

### **WEDNESDAY, FEBRUARY 23, 2022:**

The Adams County Board of Commissioners met this date in regularly scheduled session at 9:00 a.m. at the Adams County Courthouse, Historic Courtroom and via conference call with Chairman Randy Phiel presiding. Others in attendance: Commissioners James E. Martin and Marty Karsteter Qually; Steve Nevada, County Manager; Solicitor Molly R. Mudd; Controller John Phillips; Beth Cissel, Deputy Controller (phone); Treasurer Crissy Redding; Don Fennimore, Court Administrator; Candi Clark, Court HR Generalist; Melissa Devlin, Budget & Purchasing Director; Todd Garret, Budget Analyst 2; Sarah Finkey, CYS Administrator (phone); Warden Katy Hileman; Deputy Warden Larry Snyder; Several Staff Members from ACACC; Phil Walter, CIO; Neil Burkholder, Department of Operational Services; Doug Miller & Members of the Optimist Club; News Reporter Alex Hayes, *Gettysburg Times* and Chief Clerk Paula V. Neiman.

### **Minutes:**

Mr. Martin moved, seconded by Mr. Phiel, to approve the Minutes of the February 9, 2022 Commissioner's Meeting as presented.

Motion carried. Commissioner Qually abstained.

### **Proclamation:**

- Mr. Martin moved, seconded by Mr. Qually, to approve March 6, 2022 as **"BLACK BALLOON DAY"** in Adams County. This proclamation was presented to Lisa Lindsey, Center for Youth & Community Development; Crissy Alexander, Committee Member and Nathan Sterner of Collaborating for Youth.

Motion carried.

### **Presentation:**

Doug Miller, Representative of the Optimist Club of Gettysburg presented the Optimist Club Law Enforcement Award to Warden Katy Hileman and Deputy Warden Larry Snyder. Mr. Miller provided an overview of the optimist club activities and the accomplishments of both Warden Hileman and Deputy Warden Snyder.

### **Public Comment:**

No Public Comment was brought before the Board at this time.

### **Sheriff:**

With recommendation from Sheriff James Muller, and after review by Solicitor Molly R. Mudd, Mr. Qually moved, seconded by Mr. Martin, that the Board of Commissioners approve the Customer Order Form Agreement with Eagle Wireless Communications, LLC, a Pennsylvania company. This Agreement provides for the installation of a Geotab G09 vehicle tracking device on the Sheriff's transport van for a one-time fee of \$15.30. In addition, there is a monthly software/service fee of \$20.15 for a term of 17 months, totaling \$342.55 over the life of the Agreement. This purchase is made pursuant to Sourcewell Cooperative Purchasing Contract No. 020221-GEO. The Agreement is effective February 23, 2022 for a 17 month term.

Motion carried.

### **Treasurer:**

With recommendation from Treasurer Christine Redding, pursuant to Section 806 of the County Code, Mr. Martin moved, seconded by Mr. Qually, to note the appointment of Kierstyn M. Green as Chief Deputy Treasurer for Adams County to possess and discharge all rights, powers and duties of the Office effective January 3, 2022 and continuing throughout her term of office. It is also noted that pursuant to Section 807 of the County Code, the

Treasurer has secured the professional services of John A. Wolfe as Solicitor for the Treasurer's Office, effective January 3, 2022 and continuing throughout her term of office.

Motion carried.

**Children & Youth Services:**

With recommendation from Sarah Finkey, Administrator and after review by Solicitor Molly Mudd, Mr. Qually moved, seconded by Mr. Martin, that the Board of Commissioners appoint Chairman Randy L. Phiel to sign on behalf of the Board the February 7<sup>th</sup> Letter Agreement with Attorney Kris Accardi for representation of the County in a TPR and COG hearing regarding in re: M.R., scheduled for hearing before the Court for March 3, 2022. Counsel will receive \$100.00/hour for representation of the County in this matter.

Motion carried.

**IT Department:**

With recommendation from Phil Walter, CIO and after review by Solicitor Molly Mudd, Mr. Martin moved, seconded by Mr. Qually, that the Board of Commissioners approve the following:

- Designate Chairman Randy L. Phiel to sign the Agreement with GoDaddy, an Arizona company, for four external web-based SSL certifications. These certifications are applied to the County's servers to enable outside entities to make secure connections. The term of the Agreement is two (2) years, commencing on February 23, 2022 and terminating on February 22, 2024. Total cost to the County is \$1,439.92.
- Designate Chairman Randy L. Phiel to approve the Agreement with Network Solutions, a Virginia company, for renewal of our adamscounty.us domain name. The term of the Agreement is twenty years, commencing on February 23, 2022 and terminating on February 22, 2042. Total cost to the County is \$759.80.
- Designate Chairman Randy L. Phiel to sign the Quote from Tenable, a Maryland company, for the Nessus Professional Software. Nessus is a security scan tool that can provide detailed vulnerability scans and assessments on the network environment, detecting a wide range of vulnerabilities, configuration issues, and malware in physical or virtual environments. The term of the license is one (1) year, commencing on February 23, 2022 and terminating on February 22, 2023. Total cost to the County is \$2,790.00.

Motion carried.

**Building and Maintenance:**

With recommendation from Larry Steinour, Director and after review by Solicitor Molly Mudd, Mr. Qually moved, seconded by Mr. Martin, that the Board of Commissioners designate Chairman Randy L. Phiel to sign the Quote from Winter Engine-Generator Service, Inc., a York, Pennsylvania company, for maintenance of the County's emergency standby generator sets. The term of the Agreement is three (3) years, commencing on January 1, 2022 and terminating on December 31, 2024. Yearly cost to the County is \$7,135.00, for a total of \$21,405.00 over the term of the Agreement.

Motion carried.

