NOTICE TO BONDHOLDERS OF:
CENTRAL FALLS DETENTION FACILITY CORPORATION DETENTION FACILITY REVENUE REFUNDING BONDS (THE DONALD W. WYATT DETENTION FACILITY), SERIES 2005A

***CUSIP: 153457AX4, 153457BD7**

THIS NOTICE CONTAINS IMPORTANT INFORMATION THAT IS OF INTEREST TO THE REGISTERED AND BENEFICIAL OWNERS OF THE ABOVE BONDS. IF YOU RECEIVE THIS NOTICE AND ARE ACTING FOR A BENEFICIAL OWNER, PLEASE SEND THIS NOTICE TO THE BENEFICIAL OWNER(S) IMMEDIATELY.

The Central Falls Detention Facility Corporation ("**Corporation**") issued the above-referenced detention facility revenue refunding bonds ("**Bonds**") under that certain Indenture of Trust dated as of June 1, 2005 ("**Indenture**"), between the Corporation and U.S. Bank National Association, as original trustee. As set forth in a prior notice, on May 31, 2017, UMB Bank, National Association succeeded to U.S. Bank as trustee under the Indenture ("**Trustee**"). The Corporation issued the Bonds to, among other things, refund its previously issued revenue bonds, finance the expansion of the detention facility, and fund a debt service reserve fund securing the Bonds. Capitalized terms used herein but not defined shall have the meaning ascribed to such term in the Indenture.

CITY OF CENTRAL FALLS CALLS FOR CLOSURE OF WYATT FOR HOUSING ICE DETAINEES AND BOND TRUSTEE'S RESPONSE

On March 10, 2019 the Corporation resumed housing detainees at the Donald W. Wyatt Detention Facility (the "**Wyatt**") at the request of the Immigration and Custom Enforcement agency ("**ICE**"). The Corporation provided notice to the City of Central Falls, the Trustee and other parties in interest that over 130 ICE detainees had been transferred to the Wyatt from Arizona. The Mayor of Central Falls, James Diossa, along with members of his City Council have made public statements and participated in demonstrations in opposition to the use of the Wyatt for ICE detainees, including calls for the immediate closure of the entire facility. The Trustee's counsel directed the attached letter be sent to the Mayor, the City Solicitor, members of the City Council and other public officials, alerting such persons that certain actions taken by the Mayor and/or City may result in claims and potential significant damages.

The Trustee will provide further updates to the Bondholders concerning any material actions by the City to close the Wyatt and the resulting impact, if any, on the Bondholders.

ADVANCE LOAN AND ADVANCE LENDERS PAID IN FULL; BRIDGE LOAN PAID IN FULL

As set forth in a prior notice, the Trustee was a party to a Bridge Loan with the Corporation to meet the Corporation's then urgent liquidity needs as a result of the recent federal government shutdown. The funds for the Bridge Loan were provided to the Trustee by existing bondholders (each, an "**Advance Lender**"), in accordance with the terms of a separate agreement by and between the Trustee and the Advance Lenders (the "**Advance Loan**"). Subsequent to the end of the government shutdown, the Bridge Loan was satisfied in full in cash by the Corporation. Thereafter, the Advance Loan was paid in full in cash by the Trustee to the Advance Lenders. As a result thereof, the Advance Loan and Bridge Loan have been satisfied and terminated, and no further borrowings may be made thereunder.

RETENTION OF COUNSEL

The Trustee has retained the law firm, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. and specifically Bill Kannel and Adrienne Walker of that firm, to represent it in connection with general matters associated with the Bonds. The address for Mr. Kannel and Ms. Walker is Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center, Boston, Massachusetts 02111. Mr. Kannel's telephone and email address are: (617) 348-1665; bkannel@mintz.com. Ms. Walker's telephone and email address are: (617) 348-1612; awalker@mintz.com.

ADDITIONAL INFORMATION

Bondholders with specific questions may direct them to Lorna Gleason, Senior Vice President, Special Accounts, Corporate Trust Services, 120 South Sixth Street, #1400, Minneapolis, MN 55402, or by email to lorna.gleason@umb.com, or by telephone at (816) 213-4547. The Trustee may conclude that a specific response to particular inquiries from individual bondholders is not consistent with equal and full dissemination of information to all bondholders. Bondholders should not rely on the Trustee as their sole source of information. The Trustee makes no recommendations and gives no investment advice herein or as to the Bonds generally.

April 3, 2019

UMB Bank National Association,
As Trustee

*Trustee is not responsible for selection or use of CUSIP. It is included solely for holder convenience.

