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TO: Benjamin Lee, Chair, Legislative and Rules Committee, Board of Representatives

FROM: Michael Toma, Assistant Corporation Counsel *MST*

DATE: March 15, 2019

RE: Proposed Ordinance Establishing a Special Revenue Fund for School Projects

You have asked that the Law Department review the above-referenced proposal. In my opinion, while the general statutes authorize the creation of such a special revenue fund, the proposal would need to be revised in order to comply with the City Charter.

Connecticut General Statutes Section 7-148(c)(2)(k) authorizes municipalities to “create a sinking fund or funds or a trust fund or funds or other special funds, including funds which do not lapse at the end of the municipal fiscal year.” This grant of authority permits the establishment of a “lockbox” type of special revenue fund wherein the funds would be restricted to specific purposes. An ordinance is an appropriate method of establishing such a fund. C.G.S. 7-148 specifically authorizes the use of ordinances to effectuate the powers granted by said statute.

The provision of the proposed ordinance requiring that proceeds received from the State of Connecticut OTB Revenue Sharing shall be deposited into the special school projects fund is inconsistent with the budget-making framework of the City Charter. Part 8 of the Charter, “Budgetary Procedures,” places the responsibility of preparing the City’s budget with the Mayor. See specifically C8-30-2. This responsibility includes determining, in the Mayor’s sole discretion, whether to put revenues toward a certain purpose. After revision of the Mayor’s budget by the Board of Finance, the Board of Representatives “may approve, reject or reduce any item in the budget.” C8-30-7. An ordinance that dictates the use to which certain revenues must be put usurps the Mayor’s budget-making authority by interfering with the discretion vested in the Mayor to decide what items should be funded, and in what amounts. The Charter allows the Mayor, not the Board of Representatives, to determine the uses to which city funds will be directed. In my opinion, the OTB Revenue Sharing provision would need to be removed in order for the proposal to comply with the Charter.

The proposed ordinance also provides that the contemplated school projects fund shall be funded by “such funds as are appropriated in accordance with the requirements of the City of Stamford Charter and applicable statutes and ordinances.” This provision does not run afoul of the Charter, as it leaves intact the authority of the Mayor to decide whether, and in what amount, to include monies in the budget for school projects.

If the Mayor did decide to include money in the budget for the proposed school capital projects fund (that is, money the Mayor proposed in the budget to appropriate for deposit into the “lockbox”), it would be legal, in my opinion, for an ordinance-created “lockbox” to prevent the transfer of such money away from school-related capital projects, as is contemplated by Section 23-35 of the draft ordinance. The Board of Representatives should be aware that such a provision would restrict the existing ability of the City, under Section 8-3 of the Code, to transfer funds from a school-related capital project that has been closed out to a non-school-related capital project.

With respect to Section 23-35 of the proposed ordinance, “Expenditure of Funds,” there needs to be a clarification of the first sentence of paragraph A, as it was not understood by the Law Department or by the administration what is meant by the phrase “in excess of 10% of the proposed capital projects budget...” Secondly, school projects are sometimes managed by ad-hoc committees in addition to the School Building Committee, and so consideration must be given to whether the requirement of approval by the School Building Committee should be replaced with language that is broad enough to encompass whichever committee has been established and designated to oversee a particular school building project.

CC: Matt Quinones, President, Board of Representatives
Mayor David Martin
Michael Handler, Director of Administration