**Human Resources:**

With recommendation from Michele Miller, Director, Mr. Martin moved, seconded by Mr. Qually, to approve as part of our merit hire, the Adams County Compensation Plan for Children & Youth Services Employees for 2022, effective January 3, 2022 for submission to the PA Department of Human Services.

Motion carried.

**Adams County Adult Correctional Complex:**

With recommendation from Warden Katy Hileman, and after review by Solicitor Molly R. Mudd, Mr. Qually moved, seconded by Mr. Martin, that the Board of Commissioners approve the following:

- Quote from Keyser Consulting Group, a Gettysburg, PA company, for maintenance of the Prison's Polycom system. This quote is made pursuant to eMarketplace Cooperative Purchasing Agreement #4400020816. The term of the Agreement commences February 1, 2022 and terminates on November 30, 2023. Total cost to the County is \$800.13.
- Grant application for the Adams County Bar Foundation in the amount of \$21,247.50. If approved, this grant would fund computers, calculators, GED test preparation materials and other programming for the purpose of providing inmates with vocational and educational advancement opportunities in order to reduce recidivism rates, and to prepare inmates upon release from the ACACC to return to the community as productive members.

Motion carried.

**Commissioner's Office:**

With recommendation by Solicitor Molly R. Mudd that the Board of Commissioners approve the following:

- Mr. Martin moved, seconded by Mr. Qually, to execute the following documents relative to the collection of school district taxes for the Upper Adams School District, for the period July 1<sup>st</sup>, 2022 through June 30<sup>th</sup>, 2024:
  - Adopt Resolution No. 2 of 2022 whereby the Board does Resolve and Direct the Adams County Treasurer to collect school district taxes for the Upper Adams School District, pursuant to the statutory authority found at 72 P.S. Section 5511.4b, due to the continued vacancy in the position of the School District Tax Collector, such collection to occur at the times and pursuant to the terms outlined in the Agreement below as follows:

**RESOLUTION NO. 2 OF 2022**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF THE COUNTY OF ADAMS THAT THE COUNTY  
TREASURER COLLECT TAXES FOR THE UPPER  
ADAMS SCHOOL DISTRICT**

**WHEREAS**, the Local Tax Collection Law, Public Law 1050 of 1945, as amended, codified at 72 P.S. § 5511.1, et seq., (the "Act") provides for the administration of duties for tax collectors in the Commonwealth of Pennsylvania; and

**WHEREAS**, there exists a vacancy in the Upper Adams School District (hereafter "School District") tax collector office, which has neither been filled by municipal election nor by the School District's efforts to appoint an interim tax collector; and

**WHEREAS**, the Adams County Board of Commissioners, by action taken this date, have directed the County Treasurer, Ms. Christine Redding, to collect School District taxes due and owing, pursuant to 72 P.S. § 5511.4b (establishing joint tax collection districts), due to a vacancy in the position of the School District's Tax Collector; and

**WHEREAS**, the County and the School District wish to mutually acknowledge this assignment of responsibilities to the County Treasurer and establishment of a joint tax collection district.

**NOW, THEREFORE, BE IT RESOLVED** by the Adams County Board of Commissioners as follows:

1. The Adams County Treasurer, Ms. Christine Redding, as assisted by her duly appointed and bonded staff, is appointed to collect all School District taxes from July 1<sup>st</sup>, 2022 through June 30<sup>th</sup>, 2024, unless the Agreement is terminated by the parties or by operation of law.
2. This collection shall occur at the Adams County Courthouse, at the times and dates noted in the tax bills provided to School District real property owners, or at such other location as may be duly determined and advertised by the Adams County Treasurer.
3. The Board of Commissioners of the County of Adams (“Board”) hereby authorizes the County to enter into an agreement between the County of Adams and the School District, under the terms and conditions set forth in the agreement which is attached hereto as Exhibit “A,” and incorporated herein by reference.
4. The Office of the Adams County Treasurer shall have the duties and responsibilities to bill and collect all school district taxes due and owing in the School District, to properly manage all collected revenue, to pay over all collected taxes as required by statutes, laws and regulations, and to properly update all related tax duplicates and records.
5. The agreement between the County of Adams and the School District shall continue through June 30<sup>th</sup>, 2024, unless the agreement is terminated by the parties or by operation of law. Such tax collector duties shall then be undertaken by a duly elected School District Tax Collector, who will be elected in the 2024 Municipal Election, and who shall take office January 1, 2025, or by such other successor as elected or appointed in accordance with the law.

**THIS RESOLUTION IS DULY ADOPTED ON** this 23rd day of February 2022, at a duly advertised meeting of the Board of Commissioners of the County of Adams.

**ATTEST**

**ADAMS COUNTY COMMISSIONERS**

By: Paula V. Neiman, Chief Clerk

By: /s/  
Randy L. Phiel, Chairman

By: /s/  
James E. Martin, Vice-Chairman

By: /s/  
Marty Karsteter Qually, Commissioner

- Review to approve the Agreement for Collection of School Taxes For Upper Adams School District, whereby the Adams County Treasurer shall undertake all

tax collection duties within the Upper Adams School District for school district taxes due and owing.

Motion carried.

- Mr. Qually moved, seconded by Mr. Martin, to approve and sign the Intergovernmental Contract between the Board of Commissioners, Court Administration, and the Court of Common Pleas, Domestic Relations Section (DR) to provide for clerical assistance from Court Administration to DR due to limited staff compliment. The clerical assistance will maintain and improve the effectiveness of the Title IV-D Child Support Enforcement Program by ensuring that the functions set forth in the Title IV-D Cooperative Agreement as required by federal regulations under Title 45 of the Code of Federal Regulations (45 CFR) Part 75 and Chapter III are properly, efficiently, and effectively carried out. The term of the contract is February 14, 2022 to April 30, 2022. Compensation for Court Administration employee(s) shall be governed by the terms of the Collective Bargaining Agreement between the County and Teamsters Local Union 776 Court Appointed Support Staff Bargaining Unit.

