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May 16, 2023

Honorable Mike Spano, Mayor
City Council Members
City of Yonkers
City Hall
Yonkers, NY 10701-3886

Report Number: B23-6-5

Dear Mayor Spano and City Council Members,

Chapter 55 of the Laws of 2014 authorizes the City of Yonkers (City), subject to certain requirements, to issue serial bonds not to exceed \$45 million to liquidate deficits in the City School District's (District) general fund as of June 30, 2014. Additionally, Chapter 55 requires the City to submit to the State Comptroller and the Commissioner of Education, starting with the fiscal year during which it was authorized to issue obligations and for each subsequent fiscal year during which the deficit obligations are outstanding, its proposed budget for the next succeeding fiscal year.

The proposed budget must be submitted no later than 30 days before the date scheduled for the City Council's vote on the adoption of the final budget or the last date on which the budget may be finally adopted, whichever is earlier. The State Comptroller and the Commissioner of Education must then examine the proposed budget and make recommendations as deemed appropriate after examining the City's estimates of revenues and expenditures.

The City Council, no later than five days prior to the adoption of the budget, must review all recommendations made by the State Comptroller and the Commissioner of Education and make adjustments to its proposed budget consistent with the recommendations made by the State Comptroller and the Commissioner of Education. The State Comptroller's recommendations on the City's proposed budget for the 2023-24 fiscal year are contained in this report.

Our Office has recently completed a review of the City's proposed budget for the 2023-24 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 proposed 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, we found that certain significant revenue and expenditure projections in the proposed budget are unreasonable and that officials continued to use debt to pay for recurring costs, which is imprudent. In addition, we determined that of the 13 recommendations from our May 2022 budget review letter¹, only three were fully implemented.

To accomplish our objective, we reviewed the City’s 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 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. We also evaluated the amount of fund balance appropriated in the proposed budget to be used as a financing source and determined whether the amount of fund balance was available and sufficient for that purpose.

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 2023-24 fiscal year consisted of the following:

- 2023-24 Mayor’s budget letter.
- 2023-24 Board of Education budget request.
- 2023-24 Proposed executive budget.
- Supplementary information.

The City’s proposed budget submitted to our Office is summarized in Figure 1.

Figure 1: 2023-24 City of Yonkers’s Proposed Budget					
Fund	Appropriations and Provisions for Other Uses	Estimated Revenue	Appropriated Fund Balance	Fund Transfers In/(Out)^a	Real Property Taxes
Board of Education Fund	\$702,680,632	\$411,524,021	\$0	\$291,156,611	\$0
General Fund	571,622,321	417,479,136	92,263,867	(352,817,725)	414,697,043
Debt Service Fund	65,390,098	0	2,111,732 ^b	63,278,366	0
Water Fund	41,538,400	46,488,524	4,618,558	(9,568,682)	0
Library Fund	11,124,825	60,886	54,503	11,009,436	0
Sewer Fund	8,495,222	11,076,764	792,714	(3,374,256)	0
Museum Fund	316,250	0	0	316,250	0
Total	\$1,401,167,748	\$886,629,331	\$99,841,374	\$0	\$414,697,043

a) Includes transfers to and from various funds.
b) Includes appropriated debt service fund balance for the education fund.