Adrienne K. Walker
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MINTZ

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Boston, MA 02111
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April 2, 2019

BY EMAIL AND FIRST CLASS MAIL

The Honorable James Diossa
Central Falls City Hall
580 Broad Street
Central Falls, RI 02863

Matthew T. Jerzyk, Esq.
City Solicitor – City of Central Falls
Central Falls City Hall
580 Broad Street
Central Falls, RI 02863

Re: City's Actions to Seek Closure of Donald W. Wyatt Detention Facility

Dear Mayor Diossa and Mr. Jerzyk:

As you are aware, this firm represents UMB Bank, N.A. as Trustee (the "Trustee"), in connection with the Central Falls Detention Facility Corporation Revenue Refunding Bonds (The Donald W. Wyatt Detention Facility) Series 2005A in original aggregate principal amount of $106,380,000 (the "Bonds") issued by the Central Falls Detention Facility Corporation (the "Corporation" or "CFDFC"), under that certain Indenture of Trust, dated as of June 1, 2005 ("Indenture") by and between US Bank, NA (as predecessor Trustee) and the Corporation. The Bonds were issued to fund an expansion at the Wyatt to meet the federal government's demand for Immigration and Customs Enforcement (ICE) detention space in response to the terrorist attacks on September 11, 2001. Since 2003, the Corporation has periodically contracted with ICE to meet the federal government's detention needs.

This letter is in response to your recent actions taken on behalf of the City of Central Falls (the "City") publically calling to invalidate the Corporation's contract with the US Marshals Service and ICE, and for the closure of the Wyatt. In addition, your actions to incite demonstrations at the Wyatt is reckless and directly threatens the safety of the detainees and the Corporation's dedicated employees. These actions, and others as outlined in our letter to you of March 1, 2019 and attached hereto for reference, were taken intentionally to destroy the Corporation's value and impair the rights of holders of the Bonds, despite the City's express agreement and explicit Rhode Island law to the contrary. The purpose of this letter is to (i) clarify several intentionally factual misstatements you have made to the public, (ii) outline several of the causes of action that may be brought against

you and the City, and (iii) demand you cease from any further interference with the Corporation's business operations.

As an initial matter, the Trustee takes no position with the Mayor, or any person, expressing their political views with respect to the federal government's immigration practices. Rather, it is the Mayor's intentional interference with the Corporation's business operations and contractual relationships that raise significant legal issues and exposure for the Mayor, the City and State. Also, the protests led by the Mayor in front of the Wyatt on March 28th and again on March 30th, including protestors shouting "We see you!" and "We are here for you!" -- inciting hundreds of detainees to react (the overwhelming majority of which are not ICE detainees) -- negligently put the staff and detainees at the Wyatt at risk of danger and immediate harm. Thankfully, we have learned that the professional staff at the Wyatt maintained safety and deterred any incidents at the Wyatt. We commend the professional staff at the Wyatt for maintaining the safety of its staff and the detainees while you led a politically motivated demonstration in front of the Wyatt. We encourage the Mayor to strongly consider the time, manner and location of any future political protests to avoid any further safety risks to the staff and detainees at the Wyatt.

As the City is well aware, the Wyatt is a legal entity separate from the City and was expressly established by the City pursuant to state statute to serve the federal government's need for a detention facility. R.I. Gen. Laws § 45-54-2. The Mayor's limited role in the Corporation's governance is to appoint its board members. Once those board members are appointed, they have an independent fiduciary and ethical duty to the Corporation and must not act at the City's direction. R.I. Gen. Laws § 45-54-2(d). This structure ensures the Corporation's independence as a distinct legal entity from the City. R.I. Gen. Laws § 45-54-1. You acknowledged the City's limited role and expressly promised not to interfere with the Corporation's governance when you signed the 2014 Forbearance Agreement with the Corporation and Trustee. The City now ignores its prior promises and state law.

The City's suggestion that it has control over the Wyatt's business affairs is evidence of your interference with the Corporation's separate legal existence. The Corporation (and not the City) has the sole and exclusive authority to transact its business and exercise its powers, which the Rhode Island legislature ensured would be independent of the City. R.I. Gen. Laws §45-54-4. The powers of the Corporation are set forth at R.I. Gen. Laws § 45-54-6 and include the power to make and enter into all contracts, including (a) the Indenture of Trust, dated June 1, 2005 (the "Indenture") regarding the issuance of the $106,380,000 Central Falls Detention Facility Corporation Detention Facility Revenue Refunding Bonds (The Donald W. Wyatt Detention Facility) Series 2005A (the "Bonds"), and (b) contracts for the detention of U.S. Marshals Service and ICE detainees (the "Government Contracts"). Your public statements seeking the closure of the Wyatt is in direct interference with the Corporation's ability to perform its contractual obligations under the Indenture and Government Contracts. Your recent public statements that "The Wyatt's new contract with ICE was not vetted, discussed or approved by me or anyone in my administration" falsely suggests that the City has authority over the Wyatt. Similar public comments made by City Council members, including L. Maria Rivera, Jonathon Acosta and Jessica Vega, appear to have been made to intentionally mislead the public that the City has authority over

the Corporation's contracts including the Government Contracts. As you have previously acknowledged, the Corporation has sole authority to enter into contracts and the Mayor and City Council have no role in such matters. R.I. Gen. Laws § 45-54-6(14).

