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November 10, 2015

Honorable Louis Rosamilia, Mayor  
Members of the City Council  
City of Troy  
City Hall  
Troy, NY 12180

Report Number: B5-15-22

Dear Mayor Rosamilia and Members of the City Council:

Chapter 721 of the Laws of 1994, as amended, authorized the City of Troy (City) to issue debt totaling \$21,630,000 to liquidate cumulative deficits in the City's general fund for the years ending December 31, 1993, 1994 and 1995. New York State Local Finance Law Section 10.10 requires all local governments that have been authorized to issue obligations to fund operating deficits to submit to the State Comptroller each year, starting with the fiscal year during which the local government is authorized to issue obligations and for each subsequent fiscal year during which the deficit obligations are outstanding, their tentative or proposed budget for the next succeeding fiscal year.

The budget must be submitted no later than 30 days before the date scheduled for the City Council's (Council) vote on its adoption or the last date on which the budget may be finally adopted, whichever is earlier. The State Comptroller must examine the proposed budget and make recommendations for any changes that are needed to bring the proposed budget into balance. Such recommendations are made after the examination of the City's revenue and expenditure estimates.

The Council, no later than five days prior to the adoption of the budget, must review all recommendations made by the State Comptroller and may make adjustments to its proposed budget consistent with those recommendations contained in this report. All recommendations that the Council rejects must be explained in writing to our Office.

Our Office has recently completed a review of the City's budget for the 2016 fiscal year. The objective of the review was to provide an independent evaluation of the proposed budget. Our review addressed the following questions related to the proposed City budget for the 2016 fiscal year:

- Are the significant revenue and expenditure projections in the City’s proposed budget reasonable?
- Did the City take appropriate action to implement or resolve recommendations in our review of the proposed 2015 fiscal year budget?

To accomplish our objectives in this review, we requested your proposed budget, salary schedules, debt payment schedules and other pertinent information. We identified and examined significant estimated revenues and expenditures for reasonableness with emphasis on significant and/or unrealistic increases or decreases. We analyzed, verified and/or corroborated trend data and estimates, where appropriate. We identified any significant new or unusually high revenue or expenditure estimates, made appropriate inquiries and reviewed supporting documentation to determine the nature of the items and to assess whether the estimates were realistic and reasonable. In addition, we checked whether written recommendations from the prior year’s budget review were implemented or resolved and, therefore, incorporated as part of the current year’s budget.

The scope of our review does not constitute an audit under generally accepted government auditing standards (GAGAS). We do not offer comments or make specific recommendations on public policy decisions, such as the type and level of services under consideration to be provided.

The proposed budget package submitted for review for the fiscal year ending 2016 consisted of the following:

- Cover letter
- 2016 Proposed budget
- Supplementary information

The proposed budget submitted to our Office is summarized as follows:

<b>Fund</b>	<b>Appropriations and Provisions for Other Uses</b>	<b>Estimated Revenues</b>	<b>Real Property Taxes</b>
General	\$68,623,911	\$47,182,809	\$21,441,102
Water	\$12,710,043	\$12,710,043	\$0
Sewer	\$4,230,307	\$4,230,307	\$0

The City’s proposed budget, while generally reasonable, needs improvement to make it a better tool for prudently managing the City’s resources. For example, the City’s proposed budget includes estimated revenues related to the sale of real property, franchise fees, sales tax and advanced life support charges which may not be realized. In addition, the City’s proposed budget includes appropriations for retirement system contributions that may not be sufficient, does not appropriate enough money for contingencies to provide adequate flexibility to pay for unanticipated costs, provides minimal funding for equipment and capital outlay and includes appropriations for debt service payments for debt that the City has not issued. The overestimation

of these revenues and underestimation of expenditures could have a cumulative negative impact of approximately \$2.4 million on the general fund's financial condition.

Furthermore, we found that the City's proposed real property tax levy is not in compliance with its tax levy limit and City officials have not adopted a local law to override the limit. Should the City not take action to adopt a tax cap override or make cuts to the budget, it will be left with an unbalanced 2016 budget that will not have sufficient revenues to fund operations. If this occurs, the City risks triggering a reimposition of the emergency period under the City of Troy Supervisory Board Act.

Our review disclosed the following findings which should be reviewed by the Mayor and Council for appropriate action. Good management practices require that City officials take prompt action concerning our recommendations, which we believe will help improve the City's financial condition.

