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November 4, 2022

The Honorable Michelle Roman  
Members of the Common Council  
City of Lockport  
Lockport Municipal Building  
One Locks Plaza  
Lockport, NY 14094

Report Number: B22-1-8

Dear Mayor Roman and Members of the Common Council:

Pursuant to Chapter 332 of the Laws of 2014, as amended by Chapter 147 of the Laws of 2015 (the Act), the New York State Legislature authorized the City of Lockport (City) to issue debt to liquidate the accumulated deficits in the City's general, water, sewer and refuse funds as of December 31, 2013.

The Act requires the City to submit to the State Comptroller each year, beginning January 1, 2015, and for each subsequent fiscal year during which the debt incurred to finance the deficit is outstanding, the proposed budget for the next succeeding fiscal year. The Act requires that the submission of the proposed budget be made to our Office no later than thirty days before the last date on which the budget must be finally adopted.

The Act further provides that the State Comptroller must examine the proposed budget and make recommendations as deemed appropriate to the Common Council no later than 10 days before the last date on which the budget must be adopted. Such recommendations are made after the examination into the City's revenue and expenditure estimates. The Common Council, no later than five days prior to the adoption of the budget must review the State Comptroller's recommendations and make adjustments to its proposed budget consistent with any recommendations made by the State Comptroller.

Our Office has recently completed a review of the City's proposed budget for the 2023 fiscal year. The objective of the review was to provide an independent evaluation of the proposed budget. Our review addressed the following question related to the City's budget for the upcoming fiscal year:

- Are the significant revenue and expenditure projections in the City's proposed budget reasonable?

Based on the results of our review, except for the matters described in this letter, we found that the significant revenue and expenditure projections in the proposed budget appear reasonable.

To accomplish our objective 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.

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 2023 fiscal year (summarized in Figures 1, 2 and 3) consisted of the following:

- 2023 Proposed Budget
- Supplementary Information

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

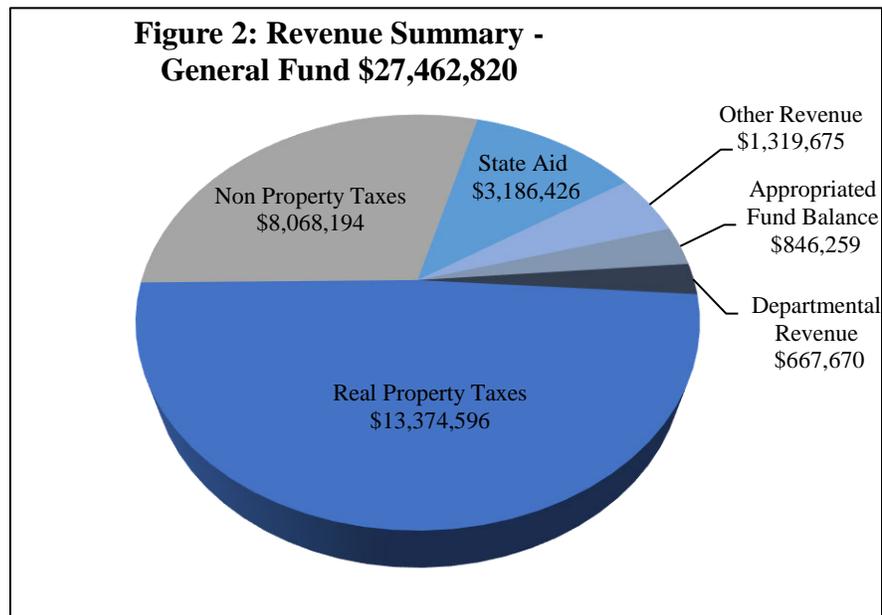
| <b>Figure 1: 2023 Proposed Budget</b> |   |                           |                                  |                            |
|---------------------------------------|---|---------------------------|----------------------------------|----------------------------|
| <b>Fund</b>                           | <b>Appropriations and Provisions for Other Uses</b> | <b>Estimated Revenues</b> | <b>Appropriated Fund Balance</b> | <b>Real Property Taxes</b> |
| General                               | \$27,462,820  | \$13,241,965              | \$846,259                        | \$13,374,596               |
| Water                                 | 4,340,833   | 4,340,833                 | 0                                | 0                          |
| Sewer                                 | 4,195,843   | 4,195,843                 | 0                                | 0                          |
| Refuse                                | 1,430,036   | 1,430,036                 | 0                                | 0                          |
| <b>Total</b>                          | <b>\$37,429,532</b>                                 | <b>\$23,208,677</b>       | <b>\$846,259</b>                 | <b>\$13,374,596</b>        |

Our review disclosed the following findings which should be reviewed by the Common Council for appropriate action. We also discussed minor budget deficiencies we noted during our review with City officials. As noted, the Act requires the Common Council to review our recommendations and make adjustments to the proposed budget consistent with our recommendations. We believe that prompt action by City officials will help improve the City's financial condition.

