Nassau County Interim Finance Authority

NIFA

REVIEW AND ANALYSIS OF THE MULTI-YEAR FINANCIAL PLAN UPDATE FISCAL 2022 – 2025

August 3, 2022

NASSAU COUNTY INTERIM FINANCE AUTHORITY

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I. SUMMARY OF FINDINGS

On July 6, 2021, the County Executive released his Administration's Updated Multi-Year Financial Plan, Fiscal 2022-2025 (the "Update"). The Update contains the Administration's revised projections for FY 2022 and its updated outlook for FYs 2023-2025 ("the "Out-Years").

Based upon the information provided in the Update and NIFA's independent analysis and projections of year-end results, we have concluded that despite the ongoing pandemic and high inflation rate, the County's near-term fiscal outlook in the Major Funds continues to improve.[1] Specifically, our analysis shows an improved fiscal outlook for each of FYs 2022-2025 compared to NIFA's previous assessments for these years.

However, we have ongoing concerns regarding several significant liabilities that could impair the County's efforts to attain and sustain structural balance. These concerns include the County's large long-term liabilities for tax certiorari refunds, non-certiorari litigation, Workers' Compensation claims and the County's contingent risk stemming from deteriorating finances of the Nassau Health Care Corporation. In addition, the County has not yet secured pattern-conforming labor agreements with its unsettled unions. Any one of these issues could interrupt the fiscal progress that has been made by the County in recent years.

We project a potential surplus of approximately $61.5 million in FY 2022, and deficits of $42.3 million in FY 2023, $93.4 million in FY 2024 and $118.0 million in FY 2025, as shown in the following table. These amounts exceed the one percent deficit threshold for imposing a Control Period in each of the Out-Years. A discussion of the projections appears later in the report.

Operating Results on a GAAP Basis ($ in millions)											
FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020 *	FY 2021*	FY 2022p	FY 2023p	FY 2024p	FY 2025p
($189.2)	($125.3)	($83.1)	($63.2)	($61.2)	$76.8	$90.6	$27.2	$61.5	($42.3)	($93.4)	($118.0)

* Operating results include CARES Act funding and/or unbudgeted debt restructuring savings.

The budgetary improvement has resulted from a combination of:

- stronger than assumed sales tax revenue;
- higher than assumed State aid;

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[1] "Major Funds" are defined as the General Fund, the Police District Fund, the Police Headquarters Fund, the Fire Commission Fund, and the Debt Service Fund. The Major Funds are the only Funds that are part of the NIFA Control Period calculation, but do not include certain major expenditures, such as the funding of sewer and storm water treatment services and support payments to Nassau Community College.

- continued savings in salaries and fringe benefits from lower-than-budgeted headcount; and
- lower than assumed debt service costs from reduced borrowing.

The County's overall financial outlook has also been bolstered by the transfer of surplus resources that the prior Administration was able to generate from FY 2021, and their placement into various reserves. These funds can support limited expenditures in future years for, among other uses, tax certiorari refunds, judgments and settlements, and pension costs without negatively impacting the County's GAAP operating results. The Update also includes a planned transfer of an additional $50.0 million into reserves at year-end 2022, and contingency reserves in FY 2023 and FY 2024 of $25.0 million and $35.0 million, respectively.

The County also has approximately $198.0 million in uncommitted resources remaining from the $385.0 million in Federal aid it received from the American Rescue Plan Act ("ARPA"). Although the County can use these Federal resources constructively, they will be used to fund expenditures outside of the operating budget, thereby limiting the direct benefit impact on the County's "bottom line." Decisions to expend the ARPA resources, which by regulation must be obligated by December 31, 2024, and spent by December 31, 2026, require Legislative approval.

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What follows is additional analysis of the Update: Section II discusses FY 2022 and Section III discusses the Out-Years. To fully understand NIFA's opinions regarding the County's financial position, this Report should be read in tandem with NIFA's October 21, 2021 and December 7, 2021 reports on the Multi-Year Financial Plan, Fiscal 2022-2025, which can be found on the NIFA website at https://nifa.ny.gov/financial_plan_reports.html.

II. DISCUSSION OF FY 2022

The following discussion contains our detailed assessment of the County's Major Funds based on data available as of June 30, 2022.

