Warren C. Evans
Wayne County Executive

June 17, 2015

Mr. Nick Khouri, Treasurer
State of Michigan
Department of Treasury
Austin Building Executive Office
430 West Allegan Street
Lansing, Michigan 48922

RE: Request for Preliminary Review of the Charter County of Wayne

Dear Treasurer Khouri:

On January 1, 2015, I assumed the office of County Executive of the Charter County of Wayne, State of Michigan (the "County"). Since then, I have managed the County's daily operations and analyzed, with the assistance of outside consultants, the financial condition of the County. Based on the results of my analysis as described in this letter, I conclude that the County is facing numerous challenges that require proactive management to remediate. Therefore, I am requesting, pursuant to section 4(1)(a) of the Local Financial Stability and Choice Act, Act 436, Public Acts of Michigan, 2012 ("Act 436"), that a preliminary review be conducted to determine the existence of probable financial distress within the County.

Additionally, pursuant to Act 436, I hereby conclude, as described below, that 1 or more factors identified in section 5(3) of Act 436 exist or are likely to occur within the current or next succeeding fiscal year and threaten the County's capability to provide necessary governmental services essential to the public health, safety, and welfare. Therefore, I recommend that a financial emergency be declared in the County.

A. Financial Conditions Necessitating Request for a Preliminary Review

In addition to this request for a preliminary review pursuant to section 4(1)(a) of Act 436, the following other conditions exist within the County and meet the requirements for a preliminary review under section 4 of Act 436:

1. General Fund Deficits, section 4(1)(p) of Act 436, MCL 141.1544(1)(p). The County's General Fund accumulated a deficit of $157.5 million in fiscal year 2013 and $88.4 million in fiscal year 2014 in violation of section 21 of the Glen Steil State Revenue Sharing Act of 1971, Act 140, Public Acts of Michigan, 1971, as amended, MCL 141.921. Without taking any remedial measures to remedy this deficit, and even assuming continued transfers from the delinquent tax revolving fund (the "DTRF"), it is projected the County will face an accumulated unassigned deficit of $9.9 million in 2015, rising to $171.4 million in fiscal year 2019.

The operating deficits have been primarily caused by (1) a 21% reduction in tax revenue between fiscal year 2009 and fiscal year 2014, for an average annual decline of 4.5%; (2) significant legacy expenditures required under the terms of collective bargaining agreements with unions representing County employees, approaching $100 million annually; and (3) budget overruns by certain County departments caused in part by existing work rules under certain collective bargaining agreements.

2. Credit Rating, section 4(1)(r) of Act 436, MCL 141.1544(1)(r). The County's unlimited tax general obligation debt and limited tax general obligation debt are both rated below investment grade by all of the nationally recognized credit agencies. On February 6, 2015 Moody's Investors Service downgraded the County's general obligation debt to "Ba3" from "Baa3." On March 12, 2015, Fitch Ratings downgraded the County's limited tax general obligation debt to a "B" rating from "BB-." Fitch also downgraded the County's unlimited tax general obligation debt to "B" from "BB." On February 13, 2015, Standard & Poor's lowered its credit rating on the County's general obligation bonds to "BB+" from "BBB-" in part, because of the county's chronic structural imbalance, "brought on in part by cost overages in some of the county's major operating areas, such as the sheriff's department."[1]

3. Judgment Levy, section 4(1)(o) of Act 436, MCL 141.1544(1)(o). On May 29, 2015, a judgment was entered against the County in the total amount of $49,279,965 in the case of *Wayne County Employee's Retirement System (WCERS) v. the Charter County of Wayne*, case no. 10-013013-AW. While the County was able to appropriate certain funds to reduce the amount of the judgment, the County does not possess sufficient funds to satisfy the remaining portion. Therefore, counsel for the plaintiff filed the judgment with the County assessor pursuant to section 6093(3) of the Revised Judicature Act, Act 236, Public Acts of Michigan, 1961, as amended. The Board of Commissioners of the County (the "Commission") attempted to divert funds from the delinquent tax revolving fund to satisfy the judgment, but I vetoed that diversion of funds and my veto was not overridden. Therefore, a judgment levy will be placed on the tax rolls for the 2015 summer assessment, as prescribed by section 4(1)(o) of Act 436.

