ERIE COUNTY FISCAL STABILITY AUTHORITY ANALYSIS OF THE ERIE COUNTY 2013-2016 FINANCIAL PLAN October 26, 2012

INTRODUCTION

This report details the analysis and comments of the Erie County Fiscal Stability Authority (ECFSA) in its review of Erie County's 2013 budget and associated financial plan. The ECFSA is charged with reviewing the county's submission in light of opining on reasonableness and do-ability. Under the legislation that created the Authority, within 20 days of receiving the county's submission, the ECFSA is required to determine, in its best judgment, whether the budget and plan are in balance.

Major assumptions in the financial plan include:

- Sales tax growth of 2.75% per year for 2014, 2015 and 2016. The 2013 base year is 3.65% above the 2012 budget and 3% above anticipated amounts for 2012 (per the August Budget Monitoring Report forecast).

- Real Estate Market Value Growth, impacting the county's property tax levy, is assumed to increase by 1% per year for 2014 through 2015 and by 2% for 2016.

- The county portion of the property tax levy increases by $5.8 million in 2013, $2.2 million in 2014, $2.3 million in 2015 and $4.6 million in 2016, an increase of $14.9 million over the period of the plan.

- An 8% annual increase in health insurance rates.

- The continuation of the library system's current structural relationship with the county – the libraries do not become a separate taxing jurisdiction

- Personal services expenses increase for step and longevity increments and for the addition of positions in the Jail Management Division of the Sheriff's Office to remain in compliance with the New York State Commission of Correction's report.

- Overtime expense is assumed to be cut approximately in half by 2015 as compared to 2011 actuals.

- Annual capital borrowing of $38.9 million for 2013.

- The plan, as presented, shows no gap for 2012 and shows surpluses for 2014, 2015 and 2016.

MAJOR DIFFRENECES/ASSUMPTIONS - OCTOBER 2012 TO APRIL 2012 PLANS

Major revenue and spending revisions from the previous version of the plan include:

- Real Estate Market Growth and resulting property tax levies have been adjusted. The current plan calls for 1% annual increases over the 3 of the next 4 years, with a 2% increase in 2016. The previous version assumed an annual 1% increase.

- The Property Tax levy has increased by $10.95 million for the 2013-2015 period, as compared to the previous submission.

- The Library system remains under the county structure with a dedicated tax levy.

- Full time salaries have increased by $3.86 million for the period 2013-2015.

- Anticipated overtime spending has been reduced significantly. Allocations for overtime expenses have decreased by $17.27 million over the period 2013-2015. Overtime expenses in the final year of the plan ($8.65 million) assume a 48% reduction in this item as compared to 2011 actuals of $17.3 million.

- Due primarily to the addition of 33 positions related to the New York State Commission of Correction report and the reclassification of 18 Regular Part Time (RPT) positions to full-time in the County Clerk's office to remain in compliance with labor tenets, the county is adding 56 positions to the general fund in 2013 (as compared to the 2012 adopted budget) and is carrying those positions forward through 2016.

- Fringe benefit rates have been increased, due primarily to an increase in workers compensation expenses and health insurance costs.

- County stated "gaps" are greater in the most recent version of the plan as compared to the previous one. In April 2012, the cumulative county surpluses totaled $14.1 million, in the October 2012 plan; the surpluses are $2.2 million, a reduction of $11.9 million.

- The 2013 fiscal year assumes the use of $5.4 million in fund balance as revenue to balance the budget.

PLAN ASSESSMENT

With the allocation of $5.4 million in fund balance, the County's 2013 budget is balanced. The plan lists a cumulative surplus over the 2013-2016 plan period of $2.2 million. The current plan "gap" is an increase of $11.9 million over the common years of the current and previous financial plan.

The following is a comparison of current and previous plan annual gaps (in millions of $'s):

	2013	2014	2015
Current Plan Gap	$0.00	($0.4)	($ 0.7)
Previous Plan Gap	($0.02)	($2.7)	($10.3)
Difference	**$0.02**	**$2.3**	**$9.6**

Baseline Estimates

There are a number of risk items included in the baseline of the plan that are cause for attention:

1. ***Sales Tax Revenues*** – The plan shows a 3% increase in 2013 (over 2012 forecasted amounts), with 2.75% increases in 2014, 2015 and 2016. Given recent sales tax trends – a 1.8% increase in 2008, a 3.1% decrease in 2009, an increase of 2.3% in 2010 and an almost 4.5% increase in 2011 and a 3.15% anticipated increase in 2012, the plan forecasted increase appears reasonable.