Motion carried.

- Mr. Martin moved, seconded by Mr. Qually, to approve Ordinance No. 1 of 2022 – An Ordinance of the County of Adams, Commonwealth of Pennsylvania, enacting, establishing, levying and setting a Hotel Room Rental Tax required for the specific purposes of the County Government, hereinafter set forth as follows:

#### **ORDINANCE NO. 1 OF 2022**

#### **AN ORDINANCE OF THE COUNTY OF ADAMS, COMMONWEALTH OF PENNSYLVANIA, ENACTING, ESTABLISHING, LEVYING AND SETTING A HOTEL ROOM RENTAL TAX REQUIRED FOR THE SPECIFIC PURPOSES OF THE COUNTY GOVERNMENT, HEREINAFTER SET FORTH**

#### **RECITALS**

**WHEREAS**, the Pennsylvania legislature enacted Act 142 of 2000, codified in part at 16 P.S. § 1770.7, providing the opportunity for a hotel tax to be imposed upon operators of hotels within the geographic boundary of the County of Adams, which Act 142 of 2000 was relied upon by the Adams County Board of Commissioners (“Commissioners”) for the imposition of a Hotel Room Rental Tax by enactment of Ordinance 3 of 2001, dated October 24, 2001; and

**WHEREAS**, the Pennsylvania legislature, by and through Act 142 of 2012, amended 16 P.S. § 1770.7 to allow for a different hotel tax rate, among other changes made to the enabling legislation for such a Hotel Room Rental Tax, which Act 142 of 2012 was relied upon by the Commissioners for the imposition of a modified Hotel Room Rental Tax through enactment of Ordinance 3 of 2012, dated September 5, 2012; and

**WHEREAS**, the Pennsylvania Legislature, by and through Act 109 of 2018, amended the Act of March 4, 1971 (Public Law 6, No. 2) known as the Tax Reform Code of 1971, as Amended, wherein booking agents are defined as a person or entity which facilitates or collects payment for hotel accommodations on behalf of or for an Operator, such that any amount charged by a booking agent is heretofore included as rent and accommodation fees in consideration for hotel room occupancy; and

**WHEREAS**, the Gettysburg Travel Council, Inc., trading and doing business as Destination Gettysburg, is recognized as the official Tourist Promotion Agency (“TPA”) for the County of Adams, and has certain duties and responsibilities related to the administration of the Hotel Room Rental Tax, pursuant to this Ordinance and the enabling legislation; and

**WHEREAS**, after enactment of Ordinance 2 of 2018, the Commissioners desire to modify the Hotel Room Rental Tax program to capture hotel tax revenue from Booking Agents collecting payment for hotel accommodations on behalf of or for an Operator.

**NOW THEREFORE**, be it **ENACTED AND ORDAINED** by the Commissioners of the County of Adams, Pennsylvania, and it is hereby **ENACTED AND ORDAINED** by the authority of the same, as follows:

### **SECTION 1 - TITLE**

This Ordinance shall be known and be cited as the Hotel Room Rental Tax Ordinance of Adams County and is enacted in accordance with such enabling legislation known as Act 142 of 2000, as amended by Act 142 of 2012, codified at 16 P.S. § 1770.7.

### **SECTION II - INCORPORATION**

The caption and recitals of this Ordinance and any rules adopted pursuant to the Ordinance set forth above are incorporated herein by reference and made an essential part hereof.

### **SECTION III - DEFINITIONS**

The following words when used in this Ordinance shall have the meanings ascribed to them in this section:

1. **Accommodation Fee.** The amount by which the rent exceeds the discount room charge, if any.
2. **Booking Agent.** A person or entity which facilitates or collects payment for hotel accommodations on behalf of or for an operator. The term “Booking Agent” shall not include a person who merely publishes advertisements for accommodations.
3. **Cabin.** A permanent structure with beds, running water and indoor sanitary facilities that is located on a campground, state land or private property and is available to provide overnight lodging for consideration to persons seeking temporary accommodations. The term does not include a yurt or walled tent.
4. **Controller.** The Office of the Controller of the County of Adams.
5. **Consideration or Rent.** The receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature, or other payment received by Operators and Booking Agents in exchange for or in consideration of the use or occupancy by a transient of a room or rooms in a Hotel. The term includes both the Discount Room Charge and Accommodation Fee.
6. **County.** The County of Adams in the Commonwealth of Pennsylvania.
7. **Discount Room Charge.** The amount charged by an operator to a Booking Agent in connection with the sale of an accommodation by the Booking Agent.
8. **Exemption.** In certain situations, an employee of the Commonwealth of Pennsylvania or the Government of the United States or an official of a foreign government is exempt from the payment of the tax. An Operator does not have to collect the Hotel Room Rental Tax if the customer qualifies for an exemption. See Exhibit A, Regulations, for criteria and record requirements.
9. **Hotel.** A hotel, motel, inn, guest house, or other building located within the County, including a personal residence, which holds itself out by any means including advertising, license, registration with any innkeeper’s group, convention listing association, travel publication, or similar association or with any government agency as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation; which advertises to the public at large, or any segment thereof, that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large; a Cabin; any place recognized as a hostelry, provided, that portions of such facilities which are devoted to persons who have established permanent residence shall not be included in this definition. Hotel does not include college or university residence halls or dorms, any charitable, educational or religious institution summer camp for children, any hospital or nursing home, or any portions of a campground that is not a Cabin. Hotel shall also include a “bed and breakfast”, a public accommodation consisting of a private residence, which contains ten or fewer bedrooms,

used for providing overnight accommodations to the public and in which breakfast is the only meal served and is included in the charge for the room.

