

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

CITY OF PITTSBURGH,

Plaintiff,

v.

INTERGOVERNMENTAL
COOPERATION AUTHORITY FOR
CITIES OF THE SECOND CLASS;
HENRY SCIORTINO, Executive Director;
NICHOLAS D. VARISCHETTI, Chairman
of the Board; ELISE ROBY YANDERS,
Vice Chair of the Board; and MICHAEL I.
DANOVITZ, Secretary of the Board,

Defendants.

CIVIL DIVISION

No. GD15-011194

Code No. 020

**AMENDED COMPLAINT SEEKING
MANDAMUS, DECLARATORY AND
EQUITABLE RELIEF**

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

Brian P. Gabriel (PA ID 73132)
CAMPBELL DURRANT BEATTY
PALOMBO & MILLER, P.C.
535 Smithfield Street, Suite 700
Pittsburgh, PA 15222
Tel.: 412-395-1280
Fax: 412- 395-1291

Lourdes Sánchez-Ridge (PA ID 58685)
lourdes.sanchezridge@pittsburghpa.gov
City Solicitor and Chief Legal Officer
Law Department
313 City-County Building
414 Grant Street
Pittsburgh, PA 15219
Tel: 412-255-2015
Fax: 412-255-2285

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

CITY OF PITTSBURGH,

CIVIL DIVISION - EQUITY

Plaintiff,

v.

INTERGOVERNMENTAL
COOPERATION AUTHORITY FOR
CITIES OF THE SECOND CLASS;
HENRY SCIORTINO, Executive Director;
NICHOLAS D. VARISCHETTI, Chairman
of the Board; ELISE ROBY YANDERS,
Vice Chair of the Board; and MICHAEL I.
DANOVITZ, Secretary of the Board,

No. GD15-011194

Defendants.

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within TWENTY (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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11th Floor Koppers Building
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219
Telephone: (412) 261-5555

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

CITY OF PITTSBURGH,

Plaintiff,

AMENDED COMPLAINT IN EQUITY

v.

INTERGOVERNMENTAL
COOPERATION AUTHORITY FOR
CITIES OF THE SECOND CLASS;
HENRY SCIORTINO, Executive Director;
NICHOLAS D. VARISCHETTI, Chairman
of the Board; ELISE ROBY YANDERS,
Vice Chair of the Board; and MICHAEL I.
DANOVITZ, Secretary of the Board,,

No. GD15-01194

Defendants.

**AMENDED COMPLAINT SEEKING MANDAMUS,
DECLARATORY AND EQUITABLE RELIEF**

AND NOW, comes Plaintiff, City of Pittsburgh ("the City"), by and through its counsel, Brian P. Gabriel of Campbell Durrant Beatty Palombo & Miller, P.C., and Lourdes Sánchez-Ridge, City Solicitor and Chief Legal Officer, and files the within *Amended Complaint Seeking Mandamus, Declaratory and Equitable Relief*.

PARTIES

1. Plaintiff is the City of Pittsburgh, a city of the Second Class, a political subdivision of the Commonwealth of Pennsylvania, with offices located at 414 Grant Street, City-County Building, Pittsburgh, Allegheny County, Pennsylvania 15219.

2. The Mayor of the City of Pittsburgh is William Peduto, who was sworn in as Mayor on January 6, 2014.

3. Defendant, Intergovernmental Cooperation Authority for Cities of the Second Class ("ICA"), created by an act of the General Assembly of the Commonwealth of Pennsylvania and signed into law on February 21, 2004, has a mailing address of Suite 1010, Oxford Centre, 301 Grant Street, Pittsburgh, Allegheny County, Pennsylvania 15219.

4. Defendant Henry Sciortino is the Executive Director of the ICA, and has a mailing address in care of ICA, Suite 1010, Oxford Centre, 301 Grant Street, Pittsburgh, Allegheny County, Pennsylvania 15219.

5. Defendant Nicholas D. Varischetti is the Chair of the ICA Board, and has a mailing address in care of ICA, Suite 1010, Oxford Centre, 301 Grant Street, Pittsburgh, Allegheny County, Pennsylvania 15219.

6. Defendant Elise Roby Yanders is the Vice Chair of the ICA Board, and has a mailing address in care of ICA, Suite 1010, Oxford Centre, 301 Grant Street, Pittsburgh, Allegheny County, Pennsylvania 15219.

7. Defendant Michael I. Danovitz is the Secretary of the ICA Board, and has a mailing address in care of ICA, Suite 1010, Oxford Centre, 301 Grant Street, Pittsburgh, Allegheny County, Pennsylvania 15219.

BACKGROUND

8. On December 29, 2003, the Commonwealth of Pennsylvania Department of Community and Economic Development (DCED) declared the City of Pittsburgh to be financially distressed under the Municipalities Financial Recovery Act (Act 47), Act of July 10, 1987, P.L. 246, *as amended*, 53 P.S. §§ 11701.101—11701.501.

9. Act 47 is designed “to ensure fiscal integrity of municipalities while leaving principal responsibility for conducting the governmental affairs of a municipality, including choosing the priorities for and manner of expenditures based on available revenues, to the charge of its elected officials, consistent with the public policy set forth in this section.” See 53 P.S. § 11701.102(b)(1)(ii).

10. Act 47 prescribes detailed procedures to be followed with respect to the preparation, adoption, contents, implementation and amendment of a recovery plan. See 53 P.S. §§ 11701.221, 11701.241-249.

11. The financial plan is designed to alleviate the financially distressed status of the municipality by considering “[p]rojections of revenues and expenditures for the current year and the next five years, both assuming the continuation of present operations and as impacted by the measures in the plan” and is to include recommendations for paying debt, balancing the budget and improving the fiscal condition of the City. See 53 P.S. § 11701.241.

12. Additionally, Act 47 sets forth the procedures to be followed with respect to the Annual Budget for a financially distressed municipality. See 53 P.S. § 11701.247.1.

Act 11 and the Cooperation Agreement between the ICA/City

13. The Intergovernmental Cooperation Authority Act (“Act 11”) for Cities of the Second Class was signed into law on February 12, 2004. 53 P.S. §§ 28101-28707.

14. The purpose and legislative intent are described in 53 P.S. §§ 28101-28103.

15. Under Act 11, the ICA has a five member governing board, 53 P.S. § 28202, and its powers and duties are described in 53 P.S. § 28203.

16. Act 11 prescribes detailed procedures with respect to the preparation, adoption, contents, implementation and amendment of a financial plan. 53 P.S. § 28209.

17. The ICA and the City entered into an Intergovernmental Cooperation Agreement (“Agreement”) with an effective date of September 7, 2004. (Excerpts of Agreement attached as Exhibit “A.”)

18. The Agreement contains several provisions that mirror the provisions contained in Act 11, including those relating to the approval or non-approval of the City’s budget and the requirements for the withholding of funds. Ex. “A,” Agreement, §§ 3.06-3.08.

19. Section 209 of Act 11 includes a requirement that the City adopt a balanced budget each year consistent with applicable law. 53 P.S. § 28209(f).

20. Additionally, Section 209 sets forth procedures and standards for the ICA’s review of the financial plan for two scenarios: review and approval or review and disapproval. 53 P.S. § 28209(g) and (h).

