



CITY OF PITTSBURGH

Department of Finance

William Peduto, Mayor

Paul Leger, Director

June 25, 2015

Nicholas Varischetti
ICA Chairman
Four North Shore Center
106 Isabella Street, Suite 105
Pittsburgh, PA 15212

BY EMAIL and HAND DELIVERY

Dear Mr. Varischetti:

During the past year, we submitted several good faith requests for payment of the outstanding Local Share Assessment of Gaming Funds for all of 2014 and for the first quarter of 2015. You have continually ignored our good faith efforts to resolve this issue amicably. I am writing to formally demand the release of all gaming funds which were approved by the ICA as part of the 2014 and 2015 budgets but are being inexplicably and illegally withheld by the ICA, and to request that this matter be placed on the agenda for the June 25th ICA board meeting.

To date, the amounts outstanding and due from the ICA to the City are as follows:

2014, Quarter 1 - \$1,409,958.67
2014, Quarter 2 - \$1,371,898.75
2014, Quarter 3 - \$1,411,017.06
2014, Quarter 4 - \$5,807,125.53
2015, Quarter 1 - \$1,383,976.14

TOTAL due to date: \$11,383,976.20 plus any interest earned on the funds. By the end of 2015, the ICA owes payments of at least \$20 Million for 2014 and 2015.

This City revenue has been requested previously in a spirit of cooperation and was withheld, once again, by the board at its meeting in March 2015. We are now in the ridiculous position of demanding formal action by the ICA to release funds being illegally withheld by from the City. The ICA has expressed that these taxpayer funds are being withheld from the City pending completion of the payroll ERP project, under a deal cut by the ICA in the final days of the prior administration in connection with its approval of the 2014 budget.

In a clear conflict of interest, this payroll project was forced upon the City by the ICA through a vendor selected by the ICA, was mismanaged over several years under the prior administration, and at the beginning of our administration, was already over a million dollars over budget. We inherited and have rescued this project and are nearing completion of its implementation. Nevertheless, the ICA continues to illegally withhold payments due to the City, thereby putting the City's favorable bond rating at risk, jeopardizing our ability to make upcoming bond, debt and pension payments, and causing actual damages and irreparable harm to the City.

The City hereby demands that the ICA cease and desist its illegal withholding of these funds and immediately release these funds for the following reasons:

- 1) The ICA does not have the power to direct the City's operations or force it to adopt specific operational procedures as long as those procedures are within the budget which the ICA has approved. The ICA has basic powers stated in Section 209 of Act 11, which states the ICA may only evaluate budgets based on the following criteria:
 - The financial plan projects balanced budgets, based upon prudent, reasonable and appropriate assumptions; and
 - The proposed operating budget and capital budget are consistent with the proposed financial plan.

The ICA's abuse of its powers by continuing to illegally withhold gaming funds conditioned upon the implementation of a payroll project hoisted upon the City by the ICA, without any authority to do so, has damaged the City and threatens the City's continued financial recovery, which is directly opposed to the ICA's mission.

- 2) In December 2014, following the Controller's certification of anticipated revenues, which include the gaming funds at issue (a copy of which is attached hereto), the ICA approved the City's budget which contained \$10 Million in revenue from gaming funds. By its approval of the 2014 and 2015 budgets, the ICA expects those funds to materialize as income to the City. By illegally withholding these funds for reasons not within the ICA's authority, the ICA is violating its own approval of the City's revenue budget. This illegal action has created a structural imbalance of at least \$10 Million per year in the City budget.
- 3) The ICA has been presented with the approved Act 47 plan which also includes the revenue of \$10 Million from gaming funds. If it were the Authority's intent to withhold these funds, it should have objected to the Act 47 plan. Act 11, under which the Authority was formed, requires that the ICA work closely with the Act 47 team (Section 102 (A)(b)(3)).

The ICA saddled the City with a payroll ERP project (which this administration inherited as delayed and well over budget) provided no funds for its completion and is now citing the fiasco it inflicted upon us to illegally withhold funds which are due to the taxpayers of the City and needed to provide budgeted services. The payroll project was originally projected to cost \$263,940. However, due to vendor errors and a lack of project management, by January 2014 the cost of the project

had ballooned to \$1,252,584 and was over a year behind schedule. There was no end in sight for the cost overruns and the delays. We immediately commissioned an independent investigation and technical analysis of what went wrong, and based upon the investigation, hired a new consultant to manage the process.

Today, the project is moving forward on time and on budget for the first time in more than three years. It will be completed in the first quarter of 2016. This work has been completed at a lower cost than all of the unproductive work in 2012 and 2013. Despite the mismanagement and delays in previous years, at no point did the ICA withhold gaming funds from the City prior to the start of our administration.

