



**School District of the City of Highland Park  
Regular Meeting of the Board of Education**

**Highland Park Renaissance Academy  
45 Buena Vista  
Highland Park, Michigan 48203  
Tuesday, November 13, 2018  
6:00pm**

- ® **Call to Order-** Meeting was **Called to Order at 6:06pm by Alexis Ramsey, Board President**
- ® **Roll Call-** Teresa Kelly-Member, present/ Jamille Edwards-Member, absent  
Linda G. Wheeler, Secretary, present/ Alexis Ramsey-President, present  
Morquet Ash-Shafii-Member, present/ Cheryl Sanford-Treasurer, present  
Eban Morales-Vice President, present.     **QUORUM**
- ® **Moment of Silence**
- ® **Communication**
  - ® Resolution Honoring Mrs. Pettway will be read at next official board meeting.
- ® **Citizens Participation (Agenda Items Only 2 minutes) - Na**
- ® **Approval of the Board of Education Agenda**  
Wheeler **made a Motion to Approve** the **Agenda** for Nov. 13, 2018. Ash-Shafii,  
**Second, MOTION PASSES.**
- ® **Approval of Minutes**  
Wheeler **made a Motion to Table** the **Minutes** of Oct. 09, 2018. Ash-Shafii,  
**Second, MOTION PASSES.**
- ® **Director of Operations Information- Kevin Smith, Director of Operations**

**2.**

- a. Website Design, Kevin Moore Visionmoore Concepts, LLC**
- b. School Report Card/ Academic Performance- Zakia Gibson**  
Morquet Ash-Shafii **made a Motion** to direct the Highland Park Renaissance Academy PSA Board to Summit a Corrected Action Plan by December 12, 2018.  
Linda G. Wheeler, **Second, Roll Call Vote attached.**  
**MOTION PASSES UNANIMOUSLY**
- c. Facilities Improvements Timeline- Brian R. Ellison, MCD- Intersection Consulting Group**
- d. Monthly Financial Report- LaShandra Thomas, Clairmont Group**

® **Old Business**

® **New Business**

- a. Approval of FY 2018 audit- Yeo & Yeo**  
Audit from Yeo & Yeo Received and Filed.
- b. Authorization of Sinking Funds**  
Morquet Ash-Shafii **made a Motion** to pay for services from Sinking Fund to Brian Ellison, Intersection Consulting Group  
\$17,500.00 for facilitating the Facility Assignment of HPRA.  
Wheeler, **Second.**  
**Roll Call Vote:**  
Teresa Kelly-**Yea**/ Linda Wheeler- **Yea**/ Alexis Ramsey- **Yea**  
Cheryl Sanford-**Yea**/ Morquet Ash-Shafii-**Yea**/ Eban Morales-**Yea**  
**MOTION PASSES UNANIMOUSLY**

® **Board of Education Affairs**

- ® Acknowledgement of Newly Elected Board members
- ® Board Member Comments

® **Citizens Participation (2 minutes)**

- ® **Adjournment-** Wheeler **made a Motion to Adjourn** the meeting at 8:00pm. Ash-Shafii, **Second, MOTION PASSES.**

**Respectfully submitted, Linda G. Wheeler, Board Secretary**

# CLARK HILL

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November 12, 2018

Keven Smith, Esq.  
12360 Woodward Avenue  
Highland Park, Michigan 48203

**Re: USE OF SINKING FUND PROCEEDS AND REFUND**

Dear Mr. Smith:

You have requested our opinion on permissible the use of sinking fund proceeds available to the School District of the City of Highland Park (the "School District"). The School District is in the process of assessing and executing a program of facility evaluation and upgrades that include acquiring and repurposing real property, with the attendant need to undertake environmental site assessments, title analysis<sup>1</sup> and other due diligence related to the real property.

The School District has requested our given that it has immediate need to engage contractors to conduct the diligence activities described above. We have not examined a certified copy of the ballot proposition, but our understanding of the ballot proposition is that it authorized the sinking fund proceeds to be used for "the purchase of real estate and sites for, and the construction or repair of school buildings." See Resolutions of the Board of Directors of Highland Park Public School Academy System – Sinking Fund Acceptance Resolution, November 30, 2012 (the "Resolution"). This Opinion is qualified as a general statement of the law, and is subject to review of the sinking fund millage ballot certified to the appropriate governmental official. We are in the process of attempting to obtain the wording of the actual proposition from the Elections Division of the Wayne County Clerk's Office. To the extent that the wording of the actual proposition is not congruent with the proposition wording quoted above from the Resolution, our analysis may be subject to change.