   However, sales tax revenues are a large part of the budget (almost 28% of revenues) and a volatile revenue source for the county. The 10 year average increase in sales tax receipts for the county is just under 2.7%, while the average increase after a "down" year (a year in which sales tax receipts decrease, the most recent case is 2009) before the next "down" year, is almost 3.7%. If sales taxes were to follow the overall trend, revenues could fall short by $8 million over the period of the plan. Conversely, if revenues follow the "down" year trend, receipts could come in at $37 million above plan estimates.

2. ***Increasing Property Tax Assessments/Revenues*** – The county portion of the property tax levy for 2013 is $5.8 million greater than the adopted 2012 levy – a 2.66% increase. The levy increase was not accompanied by rising county property values. For 2013, real estate values in the county dropped by .018%.

   For 2014 and 2015, the property tax levy increases by only 1% per year. In 2016 property values/levy increases are assumed to be 2%. These growth assumptions, though greater than in the previous version of the plan appear to be reasonable. The cumulative 2013-2016 increase in the property tax levy, using 2012 as a base is $38.9 million.

   At the state level, there is an applicable property tax cap of 2%, or the rate of inflation (with certain exemptions and modifiers), whichever is lower, that could impact Erie County at some point. The current plan would not be impacted by that cap.

3. ***Staffing*** – Comparing the 2012 adopted budget to the 2011 adopted budget, the county added 142 net new full-time general fund positions, principally due to a 2011 mid-year requirement to change RPT titles to full-time to address a labor issue However, there was a reduction in position count in the 2012 adopted budget as compared to adjusted position figures for year-end 2011 (with 2011 ending in 3,599 full time positions as compared to the 2012 adopted count of 3,475). The 2013 proposed budget full-time position count of 3,531 is down from 3,599 as compared to year-end 2011.

   To comply with the directive from the Commission of Correction, 56 net new full time positions are added in 2013 with 27 more are to be added in 2014. The majority of those positions are being added to or in support of the county's Jail Management Division. The assumption for those positions is not only will they assist the county with compliance issues, but will materially reduce overtime, cutting it in half by 2015. The ECFSA urges the county to comprehensively look at efficiencies created through this and any other hiring to program and diligently monitor staffing changes that are intended to maintain mandated and non-mandated services in a cost-effective manner.

4. ***Vacancy Reductions/Turnover*** – Over the four year plan period, the county has forecasted the use of $2.55 million in vacancy savings to help balance its finances. In 2013, the county is budgeting $600,000, with an

increase to $650,000 per year starting in 2014. In 2012, thus far, the county has maintained a vacancy rate in the 4% to 5% range, with annualized savings running a multiple of the 2013 budget figure. Given the county's 2012 vacancy savings thus far, the figures being used in the budget and plan appear not only reasonable, but conservative, as well. However, use of vacancy savings in the plan reduces the county's arsenal of potential gap closing measures, should revenues not materialize to the degree anticipated in the forecast, or expenses exceed expectations.

5. ***Grants - County Share*** – The 2013 adopted budget increases appropriations for the county's share of grant programs by 28% over 2011 spending of $3.6 million. By 2016 the increase in this expense item is forecasted to exceed 40% as compared to 2011 actual spending. The county is anticipating federal and/or state reductions in grant funding for a number of programs that have shown merit and the county expects to step in and maintain those community programs. The ECFSA cannot comment on the efficacy of grant funded programs, but the Authority urges the county to strategically review a combination of grant funded and county funded programs to review service delivery alternatives and methods prior to simply taking on the local share of a defunded or reduced funded program.

6. ***Overtime*** – The current version of the plan as compared to the previous submission reduces overtime estimates significantly. Overtime is now assumed to be $17.3 million less over the 2013-2015 period than in the documents submitted in April of this year.

   Virtually all of the 2012 overtime budget of $13.6 million will be consumed by the end of October. Assuming overtime accumulation continues at the same rate for the remainder of the year, the county will end up with a $3.6 million deficit in this account for the current year.

   The plan anticipates overtime expenses of $13.4 million in 2013, $10.7 million in 2014, then $8.6 million in 2015, and $8.7 million in 2016. There is an assumption that additional Jail Management Division staff will significantly reduce overtime expenditures by 2015. However, the ECFSA has not been provided with specific programs to reduce these expenses. Adding staffing, without directed, consistent overtime management will not reduce this expense.