- 4) While the ICA exists to assist the City financially, the extreme and unjustified measure of not delivering a penny of gaming funds since Mayor Peduto took office, under a deal cut at the twilight of the prior administration, has caused actual harm and irreparably damaged the City and its residents. Continued refusal to release these funds will further damage the City and has resulted in a revenue shortfall of \$11.3 Million to date. It will result in a shortfall of \$20 Million by the end of 2015, should you continue this illegal course of conduct. This action is illegal, is causing actual damages and irreparable harm to the City, its residents and its taxpayers, and further threatens the City's continued financial recovery, which is directly adverse to the ICA's mission.

It is simply illegal and inappropriate for the ICA to continue to withhold these funds. We have exhausted our good faith efforts, and hereby demand that these funds be released immediately, **but no later than July 1, 2015**, and continue to be paid to the City on a regular basis as received from the Commonwealth in the future.

This letter is delivered without prejudice, and the City expressly reserves all rights and claims against the ICA, its Executive Director, and members of its board, arising from or relating to the matters described herein.

Sincerely,



Paul Leger
Director of Finance

CC: Hon. Tom Wolf, Governor
Hon. Dennis Davin, DCED Secretary
Hon. William Peduto, Mayor
Kevin Acklin, Chief of Staff
Sam Ashbaugh, Office of Management and Budget
Debbie Lestitian, Chief Administration Officer
Henry Sciortino, ICA Executive Director
ICA Board Members



MICHAEL E. LAMB

CITY CONTROLLER

First Floor City-County Building • 414 Grant Street • Pittsburgh, Pennsylvania 15219

December 19, 2014

Mr. Nicholas D. Varischetti
Chairman
Inter-governmental Cooperation Authority
515 Court Place, Suite 400
Pittsburgh, PA 15219

Dear Mr. Varischetti,

Pursuant to Act 11 of 2004 (53 P.S. § 28201, et. seq.) and the request of the Intergovernmental Cooperation Authority, the Office of the Controller of the City of Pittsburgh has reviewed the 2015 Operating Budget ("Budget") and Five Year Financial Plan ("Plan") as submitted by Mayor Peduto and approved by City Council. 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.

REVENUES

Real Estate Tax Revenue Assumptions

The 2015 Operating Budget assumes a Real Estate Tax increase of 0.5 mills (a 6.6% percent increase in millage). This increase will likely result in a revenue increase consistent with the estimates submitted in the proposed 2015 Operating Budget.

Parking Revenues

The Peduto Administration has negotiated a new intergovernmental agreement with the Pittsburgh Parking Authority that will significantly increase various categories of parking revenue for the City of Pittsburgh. Additionally, the administration has proposed and City Council has approved significant increases (33% to 50% increases) to parking meter rates in many city neighborhoods and fines citywide.

Upon reviewing the new agreement and the financial impact information prepared by the Office of Management and Budget on the new, higher meter rates, fines, implementation schedule and enforcement changes, the Office of the Controller has determined that the assumptions and modeling employed are reasonable.

Rental Property Registration Fee

The Peduto Administration has proposed a new fee for registration of rental property owners. This fee has yet to be approved by City Council but the revenue was included in the budget as passed by City Council. Based on the information provided by the Office of Management and Budget, the assumptions in calculating this proposed revenue seem reasonable.

Permit Revenue

The Peduto Administration has proposed significant increases in revenue for miscellaneous permits through a series of permit fee increases to various city permits. While City Council has yet to approve any fee increases, the approved budget includes this new revenue demonstrating Council's willingness to approve these increases in the near future. Based on the information provided by the Office of Management and Budget, the assumptions in calculating this proposed revenue seem reasonable.

Other Revenues

While I have questioned some of the assumptions and future projections of some of the existing individual revenue sources, I agree that, in totality, the revenue assumptions are reasonable.

EXPENDITURES

The Controller's office continues to have concerns over the costs and funding of the Severance Incentive Program. This program has failed to generate the savings originally suggested as positions have not been eliminated to generate the promised savings. Additionally, the funding for this program (a transfer from fund balance) has been used to artificially suggest a stronger budget position in 2014 than actually exists.

Non Departmental Personnel Costs

Unfortunately the proposed 2015 Budget and Five Year Plan continues to account for fringe benefits in two amorphous departmental code accounts rather than spreading those costs across the various departments. This results in a budget that is both less transparent and less accountable. Accounting for fringe benefits in this manner is also counter to the recommendation of the Amended Act 47 Recovery Plan.

CONCLUSION

In closing, I wanted to note the continuing cooperation that my office has received from the Office of Management and Budget, The Department of Finance, City Council, the Act 47 Coordinators and the ICA. I truly believe that together we can move Pittsburgh to a position of long term fiscal stability.

Thank you for your efforts on behalf of our city.

Sincerely,

A handwritten signature in blue ink that reads "Michael E. Lamb". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Michael Lamb
City Controller