## **Revenues**

Sale of Real Property – The City's proposed general fund budget includes estimated revenues of \$1,150,000 for the sale of real property. Of this amount, \$650,000 is for the sale of the same property that the City budgeted to receive revenue for during 2013, 2014 and 2015, but for which no revenue was realized. The Mayor continues to state that the City is in the process of negotiating and finalizing this property sale. The remaining \$500,000 included in the proposed budget is for sale of another City-owned property. The Mayor stated that the City is in the process of preparing and sending out a request for proposals for the sale of this property and expects to realize the revenue in 2016. However, even if these revenues are realized, the City should avoid using non-recurring revenues, such as the sale of real property, to fund recurring operating expenditures. City officials should instead budget and use one-time revenues to fund one-time expenditures such as capital acquisitions. The City should review this revenue estimate and determine whether it is prudent to include it in the 2016 budget.

Franchise Fees – The City's proposed general fund budget includes estimated revenues of \$250,000 for franchise fees<sup>1</sup> related to a potential settlement of a new franchise agreement with a cable service provider. However, as of the time of our review, a new agreement had not been negotiated with the provider and approved by the Council. In addition, the City has been negotiating this agreement with this cable service provider since 2011. However, even if the revenues from the potential settlement are realized, the City should avoid using such non-recurring revenues to fund recurring operating expenditures. City officials should instead budget and use one-time revenues to fund one-time expenditures. The City should review this revenue estimate and determine whether it is likely to be realized in 2016.

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<sup>1</sup> The City is entitled to collect up to 5 percent of gross revenues, annually, that are derived by a cable service provider from the operation of the cable system to provide cable services. The City receives franchise fees based on the terms of a negotiated franchise agreement with the cable service provider.

Sales Tax – The City’s proposed general fund budget includes estimated revenues of \$15,895,000 for sales tax,<sup>2</sup> which is a \$520,000 or 3.4 percent increase from the 2015 adopted budget. However, we project that the City will realize approximately \$15,550,000 in sales tax revenues for 2015, slightly less than the \$15,583,166 realized in 2014. Assuming this trend continues and sales tax revenues for 2016 are the same amount as in 2015, the City will realize a revenue shortfall of more than \$300,000. The City should closely review and monitor this revenue estimate, especially due to the volatility of this revenue source when compared to other local revenue sources and make modifications as necessary.

Advanced Life Support (Ambulance) Charges – The City’s proposed general fund budget includes estimated revenues of \$1,700,000 for ambulance charges,<sup>3</sup> which is a \$200,000 increase from the 2015 adopted budget. However, we project that the City will realize approximately \$1,500,000 in ambulance charge revenues for 2015, which is similar to the charges realized in 2013 and 2014.<sup>4</sup> Based on this trend, we project that the City will realize revenues for ambulance charges in 2016 in the same amount as in 2015, resulting in a revenue shortfall of approximately \$200,000. The City should review this revenue estimate and make modifications as necessary.

Sewer Rents – The City’s proposed sewer fund budget includes estimated revenues of \$3,952,000 for sewer rents, an \$85,000 decrease from the 2015 adopted budget. We project that the City will realize sewer rent revenues of approximately \$3,720,000 in 2015 and with no plan to increase sewer rates in 2016, will realize this same amount in 2016, resulting in a revenue shortfall of approximately \$230,000. The City should review this revenue estimate and make modifications as necessary. In previous budget review letters, we have commented on the City’s practice of overestimating revenues for sewer rents and the City has not taken corrective action on our recommendations.

## **Appropriations**

Retirement System Contributions – The City’s proposed budget includes appropriations of \$2,071,723 for its 2016 contribution to the New York State and Local Employees’ Retirement System (ERS) and appropriations of \$5,029,511 for its contribution to the New York State and Local Police and Fire Retirement System (PFRS). Based on the Systems’ estimates of the City’s required contributions for the 2016 fiscal year of \$2,380,486 to the ERS and \$5,266,732 to the PFRS, the proposed budget underestimates retirement system contributions by \$308,763 and \$237,221, respectively. The City should review these appropriations and make modifications to provide funding to pay the estimated amounts provided by the retirement systems.

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<sup>2</sup> New York State Tax Law authorizes counties to share sales tax revenues with certain local governments. Rensselaer County distributes sales tax collections to the City.

<sup>3</sup> This represents revenues that are derived from the City’s ambulance services. To collect the charges associated with the services, the City has entered into a contract with an outside billing and collection firm. Per the terms of the contract, the City provides the firm with information detailing the services provided by the City. The firm summarizes the information and forwards it to the appropriate insurance or health care organization. The funds are initially collected by the firm and deposited into a City bank account. The firm’s compensation is based on a set percentage of the actual collections it receives.

<sup>4</sup> The City realized revenues for ambulance charges of \$1,479,859 and \$1,489,371 during 2013 and 2014, respectively.