Your suggestions that the Corporation did not keep the City informed concerning the return of ICE detainees is also belied by the facts. In truth, the Corporation has maintained a very close relationship while you have served as Mayor. In addition to your role in appointing the last 12 board members, you have participated in many meetings concerning the Wyatt, several of which have involved representatives for the Bondholders. We are informed that you and your administration knew of, and were informed about, the likelihood of ICE detainees returning to Wyatt approximately three (3) months prior to their actual arrival in March. Moreover, the Corporation's meeting minutes show that its board discussed efforts to re-engage ICE since at least 2015. The arrival of the ICE detainees in March was not brought to the City's attention in the eleventh hour or out of nowhere. To the contrary, you recognized the improvements at the Wyatt and assisted the Wyatt to support the return of ICE detainees to the Wyatt. Your support for the return of ICE detainees was never conditional on politics, but rather it was for the financial future for the City.

Since you took office in 2012, the Wyatt has continued to improve its operations and physical plant to be available to meet the needs of the US Marshals and ICE. As the Corporation has reported, the Wyatt has continuously been American Correctional Association (ACA) accredited. ACA audits are conducted every three years for re-accreditation. The most recent ACA audit was conducted in 2017 and Wyatt was found to be 100% compliant with ACA standards. Over the past ten years, the Wyatt has undergone nine quality assurance reviews conducted by the US Marshals and all resulted in at least a satisfactory or acceptable rating. More recently, in 2014 and 2017, the Federal Bureau of Prisons conducted Prison Rape Elimination Act audits and determined that Wyatt was fully compliant with all the requirements. Moreover, ICE conducted pre-occupancy inspections in 2014 and 2016 and found no deficiencies. Prior to the arrival of the ICE detainees in March, ICE officials visited Wyatt on three occasions – two in late 2018 and one in early January 2019. As these numerous audits and reviews show, Wyatt has been subjected to constant scrutiny and oversight, and has been found to be operating well -- providing safe, clean, and humanitarian conditions for its staff and detainees.

We share the City's goal that the Wyatt return to financial health. The holders of the Bonds have not received regular payments from the Corporation since January 2014, with only small, partial payments made in 2015 and 2017. As you know, the holders of the Bonds may not be paid unless the Corporation meet its operating expenses, which has been a struggle for the Corporation in recent years. Under the Indenture, the City may not receive any impact fees until the holders of the Bonds are paid. As a compromise with the City, the holders of the Bonds agreed to subordinate a portion of their payments to the City, up to $200,000 each year under the Forbearance Agreement. This resulted in over $500,000 being paid to the City since 2014, which amounts would have otherwise been paid to the holders of the Bonds. The City's claim that the Corporation failed to meet its promises to the City under the Forbearance Agreement is wrong. Rather, the City agreed not to receive monthly payments if the Corporation needed those funds to meet its operating

expenses. The City's recent and repeated demand for money from the Corporation while the Corporation struggles to pay its ordinary operating expenses jeopardizes the Corporation's financial recovery.

We strongly recommend that the City cease and desist any further action to impair the Bonds under the Indenture and the Government Contracts. The City's actions appear to be taken without regard for the full appreciation of their impact. Below outlines the most likely and immediate impact should the Mayor, City Council, and Corporation take steps to close the Wyatt.

A. Impact on Bond Ratings and Municipal Finance Market.

The City should strongly consider the impact of its actions on the City and potentially State bond ratings. The City's actions to close the Wyatt would be in direct violation of a state statute expressly prohibiting the impairment of the Bondholders rights under the Indenture. R.I. Gen. Laws. § 54-45-21. Should the City, as an instrumentality of the State, take action to close the Wyatt by City vote or amend the applicable state statutes, it would be an intentional impairment of the Indenture. Further, the City's actions may be held to be an unauthorized State taking, resulting in over $130 million in damages due the Bondholders, potentially leaving Rhode Island taxpayers to address this significant obligation.

Should the Mayor's threats materialize, the City and State's reputation in the municipal finance market would be negatively affected, including likely rating downgrades. As you may be aware, the default of $87 million in debt associated with the 38 Studios deal resulted in swift and severe downgrades by the various rating services. While the City has made progress to improve its bond rating since it emerged from Chapter 9 bankruptcy in 2012, its current actions to close the Wyatt and potentially take back the Corporation's assets for its own would likely jeopardize the City's financial status and ability to access the municipal finance market in the future.

B. Legal Claims.

As a result of the City's repeated interference with the Corporation's contractual obligations to the Bondholders and its anticipated action to seek the Wyatt's closure, the Trustee is considering all legal action, including but not limited to the claims outlined below.

1. <u>Interference with Contractual Rights</u>.