Projected Variances in FY 2022

We conclude, after adding all our positive and negative projected variances, that FY 2022 could end with a surplus of approximately $61.5 million on a GAAP basis, which is an improvement from our prior assessment of the County's finances.[2]

FY 2022 Projected Results Surplus / (Risk) ($ in millions)			
($ in millions)	2022 Adopted Budget	2022 NIFA Projections	Surplus / (Risk)
Revenues:			
Fines & Forfeits	**$106.5**	**$70.8**	**($35.6)**
Fines & Administrative Fees	*28.4*	*9.5*	*(18.9)*
Red Light Camera & Related Fees	*48.1*	*37.3*	*(10.7)*
Boot and Tow & School Bus Stop Arm Camera	*4.3*	*0.0*	*(4.3)*
All other fines	*25.7*	*24.0*	*(1.8)*
Rents & Recoveries	**$41.4**	**$18.1**	**($23.3)**
Cash Recovery	*10.8*	*0.0*	*(10.8)*
Prior Year Recoveries	*9.7*	*0.0*	*(9.7)*
All other Rent & Recoveries	*20.8*	*18.1*	*(2.7)*
Departmental Revenues	**$245.3**	**$202.4**	**($42.9)**
GIS Tax Map Verification Fee	*50.0*	*41.3*	*(8.7)*
Mortgage & Deed Recording Fee	*48.9*	*40.6*	*(8.3)*
Fare Box Revenue	*31.4*	*27.5*	*(3.9)*
All other Departmental Revenues	*115.1*	*93.0*	*(22.0)*
State Aid	**$225.1**	**$252.2**	**$27.1**
Sales Tax	**$1,375.0**	**$1,466.2**	**$91.2**
All other Revenues	**$1,281.0**	**$1,293.4**	**$12.4**
Total Revenues	**$3,274.2**	**$3,303.1**	**$28.9**
Expenditures:			
Salaries and Wages	**$934.9**	**$926.0**	**$8.9**
Overtime	*86.0*	*107.5*	*(21.5)*
Other	*848.9*	*818.5*	*30.5*
Fringe Benefits	**$775.3**	**$741.4**	**$33.9**
Health Insurance Active/Retirees	*343.0*	*315.3*	*27.7*
Other	*432.3*	*426.1*	*6.2*
Other Than Personal Expenses	**$349.8**	**$360.0**	**($10.1)**
Equipment & General Expenses	*49.6*	*54.7*	*(5.0)*
Contractual Expenses	*300.2*	*305.3*	*(5.1)*
Local Government Assistance	**$84.8**	**$89.1**	**($4.4)**
Debt Service	**$123.9**	**$100.7**	**$23.2**
Contingency Reserve	**$0.0**	**$50.0**	**($50.0)**
Early Intervention/Pre-school	**$144.8**	**$147.0**	**($2.3)**
Social Services Programs	**$419.0**	**$383.6**	**$35.4**
Medicaid	*236.5*	*212.7*	*23.8*
Other Social Services Programs	*182.5*	*170.9*	*11.6*
Other Expenditures	**$441.8**	**$443.9**	**($2.2)**
Total Expenditures	**$3,274.2**	**$3,241.7**	**$32.5**
Subtotal Surplus / (Risk)			**$61.5**

2 The $61.5 million projected surplus assumes that the County will also transfer $50.0 million in other unneeded resources at year-end into one or more of its reserve funds, as currently planned by the Administration.

Major Revenue Variances

Fines & Forfeitures

The Administration has reduced its projection for fines and forfeitures by $16.5 million; however, our analysis indicates that revenues derived from fines and forfeitures could fall below budget by $35.6 million.

Of this amount, we project: fines and general administrative fees to be down $18.9 million; red light camera revenues to be down $10.7 million, including administrative fees; boot and tow fees to be down $2.3 million; and school bus camera fines to be down $2.0 million. The boot and tow program was suspended by County Executive order due to the pandemic and never reinstated. The School Bus Stop Arm Camera initiative, which is designed to ticket drivers who illegally pass school buses with their stop signs out, has not yet been implemented.

