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VIA E-MAIL

Dr. Ryan Glaze, Superintendent
Tipton Community School Corporation, Tipton County, Indiana
1051 South Main Street
Tipton, IN 46072

Re: Details Concerning A Nonprofit Public Building Corporation

Dear Ryan:

As we previously discussed, this letter will address some of the general matters relating to a nonprofit public building corporation such as the Tipton Community School Building Corporation, including its functions, its operations and certain other related matters.

First, we need to understand why a nonprofit public building corporation needs to be used for the financing and refinancing of school building and renovation projects. Under current Indiana law, school corporations may borrow money for construction or renovation projects by issuing general obligation bonds payable from a portion of the annual property taxes collected and distributed to the school corporation. However, a school corporation's ability to issue such bonds is limited by the Indiana Constitution and statute, which prohibits school corporations and other local governmental units from incurring debt in excess of two percent of one-third of the true tax value of all taxable property within its boundaries.

To avoid running afoul of this two percent state constitutional debt limitation, school corporations often decide to finance construction and renovation projects like the proposed project through the issuance by a nonprofit public building corporation of first mortgage bonds payable from lease rentals paid by the school corporation to the nonprofit public building corporation in accordance with a lease entered into in accordance with Indiana Code 20-47-3 and 4, or their successor provisions. I think this background is important because it helps underscore the fact that a nonprofit public building corporation is, and should be, an extension of the school corporation, and organized for the sole purpose of providing the school corporation with the means to finance the proposed projects without such financing counting against the school corporation's two percent state constitutional debt limitation. Accordingly, we recommend that as a result of various state and federal law changes over the last several years all of the financing and construction documents, including the lease, the trust indenture and all the construction contracts, should delegate to the school corporation any and all responsibilities and decisions of the nonprofit public building

corporation regarding the projects which the nonprofit public building corporation would otherwise have as an owner and lessor of property. In addition, as the school corporation's bond counsel, we also serve as the bond counsel to the building corporation.

Now, let me provide you with other details of the building corporation.

- (1) The building corporation is incorporated and operates as a nonprofit public benefit corporation under Indiana Code 23-17.
- (2) Due to the amount of control that is exercised by the school corporation over the building corporation, it is not required for the building corporation to receive a 501(c)(4) status for federal tax purposes in order to be exempt from both state and federal income taxes.
- (3) The members of the board of directors of the building corporation are local members in the community who serve on a voluntary basis and are not compensated for serving on this board.
- (4) Even though the board of directors of the building corporation delegates all of the responsibility concerning the projects to the school corporation, we have recommended, and believe it is the case, that the school corporation has them included under the school corporation's E and O liability policy to ensure that these volunteers do not incur any expenses for being joined with the school corporation in a lawsuit concerning any of the projects. However, please confirm with your insurance agent that these individuals are in fact included on the school corporation's E and O liability policy.
- (5) The Articles of Incorporation of the building corporation provide that the corporation is organized solely for the purpose of assisting the school corporation with the financing of its school facilities through the acquisition and owning in fee simple of an existing school building or buildings and the land upon which such is located, the acquisition and owning in fee simple of a site or sites appropriate for a new school building or buildings, constructing and equipping a suitable school building or buildings on such site or sites, renovating or expanding an existing school building or buildings, and leasing the same to the school corporation or its successor school corporation, collecting the rentals therefor and applying the proceeds thereof in a manner consistent with Indiana Code 20-47-3 and 4, or its successor provisions, entirely without profit to the public building corporation, its officers, directors, or incorporators, other than the return of capital actually invested. Federal law also requires the governing board of the school corporation to approve the appointments to the board of directors of the public building corporation.

- (6) Because the members of the board of directors serve on a non-paid, voluntary basis, they do not invest any capital into the building corporation.
- (7) All of the costs incurred through the operation of the building corporation, including the annual filing at the Indiana Secretary of State's Office and all professional fees associated with such operations are paid by the school corporation or from the proceeds of the bonds.
- (8) With respect to meetings, the board of directors of the building corporation has one to two meetings in connection with matters related to each bond issue. In addition, there will be a meeting of the building corporation whenever there is a need to elect new officers due to the appointment of one or more replacement members to the board of directors of the building corporation by the governing body of the school corporation.
- (9) All of the meetings of the building corporation are subject to the same Open Door Law requirements as the meetings of the governing board of the school corporation (i.e., posting of meetings and agenda and notification of the media 48 hours prior to the meeting).

I hope this helps you concerning these matters, and please feel free to call me if you have any questions concerning this or any other issues related to the School Corporation's financings.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffery J. Qualkinbush". The signature is fluid and cursive, with the first name "Jeffery" being more prominent.

Jeffery J. Qualkinbush

JJQ:se