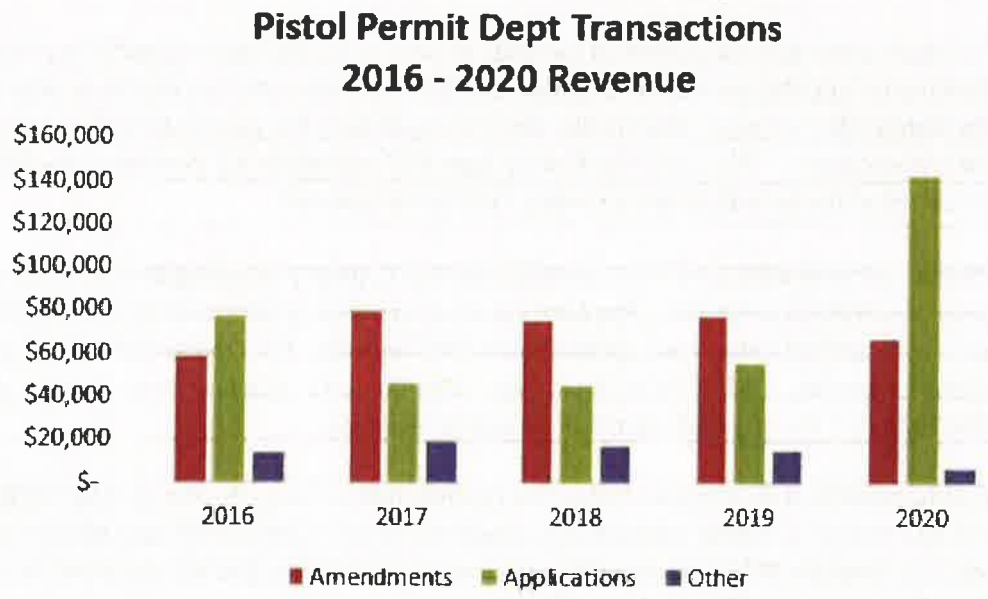
Pistol Permit Department

The Pistol Permit Department issues new pistol permits and dealer permits. This department also registers new gun purchases, transfers ownership and processes permits that are transferred in or out of Erie County.

In addition to the issuance of pistol permits and other related matters, the department also issues hunting and fishing licenses. Due to the department being closed to the public as a result of the COVID-19 pandemic, the department only issued 17 hunting and fishing licenses during 2020, a decrease of 65 percent from 2019.

- Pistol Permit Application Appointments: Prior to COVID-19, all applications were accepted in-person by appointment only. Since COVID-19, the direction was changed to accept applications by mail only. This has resulted in a 161% increase in application intake over 2019.
- Scanning & Digitizing Archived Pistol Permit Applications: With 81,000+ pistol permit files in storage, the process to scan and digitize was implemented to reduce paper and needed real estate for storage. The process has begun with archived files and continues with new incoming applications beginning in 2020.

	Annual Transactions					Annual Revenue				
	2016	2017	2018	2019	2020	2016	2017	2018	2019	2020
Pistol Permits										
Amendments	18,794	24,866	24,262	24,498	22,500	$ 58,769	$ 79,021	$ 75,344	$ 77,334	$ 67,000
Applications	3,837	2,335	2,241	2,750	7,177	$ 77,740	$ 46,700	$ 45,130	$ 55,420	$143,000
Other	1,213	1,497	1,570	1,318	591	$ 14,468	$ 19,226	$ 17,668	$ 14,688	$ 6,666
Total	**23,844**	**28,698**	**28,073**	**28,566**	**30,268**	**$150,977**	**$144,947**	**$138,142**	**$147,442**	**$216,666**
Annual Growth		*20.4%*	*-2.2%*	*1.8%*	*6.0%*		*-4.0%*	*-4.7%*	*6.7%*	*46.9%*



ERIE COUNTY AUTO BUREAU

The Auto Bureau is an agent for the New York State Department of Motor Vehicles. The Auto Bureau receives and processes motor vehicle applications, issues vehicle registrations and driver's licenses (including Enhanced Driver's Licenses), handles financial security transactions, and enforces DWI sanctions in accordance with the Vehicle and Traffic Laws of New York State. Additionally, boats, motorcycles, snowmobiles and trailers are registered and non-driver photo identifications are issued by the Auto Bureaus. Responsibilities include the collection and monitoring of all fees related to the issuance of auto registrations and driver's licenses, along with sales taxes collected on the private sale of automobiles.

Prior to COVID-19, the Auto Bureau had full-service offices in Buffalo, Cheektowaga, Tonawanda, Clarence, West Seneca, and Evans. Additionally, the Auto Bureau's Mobile Unit offered services in the following towns one day a week - Grand Island, Elma, Concord and West Seneca / Hamburg. In 2020, due to COVID-19, the Mobile unit and two satellite offices were closed and remain until further notice.

REVENUES & RETENTIONS

ERIE COUNTY CLERK'S OFFICE

2020 Budget Summary

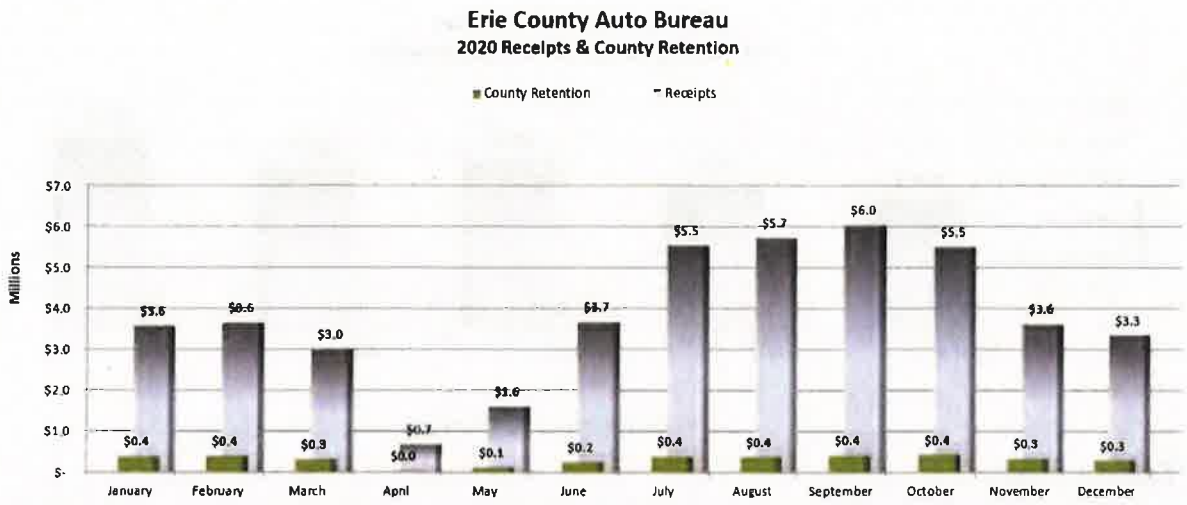
	2020		
	Budget	**Actuals**	**Variance**
Revenues			
Vechicle Use Tax	$ 4,895,825	$ 5,052,327	$ 156,502
Auto Fees	3,581,803	4,046,693	464,890
Total Revenues	$ 8,477,628	$ 9,099,020	$ 621,392
Expenses	7,020,975	7,022,156	$ 1,180
Commitment	$ 1,456,653	$ 2,076,864	$ 620,212

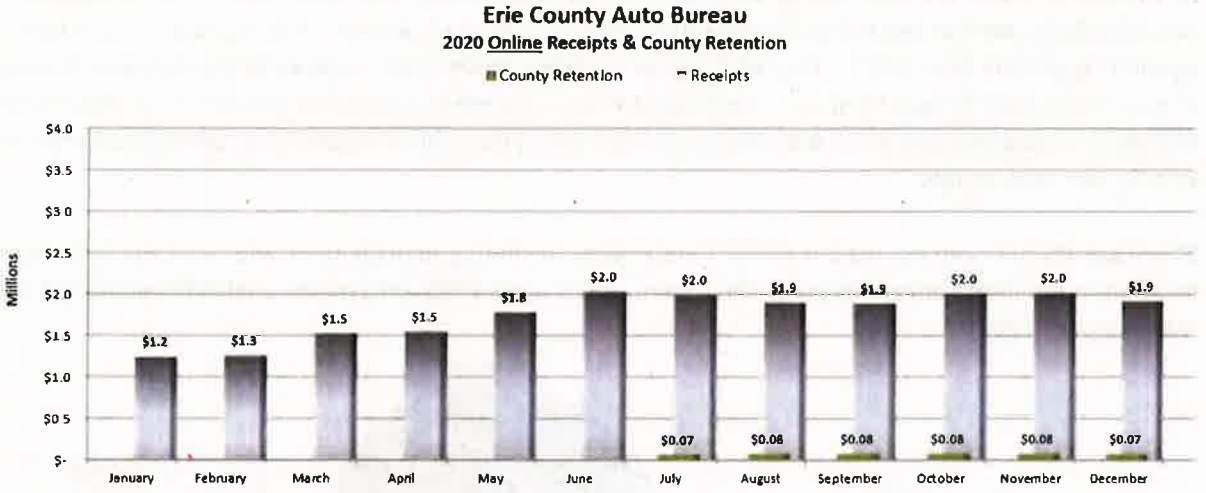
The Auto Bureau retains a portion of its transaction fees from registering vehicles, issuing permits, driver's licenses, non-driver identification and other miscellaneous transactions. The fees collected for these transactions is 12.7 percent, including the collection of sales taxes on vehicles, which equates to less than 1 percent of total sales tax receipts.