7. ***Fringe Benefits*** – The current version of the financial plan significantly increases projections for fringe benefit costs as compared to the April 2012 submission. An ECFSA review of the 2012-15 plan in May of 2012, indicated the risk of a sizeable shortage in fringe benefit expense projections for the 2012 budget and the overall plan through 2015. Subsequent Budget Monitoring Reports have documented 2012 shortages

in the two major sub-accounts sited by the ECFSA – workers compensation and health insurance.

The current version of the plan that calls for increases in workers comp and health insurance spending appears more in line with recent county trends. The previous plan assumed a 5% annual increase in health insurance rates. The current version assumes 8%. That percentage increase raises anticipated costs over the concurrent period of the plans by $38.5 million. Upward revisions in workers compensation costs have added $6.4 million over anticipated expenses in this account for the concurrent period.

With these revisions and an allowance for increased retirement costs, the fringe amounts listed in the plan appear reasonable.

8. ***Erie Community College*** – As Erie Community College's sponsor, the county provides a level of financial support to the College each year. The College in its 2012-13 budget lists a figure of $17,429,317. The county in its budget and plan submission lists a figure of $15,629,317. The difference appears to be the result of a capital component that is not presented in the college section of the county's financial plan.

   In previous versions of the plan, there was a significant non-reconciled difference between the level of support assumed by the county and that of the college. In the most recent revisions of their respective plans, there is no longer a material difference in the county level of support between the organizations.

9. ***Settlement of Labor Agreements*** – CSEA, the county's largest labor union rejected the most recent county contract proposal by a ratio of 3-1. There appear to be no significant discussions going forward between county and union leadership. The county has had discussions with the Teamsters, but there appears to be no imminent settlement.

   Absent successful negotiations, the imposition of contracts with these labor unions may lie with the Erie County Legislature. The Legislature is empowered to impose annual financial settlements, without any changes in benefits or work rules. There is no provision in the plan for contract settlement salary increases.

   According to information provided by the county, 2013 salaries for these two unions alone total over $132 million in 2013 (prior to reimbursements); thereby making any future settlement not included in the plan a significant financial liability for the county.

10. ***Library*** – The current version of the plan includes a 2013 dedicated library property tax levy that increased by $2.3 million over 2012. Future increases in the library levy mirror the county's property tax inflation factors of 1% per year in 2014 and 2015, then increasing to 2% in 2016.

11. ***Jail Management Division*** - Staffing and overtime in the County's Jail Management Division have been issues for the county for a number of years. County Law Enforcement officials have pointed to excessive overtime and related fatigue as contributing factors in a public safety issues that have been problematic for a period of time. The NYS Commission of Correction (COC) has been monitoring excessive overtime in the county lockup and corrections facility and has issued a report calling for the addition of 72 new sworn positions that have been incorporated into the plan. It is assumed that the additional full time positions will result in a significant reduction in Jail Management Division overtime spending.

12. ***Erie County Medical Center Corporation*** – At the end of 2009, an agreement was signed by the county that would essentially establish a base of $16.2 million as an annual financial transfer from Erie County to the Medical Center Corporation. It was anticipated, when the agreement was signed, that the amount of support would remain fairly constant, thereby allowing both the county and hospital corporation to have a consistent, agreed upon ECMCC revenue and related county expense. However, increases in Disproportionate Share (DSH) and Intergovernmental Transfer (IGT) revenues for Hospital and Long Term Care functions (respectively) have apparently outstripped the base amount agreed to by the county.

    In 2011, the amount was $40,431,286. Despite reports earlier in 2012 of significant, anticipated overages as compared to the $16.2 million budgeted for ECMCC items, it appears that 2012 will end with ECMCC related UPL and DSH county spending topping out at $17.3 million - $1.1 million over budget. For the 2013-14 period the county is assuming continuation of that annual $16.2 million figure, with an increase of $2 million in 2015 to $18.2 million.

    In response to the potential threat of significant variations in ECMCC costs (particularly increases), the county has recently negotiated an agreement which uses a "credits" mechanism between the two entities to flatten out year-to-year expenses to provide the county and the Medical Center Corporation with steady, predictable expenses and revenues for the period of the plan. This agreement, in the short term, benefits Erie County's budget and cash flow, while holding ECMCC harmless.

    The county and ECMCC have come to agreement on two unresolved issues from the 2004 Sale Purchase and Operating Agreement (SPOA) between the two entities. The settlement calls for ECMCC agreeing to pay the county for outstanding workers comp liabilities of $28 million, while the county agrees to pay ECMCC the same amount for designated retiree health insurance liabilities.