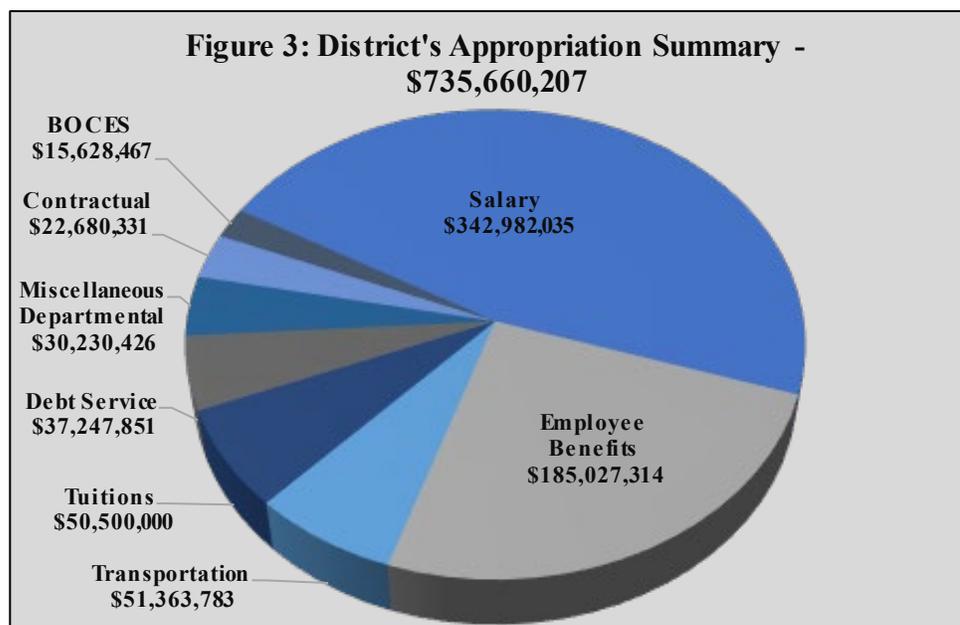
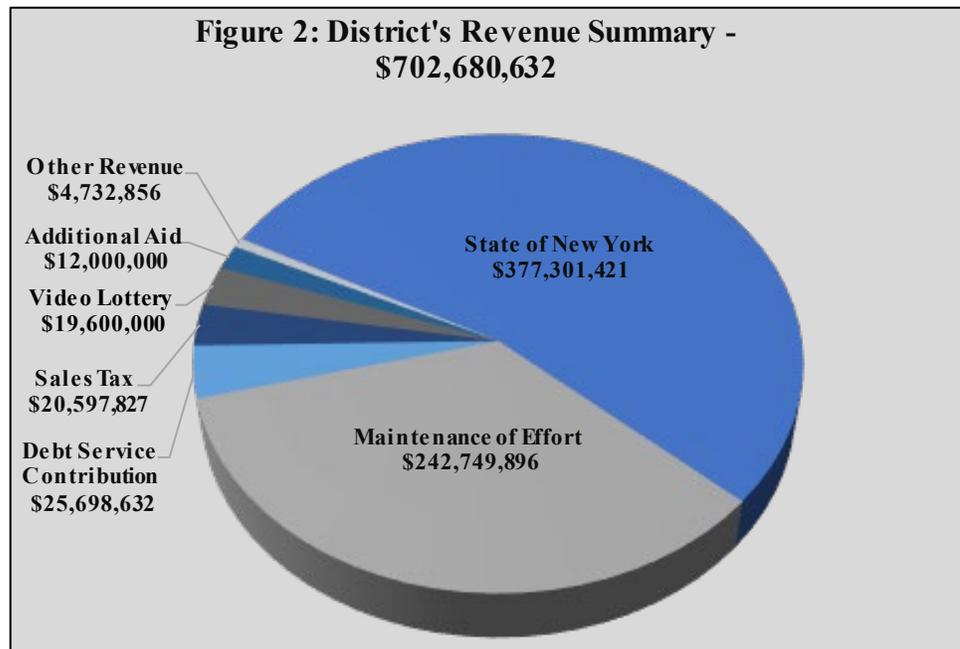
¹ <https://www.osc.state.ny.us/files/local-government/audits/2022/pdf/yonkers-budget-review-B22-6-5.pdf>

Our review disclosed the following issues which City officials should review for appropriate action. As noted above, Chapter 55 of the Laws of 2014 requires the City Council to make adjustments to the proposed budget consistent with our recommendations. We believe that any such adjustments will help improve the City’s financial condition.