The first bar chart below is a comparison of the total receipts collected from transactions processed at the various Erie County Auto Bureau locations. The second bar chart is a summary of transactions done online through the State's DMV website. The smaller green bars on both bar charts show the County's revenue share of the transactions. For 2020 the County kept $3.7 million or 0.0 percent of the $46 million in receipts processed at the Auto Bureaus, including sales taxes collected.

The Auto Bureau generated $9.1 million in revenues for the County, processing over 399,197 transactions at the various Auto Bureau locations. The Auto Fee revenues also include revenue sharing from the State for transactions completed online through the State's DMV website. The County retains 3.25 percent of all online revenues *exceeding* a $12 million threshold. The County's online revenue sharing totaled $448 thousand for 2020 or 1.7% of the $25.8 million in online revenues.

The Clerk's Office retains 3.25 percent of all online receipts that exceed a threshold of $11,999,580. Simply put, the first $12 million in online transactions completed by Erie County residents ***all*** goes to New York State. From 2015 through 2019, County residents have completed over $96 million in online transactions: ***the County's share is $1.5 million or 1.4% of $106 million***.

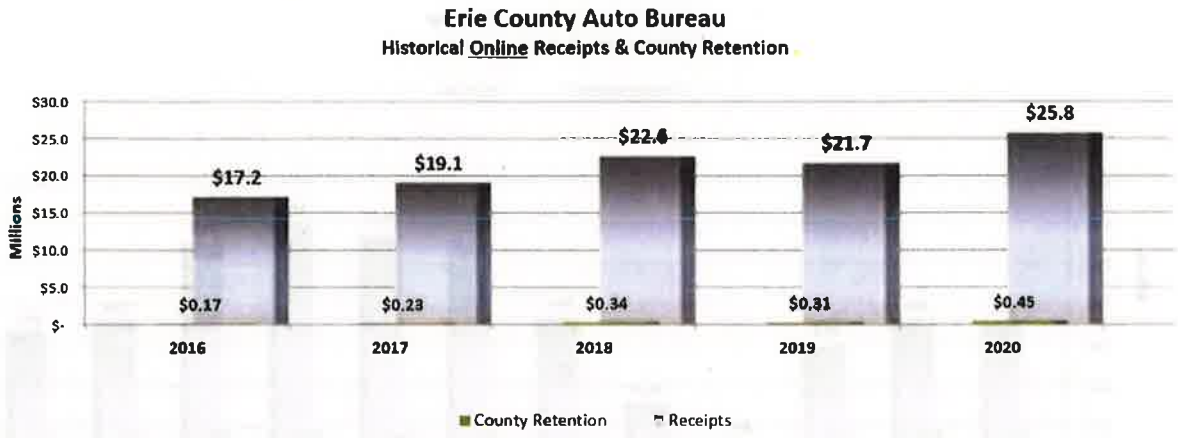




Except for a dip in 2019, the number of transactions made online through the State's website from 2016 to 2020 has steadily year over year resulting in less revenues for Erie County. The table below is a summary of the lost revenues or "lost opportunity" when Erie County residents completed transactions online through the State's website instead of completing their transactions at one of our County Auto Bureaus. Erie County residents have completed $106 million in online transactions over the past five years, resulting in $12 million in lost revenues to the County.

Erie County Auto Bureau
Historical Internet Shared Revenues

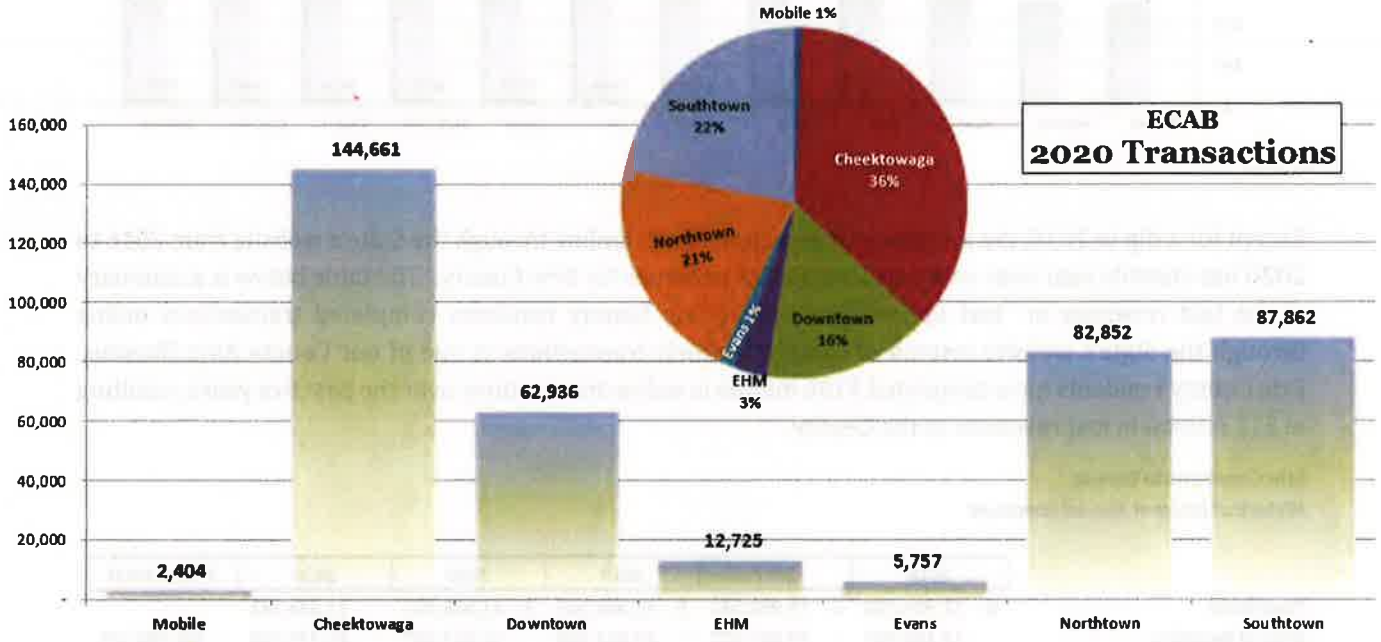
	2016	2017	2018	2019	2020	5 Year Total
Threshold	$ 11,998,583	$ 11,998,583	$ 11,998,583	$ 11,998,583	11,998,583	
Annual Receipts	17,151,985	19,057,522	22,613,766	21,687,667	25,779,534	106,290,474
Shared Revenues	167,486	229,416	344,993	314,895	447,881	1,504,670
Lost Opportunity	**$ 2,010,817**	**$ 2,190,890**	**$ 2,526,955**	**$ 2,439,438**	**$ 2,826,120**	**11,994,219**
		11.1%	18.7%	-4.1%	18.9%	

