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**By email to: [melody.currey@ct.gov](mailto:melody.currey@ct.gov)**

December 6, 2016

Melody Currey, Commissioner  
Connecticut Department of Administrative Services  
165 Capitol Ave  
Hartford, CT 06106

Re: Griswold, Town of - Police Firing Range

Dear Commissioner Currey,

I have received your letter of November 28 to Kevin Skulczyk, the First Selectman of my client the Town of Griswold; Mr. Skulczyk asked me to follow up. My client and I do appreciate your department's willingness to shed more light on the state's facility planning process. However, your letter does leave me with several more questions that I hope you may be able to answer.

Specifically, your letter indicates that capital project requests were removed from the state facility plan after 2006, but does not indicate the statutory authorization for such a process. C.G.S. § 4b-23(a) requires facility planning to be based on a program plan, which also serves as the basis for the SFP, and several provisions of § 4b-23 rely on that inclusion. For example, § 4b-23(k) prohibits the construction of all facilities not included in the plan unless certain emergency conditions are met. Under § 4b-23(l), once the expected cost of a bond-funded facility such as the gun range exceeds 10% of the cost set in the SFP, an additional round of reviews is triggered, presumably to ensure that such cost overruns are justified, managed, and will not reoccur. Section 4b-23(e) requires you, as DAS Commissioner, to study each proposed facility in the SFP in order to determine, in general, the best way to implement that facility plan, and that study must be reviewed by the SPRB.<sup>1</sup> These requirements ensure that the SPRB, an independent and bipartisan team of construction and development experts, are able to oversee the state's facility needs and the process for meeting those needs, including protecting against cost overruns and ensuring that the development process is responsibly implemented.

My client and I understand that the decision to remove capital project requests from the SFP predates your tenure as DAS Commissioner, and that the decision not to include the range in SFPs since the 1995-2000 plan likely dates back to the administration of Governor Rowland. However, it

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<sup>1</sup> I do note that, in the case of the gun range, Sen. Tony Guglielmo proposed SB234 during the previous legislative session which would have required evaluation of the need for and location of this facility. If passed, that bill would have required a study very similar to the one required by §4b-23(e). I understand Sen. Guglielmo may revive that bill in the coming legislative session.

does appear that the exclusion of the range from the SFP violates the statutory requirements for the SPRB's review of the need for, and method of implementing, new state facilities. While I understand that much of this information is included in the legislature's bonding package, C.G.S. § 4b-23(l) clearly states that the extent of a cost overrun is determined by the cost level reviewed and approved by the SPRB in the state facility plan, not by the amount set through bonding.<sup>2</sup> Under § 4b-23(h), SPRB review is not required before bonding authorization of preliminary construction expenses such as planning costs, but this exemption does not apply to the total cost of the project. Nor does there appear to be any statutory provision allowing bond commission approval to override C.G.S. § 4b-23(k)'s prohibition against constructing unplanned facilities.<sup>3</sup>

Given the apparent lack of statutory authorization for the review process you describe in your letter, I hope you understand my client's concerns regarding the state's compliance with these provisions. These concerns are compounded by the issues my firm discovered early this year while representing the Town of Willington in relation to this range concerning priority funding areas set out in the attached opinion letter; those PFA issues also appear to apply to the property in Griswold. In both instances, it was our strong opinion that the state had, perhaps inadvertently, failed to adhere to the statutory requirements for funding this project. These statutory requirements are designed to ensure that state facilities are planned, designed, and constructed in accordance with good development practice, and strict compliance with them is critical in these tight budgetary times.

I am fully aware that the State's budget process is a complex beast, and I don't claim to be an expert in researching its nuances. If my research or analysis is incorrect, and this range is exempt from the prohibitions of §§ 4b-23 and 16a-35d, my client and I would very much like to know which statutory provisions, special acts, or cases provide that exemption. At the same time, I have no interest in subjecting DAS staff to more work than necessary. Presumably, the 2006 decision to remove capital project requests from the SFP was not a decision made in haste. If the previous administration investigated the proper procedure for removing those requests from the SFP while complying with the statutory requirements, it may be most efficient to forward the results of their work on this issue, rather than performing duplicate work.

As I'm sure you know, Mr. Skulczyk has recently been elected to the General Assembly on a platform focused on fiscal responsibility. These apparent issues under §§ 4b-23 and 16a-35d do concern the Town of Griswold in relation to the firing range, but Mr. Skulczyk has informed me that they also implicate larger-scale issues that he feels compelled to address as State Representative for the 45<sup>th</sup> District. I expect that he will be investigating these matters, through the Office of Legislative Research and similar avenues, if you cannot provide the clarity we are seeking here. However, it should be a relatively simple matter to indicate the statutory basis for the funding

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<sup>2</sup> Of course, Bond Commission approval is required before additional bonding funds could be appropriated in order to pay for cost overruns. But the State Bond Commission, vital as they are to the responsible oversight of state bonding, is not a group of construction and development experts. The statute's mandate for SPRB approval of overruns in addition to review by the Bond Commission (among others) ensures that the appropriate experts review the aspects of the overrun for which they are responsible; the Bond Commission reviews the appropriateness of using bonded funds to cover overruns, while the SPRB reviews the overruns to ensure such expenditures are spent responsibly under standard construction and development practice.

<sup>3</sup> While I have not reviewed every bonding special act you mention, the 2016 bonding special act, P.A. § 16-4, also does not appear to exempt any facility from the requirements of C.G.S. § 4b-23.

process the gun range has gone through. If my research is incorrect, such an indication would go a long way towards not only assuaging my client's concerns, but also Mr. Skulczyk's.

Please do not hesitate to contact me if you have any questions or comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "Caleb F. Hamel". The signature is fluid and cursive, with a prominent initial "C" and "H".

Caleb F. Hamel

Cc: Kevin Skulczyk, Griswold First Selectman