- 10. Occupancy.** The use or possession or the right to use or possession by any person other than a permanent resident of any room in a hotel for any purpose or the right to use or possession of the furnishings or to the services accompanying the use and possession of the room.
- 11. Operator.** Any individual, partnership, non-profit or profit-making association, corporation or other person or group of persons who maintain, operate, manage, own, or have custody of, or otherwise possess the right to rent or lease, overnight accommodations in a hotel to the public for consideration. Under Act 109 of 2018, "Operator" includes "Booking Agents." To avoid confusion, however, for purposes of this Ordinance, Operator shall not include Booking Agents. That said, nothing in this Ordinance shall be read to prevent any and all legal action authorized by Act 109 of 2018 as against Booking Agents.
- 12. Patron.** A person who pays the consideration for the occupancy of a room or rooms in a hotel.
- 13. Permanent Resident.** A person who has occupied or has the right to occupancy of a room in a hotel as a patron or otherwise for a period exceeding thirty (30) consecutive days.
- 14. Records.** Includes, but is not limited to, the number of daily transactions, the Consideration or Rent for each occupancy, the revenues received for all lodging, cash receipts and sales journals, cash disbursements and purchase journals, general ledgers, copies of forms used to file Returns and other periodic reports with the County to comply with the Hotel Room Rental Tax Ordinance, copies of tax exemption documentation (certificate, proof of official purpose and proof of payment by the government), and all records relied upon in completing monthly and periodic Hotel Room Rental Tax returns, as well as related correspondence, and, if an Operator uses a Booking Agent to facilitate and collect Rents and remit Taxes, evidence of all such collections and remittances made by the Booking Agent.
- 15. Return.** A completed Hotel Room Rental Tax Remittance Form, on which the Operator makes a monthly statement of transactions concerning the Occupancy of Rooms for the subject Hotel, noting Consideration, Exemptions, and other required information, and used by the County to assess tax liability under the Hotel Room Rental Tax. If an Operator uses a Booking Agent to facilitate and collect Rents and remit Taxes, evidence of such collection and remittance shall be included in a Return.
- 16. Room.** A space in a Hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodation in a room or group of rooms.
- 17. Tax.** The Hotel Room Rental Tax, as authorized by this Ordinance and Act 142 of 2000, as amended by Act 142 of 2012, and codified at 16 P.S. § 1770.7.
- 18. Tax Year.** The tax year for the Hotel Room Rental Tax shall be the same as the calendar year.
- 19. Temporary.** A period of time not exceeding thirty (30) consecutive days.
- 20. Transaction.** The activity involving the obtaining by a transient or patron of the use or occupancy of a Hotel room from which consideration is payable to the Operator under an express or an implied contract.
- 21. Transient.** Any individual who obtains an accommodation in any Hotel for him/herself by means of registering at the facility for the temporary occupancy of any room for the personal use of that individual by paying to the Operator of the facility, or a Booking Agent, if applicable, a fee in consideration thereof.
- 22. Treasurer.** The Office of the Treasurer of the County of Adams.

- 23. Tourist Promotion Agency or TPA.** Gettysburg Travel Council, Inc., trading and doing business as Destination Gettysburg.

#### **SECTION IV - IMPOSITION, RATE AND PURPOSE OF TAX**

1. Effective October 1, 2012, and reaffirmed April 18, 2018, there is imposed a Tax of five percent (5%) on the Consideration received by each Operator of a Hotel within the County, from each transaction of renting a room or rooms to accommodate Transients.
2. If a Booking Agent, acting for an Operator, collects payment for Rent, the Booking Agent must collect and remit the tax applicable to the amount charged by the Operator as well as any Accommodation Fee charged to the Transient. When remitting applicable taxes to the County, the Booking Agent shall include a report specifically identifying each County Operator for whom Rents were collected, the Accommodation Fee, the Discount Room Rate, and the amount of taxes remitted on each Operator's behalf. The failure of a Booking Agent to timely provide such report may subject the Booking Agent to the penalties outlined in Section VIII. Booking Agents shall be subject to the same timelines outlined in Section V, paragraph 3. An Operator shall not be liable for any tax owed for an Accommodation Fee received by a Booking Agent, but both the Operator and Booking Agent shall remain jointly liable for any taxes on Rents received otherwise.

#### **SECTION V - COLLECTION, PAYMENT, REPORTS AND RETURNS OF TAX**

1. Any Operator of a Hotel as defined in this Ordinance shall register with the Treasurer prior to the collection of Consideration for Occupancy of any Room within that Hotel, or within any Hotel managed by that Operator.
2. The Operator or Booking Agent shall collect the Tax imposed by this Ordinance from the patron of the room and pay it to the County as provided herein, and shall be liable to the County as agent thereof solely for the purpose of collection and payment of the Hotel Room Rental Tax to the County Treasurer as provided in this section.
3. Every Operator shall transmit to the County Treasurer, on or before the twentieth (20th) day of each month, a Return which shall contain the Operator's activity for the previous month for which the Return is made, the amount of Consideration received for the Transactions during the month for which the return is made, the amount of Tax collected by the Operator during that month, the amount of Exemptions provided, and such other information as the Treasurer may require. The Operator shall also compute and pay to the County Treasurer the Taxes collected by the Operator for that period and due to the County, which payment shall accompany the monthly return. Each Operator has an affirmative duty to file a monthly Return for that Hotel, even if no Consideration has been received, nor any Room rented, for the monthly reporting period. Each Operator is also required to retain tax exemption certificates and any other necessary proof for all tax Exemptions granted by that Hotel. If a Booking Agent collects Rents and remits taxes on behalf of an Operator, the Operator shall provide a Return which evidences all transactions with the Booking Agent related to the collection of Rents, Fees, and Taxes for the previous month. A Return shall not be considered complete without such evidence.
  - a. Booking Agents that collect Rents and remit taxes on behalf of an Operator shall similarly provide to the County Treasurer an itemized statement. See Section IV, paragraph 2. Failure to do so may subject the Booking Agent to the penalties outlined in Section VIII.
4. For purposes of timely payment determination, a payment will be considered paid by the twentieth (20th) of the month when either: (a) a mailed Return and payment bears a postmark date of the twentieth (20th) or earlier of that month; or (b) the Return and payment are made in person at the Treasurer's Office during normal business hours of 8:00 a.m. until 4:30 p.m. (as may be modified), by the close of business on the twentieth (20th) of that month. Where the twentieth (20th) falls on a weekend or legal holiday, payment will be considered timely if the letter is postmarked with the next business day's date, or payment is made at the Treasurer's Office on the next business day.
5. The County Treasurer is hereby directed to collect the Tax from the Operator and Booking Agent and to deposit the revenues received therefrom in a special fund established solely for the purpose of this Ordinance. After deduction of the Administrative Fee, the Treasurer shall distribute seventy-five percent (75%) of the net tax revenues to the recognized TPA and twelve and one-half (12.5%) of the net tax revenues to qualifying municipalities.