Rents and Recoveries

Our analysis indicates that revenues derived from rents and recoveries could fall below budget by $23.3 million. The variance is primarily due to projected shortfalls in: (1) cash recoveries ($10.8 million), which arise from capital project closeouts and whose unused bond proceeds are subsequently used to pay debt service (an operating expense) and therefore not recognized under the Control Period Calculation; and (2) recoveries of prior year appropriations ($9.7 million), which arise from a determination that previously encumbered funds will not be spent, but which are subsequently subtracted from the County's operating result by the Comptroller through year-end GAAP adjustments.

The projected variance also includes a $1.0 million shortfall from the anticipated sale of County property. Although the County has had past success in selling some of its properties, it is unclear if the County can reach agreements to sell these new additional properties, get requisite Legislative approvals, and close the transactions before the end of the year. Our projection already gives credit to the sale of one property for $1.2 million which has been submitted to the Legislature for approval; however, we are holding the remainder of this initiative at risk until we see evidence of a concrete path toward completion of this non-recurring initiative.

Departmental Revenues

Our analysis indicates a potential shortfall of $42.9 million in departmental revenues, primarily due to projected variances in several real estate related revenues, such as GIS tax map verification fees ($8.7 million) and mortgage and deed recording fees ($8.3 million). These revenues, which had been driven by the surge in home sale transactions, escalating prices, and the volume of mortgage refinancing transactions attributed to record low interest rates, have softened as interest rates have risen dramatically in recent months. The Mortgage Bankers Association has reported that its seasonally adjusted index measuring mortgage demand fell in the second week of July to the lowest point since 2000.

Other contributing factors are: no revenue from the County's Income and Expense Law ($5.0 million – which was proposed several years ago but suspended due to ongoing litigation); and lower than anticipated bus fare box revenue ($7.3 million). Fare box revenue continues to be depressed due to a decline in bus ridership that began at the onset of the COVID-19 pandemic. Other departmental revenues which are expected to finish below budget include: other welfare receipts ($3.8 million); ambulance fees collection ($3.7 million); and examination fees ($2.8 million) primarily from a delay in the release of the Police test exam.

State Aid

Our analysis has identified a surplus in State Aid of $27.1 million, which is attributable to increases in the State Operating Assistance ("STOA") grant program. The STOA funding provides operating monies to transit agencies and authorities based on vehicle miles and passenger revenue service. We also project higher reimbursements ($1.1 million) for Pre-school Education programs, which are driven by increased program costs. These reimbursements are slightly offset by a shortfall in miscellaneous State aid ($0.1 million).

Sales Tax Revenue

Our analysis indicates that net sales tax revenue could exceed budgeted levels by $86.8 million.[3] This projection is composed of $91.2 million in favorable gross sales tax revenue offset by $4.4 million in higher payments for local government assistance.

Forecasting sales tax revenue during an ongoing pandemic and a period of high inflation and significant economic uncertainty is challenging. As shown in the following table, sales tax revenue has exhibited strong year-over-year growth in each month through April (compared to the same month in 2021) but contracted by 8.4% in May. It is currently unclear if May represents an inflection point of sustained weakness or merely an anomaly in an otherwise strong positive trend. Our current view of June data, which is incomplete due to normal reporting lags, underscores this uncertainty because it preliminarily indicates year-over-year growth of 8.0% for the month.

[3] This projection assumes that the County will also receive $27.4 million in additional sales tax revenue that cannot be recognized in FY 2022. The recognition of this incremental revenue is deferred until FY 2024. The deferral relates to how much of the excess sales tax revenue is generated outside the City of Long Beach.

Sales Tax Growth 2022 versus 2021	
January	15.0%
February	7.0%
March	23.9%
April	21.5%
May	(8.4%)
June (partial)	8.0%
YTD	**9.0%**

The following table shows a range of projected sales tax revenue outcomes under four varying economic scenarios, which will be governed by how the economy performs the rest of the year. The year-to-date growth rate is 9.0%, but if sales tax receipts in the remaining months of 2022 exhibit no growth (compared to the same period in 2021), net year-end receipts will exceed budget by approximately \$86.8 million and total growth for FY 2022 will shrink to 4.6%.