As a matter of Rhode Island law, the City and State may not interfere with the Corporation's duties to meet the contractual obligations under the Indenture. R.I. Gen. Laws. § 45-54-6. The City is in violation of this statute as it seeks closure of the Wyatt and resulting avoidance of the Indenture. In addition, the City, as an instrumentality of the state of Rhode Island, agreed that it "will not limit or alter the rights vested in the corporation to fulfill the terms of any agreement made with the [bond]holders" until the bonds are fully paid and discharged. R.I. Gen. Laws §§ 45-54-21, and 45-54-3(15). The City actions in seeking the State's closure of the Wyatt would irreparably harm the Bondholders, leaving the City (and potentially the State) exposed to over $130 million in damages to the Bondholders that invested in the Wyatt under a statutory commitment of non-

interference. Your actions calling for the closure of the Wyatt, and any actions taken in that regard, are in direct violation of the City's statutory obligations not to interfere with the Corporation's duties to fulfill its contractual obligations to the Bondholders.

In addition to breach of statute, the City appears to be liable under common law for tortious interference with a contract. "The basic elements of a claim based on a tortious interference with a contractual relationship are '(1) the existence of a contract; (2) the alleged wrongdoer's knowledge of the contract; (3) his intentional interference; and (4) damages resulting therefrom.'" *Jolicoeur Furniture Co. v. Baldelli*, 653 A.2d 740, 752 (RI 1995). *Jolicoeur* supports a cause of action for your interference with the Government Contracts and potentially for your general and repeated interference with the Corporation. The Supreme Court of Rhode Island supports the notion that "a corporate officer may be held liable under a tort theory for unjustified interference with his or her corporation's own contract." *Id*. at 753 (discussing fact that "malice, in the sense of spite or ill will, is not required; rather legal malice -- an intent to do harm without justification -- will suffice"). When the Mayor, City Council and its agents take action, including any legislative actions to impede the Corporation's performance of a contract with the US Marshals and ICE without justification, the City and those officers should be liable for tortious interference with such contract, regardless of any political motives. *Id*.

2. <u>Aiding and Abetting a Breach of Fiduciary Duty</u>.

To the extent the Corporation's board takes any action to impair or invalidate the Government Contracts or Indenture, the Mayor and City Council may be liable for aiding and abetting a breach of the Board's fiduciary duties to the Corporation. A claim for aiding and abetting a breach of fiduciary duty "requires proof that: (1) there was a breach of fiduciary duty; (2) the defendant knew of the breach; and (3) the defendant actively participated or substantially assisted in or encouraged the breach to the degree that he or she could not reasonably be held to have acted in good faith." *R.I. Res. Recovery Corp*., 2012 R.I. Super. LEXIS 167 at * 21-22.

"Once the city of Central Falls voted to allow the creation of the CFDFC pursuant to the Act, it relinquished any authority over the decisions of the CFDFC, except in certain instances." *Lawson v. Liburdi*, 114 F. Supp. 2d 31, 34 & n.5 (D.R.I. 2000). R.I. Gen. Laws 45-54-6(n) and 45-54-8(d) "set forth two instances in which the municipality may exercise authority over the CFDFC. First, if the CFDFC enters into any non-federal contracts, they must conform to the municipality's procurement requirements, if any. Second, the municipality may transfer property to the CFDFC without formality if the corporation needs the property. The municipality's authority is limited over the CFDFC to these two narrow circumstances." *Id*.

The appointed members of the board of directors are obligated "to support the constitution and laws of the state and the constitution of the United States and to faithfully and impartially discharge the duties of his or her office." R.I. Gen. Laws § 45-54-5. Thus, to the extent any of the board act at the direction of the Mayor in seeking to invalidate the Government Contracts, they would not be impartial, which would support causes of action for breach and aiding and abetting that breach. Likewise, it appears that the Mayor's encouragement for the Board to hold an

emergency meeting to terminate a valid contract could independently support a cause of action for aiding and abetting breach of fiduciary duty.

3. State Takings Claim.

Any actions by the City and State to invalidate the Government Contracts or the existence of the Corporation may result in constitutional takings by the State and violate the Contracts Clause of the United States Constitution and the Rhode Island Constitution. Article I, Section 12 of the Rhode Island Constitution states that "no ex post facto law, or law impairing the obligation of contracts, shall be passed." This prohibition is similar to that found in Article I, Section 10 of the United States Constitution, and "should be read in concert with the first sentence of article 1, section 16 of the Rhode Island Constitution: 'Private property shall not be taken for public uses, without just compensation….."