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<sup>1</sup> Among the terms you asked us to examine is "quiet title work." While our analysis, *infra*, supports consultants and engineers, which we would view includes title examination, we express no opinion on the facts before us on whether litigation fees and costs related to a quiet title action would be appropriate uses of sinking fund proceeds. We reserve that question for future development of facts.

## ANALYSIS

Pursuant to MCL 380.1212, a general powers school district is authorized, with the approval of its electors, to levy a millage for sinking fund purposes as set forth below:

(1) If approved by the school electors of the school district, the board of a school district may levy a tax on the taxable value of the real and personal property of the school district each year for the purpose of creating a sinking fund. All of the following apply to a sinking fund tax authorized under this section:

(a) For a sinking fund tax authorized before the effective date of the amendatory act that added subsection (6), the sinking fund tax may be used for the purchase of real estate for sites for, and the construction or repair of, school buildings. For a sinking fund tax authorized on or after the effective date of the amendatory act that added subsection (6), the sinking fund tax may be used for the purchase of real estate for sites for, and the construction or repair of, school buildings, for school security improvements, or for the acquisition or upgrading of technology.

(b) For a sinking fund tax authorized before the effective date of the amendatory act that added subsection (6), the sinking fund tax shall not exceed 5 mills. For a sinking fund tax authorized on or after the effective date of the amendatory act that added subsection (6), the sinking fund tax shall not exceed 3 mills.

(c) For a sinking fund tax authorized before the effective date of the amendatory act that added subsection (6), the sinking fund tax may be levied each year for a period not to exceed 20 years. For a sinking fund tax authorized on or after the effective date of the amendatory act that added subsection (6), the sinking fund tax may be levied each year for a period not to exceed 10 years.

(d) The sinking fund tax levy is subject to the 15 mill tax limitation provisions of section 6 of article IX of the state constitution of 1963 and the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a.

(2) A school district that levies a sinking fund tax under this section shall have an independent audit of its sinking fund conducted annually, including a review of the uses of the sinking fund, and shall submit the audit report to the department of treasury. If the department of treasury determines from the audit report that the sinking fund has been used for a purpose other than those authorized for the sinking fund under this section, the school district shall repay the misused funds to the sinking fund from the school district's operating funds and shall not levy a sinking fund tax under this section after the date the department of treasury makes that determination.

(3) The proposition of levying a sinking fund tax shall be submitted to the school electors of the school district at a regular or special school election.

It is critical to any analysis of use of sinking fund proceeds to know that, pursuant to MCL 380.1212(2), the use of such proceeds is subject to an annual audit of its sinking fund. If the Michigan Department of Treasury determines that the sinking funds have been used improperly, they must be repaid out of the School District's operating funds and the School District will not be permitted to levy sinking fund after the date of the determination. There is, however, no published legal authority to guide school districts in determining appropriateness of use.

While there is no published legal authority regarding appropriate sinking fund use, the Michigan Department of Treasury issued, for a period of time, letters to school districts opining on whether proposed uses were proper uses. Those letters have been collected by the Michigan School Business Officials and published on their website.<sup>2</sup> Although the Michigan Department of Treasury has, some time ago, ceased issuing such opinions and although the opinions do not address appropriate use of sinking funds related to uses approved by the legislature in recent amendments to the statute, they provide general guidance as to projects related to the second clause of MCL 380.1212(1)(a): "the purchase of real estate for sites for, and the construction or repair of, school buildings." This is the operative language of the sinking fund proposition set forth in the Resolution, and so we base our further analysis on the uses permitted by this second clause as elucidated by the sinking fund use library (the "Index") maintained at [www.MSBO.org](http://www.MSBO.org).

Although there are not specific entries in the letter library related to site assessments, environmental assessments and quiet title work, there are quite a few letters related to the retention of consultants and engineering services. A canvass of these letters, especially the letter located at Page Number 72 in the Index, yields the conclusion that, provided the consultants are engaged related to the "construction and remodeling" of a school building or buildings, the expense would be an approved expense. See Page Number 71 of the Index.