21. In the case of review and approval, the ICA must determine that: “(i) the financial plan projects balanced budgets, based upon prudent, reasonable and appropriate assumptions . . . for each year of the plan; and (ii) the proposed operating and capital budget are consistent with the proposed financial plan.” 53 P.S. § 28209(g).

22. The Agreement sets forth the same standards through nearly identical provisions. Ex. “A,” Agreement, § 3.06(a), (b).

23. In the case of review and disapproval, the City is required to submit a revised financial plan and, if the ICA finds the statutory criteria satisfied, it “shall approve such financial plan by majority vote.” If the ICA does not approve, it must “certify” the City’s “noncompliance with the financial plan to the Secretary of Budget, the President pro tempore of the Senate and the Speaker of the House of Representatives.” 53 P.S. § 28209(h).

24. The Agreement sets forth the same standards through nearly identical provisions. Ex. “A,” Agreement, § 3.07.¹

25. Act 11 also prescribes when the Commonwealth shall withhold funds. 53 P.S. § 28210(e).

26. The “withholding” of funds under Act 11 is predicated upon certification to the Secretary of the Budget by the ICA that the “city’s noncompliance with the financial plan during any period when the authority has determined by the vote of a majority that the assisted city has not adhered to the plan and has not taken acceptable remedial action during the next quarter following such departure from the plan.” 53 P.S. § 28210(e)(1). Additionally, the ICA shall certify noncompliance if the city: “(i) has no financial plan approved by the authority, has failed to provide requested documents or has failed to file a financial plan with the authority; or (ii) has failed to file mandatory revisions to the plan or reports as required by section 209(i), (j), (k) or (l).” 53 P.S. § 28210(e)(2).

27. When the ICA certifies noncompliance under Section 210(e)(1) or (2) of Act 11,

¹ Section 3.07 of the Agreement differs from Section 202(h) by providing that the ICA shall certify the City’s noncompliance to the Secretary of the Budget and omits any reference to the Senate or House.

[T]he Secretary of the Budget shall notify the city that such certification has been made and that each grant, loan, entitlement or payment to the assisted city by the Commonwealth shall be suspended pending compliance with the financial plan. Funds withheld shall be held in escrow by the Commonwealth until compliance with the plan is restored as set forth in paragraph (4). Funds held in escrow pursuant to this subsection shall not lapse pursuant to section 621 of the act of April 9, 1929 (P.L. 177, No. 175), known as the Administrative Code of 1929, or any other law.

53 P.S. § 28210(e)(3).

28. The Agreement reiterates the same standards for withholding upon certification of noncompliance, except that it adds the following sentence: "Similarly, the Authority may suspend disbursements from the City Account or the New Revenue Account pending compliance with an Approved Financial Plan." Ex. "A," Agreement, § 3.16(b).

29. At all times relevant to this Amended Complaint, the City of Pittsburgh has adhered to and complied with the procedures and requirements of Act 47, including those relating to the recovery plan and annual budget.

30. At all times relevant to this Amended Complaint, the City of Pittsburgh has adhered to and complied with the procedures and requirements of Act 11, including those relating to the financial plan and annual budget.

31. At no time has the ICA communicated or certified that the City was noncompliant as described in § 209(h) of Act 11 or § 3.07 of the Agreement.

Act 71 of 2004

32. The Pennsylvania Race Horse Development and Gaming Act ("Act 71") was signed into law on July 5, 2004, and provides for the regulation and policing of gaming activities within the Commonwealth. 4 P.S. §§ 1101-1904.

33. Act 71 establishes a State Gaming Fund and prescribes for net slot machine revenue distribution. 4 P.S. § 1403.

34. Relevant to the City, Act 71 provides that the Department of Revenue “shall

(3) From the local share assessment established in subsection (b), make quarterly distributions among the municipalities, including home rule municipalities, hosting a licensed facility in accordance with the following schedule:

(i) To a city of the second class hosting a licensed facility, other than a Category 3 licensed facility, 2% of the gross terminal revenue or \$10,000,000 annually, whichever is greater, shall be paid by each licensed gaming entity operating a facility located in that city. In the event that the revenues generated by the 2% do not meet the \$10,000,000 minimum specified in this subparagraph, the department shall collect the remainder of the minimum amount of \$10,000,000 from each licensed gaming entity operating a facility in the city and deposit that amount in the city treasury.”

4 P.S. § 1403(c)(3).

35. Act 71 also includes the following provision, which is cited by the ICA as the legal basis for withholding the gaming funds at issue:

Notwithstanding any other law, agreement or provision in this part to the contrary, all revenues provided, directed or earmarked under this section to or for the benefit of a city of the second class in which an intergovernmental cooperation authority has been established and is in existence pursuant to the act of February 12, 2004 (P.L. 73, No. 11), known as the Intergovernmental Cooperation Authority Act for Cities of the Second Class, shall be **directed to and under the exclusive control** of such intergovernmental cooperation authority **to be used**:

(A) **to reduce the debt** of the second class city;

(B) **to increase the level of funding of the municipal pension funds** of the second class city; or

(C) for any other purposes as determined to be in the best interest of the second class city by such intergovernmental cooperation authority. Such revenues shall not be directed to or under the control of such city of the second class or any coordinator appointed pursuant to the act of July 10, 1987 (P.L. 246, No. 47), known as the Municipalities Financial Recovery Act, for such city of the second class.

4 P.S. § 1403(c)(3)(xv).

36. Although Act 71 became law prior to the Agreement between the ICA and the City, there are no references in the Agreement to gaming funds or the withholding of same.

Approval of City's Budgets and Financial Plans

37. In October 2013, the ICA approved the City's proposed operating and capital budgets.

38. On May 30, 2014, the Municipal Financial Recovery Act Amended Recovery Plan was filed with the City Clerk.

39. The Amended Recovery Plan was subsequently revised and adopted by City Council on June 24, 2014. Appendix B of the Plan outlines the revenue projections with Amended Recovery Plan Initiatives Applied. Page 167 of the Plan includes \$10,000,000 annually from 2015-2018 (the term of the Plan) for gaming revenues (2% Local Share of Slots Revenue).

40. In accordance with Section 209 of Act 11 and Section 3.01(b) of the Agreement, the City submitted the 2015 Budget to the ICA on September 22, 2014.

41. On October 8, 2014 (revised October 14, 2014), the Act 47 Recovery Coordinator issued its 2015 Budget Review to Fred Reddig, Special Assistant for Act 47 and Local Government Affairs, DCED and Henry Sciortino, Executive Director of the

ICA. The primary purpose of this review is to identify and highlight variances with the 2014 Amended Recovery Plan. The communication did not identify any variances between the 2015 Budget and the 2014 Amended Recovery Plan related to the gaming revenues (2% Local Share of Slots Revenue), as both assume \$10,000,000 in annual revenue from the gaming revenues.

42. At its October 20, 2014 Board meeting, the ICA voted to disapprove of the City's budget and communicated the reasons in writing via the letter dated October 21, 2014.

43. On November 3, 2014, the City submitted a ten page response with attachments to the ICA.

44. On November 10, 2014, the Mayor submitted the 2015 Budget to City Council in accordance with the Home Rule Charter.

45. On November 11, 2014, the ICA voted to disapprove the proposed financial plan in an effort to reset the 15-day cure period and in its November 14, 2014 letter to the City, the ICA established a new resubmission deadline of December 4, 2014.

