

Contract Committee Review Request
MUST BE COMPLETED IN FULL

Date: 8/31/2022

Contract/Agreement Vendor:
Name of Vendor & Contact Person

Vendor Email Address

Describe Contract (Technology, program, consultant-prof Development, etc.)

Please use Summary below to fully explain the contract purchase, any titles, and details for the Board of Education to review.

District:
Reason/Audience to benefit

9/12/2022 \$ 40,000.00
BOE Date Amount of agreement

Person Submitting Contract/Agreement for Review:

PLEASE SEND THROUGH APPROPRIATE APPROVAL ROUTING BEFORE SENDING TO BOARD CLERK

Principal **&/or** Director or Administrator:

Does this Contract/Agreement utilize technology? YES/NO
 If yes, Technology Admin:

Cabinet Team Member:

Funding Source:
Fund/Project OCAS Coding

Consent

Action

Accept and approve the RENEWAL Agreement between Broken Arrow Public Schools and Stephen L. Smith Corp., providing financial consultation services for bond issues for the 2022-2023 school year. Cost to the District is .50% of all bonds issued, not to exceed \$40,000 and will be paid with Bond Funds.

Summary *This area must be complete with full explanation of contract*

The Contract/Agreement should be received at least 2 weeks prior to a Board Meeting to ensure placement on the Agenda. The Contract Committee meets most Tuesdays at 8:00a.m. All Contracts/Agreements, regardless the amount, must be first approved by the Contract Committee and then presented to the Board of Education for approval and signature. The item will be placed on Electronic School Board for the board agenda by Janet Brown. By following this process, the liability of entering into an agreement is placed with the district rather than an individual.

STEPHEN L. SMITH CORP.

Registered Investment Advisor

September ____, 2022

Broken Arrow Board of Education
Independent School District No. 3
Tulsa County, Oklahoma

Members:

1. **Scope of Services.** In connection with your proposed issuance of General Obligation Bonds (the "Issue" or the "Bonds") for the purpose of financing improvements and/or additions to the facilities of your School District, we hereby agree to perform the following Financial Advisory services:

A. We shall prepare a Financial Analysis of the School District which shall include a survey of the financial resources of the School District and contain a determination of the borrowing capacity of the School District. This shall encompass an analysis of the existing debt and tax structure of all levels of government involved and compare this analysis to the projected debt and tax structure of all levels of government involved. On the basis of the information thus developed, we shall devise a financing program to fund the proposed improvements which shall be complete as to the proposed maturities, the estimated interest rate and cost on the proposed bonds, the resulting overall amount of projected annual debt service and tax requirements, and the relationship of these items to existing corresponding projected items of the School District and other related levels of government.

B. In instances where publicly available information material is desired, we shall assist the School District in the preparation and furnishing of informational material in the form of news media articles, brochures, and any other such material desired by the School District for the purpose of outlining the various phases of the program in order that the general public will be well versed on all aspects of the project, including the needs of the School District, the proposed program of improvements, and the cost of providing such improvements. If desired, we shall also attend public meetings to explain the financing program to interested individuals.

C. We shall assist in the creation, gathering, organization and presentation of all services and legal documents (in conjunction with legal counsel), including notices and agendas, resolutions, proclamations, and election board canvasses, necessary for the proper calling and holding of the election and sale of the Issue.

D. Upon approval of the Issue by the voters of the School District, we shall undertake the following tasks:

i. We shall advise the Board of Education of current bond market conditions, forthcoming bond issues, and other general information and economic data that might normally be

expected to influence interest rates or bidding conditions so that the date for the sale of the bonds may be set at a time which, in our opinion, would be favorable to the School District.

ii. We shall advise the Board of Education respecting the Official Notice of Sale that establishes the specifications for bidding; i.e. bond maturity and interest payment arrangement, interest rate limitations, and other pertinent details.

iii. We shall advise the client respecting a Preliminary or Final Official Statement (the "OS") that describes the Issue, including material information as to the security of the Issue, the School District, the community and other pertinent details. You shall provide us with true, accurate and complete information for use in and the preparation of the OS.