6. The Commissioners are hereby authorized to establish rules and regulations concerning the collection of the Tax. A copy of the Hotel Room Rental Tax Ordinance Regulations is attached hereto as Exhibit “A.” The Commissioners may modify these rules through action at any advertised public meeting.

7. Every report and Return required in compliance with the Ordinance concerning the payment and collection of the Tax shall be made upon a Remittance Form furnished by the County Treasurer’s Office, a copy of which is approved as part of the rules and regulations, and included in Exhibit “A.” The Treasurer may modify the Remittance Form from time-to-time, consistent with this Ordinance.

8. Every Operator shall maintain Records, which shall be made available to the Commissioners, the County Treasurer, the County Controller, and/or duly authorized agents (a “County Representative”) upon request. Such Records shall be reviewed at least annually by a County Representative, and shall include, but not be limited to, the number of Transactions in each Hotel reflected on an hourly, daily or weekly basis, the rate(s) charged for each occupancy, the Consideration received from all Transactions during the month for which each return is made, the Exemptions provided (with accompanying Tax Exemption certificates providing proof of tax exemption eligibility), the Records relied upon for all tax returns, as well as such other information the County representative may require.

## **SECTION VI - USE OF REVENUES**

The County and the TPA and the qualifying municipalities shall use the proceeds from this tax in accordance with Act 142 of 2000, as amended by Act 142 of 2012.

## **SECTION VII - ADMINISTRATIVE FEE**

An administrative fee currently set at \$107,194.11, and subject to biennial review, shall be retained by the County for the purpose of recouping administrative costs incurred in the accounting, managing, collecting and auditing of the Hotel Room Rental Tax. This fee shall be subject to an annual review, which shall ensure compliance with limitations contained in Act 142 of 2000, as amended by Act 142 of 2012, and codified at 16 P.S. § 1770.7. This fee is subject to biennial adjustment, as provided for in the enabling legislation. 16 P.S. § 1770.7(e.2)(2). Collection of the administrative fee will be based upon that new figure after every biennial adjustment, which will be computed by the County and written notice provided to the TPA.

## **SECTION VIII – PENALTIES AND ENFORCEMENT**

An Operator violates the provisions of this Ordinance when that Operator fails to timely pay all due Taxes, fails to timely file a monthly Return (whether or not rooms are rented for the period), fails to register as a Hotel Operator, fails to provide adequate and acceptable business Records to support filed monthly hotel room rental tax Returns (including support for granted tax exemptions), or fails to fulfill any other obligation affirmatively required by this Ordinance. A Booking Agent that violates the provisions of this Ordinance by failing to timely supply required Records shall be subject to the same penalties as an Operator and treated as if it failed to file a required Return under the applicable conditions outlined below. If a Booking Agent otherwise willfully or negligently fails to comply with this Ordinance, it shall be subject to the penalties outlined in subsection 7 below. The County reserves the right to enforce such penalties through any and all legal means.

Persons violating any provision of this Ordinance may be subject to the following penalties:

1. A penalty of \$50 for failing to file a timely monthly Return.
2. A penalty of \$75 for failing to file a timely monthly Return, if such failure occurs within six (6) months of a previous untimely Return.
3. A penalty of \$150 for failing to file a timely Return, where such failure has occurred within six (6) months of two (2) or more previous untimely Returns. For purposes of this provision, a period of six (6) or more months must pass since the most recent untimely Return before an Operator will be treated as if a subsequent untimely Return is the first such untimely Return.

4. A penalty of \$25 for failing to register as an Operator of a Hotel, after receipt of written notification, and the passage of thirty (30) or more days since mailing of the notification.

5. There shall be imposed a one and one-half percent (1.5%) charge per month simple interest on all outstanding Taxes, penalties and other sums due and owing to the County.

6. Each separate violation, and separate day an Operator fails to comply with the Ordinance, may constitute a separate offense subject to the penalties and enforcement actions contained herein.

7. Any willful or negligent failure to comply with this Ordinance, other than those actions identified in Section VIII, 1 through 4, above, or after administration of those penalties for items 1 through 4, above, may subject Operators to a fine of \$200 for the first month when this has occurred, \$400 for the second month occurring within ninety (90) days of the first occurrence, and \$600 for the third and each subsequent occurrence within ninety (90) days of the previous occurrence. 16 P.S. § 509 (c) and (d).

8. Whenever any Operator shall fail to pay the Tax as herein provided, upon request of the County Treasurer, the County Solicitor or any designated licensed attorney may, in addition to any other remedy provided by law, file or cause to be filed a Municipal Tax Claim upon the Hotel in the name of the County and for the use of the County, as provided by law. In addition, The County Solicitor or any licensed designated attorney may bring or cause to be brought a civil action in any Court having jurisdiction to enforce the payment of all taxes and costs, including attorney fees and costs of prosecution, and late payment fees and penalties due.

9. All penalties and enforcement actions are cumulative. All fines and penalties shall be revenue solely of the County, as this is the product of County enforcement action.