Board of Education

The proposed budget submitted to our Office for the Board of Education (District) is summarized in Figures 2 and 3.

Budget Gap – The District’s 2023-24 budget request is \$735.7 million for appropriations. However, the City’s proposed budget contains revenues totaling \$702.7 million for the District. As a result, the District’s proposed budget is structurally imbalanced with a budget gap of at least \$33 million. City and District officials must resolve this gap between District revenues and appropriations.



State Funding for Basic Aid – The District’s 2023-24 proposed budget relies on \$364 million in State funding for basic aid, however, the State budgeted amount is \$362.8 million. Therefore the revenue for basic aid is overestimated by approximately \$1.2 million and the City must lower the revenue estimate in agreement with the State’s budget and work with District officials to resolve the gap between District revenues and appropriations.

Additional Aid – The District’s 2023-24 proposed budget relies on additional State aid of \$12 million for District services and expenses. Although the aid may provide relief in the 2023-24 budget, this funding source may not be available in future years. The City’s reliance on additional State aid to finance District operating expenditures may cause funding gaps in the future.

Contractual Settlements – The District’s 2023-24 proposed budget does not include a specific appropriation for contractual settlements. Four of the District’s union collective bargaining agreements (CBAs) expired June 30, 2022 (Figure 4). The District could face additional expenditures when these contracts are settled. Therefore, the District should be mindful to ensure appropriations are sufficient for these potential liabilities when contract agreements are reached.

Figure 4: CBA Expiration Dates	
Bargaining Unit	CBA Expiration Date
Civil Service Employees Association Yonkers Non-Teaching Unit 9169, Local 1000, American Federation of State, County and Municipal Employees, Westchester Local 860	June 30, 2022
Teamster Local 456	June 30, 2022
Yonkers Council of Administrators	June 30, 2022
Yonkers Federation of Teachers	June 30, 2022

Charter School Tuition – The District’s 2023-24 proposed budget includes an appropriation of \$16.5 million for charter school tuition, which includes a projected increase in enrollment of 40 students. However, enrollment for 2023-24 could increase by approximately 57 students based on prior year trends. Therefore, the District’s budgeted amount for charter school tuition payments may be underestimated by approximately \$687,000.

Workers' Compensation – The District’s 2023-24 proposed budget includes an appropriation of \$4.7 million for workers’ compensation. The District spent \$4.5 million on workers’ compensation in 2021-22 and approximately \$3.4 million (as of March 31, 2023). Based on trends using an eight percent growth rate, we project that the District will spend \$5 million in 2023-24. Therefore, the appropriation for workers’ compensation is likely underestimated by approximately \$300,000.

Contingency – Contingency accounts are used by local governments as a means of providing funding for unexpected events. The District’s 2023-24 proposed budget includes \$5.3 million for contingency; this amount is less than one percent of the District’s budgeted appropriations. However, given the potential increased current year wages from unsettled contracts and potential cost overruns from current economic conditions, this may exhaust the current amount budgeted; leaving limited flexibility to cover any other unforeseen or unexpected costs. District officials should consider establishing a contingency appropriation at a level that will provide the District with adequate funding for any significant unforeseen or unexpected costs.

City of Yonkers

Nonrecurring Funding Sources

We previously expressed concerns about the City’s continuous practice of balancing its budget by financing recurring operating expenditures with nonrecurring funding sources. However, officials continue using this practice as their 2023-24 proposed budget uses nonrecurring funding of \$112.3 million to finance operating expenditures. This nonrecurring funding includes appropriated fund balance, one-time State funding, and the sale of property.