Net Impact of Sales Tax Growth in the Remaining Checks of 2022	
Year-over-Year Growth	**Net Sales Tax Surplus**
(1.0%)	\$79.7 million
0.0%	\$86.8 million
1.0%	\$93.9 million
2.0%	\$101.0 million

Our cautious outlook stems from concern that the pronounced growth in sales tax revenue experienced over the past 15 months is not sustainable. In fact, some sources have reported that high inflation and rising interest rates are leading to a slowdown in economic growth and consumer spending. As shown, each percentage point of growth in the remaining checks above (below) the zero-growth assumption will add (subtract) approximately \$7.1 million in net revenue to the projected favorable variance in 2022.

All Other Revenues

Other revenues include categories such as interest penalty on taxes, which has benefited this year from the proceeds of the delayed 2021 tax lien sale that took place in 2022. Our analysis also projects higher collections from the County's 911 cell phone surcharge and entertainment tax based on current trends, offset by lower Federal aid due to lower reimbursement in the Correctional Center and Social Services.

Major Expenditure Variances

Salaries and Wages

Our analysis indicates that expenditures on salaries and wages could be $8.9 million lower than assumed in the Budget. The favorable variance is composed primarily of projected savings from 241 full-time vacancies that more than offset projected overspending on overtime at the Police Department and Correctional Center.[4] The departments with the largest number of full-time vacancies are listed in the table below.

Department	FY2022 Budget	On Board	Vacancy
Police District	3,313	3,218	95
Social Services	555	473	82
NC Sheriff/Correctional Center	930	870	60
Public Works	405	355	50
District Attorney	459	428	31
Health Department	181	155	26
Probation	162	143	19
Other Agencies	1,622	1,444	178
Attrition factor budgeted centrally	(300)	0	(300)
	7,327	7,086	241

If these vacancies are left unfilled for the entire year, the County would realize savings that would more than offset the $21.5 million in projected Countywide overspending on overtime. The County should closely examine these full-time vacancies for opportunities to permanently eliminate unneeded positions thereby ensuring recurring savings. Our analysis indicates that there are also other opportunities for savings, including in part-time and seasonal positions.

Our analysis indicates that overtime continues to be underfunded, particularly in the Police Department and Correctional Center. NIFA is currently projecting overtime in the Correctional Center to be $12.7 million higher than the Budget. Overtime costs in the Police Department may be $9.3 million higher than the Budget. These negative variances are partially offset by $0.5 million in lower spending on overtime in other County departments.

Fringe Benefits

The County could realize at least $33.9 million in savings in fringe benefits primarily due to the significant number of vacancies (referenced above) that the Administration expects to maintain throughout the current year and from health insurance premiums that rose less than originally assumed in the Budget.

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[4] The number of vacancies (and value of savings) in individual departments is partially offset by an attrition factor that was budgeted centrally.

Other than Personal Expenses

Our analysis indicates that the County could spend $0.5 million more for equipment expenses than is budgeted. This variance is driven mostly by unbudgeted costs for the Departments of the County Clerk and Public Works.

General expenses are projected to be $4.5 million above budget for several reasons. Higher costs for gasoline and Court remand expenses incurred by the County for individuals ordered by the Family Court to receive psychiatric evaluations at Nassau University Medical Center are major factors. Court remand costs are driven by: (1) the County is now responsible for 100% of the cost; (2) rates have increased; and (3) caseloads have increased.

Our analysis indicates that the County has Contractual Services obligations that could amount to $305.3 million, or $5.1 million higher than the Budget. The largest component of Contractual Services is a $136.5 million contract with Transdev Services, Inc., which runs the County's bus system. The County increased the contract by $9.4 million due to additional funding that was needed for Transdev to expand bus route services. The increased costs are funded with additional proceeds received from the STOA and Federal Transit Administration programs. The increased costs within the Contractual Services category are partially offset by savings realized by the County from lower payments made to the vendor who manages the Red-Light Camera program, which is issuing fewer violations.

Local Government Assistance

Pursuant to Section 1262-e of New York State Tax Law, the County must establish a Local Government Assistance Program to distribute sales tax collections to the towns and cities within the County in an amount equal to a 0.25% component of the 4.25% local sales tax.[5] Consequently, since we are projecting sales tax revenues to perform better, payments for the Local Government Assistance Program will concomitantly increase by $4.4 million.

