

## **PRELIMINARY OFFICIAL STATEMENT**

### **NEW & RENEWAL ISSUE**

### **BOND ANTICIPATION NOTES**

*In the opinion of Whiteman Osterman & Hanna LLP, Bond Counsel to the School District, based upon an analysis of existing laws, regulations, rulings, and court decisions, and assuming, among other matters, compliance by the School District with certain covenants, interest on the Notes is excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended. In the further opinion of Bond Counsel, interest on the Notes is not a specific preference item for purposes of the federal alternative minimum tax on individuals; provided however, for tax years beginning after December 31, 2022, interest on the Notes is included in adjusted financial statement income of certain corporations and is not excluded from the federal corporate alternative minimum tax. Bond Counsel is also of the opinion that interest on the Notes is excludable from adjusted gross income for purposes of personal income taxes imposed by the State of New York and its political subdivisions, including The City of New York. Bond Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or the receipt or accrual of interest on the Notes. See "TAX MATTERS" herein.*

*The Notes will NOT be "qualified tax-exempt obligations" under section 265(b)(3) of the Internal Revenue Code of 1986, as amended.*

### **BETHLEHEM CENTRAL SCHOOL DISTRICT ALBANY COUNTY, NEW YORK (the "District")**

#### **\$2,703,456 BOND ANTICIPATION NOTES, 2023A (the "Series A Notes")**

**Date of Issue: July 13, 2023**

**Date of Maturity: July 12, 2024**

#### **\$24,310,000 BOND ANTICIPATION NOTES, 2023B (the "Series B Notes", together with the Series A Notes, the "Notes")**

**Date of Issue: July 13, 2023**

**Date of Maturity: July 12, 2024**

The Notes are general obligations of the Bethlehem Central School District, Albany County, New York, all the taxable real property within which is subject to the levy of ad valorem taxes to pay the Notes and interest thereon subject to statutory limits. See "The Tax Levy Limit Law" herein.

The Notes will be issued as registered notes, and at the option of each purchaser, may be registered to the Depository Trust Company ("DTC" or the "Securities Depository") or may be registered in the name of such purchaser.

If the Notes will be issued through DTC, the Notes will be registered in the name of Cede & Co., as nominee of DTC in New York, New York, which will act as Securities Depository for the Notes (see "Book-Entry-Only System" herein). Individual purchases will be made in book-entry-only form, in the principal amount of \$5,000 or integral multiples thereof, except for one necessary odd denomination for the Series A Notes. Purchasers of the Notes will not receive certificates representing their ownership interest in the Notes. Payments of principal of and interest on the Notes will be made by the District to DTC, which will in turn remit such principal and interest to its Participants, for subsequent distribution to the Beneficial Owners of the Notes.

If the Notes are registered in the name of the purchaser, principal of and interest on the Notes will be payable in Federal Funds at such bank or trust company located and authorized to do business in the State of New York as may be selected by the successful bidder. In such case, the Notes will be issued in registered form in denominations of \$5,000 or integral multiples thereof, except for one necessary odd denomination for the Series A Notes.

The Notes will be dated July 13, 2023 and will bear interest from that date until July 12, 2024, the maturity date.

The Notes will not be subject to redemption prior to maturity (see "THE NOTES- Optional Redemption" herein.).

The Notes are offered when, as and if issued and received by the purchaser and subject to the receipt of the final approving opinions as to the validity of the Notes of Whiteman Osterman & Hanna LLP, Albany, New York, Bond Counsel and the approval of the State Comptroller if required by law. It is anticipated that the Notes will be available for delivery in New York, New York, or as may be agreed upon, on or about July 13, 2023 for the Series A Notes and August 2, 2023 for the Series B Notes.

THIS OFFICIAL STATEMENT IS IN A FORM "DEEMED FINAL" BY THE DISTRICT FOR PURPOSES OF THE SECURITIES AND EXCHANGE COMMISSION RULE 15c2-12 (THE "RULE"). FOR A DESCRIPTION OF THE DISTRICT'S AGREEMENT TO PROVIDE CONTINUING DISCLOSURE AS DESCRIBED IN THE RULE, SEE "DISCLOSURE UNDERTAKING FOR THE NOTES" HEREIN.