Fund Balance² –

The City is projecting unassigned general fund balance of \$159.6 million as of the end of the 2022-23 fiscal year. The City appropriated \$92.3 million, or approximately 58 percent of the

Figure 5: Fund Balance					
Fund	Fund Balance Appropriated	Projected Fund Balance Available	Percent Used	Fund Balance Available Per Act	Percent Used
Board of Education Fund	\$0	\$66,095,289	0.0%	\$40,737,571	0.0%
General Fund	\$92,263,867	\$159,567,751	57.8%	\$98,670,463	93.5%
Debt Service Fund ^a	\$2,111,732	\$2,128,904	99.2%	\$2,261,066	93.4%
Water Fund	\$4,618,558	\$11,186,243	41.3%	\$6,494,513	71.1%
Library Fund	\$54,503	\$306,582	17.8%	\$54,503	100.0%
Sewer Fund	\$792,714	\$1,748,805	45.3%	\$883,176	89.8%

a) Includes appropriated debt service fund balance for the education fund.

projected fund balance, in the 2023-24 proposed budget. In addition to appropriating fund balance in the general fund, the City appropriated \$4.6 million of water fund balance, \$2.1 million of debt service fund balance, \$792,714 of sewer fund balance, and \$54,503 of library fund balance (Figure 5).

The City’s use of fund balance to close gaps in the budget decreases the fund balance that is available to cover unforeseen circumstances, shortfalls in revenue or cash flow needs. City officials may have to replace this nonrecurring revenue in future budgets.

Overall, the City is relying on \$112.3 million of nonrecurring revenue – such as appropriated fund balance, one-time State funding, and sale of property – to finance its 2023-24 operations. Although this funding provides relief in the 2023-24 budget, it may not be available in future years. Therefore, a potentially significant funding gap may occur in the 2024-25 fiscal year that the City must address by finding alternative sources of revenue or reducing appropriations.

² To comply with the requirements of the Fiscal Agent Act (Laws of 1976, Chapter 488, as amended) and the City’s related bond covenants, the City’s 2023-24 adopted budget may not appropriate fund balance in excess of the aggregate of the fund balance of the various operating funds of the City as of the end of the 2021-22 fiscal year.

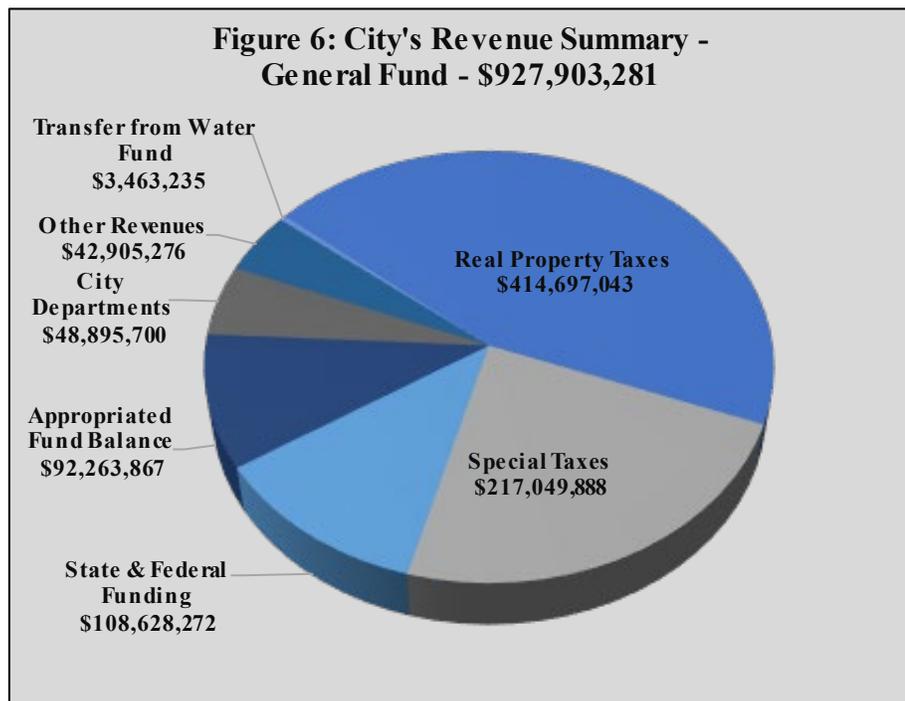
Revenues³

The proposed budget submitted to our Office for the City's general fund revenues is summarized in Figure 6.