Debt Service

Our analysis indicates that there is a $23.2 million opportunity for savings in principal and interest expenditures since the County did not undertake any borrowings in FY 2021 (as had been assumed in the Budget), which would have required debt service payments in FY 2022.

[5] There is also a program to distribute a portion of sales tax collections to the incorporated villages within the County, which has typically amounted to $1.25 million annually.

Transfer to Reserves

The County has $467.5 million held in several reserves earmarked for specific purposes, as shown in the following table. These reserves are available to fund future County obligations, subject to the reserves' respective restrictions, without negatively impacting the Control Period calculation.

Fund	Program	Balance Available as of 7/26/2022
Litigation	Non-Certiorari Judgments	$112.6
	Workers' Compensation	14.8
	Longevity Payments - non-Police District	41.1
	Non-Certiorari Judgments - Police District	24.0
	Longevity Payments - Police District	24.1
	Tax Certiorari	187.0
Total Litigation Fund		**$403.6**
Other Reserves:		
	Employee Benefit Accrued Liability Reserve Fund	$13.8
	Bonded Indebtedness Reserve Fund	20.0
	Retirement Contribution Reserve (General Fund)	30.1
Total Other Reserves:		**$63.9**
Total All Reserves:		**$467.5**

The following discussion provides a brief synopsis of each fund/reserve described by the County in the Adopted Summary book,

The Litigation Fund was established in 2015 in accordance with the transitional borrowing plan approved by NIFA to ensure that the County no longer borrowed for judgments and settlements. Since its inception the County has allocated year end surpluses to dedicated purposes within the Litigation Fund, such as for: Workers' Compensation claims, longevity payments owed to satisfy recent labor settlements, judgments and settlements (non-certs related) specific to the Police District Fund, and tax certiorari refunds.

The Employee Benefit Accrued Liability Reserve Fund was created in 2004 with the sole purpose to fund future termination payouts for unused vacation and sick leave accruals. In FY 2019, the Employee Benefit Accrued Liability Reserve Fund was funded to mitigate any shortages related to terminal leave pay in the Police District Fund. Terminal leave pay associated with Police Headquarters or any other operating fund cannot be paid out of this fund.

The Bonded Indebtedness Reserve Fund was established in 2005. Its main purpose is to set aside resources for future partial payments of debt service. In FY 2021, the County transferred $20.0 million of the budgetary surplus to this reserve, which amount cannot be used unless included in the adopted budget.

The Retirement Contribution Reserve Fund was formed in 2004. It was created to allocate resources to cover future pension payments. The administration allocated $30.0 million from its FY 2021 budgetary surplus to this fund to cover pension payments incurred in the General Fund only.

The Administration plans to transfer an additional $50.0 million in projected FY 2022 surplus resources into reserves at the end of this year. At this time the Administration has not provided information regarding into which specific reserves the funds will be transferred. If labor negotiations do not conclude during FY 2022, the County should consider allocating amounts, already budgeted to cover the costs for pattern-conforming contracts, into a reserve.

Early Intervention/Preschool Special Education

Early Intervention is a program that provides services to children under the age of three with developmental delays and disabilities. Preschool Special Education serves children ages three to five providing educational and supportive services.

Based on historical trends, our analysis indicates that these services can be as high as $147.0 million, which is $2.3 million higher than the Budget. We will watch these programs closely and will adjust our projections, as necessary, once the new school year starts and caseloads can be assessed.

Social Services

Our analysis indicates the potential for $35.4 million in combined savings in social services programs. The projected savings in Recipient Grants and Purchased Services are driven, in part, by lower caseloads than assumed in the Budget. In contrast, expenditures on Emergency Vendor Payments are projected to slightly exceed funding provided in the Budget. Medicaid savings are projected to total $23.8 million and are driven by a temporary increase in the Federal reimbursement rate for these services, thereby lowering the corresponding State and local match.

We are concerned that the County may experience increases in the number of eligible families and individuals receiving Temporary Assistance for Needy Families ("TANF") and Safety Net Assistance ("SNA") if the economy falls into a prolonged recession. However, at this time, caseloads are below assumed levels and could lead to $9.0 million savings in FY 2022.