Dated: June 22, 2023

**BETHLEHEM CENTRAL SCHOOL DISTRICT  
ALBANY COUNTY, NEW YORK**

**BOARD OF EDUCATION**

Ms. Holly M. Dellenbaugh	President
Ms. Christine Beck	Vice President
Ms. Willow Baer	Board Member
Mr. Robert Tietjen	Board Member
Ms. Meredith Moriarty	Board Member
Ms. Katherine Nadeau	Board Member
Mr. John Walston	Board Member

**DISTRICT OFFICIALS**

Ms. Jody Monroe	Superintendent of Schools
Mr. John McPhillips	Chief Business and Financial Officer
Ms. Phyllis Albano	School Business Administrator/Treasurer
Ms. Brittany Barrett	Executive Assistant to Superintendent/District Clerk

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**BOND COUNSEL**

**WHITEMAN OSTERMAN & HANNA LLP  
Albany, New York**

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**MUNICIPAL ADVISOR**



**Capital Markets Advisors, LLC  
Hudson Valley \* Long Island \* Southern Tier \* Western New York  
(716) 662-3910**

No dealer, broker, salesman or other person has been authorized by the District to give any information or to make any representations, other than those contained in this Official Statement, and if given or made, such other information or representations must not be relied upon as having been authorized by the District. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Notes by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. The information set forth herein has been obtained by the District from sources which are believed to be reliable, but it is not guaranteed as to accuracy or completeness. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the District since the date hereof.

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## **OFFICIAL STATEMENT**

### **BETHLEHEM CENTRAL SCHOOL DISTRICT ALBANY COUNTY, NEW YORK**

#### **Relating To**

**\$2,703,456  
BOND ANTICIPATION NOTES, 2023A**

#### **And**

**\$24,310,000  
BOND ANTICIPATION NOTES, 2023B**

This Official Statement, including the cover page and appendices hereto, presents certain information relating to the Bethlehem Central School District, County of Albany, State of New York (the "District," "County," and "State," respectively) in connection with the sale of the District's \$2,703,456 Bond Anticipation Notes – 2023A (the "Series A Notes") and \$24,310,000 Bond Anticipation Notes – 2023B (the "Series B Notes", together with the Series A Notes, the "Notes").

The factors affecting the District's financial condition and the Notes are described throughout this Official Statement. Inasmuch as many of these factors, including economic and demographic factors, are complex and may influence the District tax base, revenues, and expenditures, this Official Statement should be read in its entirety, and no one factor should be considered more or less important than any other by reason of its relative position in this Official Statement.

All quotations from and summaries and explanations of provisions of the Constitution and laws of the State and acts and proceedings of the District contained herein do not purport to be complete and are qualified in their entirety by reference to the official compilations thereof, and all references to the Notes and the proceedings of the District relating thereto are qualified in their entirety by reference to the definitive form of the Notes and such proceedings.

## **THE NOTES**

### ***Description***

The Notes are general obligations of the District and will contain a pledge of its faith and credit for the payment of the principal thereof and interest thereon as required by the laws of the State of New York. All the taxable real property within the District is subject to the levy of ad valorem taxes to pay the Notes and interest thereon subject to applicable statutory limitations. See "The Tax Levy Limit Law" herein.

Under Article VIII of the Constitution of the State, the District is required to pledge its faith and credit for the payment of the principal of and interest on the Notes and the State is specifically precluded from restricting the power of the District to levy taxes on real property for the payment of such indebtedness.

The Notes will be dated and will mature, without option of prior redemption, as set forth on the front cover page hereof.

If the Notes will be issued through the Depository Trust Company ("DTC" or the "Securities Depository"), the Notes will be registered in the name of Cede & Co., as nominee of DTC in New York, New York, which will act as Securities Depository for the Notes (see "Book-Entry-Only System" herein). Individual purchases will be made in book-entry-only form, in the principal amount of \$5,000 or integral multiples thereof, except for one necessary odd denomination for the Series A Notes. Purchasers of the Notes will not receive certificates representing their ownership interest in the Notes. Payments of principal of and interest on the Notes will be made by the District to DTC, which will in turn remit such principal and interest to its Participants, for subsequent distribution to the Beneficial Owners of the Notes.

If the Notes are registered in the name of the purchaser, principal of and interest on the Notes will be payable in Federal Funds at such bank or trust company located and authorized to do business in the State of New York as may be selected by the successful bidder. In such case, the Notes will be issued in registered form in denominations of \$5,000 or integral

multiples thereof, except for one necessary odd denomination for the Series A Notes, as may be determined by such successful bidder.

### ***Authority for and Purpose the Series A Notes***

The Series A Notes are being issued pursuant to the Constitution and Laws of the State, including the Local Finance Law, Education Law and bond resolutions duly adopted by the District's Board of Education to purchase various transportation vehicles from various dates of approval. See the chart below for details regarding each purpose.