10. The County may consider waiving late charges, penalties or interest, when extenuating or unusual circumstances exist. Any such request for waiver shall be made in writing to the Treasurer and shall include the extenuating or unusual circumstances that are claimed as the reasons for the waiver. The decision to issue a complete waiver, partial waiver, or to deny the request for the waiver, will rest solely with the Board of Commissioners, or its designee, who will issue a response in writing within thirty (30) days of receipt of the request in the Commissioners' Office.

## **SECTION IX – APPEAL PROCESS**

A Hotel Operator or Booking Agent aggrieved by any decision of the County or the duly authorized agent of the County with respect to the amount due for the Hotel Room Rental Tax, late charges, interest, costs, attorney fees, fines, or other enforcement actions, may appeal the decision as provided for by the Pennsylvania Local Agency Law, Act 53 of 1978, P.L. 202, codified at 2 Pa.C.S. § 551, and applicable Pennsylvania Rules of Civil Procedure.

## **SECTION X – TOURIST PROMOTION AGENCY**

1. The TPA shall submit an audited report on income and expenditures annually to the County and shall annually certify that revenues received from the Hotel Room Rental Tax were used in accordance with Act 142 of 2000, as amended by Act 142 of 2012, as amended. The TPA shall maintain documentation, which shall be made available to the Commissioners, the County Treasurer, the County Controller, and/or duly authorized agents (a "County Representative") upon request, supporting said certification.
2. The TPA shall compile and provide to the County on a monthly basis, and in a manner acceptable for certification, a list of the Hotels operating within the County, the municipalities with police forces meeting the requirements contained at 16 P.S. § 1770.7(c)(2)(ii) and (iii), the total number of Hotel rooms in the municipalities with said police forces, and the number of Hotel rooms within each of the same municipalities.

## **SECTION XI – DISCLOSURE OF INFORMATION**

All reports, Returns, and forms submitted to the Treasurer or the County are subject to public disclosure under the Pennsylvania Right to Know Law (“RTKL”). The Treasurer shall not disclose any confidential information that is otherwise protected by law.

## **SECTION XII - REPEAL**

Ordinance No. 2 of 2018 is repealed, effective midnight, February 23, 2022. All resolutions or ordinances, or parts of resolutions or ordinances, in conflict with the provisions of this Ordinance, are hereby repealed.

## **SECTION XIII - SEVERABILITY**

If any section, clause, phrase, portion or provision of this Ordinance is for any reason determined by a court of competent jurisdiction to be invalid, such holding shall not affect the validity of the remaining portion of the Ordinance.

## **SECTION XIV - EFFECTIVE DATE**

This Ordinance shall be effective February 24th, 2022 at 12:01 a.m., and shall remain in effect until the expiration of the appropriate enabling legislation, or amendment thereof, or by appropriate action of the Commissioners.

**DULY ENACTED AND ORDAINED**, in a public meeting duly convened, this 23rd day of February, 2022.

**ATTEST:**

**ADAMS COUNTY COMMISSIONERS**

/s/  
Paula V. Neiman, Chief Clerk

/s/  
Randy L. Phiel, Chairman

/s/  
James E. Martin, Vice Chairman

/s/  
Marty Karsteter Qually, Commissioner

## **EXHIBIT “A”**

### **COUNTY OF ADAMS HOTEL ROOM RENTAL TAX ORDINANCE REGULATIONS**

#### **A. DEFINITIONS**

As used hereinafter, those words which are the subject of the definitions specified in the Hotel Room Rental Tax Ordinance of Adams County (“County”), at Section III thereof, shall have the identical meaning therein defined and are incorporated herein.

#### **B. IMPOSITION OF TAX**

1. Rate of Tax: The Hotel Room Rental Tax (“Tax”) is imposed at the rate of five percent (5%), or such percentage as shall be further provided by any amendment to the Hotel Room Rental Tax Ordinance, of the consideration received by each Operator of a Hotel within the County from each transaction of renting a room or rooms to a transient. As used herein, renting shall mean the act of paying or being paid consideration, whether received in cash money or otherwise, for occupancy.
2. Collection of Tax by Operator: The Tax is to be collected by the Operator of each Hotel, at the time of payment, from each person who pays the consideration of renting a room, or by the Booking Agent at the time of the reservation.
3. Collection of Tax by Booking Agent: If the Booking Agent, acting for the Operator, collects payment for Rent, the Booking Agent must collect and remit directly to the

County, Office of the Treasurer, the tax due on the amount charged by the Operator as well as on any Accommodation Fee charged to the Transient.

4. Effective Date. The Tax shall be applicable to all transactions specified in regulation B(1), above, and as further set forth herein, which occur on or after the effective date of the County's Hotel Room Rental Tax Ordinance, and these regulations, which is February 23<sup>rd</sup>, 2022.

### **C. ITEMS SUBJECT TO TAX**

The occupancy of any room, for consideration, having at least one bed or sleeping accommodation, is subject to the Tax. This shall include any group or suite of rooms in which a patron has occupancy, at least one of which rooms has at least one bed or other sleeping accommodation, and between which there is direct access by any means including a doorway or inside hallway.

It will be the duty of the Commissioners and staff, using information provided by other County offices and personnel, to determine what business entities are included within the definition of "Hotel" when uncertainty exists. It will also be the responsibility of the Commissioners to ensure an annual review of records has been undertaken to ensure all businesses that should be included within the purview of this Ordinance are collecting this Tax and filing the required reports.

It is the duty of the TPA to compile and provide to the Commissioners on a monthly basis, and in a manner acceptable for certification, the municipalities with police forces meeting the requirements contained at 16 P.S. § 1770.7(c)(2)(ii) and (iii), the total number of Hotel rooms in each municipality with a police force, and the number within each of the same municipalities.