46. The list of 25 issues cited by the ICA as "Summary of Reasons for Operating Budget Disapproval" in the November 14, 2014 letter from Chairman Varischetti reflected the same list of 25 issues cited by the ICA in its October 21, 2014 communication to the City.

47. Based upon discussions between the Executive Director Sciortino and the City's finance team on December 2, 2014, the City provided an updated response where necessary.

48. On December 4, 2014, the City of Pittsburgh submitted a response to the ICA.

49. On December 15, 2014, the 2015 Budget was approved by City Council. The budget projects \$10,000,000 annually for the gaming revenues.

50. On December 19, 2014, the City Controller certified the revenues in accordance with Act 11, stating "The opinion of this office regarding the budgetary assumptions and estimates of the Mayor's submission was developed in accordance with generally accepted auditing standards."

51. The budget reviewed and certified by the City Controller included \$10,000,000 in revenue from the local share assessment of gaming funds.

52. On December 19, 2014, the ICA voted unanimously to approve the City's 2015 Budget, which included \$10,000,000 in gaming revenue.

53. At all times relevant to this Amended Complaint, the City of Pittsburgh has acted in good faith by communicating and compromising with the ICA throughout and beyond the budgetary review and approval process.

54. Despite its approval of the City's budgets for 2014 and 2015, the ICA has withheld all outstanding gaming revenues that were to be distributed in 2014 and 2015.

Defendants' Ongoing Withholding of Gaming Funds

55. The City's local share of the gaming funds is distributed quarterly by the Pennsylvania Department of Revenue.

56. Each quarter, the Department of Revenue issues a letter ("distribution letter") to Henry Sciortino, Executive Director of the ICA that includes the following text:

In accordance with the Pennsylvania Race Horse Development and Gaming Act of 2004, as amended, (the Act) the Department is required to distribute quarterly the Local Share Assessment collected to the municipalities in which a licensed gaming entity is located. The distribution is based on the amount of money collected.

Act 71 states that Pittsburgh's locally-generated share of gaming revenues are to be used for one of three purposes that benefit the City of Pittsburgh: (i) to reduce the City's debt; (2) to increase the funding level of the City's municipal pension funds; or (3) for any other purposes as determined by the ICA to be in the best interests of the City.

An ACH for the ____ quarter of 201__ payment in the amount of \$_____ should be deposited in your bank account within 3 – 5 business days.

57. On January 24, 2014, the Department of Revenue issued a distribution letter to the ICA for the fourth quarter of 2013 in the amount of \$5,685,271.45. (The January 24, 2014 letter is attached as Exhibit "B".)

58. On April 25, 2014, the Department of Revenue issued a distribution letter to the ICA for the first quarter of 2014 in the amount of \$1,409,958.66. (The April 25, 2014 letter is attached as Exhibit "C".)

59. On July 25, 2014, the Department of Revenue issued a distribution letter to the ICA for the second quarter of 2014 in the amount of \$1,371,898.76. (The July 25, 2014 letter is attached as Exhibit "D".)

60. On October 23, 2014, the Department of Revenue issued a distribution letter to the ICA for the third quarter of 2014 in the amount of \$1,411,017.05. (The October 23, 2014 letter is attached as Exhibit "E".)

61. On January 29, 2015, the Department of Revenue issued a distribution letter to the ICA for the fourth quarter of 2014 in the amount of \$5,807,125.53. (The January 29, 2015 letter is attached as Exhibit "F".)

62. On April 28, 2015, the Department of Revenue issued a distribution letter to the ICA for the first quarter of 2015 in the amount of \$1,383,976.14. (The April 28, 2015 letter is attached as Exhibit "G".)

63. On July 24, 2015, the Department of Revenue issued a distribution letter to the ICA for the second quarter of 2015 in the amount of \$1,417,205.47. (The July 24, 2015 letter is attached as Exhibit "H".)

64. All of the distributions identified in Paragraphs 55 through 63 have been withheld and none of these funds have been used for any purpose, let alone one of the three purposes permitted under 4 P.S. § 1403(xv).

65. The amount of withheld gaming funds to date for 2014 and 2015 is approximately \$12,801,181.60.

66. The amount of withheld gaming funds will increase to at least \$20,000,000 for 2014-15 if Defendants continue to improperly withhold same.

67. Defendants' withholding of funds is in direct conflict with their approval of the City's budget.

68. The Defendants' withholding of funds is contrary to and in violation of their statutory obligations, including those set forth in Act 11 and Act 71.

69. The City has submitted repeated requests to the ICA for the release of the outstanding funds, including letters to the ICA dated May 14, 2014, December 8, 2014, January 29, 2015, May 6, 2015, June 25, 2015, and August 3, 2015.

70. Defendants, however, have ignored and refused to release or otherwise direct the use of such funds to the financial detriment of the City and its taxpayers.

71. The ICA has not accounted for the funds withheld throughout 2014 and 2015, while the City has been deprived of substantial funds relied upon in the budgets.

72. The ICA's withholding of funds is without a reasonable or statutory basis.

73. While refusing to comply with their statutory obligations, Defendants have proffered the excuse that the withholding is tied to their dissatisfaction with the implementation of a payroll project initiated by the ICA and the prior City administration.

74. Defendants' proffered excuse is arbitrary, capricious and unlawful.

75. Defendants' proffered excuse is arbitrary and capricious because of the ICA's role with respect to the payroll project and the current City administration's substantial and effective efforts to rectify the problems associated with the payroll project.

76. Defendants' proffered excuse is arbitrary and capricious because the amount of gaming funds withheld bears no relationship to the costs of the project and limited expenses remaining to complete the same.

77. Defendants' proffered excuse is arbitrary and capricious because the ICA has articulated other reasons and motivations, as exemplified in a letter dated July 2, 2015, which have no connection to the project and no legal basis under Act 11, Act 71 or the Agreement.

78. Defendants' proffered excuse is arbitrary and capricious because it is based on a misinterpretation of Act 11, Act 71 and the Agreement.

79. Defendants have violated and continue to violate Act 11 and the Agreement by actually or constructively withholding the gaming funds subsequent to their approval of the City's budgets and financial plans.

80. Defendants have violated and continue to violate Act 71 because it contains no authorization for the withholding of gaming funds.

81. Defendants have violated and continue to violate Act 71 because it only authorizes the ICA to direct gaming funds “to be **used**” for one or more of three identified, statutory reasons.

82. Act 71 does not authorize the non-use or withholding of gaming funds and Defendants have not directed the gaming funds to be used for any purpose.

83. Defendants have not directed the gaming funds to be used “to reduce the debt of the City” under 4 P.S. § 1403(c)(3)(xv)(A).

84. Defendants have not directed the gaming funds to be used “to increase the level of funding of the municipal pension funds of the” City under 4 P.S. § 1403(c)(3)(xv)(B).

85. Defendants have not directed the gaming funds to be used “for any other purposes determined to be in the best interest of the” City under 4 P.S. § 1403(c)(3)(xv)(C).

86. To the extent that Defendants have determined or claim that it is in the best interest of the City to have the gaming funds withheld and collecting little or no interest, the ICA has misinterpreted Act 71.

87. To the extent that Defendants claim the right to withhold the gaming funds based upon purported “conditions” despite their prior approval of the City’s budget, the ICA has misinterpreted Act 11, Act 71 and the Agreement.

88. The ICA’s actions are contrary to their statutory role and purpose, which is supposed to stabilize and enhance the City’s fiscal condition.