<b>Resolution</b>	<b>BAN Outstanding</b>	<b>New Money</b>	<b>BAN Paydown</b>	<b>The Series A Notes</b>
06/20/2018	\$ 238,000	-	\$ 238,000	-
06/19/2019	431,600	-	215,800	215,800
06/17/2020	726,000	-	242,000	484,000
06/02/2021	1,051,680	-	262,920	788,760
06/01/2022	807,720	-	161,544	646,176
06/07/2023	-	568,720*	-	568,720
	<u>\$ 3,255,000</u>	<u>\$ 568,720</u>	<u>\$ 1,120,264</u>	<u>\$ 2,703,456</u>

\* The estoppel notice related to the bond resolution dated June 7, 2023 authorizing \$568,720 in new money was published on or about June 17, 2023 and the 20-day period to contest is expected to expire prior to the closing date for the Series A Notes.

### ***Authority for and Purpose the Series B Notes***

The Series B Notes are being issued pursuant to the Constitution and Laws of the State, including the Local Finance Law, Education Law and a bond resolution duly adopted by the District's Board of Education of the District on November 17, 2021, authorizing the issuance of \$27,293,106 aggregate principal amount of serial general obligation bonds to finance the acquisition, construction, reconstruction, improvement, rehabilitation, repair, furnishing and equipping of District facilities, along with the acquisition of certain original furnishings, machinery, equipment, apparatus, implements and fixtures and other site work and incidental improvements required in connection therewith for such construction and school use, including, without limitation, the payment of costs preliminary and incidental thereto, (the "2021 Capital Project"). The Series B will provide original financing in the amount of \$24,310,000.

### ***Optional Redemption***

The Notes will not be subject to redemption prior to maturity.

### ***Nature of Obligations***

The Notes, when duly issued and paid for, will constitute a contract between the District and the holder thereof.

The Notes will be general obligations of the District and will contain a pledge of the faith and credit of the District for the payment of the principal thereof and the interest thereon. For the payment of such principal and interest, the District has the power and statutory authorization to levy *ad valorem* taxes on all taxable real property in the District, without limitation as to rate or amount (subject to certain statutory limitations imposed by the Tax Levy Limit Law); see "The Tax Levy Limit Law," herein. The Notes will not be "qualified tax-exempt obligations" under Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Under the Constitution of the State, the District is required to pledge its faith and credit for the payment of the principal of and interest on the Notes and the State is specifically precluded from restricting the power of the District to levy taxes on real estate therefor. On June 24, 2011, the Tax Levy Limit Law was adopted in the State. The Tax Levy Limit Law established certain limitations on the power of local governments and school districts to increase the property tax levy beyond certain prescribed limits (without following certain prescribed procedures). The Tax Levy Limit Law had its first application with respect to the District's budget for 2012-13. The Tax Levy Limit Law does make certain allowances for the exclusion of tax levy increases associated with capital expenses by school districts. See "TAX INFORMATION-Tax

Levy Limit Law,” herein. Also, certain special protective procedures and remedies available to holders of school district debt remain in place and are not affected by the Tax Levy Limit Law. See “Remedies Upon Default” herein.

### ***Book-Entry-Only System***

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Notes. The Notes will be issued as fully-registered notes registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate will be issued for each maturity of the Notes and will be deposited with DTC. DTC, the world’s largest depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of the Notes under the DTC system must be made by or through Direct Participants, which will receive a credit for the Notes on DTC’s records. The ownership interest of each actual purchaser of each note (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Notes are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Notes, except in the event that use of the book-entry system for the Notes is discontinued.

To facilitate subsequent transfers, all Notes deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Notes with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Notes; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Notes are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Notes unless authorized by a Direct Participant in accordance with DTC’s MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the District as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to those Direct Participants to whose accounts the Notes are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Notes will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the District, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC or the District, subject to any statutory or regulatory requirements as may be in effect from time to time.

Payment of principal and interest payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the District, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Notes at any time by giving reasonable notice to the District. Under such circumstances, in the event that a successor depository is not obtained, note certificates are required to be printed and delivered.

The District may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, note certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the District believes to be reliable, but the District takes no responsibility for the accuracy thereof.

*Source: The Depository Trust Company*

THE DISTRICT CANNOT AND DOES NOT GIVE ANY ASSURANCES THAT DTC, DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS OF DTC WILL DISTRIBUTE TO THE BENEFICIAL OWNERS OF THE NOTES (1) PAYMENTS OF PRINCIPAL OF OR INTEREST OR REDEMPTION PREMIUM ON THE NOTES (2) CONFIRMATIONS OF THEIR OWNERSHIP INTERESTS IN THE NOTES OR (3) OTHER NOTICES SENT TO DTC OR CEDE & CO., ITS PARTNERSHIP NOMINEE, AS THE REGISTERED OWNER OF THE NOTES, OR THAT THEY WILL DO SO ON A TIMELY BASIS, OR THAT DTC, DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS WILL SERVE AND ACT IN THE MANNER DESCRIBED IN THIS OFFICIAL STATEMENT.

