

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

January 13, 2014

The Honorable President and
Members of the Baltimore
City Council
c/o Karen Randle, Executive Secretary
409 City Hall
Baltimore, MD 21202



RE: City Council Bill No. 13-0265 – Supplementary General Fund
Bond Appropriation-Downtown Partnership of Baltimore-
\$200,000

Dear President and Members:

You have requested the advice of the Law Department regarding City Council Bill 13-0265. City Council Bill 13-0265 provides for a Supplementary General Fund Bond Appropriation for the Downtown Partnership of Baltimore.

The FY 14 Capital Plan and 6-Year Capital Plan Summary (FY14 Capital Plan) contains the recommendations of the Board of Estimates for capital projects for FY14. It shows a recommendation for three capital projects for the DPB totaling \$650,000 to be paid from the proceeds of GO bonds. See FY14 Capital Plan, Pg. 12-13 and 172-173. The total for all capital projects funded by GO bond proceeds is 50 million if the three DPB projects are included. The F14 Ordinance of Estimates, in the Capital Budget portion, does not contain any reference to the three DPB capital projects. In Section 5, however, the total anticipated expenditure for capital projects from GO bond remains \$50 million. The beginning of Section 5 states “SECTION 5. The foregoing appropriations in summary consist of:”. The total for GO Bonds funded projects in this summary is \$50 million. Without the DPB projects, this number is \$650,000 too high.

Since the detail of the three DPB projects is not included in the Capital Budget portion of the Ordinance of Estimates, no appropriation has been made for those projects. Art. VI, §9 states that “following the passage of the Ordinance of Estimates and the enactment of the revenue measures necessary to achieve a balance between expected revenues and anticipated expenditures for the next fiscal year, the sums contained in the Ordinance of Estimates shall, after the beginning of the fiscal year to which it is applicable, be and become appropriated for the purposes therein named. No appropriation provided for in the Ordinance of Estimates shall be used for any purpose other than that named in that ordinance ...” Under this section, there can be

no expenditures for the DPB projects because no amount of money was appropriated to those purposes.

Section 8(b) provides that "[e]xcept as provided herein, the Ordinance of Estimates shall include all the moneys to be appropriated by the City for all purposes for the fiscal year for which the ordinance is applicable. Additional appropriations shall be permitted during the fiscal year only in the following circumstances and under the following conditions" This section allows for additional appropriations under three scenarios. The applicable provisions for these circumstances is Sec. 8(b)(3), "[f]urther appropriations for programs included in the proposed Ordinance of Estimates made necessary by a material change in circumstances, or additional appropriations for new programs which could not reasonably be anticipated at the time of the formulation of the proposed Ordinance of Estimates may be made available to the appropriate municipal agency for expenditure by a supplementary appropriation ordinance recommended to the City Council by the Board of Estimates, duly passed by the City Council by a vote of three-fourths of its members and approved by the Mayor." See Art. IV, §8(b)(3)

The supplementary appropriation authorized in §8(b)(3) would allow for the supplementary appropriation needed under these circumstances. It could not be reasonably anticipated that the DPB programs would be inexplicably dropped from the ordinance of estimates when they were in all the documents provided in support of the FY14 Capital Budget.

City Council Bill 13-0265, therefore, is consistent with the authority of the City Council under Art. IV, Sec. 8. The Law Department, therefore, approves the bill for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro
Chief Solicitor

cc: George A. Nilson, City Solicitor
Angela Gibson, City Council Liaison
Ashlea Brown, Assistant Solicitor
Hilary Ruley, Assistant Solicitor
Victor Tervalá, Assistant Solicitor