To the extent the City or State seeks to invalidate the Government Contracts—or worse the existence of the Corporation in its entirety — injunctive relief would be warranted due to the "substantial impairment of a contractual relationship." *See Hebert v. City of Woonsocket,* 2016 R.I. Super. LEXIS 15, *20 (citing *Energy Reserves Group v. Kansas Power & Light, Co.*, 459 U.S. 400, 411). The Agenda for a Special City Council meeting for April 3, 2019 (enclosed hereto) suggests that the City Council may authorize the City to rescind, withdraw, denounce, invalidate and terminate the City's 1991 action taken under R.I Gen. Laws 45-54-1 to establish the Corporation. Any such action by the City would violate the Contracts Clause as it would operate "as a substantial impairment of a contractual relationship." *Sveen v. Melin,* 38 S. Ct. 1815, 1821 (2018) (quoting *Allied Structural Steel Co. v. Spannaus,* 438 U.S. 234, 244 (1978)). Moreover, R.I. Gen. Laws §§ 45-54 itself is "treated as a contract" because "the language and circumstances evince a legislative intent to create private rights of a contractual nature enforceable against the state." *United States Trust Co. v. New Jersey,* 431 U.S. 1, fn. 4 (1976). Here, there is no question that the Indenture and Government Contracts exist and the Mayor and City Council's attempt to take actions to intentionally impair those contractual relationships exposes the City and perhaps State to significant claims and damages. There is little doubt that the City's proposed resolutions (if at all enforceable) would "substantially" impair the existing contractual relationships maintained by the Corporation. There is nothing more substantial than the City's attempt to rescind of Corporation's charter, the Indenture and the Government Contracts.

Lastly, any State action cannot be justified. The Supreme Court has held that "if the state regulation constitutes a substantial impairment, the State, in its justification, must have a significant and legitimate public purpose behind the regulation… the requirement of a legitimate public purpose guarantees that the State is exercising its police power, rather than providing a benefit to special interests." *Hebert v. City of Woonsocket,* 2016 R.I. Super. LEXIS 15, *28-29 (citing *Energy Reserves*, 459 U.S. at 411-12).

Any action taken by the Mayor or City Council exposes the City and State to material damage. As you know, the amount outstanding under the Indenture exceeds $130 million. In addition, the City and State may be subject to takings claims on behalf of other interested parties.

Finally, as litigation concerning the Fink parcel and Open Meetings has commenced, and it is reasonably anticipated that claims outlined herein may be brought against you, the City and potentially the State, you must continue to preserve all documents and communications relating to the Corporation generally, including the Government Contracts.

This letter is written with a full reservation of all rights and remedies against all parties.

Very truly yours,

Adrienne K. Walker

Enclosures

cc: Gina M. Raimondo, Governor
Seth Magaziner, Treasurer
Dominick J. Ruggerio, Senate President
Nicholas A. Mattiello, Speaker of the House of Representatives
Jonathan Acosta, City Councilor Ward 1
Robert Ferri, City Councilor Ward 2
Hugo Figueroa, City Councilor Ward 3
Franklin Solano, City Councilor Ward 4
Thomas Lazieh, City Councilor Ward 5
Maria Rivera, City Councilor President
Agostinho Silva, City Councilor President *Pro Tempore*
Senator Elizabeth A. Crowley, District 16 State Senate
Representative Shelby Maldonado, District 56 State Representative
Representative James N. McLaughlin, District 57 State Representative
Matthew A. Lopes, Esq.
Lorna Gleason, Senior Vice President

City of Central Falls
Special City Council Meeting
Central Falls City Hall
580 Broad St., Central Falls, RI 02863
Wednesday, April 3, 2019
7:00 p.m.

Agenda

I. Roll Call

II. Pledge of Allegiance

III. Consideration of appointments, by Mayor James Diossa, to the Central Falls Detention Facility Board
   A. Herman Yip, of 501 Roosevelt Ave. Unit R03, Central Falls, RI 02863

   B. Joseph Molina Flynn, chairman, of 127 Dorrance St., 4th Floor, Providence, RI 02903

IV. Resolution of the Central Falls City Council rescinding, withdrawing, denouncing, invalidating and terminating the August 5, 1991 'Resolution Regarding Central Falls Detention Facility Corporation" (Rivera)

V. Resolution of the Central Falls City Council rescinding, withdrawing, denouncing, invalidating and terminating the August 5, 1991 'City Council Resolution of Approval' Regarding the Central Falls Detention Facility Corporation" (Rivera)

VI. Adjournment

Pursuant to Rhode Island General Laws § 42-46-4, the City Council reserves the right to convene in executive session on any of the aforementioned items for one or more of the purposes listed in Rhode Island General Laws § 42-46-5(1)-(10)

Posted April 1, 2019

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March 1, 2019

BY EMAIL AND FIRST CLASS MAIL

Matthew Lopes, Esq.
Kerry Walsh, Esq.
Pannone Lopes Devereaux & O'Gara LLC
Northwoods Office Park, Suite 215 N
1301 Atwood Avenue
Johnston, RI 02919

Matthew T. Jerzyk, Esq.
City Solicitor – City of Central Falls
580 Broad Street
Central Falls, RI 02863

Andrew Sholes, Esq.
Sholes & Sholes
1375 Warwick Avenue
Warwick, RI 02888

Re: City's Complaint for Declaratory Judgment (Real Estate Taxes) and City's Open Meetings Complaint

Dear Messrs. Lopes, Walsh, Jerzyk and Sholes:

As you are aware, this firm represents UMB Bank, N.A. as Trustee (the "Trustee"), in connection with the Central Falls Detention Facility Revenue Refunding Bonds (The Donald W. Wyatt Detention Facility) Series 2005A in original aggregate principal amount of $106,380,000 (the "Bonds") issued by the Central Falls Detention Facility Corporation (the "Corporation"), under that certain Indenture of Trust dated as of June 1, 2005 ("Indenture") by and between the Trustee and the Corporation.