**COUNT I – MANDAMUS RELIEF
CITY OF PITTSBURGH V. ICA**

89. The City of Pittsburgh incorporates by reference Paragraphs 1 through 88 above as though fully set forth.

90. An action in mandamus under Pa.R.Civ.P. 1091 *et seq.* is properly utilized to compel the ICA to carry out their statutory duties in a lawful manner.

91. Mandamus will also lie where the exercise or non-exercise of a governmental act is arbitrary, fraudulent or based upon a mistaken interpretation of the law.

92. Pursuant to Act 11, the ICA has a statutory duty not to withhold or cause the withholding of gaming revenues designated for the City of Pittsburgh for a budget year for which the ICA has approved the City's budget and/or financial plan.

93. Pursuant to Act 71, the ICA has a statutory duty not to withhold, cause to be withheld, or to otherwise prevent the use of gaming revenues designated for a second class city.

94. Despite repeated requests to refrain from the continued withholding of gaming revenues, the ICA has sat on its hands and refused to act in conformance with Act 11 and Act 71.

95. The City has a clear legal right to the use of gaming revenues designated for a second class city under Act 71.

96. The ICA's exercise or non-exercise of its statutory obligations is arbitrary, fraudulent and/or based on a mistaken view of the law.

97. Mandamus is necessary to compel proper action by the ICA in conformance with Act 11 and Act 71.

WHEREFORE, Plaintiff, City of Pittsburgh, respectfully requests that this Honorable Court enter an Order of Mandamus requiring the ICA to comply with Act 11 and Act 71 thereby permitting the use of the withheld gaming funds.

**COUNT II – DECLARATORY RELIEF
CITY OF PITTSBURGH V. ALL DEFENDANTS**

98. The City of Pittsburgh incorporates by reference Paragraphs 1 through 97 above as though fully set forth.

99. The purpose of an action under the Declaratory Judgments Act, 42 Pa.C.S. §§ 7531-41, is to settle and afford relief from uncertainty and insecurity with respect to the rights, status and legal relations of the parties.

100. An actual, justiciable controversy exists between the parties with respect to: (a) whether the ICA is permitted to withhold and continue to withhold gaming funds despite their prior approval of a budget that includes these revenues under Act 11 and the terms of the Agreement; and (b) whether the ICA is permitted to withhold and continue to withhold gaming funds under Act 71 and the terms of the Agreement.

101. No appropriate remedy exists without judicial intervention to resolve these issues as the ICA continues to withhold the gaming funds.

102. The declaration sought will be a practical help in terminating the pending dispute relative to the rights of the parties and the proper construction of Act 11, Act 71 and the Agreement as well as avoiding future litigation on the same issue.

WHEREFORE, Plaintiff, City of Pittsburgh, respectfully requests that this Honorable Court enter a judgment that declares:

- A. Act 11 and the Agreement do not authorize or permit the ICA to withhold gaming funds designated for a city of the second class under 4 P.S. § 1403(c)(3) for any budget year for which the ICA previously approved the City budget and financial plan that included such gaming funds as revenue.
- B. Act 11 and the Agreement do not authorize or permit the ICA to withhold gaming funds for the budget year 2014 as the ICA previously approved the City budget that included such gaming funds as revenue.
- C. Act 11 and the Agreement do not authorize or permit the ICA to withhold gaming funds for the budget year 2015 as the ICA previously approved the City budget that included such gaming funds as revenue.
- D. Act 71 does not authorize or permit the ICA to withhold gaming funds designated for a city of the second class under 4 P.S. § 1403(c)(3), and instead the ICA is authorized to direct that such gaming funds “to be **used**” for one or more of three identified, statutory reasons set forth in 4 P.S. § 1403(c)(3)(xv)(A-C).
- E. The ICA’s withholding of gaming funds designated for a city of the second class under 4 P.S. § 1403(c)(3) for the budget year 2014 does not comply with Act 71, 4 P.S. § 1403(c)(3)(xv)(A-C).
- F. The ICA’s withholding of gaming funds designated for a city of the second class under 4 P.S. § 1403(c)(3) for the budget year 2015 does not comply with Act 71, 4 P.S. § 1403(c)(3)(xv)(A-C).
- G. The ICA is required to release all gaming funds designated for a city of the second class and any direction regarding the use of such funds must comply with the approved budgets and 4. P.S. § 1403(c)(3).

**COUNT III – INJUNCTIVE RELIEF
CITY OF PITTSBURGH V. ALL DEFENDANTS**

103. The City of Pittsburgh incorporates by reference Paragraphs 1 through 102 above as though fully set forth.

104. The ICA is charged with responsibility for assisting the City in solving budgetary and financial problems and ultimately restoring fiscal integrity.

105. Defendants’ improper withholding of gaming revenues conflicts with their responsibility to aid the City with respect to its budgetary obligations and fiscal position.

106. The City has relied to its detriment upon the representations and official actions of the ICA, including the formal approval of the 2014 and 2015 budgets.

107. Defendants' course of conduct has impaired and will continue to impair the City's financial position and prevent the City from meeting its fiscal obligations.

108. Defendants' actions have and will continue to usurp the City's right to direct its financial affairs and conduct business in accordance with the approved budgets, financial plans and applicable law.

109. Defendants' actions have caused and will continue to cause irreparable financial harm by preventing the City from operating within and in accordance with the approved budget and recovery plan.

110. The City has no adequate legal remedy and can only avoid further financial harm through the issuance of an injunction that requires compliance with Act 11, Act 71 and the Agreement.

WHEREFORE, Plaintiff, City of Pittsburgh, respectfully requests that this Honorable Court enter an Injunction:

- A. precluding the Defendants' continued withholding of gaming revenues designated for the City and contained within the approved budgets and financial plans;
- B. restraining the Defendants from withholding the gaming revenues for 2014 and 2015;
- C. restraining the Defendants from asserting conditions or directing payments that are inconsistent with previously approved City budgets;
- D. enjoining the Defendants from the further withholding of gaming revenues under Act 71;
- E. enjoining the Defendants from the further withholding of gaming revenues under Act 11; and

F. grant such other and further relief which the Court deems just and appropriate.

Respectfully submitted,

CAMPBELL DURRANT BEATTY
PALOMBO & MILLER, P.C.

By: 

Brian P. Gabriel (PA ID 73132)
535 Smithfield Street, Suite 700
Pittsburgh, PA 15222
Tel: 412-395-1280
Fax: 412-395-1291

Lourdes Sánchez-Ridge (PA ID 58685)
lourdes.sanchezridge@pittsburghpa.gov
City Solicitor and Chief Legal Officer
Law Department
313 City-County Building
414 Grant Street
Pittsburgh, PA 15219
Tel: 412-255-2015
Fax: 412-255-2285

Counsel for Plaintiff,
City of Pittsburgh

Dated: August 3, 2015

INTERGOVERNMENTAL COOPERATION AGREEMENT

by and between

THE INTERGOVERNMENTAL
COOPERATION AUTHORITY FOR
CITIES OF THE SECOND CLASS

and

THE CITY OF PITTSBURGH

Dated as of September 7, 2004

EXHIBIT

A

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EXHIBIT "B" Principal Terms of Proposed
Extraordinary Contracts

EXHIBIT "B" Principal Terms of Proposed Bond
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INTERGOVERNMENTAL COOPERATION AGREEMENT