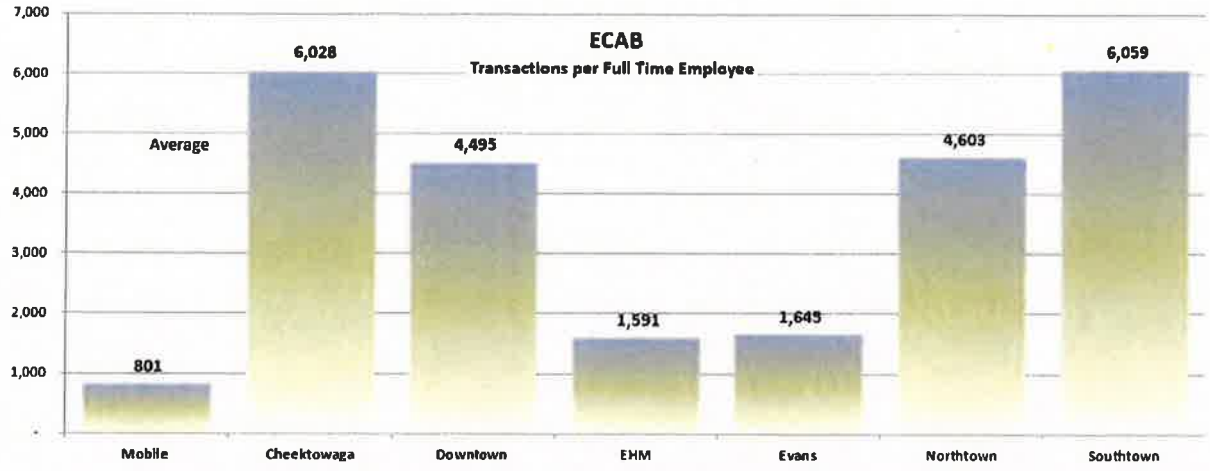


TRANSACTIONS

At the end of 2020, the Erie County Auto Bureaus processed over 399 thousand driver and non-driver identifications, vehicle registrations and other DMV related transactions. The annual transactions are down 31.8 percent over 2019. The chart below is a breakdown of the number of transactions processed at each of the Auto Bureau locations. The Cheektowaga location processed 36 percent of the total number of transactions completed at the Auto Bureau, in part due to the vehicle registrations processed for the local Erie County dealerships.

There are 85 full-time equivalent ("FTE") employees, including management who staff the auto bureau locations and mobile units. Based on the total number of 85 FTEs, on average each FTE processed 4,696 transactions in 2020.





INCOMING CUSTOMERS

The Auto Bureaus use a queuing system called NEMO-Q that issues a ticket to incoming customers based on service type. The queuing system is beneficial for management in that it appropriately staffs the Auto Bureaus based on customer traffic. The system tracks; the number of customers served, average wait times, average service times and other metrics. The biggest benefit of the NEMO-Q system is that it allows customers visiting the auto bureaus to make a reservation online beforehand, minimizing the customer's wait time.

In 2020 due to COVID-19, and in an effort to begin the process of reopening the Erie County Auto Bureau to the public, all in-person transactions required an appointment using the *"Make a Reservation"* system found on our website. If one did not have computer or internet access, dedicated staff were in place to help facilitate the setting of appointments.

Our primary goal is to provide our customers with the finest and safest service experience possible.

COUNTY OF ERIE

MICHAEL P. KEARNS

ERIE COUNTY CLERK

FILED APR 13 '21 PM 9:30

April 12, 2020

Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Authorization for Second Extension to Contract (19-396-CC (Amend. 1)) Western New York Law Center, Inc. - Zombie Property Outreach Service

Dear Honorable Members:

Please find enclosed a resolution from the Erie County Clerk's Office seeking legislative authorization for a second extension of its contract with Western New York Law Center, Inc. for Zombie Property Outreach Services, previously awarded by the Legislature's adoption of Comm. 7E-29 (2019) and extended by adoption of Comm 12E-15 (2020, as amended), through the end of 2021.

Should your Honorable Body require further information, I encourage you to contact me. Thank you for your consideration on this matter.

Sincerely,

Michael P. Kearns
Erie County Clerk

Enclosures

OLD COUNTY HALL • 92 FRANKLIN STREET • BUFFALO, N.Y. • 14202 • PHONE: (716) 858-8866 • FAX: (716) 858-6550

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Michael P. Kearns, Erie County Clerk
Re: Re-Authorization to contract with Western New York Law Center, Inc. for Zombie Property Outreach Services
Date: April 12, 2021

SUMMARY

A "Zombie Property" is a parcel improved by a one-to-four-family dwelling and abandoned by its occupants when a foreclosure action has been instituted against the property owner. Upon vacating the properties, the structures experience: damage from weather, scavenging, squatters, and criminal activity. The resulting deterioration creates nuisance conditions and can often affect the values of surrounding properties. Further, the prolonged foreclosure process clouds title to the property, making it difficult for municipalities to enforce code violations resulting from neglect.

In 2019, the Erie County Clerk's Office issued RFP #1919VF seeking proposers for Zombie Property Outreach services and the Legislature awarded the attached contract (19-396-CC) to the Western New York Law Center (the "WNYLC") (*see* Comm.7E-29 (2019)). In 2020, the Legislature, by Comm. 12E-15 (2020, as amended), amended the contract (*see attached* 19-396-CC (Amend. 1)) to extend the term for an additional five (5) months, from September 11, 2020 through February 11, 2021. Although the contract term expired, the WNYLC continues to monitor approximately thirty (30) properties, more than half of which have pending New York State Department of Financial Services investigations. The County Clerk's Office seeks a second extension to the contract with the WNYLC through the end of 2021. It is important that these services be restored with this vendor to ensure continuity and preserve the best value for County funds.

Currently DFS investigations are pending on properties in Akron, Angola, Buffalo, Clarence, Colden, Elma, Evans, Gowanda and Sloan. For each of these cases, the WNYLC has been corresponding with DFS and the mortgage servicer and/or property maintenance company to ensure the health and safety of violations are remedied.

Since 2019, the WNYLC has researched approximately 175 vacant and abandoned properties and more than 25% of those properties have been brought into compliance and/or the deed has been transferred to a new owner since the initial complaint. The Zombie Property Outreach Services Program was successful in pushing HSBC to maintain the property at 93 Erie Avenue in Gowanda. HSBC demolished and rebuilt the back and front porch and plans to demolish the garage. In addition, the bank is looking to donate the property to the Erie County Land Bank or ensure the Land Bank obtains title through the tax foreclosure auction. The Program worked with the Mayor of Kenmore to ensure the property at 18 Euclid Avenue was safely demolished and paid for by the mortgage servicer, Ocwen. The total cost of the demolition and asbestos abatement was just under $50,000. Through the program, the WNYLC filed suit on behalf of the Town of Clarence against Nationstar d/b/a Mr. Cooper and U.S. Bank regarding the property at 4765 Shisler Road in Clarence. In the complaint, the Town is seeking just under $75,000 in fees for failure to maintain

the property. Nationstar has filed an answer and the case will now move to discovery if necessary. The ultimate goal is to have the property demolished and the lot sold to a new family.

FISCAL IMPLICATIONS

The Legislature approved funding for professional services in the Erie County Clerk's 2021 budget, $125,000 of which will be allocated for this purpose.

REASONS FOR RECOMMENDATION

The intended effect of this effort is to put these Zombie Properties in a position for improvement and conveyance so there may be an increase in mortgage and transfer tax revenues, as well as preserving value in the County's tax base. The County's amended contract (19-396-CC (Amend. 1)) with the WNYLC expired on February 11, 2021 and there are several ongoing cases which must be effectively managed to completion. Maintaining the previously selected WNYLC as the vendor ensures that the County's funds are most efficiently spent, as the WNYLC has already successfully established positive relationships with key players, including: DFS, mortgage servicers, property maintenance companies and municipal officials.

Further, the Erie County Clerk's Office is currently upgrading its Registrar indexing software so notices may be sent to individuals when certain documents bearing their name are recorded in the County Clerk's Office, specifically lis pendens and deeds. The Western New York Law Center may leverage this technology and provide services to individuals receiving such notices to initiate loss mitigation measures and detect identity theft to prevent foreclosures from descending into zombie property status.

CONSEQUENCES OF NEGATIVE ACTION

Failure to re-award the Zombie Foreclosure Outreach Services contract to the Western New York Law Center will result in delayed services to the County combatting zombie properties, and switching vendors while ongoing work remains will require that funds are expended for mobilization services that have already been provided to the County.

STEPS FOLLOWING APPROVAL

Upon approval of this resolution, the County Clerk will work with the County Attorney and Division of Budget and Management to enter into contract negotiations with Western New York Law Center, Inc. Work under the contract will begin as soon as is feasible.