This letter is in response to certain recent actions undertaken by the City of Central Falls (the "City") relating to the Corporation that seek to damage the Corporation and impair the rights of holders of the Bonds, despite the City's express agreement and explicit Rhode Island statutes to the contrary. Although the primary focus of this letter relates to the Fink Parcel (defined herein), the Trustee is equally troubled by the false and misguided submissions made by the City to the Attorney General's office in regard to the City's Open Meetings complaint concerning the Corporation's January 2019 Board meetings.

The City's recently filed ***second*** complaint against the Corporation (the "Second Complaint"), seeking a declaration that certain real estate (the "Fink Parcel") leased to the Corporation by Sanford and Francine Fink under that certain Lease Agreement, dated May 1, 2005 (the "Fink Lease") is subject to real property taxes, is in clear violation of both state statutory and common law. As the City is well aware from its prior complaint for declaratory judgment filed in 2013 (the "First Complaint"), there is no basis in law for seeking real estate taxes with respect to the Fink Parcel as the property is tax exempt. In addition, the dismissal of the First Complaint was subject to the terms of that certain Forbearance Agreement, dated March 30, 2015, by and among the Corporation, City and Trustee (the "Forbearance Agreement"). Under the express language of Section 3.5 of the Forbearance Agreement, the City may not challenge the tax exempt status of the Corporation with respect to the Fink Parcel because the Forbearance Agreement has not been terminated. In fact, the City participated in providing language to the most recent amendment to the Forbearance Agreement, which is not set to terminate until July 16, 2019.

The Second Complaint is nothing more than the City's thinly veiled attempt to extract money from the Corporation at any cost, and to destroy the Corporation's efforts to return to financial stability and pay its long term debt obligations. It is most troubling that the City completely failed to acknowledge to the Court the ***express language*** under the Forbearance Agreement that (a) prohibits the City from receiving payments under the Forbearance Agreement when the Corporation is unable to meet its operating expenses, and (b) limits the scope of any future City challenge to the Tax Claims (as defined in the Forbearance Agreement). In addition, the City makes reference to Title 44 of the Rhode Island laws as "applicable statutory provisions," yet ***completely ignores*** Title 45, which is ***controlling*** legal authority with respect to the Corporation. The City's clear and unambiguous failure to state the most essential facts and to cite controlling legal authority to the Court is disingenuous and appears to raise potential violation of Rule 3.3 of the Rhode Island Disciplinary Rules of Professional Conduct and even Rule 11 of the Superior Court Rules of Civil Procedures. To the extent the City refuses to immediately dismiss its intentionally inaccurate Second Complaint, the Trustee reserves all rights to intervene and bring claims and seek damages against the City for its violations of state and common law to impair the Corporation's going concern.

Further, the Second Complaint was filed mere days after the City also filed a complaint with the Rhode Island Attorney General to challenge the Corporation's January 22, 2019 vote to enter into the Third Amendment (the "Open Meetings Complaint'). While the Open Meetings Complaint lacks any legal justification (as set forth in the Corporation's response thereto), the City is transparent in its attempts to destroy the Corporation's return to viability by housing persons detained by the Immigration and Customs Enforcement (ICE). The City's objection to ICE is entirely political and against the best interests of the City. If ICE detainees return to the Wyatt, it is likely that there would be sufficient funds to distribute to the City pursuant to the Forbearance Agreement. Rather than support the Corporation's attempt to increase its revenues by returning ICE detainees, the City (as a subdivision of the state of Rhode Island) stands in

direct violation of the government's limitation of powers over the Corporation, pursuant to R.I.G.L § 45-54-21.

Mr. Jerzyk's reply for the City to its Open Meetings Complaint unsuccessfully challenges the validity of the fiscal emergency faced by the Corporation. The City's statements are not rooted in fact and lack an appropriate understanding of the law. The City fails to appreciate that, but for the emergency advance of funds from the Trustee, the Corporation would have been forced to immediately cease operations and terminate all of its employees, including 9 employees that reside in the City. In addition, the City is naive to suggest the Corporation had other viable sources of funding. It would be virtually impossible for a new lender to make an unsecured $1.5 million loan to the Corporation within a matter of days. Commercial financing is simply not the same as Mr. Jerzyk and his wife seeking a personal loan and it is pure speculation on his part concerning any alternative funding source. Contrary to the City's claims that the Bridge Advance came from a "secret agreement" with "Wall Street investors," the Advance Lenders, headquartered in upstate New York and far from Wall Street, acted expeditiously to enable the Corporation to survive during the unprecedented federal government shutdown and pay its essential employees. There are many other incorrect statements in the City's reply, but what is evident is the City's clear and unabashed attempts to interfere with the Corporation's independence and to destroy value. Other than to appoint independent board members to the Corporation, the City should be taking no action with respect to the Corporation's governance, especially its recent actions that appear aimed at harming the going concern of the Corporation. The Trustee reserves any and all rights to bring claims against the City for intentionally harming the value of the Corporation, thereby impairing the rights of Bondholders under the Indenture.