THIS INTERGOVERNMENTAL COOPERATION AGREEMENT made and entered into as of the 7th day of September, 2004, by and between The INTERGOVERNMENTAL COOPERATION AUTHORITY for Cities of the Second Class, a body corporate and politic constituting a public authority and instrumentality of the Commonwealth of Pennsylvania (the "Authority"), and the CITY OF PITTSBURGH, a city of the second class of the Commonwealth of Pennsylvania (as further described in Section 5.02(c) hereof, the "City");

W I T N E S S E T H:

WHEREAS, the General Assembly of the Commonwealth of Pennsylvania has enacted the Intergovernmental Cooperation Authority Act for Cities of the Second Class (Act of 2004, February 12, P.L. 73, No. 11) (the "Act"); and

WHEREAS, the Act declares it to be the public policy of the Commonwealth of Pennsylvania (the "Commonwealth") to exercise its retained sovereign powers with regard to taxation, debt issuance and matters of state-wide concern in a manner calculated to foster the fiscal integrity of cities of the second class to assure that these cities provide for health, safety and welfare of their citizens; pay principal and interest owed on their debt obligations when due; meet financial obligations to their employees, vendors and suppliers; and provide for proper financial planning procedures and budgeting practices; and .

WHEREAS, the Act further declares that the inability of a city of the second class to provide essential services to

the Financial Plan which reflect the results of the City's labor agreements with its employees, and an analysis of the financial effect on the City and its employees of changes in compensation and benefits, in collective bargaining agreements, and in other terms and conditions of employment, which changes may be appropriate in light of the City's current and forecast financial condition. The parties agree to cooperate such that the form of the report required under this paragraph (h), and the subjects covered, are reasonably satisfactory to the Authority.

Section 3.05. Authority Consultation with the City in Preparation of the Financial Plan.

The Authority shall consult with the City as it prepares its Financial Plan and may offer such assistance and advice as the Authority deems appropriate.

Section 3.06. Authority Review and Approval of the Financial Plan.

(a) The Authority shall promptly review each Financial Plan, proposed operating budget and capital budget submitted by the City. Not more than thirty (30) Days after submission by the City of a Financial Plan and proposed operating and capital budgets, the Authority shall determine in its sole discretion the following:

(i) whether the Financial Plan projects balanced budgets for the City, based on prudent, reasonable assumptions, as described in this

lease payments securing bonds of other government agencies or of any other entities;

(iii) are based on prudent, reasonable and appropriate assumptions and methods of estimation; and

(iv) comply with any balanced budget requirements contained in the Home Rule Charter and Ordinances of the City or state law.

(f) a cash flow forecast for the City's consolidated cash account for the first fiscal year of the City covered by the Financial Plan;

(g) Upon request of the Authority, an opinion or certification of the City Controller, prepared in accordance with generally accepted auditing standards, with respect to the reasonableness of the assumptions and estimates in the Financial Plan; and

(h) a schedule setting forth the number of authorized employee positions (filled and unfilled) for the first year covered by such Financial Plan for each board, commission, department or office of the City, and an estimate of this information for the later years covered by the Financial Plan. The schedule required under this paragraph (h) shall be accompanied by a report setting forth the City's estimates of wage and benefit levels for various groups of employees, such information to be presented in a manner which will allow the Authority to understand and effectively review the portions of

Agreement, for each year of the Financial Plan;
and

(ii) whether the proposed operating budget and capital budget are consistent with the proposed Financial Plan.

(b) If the Authority determines that these criteria are satisfied, the Authority shall approve such Financial Plan by vote of a majority of its board. The Authority shall not be bound by any opinions or certifications of the City Controller issued pursuant to the Act or this Agreement. If the Authority fails to take any action within thirty (30) Days of the submission of a proposed Financial Plan, the proposed Financial Plan as submitted shall be deemed approved by the Authority. However, if during such 30-Day period a written request by two (2) members of the Authority board for a meeting and vote on the question of approval of the proposed Financial Plan has been submitted to the chairperson and a meeting and vote does not take place, the proposed Financial Plan shall be deemed disapproved.

Section 3.07. Authority Disapproval of the Financial Plan.

If a proposed Financial Plan is disapproved by the Authority, the Authority shall notify the City thereof and shall state in writing in reasonable detail the reasons for such disapproval, including the amount of any estimated budget imbalance. The City shall submit a revised Financial Plan to the Authority within fifteen (15) Days of such disapproval,

which revised Financial Plan eliminates the budget imbalance. Not more than fifteen (15) Days after the submission of such revised Financial Plan, the Authority shall determine whether the revised Financial Plan satisfies the criteria set forth in Section 3.06 of this Agreement. If the Authority determines that these criteria are satisfied, the Authority shall approve the revised Financial Plan by vote of a majority of its board. If the Authority shall not so approve the revised Financial Plan, then the Authority shall, subject to the occurrence of the events described in Section 3.12 of this Agreement, certify the City's noncompliance with the Financial Plan to the Secretary of the Budget.

Section 3.08. Revisions to the Financial Plan.

(a) Each Financial Plan shall be revised on an annual basis to include, among other things, the operating and capital budgets of the City for its next fiscal year and to extend the Financial Plan for an additional fiscal year.

(b) The Mayor shall, within ninety (90) Days of assuming office, propose to the Authority revisions to the Financial Plan, or certify to the Authority that he or she adopts the then-existing Financial Plan. If the Mayor fails, within said 90-Day period, to propose revisions to the Financial Plan or to certify that he or she adopts the then-existing Financial Plan, the then-existing Financial Plan shall nevertheless remain in full force and effect. In addition, the City may, during the course of a fiscal year, submit proposed revisions to the then-existing Financial Plan, and the City shall submit a proposed revision to the then-existing Financial

Plan for any amendment to the City's operating or capital budget. The Authority shall review each such proposed revision within twenty (20) Days of its submission. The Authority shall approve the revision if it will not, based on assumptions deemed prudent and reasonable by the Authority, cause the Financial Plan to become imbalanced. Proposed revisions shall become part of the Financial Plan upon the approval of a majority of the board of the Authority, unless some other method of approval is permitted by Authority rules and regulations approved by a majority of the board of the Authority. If the Authority fails to take action within twenty (20) Days on a proposed revision, such submission shall be deemed approved unless a written request for a meeting and vote of the Authority has been made in accordance with Section 2.08(G)(3) of the Act and Section 3.06 of this Agreement, in which event if a meeting and vote does not take place, the proposed revision shall be deemed to have been disapproved. If the City Council adopts a budget inconsistent with an approved Financial Plan, the City shall submit the enacted budget to the Authority as a proposed revision to such Financial Plan within twenty (20) Days after such budget has been so enacted. In this event, the Authority shall review the proposed revision within thirty (30) Days of its submission, in accordance with the criteria set forth in Section 3.06 of this Agreement and this Section 3.08(b).

Section 3.09. Supplemental Reports.

(a) After a Financial Plan has been approved by the Authority, the City shall prepare and submit to the Authority and the Authority shall review the periodic reports required by this Section 3.09.