THE DISTRICT WILL NOT HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO DTC, THE DIRECT PARTICIPANTS, THE INDIRECT PARTICIPANTS OF DTC OR THE BENEFICIAL OWNERS WITH RESPECT TO (1) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS OF DTC; (2) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS OF DTC OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL AMOUNT OF OR INTEREST OR REDEMPTION PREMIUM ON THE NOTES; (3) THE DELIVERY BY DTC OR ANY DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS OF DTC OF ANY NOTICE TO ANY BENEFICIAL OWNER THAT IS REQUIRED OR PERMITTED TO BE GIVEN TO OWNERS; OR (4) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE REGISTERED HOLDER OF THE NOTES.

THE INFORMATION CONTAINED HEREIN CONCERNING DTC AND ITS BOOK-ENTRY SYSTEM HAS BEEN OBTAINED FROM DTC AND THE DISTRICT MAKES NO REPRESENTATION AS TO THE COMPLETENESS OR THE ACCURACY OF SUCH INFORMATION OR AS TO THE ABSENCE OF MATERIAL ADVERSE CHANGES IN SUCH INFORMATION SUBSEQUENT TO THE DATE HEREOF.

## **MARKET FACTORS AFFECTING FINANCINGS OF THE STATE AND SCHOOL DISTRICTS OF THE STATE**

The financial condition of the District as well as the market for the Notes could be affected by a variety of factors, some of which are beyond the District's control. There can be no assurance that adverse events in the State, including, for example, the seeking by a municipality or large taxable property owner of remedies pursuant to the Federal Bankruptcy Code or otherwise, will not occur which might affect the market price of and the market for the Notes. If a significant default or other financial crisis should occur in the affairs of the State or any of its agencies or political subdivisions thereby further impairing the acceptability of obligations issued by borrowers within the State, both the ability of the District to arrange for additional borrowings, and the market for and market value of outstanding debt obligations, including the Notes, could be adversely affected.

The District is dependent in part on financial assistance from the State. However, the State is not constitutionally obligated to maintain or continue State aid to municipalities and school districts in the State, including the District, and, as a result, no assurance can be given that present State aid levels will be maintained in the future, particularly if the State should experience financial difficulty of its own. Additionally, if the State should experience difficulty in borrowing funds in anticipation of the receipt of State taxes and revenues in order to pay State aid to municipalities and school districts in the State, including the District, in any year, the District may be affected by a delay, until sufficient taxes have been received by the State to make State aid payments to the District. In several recent years, the District has received delayed payments of State aid which resulted from the State's delay in adopting its budget and appropriating State aid to municipalities and school districts, and consequent delay in State borrowing to finance such appropriations. (See also "Revenues" herein). No assurance can be given that there will not be a delay in State aid payments in the future.

The District relies in part on State aid to fund its operations. There can be no assurance that the State appropriation for State aid to school districts will be continued in future years, either pursuant to existing formulas or in any form whatsoever. State aid appropriated and apportioned to the District can be paid only if the State has such monies available therefore. Further, the availability of such monies and the timeliness of such payment may also be affected by a delay in the adoption of the State budget, the impact to the State's economy and financial condition due to the novel coronavirus ("COVID-19") outbreak and other circumstances, including State fiscal stress. In any event, State aid appropriated and apportioned to the District can be paid only if the State has such monies available therefore. (See "State Aid" and "Recent Events Affecting New York School Districts" in APPENDIX A hereto).

An outbreak of disease or similar public health threat, such as COVID-19 outbreak, or fear of such an event, could have an adverse impact on the District's financial condition and operating results by potentially delaying the receipt of real property taxes or resulting in a delay or reduction by the State in the payment of State aid. Currently, the spread of COVID-19, a respiratory disease caused by a new strain of coronavirus, has spread globally, including to the United States, and has been declared a pandemic by the World Health Organization. The outbreak of the disease has affected travel, commerce and financial markets globally and is widely expected to affect economic growth worldwide. The outbreak caused the Federal government to declare a national state of emergency. The State also declared a state of emergency and the Governor took steps designed to mitigate the spread and impacts of COVID-19, including closing schools and non-essential businesses. The outbreak of COVID-19 and the dramatic steps taken by the State to address it are expected to negatively impact the State's economy and financial condition. The full impact of COVID-19 upon the State is not expected to be known for some time. Similarly, the degree of the impact to the District's operations and finances is extremely difficult to predict due to the dynamic nature of the COVID-19 outbreak, including uncertainties relating to its (i) duration, and (ii) severity, as well as with regard to what actions may be taken by governmental and other health care authorities, including the State, to contain or mitigate its impact. The continued spread of the outbreak could have a material adverse effect on the State and municipalities and school districts located in the State, including the District. The District is monitoring the situation and will take such proactive measures as may be required to maintain its operations and meet its obligations. (See "State Aid" and "Recent Events Affecting New York School Districts" in APPENDIX A hereto).