Contingency Accounts – Local governments use contingency accounts to provide funding for unexpected events. Although the City Charter does not specifically address budgeting for contingencies, New York State statutes for certain other classes of local government set the maximum for such accounts at 10 percent of a fund’s budget (excluding appropriations for debt service and judgments), which can serve as a general guideline for the City. The City's proposed budget does not include any contingency appropriation in the water and sewer funds<sup>5</sup> and only includes a \$600,000 contingency appropriation in the general fund, which represents less than 1 percent of the total budgeted appropriations of \$68.6 million. This provides the City with a limited amount of flexibility in the event of unforeseen circumstances that may require additional funds. In addition, all six of the City's collective bargaining agreements have expired<sup>6</sup> and the 2016 proposed budget does not contain provisions for any potential increased costs associated with settling these agreements. By underfunding contingency appropriations, the City’s ability to pay any liabilities which may arise from contract negotiations in 2016 will be limited.

Given the uncertainty that can result from contract negotiations, the volatility of certain City revenues and expenditures and current economic conditions, we do not believe that the proposed contingency appropriations provide a sufficient safeguard against unforeseen events. Over the past several years, the City has consistently budgeted minimal amounts for contingencies. In previous budget review letters, we have commented on this practice and the City has not taken corrective action on our recommendations. Given the high estimates of revenues and low estimates for expenditures detailed above, the City has no flexibility built into the budget, making the contingency appropriation especially important.

Equipment and Capital Outlay – The City’s proposed budget includes appropriations for equipment and capital outlay (capital expenditures) of \$228,300 in the general fund and \$77,500 in the water fund. However, the City's capital plan that is included in the proposed budget includes the purchase of vehicles and equipment for these funds totaling \$1,182,500 and \$80,000, respectively. In addition, only \$45,000 of the \$228,300 appropriations in the general fund and none of the \$77,500 appropriations in the water fund correspond to the vehicles and equipment included in the City’s multiyear capital plan. Consequently, approximately \$1.2 million (96 percent) of the City's 2016 capital plan remains unfunded. In recent years, the City began financing capital expenditures by issuing debt,<sup>7</sup> rather than by including financing sources in the budget. We encourage City officials to identify financing sources for capital expenditures and to include these financing sources in their operating budgets.

In previous budget review letters, we have expressed concern that the City was not including funding for capital expenditures in its adopted budget and was deferring capital costs. We continue to be concerned that the City is deferring capital expenditures that it will be forced to incur in the future, possibly at a higher cost, at a time when the City is inadequately prepared to fund such costs.

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<sup>5</sup> The adopted budgets for the water fund for the last five fiscal years included a contingency appropriation ranging between \$18,500 and \$20,840 and the adopted budgets for the sewer fund for the last two fiscal years included a contingency appropriation of \$48,652.

<sup>6</sup> The expiration of the collective bargaining agreements ranges from December 31, 2010 to December 31, 2014.

<sup>7</sup> The City issued bond anticipation notes in 2014 and 2015 for the purchase of vehicles and equipment totaling \$1,083,000 and \$825,000, respectively.

Combined Sewer Overflows Long-Term Control Plan Debt – In 2007, the City; the Cities of Albany (represented by the Albany Water Board), Cohoes, Rensselaer and Watervliet; and the Village of Green Island (collectively known as the Albany Pool Communities or APCs) joined in a comprehensive inter-municipal venture led by the Capital District Regional Planning Commission to develop a Phase I Combined Sewer Overflows (CSO)<sup>8</sup> Long-Term Control Plan (Plan). The City’s participation is designed to help the City meet federal Clean Water Act goals by completing projects to prevent untreated effluent from entering the Hudson River.<sup>9</sup> The entities will be charged for their proportionate share<sup>10</sup> of the total expenditures incurred related to the Plan, and any grant money that is received will be applied as a credit to the entities. A local development corporation (LDC) related to the Plan was formed during June 2015 and it is anticipated that the LDC will issue short-term debt through New York State Environmental Facilities Corporation (EFC) to finance the City’s future expenditures related to the Plan. According to the Plan Implementation Schedule dated February 4, 2015, the Plan will have an approximate \$31 million cost to the City over the next 12 years.

The City’s proposed sewer fund budget includes an appropriation of \$1,502,500 for a principal payment on a bond anticipation note related to the Plan. However, a financial advisor of the City stated that the City applied for a grant through EFC, the results of which will be announced in December 2015. As a result, EFC has put the City’s financing application on hold because of the grant process, so it is unlikely that the short-term financing will be issued until at least March 2016. Based on this, the City will not have to make principal or interest payments on a bond anticipation note related to the Plan in 2016 and, therefore, the City’s proposed sewer fund budget includes a \$1,502,500 appropriation for an expenditure that will not be incurred.