(b) Within forty-five (45) Days of the end of each fiscal quarter of the City, and also monthly (within thirty (30) Days after the end of the previous month) if a Variance from the Financial Plan has been determined to have occurred in accordance with Section 3.10 of this Agreement, the Mayor shall provide to the Authority a report describing actual, or current estimates of, revenues and expenditures compared to budgeted revenues, expenditures for such previous quarterly or monthly period reflected in its cash flow forecast. Each report shall explain any Variance existing as of the last day of such fiscal quarter or month, as the case may be, between actual or current estimates and budgeted revenues, expenditures and cash for the period covered by such report. The City shall also provide periodic reports on debt service requirements in conformity with Section 210(B) of the Act.

(c) The Director of Finance shall provide within forty-five (45) Days of the end of each fiscal quarter a report of financial operations of each of the Restricted Funds for such fiscal quarter.

Section 3.10. Determination of Adherence to or Variance from the Financial Plan.

(a) Based upon the reports described in Sections 3.09 and 4.02(e) of this Agreement or upon such independent audits, examinations or studies of the City's finances as may be conducted by or on behalf of the Authority, the Authority shall determine if the City's actual revenues and expenditures adhere to or vary from its Financial Plan. For the purposes of this Agreement, a "Variance" shall be deemed to have occurred as of

the end of a reporting period as reflected on a report submitted pursuant to Section 3.09 hereof if (i) an adverse change of more than the greater of (1) twenty five thousand dollars (\$25,000) and (2) one percent (1%) of the revenues or expenses budgeted for such fiscal year with respect to any City Department (including any interdepartmental transfers) is reasonably projected to occur, such projection to be calculated from the beginning of the fiscal year for the entire fiscal year, or (ii) the actual net cash flows of the City are reasonably projected to be less than ninety-eight percent (98%) of the net cash flows of the City for that fiscal year originally forecast at the time of adoption of the budget, such projection to be calculated from the beginning of the fiscal year for the entire fiscal year. If the Authority determines that a Variance exists it shall notify the City in writing. The City shall, within ten (10) Days after request by the Authority, provide to the Authority such additional information as the Authority deems necessary to explain the Variance. Notwithstanding the foregoing provisions of this Paragraph, the Authority and the City agree to review annually the definition of Variance hereunder and to make such changes thereto, if any, as may be mutually agreeable; provided, however, this provision shall not be construed to constitute any obligation of the City or the Authority to make any change.

(b) The Authority shall take no action with respect to the City for Variances from the Financial Plan in any fiscal quarter if:

(i) the City, within thirty (30) Days after receipt of notification from the Authority pursuant to Section 3.10(a) hereof, provides a

written explanation for the Variance that the Authority deems reasonable;

(ii) the City, within forty-five (45) Days after receipt of notification from the Authority pursuant to Section 3.10(a) hereof, proposes remedial action which the Authority believes will restore the City's overall compliance with the Financial Plan;

(iii) information provided by the City to the Authority in the immediately succeeding quarterly financial report pursuant to Section 4.09(b) hereof demonstrates, to the reasonable satisfaction of the Authority, that the City is taking such remedial action and is otherwise complying with the Financial Plan; and

(iv) the City submits monthly supplemental reports in accordance with Section 3.09(b) of this Agreement and Section 2.09(J) of the Act until it regains compliance with the Financial Plan.

(c) Notwithstanding Section 3.10 (b) hereof, in the event the Authority shall determine by majority vote that the City's written explanation of the Variance is unsatisfactory, or that any of the remedial action proposed to be taken by the City to restore the City's compliance with the Financial Plan to be insufficient to cure the Variance, the Authority shall certify the same to the Secretary of the Budget

as provided in Section 3.16 hereof, and shall so notify the City.

Section 3.11. Authority Intercept of New Revenue.

Upon receipt of notice from the Authority pursuant to Section 3.10 (c) hereof, the City's Director of Finance and the Controller shall certify to the Authority forthwith the amount of New Revenue , and shall cause such certified amount to be aggregated, transferred and deposited as directed by the Authority in trust for the exclusive benefit of the City in an account designated as the "New Revenue Account" hereby established. The Authority shall maintain the New Revenue Account with [To be determined], or, upon prior written notice to the City, with any other bank with trust powers or a trust company with a place of business in the Commonwealth selected by the Authority in its discretion. [To be determined] and any other such depository of the New Revenue Account are herein referred to as the "New Revenue Account Depository." The New Revenue Account and all funds and investments on deposit to the credit thereof shall at all times constitute trust funds for the exclusive benefit of the City and shall not, unless the City otherwise expressly agrees in writing, be subject to lien or attachment by or in favor of any creditor or obligee of the Authority.

Section 3.12. Deposits into the New Revenue Account.

(a) There shall be deposited to the credit of the New Revenue Account, New Revenue certified as provided in Section 3.11 and New Revenue received thereafter from time to time reported as

Section 3.14. Disbursement of Funds from the New Revenue Account.

Notwithstanding any suspension of disbursements from the New Revenue Account permitted under Section 3.16 (b) hereof, the Authority may consent to the disbursement to the City of all or any part of the amounts on deposit to the credit of the City as may be reasonably requested by the City, such Authority consent not to be unreasonably withheld. Such amounts shall be disbursed by wire transfer of immediately available funds to such account of the City's General Fund as is designated in writing to the Authority by the Director of Finance, to be applied by the City to the general expenses of government of the City consistent with the City's Financial Plan.

Section 3.15. Authority Recommendations.

The Authority may at any time issue recommendations as to how the City may achieve compliance with the Financial Plan, and shall provide copies of such recommendations to the Mayor, the City Council and the officials named in Section 203(B) (4) of the Act.

Section 3.16. Withholding of Funds.

(a) The Authority shall certify to the Secretary of the Budget the City's noncompliance with any Financial Plan during any period when the Authority has determined by the vote of a majority of its board that the City has not adhered to such Financial Plan and has not taken acceptable remedial action during the next fiscal quarter following such departure from the

Financial Plan. In addition, the Authority shall certify to the Secretary of the Budget that the City is not in compliance with its Financial Plan if the City:

(i) has no Financial Plan approved by the Authority at any time, or has failed to file any Financial Plan with the Authority as required hereunder or under the Act; or

(ii) has failed to file with the Authority mandatory revisions to any Financial Plan required by Sections 209(I), (J), (K) or (L) of the Act or Sections 3.08, 4.06(b), 4.07(b) and 4.08(e) of this Agreement.

(b) The City and the Authority acknowledge that the Act provides that if the Authority certifies that the City is not in compliance with any Financial Plan in accordance with this Section 3.16, the Secretary of the Budget shall notify the City that such certification has been made and that each grant, loan, entitlement or payment to the City by the Commonwealth, shall be suspended pending compliance with such Financial Plan. Similarly, the Authority may suspend disbursements from the City Account or the New Revenue Account pending compliance with an Approved Financial Plan. Funds withheld by the Commonwealth shall be held in escrow until compliance with the Financial Plan is restored as set forth below. The Act provides that funds held in escrow by the Commonwealth pursuant to this Section 3.16(b) shall not lapse pursuant to Section 621 of the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929, or any other law.

(c) The Authority shall, by a majority vote, determine when the conditions which caused the City to be certified as not in compliance with a Financial Plan have ceased to exist, and shall promptly notify the Secretary of the Budget of such vote. The City and the Authority acknowledge that the Act provides that the Secretary of the Budget shall thereupon release all funds held in escrow, together with all interest and income earned thereon during the period held in escrow, and the disbursements to the City of amounts in the City Account and the New Revenue Account shall resume as provided in Sections 2.04 and 3.14 hereof, respectively, (with all amounts then on deposit to the credit of the City Account and the New Revenue Account which, but for the suspension of disbursements referred to in this Section 3.16, would have been previously distributed to the City.