Based upon previously reported 2012 DSH and UPL liabilities which appear to be pushed forward into 2013, and a potential overage in 2013 liabilities (above the $16.2 million budget forecast), the majority of the county's credits will be used by the end of the upcoming fiscal year. ECMCC's credits will remain at $2 million per year for 14 years starting in 2015.

13. ***Buffalo Bills*** – The Buffalo Bills lease is up in 2013. Media reports have pointed to the Bills looking for $200 million in capital improvements to Ralph Wilson Stadium as part of a new agreement. It is not clear as to who will underwrite those improvements.

14. ***Fund Balance*** - The county used fund balance to balance its 2011and 2012 budgets. The 2013 fiscal year assumes the use of $5.4 million in fund balance as revenue to balance the budget. The plan calls for no future usage.

Gap Closers

There is no stated financial gap for any year of the financial plan. However in response to an ECFSA request for information regarding alternatives to balance the plan if levels of revenues are not achieved or expenses run above predicted levels, the county responded that reducing g expenses is a consideration, including cutting positions, as is more aggressive vacancy control, utilizing fund balance and other available options.

At this point, there appear to be options to consider, should forecasts not come to fruition, but not specific plans to address any potential shortfalls over the period of the plan. The ECFSA would urge the county to consider more specific planning to ready contingencies in the event that negative financial outcomes occur over the period of the plan.

SUMMARY

The ECFSA's review of the county's 2013 budget and financial plan indicates that the forecasts, taken as a whole are reasonable and doable. However there are still a number of issues the county faces in moving forward.

Over the period of the plan, property taxes will cumulatively increase by almost $39 million using 2012 as a base. For 2013, overall property values in the county have gone down. As a result, the 2.66% increase in the county levy will be spread differently than in previous years. Property tax increases on some property owners whose values have not increased may prove to be more uncollectable, thereby increasing the county's expense for uncollectable taxes.

Sales tax is the largest single revenue source for Erie County, encompassing almost 28% of revenues in 2013. Since 2009, when sales tax revenues decreased as compared to the prior year, the county has benefitted from a significant increase in this revenue source. Outside of regularly reauthorizing the legislation to maintain this revenue, there is little the county can do to impact its growth. Given the potential volatility of this revenue source, the ECFSA urges the county to closely monitor receipts and make strategic decisions to maintain balanced budgets in the event that this major item does not meet expectations.

2013 budgeted full time salaries have increased by $9.2 million over the county's 2011 actuals, a 5.9% increase. In 2016, full time salaries will be $17.4 million higher than in 2011, an 11.25% increase. Despite the 2013 reduction in number of Executive Department positions, the county's labor force has grown. Between the 2011 adopted budget and the 2012 adopted budget there were 142 net full time additions to the county's general fund, most of which were reallocations from RPT to full-time to satisfy a labor issue. 56 net new positions have been added in 2013. There is an anticipation of 27 new positions in 2014. A majority of those positions are in the Jail Management Division.

Based on these statistics, the ECFSA urges the county to look at efficiencies and alternatives to providing services, both mandated and non-mandated to achieve the most cost effective government for residents and taxpayers of Erie County.

A number of staffing additions are intended to assist with compliance issues and significantly reduce overtime expense. The ECFA urges the county to program and closely monitor overtime, given the personnel additions, to provide reasonable assurance that overtime will be reduced to expected levels while not compromising compliance.

In this plan, the county is not listing any additional expenses for settling labor contracts. At some point, it would reasonable to anticipate the county will come to agreement with major unions. In those settlements, the ECFSA urges the county to come to agreements that will provide for reasonable wages for county workers while not overburdening county taxpayers who fund county operations.

Given the county's use of vacancy savings to help balance the budget and plan, the ECFSA urges the county to maintain a vacancy control program, while keeping budgeted vacancy savings at minimal levels.

The county has indicated that approximately 10% of its budget is discretionary, leaving 90% as mandated. Despite the overwhelming majority of spending being mandated, the ECFSA does entertain the notion that "mandated" does not mean pre-programmed or untouchable in all circumstances. Given that, the Authority looks to the county to review service models to determine the best and most cost-effective ways of providing both mandated and non-mandated services to those impacted by Erie County Government.

Erie County is the largest local government in Western New York, providing necessary and desired services to its over 900,000 residents. The ECFSA recognizes the inherent difficulty in meeting service user and taxpayer expectations, which at times conflict with one another. The Authority supports the efforts of county officials, workers and contractors to provide for county residents, without overburdening its taxpayers. We give kudos to those working to maintain a proper balance and urge the pursuit of efficiencies on behalf of the people of Erie County.