### **D. PERMANENT RESIDENTS**

The Tax is imposed for occupancy of Hotel rooms by Transients and not by permanent residents. After a person has occupied or had the right to occupy a room for thirty (30) consecutive days, he or she is no longer a "Transient" as defined in the Ordinance. His or her status as a "permanent resident" is effective for the rental period commencing when the expiration of the thirtieth (30th) consecutive day of occupancy occurs and continues thereafter so long as the occupancy remains continuous and uninterrupted. Thus, if a person completes his or her thirtieth (30th) day of consecutive occupancy during, or at the expiration of, a particular rental period, he or she is a permanent resident for that entire rental period even though, during a part of the period, he or she had not yet established his or her status as a permanent resident. He or she shall remain a permanent resident for each rental period thereafter in which his or her occupancy continues uninterrupted in the same Hotel. He or she is not a Permanent Resident, however, as to any rental period prior to the particular rental period during or at the expiration of which he or she completed his or her thirtieth (30th) day. As to such prior rental periods, he or she was a "Transient."

If a Hotel Operator collects tax in advance for a rental period during or at the expiration of which the patron becomes exempt from the Tax by reason of the patron becoming a permanent resident, the Operator must refund the tax so collected and should not report or remit such erroneously collected tax to the Treasurer. If the Tax has been paid erroneously to the County for an individual no longer a Transient, the Hotel Operator should request a refund of that portion of the Tax previously paid. The request should be made on business stationery, identifying the individual, the date the individual became a permanent resident for the purpose of the Ordinance, the period for which the Tax was paid for this individual, and the refund requested. The Hotel Operator may make a request for multiple refunds in one letter. However, the information required above must be provided for each individual for whom a refund is requested. The County Treasurer's Office will have fifteen (15) business days to provide this refund to the Hotel Operator.

A rental period, for the purpose of this subsection, is a period of time, during which, under and subject to the terms of a legally enforceable contract, a Transient has a continuous right to occupy a Room or Rooms in a Hotel and is legally bound to pay Consideration. A mere statement of intention to occupy, or to permit Occupancy, on the part of an occupant or Hotel Operator, or both, does not create a rental period unless the period in question is the subject of a legally enforceable contract. The occupancy or right of occupancy must exist for thirty (30) consecutive days to attain Permanent Resident status.

The status of Permanent Resident only continues so long as the Occupancy or right of occupancy continues uninterrupted. A Permanent Resident who vacates his or her Hotel and breaks his or her consecutive and continuing occupancy loses his or her status as Permanent Resident, and, with respect to his or her next Occupancy, he or she does not resume his or her status as a Permanent Resident unless and until he or she again completes thirty (30) consecutive days of Occupancy. A transfer from one Hotel to another, even though both Hotels are owned by the same Operator, is a break in Occupancy.

#### **E. EXEMPTIONS**

1. Permanent Residents: A Permanent Resident as that term is defined in the Ordinance is excluded from tax liability upon the Occupancy of any Room or Rooms in a Hotel for any rental period during which, or at the expiration of which, he or she is or becomes a Permanent Resident.
2. Requests for Exemption: Other statutory exemptions shall be considered. A federal or Pennsylvania state statute or regulation, or other basis providing for such relief, should be noted. Written proof may be required for submission with the monthly Return.
3. Records of Exempt Occupancies: The Hotel Operator shall maintain records to support each exempt occupancy, including but not limited to 1) a completed Adams County Exemption Form or Pennsylvania Exemption Certificate specifically marked as exempt from "Additional Local, City, County Hotel Tax", together with 2) proof that the individual is on official business and 3) proof of direct payment by the government organization or official credit card.

#### **F. REPORTS, RETURNS, PAYMENT AND COLLECTION OF TAX**

1. Collection from Patron: The Operator or Booking Agent shall collect the Tax imposed as required by the Hotel Room Rental Tax Ordinance upon the occupancy of any room or rooms in a Hotel for any rental period. If the occupant becomes a Permanent Resident at the conclusion or during the period the taxes do not need to be included in the Return, but notation on the Return is required (as an exempt resident).
2. Monthly Return by Operator: Every Operator shall transmit to the County Treasurer, on or before the twentieth (20th) of each month, or the next business day if the twentieth (20th) day falls on a weekend or holiday, a return which shall contain the Operator's activity for the previous month for which the return is made. This report shall include the amount of Consideration received for the transactions during the month for which the return is made, the amount of Tax collected by the Operator during that month, a completed exemption form, and such other information as the Treasurer may require. Returns noting no Room transactions for the previous month are also required. Additional reporting requirements may be established, from time to time, if they are believed beneficial to administration of the Hotel Room Rental Tax program.
3. Payment to the Office of Treasurer: Every Operator and Booking Agent, at the time of filing every return required by this Section, shall compute and pay to the County Treasurer the taxes collected and due to the County during the period for which the report is made.
4. Payment of Tax Directly to the County: The Booking Agent shall collect the Tax imposed as required by the Hotel Room Rental Tax Ordinance at the time of the reservation of the room or rooms. The tax shall be paid over directly to the County, Office of the Treasurer, together with a report specifically identifying each County Operator for whom Rents were collected, the Accommodation Fee, the Discount Room Rate, and the amount of taxes remitted on each Operator's behalf.
5. Interest and Penalties for Late Returns: If any amount of tax due is not remitted by the due date, interest at the rate of one and one-half percent (1.5%) of the amount of the unpaid tax shall be assessed for each month or fraction thereof during which the tax shall remain unpaid, together with the penalty specified in the Ordinance Section VIII. This interest and penalty will be computed by the Treasurer's Office and charged to those not filing timely returns, as defined in the Ordinance, Sections V and VIII, and this Section F. of these regulations.
6. Records of Operation: Every Operator shall maintain records which shall be made available to the Commissioners, Controller and/or the Treasurer and duly authorized

agents, upon request. These shall include, but not be limited to, the number of transactions in each Hotel reflected on an hourly, daily, or weekly basis, the rate(s) charged for each occupancy, the consideration received from all transactions during the month for which each return is made, all exemptions claimed, the support for the exemptions, and all other records, the Controller or other representative or agent may require.

