

SUPPLEMENTAL EMERGENCY ORDER – Renewal #92

WHEREAS, I, Daniel P. McCoy, Albany County Executive, in accordance with a declaration of a State of Emergency issued on May 23, 2023 and renewed per statute on June 22, 2023, July 22, 2023, August 21, 2023, September 20, 2023, October 20, 2023, November 19, 2023, December 19, 2023; January 18, 2024, February 17, 2024, March 18, 2024, April 17, 2024, May 17, 2024, June 16, 2024 and July 16, 2024 and August 15, 2024; and,

WHEREAS, on August 2, 2021, the Federal Government issued an Order pursuant to 42 USC Sect. 362 and 365 (Title 42 Order) prohibiting migration into the United States by “covered noncitizens” traveling from Canada or Mexico; and,

WHEREAS, the Title 42 Order expired on May 11, 2023 and upon its expiration, an anticipated surge of migration into the United States commenced resulting with the imminent arrival of individuals into New York State at an increased rate; and,

WHEREAS, the County of Albany, NY is facing a severe housing crisis due to the anticipated migration of other migrants and/or asylum seekers, limiting the number of temporary and limited housing available in the County, and this crisis is expected to continue;

WHEREAS, the State of New York has been in communication with Albany County regarding the relocation of designated migrant families that are documented, paroled into the United States and are on the path to become eligible to enter the New York State workforce; and,

WHEREAS, New York State has communicated that financial resources shall be provided to Counties that accept said designated families and that the resources provided by the State of New York shall cover all expenses relating to all services and administration costs associated in the relocation and housing of said designated families; and,

NOW, THEREFORE, I, Daniel P. McCoy, Albany County Executive by the power vested in me by the Albany County Charter and the Laws of the State of New York and pursuant to Section 24 of Article 2-b of the New York State Executive Law, do hereby temporarily suspend or modify any statute, local law, ordinance, order, rule or regulation or parts thereof, if compliance with such statute, local law, ordinance, order, rule or regulation would prevent, hinder or delay action necessary to assist, aid or cope with the aforementioned State of Emergency, I hereby temporarily suspend or modify, from the period of the date of this Emergency Order the following:

Agreements for designated migrant families

- A. All County Departments are authorized to continue to communicate and work with The State of New York on creating a plan and agreement(s) to assist in the relocation of previously designated migrant families that are documented, paroled into the United States and are on the path to become eligible to enter the workforce; provided that:
 - a. A “Lead Agency” has been designated; and**

- b. The Lead Agency has expressed specific and quantifiable resources available to assist in administration of the relocation and continued hosting of designated migrant families; and*
 - c. The number of the migrant families shall be a maximum of those 200 families previously identified by New York State, provided that no such relocation shall occur until the Lead Agency has provided assurances of their ability to administer and oversee the relocation and hosting; and*
 - d. The State of New York authorizes and releases the necessary financial resources to Albany County, its partners, and the Lead Agency for all costs associated with relocation and hosting of designated migrant families; and*
 - e. The school districts have been contacted by the Lead Agency and the State of New York, and New York State has authorized the financial resources necessary to reimburse the school district for any and all costs associated with educating designated migrant families.*
- B. All agreements between the State of New York, Albany County, municipalities within Albany County, service providers providing lead or other agency services to the designated families, housing providers, transportation, medical services, legal services and education services are exempt from the licensing provisions of this emergency order, to the extent they have capacity to assist, and to the extent that they may freely contract with the State of New York, the New York State Office of Homeland Security, the New York State Office of Temporary Disability Services and/or any other New York State agency for the housing of the relocated designated migrant families.*

Prohibition of foreign municipal programs that burden the County.

- C. No municipality may make contracts with persons, businesses or entities doing business within the County to transport migrants or asylum seekers to locations in the County, or to house persons at locations in the County for any length of time without the express written permission of the County Executive or his designee. In addition, no person or entity may act on behalf of any municipality or in performance of a municipal program, or other act funded by a municipality, to perform an act in violation of this subsection.*
- D. No hotel, motel, owner of a multiple dwelling, or shelter in Albany County is permitted to contract or otherwise engage in business with any other municipality other than the County of Albany (an "external municipality") for the purpose of providing housing or accommodations for migrants or asylum seekers without a license granted by the County. This prohibition extends to any person or entity participating in an external municipality's government program, or a contract or service funded by an external municipality or acting on behalf of any external municipality.*
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- 1. Licenses will be granted only by the Albany County Commissioner of Social Services. (The Commissioner) The Commissioner may enlist the services of any other agency within the executive branch of County government to perform the duties necessary to affect this provision.*