iv. We shall advise the client respecting a uniform bid form to prevent deviation by any bidders when such deviation would be costly to the issuing body.

v. If it is advantageous to do so, we shall assemble for presentation to national and state rating agencies, the financial and economic data necessary to attempt to obtain a rating on the bonds.

vi. We shall have a representative of our firm present at the sale of the bonds to aid the Board of Education in the tabulation and comparison of bids. We shall advise the Board of Education as to the bond market conditions at the time of sale and the advisability of accepting or rejecting the bids submitted.

vii. Assuming that a favorable interest rate is received and accepted by the Board of Education, we shall then proceed to take all steps necessary to expedite the preparation of the final Transcript of Proceedings, to receive approval of the Transcript of Proceedings by the Attorney General of the State of Oklahoma, and to achieve delivery of the Bonds to the purchaser.

viii. We shall supervise the printing and delivery of the actual bond certificates to the commercial bank acting as Registrar of the bond issue for the purposes of registration.

ix. We shall supervise and co-ordinate final delivery of the bond certificates to the purchaser and delivery of the bond proceeds to the School District by the most expeditious means available, whether by wire transfer, direct deposit or mail.

2. **Limitations on Scope of Services.** The services provided hereunder are limited solely to those described herein and do not include tax, legal, accounting or engineering services.

3. **Regulatory Duties When Servicing Client.** MSRB Rule G-42 requires that we make a reasonable inquiry as to the facts that are relevant to the client's determination whether to proceed with a course of action or that form the basis for and advice provided to the client. The rule also requires that we undertake a reasonable investigation to determine that we are not basing any recommendation on materially inaccurate or incomplete information. We are also required under the rule to use reasonable diligence to know the essential facts about the client and the authority of each person acting on the client's behalf.

Accordingly, you agree to cooperate, and to cause your agents to cooperate, with us in carrying out these regulatory duties, including providing to us accurate and complete information and reasonable access to relevant documents, other information and personnel needed to fulfill such duties. In addition, you agree that, to the extent you seek to have us provide advice with regard to any recommendation made by a third party, you will provide to us written directions as well as any information you have received from such third party relating to its recommendation.

4. **Term of this Engagement.** The term of this engagement begins on the Effective Date, which shall be the date you sign this Agreement, and ends, unless earlier terminated as provided below, at the close of business on the settlement date for the Issue. This Agreement may be terminated with or without cause by either party upon the giving of at least thirty (30) days' prior notice to the other party of its intention to terminate, specifying in such notice the effective date of such termination. The hold harmless provisions in section 6 continue in force after the termination.

5. **Compensation.**

A. Fees. For the above services, you agree to pay us for an Issue a fee of:

0.50% of all bonds issued, not to exceed \$40,000.

In the event the Bonds are sold in more than one series, the above fee schedule shall apply to each separate series of bonds. [cumulative]

If the School District is located in multiple counties, there is a \$100.00 charge for each additional county.

B. Expenses. In addition to the above mentioned fee, you agree to reimburse us for the following expenses:

i. All expenses associated with the conduct of the bond election not borne directly by the School District.

ii. All expenses associated with the production, distribution and dissemination of informational materials relating to the bond issue.

iii. All expenses associated with the production, printing and distribution of the OS.

iv. All expenses associated with the printing and delivery of actual bond certificates to the purchaser.

C. Certain expenses will be billed directly to you including the expenses of the County Election Board associated with the printing of ballots and the conduct of the election.

D. The above specified fee and reimbursable expenses shall be billed upon approval of the Issue by the Attorney General of the State of Oklahoma, and shall be payable upon delivery of the Bonds to the specified purchaser, and receipt of bond proceeds by the School District. In the event the bond election fails, the School District shall not be obligated to us for our services rendered to that time, but shall be obligated to reimburse us for direct, out of pocket expenses incurred by us on behalf of the School District with respect to the calling, holding and conduct of the bond election. Furthermore, if the election is held and fails, and the Board of Education calls another election within one year from that date, this Agreement shall remain in full force and effect for the fiscal year 2022-2023.

