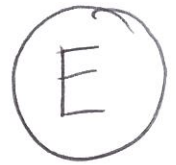


THREE VILLAGE CENTRAL SCHOOL DISTRICT
STONY BROOK, NEW YORK



BOARD OF EDUCATION AGENDA MATERIALS

DATE OF BOARD MEETING: March 13, 2019

DATE SUBMITTED: March 8, 2019

OFFICE OF ORIGIN: Business Services

CATEGORY OF ITEM: Action

TITLE: APPOINTMENT OF BOND COUNSEL FOR 2019-2020 DISTRICT BORROWING

Staff Recommendation:

Upon recommendation of the Superintendent of Schools, be it resolved that the Board of Education appoint the firm of Hawkins Delafield & Wood LLP to provide necessary advisory services in connection with the issuance of the School District's tax and bond anticipation notes and the financing of an energy performance contract, approved at the June 8, 2016 Board of Education meeting, for the 2019-2020 fiscal year.

Be it further resolved, the Board of Education authorizes the Board President to execute said Agreement on its behalf.

Background-Rationale:

The District has retained Hawkins Delafield & Wood LLP previously for such services and their performance has been excellent. Legal requirements associated with the sale of tax and bond anticipation notes necessitate the knowledge and expertise of a firm like Hawkins, Delafield & Wood.

NOT AN OFFICIAL RECORD; SUBJECT TO CHANGE



PHONE: 212-820-9300
FAX: 212-514-8425

7 WORLD TRADE CENTER
250 GREENWICH STREET
NEW YORK, NY 10007
WWW.HAWKINS.COM

NEW YORK
WASHINGTON
NEWARK
HARTFORD
LOS ANGELES
SACRAMENTO
SAN FRANCISCO
PORTLAND
ANN ARBOR

Telephone: 212-820-9406
Facsimile: 212-344-6258
e-mail address: mgeiger@hawkins.com

February 13, 2019

Three Village Central School District of Brookhaven and Smithtown, New York
Bond Counsel Engagement Letter for 2019-2020
Our File No: (2023/6795)

Jeffrey Carlson
Assistant Superintendent for Business
Three Village Central School District of Brookhaven and Smithtown
100 Suffolk Avenue
Stony Brook, New York 11790

Dear Jeff:

via email to: jcarlson@3villagecsd.org

LETTER OF ENGAGEMENT FOR 2019-2010 BOND COUNSEL SERVICES

This is a Letter of Engagement to retain the services of Hawkins, Delafield & Wood LLP as bond counsel to the Three Village Central School District of Brookhaven and Smithtown (the "School District"), in the County of Suffolk, New York for the school year commencing **July 1, 2019** and ending **June 30, 2020**, in relation to (i) the issuance of the School District's tax anticipation notes, and (ii) the financing of an energy performance contract. Accordingly, I have assembled information about our services and the fees associated therewith, and it is set forth below. Should any other School District financing requirements arise during the **2019-2020** fiscal year, we will supplement this letter.

(i) TAX ANTICIPATION NOTES

Services. Our primary responsibility as Bond Counsel to the School District is to render an opinion in connection with the issuance of obligations by the School District which expresses our belief (i) that the obligations have been properly authorized and issued and are valid, (ii) that the essential sources of security for the obligations have been legally provided for, and (iii) that interest on the obligations is exempt from federal income taxation. A significant emphasis in discharging this responsibility is the preparation of a record sufficient to enable us to render this opinion. Our specific services to the School District would include the following:

- (1) Participation in conferences and telephone discussions with representatives of the School District regarding the School District's cash flow financing requirements;

(2) drafting of authorizing documents for the Board relating to the financing, including the tax anticipation note, and proceedings with respect to the sale of the School District's tax anticipation notes;

(3) providing advice and consultation with respect to compliance with applicable provisions of the Internal Revenue Code of 1986, as amended, including all federal arbitrage regulations;

(4) participation with the School District and its financial advisors in scheduling and structuring each note financing;

(5) assistance in drafting and review of agreements, forms and underlying documentation relating to the financing;

(6) assistance in the preparation and review of the official statement, if any, used in the public offering of School District's notes;

(7) assistance, upon request, in the negotiation of contracts and other matters related to the note offering and rendering of additional opinions as to specific matters;

(8) administrative coordination of meetings and sale and closing arrangements;

(9) consultation with the School District, its accountants and attorneys, credit rating agencies, municipal bond insurers and others in regard to the financing;

(10) attending to all necessary Internal Revenue Service issue reporting requirements, as required pursuant to the Internal Revenue Code of 1986, as amended;

(11) Preparation, drafting and review of closing papers including:

(a) Certificate of Determination of the President of the Board of Education,

(b) Closing Certificates,

(c) School Attorney's Certificate,

(d) Tax Certificate, and

(e) Certificate with Respect to the Official Statement;

(12) preparation of the form of the note for each note sale;

(13) preparation of the draft opinion for each note sale, and the furnishing of same to the credit rating agencies, as requested;

(14) preparation of all continuing disclosure agreements, as required under applicable federal securities laws and/or regulations;

(15) delivery of securities to The Depository Trust Company in New Jersey to be held in escrow until the closing;

(16) rendering of our final approving legal opinion with respect to each financing;

(17) administrative coordination of note closings with the School District, financial advisor, underwriter and the Depository Trust Company;

(18) continuous and unlimited communication with the School District throughout the course of each financial transaction; and

(19) availability at all times of our skilled and caring team of professionals to assist with any questions or concerns relating directly or indirectly to the transaction.