2. *Licenses will only be granted where, to the satisfaction of the Commissioner, both the applicant and the foreign municipality demonstrate that:*

- i. The contract provides that the migrants or asylum seekers will be returned to the foreign municipality from which they arrived; and,*
- ii. The foreign municipality demonstrates to the County that it has sufficient funding to sustain the needs of the migrants or asylum seekers during the time of their stay; and,*
- iii. The foreign municipality agrees to assume any costs expended by any municipality or school district in the County ("domestic municipalities" including the County itself, for the care, welfare, law enforcement interactions, medical or other expenses related to municipal interaction with the migrants or asylum seekers, upon demand; and,*

3. *The conditions described in this section will not apply to any contract directly between the foreign municipality and the County.*

4. *License renewal will be at the sole discretion of the Commissioner, after consideration of the purpose and intent of the State of Emergency that instigated this Emergency Order.*

E. Suspension of Procurement Policies and related provisions.

1. In order to effectuate Albany County's role in this emergency, all procurement policies for the purchase of equipment, supplies or contracts, relating to the purchase of food, supplies, procurement of housing and any other commodities or services related to the housing of migrants and/or asylum seekers, specifically, N.Y. General Municipal Law, Article 5-a-Public Contracts, Section 104-b Procurement policies and procedures; Albany County Department of General Services, Purchasing Division, Policies and Procedures; Albany County Charter, Article 13, Board of Contract Administration, Sections 1301 and 1302 and Article 2, Legislature, Section 208(l), Approving contracts for the purchase and sale of real property, contracts for intergovernmental services and collective bargaining agreements, and those contracts subject to and in accordance with Article 13 of this Charter, are hereby temporarily suspended or modified from the period of the date of this Emergency Order.

F. Remedies.

1. **Abatement.** Regardless of any other remedy or relief brought by the County for any violation, the Commissioner is authorized to direct the County Attorney to commence actions or proceedings in the name of the County, in a court of competent jurisdiction, to abate any violation of, or to enforce any provision of this emergency order.

G. Remedies Not Exclusive.

1. No remedy or penalty specified in this Emergency Order shall be the exclusive remedy or remedy available to address any violation described in this Emergency Order.
2. Each remedy or penalty specified in this Emergency Order shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this Emergency Order or in any other applicable law.
3. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Emergency Order or in any other applicable law.
4. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in NYS Executive Law Section 24, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in NYS Executive Law Section 24.

IN ADDITION, over the last several months, asylum seekers have been arriving in New York City from the Southern Border without any immediate plans for Shelter. These asylum seekers have been sent on charter buses to New York City by other States, municipalities and non-governmental associations, when these entities know or should have reason to know that they have arrived from other countries since March of 2022. Dozens of charter buses arrive in New York City each week, often over night or over the weekend, often with no advance notice as to the number of individuals, the number of families or needs of the families, and with the knowledge that these individuals will require emergency shelters and other immediate services from the cities and counties where they are transported. The unannounced arrival of these charter buses containing large numbers of individuals in need of emergency shelters and other immediate services who will disembark in Albany County without a plan for care or housing will impair the ability of the County to efficiently and effectively manage the ongoing State of Emergency. Therefore, by virtue of the Authority vested in me by Section 24 of Article 2-B of the Executive Law to issue any emergency order during a disaster emergency necessary to protect life and property or to bring the emergency situation under control, I hereby Order the following:

Coordination with Transporters of Migrants and/or Asylum Seekers

- H. Any operator of any licensed or unlicensed chartered transportation service who knows or reasonably should know that such transportation service will be transporting ten or more passengers who are likely to seek emergency shelter and other immediate services in the County of Albany must comply with the requirements set forth in this Emergency Order. There shall be a presumption that the passengers who have arrived recently in the United States are likely to seek emergency shelter and other immediate services. The determination that an operator knows or reasonably should know that they are providing transportation that makes them subject to this Order will be based upon the totality of the circumstances, including but not limited to: whether the passengers' fares were paid for by a third party; the identity of such third party; any conditions that such third party paying for transportation imposed on the operator or transporter, whether the passengers' travel arrangements included return travel; whether the bus is coming from a state from which a

substantial number of charter buses or other means of transportation, including but not limited to airplane, have arrived carrying people seeking emergency shelter and other immediate services in the County of Albany in the last 60 days; and any other indicia that the passengers are likely to seek emergency shelter and other immediate services in the County of Albany.