Section 3.17. Exemptions to Withholding by the Commonwealth.

Notwithstanding the provisions of Section 3.16 of this Agreement, the Authority and the City acknowledge that the Act provides that the following shall not be withheld from the City by the Commonwealth:

(a) funds for capital projects under contract in progress;

(b) funds granted or allocated to the City directly from an agency of the Commonwealth, or from the Federal Government for distribution by the Commonwealth after the declaration of a disaster resulting from a catastrophe;

or unenforceability without in any manner affecting the validity or enforceability of the remaining provisions of this Agreement.

Section 5.04. Notices.

All notices, demands, requests, consents, approvals, certificates, waivers or other communications with respect to this Agreement (collectively, "notices") shall be in writing (including telecopied communication) and shall be effective if sent by certified or registered United States mail, postage prepaid, return receipt requested, or by overnight courier with signed receipt evidencing such delivery, or by same day delivery service with signed receipt evidencing such delivery, or by telecopier (with confirmation in writing mailed by first-class mail, postage prepaid), to the following parties:

For the Authority:

William K. Lieberman
Chair
Intergovernmental Authority for
Cities of the Second Class
U.S. Steel Tower, Suite 5500
600 Grant Street
Pittsburgh, PA 15219
Telecopier No.: 412-261-3639

With a copy to:

Glenn R. Mahone, Esquire
Reed Smith LLP
435 Sixth Avenue
Pittsburgh, PA 15219

For the City:

Thomas J. Murphy
Mayor
City of Pittsburgh
City County Building
414 Grant Street
Pittsburgh, PA 15219

With a copy to:

Jacqueline R. Morrow, Esquire
City Solicitor
City of Pittsburgh
City County Building
414 Grant Street
Pittsburgh, PA 15219
Telecopier No.: 412-255-2285

Ellen M. McLean
Finance Director
City of Pittsburgh
City County Building
414 Grant Street
Pittsburgh, PA 15219
Telecopier No.: 412-255-2582

Thomas E. Flaherty
City Controller
City of Pittsburgh
City County Building
414 Grant Street
Pittsburgh, PA 15219
Telecopier No.: 412-255-~~2582~~ 8990

or to such other address or telecopier number as the party to receive notice may from time to time designate by written notice to the other party in the manner above described. Any such properly given notice shall be effective on the earliest to occur of receipt, the third business day after mailing in the

manner set forth herein, on the first business day after deposit with an overnight courier service, on the day of deposit with a same day delivery service or upon telephone confirmation of receipt of telecopy communication.

Section 5.05. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

Section 5.06. No Third Party Rights.

Except as expressly provided herein, nothing in this Agreement shall be construed to constitute or create rights in any person not a party to this Agreement (as third party beneficiary or otherwise), or to create obligations or responsibilities of the parties to such persons, or to permit any person other than the parties hereto and their respective successors and assigns to rely upon the covenants, conditions and agreements contained in this Agreement.

Section 5.07. Amendments and Waivers.

This Agreement shall be amended only by written instrument duly executed by the City and the Authority. The Authority may in its discretion, to the extent consistent with the Act, waive compliance by the City with any provision of this Agreement or extend the time specified for performance by the City of any covenant or agreement on its part set forth herein, and such waiver or extension shall be effective only to the extent specifically set forth in writing and shall not, unless

so specified, apply to any subsequent failure on the part of the City to observe or perform any such provision.

Section 5.08. Authorizing Resolution.

This Agreement is entered into by the City pursuant to Resolution No. 431 approved September 7, 2004 and effective September 7, 2004.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement, as of the date first above written.

ATTEST:

Glen Buchan

INTERGOVERNMENTAL
COOPERATION AUTHORITY
FOR CITIES OF THE SECOND CLASS

By William K. Lieberman
_____ Chair

[AUTHORITY SEAL]

ATTEST:

Keenan Fischer
_____ Witness

CITY OF PITTSBURGH

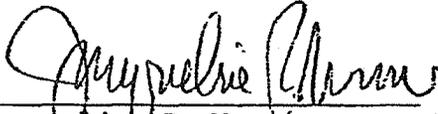
By Thomas J. Murphy
_____ Mayor

Director, Department of Finance

Colleen Kemo
_____ Witness

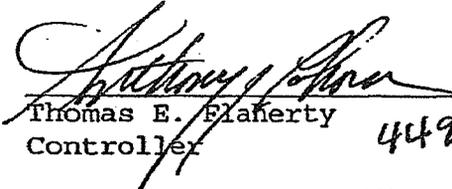
By Ellen M. McLean
_____ Ellen M. McLean

Approved by:



Jacqueline R. Morrow
Solicitor

Countersigned:



1-26-05
44904
Thomas E. Flaherty
Controller

Approved as to form
Dolan, McCreary & Chilcote, Inc.
Solicitor to the Controller,
City of Pittsburgh

BY 





January 24, 2014

Henry Sciortino
Executive Director
Intergovernmental Cooperation Authority
106 Isabella Street
Suite 105
Pittsburgh, PA 15212

Dear Mr. Sciortino:

In accordance with the Pennsylvania Race Horse Development and Gaming Act of 2004, as amended, (the Act) the Department is required to distribute quarterly the Local Share Assessment collected to the municipalities in which a licensed gaming entity is located. The distribution is based on the amount of money collected.

Act 71 states that Pittsburgh's locally-generated share of gaming revenues are to be used for one of three purposes that benefit of the City of Pittsburgh: (1) to reduce the City's debt; (2) to increase the funding level of the City's municipal pension funds; or (3) for any other purposes as determined by the ICA to be in the best interests of the City.

An ACH for the fourth quarter of 2013 payment in the amount of \$5,685,271.45 should be deposited in your bank account within 3 - 5 business days.

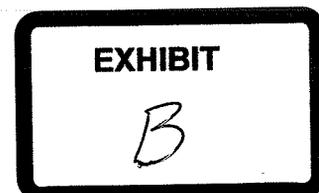
If you have any questions, please contact me at 717-772-4372.

Sincerely,

A handwritten signature in cursive script that reads 'Laura Lyter'.

Laura Lyter, Accountant
Bureau of Fiscal Management

CC: Mr. Scott Kunka





April 25, 2014

Henry Sciortino
Executive Director
Intergovernmental Cooperation Authority
106 Isabella Street
Suite 105
Pittsburgh PA, 15212

Dear Mr. Sciortino:

In accordance with the Pennsylvania Race Horse Development and Gaming Act of 2004, as amended, (the Act) the Department is required to distribute quarterly the Local Share Assessment collected to the municipalities in which a licensed gaming entity is located. The distribution is based on the amount of money collected.

Act 71 states that Pittsburgh's locally-generated share of gaming revenues are to be used for one of three purposes that benefit of the City of Pittsburgh: (1) to reduce the City's debt; (2) to increase the funding level of the City's municipal pension funds; or (3) for any other purposes as determined by the ICA to be in the best interests of the City.

An ACH for the first quarter of 2014 payment in the amount of \$1,409,958.66 should be deposited in your bank account within 3 - 5 business days.

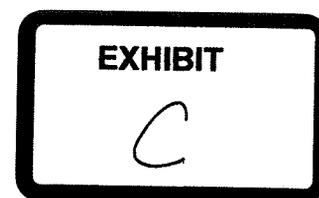
If you have any questions, please contact me at 717-772-4372.