The primary driver of Purchased Services is day care services (family and group day care), which is below budget. Our analysis indicates that these expenditures are on track to come in approximately $4.7 million below budget. In contrast, Emergency Vendor payments are on track to exceed budget by $0.8 million.

Medicaid expenses are likely to be $23.8 million below budget because of the temporary extension of the Public Health Emergency, which increased the enhanced Federal Medical Assistance Percentage ("eFMAP"). Consequently, the County's local share weekly payment has been reduced a few times from the budgeted amount, ($4.0 million for 13 weeks and $4.3 million for 39 weeks), to $3.5 million, and then subsequently increased to $4.1 million. Per notification from the NYS Department of Health, the weekly Medicaid Cap payment was adjusted from June to the remainder of the year to $4.1 million. Another contributing factor is the reduction of the indigent quarterly rate.

All other Expenditures

"All other expenditures" reflects a shortfall in the amount of $2.2 million. The factors that contribute to this shortfall are: $1.2 million in Mass Transportation that reflects increased costs for the Long Island Rail Road Station Maintenance program. Workers Compensation has a shortfall of $0.5 million due to higher trending; and utilities has a shortfall of $0.4 million due to higher costs.

III. THE OUT-YEAR GAPS: FY 2022 – FY 2025

The County is required to submit its FY 2023-2026 Multi-Year Financial Plan to NIFA on September 15, 2022, which is a little more than one month from now. Although the proposed Plan will not be effective until January 1, 2023, the County should immediately develop strategies that ensure the progress it has made toward being balanced on a GAAP Basis can be sustained.

THE COUNTY'S CURRENT OUT-YEAR PROJECTIONS

The Administration projects Out-Year surpluses of approximately $2.6 million in FY 2023, $1.7 million in FY 2024, and $1.6 million in FY 2025. In contrast, our analysis indicates that the County's projections may be too optimistic.

As shown in the table below, NIFA is projecting deficits in FY 2023, FY 2024, and FY 2025. In those years, the projected deficits exceed the one percent deficit threshold that would require imposition of a control period.

PROJECTED GAPS: COUNTY vs. NIFA (GAAP BASIS)

($ in millions)	FY 2023	FY 2024	FY 2025
MYP Update	$2.6	$1.7	$1.6
NIFA Estimate	($42.3)	($93.4)	($118.0)
Better/(Worse)	**($44.9)**	**($95.1)**	**($119.6)**

Major Differences in Out-Year Projections

The major components contributing to the understated gaps by the County consist of:

- Overestimated revenues from GIS Tax Map Verification fee, which currently is under litigation. We assumed the same results as the one from the Suffolk County litigation, where Suffolk was mandated to eliminate the fee. Other fees in this category are also overestimated, such as Income and Expense Law and fees related to real estate transactions (mortgage and deed recording fees);
- Overestimated revenues from fines and forfeitures, mainly due to revenues related to public safety fees, red light camera tickets and the associated administrative fees, boot and tow, and the inclusion of the bus camera initiative;
- Uncertain revenue from the annual sale of County property. Our analysis excludes budgeted amounts from prior year recoveries since these proceeds do not constitute revenue under the GAAP basis of accounting. We also exclude proceeds from cash recoveries that are realized from capital project

closeouts since these resources would be excluded under the Control Period calculation.[6]

OTHER CONCERNS

Sales Tax Revenue

The Administration is cautiously optimistic in their projection of sales tax revenue and is using projected sales tax growth rates that are consistent with historical experience. However, our analysis uses a more conservative outlook. The current uncertain economic conditions give us concern that the pronounced growth in sales tax revenue experienced over the past 15 months is not sustainable. The difference in our growth rate assumptions causes our projections to be slightly lower than the Administration's.

It is unclear if we are at the beginning stages of a recession and even less clear on how deep or protracted the recession may be. Consequently, we encourage the County to commence contingency planning for a significant economic downturn to better position itself to weather a potential decline in sales tax revenue. The County was forced to confront this exact situation in 2009 after the effects of the economic crisis in 2008 were followed by a 5.2% decline in sales tax revenue. The same thing happened in 2014 after the surge in sales tax revenues in 2013, which resulted from non-recurring Superstorm Sandy-driven spending, was followed by a decline of 4.2%.

