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May 25, 2023

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Via E-mail

Village of Tuxedo Park
80 Lorillard Road
Tuxedo Park, New York 10987

Attention: Mayor David McFadden and Members of the Board

Re: Investment of Village Funds

Dear Mayor and Members of the Board:

Please allow this correspondence to follow up with the Board's recent Special Meeting and discussions concerning investment of municipal funds. Since recent discussions have involved potentially placing Village funds in other investments, we are providing this outline of the law applicable to the Village as it may affect some of the proposed alternatives.

Permissible Investments

A municipality in New York State, such as the Village, is limited to certain investments by the New York State General Municipal Law ("GML"). Specifically, GML § 11 outlines permissible investments for municipalities. Under GML § 11, a Village may invest moneys not required for immediate expenditure in (1) special time deposit accounts in, or certificates of deposit issued by, a bank or trust company located and authorized to do business in the State of New York; or (2) in accordance with the following conditions:

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- (i) The money are invested in a bank or trust company located and authorized to do business in the State;
- (ii) The bank or trust company arranges for the deposit of the moneys or certificates of deposit in one or more banking institutions;
- (iii) The full amount of principal and accrued interest of each such certificate of deposit must be insured by the Federal Deposit Insurance Corporation;
- (iv) The bank or trust company acts as custodian for the local government with respect to such certificates of deposit issued for the local governments account; and
- (v) At the same time that the local government's moneys are deposited and the certificates of deposit are issued for the account of the local government, the bank or trust company receives an amount of deposits from customers of other financial institutions equal to or greater than the amount of moneys invested by the local government through the bank or trust company.

All of the above conditions (i-iv) must be met. See GML § 11(2)(a). In addition, an investment made pursuant to the above conditions require that such time deposit account or certificate of deposit shall be payable within such time as the proceeds shall be needed for expenditures for which such moneys were obtained and provides further that such time deposit account or certificate of deposit be secured in the same manner as is provided for securing deposits of public funds as set forth in GML § 10 (requirements for securing funds in excess of FDIC insurance).

Investments pursuant to GML §11 may also be made in the following:

1. Obligations of the United States of America or in obligations guaranteed by agencies in the United States of America where the payment of principal and interest are guaranteed by the United States of America or in obligations of the State of New York, or with the approval of the State Comptroller in obligations issued pursuant to Local Finance Law § 24 or 25 by any municipality from a school district or district corporation other than the municipality, school district or district corporation investing such moneys pursuant to this paragraph. See GML § 11(3). While there are additional funding options under GML § 11, the remaining options are limited to cities that have a population of 1,000,000 or more and are inapplicable to the Village of Tuxedo Park. Investment in the obligations discussed herein are also subject to conditions, including that such obligations must be payable or redeemable at the option of the owner within

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such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided. See GML §11(3)(b). The obligations discussed herein, unless registered or inscribed in the name of the local government, must be purchased through, delivered to and held in the custody of a bank or trust company.

Cooperative Investments (e.g. NYCLASS)

With respect to NYCLASS investment being reviewed by the Village, NYCLASS is what is known as a Cooperative Investment Agreement under New York State General Municipal Law, Article 3-A. A Cooperative Investment Agreement is a temporary investment of moneys by more than one municipal corporation pursuant to a municipal corporation agreement entered into in accordance with GML, Article 5-G (Intermunicipal Agreements). GML § 43 sets forth the requirements of a Cooperative Investment Agreement such NYCLASS. A Cooperative Investment Agreement is administered by a governing board.

The governing board of a Cooperative Investment Agreement has certain powers and responsibilities including administering all aspects of the agreement, entering into contracts deemed appropriate to assisted management of the agreement, and where authorized, the board may delegate daily responsibilities of making investment decisions to the Chief Fiscal Officer of one of the participants but such delegation does not relieve the Board of its responsibilities. The governing board may also appoint an Executive Director to assume daily responsibilities of the agreement. The governing board must also monitor compliance with the investment policy established under such agreement; monitor compliance with the maturity limitations established under the agreement and in the General Municipal Law, and, monitor compliance with reporting and disclosure requirements established under the agreement.

Alternative Investments

During the various Board discussions and public comments, other forms of investment have been raised, including JP Morgan Prime, Goldman Sachs Prime and similar investments as proposed alternatives to investment with NYCLASS. We note that unless these alternative investments fall under the description of permissible investments discussed herein and set forth in GML § 11 or GML, Article 3(A) (Cooperative Investments), the Village may not invest in such alternatives. We are aware that at least one resident indicated that a public library in the Town had invested in a fund that may fall outside permissible investments discussed herein. We note that libraries in New York State do have an additional option of investing in additional alternatives for moneys that were donated in trust for the benefit of the library. However, other than those types of trust funds, public libraries are subject to the provisions of GML § 11 discussed herein. While we do not have sufficient information to comment on whether or not that library's investment is permissible, we do not recommend engaging in actions merely because another municipality has

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done so. Rather, the Board would need to review the investment that was utilized by the library and determine whether the investment is one that is permissible under General Municipal Law § 11.

Conclusion

This correspondence is intended to summarize provisions of the General Municipal Law applicable to the Village, but if any Board member is interested, we can provide copies of the full text of the statutes for both General Municipal Law § 11 as well as General Municipal Law, Article 3-A (Cooperative Investments).

Please feel free to contact me in the office if you wish to discuss this matter in greater detail.

Very truly yours,



Brian D. Nugent

BDN/sd