- (1) **Notification:** Any such transporter or operator must provide notice of the anticipated date and time of the arrival of the migrants and/or asylum seekers in Albany County and the information required by paragraph (2) of this section to the Director of Operations (the "Director") of Albany County or their designee by emailing said Director at least three (3) days in advance of such anticipated date and time of arrival, except as provided in paragraph (5) of this section.
- (2) **Information Required:** Any such transporter or operator must provide a manifest of its passengers to the Director at least three (3) days in advance of the anticipated date and time of arrival of the migrants and/or asylum seekers in Albany County or upon departure from the transporter's point of origin, whichever is later. Unless prior approval has been requested and obtained through the exemption process set forth in paragraph (5) of this section, the manifest shall include:
 - (a) The number of passengers on each bus or other means of transportation who arrived in the United States within the previous 90 days and, if the operator has relevant information, the number of such passengers that are likely to seek emergency shelter and other immediate services in Albany County, including vaccinations and Social Services;
 - (b) The number of such passengers who are single adults traveling alone, and the number of such passengers who are members of a family, including specifying separately the number of families with children;
 - (c) The number of such passengers who are children;
 - (d) The vehicle operator's name; and,
 - (e) Identification of the means of transportation, and description of the vehicle, including for motor vehicles, color, license plate number and any logos to assist in identification.
- (3) **Timing of Drop-Offs:** An Operator of a charter bus must direct the bus driver to drop off passengers in Albany County only between the hours of 8:30 AM to 12:00 PM Monday through Friday, unless prior approval for drop off at a different time
- (4) **Location Drop Offs:** Drop off locations shall be provided to the Charter Transportation Service by the Director of Operations.
- (5) **Request for Exemption:** (a) An Exemption to the requirements set forth in Paragraphs (H) (1) (2) (3) or (4) of this section may be granted in accordance with this paragraph. To request an exemption, a transporter or operator must email the Director at migranttransportnotice@albanycountyny.gov, no later than 72 hours prior to the

anticipated date and time of arrival in Albany County. Such request for an exemption must set forth: the reasons the exemption is requested; where applicable, a list of any type of manifest information listed in paragraph (2) that such transporter or operator is able to provide; where applicable the requested date and time of arrival that is outside the allowable hours set forth in paragraph (3); and where applicable, the proposed alternate location other than the location in paragraph (4).

(b) Any such request for an exemption shall be granted where the Director determines, in the Director's discretion either: (a) that granting such exemption would not substantially impair the City's to manage the ongoing emergency effectively and efficiently; or (b) that, based upon the particular and unusual circumstances presented there is no other reasonable alternative, with respect to the details of arrival, to the actions proposed to be taken by the operator. Where appropriate, the Director may grant or deny an exemption in part, and, consistent with the standard set forth in the proceeding sentence, may obtain the agreement of the operator to alternative requirements, in lieu of those being waived, as conditions to the exemption where such requirements further public health and safety.

(c) The Director shall accept and may approve, applications for exemptions upon less than 72 hours' notice consistent with the standards in this paragraph where such applications additionally demonstrate exigent circumstances that prevent providing the full notice, and that the maximum feasible notice has been provided consistent with such circumstances.

- I. For purposes of this Emergency Order, the terms "Transporter" and/or "Operator" shall be used to mean each owner, lessee or person in control of a vehicle or other method of transport, who contracts or otherwise accepts payment to transport passengers to any location within the County of Albany, and any agent acting at their direction. In addition, "Transporter" and/or "Operator" shall be deemed to include any intermediary or federally authorized motor carrier facilitating the transportation of passengers to the County of Albany. The terms "Transporter" and/or "Operator" may be used alone or together and shall have the same meaning whenever used.
- J. Pursuant to New York Executive Law Section 24(5), any person who knowingly violates this Order is guilty of a Class B misdemeanor.
- K. Effective Date.
 - 1. This Emergency Order shall take effect immediately.
- L. Duration of Local Emergency Order.
 - 1. The Local Emergency Order shall remain in effect for five days unless sooner modified, extended, or revoked, and may be extended for additional periods not to exceed five days during the pendency of the local state of emergency.

This order shall take effect August 18, 2024, and shall remain in effect until removed by order of the Chief Executive. This order may also be renewed in (5) five-day increments. Failure to obey this order is a criminal offense, punishable by law under New York State Executive Law § 24(5).

Signed this 18th day of August, 2024, at 2:30 PM o'clock, in,

Albany, New York.

Daniel P. McCoy

Daniel P. McCoy Albany County Executive

Eugene K. Gordon

(Witness Name) (Witness Signature)

8/18/24

(Date)