COUNTY OF ERIE

MICHAEL P. KEARNS
COUNTY CLERK

March 26, 2019

Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Authorization to Contract with Western New York Law Center, Inc.
Zombie Property Outreach Service

Dear Honorable Members:

Please find enclosed a resolution from the Erie County Clerk's Office seeking legislative authorization to enter into a contract with Western New York Law Center, Inc. for Zombie Property outreach services based on a request for proposals (RFP 1919VF).

Should your Honorable Body require further information, I encourage you to contact me. Thank you for your consideration on this matter.

Sincerely,

Michael P. Kearns
Erie County Clerk

Enclosures

ERIE COUNTY HALL • 92 FRANKLIN STREET • BUFFALO, N.Y. • 14202 • PHONE: (716) 858-8866 • FAX: (716) 858-6550

MEMORANDUM

To:	Honorable Members of the Erie County Legislature
From:	Michael P. Kearns, Erie County Clerk
Re:	Authorization to contract with Western New York Law Center, Inc. for Zombie Property Outreach Services
Date:	March 26, 2019

SUMMARY

A "Zombie Property" is a parcel improved by a one-to-four-family dwelling and abandoned by its occupants when a foreclosure action has been instituted against the property owner. Upon vacating the properties, the structures experience: damage from weather, scavenging, squatters, and criminal activity. The resulting deterioration creates nuisance conditions and can often affect the values of surrounding properties. Further, the prolonged foreclosure process clouds title to the property, making it difficult for municipalities to enforce code violations resulting from neglect.

A recent statewide initiative provides "invitation only" grant opportunities to communities throughout Erie County to combat zombie properties; however, several municipalities were excluded. The Erie County Clerk recognizes that grappling with the blight of Zombie Properties transcends all communities and impacts all County taxpayers, regardless of the property location and believes this initiative will fill the much needed gap caused by exclusions under State funding.

FISCAL IMPLICATIONS

None – The County Clerk has a proposed resolution before this Honorable Body, Comm. 24E-4 (2018) as amended by Comm. 6E-20(2019), unexpended appropriations will be transferred accordingly to provide a budget neutral effect.

REASONS FOR RECOMMENDATION

The County Clerk desires to use available unexpended appropriations from 2018 to provide technical assistance to those municipalities which would otherwise not be eligible for such aid. Over 9,500 individuals in Erie County are ninety days or more in arrears on the mortgage payments and Lis Pendens filings in foreclosure actions has already increased approximately 150% for 2019. The intended effect of this effort is to put these Zombie Properties in a position for improvement and conveyance so there may be an increase in mortgage and transfer tax revenues, as well as securing value in the County's tax base.

CONSEQUENCES OF NEGATIVE ACTION

Failure to award the Zombie Outreach Services proposal will ignore the pending issues faced by the County, its municipalities and taxpayers which result from stalled foreclosures, including but not limited to: economic blight, reduction in property values, and reduction in revenues from property, mortgage and transfer taxes.

STEPS FOLLOWING APPROVAL

Upon approval of this resolution, the County Clerk will work with the County Attorney and Division of Budget and Management to enter into contract negotiations with Western New York Law Center, Inc. Work under the contract will begin as soon as is feasible.

A RESOLUTION SUBMITTED BY
ERIE COUNTY CLERK

Re: Authorization to contract with Western New York Law Center, Inc. for Zombie Property Outreach Services

WHEREAS, the County Clerk is an independently elected official responsible for recording, filing and maintaining a central repository of legal documents and records affecting property titles, including land and real estate transactions; and

WHEREAS, the County Clerk, as an agent of the State, collects mortgage and real estate transfer taxes that are then apportioned between the State, State agencies, the County, and cities, towns and villages located within Erie County; and

WHEREAS, over 9,500 individuals in Erie County are ninety days or more in arrears on the mortgage payments and Lis Pendens filings in foreclosure actions has already increased approximately 150% for 2019; and

WHEREAS, A "Zombie Property" is a parcel improved by a one-to-four-family dwelling and abandoned by its occupants when a foreclosure action has been instituted against the property owner; and

WHEREAS, upon vacating the properties, the structures experience: damage from weather, scavenging, squatters, and criminal activity and the resulting deterioration creates nuisance conditions and can often affect the values of surrounding properties; and

WHEREAS, further, the prolonged foreclosure process clouds title to the property, making it difficult for municipalities to enforce code violations resulting from neglect; and

WHEREAS, a recent statewide initiative provides "invitation only" grant opportunities to communities throughout Erie County to combat zombie properties; however, several municipalities were excluded; and

WHEREAS, the Erie County Clerk recognizes that grappling with the blight of Zombie Properties transcends all communities and impacts all County taxpayers, regardless of the property location and believes this initiative will fill the much needed gap caused by exclusions under State funding; and

WHEREAS, the intended effect of combating Zombie Properties is to put them in a position for improvement and conveyance so there may be an increase in mortgage and transfer tax revenues, as well as securing value in the County's tax base.

WHEREAS, the Erie County Clerk issued RFP #1919VF seeking proposers for Zombie Property Outreach Services, advertised in Amherst Bee and Buffalo Challenger, provided the RFP to several potential proposers; and

WHERES, one proposal was received which was reviewed by a committee which scored the proposal, reviewed the costs, contacted references and reviewed the past work of the proposer; and

WHEREAS, the committee determined Western New York Law Center, Inc. is a responsible and well regarded organization to perform the services; and

WHEREAS, the funds necessary to cover the costs of this contract are available if the Legislature approves Comm. 6E-20(2019) that amends Comm. 24E-4(2018).

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Clerk is hereby authorized to enter into a contract with Western New York Law Center, Inc., for zombie property outreach services; and be it further

RESOLVED, that 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 County Attorney and the Erie County Clerk.

COUNTY OF ERIE

MICHAEL P. KEARNS
COUNTY CLERK

June 1, 2020

Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Authorization to Extend Contract (19-396-CC)
Western New York Law Center, Inc. - Zombie Property Outreach Service

Dear Honorable Members:

Please find enclosed a resolution from the Erie County Clerk's Office seeking legislative authorization to extend its contract with Western New York Law Center, Inc. for Zombie Property outreach services, previously awarded by the Legislature's adoption of Comm. 7E-29 (2019).

Should your Honorable Body require further information, I encourage you to contact me. Thank you for your consideration on this matter.

Sincerely,

Michael P. Kearns
Erie County Clerk

Enclosures

ERIE COUNTY HALL • 92 FRANKLIN STREET • BUFFALO, N.Y. • 14202 • PHONE: (716) 858-8866 • FAX: (716) 858-6550

MEMORANDUM

To:	Honorable Members of the Erie County Legislature
From:	Michael P. Kearns, Erie County Clerk
Re:	Re-Authorization to contract with Western New York Law Center, Inc. for Zombie Property Outreach Services
Date:	June 1, 2020

SUMMARY

A "Zombie Property" is a parcel improved by a one-to-four-family dwelling and abandoned by its occupants when a foreclosure action has been instituted against the property owner. Upon vacating the properties, the structures experience: damage from weather, scavenging, squatters, and criminal activity. The resulting deterioration creates nuisance conditions and can often affect the values of surrounding properties. Further, the prolonged foreclosure process clouds title to the property, making it difficult for municipalities to enforce code violations resulting from neglect.

Last year the Erie County Clerk's Office issued RFP #1919VF seeking proposers for Zombie Property Outreach services and the Legislature awarded the attached contract (19-396-CC) to the Western New York Law Center (the "WNYLC") (*see* COMM.7E-29 (2019)). Although the contract term expires on June 2, 2020, the WNYLC continues to monitor thirty (30) properties, approximately half of which have pending New York State Department of Financial Services investigations. It is important that these services be restored with this vendor to ensure continuity and preserve the best value for County funds.

FISCAL IMPLICATIONS

The Legislature approved funding for professional services in the Erie County Clerk's 2020 budget, $150,000 of which will be allocated for this purpose.

REASONS FOR RECOMMENDATION

The intended effect of this effort is to put these Zombie Properties in a position for improvement and conveyance so there may be an increase in mortgage and transfer tax revenues, as well as preserving value in the County's tax base. The County's contract (19-396-CC) with the WNYLC expires on June 2, 2020 and there are several ongoing cases which must be effectively managed to completion. Maintaining the previously selected WNYLC as the vendor ensures that the County's funds are most efficiently spent, as the WNYLC has already successfully established positive relationships with key players, including: DFS, mortgage servicers, property maintenance companies and municipal officials.