By this letter and in an attempt to reduce unnecessary litigation costs due to the City's frivolous Second Complaint, the Trustee outlines the following primary infirmaries with the Second Complaint.[1] At the outset, it must be recognized that the Corporation was established under Chapter 54 of Title 45. Thus, Chapter 54 "shall be construed to provide a complete additional and alternative method for doing the things authorized hereby and shall be regarded as supplemental and in addition to the powers conferred by other laws." R.I.G.L § 45-54-24, In addition, Section 26 of Chapter 54 recognizes that "insofar as the provisions of this chapter are inconsistent with the provisions of any other charter or other law or ordinance, general, special, or local, or any rule or regulation of the state or any municipality, the provisions of this chapter are controlling." R.I.G.L. § 45-54-26. Thus, the City's reference to Title 44 is generally not applicable with respect to the Corporation because there are prevailing, direct statutory provisions at Title 45 that govern the Corporation's tax exempt status.

[1] The reference in this letter to any specific defects in the Second Complaint shall not be deemed a waiver of any other defects to the Second Complaint. The Trustee reserves any and all rights to assert additional defenses and affirmative claims against any party with respect to the Second Complaint.

1. The City Agreed to Subordinate its Payments under the Forbearance Agreement to Necessary Operating Expenses. It is troubling that paragraph 17 to the Second Complaint referenced only a portion of the Forbearance Agreement to support its suggestion that, due to the cessation of payments to the City, the City is justified in bringing the Second Complaint. The City knows this is incorrect.

First, Section 2.1 of Forbearance Provides that payments to the City may occur only ***if*** the Corporation is ***not*** subject to a Termination Event under Sections 4.1(i), (ii) and/or (iii) and Section 4.2(i), (ii) and/or (iii). As the City is well aware, the escape of detainee Morales on December 31, 2016 and the resulting economic harm caused by the reduction in population at the Corporation resulted in a Termination Event under Forbearance Agreement Section 4.1(iii). As a result, the Corporation was no longer authorized to make the monthly payments of $16,666.66 to the City.

Second, the Forbearance Agreement prohibits payments to the City ***if*** the Corporation does not have sufficient revenue to meet its operating expenses. This was a material term in the Forbearance Agreement and negotiated at length with the City. The City's intentional failure to state in the Second Complaint the following controlling language at Section 2.1 is highly concerning:

> [t]he Corporation is authorized to transfer to the City $16,666.66 (i.e., an aggregate of ***up to*** $800,000 during the term of the Forbearance Agreement), from Revenues, ***to the extent there are funds available subsequent to payment of operation and maintenance expenses of the Corporation.***

As the City is aware, there have been several periods of time since 2017 that the Corporation has not had sufficient funds to meet is immediate operation and maintenance expenses. As a result, the Corporation and Trustee have entered into three amendments to the Forbearance Agreement to provide limited sources of additional liquidity to the Corporation.

2. Filing of the Second Complaint Violates the Forbearance Agreement. Nowhere in the Forbearance Agreement does it provide that the City may assert its Tax Claims if it does not receiving the monthly payments under Section 2.1 to the Forbearance Agreement. To the contrary, Section 3.5 expressly provides the limited relief the City may seek in the future with respect to the Tax Claims.

Under each of the four scenarios at Section 3.5, it unambiguously states that the City may only pursue certain Tax Claims "to the extent the Forbearance Agreement ***is terminated by the Bond Trustee*** as a result of a Termination Event other than the Outside Termination Date. . . (emphasis added)" The City is well aware that the Trustee has not terminated the Forbearance Agreement. In fact, the City reviewed and offered certain clarifying language to the recent Third Amendment to the Forbearance Agreement that extended the Outside Termination Date to July 2019.

Even if the Trustee terminates the Forbearance Agreement in the future, the City expressly limited the scope of any challenge to only those Tax Claims that accrue on and after such termination, pursuant to Section 3.5(iv). Thus, the City has no basis to assert any Tax Claims while the Forbearance Agreement remains in full force and effect. Yet, the City fails to identify any of this controlling language to the Court in its Second Complaint, raising a potential claim that the City is intentionally lacking candor to the tribunal and bringing frivolous litigation.