Labor Costs

Contracts with all the County's labor unions expired on December 31, 2017. Only the Detectives Association, Inc. ("DAI") and the Superior Officers Association ("SOA") have concluded new agreements.

The Administration expects the other unions to agree to new contracts which are consistent with the pattern set by the DAI and matched by the SOA. Consequently, the Update continues to reflect labor costs consistent with this bargaining pattern.

Pension Contributions

The Update reflects the Administration's assumption that the County's contribution rates to both the Employees' Retirement System ("ERS") and the Police and Fire Retirement System ("PFRS") are expected to remain constant during the term of the current multi-year plan. However, we are concerned that future employer contribution rates may

[6] Resources realized from capital project closeouts are used by the County to pay debt service, which is an operating expense. Since these unused resources were originally raised through the issuance of bonds, they do not contribute to the County's operating results for Control Period calculation purposes.

rise in response to the weak investment performance this year by the Common Retirement Fund ("Fund"), which invests the assets of the ERS and PFRS.

Although the Fund's overall investment return for the State's fiscal year ending March 31, 2022, was 33.6%, which far exceeds the Fund's 5.9% assumed rate of return, the current stock market selloff has negatively impacted the Fund's investment performance this year and will assuredly result in higher pension costs in future years.

While the Fund attempts to mitigate employer cost volatility by using, among other actuarial methods, a rolling five-year smoothing algorithm to calculate required contribution rates, the Fund recognized previous asset gains and losses through an asset valuation "market restart." Consequently, absent a rapid stock market turnaround, pension costs are likely to rise significantly by the end of the Plan.

We acknowledge that the County has $30.0 million available in its pension reserve and can use these resources to pay for a portion of its pension obligation in future years if the need arises. However, it is likely that the County will experience the full brunt of higher pension contribution rates in future years after it has used up this reserve.

Tax Certiorari Backlog

The total tax certiorari liability was reported by the Comptroller in the County's Annual Comprehensive Financial Report ("ACFR") to be $707.3 million at December 31, 2021. This was composed of $632.2 million of long-term liabilities, including almost $299.9 million for LIPA-related claims at December 31, 2021, $65.6 million in estimated liability payable from the Disputed Assessment Fund ("DAF"), and $9.5 million in short-term liabilities. The long-term liability increased by approximately $58.5 million during 2021.

We remain concerned that the Administration has not presented its plan for assessment reform, which is necessary for us to build confidence that the tax certiorari refund liability will not continue to grow in future years.

Non-Certiorari Litigation

The County has estimated its future liabilities for non-certiorari judgments and settlements that may result from the multitude of lawsuits the County is currently litigating, including proceedings referred to as the "Utilities Litigations." These liabilities were reported by the Comptroller in the ACFR to be $623.1 million at December 31, 2021.

The payment of this liability is not factored into our Out-Year risk assessment but could one day require significant expenditures to the extent that the costs exceed the amounts appropriated in the operating budget and/or held in the Litigation Reserve Fund. The County has budgeted $45.0 million in FY 2022, $40.0 million in FY 2023, $40 million in FY 2024, and $35.0 million in FY 2025 for non-certiorari judgments and settlements. The County also has $136.6 million in its Litigation Reserve Fund to supplement these appropriations.

Workers' Compensation Claims

The County's long-term liabilities for Workers' Compensation claims were reported by the Comptroller in the ACFR to be $344.6 million at December 31, 2021. This liability was estimated by the County's third-party administrator and, in the disclosure in its recent bond offering, the County noted (for the prior year's estimate) that "no assurance can be given that additional claims will not be made or that the ultimate liability on existing and future claims will not be greater." The County has a reserve dedicated for Workers' Compensation claims totaling $14.8 million.

Nassau Health Care Corporation

The financial health of the Nassau Health Care Corporation ("NHCC") and its potential impact on Nassau County continues to be a major source of concern for NIFA. NHCC's audited financial statements continue to state that substantial doubt exists about NHCC's ability to continue as a going concern.