6. **Hold Harmless.** Financial Adviser and any of its associated persons shall not be subject to liability for any act or omission in the course of, or connected with, Financial Adviser's performance of this Agreement in the absence of willful misfeasance, bad faith or gross negligence or reckless disregard by Financial Adviser of its obligations under this Agreement. In the event of a dispute under this Agreement, Financial Adviser shall not be liable for special or consequential damages. No recourse shall be had against the Financial Adviser for loss, damage, liability, cost or expense (whether direct, indirect or consequential) of client arising out of or in defending, prosecuting, negotiating or responding to any inquiry, questionnaire, audit, suit, action, or other proceeding brought or received from the Internal Revenue Service in connection with the Issue or otherwise relating to the tax treatment of any issue, or in connection with any opinion or certificate rendered by counsel or any other party.

7. **Required Disclosures.** MSRB Rule G-42 requires that the Financial Adviser, as a Municipal Advisor under the Federal Securities Laws, provide you with disclosures of material conflicts of interest and of information regarding certain legal events and disciplinary history. Such disclosures are provided in the Disclosure Statement delivered to Client together with this Agreement.

8. **Assignment.** This Agreement shall not be assigned (as the term is defined in the Investment Adviser's Act of 1940) by either party without the consent of the non-assigning party which consent shall not be unreasonably withheld. For purposes of determining Client consent in the event of an assignment, Financial Adviser shall send written notice of the assignment. If Client does not object in writing within thirty (30) days of sending of such notice, Client shall be deemed to have consented to the assignment.

9. **Dispute Resolution.** Any dispute between the parties to this agreement regarding the terms of this agreement, the financing, the performance of a party under this agreement or in any way related to or arising from this agreement or the relationship created by this agreement shall be resolved by arbitration under the rules of the American Arbitration Association ("AAA"). Any dispute concerning the question of whether a dispute is subject to arbitration shall be resolved by arbitration. The arbitration shall be conducted by a single arbitrator selected from the AAA panel of arbitrators and shall be held in Tulsa County, Oklahoma. The decision by the arbitrator may be confirmed by any court in Oklahoma with jurisdiction over the parties. The parties shall bear their own expenses and fees in connection with any arbitration.

10. **Form ADV.** The School District hereby acknowledges receipt of the Financial Advisor's Form ADV, Part 2A & 2B as required under State and Federal laws.

11. **Applicable Law; Severability.** This Agreement shall be construed and given effect in accordance with the laws of OKLAHOMA. If any provision in this Agreement is invalid or unenforceable by appropriate authority under the laws of any jurisdiction applicable to this Agreement, this Agreement shall continue in full force and effect as if such provision were omitted, unless such omission would substantially impair the rights or benefits of either party, and, to that extent, the provision of this Agreement shall be deemed to be severable.

12. **Entire Agreement.** This instrument, including all appendices hereto, contains the entire agreement between the parties relating to the right herein granted and obligations is herein assumed. this Agreement may not be amended, supplemented or modified except by the by means of a written instrument executed by both parties.


13. **No Third Party Beneficiaries.** This agreement is made solely for benefit of the parties and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer on any person, other than the parties and their respective successors and permitted assigned, any rights, remedies, obligations, or liabilities under or by reason of this Agreement.

14. **Authority.** Each of the parties represent and warrant that they have the respective power and authority to enter into this Agreement on behalf of the parties hereto by action of the Board of Education on the ____ day of September, 2022.

15. **Counterparts.** This Agreement may be executed in multiple counterparts each of which will constitute a complete agreement.

Respectfully submitted,

STEPHEN L. SMITH CORPORATION

By: 
Andrew B. Davis

ACCEPTED AND AGREED _____ day of September, 2022.

✓ _____
President, Board of Education

✓ (SEAL)

✓ _____
Clerk, Board of Education