3. The Corporation is Exempt from All Taxation. As set forth in various pleadings filed and served on the City in connection with the First Complaint, the Corporation acquired the Fink Parcel in 2006 under the Lease and pursuant to the installment purchase agreement set forth in the Option Agreement between the Finks and the Corporation. A more detailed summary of the Trustee's arguments that the Fink Parcel is tax exempt, which have not changed since the time of the First Complaint, is set forth in that certain *Intervenor-Defendant U.S. Bank National Association's Memorandum in Opposition to the City of Central Falls' Complaint and Request for Declaratory Judgment and in Support of its Counterclaim and Declaratory Judgment*, dated May 13, 2014 is attached hereto as **Exhibit A** and incorporated herein by reference. A summary of those arguments are set forth below.

(i) The Project is Tax Exempt Under R.I.G.L. § 45-54-7

The Corporation is exempt from all taxation, including taxes relating to the Fink Parcel, pursuant to R.I.G.L. § 45-54-7:

> The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the state and for the facilitation of the conduct of their public business, and as the acquisition, construction, operation, and maintenance by the corporation of the projects defined in this chapter will constitute the performance of essential governmental functions, ***the corporation is not required to pay any taxes or assessments upon the projects or upon any property acquired, or upon the income from the projects, or any other state or local tax of any kind or description, nor is the corporation required to pay any recording fee or transfer tax of any kind or description, and the bonds, issued under the provisions of this chapter, their transfer, and the income from them (including any profit made on the sale) at all time free from taxation by the state, or any political subdivision or other instrumentality of the state, excepting estate taxes,*** and the corporation shall pay property taxes and assessments on its properties located outside the boundaries of the city or town whose council established the corporation (emphasis added).

The City previously acknowledged the tax exempt status of the Corporation as well as the Fink Parcel acquired under the Fink Lease. In fact, in 2006, the Corporation sought and obtained a confirming opinion from the City that the Fink Parcel was tax exempt, a copy of which was attached at Exhibit C to the Second Complaint. The City's suggestion that such confirmation of tax exempt status was only applicable for 1 year is disingenuous. The City never sent any tax

bills for the Fink Parcel until 2011 when the then Receiver for the City attempted to extract funds from the Corporation.

(ii) The Fink Parcel is a "School" or "Academy" and Exempt from Property Taxes.

Title 44 of the Rhode Island general laws applies to the Corporation so long as it is consistent with Title 45. Here, the Fink Parcel is tax exempt under Title 44 because it is a school or academy. *See* R.I.G.L. 44-3-3(8). The facts are clear that the Fink Parcel was acquired for the purpose of establishing a new training center for all new correctional officers and for the required annual training of the Corporation's staff. *See* Lease § 6. Upon acquisition of the Fink Parcel, the Corporation constructed and has continuously operated the Correctional Officer's Training Academy.

(iii) The City is Not Authorized to Collect Back Taxes

The Second Complaint is entirely unclear what relief the City seeks. The City does not state the time period it believes are subject to Tax Claims. The City does not state the scope or duration of any tax assessment request, nor does the City provide any legal basis for asserting any fees or costs associated with its frivolous complaint. To the extent the City seeks back taxes, it is also prohibited from doing so under R.I.G.L. § 44-5-23, which provides in part:

> If any real estate liable to taxation in any city or town has been ***omitted*** in the assessment of any year or years and has thereby escaped taxation, or if any tax has been ***erroneously or illegally assessed*** upon any real estate liable to taxation in any city or town in any year or years . . . . the assessor of taxes of the city . . . shall assess or reassess, as the case may be, a tax or taxes against the person or persons who were the owner or owners of the real estate in the year or years, to the same amount to which the real estate ought to have been assessed in the year or years (emphasis added).

A plain reading of the statute confirms that the General Assembly intended to treat real estate that was omitted from taxation differently from improperly assessed taxes. With respect to ***assessed*** taxes, only those that were "erroneously or illegally assessed" can be reassessed. And real estate that is ***omitted*** from taxation may only be subject to assessment where such omission was intentional, rather than an erroneous act. Thus, it is clear that the City cannot assess additional taxes where the property escaped taxation due to error; only an omission can be the subject of an additional assessment. Here, the City did not erroneously omit to assess taxes on the Fink Parcel. Rather, the City intentionally did not issue tax bills for the years 2006-2011, and again after the dismissal of the First Complaint.

The Second Complaint and the issues thereunder are of deep concern to the Trustee and the rights of the Bondholders must be addressed. All parties in interest should understand and comply with the current limitations under Rhode Island law and the Indenture that are designed to protect investors. As litigation concerning the Fink Parcel has commenced, and it is

reasonably anticipated that counterclaim may be brought against the City, you must immediately preserve all documents and communications relating to Fink Parcel, Tax Claims and the Corporation generally.

This letter is written with a full reservation of all rights and remedies. Should you have any questions regarding this letter, please contact me. Thank you.

Very truly yours,

Adrienne K. Walker

Enclosures

cc: Andrea M. Shea, Special Assistant Attorney General (first class mail without enclosure)
Lorna Gleason, Senior Vice President (first class mail without enclosure)