NHCC has experienced recurring operating losses, a working capital deficit and has a total negative net position of approximately $1.1 billion at December 31, 2021. It is also dependent on the continuation of Federal, State and local subsidies, certain of which are scheduled to end or be reduced.

This is troubling for the obvious reason that the County has a direct-pay guarantee on NHCC's outstanding debt, which totaled $131.6 million at December 31, 2021, or approximately $161.9 million including interest payments.

The County also contracts with NHCC to provide medical, mental health, dental, and ancillary services to inmates incarcerated at the Correctional Center. Consequently, the County may need to secure an alternative to NHCC for the provision of health care services to its inmates should NHCC reach a point that it is unable to deliver these services.

GAP-CLOSING PLAN

The Administration contends, "the County's update to the Fiscal 2022-2025 Multi-Year Financial Plan is structurally balanced with no gaps; therefore, no discussion of a gap closing plan is required." We disagree with their conclusion regarding structural balance; however, the Administration did identify several initiatives they are pursuing to improve the County's finances. These initiatives have been included in previous iterations of the County's Gap-Closing Plan.

eFMAP Reconciliation

Pursuant to the Affordable Care Act, the State reconciles the enhanced Federal Medical Assistance Percentage (eFMAP) for the County share for certain single/childless couples on an annual basis. The Administration expects reconciliations from State Fiscal Years 2017 forward to provide a minimum of $31.0 million, but does not allocate the projected recoveries by year.

State Aid Mandated Cap

The County pays third-party vendors to provide preschool education for certain children aged five or younger and receives a 59.5% reimbursement from the State for costs incurred. The Administration wants the State to increase the reimbursement rate to offset these increasing expenses being incurred by the County, which are not within the County's control. We have been previously told that the effort is being led by the New York Association of Counties ("NYSAC") on behalf of all counties in New York, but it is unclear if there is any support in the State Legislature.

Building Consolidation

The Administration, without any specifics or supporting documentation, expects to reduce expenses through centralization and reduction of office space, generating additional savings in utilities and maintenance costs. Although the County workforce has declined over the years, we are holding this initiative at risk until a detailed plan is developed that lays out specific properties the County is vacating.

Efficiency Program

The Administration expects to realize savings from consolidating and realigning its workforce levels to provide essential services to Nassau County residents in an affordable manner. We continue to question this initiative since there is a lack of specificity and the County continues to carry 241 full-time vacancies in the Budget.

Energy Reduction Initiative

The County states that it is finalizing a Master Cost Recovery Agreement with the New York Power Authority that will allow the County to finance and realize savings from energy efficiency projects. This Shared Services program includes other local municipalities with the first phase focusing on street lighting improvements.

IV. CONCLUSION

Although the County's fiscal outlook during the term of the Update has improved in recent months, we note that the favorable change does not necessarily demonstrate lasting improvement in the County's fiscal strength, as evidenced by the projected growing deficits in FY 2023, FY 2024, and FY 2025. There were several factors that contributed to the positive operating result in FYs 2020 and 2021 and the more favorable fiscal outlook for FYs 2022-2025, many of which will not provide recurring budget relief beyond the term of the Update.

A prime example was the County's receipt of $102.9 million of CARES Act funding in 2020 and the multi-year debt relief the County requested NIFA to generate as a fiscal tool used to manage the anticipated economic impact of the COVID-19 pandemic. Facilitated by NIFA's superior credit rating and unique statutory authority allowing it to restructure outstanding debt, NIFA provided approximately $487.0 million in budget relief by deferring maturing debt and refunding other outstanding debt for savings.

The immediate fiscal headroom will not last forever and we still project Out-Year deficits. Consequently, we advise the County's elected officials to identify and implement new gap-closing initiatives that generate recurring savings and/or revenues as well as to find fiscally prudent ways to use the significant resources recently added to various County reserves to reduce large burdensome liabilities, such as tax certiorari refunds and non-certiorari judgments, that historically the County would seek to bond.

Additionally, a concerted effort should be made to identify and evaluate new structural solutions, possibly involving opportunities to save money through shared services arrangements with municipal neighbors and/or other levels of government. These types of initiatives require careful planning and extended lead times before implementation.