Income Tax Surcharge

– The 2023-24 proposed budget includes City income tax surcharge revenues of \$65.5 million. The Tax Law authorizes the City to enact a local law to impose an income tax surcharge on City residents and non-residents who work within the City's

boundaries. Under current law, the surcharge only applies to taxable years beginning before 2024; therefore, the New York State Legislature will have to extend the Tax Law authorizing the imposition of this surcharge for the City to potentially realize this revenue estimate. If the Tax Law is not extended, the City could face a \$49.1 million revenue shortfall, as it would only receive 25 percent of the revenue projected for the first quarter.



If the Tax Law is extended, the 2023-24 proposed revenue is \$65.5 million. This is a \$1.4 million increase over the \$64 million we project the City will receive in revenue for the 2023-24 fiscal year. We based our projection on a 5 percent decrease from 2022-23 projected revenue, as declines are forecasted in the New York State Executive Financial Plan. The City could face a shortfall in revenue of approximately \$1.4 million if revenue estimates are not realized. City officials should reassess whether this increase is achievable and, if not, lower the income tax surcharge revenue estimate.

Sales and Use Tax and Sales and Use Tax – Education – The 2023-24 proposed budget includes City sales and use tax including education revenues of \$122.4 million. The Tax Law authorizes the City to impose an additional sales tax of .5 percent to be used for education; this law,

³ If any of the revenues discussed in this section are included in the City's adopted budget in an amount which exceeds the amount of such revenue either realized in 2021-22 or "properly attributable" to 2022-23, then the City must submit a "justification document" with respect to the excess before the adopted budget may be approved under the Fiscal Agent Act and bond covenants. If the amount of any such revenue included in the City's adopted budget requires an increase in a rate or charge, the City must act to increase the rate or charge before the justification document can be approved under the Fiscal Agent Act and bond covenants. Similarly, if the amount of any such revenue included in the City's adopted budget requires enactment of State legislation, the legislation must be enacted before the justification document can be approved.

however, is due to expire on November 30, 2023. Therefore, the New York State Legislature will have to extend the law authorizing the imposition of this tax for the City to potentially realize this revenue estimate. If the Tax Law is not extended, the City could face a \$11.9 million revenue shortfall, as it would only receive this revenue for the first five months of the 2023-24 fiscal year.

If the Tax Law is extended, the 2023-24 proposed revenue is \$122.4 million. This is a \$627,000 increase over the \$121.8 million we project the City will receive in the 2023-24 fiscal year. We based our projection on 2022-23 revenue projections and 2021-22 actuals. The City could face a shortfall in revenue of approximately \$627,000 if revenue estimates are not realized. City officials should reassess whether this increase is achievable and, if not, lower the sales and use tax including education revenue estimate.

City and State Mortgage Tax – The 2023-24 proposed budget includes city and state mortgage tax revenues of \$6.4 million. The Tax Law authorizes the City to impose an additional mortgage recording tax of \$0.50 per \$100 of mortgages; this law, however, is due to expire on August 31, 2023. Therefore, the New York State Legislature will have to extend the law authorizing the imposition of this tax for the City to potentially realize this revenue estimate. If the Tax Law is not extended, the City could face a \$5.3 million revenue shortfall, as it would only receive this revenue for the first two months of the 2023-24 fiscal year.