COUNTY OF ADAMS - HOTEL ROOM RENTAL TAX REMITTANCE FORM

Hotel Room Rental Tax is imposed at the rate of 5% of the consideration received by an Operator and/or Booking Agent for each room rental. See Adams County Ordinance No. 1 of 2022. Operators are responsible to collect the tax from their guests and must file a remittance form and remit the amount due on or before the twentieth (20th) day of each month for the prior month. Forms must be submitted each month even if no revenue was received.

Period Covered (Month/Year):

HOTEL INFORMATION

Facility Name:

Address:

Contact Nameand Phone:

Contact E-mail:

Mailing Address If Different Than Facility Address:

TAX DUE

Line 1	Gross Revenue - Total Gross Lodging Receipts	\$	
Line 2	Exempt Revenue - Operator Must Maintain Proper Documentation	\$	
Line 3	TAXABLE REVENUE (L1 - L2)	\$	

	Tax Rate - 5%		0.05
Line 4	TOTAL TAX DUE (L3 x 5%)	\$	

Line 5	Credit for Tax Remitted by Airbnb	\$	
Line 6	Credit for Tax Remitted by Vrbo/Homeaway	\$	
Line 7	Credit for Tax Remitted by	\$	
Line 8	BALANCE DUE FROM OPERATOR (L4 - L5 - L6 - L7)	\$	

Line 9	Actual Tax Collected by Operator	\$	
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Line 10	TAX DUE FROM OPERATOR (Greater of Line 8 or 9)	\$	
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Line 11	Operator Adjustments (+/-) Explain on Separate Page	\$	
Line 12	ENCLOSED PAYMENT (L10 + L11)	\$	

Note: Late Payment Penalties and Interest will be calculated by the Treasurer and billed to the Operator

I hereby certify that this form has been reviewed by me and to the best of my knowledge the information contained herein is a full, true, correct and a complete disclosure of all tax collected or incurred during the period indicated on this return. Any person who willfully fails to or refuses to collect and remit the tax, fails to pay the tax, fails to file a return, files a fraudulent or false return, attempts to prevent full disclosure of taxable hotel sales or presents for payment of the tax a check which is returned to the County of Adams as uncollectable is subject to legal action.

Signature: Title:

Date:

Make checks payable to "County of Adams" and deliver to the Adams County Treasurer, 117 Baltimore Street, Room 101, Gettysburg, PA 17325. Phone: 717-337-9833. Retain a copy for your records. Your cancelled check is your receipt.

Motion carried.

**Personnel Report:**

Mr. Qually moved, seconded by Mr. Martin, to approve the Court Personnel Report as presented:

Court:

Recommendation from Don Fennimore, Court Administrator to note the following:

- Employment of Paige Mumma, Probation Officer, effective February 22, 2022
- Separation of Employment for LeighAnn Abraham, General Clerk in the Probation Department, effective March 4, 2022. Ms. Abraham is transferring to the Planning Department

Motion carried.

Mr. Martin moved, seconded by Mr. Qually, to approve the Personnel Report as presented:

Sheriff:

Recommendation from Sheriff James Muller to note the employment of Donald Boehs, Deputy First Class, effective February 22, 2022.

Children & Youth Services:

Recommendation from Sarah Finkey, Administrator, to approve the amended date of hire for Montana Sigel, Caseworker 1 and Aparna Bhanu, Program Specialist 1-QA from February 7, 2022 to February 22, 2022.

Building & Maintenance:

Recommendation from Larry Steinour, Director, to approve the employment of Gary Angell, Part time Regular Maintenance Tech 2 Special Project, effective February 22, 2022.

Adams County Adult Correctional Complex:

- Recommendation from Warden Katy Hileman, pending successful completion of background screenings, the employment of the following Corrections Officers: Kristn Miller, effective February 7, 2022; Diantra’ Landry, effective February 18, 2022; Christopher Raylock, effective April 25, 2022

Separation of Employment with permission to post:

- Retirement of Cynthia Keeney, Director of Victim Witness, effective May 2, 2022
- Retirement of John Lucabaugh, Lead Security Officer, effective March 11, 2022
- Shane Hayes, Corrections Officer Trainee, effective February 10, 2022
- Francis Levenduski, Corrections Officer, effective February 14, 2022
- Steven Atwood, Corrections Officer, effective February 18, 2022
- Christopher Hardman, Corrections Officer, effective March 3, 2022

Motion carried.

**Expenditures:**

Mr. Martin moved, seconded by Mr. Qually, to approve the following expenditures for the period February 7, 2022 through February 18, 2022:

General Fund Total	\$ 1,662,200.59	
General Fund	\$ 654,497.93	
Payroll – Week #7	\$ 1,007,702.66	
Children & Youth Services	\$ 234,354.36	
Liquid Fuels	\$ 2,114.35	

HazMat Fund	\$ 2,628.10
Law Enforcement	\$ 190.00
Commissary Fund	\$ 24,977.46
Hotel Tax Fund	\$ 121,124.51
Act 13 Bridge Improvements	\$ 4,813.89
Capital Project-Reserve	\$ 6,125.00
911 Fund	\$ 183,500.95
Internal Service Fund	\$ 81,697.80

Motion carried.

**Other Business:**

No Other Business was brought before the Board at this time.

**Salary Board Meeting:**

The Salary Board Meeting will be held following the Commissioners Meeting.

**Adjournment:**

Mr. Martin moved, seconded by Mr. Qually, to adjourn the Commissioner’s Meeting at 9:52 a.m. this date.

Motion carried.

Respectfully submitted,

Paula V. Neiman  
Chief Clerk