The WNYLC continues to monitor thirty (30) properties, half of which have pending New York State Department of Financial Services investigations. Currently DFS investigations are pending on properties in Clarence, Colden, Elma, Evans, Gowanda, Kenmore and Sloan. For each of these cases, the WNYLC has been corresponding with DFS and the mortgage servicer and/or property maintenance company to ensure the health and safety of violations are remedied.

Additionally, the WNYLC is in negotiations with HSBC and the Land Bank regarding a property in Gowanda, with ultimate goal being continued maintenance at the property while preparations take place for the fall tax foreclosure for sale to new owners. A formal demand letter has been sent for a property in Clarence and the WNYLC has been working with the property maintenance company regarding a planned demolition to ensure the public safety is preserved. Lastly, the WNYLC is working with the Mayor of Kenmore to ensure a deteriorated structure in the Village is safely demolished and paid for by the servicer, saving taxpayer expense.

CONSEQUENCES OF NEGATIVE ACTION

Failure to re-award the Zombie Foreclosure Outreach Services contract to the Western New York Law Center will result in delayed services to the County combatting zombie properties, and switching vendors while ongoing work remains will require that funds are expended for mobilization services that have already been provided to the County.

STEPS FOLLOWING APPROVAL

Upon approval of this resolution, the County Clerk will work with the County Attorney and Division of Budget and Management to enter into contract negotiations with Western New York Law Center, Inc. Work under the contract will begin as soon as is feasible.

THIS AGREEMENT made the _____ day of _____ 20__

by and between

THE COUNTY OF ERIE, a municipal corporation of the State of New York, having an office and place of business at 95 Franklin Street, Buffalo, New York 14202
(hereafter the "County")

and

WESTERN NEW YORK LAW CENTER, INC., a not-for-profit corporation duly organized and existing under the laws of the State of New York, with offices at 37 Franklin Street, 2nd Floor, Buffalo, New York 14202
(hereafter the "Consultant")

WITNESSETH:

WHEREAS, on March 6, 2019, the Erie County Clerk issued a Request for Proposal (the "RFP") to Provide Zombie Property Outreach Services RFP# 1919VF; and

WHEREAS, the Consultant was selected by a reviewing committee to be the vendor to provide services requested in the RFP; and

WHEREAS, on April 18, 2019, the Erie County Legislature approved Comm. 7E-29 (2019) authorizing the Erie County Clerk to enter into a contract with the Consultant for zombie property outreach services.

NOW THEREFORE, the Consultant and County, for and in consideration of the mutual promises and undertakings herein set forth, agree as follows:

FIRST: The Consultant shall provide the work and professional services as more fully described in Schedule "A", which is attached hereto and made a part hereof (the "Work"). The Work shall be carried out by the Consultant in accordance with current industry standards and trade practices.

SECOND: The Consultant shall commence the Work immediately upon the date this Agreement is duly executed by the parties (the "Commencement Date") and shall be completed not later than 365 days from the Commencement Date.

The Consultant shall report to the County, as the County Clerk or his/her duly authorized designee (the "County Clerk") may request, on its progress toward completing the Work, and shall immediately inform the County Clerk in writing of any cause for delay in the performance of its obligations under this Agreement.

The Consultant shall properly maintain a detailed log relative to the services rendered for which compensation is to be paid by the County pursuant to the terms of this Agreement, which shall be submitted on a quarterly basis. This log shall include, but not be limited to, the following:

1. Date.
2. Names and titles of employees rendering service.
3. Nature of service rendered.
4. Required time expended.

THIRD: For the Work to be performed pursuant to Paragraph "FIRST," the Consultant shall be paid an amount not to exceed Two Hundred Thousand Dollars ($200,000.00), and shall be paid as follows:

> Payment under this Agreement shall be made to the Law center by the County in four (4) equal installments FIFTY THOUSAND DOLLARS ($50,000.00). The first payment shall be due for mobilization costs upon execution of the Agreement, and the remaining payments shall be made upon receipt of the first, second and third quarterly reports. The Consultant shall provide the County with a quarterly report of its services, and at the request of the County Clerk, meet to review ongoing initiatives and progress.

Except as otherwise expressly stated in this Agreement and the budget set forth in the Consultant's response to the RFP, as more fully described in Schedule D, no payment shall be made by the County to the Consultant for out-of-pocket expenses or disbursements made in connection with the Work to be performed hereunder.

The Consultant shall submit all requests for payment on a properly executed payment voucher, which must be accompanied by a numbered invoice and include the invoice number where indicated. All invoices submitted during each calendar year shall utilize consecutive numbering and be non-repeating. In no event shall payment be made to the Consultant prior to completion of all Work and the approval of same by the County Clerk.

The Consultant shall, at no additional charge, furnish all labor, services, materials, tools, equipment and other appliances necessary to complete the Work, unless specific additional charges are expressly permitted under this Agreement. It is recognized and understood that even if specific additional charges are expressly permitted under this Agreement, in no event shall total payment to the Consultant exceed the not-to-exceed amount set forth above.

FOURTH: Prior to the making of any payments hereunder, the County may, at its option, audit such books and records of the Consultant as are reasonably pertinent to this Agreement to substantiate the basis for payment. The Countyshall, in addition, have the right to audit such books and records subsequent to payment, if such audit is commenced within one year following termination of this Agreement.

FIFTH: The parties recognize and acknowledge that the obligations of the County under this Agreement are subject to annual appropriations by the Erie County Legislature. Therefore, this Agreement shall be deemed executory only to the extent of the monies appropriated and available. The County and the County Clerk shall have no liability under this Agreement beyond funds appropriated and available for payment pursuant to this Agreement. The parties understand and intend that the obligation of the County hereunder shall constitute a current expense of the County and shall not in any way be construed to be a debt of the County in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the County, nor shall anything contained in this Agreement constitute a pledge of the general tax revenues, funds or moneys of the County. The County shall pay amounts due under this Agreement exclusively from legally available funds appropriated for this purpose. The County Clerk shall retain the right, upon the occurrence of the

adoption of any County Budget by the County Legislature during the term of this Agreement or any amendments thereto, and for a reasonable period of time after such adoption(s), to conduct an analysis of the impacts of any such County Budget on County finances. After such analysis, the County Clerk shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates set forth herein. If the County Clerk subsequently offers to pay a reduced amount to the Consultant, then the Consultant shall have the right to terminate this Agreement upon reasonable prior written notice.

This Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on Countyfinances. After such analysis, the County Clerk shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County Clerk subsequently offers to pay a reduced amount to the Consultant, then the Consultant shall have the right to terminate this Agreement upon reasonable prior written notice.

SIXTH: (a) The County Clerk, upon ten (10) days notice to the Consultant, may terminate this Agreement in whole or in part when the County Clerk deems it to be in its best interest. In such event, the Consultant shall be compensated and the County shall be liable only for payment for services already rendered under this Agreement prior to the effective date of termination. Upon receipt of notice that the County Clerk is terminating this Agreement in its best interests, the Consultant shall stop work immediately and incur no further costs in furtherance of this Agreement without the express approval of the County Clerk, and the Consultant shall direct any approved subconsultants to do the same.

In the event of a dispute as to the value of the Work rendered by the Consultant prior to the date of termination, it is understood and agreed that the County Clerk shall determine the value of such Work rendered by the Consultant. The Consultant shall accept such reasonable and good faith determination as final.

(b) In the event the County Clerk determines that there has been a material breach by the Consultant of any of the terms of the Agreement and such breach remains uncured for forty-eight (48) hours after service on the Consultant of written notice thereof, the County Clerk, in addition to any other right or remedy it might have, may terminate this Agreement and the County Clerk shall have the right, power and authority to complete the Work provided for in this Agreement, or contract for its completion, and any additional expense or cost of such completion shall be charged to and paid by the Consultant. Without limiting the foregoing, upon written notice to the Consultant, repeated breaches by the Consultant of duties or obligations under this Agreement shall be deemed a material breach of this Agreement justifying termination for cause hereunder without requirement for further opportunity to cure.

SEVENTH: The Consultant agrees to procure and maintain insurance naming the County as additional insured, as provided and described in Schedule "B", entitled "Standard Insurance Certificate", which is attached hereto and made a part hereof. In addition to, and not in limitation of the insurance provisions contained in Schedule "B", the Consultant agrees: that except for the amount, if any, of damage contributed to, caused by, or resulting from the negligence of the County, (a) the Consultant shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Consultant or third parties under the direction or control of the Consultant; and (b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto.

EIGHTH: The Consultant expressly agrees that neither it nor any consultant, subconsultant, employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status or any other status protected by New York State or Federal laws during the term of or in connection with this Agreement.