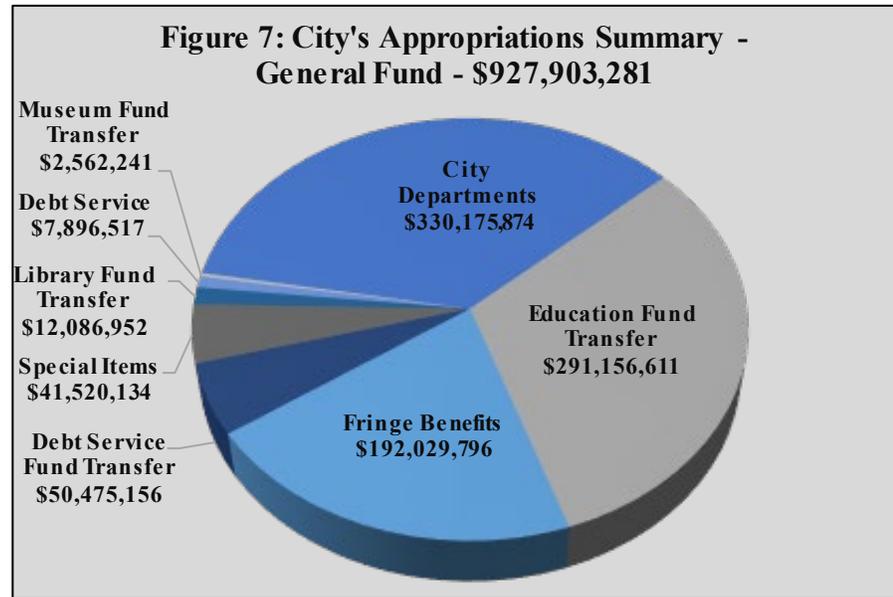
Metered Water Sales – The 2023-24 proposed budget includes metered water sales revenue of \$41.3 million, which is an increase of approximately \$5.9 million from the amount billed in the 2021-22 fiscal year. The City plans to increase rates for metered water sales by 4 percent. We project that the City will receive approximately \$40 million in the 2022-23 fiscal year. If rates are increased by 4 percent, we project revenues of \$41.6 million for 2023-24. This amount appears reasonable but requires the City Council to either raise water rates before adopting the budget or lower the estimates for metered water sales revenue.

Sewer Rents – The 2023-24 proposed budget includes sewer rents revenue of \$10.8 million, which is an increase of approximately \$2.5 million from the amount billed in the 2021-22 fiscal year. The City plans to increase rates for sewer rents by 12 percent. We project that the City will receive approximately \$9.8 million in the 2022-23 fiscal year. If rates are increased by 12 percent, we project revenues of \$10.9 million for 2023-24. This amount appears reasonable but requires the City Council to either raise sewer rates before adopting the budget or lower the estimates for sewer rents.

Appropriations

The proposed budget submitted to our Office for the City's general fund appropriations is summarized in Figure 7.

Tax Certiorari – The 2023-24 proposed budget includes \$500,000 for payment of tax certiorari claims, which is low compared to the \$1.3 million in tax certiorari payments that the City has made so far in 2022-



23. The City bonded to pay tax certiorari claims in prior years and proposed legislation to bond up to \$15 million for 2023-24 payments. The continued practice of using debt to pay for these recurring costs is imprudent. Refunds attributable to tax certiorari claims are a recurring cost of operations and should be paid from annual appropriations. The City will incur additional debt and interest costs by bonding the cost of tax certiorari claims instead of financing them through the operating budget.

Contractual Settlements – The City's 2023-24 proposed budget includes payments for contractual settlements of \$8.5 million. Five of the City's eight CBAs have expired or will expire soon (Figure 8). The City could face additional expenditures when these contracts are settled. Therefore, the City Council should be mindful to ensure appropriations are sufficient for these potential liabilities when contract agreements are reached.