**Fund Balance**

Fund balance represents the cumulative residual resources from prior fiscal years that may be appropriated in the annual budget to reduce the tax levy. The City appropriated \$846,259 of fund balance as a financing source in the 2023 proposed general fund budget (Figure 2).

The City's audited financial statements reported that as of December 31, 2021, unrestricted fund balance in the general, water, sewer and refuse funds were approximately 33 percent, 66.6 percent, 44.5 percent, and 37 percent, respectively, of the following year's budgeted appropriations. For 2022, City officials project an operating loss in the water fund.



City officials may retain a reasonable amount of unrestricted fund balance for each fund, consistent with prudent budgeting practices, necessary to help ensure orderly financial operations and the continued provision of services. City officials should assess what is reasonable for their particular situation considering various factors such as the timing of receipts and disbursements and the volatility of revenues and expenditures. Because fund balance is affected by the results of operations, it may not be available on a recurring basis and should be used cautiously. We note that effective long-range planning, the creation and planned use of reserves, and contingency appropriations in the annual budget may offset the amount of unrestricted fund balance the City would need to accumulate.

The City's fund balance policy states that unrestricted fund balance in the general fund should, at a minimum, total 17 percent of the following year's budgeted appropriations. City officials estimate unrestricted fund balance in the general fund will total \$8.6 million as of December 31, 2022, which is 31.4 percent of 2023 general fund appropriations included in the proposed budget. Therefore, the projected unrestricted fund balance exceeds the policy's minimum fund balance by \$3.9 million.

In addition, the City's fund balance policy states that the water, sewer and refuse funds should maintain unrestricted fund balance at a level needed to maintain positive cash balances throughout the year. City officials prepared and analyzed cash flow estimates for 2022 to determine whether unrestricted fund balance levels in these three funds were adequate. The analysis found that while fund balance is decreasing in the water fund, the water and sewer funds have consistently maintained cash of at least three months of operating expenditures or 25 percent of the fund's annual operating budget, which is one of the benchmarks in the City's fund balance policy. Although the refuse fund does not maintain cash of at least three months of operating expenditures or 25 percent of the fund's annual operating budget (because the City bills twice per year, after services are provided), the fund has adequate unrestricted fund balance for cash flow purposes.

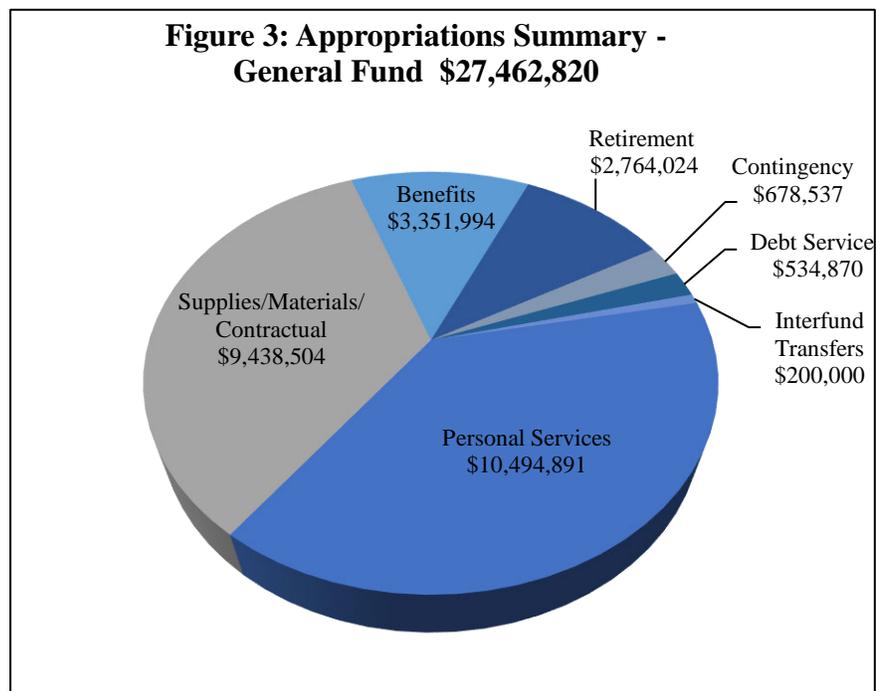
## Appropriations

Salaries – In 2020 the City lost an arbitration ruling that requires the City to hire 12 firefighters. City officials told us they negotiated with the collective bargaining unit to hire four new firefighters each year beginning in 2021 through 2023, which was documented in a written agreement dated November 24, 2020. The 2023 proposed budget includes \$157,000 for four new firefighter positions.

Overtime – The proposed budget includes overtime funding of \$370,000 for the police department, \$330,000 for the fire department, \$106,000 for water filtration and distribution and \$95,000 for street maintenance. The total overtime appropriation is \$180,000 more than was budgeted in 2022, including an increase of \$155,000 in the fire department. Total overtime appropriations are \$36,000 more than the projected overtime expenditures of \$865,000 for 2022.