When we brought this to the attention of City officials, they stated that this appropriation should have been budgeted as an interfund transfer to the debt service fund to fund a reserve for payment of bonded indebtedness.<sup>11</sup> It is City officials’ intent to restrict a portion of the additional revenues that the City has realized from a 2015 sewer rate increase to fund future debt service payments related to the Plan. If this is City officials’ intent, then the Council should adopt a resolution to establish a reserve for this purpose, include an interfund transfer to the debt service fund in the amount of \$1,502,500 and eliminate the appropriation in the same amount that is included in the proposed sewer fund budget for a principal payment on a bond anticipation note related to the Plan. If this is not City officials’ intent, then the Council should include \$1,502,500 in the sewer fund budget under the account “budgetary provisions for other uses”<sup>12</sup> to balance the sewer fund’s

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<sup>8</sup> The APCs collectively own and operate 92 CSOs that discharge to the Hudson and Mohawk Rivers and their tributaries. Each of the APCs contributes combined sewage flow to a wastewater treatment plant owned and operated by either the Albany County Sewer District or the Rensselaer County Sewer District.

<sup>9</sup> The City uses combined sewer systems that collect storm water runoff, domestic sewage and industrial wastewater in the same pipe. During heavy rain and snow events, the capacity of the sewer system can be exceeded and the combined sewer overflow will be discharged directly into the river.

<sup>10</sup> The City’s proportionate share is 34.76 percent.

<sup>11</sup> As of the time of our review, the Council had not adopted a resolution to establish a reserve for payment of bonded indebtedness.

<sup>12</sup> A budgetary account set up to record revenues for purposes other than current operations in order to balance a fund’s budget.

budget and should eliminate the corresponding appropriation in the same amount that is included in the proposed sewer fund budget.

In previous budget review letters, we have commented on the need for City officials to develop an adequate strategy to finance the short- and long-term liabilities related to the Plan and the City has not taken corrective action on our recommendations.

### **Tax Cap Compliance/Supervisory Board Act**

General Municipal Law Section 3-c, enacted by Chapter 97 of the Laws of 2011 established a tax levy limit on local governments, which was effective beginning in the 2012 fiscal year. Generally, the law precludes local governments from adopting a budget that requires a tax levy that exceeds the prior year tax levy by more than 2 percent or the rate of inflation, whichever is less, unless the governing board first adopts a local law by at least 60 percent vote to override the tax levy limitation.

The City's proposed budget is not within the tax levy limit because it includes a tax levy of \$22,323,700,<sup>13</sup> which, at the time of our review, exceeds the tax levy limit allowed by law by \$1,591,137. In adopting the 2016 budget, the Council should be mindful of the legal requirement to maintain the tax levy increase to no more than the tax levy limit as permitted by law, unless it first adopts a local law to override the cap.

As of the date of this letter, the City Council had not adopted a local law to override the tax cap and had not made modifications to the Mayor's proposed budget to reduce the tax levy to a level within the City's tax levy limit. Without taking action to adopt a tax cap override or making cuts to the budget, the City will be left with an unbalanced 2016 budget that will not have sufficient revenues to fund operations. If this occurs, the City risks triggering the reimposition of the emergency period under the City of Troy Supervisory Board Act.<sup>14</sup> During an emergency period, certain additional oversight powers and duties are granted to the Supervisory Board in accordance with the Supervisory Board Act.

As noted previously, the Council has the responsibility to initiate corrective action to address the recommendations in this report. In addition, pursuant to Section 35 of New York State General Municipal Law, the Council should prepare a plan of action that addresses the recommendations in this report and forward the plan to our office within 90 days. We encourage the Council to make this plan available for public review in the City Clerk's office. For guidance in preparing your plan of action and filing this report, please refer to the attached documents.

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<sup>13</sup> This amount includes the City's proposed budget tax levy and omitted taxes as well as a projected charge for the Troy Business Improvement District.

<sup>14</sup> Laws of 1994, Chapter 721 as amended by, among other laws, Laws of 1995, Chapter 187

We hope that this information is useful as you adopt the upcoming budget for the City. If you have any questions on the scope of our work, please feel free to contact Jeffrey Leonard, Chief Examiner of the Glens Falls Regional Office, at (518) 793-0057.

Very truly yours,

Gabriel F. Deyo  
Deputy Comptroller

cc: Joseph Mazzariello, Acting City Comptroller  
Cheryl Christiansen, City Clerk  
Troy Supervisory Board Members  
Hon. John A. DeFrancisco, Chair, NYS Senate Finance Committee  
Hon. Herman D. Farrell, Jr., Chair, NYS Assembly Ways and Means Committee  
Hon. Steven F. McLaughlin, NYS Assembly  
Hon. John T. McDonald III, NYS Assembly  
Hon. Neil D. Breslin, NYS Senate  
Hon. Kathleen A. Marchione, NYS Senate  
Mary Beth Labate, Director, Division of the Budget  
Andrew A. SanFilippo, Executive Deputy Comptroller  
Jeffrey Leonard, Regional Chief Examiner