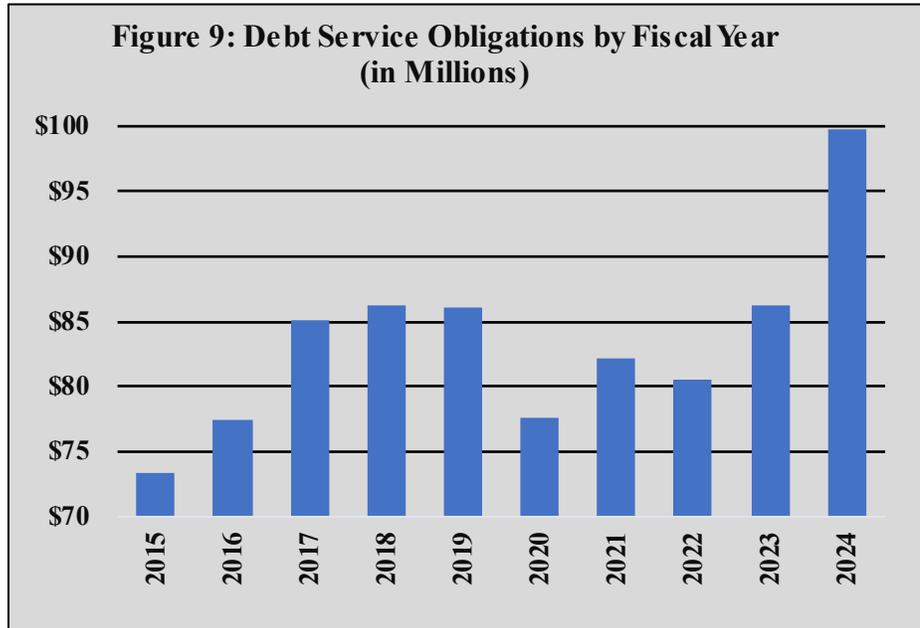
Figure 8: CBA Expiration Dates	
Bargaining Unit	CBA Expiration Date
American Federation of State, County and Municipal Employees Local 1897, Council 66	June 30, 2020
Service Employees International Union Local 704	December 31, 2023
Service Employees International Union Local 704B	June 30, 2019
Teamster Local 456	December 31, 2023
Teamster Managers Local 456	June 30, 2020
Yonkers Uniformed Fire Officers Association	June 30, 2019

Contingency – Contingency accounts are used by local governments as a means of providing funding for unexpected events. The City's 2023-24 proposed budget includes \$5.5 million general fund contingent reserve; this amount is less than one percent of the City's general fund budgeted appropriations. However, given the potential increased current year wages from unsettled contracts and potential cost overruns from current economic conditions, this may exhaust the current amount budgeted; leaving a limited flexibility to cover any other unforeseen

or unexpected costs. City officials should consider establishing a contingency appropriation at a level that will provide the City with adequate funding for any significant unforeseen costs.

Debt

The City's outstanding debt has grown by 35 percent over the last 10 years. Since 2015, the City's annual debt service obligations have risen by \$26.3 million (35.9 percent) (Figure 9). The City will need \$99.7 million⁴ to service its debt obligations during 2023-24. This amount represents about 7.1 percent of the City's annual budget. A contributing factor to the debt increases is



the City's continuing practice of bonding for recurring expenditures, such as tax certiorari costs, which should be included in budgeted appropriations.

Tax Cap Compliance

General Municipal Law Section 3-c (Law) established a tax levy limit for local governments, which was effective beginning in the 2012 fiscal year. The Law generally 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 adopts a local law to override the tax levy limit.

The City's proposed 2023-24 budget includes a tax levy of \$414,697,043. At the time of this review, we did not have enough information regarding several of the City's special assessments to conclude on the City's tax cap compliance. As a result, in adopting the 2023-24 budget, the City Council should be mindful of the legal requirement to adopt a budget that includes a tax levy no greater than the tax levy limit, unless it adopts a local law to override the limit. In addition, if uncertainty exists as to whether a particular charge is subject to the tax levy limit, the City Council should consult with their attorney.