4. Additional Facts or Circumstances, section 4(1)(s) of Act 436, MCL 141.1544(1)(s). Wayne County's defined benefit pension plan is severely underfunded. The funding level is at 44% for County retirees and 58% for airport retirees. The total unfunded actuarial accrued liability was $896 million as of the September 30, 2013 valuation. The plan's funded status deteriorated from 95% to 45% from 2004 to 2013 and plan funding could drop to 39% by 2023.

   Additionally, the County still needs new or upgraded jail facilities. Given the County's

[1] http://bondcasebriefs.com/2015/02/24/news/sp-faq-wayne-charter-county-michigans-mounting-structural-financial-pressures-might-affect-credit-quality-bankruptcy-fears-premature/

liquidity constraints, the assumption of additional debt to renovate existing jail facilities or complete the mismanaged jail project is presently unsupportable without implementation of certain remedial measures by the County. It is anticipated that even the most conservative resolution to the County's aging jail facilities will cost an additional $100 plus million.

B. Factors Indicative of a Financial Emergency

I hereby conclude that the following factors indicative of a financial emergency exist or are likely to occur in the County:

1. Failure for a Period of 30 Days or More Beyond the Due Date to Transfer Any Contribution Required by a Pension, Retirement, or Benefit Plan, section 5(3)(b)(iii) of Act 436, MCL 141.1545(3)(b)(iii). As determined in the *WCERS* case, the Michigan Supreme Court and 3rd Circuit Court found that the County violated the Public Employee Retirement System Investment Act, Act 314, Public Acts of Michigan, 1965, as amended ("PERSIA"), by transferring funds held in the Inflation Equity Fund to reduce the County's annual required contribution under PERSIA. The County has not satisfied this judgment since its entry because the County does not possess sufficient cash on hand to make the payment and continue operations.

2. Failure to Eliminate an existing Deficit within the 2-year Period Preceding the Current Fiscal Year, section 5(3)(e) of Act 436, MCL 141.1545(3)(e). As previously noted, the County's General Fund accumulated a deficit of $159 million in Fiscal Year 2013. The County avoided ending Fiscal Year 2014 in deficit solely due to a transfer from the delinquent tax revolving fund.

3. Existence of a Structural Operating Deficit, section 5(3)(j) of Act 436, MCL 141.1545(3)(j). The County faces an existing structural operating deficit of $74.9 million in fiscal year 2015, without one-time, extraordinary transfers from the DTRF to the general fund. While a portion of the annual DTRF transfer could be considered ongoing annual revenues, a significant portion of the recent transfers represented one-time revenues. Without these continued transfers, the structural operating deficit is projected to remain roughly $70 million annually through 2019. Exacerbating this cash crisis, it is anticipated that property tax revenues will have limited to no growth due to the reassessment process being undertaken by the City of Detroit and uncontrollable costs associated with the County criminal justice system are difficult to project.

4. Other Facts Indicative of a Financial Emergency, section 5(3)(m) of Act 436, MCL 141.1545(3)(m). In addition to the factors listed in the section discussing the section 4 triggers for a preliminary review, the following factors indicate that the County is facing a financial emergency:

    a. The County General Fund has not had a positive cash balance since February of

2011.

b. The Wayne County Employee's Retirement System faces an unfunded accrued actuarial liability of $870 million as of September 30, 2014.

It is for these reasons that I recommend that a financial emergency be declared in Wayne County. As the County's fiscal situation will continue to deteriorate without further remedial measures, the time has come to rectify the County's structural deficit, and time is of the essence. If you have any questions regarding my recommendation, please do not hesitate to contact me.

Very truly yours,

Warren C. Evans
Wayne County Executive

cc: Wayne County Commission
Wayne County Clerk
Wayne County Treasurer
Wayne County Prosecutor
Wayne County Sheriff

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