For purposes of clarity, we set forth the requested use that was approved:

Architects, attorneys, building consultants, building inspectors, managers, advisors or any and all other expenses related to the construction and remodeling of the . . . buildings as described herein.

From the authority in this and the other letters related to architects, consultants, inspectors and engineers, we conclude that sinking fund proceeds may be used for site assessments, environmental assessments and quiet title work related to the construction and remodeling of school buildings.

The Index also contains authority to support that sinking fund proceeds may be used for the purchase of real property, to purchase an option to purchase real property and to pay principal and interest related to the purchase of real property.<sup>3</sup>

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<sup>2</sup> See <http://www.msbo.org/msbo-online-library-sinking-fund>

<sup>3</sup> See Index at pp 155-156; 136-137, 184-185. It should be noted that the extant letters approve the purchase of property with sinking fund proceeds, as indicated, provided the purchase is undertaken in accordance with applicable law. See, e.g. Page Numbers 136 and 155 of the Index.

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## CONCLUSION

Based on our canvass of the Index and the letters cited above, as well as other letters in the Index, it is our opinion that sinking fund proceeds may be used for consulting work related to the acquisition of sites for and the construction and remodeling of school buildings.

CLARK HILL PLC

A handwritten signature in black ink, appearing to read "J.B. Urban", followed by a horizontal line extending to the right.

Joseph B. Urban

EXHIBIT A

LEGAL OPINION RE: USE OF SINKING FUND PROCEEDS



**THE SCHOOL DISTRICT OF THE CITY OF HIGHLAND PARK**  
**BOARD OF EDUCATION**  
12360 Woodward Avenue  
Highland Park, Michigan 48203

**RESOLUTION TO AUTHORIZE THE USE OF SINKING FUNDS**

At a regular meeting of the Board of Education (the “Board”) of the School District of the City of Highland Park (the “District”), held on November 13, 2018, the following preamble and resolution were moved by Member \_\_\_\_\_ and supported by Member \_\_\_\_\_:

**RECITALS:**

WHEREAS, the Board at its regular meeting held on September 11, 2018, approved a competitively bid proposal of The Intersection Consulting Group (“Contractor”) for a contract in the amount of not to exceed \$17,500 to perform certain facility assessments, environmental studies, master planning and coordination of contracting for the construction of capital improvements to the Renaissance Academy building owned by the District, and to assist the Board in undertaking certain land entitlement, parcel mapping and land use determinations in connection with a proposed plan for the development and construction of a future high school site for the District (“Services”), subject to District administration’s identification of available District resources to pay for Contractor’s services; and

WHEREAS, the District established a sinking fund under Section 121 of the Revised School Code, 1976 PA 451, MCL 380.1212 (the “Sinking Fund”) and levied a tax under Section 1212 of the Revised School Code until December 2016 for the purpose of funding the purchase of real estate and sites for, and the construction or repair of school buildings of the District, which includes the Renaissance Academy building; and

WHEREAS, the District has proposed allocating funds available from its Sinking Fund to engage Contractor for performance of the Services on behalf of the District; and

WHEREAS, the District inquired of and obtained from its general counsel, Clark Hill, PLC, a legal opinion advising that use of Sinking Funds to pay for Contractor’s Services would be a lawfully permissible use of such funds in accordance with state law; and



WHEREAS, based on the advice of its legal counsel, the Board desires to authorize the use of \$17,500 from its Sinking Fund to pay for the proposed Services.

NOW, THEREFORE, BE IT RESOLVED:

1. Based on the findings of the District's legal counsel in its opinion attached as **Exhibit B** hereto, the District is hereby authorized to appropriate not to exceed \$17,500 from the District Sinking Fund for the purpose of engaging Contractor to perform the above described Services and due diligence activities for District properties.
2. In support of this authorization, the District shall have an independent audit of its Sinking Fund conducted annually, including a review of the proposed uses of the Sinking Fund authorized by this Board, and shall submit the audit report to Board and the department of treasury as required by the Revised School Code.

Roll Call Vote:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

Motion Declared Adopted.

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Secretary, Board of Education

November 12, 2018