Of necessity our services vary in scope depending on the talent and willingness to contribute of others involved in the financing.

In addition, we shall assemble a complete record of proceedings to which we would refer when rendering our written opinion that the obligations proposed to be issued by the School District are valid and legally binding, and we will provide continuous advice with respect to each financing through consultations with representatives of the School District and any others who may be involved in the various aspects of such financing. As noted above, we will prepare all relevant proceedings for action by the Board of Education to authorize the issuance of School District obligations, and we will prepare documentation for the sale and delivery of the School District's notes, as required.

Fee for Approval of Tax Anticipation Notes. *(same fees as 2018-2019)* Our fees for approval of tax anticipation notes, which include customary and usual advice and consultation and preparation of all legal proceedings prerequisite to actual borrowing, all as more particularly described above, are computed pursuant to the following fee schedule:

| <u>ISSUE AMOUNT IN DOLLARS</u> | <u>FEE</u> |
|--------------------------------|------------|
| Issues of \$15 million | \$ 8,500 |
| Issues of \$16 million | \$ 8,750 |
| Issues of \$17 million | \$ 9,000 |
| Issues of \$18 million | \$ 9,250 |
| Issues of \$19 million | \$ 9,500 |
| Issues of \$20 million | \$ 9,750 |

plus \$375 for each additional \$1 million notes in excess of \$20 million and up to \$30 million, and \$325 for each additional \$1 million notes in excess of \$30 million and up to \$40 million.

The fees for tax anticipation note issues are pro-rated to the exact amount of the issue. For example, the fee for a \$17.5 million issue would be \$9,125, calculated by adding \$9,000 (the fee for an \$17 million issue) and \$125 (being ½ of the \$250 incremental amount of the fee that would apply to an issue of \$18 million).

Our fees for tax anticipation notes generally include all of our customary and usual out of pocket expenses except for the costs relating to the preparation of book-entry securities. We charge \$225 for the initial book-entry instrument for each tax anticipation note issue, and \$25 for

each additional instrument. Such charge includes our costs of security preparation, as well as our services in delivering such securities to The Depository Trust Company in escrow pending a closing. We charge \$100 per instrument for note instruments prepared in other than book-entry format.

(ii) ENERGY PERFORMANCE CONTRACT

Services.

- (i) review of the final Energy Performance Contract Agreement, and any subsequent amendments thereto (the "Agreement") between the School District and the provider;
- (ii) review of the resolution of the School District approving the Agreement and review of approvals received by the School District from the State Education Department;
- (iii) review of the Request for Proposals (for financing) prepared by the School District's financial advisor, Munistat Municipal Financial Advisory Service ("Munistat"), and preparation of a Board of Education resolution accepting the proposal of the successful financial institution and delegating certain powers to the President of the Board of Education and other officers of the School District in connection therewith;
- (iv) review of draft(s) of the lease/purchase agreement(s) and the fund agreement(s) with the selected financial institution;
- (v) preparation of the Arbitrage and Use of Proceeds Certificate and the Form 8038-G of the Internal Revenue Service;
- (vi) review of all pertinent documentation, including documentation submitted to the State Education Department;
- (vii) participation in various telephone discussions with Munistat, School District officials, the School Attorney, the provider, and representatives of the selected financial institution;
- (viii) drafting of other documents and proceedings in connection with all of the foregoing, as necessary;
- (ix) rendering of our final approving opinion addressed to the School District as to the tax exempt status of the interest component on the lease payments to be made by the School District, and any other matters; and
- (x) advice and consultation in connection with the foregoing and related matters.

Fee: We generally charge a fee of \$5,500, *plus* an amount based on the principal amount of the energy performance contract financing calculated at the rate of \$1.25 per \$1,000. Our out of pocket expenses are usually negligible and should not exceed \$250.

The fees provided herein for tax anticipation notes shall apply to any such notes issued in or on account of the **2019-2020** fiscal year, as well as each successive fiscal year thereafter unless and until such fees are modified by mutual consent. The fee provided herein for financing of an energy performance contracting shall apply to any such contract financed during the **2019-2020** fiscal year.

The fees described above do not, of course, include the drafting of legislation or the handling of litigation, none of which is necessary or to be anticipated in an ordinary financing; or assistance in responding to SEC initiatives or inquiries, IRS audits, or any related matters. It is our practice to submit a bill for our services rendered in connection with any borrowing within ten days following the closing on such borrowing.

This agreement is terminable at will on thirty (30) days' notice and the School District's responsibility at termination would be to pay only those expenses incurred up to the date of termination.

Should the terms hereof be acceptable, may I kindly ask that the President of the Board of Education acknowledge the acceptance of the terms of our engagement by signing where provided below, and returning a signed copy of this letter to us.

It is our pleasure to provide Bond Counsel services again to the Three Village Central School District and we look forward to working with you. Please feel free to call Dan Birmingham or me if you have any questions or need any further information at any time.

With best wishes, I am

Very truly yours,



Martin A. Geiger

MAG:ess

**APPROVED AND ACCEPTED BY
THREE VILLAGE CENTRAL SCHOOL DISTRICT OF BROOKHAVEN AND
SMITHTOWN, NEW YORK**

By: President of the Board of Education

(printed name)

(signature)

Date: _____