NINTH: The Consultant shall comply, at its own expense, with the provisions of all applicable local, state and federal laws, rules and regulations. The Consultant shall further comply, at its own expense, with all applicable rules, regulations and licensing requirements pertaining to its professional status and that of its employees, partners, associates, subconsultants and others employed to render the Work hereunder.

TENTH: All records or recorded data of any kind compiled by the Consultant in completing the Work described in this Agreement, including but not limited to written reports, studies, drawings, blueprints, computer printouts, graphs, charts, plans, specifications and all other similar recorded data, shall become and remain the property of the County. The Consultant may retain copies of such records for its own use and shall not disclose any such information without the express written consent of the County Clerk. The Countyshall have the right to reproduce and publish such records, if it so desires, at no additional cost to the County. The publication of information and records compiled by the Consultant shall be subject to the same restrictions which apply to New York State Department of Financial Services Vacant and Abandoned Property Registry

Notwithstanding the foregoing, all deliverables created under this Agreement by the Consultant are to be considered "works made for hire." If any of the deliverables do not qualify as "works made for hire," the Consultant hereby assigns to the County all right, title and interest (including ownership of copyright) in such deliverables and such assignment allows the County to obtain in its name copyrights, registrations and similar protections which may be available. The Consultant agrees to assist the County, if required, in perfecting these rights. The Consultant shall provide the County with at least one copy of each deliverable.

The Consultant agrees to defend, indemnify and hold harmless the County for all damages, liabilities, losses and expenses arising out of any claim that a deliverable infringes upon an intellectual property right of a third party. If such a claim is made, or appears likely to be made, the Consultant agrees to enable the County's continued use of the deliverable, or to modify or replace it. If the County determines that none of these alternatives is reasonably available, the deliverable may be returned.

ELEVENTH: The Consultant shall not delegate any duties or assign any of its rights under this Agreement without the prior express written consent of the County Clerk. The Consultant shall not subcontract any part of the Work without the written consent of the County Clerk, subject to any necessary legal approvals. Any purported delegation of duties, assignment of rights or subcontracting of Work under this Agreement without the prior express written consent of the County Clerk is void. All subcontracts that have received such prior written consent shall provide that subconsultants are subject to all terms and conditions set forth in this Agreement. It is recognized and understood by the Consultant that for the purposes of this Agreement, all Work performed by a County Clerk-approved subcontractor shall be deemed Work performed by the Consultant and the Consultant shall insure that such subcontracted work is subject to the material terms and conditions of this Agreement.

TWELFTH: The Consultant and the County agree that the Consultant and its officers, employees, agents, contractors, subcontractors and/or consultants are independent contractors and not employees of the County or any department, agency or unit thereof. In accordance with their status as independent contractors, the Consultant covenants and agrees that neither the Consultant nor any of its officers, employees, agents, contractors, subcontractors and/or consultants will hold themselves out as, or claim to be, officers or employees of the County or any department, agency or unit thereof.

THIRTEENTH: Failure of the County Clerk to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment of such term or condition, but the same shall remain in full force and effect. Acceptance by the County Clerk of any Work or the payment of any fee or reimbursement due hereunder with knowledge of a breach of any term or condition hereof, shall not be deemed a waiver of any such breach and no waiver by the County Clerk of any provision hereof shall be implied.

FOURTEENTH: All notices of any nature referred to in this Agreement shall be in writing and either sent by registered or certified mail postage pre-paid, or delivered by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice

sent by registered or certified mail postage pre-paid), as set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt. Notices shall be sent to the following:

To the County:

Erie County Clerk
92 Franklin Street
Buffalo, New York 14202

with a copy to:

County Attorney
95 Franklin Street, Room 1634
Buffalo, New York 14202

To the Consultant:

Western New York Law Center
37 Franklin Street, 2nd Floor
Buffalo, New York 14202

FIFTEENTH: This Agreement and its attachments constitute the entire Agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

In the event of any conflict between the terms of this Agreement and the terms of any schedule or attachment hereto, it is understood that the terms of this Agreement shall be controlling with respect to any interpretation of the meaning and intent of the parties.

SIXTEENTH: Nothing herein is intended or shall be construed to confer upon or give to any third party or its successors and assigns any rights, remedies or basis for reliance

upon, under or by reason of this Agreement, except in the event that specific third party rights are expressly granted herein.

SEVENTEENTH: The Consultant recognizes that this Agreement does not grant the Consultant the exclusive right to perform the Work for the County and that the County may enter into similar agreements with other consultants on an "as needed" basis.

EIGHTEENTH: The Consultant hereby represents that, if operating under an assumed name, it has filed the necessary certificate pursuant to New York State General Business Law Section 130. The Consultant further represents and warrants that it has not employed or retained any person, other than a bona fide full time salaried employee working solely for the Consultant to solicit or secure this Agreement, and that it has not paid or agreed to pay any person (other than payments of fixed salary to a bona fide full time salaried employee working solely for the Consultant) any fee, commission, percentage, gift or other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, without limiting any other rights or remedies to which the County may be entitled or any civil or criminal penalty to which any violator may be liable, the County shall have the right, in its discretion, to terminate this Agreement without liability, and to deduct from the contract price, or otherwise to recover, the full amount of such fee, commission, percentage, gift or consideration.

NINETEENTH: The Consultant shall use all reasonable means to avoid any conflict of interest with the County and shall immediately notify the County Clerk in the event of a conflict of interest. The Consultant shall also use all reasonable means to avoid any appearance of impropriety.

TWENTIETH: This Agreement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Agreement shall be construed and enforced in accordance with the laws of the State of New York. In addition, the parties hereby agree that for any cause of action arising out of this Agreement shall be brought in the County of Erie.

If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the terms and provisions of this Agreement shall in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision shall be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision shall be interpreted and enforced to give effect to the original written intent of the parties prior to the determination of such invalidity or unenforceability.

TWENTY-FIRST: The Consultant shall comply with Erie County Executive Order 13 (2014) and agrees to complete the Certificate collectively attached hereto as Schedule "C"and made a part hereof. The Consultant shall make such records available, upon request, to the County's Division of Equal Employment Opportunity for review. The County shall have the right, upon reasonable notice and at reasonable times, to inspect the books and records of the Consultant, its offices and facilities, for the purpose of verifying information supplied in the Erie County Equal Pay Certification and for any other purpose reasonably related to confirming the Consultant's compliance with Erie County Executive Order 13 (2014). Notwithstanding the termination provisions contained herein, violation of the provisions of Executive Order 13 (2014) , may constitute grounds for the immediate termination of this Agreement and may constitute grounds for determining that the Consultant is not qualified to participate in future County contracts.

TWENTY-SECOND: This Agreement shall not be enforceable until signed by both parties and approved by the Office of the County Attorney.

IN WITNESS WHEREOF, The County of Erie and the Consultant have caused this Agreement to be executed.

THE COUNTY OF ERIE

By: _____
Mark C. Poloncarz/Maria Whyte
County Executive/Deputy County Executive

Dated: _____

WESTERN NEW YORK LAW CENTER, INC.

By: _____
Name: Joseph Kelemen
Title: Executive Director

Dated: 5/23/2019

Approved as to content

By: _____
Michael P. Kearns
Erie County Clerk

Approved as to form

_____
Assistant County Attorney
Doc. No. _____

IN WITNESS WHEREOF, The County of Erie and the Consultant have caused this Agreement to be executed.

THE COUNTY OF ERIE

By: M. Whyte
Mark C. Poloncarz/Maria Whyte
County Executive/Deputy County Executive

Dated: 6/3/19

WESTERN NEW YORK LAW CENTER, INC.