The fire department is over budget by \$60,000 as of September 30, 2022. The Fire Chief told us because the overtime appropriation for 2022 was less than the actual overtime expenditures in 2021, the 2022 overtime appropriation was not reasonable. He also explained that although new firefighters have been hired, they are attending the fire academy and therefore are not able to cover any shifts until they graduate. Additionally, the fire department has been assisting in out-of-town emergency medical service calls which has caused overtime expenditures to increase. We anticipate once the new firefighters have completed training the overtime expenditures should decrease or stabilize.

While department officials told us they are making an effort to ensure they stay within the budget, overtime can be driven by factors beyond their control. In addition, the City has increased minimum staffing levels (number of firefighters required to be on duty per shift) for the fire department by one firefighter each year. The last increase will occur on January 1, 2023 and may result in increased overtime. The Common Council should ensure that overtime appropriations are reasonable when adopting the final budget.



## **Contingency**

Contingency accounts are used by local governments as a means of providing funding for unexpected events and uncertainties. The City has 24 employees that are retirement eligible. Based on historical data, if these employees choose to retire in 2023 they will be due buyouts averaging \$25,000 per retiree, totaling \$600,000. The City has included \$500,000 in the 2023 proposed general fund, \$20,000 in the proposed water fund and \$17,000 in the proposed sewer fund budgets to fund buyouts.

The City's fund balance policy states that the general fund budget requires a contingency account of at least 1.25 percent of appropriations. The City's proposed budget includes a general fund contingency appropriation totaling \$678,537, which is 2.47 percent and exceeds the 1.25 percent benchmark. According to the proposed budget, the City increased the contingency appropriation this year to provide funding in the event that property owners who have filed petitions for real property tax assessment reviews are successful in reducing their real property assessments and are entitled to refunds. The result of these petitions will not be known until the middle of the 2023 fiscal year. According to the petitions on file, potential refunds could total \$337,190.

The proposed budget contains a water fund contingency appropriation of \$108,779 (2.51 percent of appropriations) and a sewer fund contingency appropriation of \$110,290 (2.63 percent). The Common Council needs to consider whether the contingency appropriations are adequate and appropriate for unanticipated events and uncertainties.

## **Ambulance Services**

In 2022, the Mayor created an ad-hoc ambulance committee to review the City's ambulance service options and the Common Council retained an accounting firm to conduct a financial analysis and review ambulance service options. At the time of this report, the conclusions from this financial analysis were not yet available and a decision on ambulance service options had not been made.

The proposed budget does not include appropriations for ambulance services, but does include an appendix which lists contingent appropriations related to the City implementing ambulance services costing \$1,281,520. These services will be funded by "ambulance charge revenue", which is described as "estimated mixed revenue" and includes projected payments from Medicare and traditional health plans for services rendered to individuals with health insurance coverage.

## **American Rescue Plan Act**

The Federal American Rescue Plan Act of 2021 provided substantial aid to local governments. The City received two payments, one in 2021 and one in 2022, totaling \$2,082,558. The City, however, can only recognize this aid as revenue once eligible expenditures have been incurred (in accordance with United States Department of the Treasury guidance). As of September 30, 2022, the City has \$274,926 of aid funds remaining. To recognize the remaining aid in the 2023 fiscal year, the eligible expenditures need to be incurred in an amount equal to the remaining aid. Any

remaining amounts of aid are permitted to be used or obligated by local governments until December 31, 2024.

### **Tax Cap Compliance**

New York State General Municipal Law Section 3-c establishes a tax levy limit on local governments. The law generally precludes local governments from adopting a budget with 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 adopts a local law to override the tax levy limit. The tax levy limit for 2023 is 2 percent.

The proposed budget includes a tax levy of \$13,374,596 which is below the maximum levy the City can impose without the Common Council needing to override the tax levy limit. In adopting the 2023 budget, the Common 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 properly overrides the tax levy limit prior to adopting the budget.

In accordance with the Act, the Common Council has the responsibility to make adjustments in the proposed budget consistent with the recommendations in this report.

We request that you provide us with a copy of the adopted budget.

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 Melissa A. Myers, Chief Examiner of the Buffalo Regional Office, at (716) 847-3647.

Sincerely,

Elliott Auerbach  
Deputy Comptroller

cc: Sue A. Mawhiney, City of Lockport Treasurer  
Timothy Russo, City of Lockport Finance Director  
Sarah K. Lanzo, City of Lockport Clerk  
Hon. Andrea Stewart-Cousins, NYS Senate Majority Leader  
Hon. Carl E. Heastie, NYS Assembly Speaker  
Hon. Liz Krueger, Chair, Senate Finance Committee  
Hon. Helene E. Weinstein, Chair, Assembly Ways and Means Committee  
Hon. Michael J. Norris, State Assembly Representative  
Hon. Robert G. Ortt, State Senate Representative  
Robert F. Mujica Jr., Director, Division of the Budget  
Melissa A. Myers, Chief Examiner