Sincerely,

A handwritten signature in cursive script that reads 'Laura Lyter'.

Laura Lyter, Accountant
Gaming Office

CC: Mr. Scott Kunka





July 25, 2014

Henry Sciortino
Executive Director
Intergovernmental Cooperation Authority
106 Isabella Street
Suite 105
Pittsburgh PA, 15212

Dear Mr. Sciortino:

In accordance with the Pennsylvania Race Horse Development and Gaming Act of 2004, as amended, (the Act) the Department is required to distribute quarterly the Local Share Assessment collected to the municipalities in which a licensed gaming entity is located. The distribution is based on the amount of money collected.

Act 71 states that Pittsburgh's locally-generated share of gaming revenues are to be used for one of three purposes that benefit of the City of Pittsburgh: (1) to reduce the City's debt; (2) to increase the funding level of the City's municipal pension funds; or (3) for any other purposes as determined by the ICA to be in the best interests of the City.

An ACH for the second quarter of 2014 payment in the amount of \$1,371,898.76 should be deposited in your bank account within 3 – 5 business days.

If you have any questions, please contact me at 717-772-4372.

Sincerely,

A handwritten signature in cursive script that reads 'Laura Lyter'.

Laura Lyter, Accountant
Gaming Office

CC: Ms. Debbie Lestitian





October 23, 2014

Henry Sciortino
Executive Director
Intergovernmental Cooperation Authority
106 Isabella Street
Suite 105
Pittsburgh PA, 15212

Dear Mr. Sciortino:

In accordance with the Pennsylvania Race Horse Development and Gaming Act of 2004, as amended, (the Act) the Department is required to distribute quarterly the Local Share Assessment collected to the municipalities in which a licensed gaming entity is located. The distribution is based on the amount of money collected.

Act 71 states that Pittsburgh's locally-generated share of gaming revenues are to be used for one of three purposes that benefit of the City of Pittsburgh: (1) to reduce the City's debt; (2) to increase the funding level of the City's municipal pension funds; or (3) for any other purposes as determined by the ICA to be in the best interests of the City.

An ACH for the third quarter of 2014 payment in the amount of \$1,411,017.05 should be deposited in your bank account within 3 – 5 business days.

If you have any questions, please contact me at 717-772-4372.

Sincerely,

A handwritten signature in cursive script that reads 'Laura Lyter'.

Laura Lyter, Accountant
Gaming Office

CC: Ms. Debbie Lestitian





January 29, 2015

Henry Sciortino
Executive Director
Intergovernmental Cooperation Authority
106 Isabella Street
Suite 105
Pittsburgh, PA 15212

Dear Mr. Sciortino:

In accordance with the Pennsylvania Race Horse Development and Gaming Act of 2004, as amended, (the Act) the Department is required to distribute quarterly the Local Share Assessment collected to the municipalities in which a licensed gaming entity is located. The distribution is based on the amount of money collected.

Act 71 states that Pittsburgh's locally-generated share of gaming revenues are to be used for one of three purposes that benefit of the City of Pittsburgh: (1) to reduce the City's debt; (2) to increase the funding level of the City's municipal pension funds; or (3) for any other purposes as determined by the ICA to be in the best interests of the City.

An ACH for the fourth quarter of 2014 payment in the amount of \$5,807,125.53 should be deposited in your bank account within 3 – 5 business days.

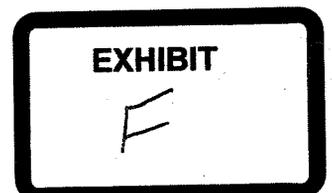
If you have any questions, please contact me at 717-772-4372.

Sincerely,

A handwritten signature in cursive script that reads 'Laura Lyter'.

Laura Lyter, Accountant
Gaming Office

CC: Paul Leger





April 28, 2015

Henry Sciortino
Executive Director
Intergovernmental Cooperation Authority
106 Isabella Street
Suite 105
Pittsburgh PA, 15212

Dear Mr. Sciortino:

In accordance with the Pennsylvania Race Horse Development and Gaming Act of 2004, as amended, (the Act) the Department is required to distribute quarterly the Local Share Assessment collected to the municipalities in which a licensed gaming entity is located. The distribution is based on the amount of money collected.

Act 71 states that Pittsburgh's locally-generated share of gaming revenues are to be used for one of three purposes that benefit of the City of Pittsburgh: (1) to reduce the City's debt; (2) to increase the funding level of the City's municipal pension funds; or (3) for any other purposes as determined by the ICA to be in the best interests of the City.

An ACH for the first quarter of 2015 payment in the amount of \$1,383,976.14 should be deposited in your bank account within 3 – 5 business days.

If you have any questions, please contact me at 717-772-4372.

Sincerely,

A handwritten signature in cursive script that reads 'Laura Lyter'.

Laura Lyter, Accountant
Gaming Office

CC: Paul Leger





July 24, 2015

Henry Sciortino
Executive Director
Intergovernmental Cooperation Authority
106 Isabella Street
Suite 105
Pittsburgh PA, 15212

Dear Mr. Sciortino:

In accordance with the Pennsylvania Race Horse Development and Gaming Act of 2004, as amended, (the Act) the Department is required to distribute quarterly the Local Share Assessment collected to the municipalities in which a licensed gaming entity is located. The distribution is based on the amount of money collected.

Act 71 states that Pittsburgh's locally-generated share of gaming revenues are to be used for one of three purposes that benefit of the City of Pittsburgh: (1) to reduce the City's debt; (2) to increase the funding level of the City's municipal pension funds; or (3) for any other purposes as determined by the ICA to be in the best interests of the City.

An ACH for the second quarter of 2015 payment in the amount of \$1,417,205.47 should be deposited in your bank account within 3 – 5 business days.

If you have any questions, please contact me at 717-772-4372.

Sincerely,

A handwritten signature in cursive script that reads 'Laura Lyter'.

Laura Lyter, Director
Gaming Office

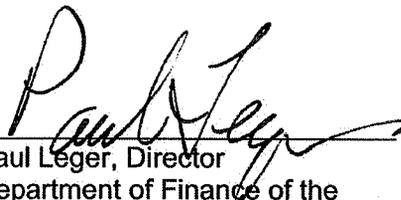
CC: Paul Leger



VERIFICATION

I, Paul Leger, Director of the Department of Finance of the City of Pittsburgh, verify that the facts set forth in the foregoing **Amended Complaint Seeking Mandamus, Declaratory and Equitable Relief** are true to the best of my knowledge, information and belief. These averments of fact are made subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsification to authorities.

8-3-15
Date


Paul Leger, Director
Department of Finance of the
City of Pittsburgh

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 3rd day of August, 2015, the foregoing *Amended Complaint Seeking Mandamus, Declaratory and Equitable Relief* has been served upon counsel, addressed below, via first class U.S. mail, postage prepaid and email:

Laura E. Ellsworth, Esq. / Matthew R. Divelbiss, Esq.
lellsworth@jonesday.com / mrdivelbiss@jonesday.com
500 Grant Street, Suite 4500
Pittsburgh, PA 15219-2514
Counsel for Defendants

CAMPBELL DURRANT BEATTY
PALOMBO & MILLER, P.C.

By:



Brian P. Gabriel