By: Joseph Kelemen
Name: Joseph Kelemen
Title: Executive Director

Dated: 5/23/2019

Approved as to content

By: Michael P. Kearns
Michael P. Kearns
Erie County Clerk

Approved as to form

electronically signed
Assistant County Attorney, Martin Polowy
Doc. No. _____

19-396-CC

SCHEDULE "A"

SCOPE / SPECIFICATIONS

Services of the Law Center. The Law Center agrees to perform that work and those professional services described in Section V of the RFP, including but not limited to those more particularly described as follows:

a.) Law Center attorneys and paralegals will work with and attend all meetings of the Erie County Clerk's Office Zombie Foreclosure Task Force ("Task Force");

b.) Research Notices of Pendency on file at the Erie County Clerk's Office and perform title research to determine the mortgage servicer or holder responsible for property maintenance;

c.) Utilize the web portal created by law students at Columbia University to research these properties. The Law Center staff will review research done through the portal, certify the hours worked by law students for *pro bono* credit necessary for bar admission, and forward the property research to the appropriate local municipal officials. The Law Center will publicize the portal to law students across the state so that they can assist in researching properties;

d.) Consult with local municipal officials on the provisions of the Abandoned Property Neighborhood Relief Act of 2016 (the "Act"), provide legal guidance to code enforcement officials and municipal attorneys regarding enforcement actions against the lenders;

e.) Maintain a database of zombie properties in Erie County and consult with municipal officials as Law Center staff review the database and track the progress of each foreclosure case affecting a Zombie Property. Law Center staff will update the database to note any transfers of ownership in the mortgage documents.

f.) Maintain a subscription to software that can be used to track zombie properties and that data will be made available to municipalities, provided that municipalities may only be provided that data corresponding to properties located within their boundaries.

g.) Engage the community in the identification of zombie properties at the earliest possible time so that maintenance on properties can be done. To involve the community in identifying zombie properties, the Law Center will engage a public relations firm to publicize the project and the need for the identification of zombie properties in the community. The public relations firm would help coordinate the Task Force and help to publicize its work so that municipal officials are familiar with its work. The firm would help recruit officials to the Task Force and reach out to the public through social media and meetings to inform the public about the work of the Task Force.

The County may request changes in services to be performed hereunder by the Law Center. Such changes shall be mutually agreed upon by and between the County and the Law Center. Any mutually agreed upon changes shall be incorporated in written amendments to this Agreement.

SCHEDULE "B"

STANDARD INSURANCE PROVISIONS

SCHEDULE "C"

Erie County Executive Order 13 (2014)

Erie County Equal Pay Certification

In order to comply with Executive Order 13 dated November 6, 2014, we hereby certify that we are in compliance with federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Federal Executive Order 11246 of September 24, 1965 and New York State Labor Law Section 194 (together " Equal Pay Law"). We understand that this certification is a material component of this contract. Violation of the provisions of Executive Order 13, which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of this contract and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.

We have evaluated wages and benefits to ensure compliance with the Equal Pay Law.
We certify that we have not been the subject of an adverse finding under the Equal Pay Law within the previous five years and, in the alternative, if we were the subject of an adverse finding under the Equal Pay Law within the previous five years, we have annexed a detailed description of the finding(s). In addition, we have annexed a detailed description of any currently pending claims under the Equal Pay Law in which we are involved.

Signature

Verification

STATE OF New York)
COUNTY OF Erie) SS:
A)
_____, being duly sworn, states he or she is the owner of (or a partner in) _____, and is making the foregoing Certification and that the statements and representations made in the Certification are true to his or her own knowledge.

B)
Joseph Kelemen, being duly sworn, states that he or she is the Secretary, of the Western New York Law Center, the enterprise making the foregoing Certification, that he or she has read the Certification and knows its contents, that the statements and representations made in the Certification are true to his or her own knowledge, and that the Certification is made at the direction of the Board of Directors of the Corporation.

Sworn to before me this 23rd
Day of May, 2019

MATTHEW ALAN PARHAM
NOTARY PUBLIC-STATE OF NEW YORK
No. 02PA6224317
Qualified in Erie County
My Commission Expires June 28, 2022

Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only)
WESTERN NEW YORK LAW CENTER

37 FRANKLIN STREET 2ND & 3RD FLOOR
BUFFALO, NY 14202

Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., Wrap-Up Policy)*

1b. Business Telephone Number of Insured
716-855-0203

1c. Federal Employer Identification Number of Insured or Social Security Number
161497552

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)
COUNTY OF ERIE
95 FRANKLIN STREET
BUFFALO, NY 14202

3a. Name of Insurance Carrier
ShelterPoint Life Insurance Company

3b. Policy Number of Entity Listed in Box "1a"
DBL201459

3c. Policy effective period
07/01/2018 to 06/30/2020

4. Policy provides the following benefits:
- [x] A. Both disability and paid family leave benefits.
- [ ] B. Disability benefits only.
- [ ] C. Paid family leave benefits only.

5. Policy covers:
- [x] A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law.
- [ ] B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 4/29/2019 By _____
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 516-829-8100 Name and Title Richard White, Chief Executive Officer

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200.

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note:** Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1. **Insurance brokers are NOT authorized to issue this form.

DB-120.1 (10-17)

DB-120.1 (10-17)

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 04/29/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

LAWLEY SERVICE INC
PO BOX 2249
GRAND RAPIDS, MI 49501-2248

CONTACT NAME: CUSTOMER SERVICE CENTER
PHONE (A/C, No, Ext): 866-972-7378 FAX (A/C, No): 800-455-9611
E-MAIL ADDRESS: BUSINESS.CUSTOMERSERVICE

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A :	FOREMOST INSURANCE CO.	11185
INSURER B :	FOREMOST SIGNATURE INSUR	41513
INSURER C :		
INSURER D :		
INSURER E :		
INSURER F :		

INSURED

WESTERN NEW YORK LAW CENTER INC
37 FRANKLIN ST.
2ND AND 3RD FLOORS
BUFFALO, NY 14202

COVERAGES CERTIFICATE NUMBER: SR#78287 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 2,000,000
	[ ] CLAIMS-MADE [X] OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 2,000,000
							MED EXP (Any one person)	$ 10,000
		[ ]	[ ]	PPS035337915	08/01/2018	08/01/2019	PERSONAL & ADV INJURY	$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 4,000,000
	[ ] POLICY [ ] PRO-JECT [X] LOC						PRODUCTS - COMP/OP AGG	$ 4,000,000
	[ ] OTHER							$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	[ ] ANY AUTO						BODILY INJURY (Per person)	$
	[ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	[X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY	[ ]	[ ]	PPS035337915	08/01/2018	08/01/2019	PROPERTY DAMAGE (Per accident)	$
								$
A	[X] UMBRELLA LIAB [X] OCCUR						EACH OCCURRENCE	$ 5,000,000
	[ ] EXCESS LIAB [ ] CLAIMS-MADE	[ ]	[ ]	PPS035337915	08/01/2018	08/01/2019	AGGREGATE	$ 5,000,000
	[ ] DED [ ] RETENTION $							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						[X] PER STATUTE [ ] OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [ ]	N/A	[ ]	WC098937361	08/01/2018	08/01/2019	E.L. EACH ACCIDENT	$ 100,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 100,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000
		[ ]	[ ]					$
								$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

LAWYERS OFFICES / SUBJECT TO THE POLICY TERMS AND CONDITIONS.

CERTIFICATE HOLDER

COUNTY OF ERIE
95 FRANKLIN ST
BUFFALO NY 14202

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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A RESOLUTION SUBMITTED BY
ERIE COUNTY CLERK

Re: Authorization to extend contract with Western New York Law Center, Inc. for Zombie Property Outreach Services

WHEREAS, the County Clerk is an independently elected official responsible for recording, filing and maintaining a central repository of legal documents and records affecting property titles, including land and real estate transactions; and

WHEREAS, the County Clerk, as an agent of the State, collects mortgage and real estate transfer taxes that are then apportioned between the State, State agencies, the County, and cities, towns and villages located within Erie County; and

WHEREAS, A "Zombie Property" is a parcel improved by a one-to-four-family dwelling and abandoned by its occupants when a foreclosure action has been instituted against the property owner; and

WHEREAS, upon vacating the properties, the structures experience: damage from weather, scavenging, squatters, and criminal activity and the resulting deterioration creates nuisance conditions and can often affect the values of surrounding properties; and

WHEREAS, further, the prolonged foreclosure process clouds title to the property, making it difficult for municipalities to enforce code violations resulting from neglect; and

WHEREAS, the Erie County Clerk recognizes that grappling with the blight of Zombie Properties transcends all communities and impacts all County taxpayers, regardless of the property location and believes this initiative will fill the much-needed gap caused by exclusions under State funding; and

WHEREAS, the intended effect of combating Zombie Properties is to put them in a position for improvement and conveyance so there may be an increase in mortgage and transfer tax revenues, as well as securing value in the County's tax base; and

WHEREAS, the Erie County Clerk issued RFP #1919VF seeking proposers for Zombie Property Outreach Services, and the Legislature awarded a contract (19-396-CC) to the Western New York Law Center (the "WNYLC") (*see* COMM.7E-29 (2019)); and

WHEREAS, the contract term with the WNYLC expires on June 2, 2020 and it continues to monitor thirty (30) properties, approximately half of which have pending New York State Department of Financial Services investigations; and

WHEREAS, it is important that these services be restored with this vendor to ensure continuity and preserve the best value for County funds; and

WHEREAS, the funds necessary to cover the costs of this contract are available in the Registrar-Professional Services line (Fund Center 11310 – Account Number 516020) of the Erie County Clerk's 2020 Budget.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Clerk is hereby authorized to amend its contract (19-396-CC) with Western New York Law Center, Inc., for zombie property outreach services, extending services for another 365 days in exchange for payment in the amount of $150,000; and be it further

RESOLVED, that 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 County Attorney and the Erie County Clerk.