⁴ Excluding appropriations under GASB 87 and 96 that were added to the debt service fund starting 2023-24 totaling \$9.2 million.

Recommendations

The City Council must:

1. Work with District officials to create a structurally balanced budget and eliminate the \$33 million gap in the District's budget request.
2. Work with District officials to review the estimate for state funding for basic aid and amend it as appropriate.
3. Pass a resolution to raise water rates before adopting the budget or lower the estimate for metered water sales.
4. Pass a resolution to raise sewer rents before adopting the budget or lower the estimate for sewer rents.

City officials should:

5. Work with District officials to develop a plan to fund operations and discontinue the practice of relying on one-time revenues to finance recurring expenditures.
6. Work with District officials to consider adding an appropriation for the potential exposure related to contractual settlements.
7. Work with District officials to review the estimate for charter school tuition payments and amend it as necessary.
8. Work with District officials to review the estimate for workers' compensation and amend it as necessary.
9. Work with District officials to review the estimate of contingency and adjust it to an appropriate level if needed.
10. Develop a plan to fund operations and discontinue the practice of relying on one-time revenues to finance recurring expenditures.
11. Develop a plan to maintain fund balance at a reasonable level to ensure funds are available in case of unanticipated expenditures or a shortfall in revenues during the fiscal year.
12. Review the estimate for income tax surcharge and amend as necessary.
13. Review the estimate for sales and use tax including education and amend as necessary.
14. Review the estimate for city and state mortgage tax and amend as necessary.

15. Consider adjusting the appropriation for tax certiorari payments and provide a financing source for tax certiorari settlements.
16. Review the estimate for contractual settlements and amend as necessary.
17. Review the estimate of contingency and adjust it to an appropriate level if needed.
18. Review outstanding debt and alternatives to borrowing, in particular for operating expenditures such as tax certiorari payments, to reduce the continuous increase in outstanding debt over the last 10 years.

The City Council has the responsibility to initiate corrective action. Pursuant to Chapter 55 of the Laws of 2014, the City Council must review the recommendations in this report and adjust the proposed budget consistent with the recommendations contained in this report.

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

We hope this information is helpful as you adopt the upcoming budget. If you have any questions on the scope of our work, please contact Dara Disko-McCagg, Chief Examiner of our Newburgh Office, at (845) 567-0858.

Sincerely,

Elliott Auerbach
Deputy Comptroller

cc: Vincent E. Spano, City Clerk
John Liszewski, Commissioner of Finance
John Jacobson, Budget Director
Dr. Edwin Quezada, Superintendent of Schools
Rev. Steve Lopez, President, Board of Education
Dr. Rosalba Corrado Del Vecchio, Vice President, Board of Education
Amjed Kuri, Trustee, Board of Education
Rosemarie P Linton, Trustee, Board of Education
Kevin Cacace, Trustee, Board of Education
Dr. John Castanaro, Trustee, Board of Education
Shiela Greenwald, Trustee, Board of Education
Gail Burns, Trustee, Board of Education
Lawrence Sykes, Trustee, Board of Education
Hon. Carl Heastie, Speaker of the House, NYS Assembly
Hon. Crystal Peoples-Stokes, Majority Leader, NYS Assembly
Hon. William Barclay, Minority Leader, NYS Assembly

Hon. Helene E. Weinstein, Chair, Assembly Ways and Means Committee
Hon. Andrea Stewart-Cousins, President Pro Tempore and Majority Leader, NYS Senate
Hon. Robert Ort, Minority Leader, NYS Senate
Hon. Liz Krueger, Chair, Senate Finance Committee
Hon. Shelley Mayer, Chair, Senate Committee on Education
Dr. Betty Rosa, Commissioner, NYS Education Department
Dr. Harold Coles, Superintendent Southern Westchester BOCES
Robert Megna, Director, NYS Division of Budget
Dara Disko-McCagg, Chief Examiner, Newburgh Regional Office