DISCHARGE FROM THE GOVERNMENT AFFAIRS COMMITTEE
Session 15
July 23, 2020

AMENDMENT TO COMM. 12E-15

DELETE the First Resolve clause in its entirety and **REPLACE** with the following:

RESOLVED, the Erie County Clerk's Office is authorized to amend and extend its contract (19-396-CC) with the Western New York Law Center, Inc., to provide zombie property outreach services for five (5) additional months, and to receive an additional $40,000 in compensation from the 2020 Budget of the Erie County Clerk Registrar Division; and be it further

AMENDMENT AND EXTENSION AGREEMENT

THIS AMENDMENT AND EXTENSION TO THE AGREEMENT (the "Amendment" or "Extension") is made this 7th day of August, 2020, by and between **WESTERN NEW YORK LAW CENTER, INC.**, a not-for-profit corporation duly organized and existing under the laws of the State of New York, with offices at 37 Franklin Street, 2nd Floor, Buffalo, New York 14202 (the "Consultant"), and the **COUNTY OF ERIE**, a municipal corporation with a principal place of business at 95 Franklin Street, Buffalo, New York 14202 (the "County").

WITNESSETH:

WHEREAS, on March 6, 2019, the Erie County Clerk issued a Request for Proposal RFP#1919VF (the "RFP") to provide Zombie Property Outreach Services; and

WHEREAS, the Consultant was selected by a reviewing committee to be the vendor to provide services requested in the RFP; and

WHEREAS, on April 18, 2019, the Erie County Legislature approved Comm. 7E-29(2019) authorizing the Erie County Clerk to enter into an Agreement (19-396-CC) (the "Agreement") with the Consultant for zombie property outreach services; and

WHEREAS, the Agreement term with the Consultant expired on June 2, 2020 and it continues to monitor thirty (30) properties, approximately half of which have pending New York State Department of Financial Services investigations; and

WHEREAS, it is vital that these services be restored with the Consultant to ensure continuity and preserve the best value for County funds; and

WHEREAS, on July 23, 2020, the Erie County Legislature approved Comm. 12E-15(2020), As Amended, authorizing the Erie County Clerk to amend and extend its contract (19-396-CC) with the Western New York Law Center, Inc., to provide zombie property outreach services for five (5) additional months, and to receive an additional $40,000 in compensation from the 2020 Budget of the Erie County Clerk Registrar Division.

NOW THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, effective upon the parties' execution of this Amendment, the parties agree to amend the Agreement as follows:

1. The parties hereto acknowledge that the Commencement Date of the Agreement was June 3, 2019, with the Agreement expiring June 2, 2020. The Agreement between the County and Consultant is hereby extended for a period of five (5) months commencing immediately upon the date this Amendment is duly executed by the parties (the "Extension Commencement Date") and shall not be completed later than 5 months from the Extension Commencement Date. (the "First Extension")

2. In consideration for services rendered during the term of the First Extension the County shall pay the Consultant an amount not to exceed FORTY THOUSAND DOLLARS ($40,000.00), and shall be paid as follows:

   Payment under this Amendment shall be made to the Consultant by the County in four (4) equal installments of TEN THOUSAND DOLLARS ($10,000.00). The first payment shall be due for mobilization costs upon execution of this Amendment, and the remaining payments shall be made upon the completion of each month of Work and the Consultant's submission to the County a monthly report of progress of the Work.

   Except as may be otherwise expressly stated in the Agreement or this Amendment, no payment shall be made by the County to the Consultant for out-of-pocket expenses or disbursements made in connection with the Work to be performed hereunder."

3. Except as otherwise provided herein, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first written above.

Consultant

WESTERN NEW YORK LAW CENTER, INC.

By: Joseph Kelemen
Name: Joseph Kelemen
Title: Executive Director
Date:8/7/2020

County

COUNTY OF ERIE

By: Mark Poloncarz
MARK POLONCARZ/MARIA WHYTE
County Executive/Deputy County Executive
Date: Sept. 11 2020

Approved as to Form

By: (Electronically Approved)
MARTIN POLOWY
Assistant County Attorney
Doc No. 19-396-CC (Amend. 1)

Approved as to Content

By: Michael P. Kearns
MICHAEL P. KEARNS
Erie County Clerk

A RESOLUTION SUBMITTED BY
ERIE COUNTY CLERK

Re: Authorization to extend contract with Western New York Law Center, Inc. for Zombie Property Outreach Services

WHEREAS, the County Clerk is an independently elected official responsible for recording, filing and maintaining a central repository of legal documents and records affecting property titles, including land and real estate transactions; and

WHEREAS, the County Clerk, as an agent of the State, collects mortgage and real estate transfer taxes that are then apportioned between the State, State agencies, the County, and cities, towns and villages located within Erie County; and

WHEREAS, a "Zombie Property" is a parcel improved by a one-to-four-family dwelling and abandoned by its occupants when a foreclosure action has been instituted against the property owner; and

WHEREAS, upon vacating the properties, the structures experience: damage from weather, scavenging, squatters, and criminal activity and the resulting deterioration creates nuisance conditions and can often affect the values of surrounding properties; and

WHEREAS, further, the prolonged foreclosure process clouds title to the property, making it difficult for municipalities to enforce code violations resulting from neglect; and

WHEREAS, the Erie County Clerk recognizes that grappling with the blight of Zombie Properties transcends all communities and impacts all County taxpayers, regardless of the property location and believes this initiative will fill the much-needed gap caused by exclusions under State funding; and

WHEREAS, the intended effect of combating Zombie Properties is to put them in a position for improvement and conveyance so there may be an increase in mortgage and transfer tax revenues, as well as securing value in the County's tax base; and

WHEREAS, the Erie County Clerk issued RFP #1919VF seeking proposers for Zombie Property Outreach Services, and the Legislature awarded a contract (19-396-CC) to the Western New York Law Center (the "WNYLC") (*see* COMM.7E-29 (2019)); and

WHEREAS, the Erie County Legislature extended the contract (19-396-CC (Amend. 1)) with the WNYLC through February 11, 2021 (*see* COMM 12E-15 (2020), as amended); and

WHEREAS, the extension term with the WNYLC expired on February 11, 2021 and it continues to monitor over thirty (30) properties, approximately seventeen (17) have pending New York State Department of Financial Services investigations; and

WHEREAS, the WNYLC through the Zombie Property Outreach Services Program has coordinated litigation with the Town of Clarence, utilizing the newly enacted Real Property Actions and Proceedings Law Section 1308 to impose a civil penalty upon a mortgage servicer for its failure to properly maintain a zombie property; and

WHEREAS, a longstanding vacant and abandoned zombie house was demolished in the Village of Kenmore at the cost of the mortgage servicers through the efforts of the Zombie Property Outreach Services Program; and

WHEREAS, the Erie County Clerk's Office has upgraded its Registrar indexing software so notices may be sent to individuals when certain documents bearing their name are recorded in the Clerk's Office, specifically lis pendens and deeds; and

WHEREAS, the Western New York Law Center may leverage this technology and provide services to individuals receiving such notices to initiate loss mitigation measures and prevent foreclosures from descending into zombie property status; and

WHEREAS, it is important that these services be restored and enhanced with this vendor to ensure continuity and preserve the best value for County funds; and

WHEREAS, the funds necessary to cover the costs of this contract are available in the Registrar-Professional Services line (Fund Center 11310 – Account Number 516020) of the Erie County Clerk's 2021 Budget.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Clerk is hereby authorized to amend its contract (19-396-CC (Amend. 1) with Western New York Law Center, Inc., for zombie property outreach services for a further extension of services to be provided from May 1, 2021 to December 31, 2021 in exchange for the payment in the amount of $125,000.00; and be further

RESOLVED, that 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 County Attorney and the Erie County Clerk.