Should the District fail to receive moneys expected from the State in the amounts and at the times expected, the District is authorized by the Local Finance Law to provide operating funds by borrowing in anticipation of the receipt of uncollected State aid.

## **TAX EXEMPTION**

In the opinion of Whiteman Osterman & Hanna LLP, Albany, New York ("Bond Counsel"), based on an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other things, compliance by the District with certain covenants and the accuracy of certain representations of the District, interest on the Notes is excludable from gross income of the owners thereof for federal income tax purposes under Section 103 Internal Revenue Code of 1986, as amended (the "Code"). In the further opinion of Bond Counsel, interest on the Notes is not a specific preference item for purposes of the federal alternative minimum tax on individuals; provided however, for tax years beginning after December 31, 2022, interest on the Notes is included in adjusted financial statement income of certain corporations and is not excluded from the federal corporate alternative minimum tax. Bond Counsel is also of the opinion that interest on the Notes is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof including the City of New York. Bond Counsel will express no opinion regarding any other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Notes. The opinion of Bond Counsel with respect to the Notes will be in substantially the form attached hereto as Appendices D and E.

The Code imposes various limitations, conditions and other requirements which must be met at and subsequent to the date of issue of the Notes in order that interest on the Notes will be and remain excluded from gross income for federal income tax purposes. Included among these requirements are restrictions on the investment and use of proceeds of the Notes and in certain circumstances, payment of amounts in respect of such proceeds to the United States. Failure to comply with the requirement of the Code may cause interest on the Notes to be includable in gross income for purposes of federal income tax, possibly from the date of issuance of the Notes. The District has covenanted to comply with certain procedures, and it has made certain representations and certifications, designed to assure satisfaction of the requirements of the Code in respect to the Notes. The opinion of Bond Counsel assumes compliance with such covenants and the accuracy, in all material respects, of such representations and certificates

Prospective purchasers of the Notes should be aware that ownership of, accrual or receipt of interest on, or disposition of tax-exempt obligations may have collateral federal income tax consequences for certain taxpayers, including but not limited to, financial institutions, certain subchapter S corporations, United States branches of foreign corporations, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, taxpayers eligible for the earned income credit and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exemption obligations. The foregoing is not intended as an exhaustive list of potential tax consequences. Prospective purchasers should consult their tax advisors as to any possible collateral consequences in respect of the Notes. Bond Counsel will not express any opinion regarding any such collateral consequences.

Future legislative proposals, if enacted into law, clarification of the Code or court decisions may cause interest on the Notes to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent Beneficial Owners from realizing the full current benefit of the tax status of such interest. In recent years, legislative proposals have been made which generally would limit the exclusion from gross income of interest on obligations like the Notes to some extent for taxpayers who are individuals and whose income is subject to higher marginal income tax rates. Other proposals have been made that could significantly reduce the benefit of, or otherwise affect, the exclusion from gross income of interest on obligations like the Notes. The introduction or enactment of any such legislative proposals, clarification of the Code or court decisions may also affect the market price for, or marketability of, the Notes. Prospective purchasers of the Notes should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, as to which Bond Counsel expresses no opinion.

The Notes will not be designated by the District as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code.

### ***Original Issue Discount***

"Original issue discount" ("OID") is the excess of the sum of all amounts payable at the stated maturity of a Note (excluding certain "qualified stated interest" that is unconditionally payable at least annually at prescribed rates) over the issue price of that maturity. In general, the "issue price" of a maturity (a Note with the same maturity date, interest rate, and credit terms) means the first price at which at least 10 percent of such maturity was sold to the public, i.e., a purchaser who is not, directly or indirectly, a signatory to a written contract to participate in the initial sale of the Notes. In general, the issue price for each maturity of Notes is expected to be the initial public offering price set forth on the cover page of the Official Statement.

In general, under Section 1288 of the Code, OID on a Discount Obligation accrues under a constant yield method, based on periodic compounding of interest over prescribed accrual periods using a compounding rate determined by reference to the yield on that Discount Obligation. An owner's adjusted basis in a Discount Obligation is increased by accrued OID for purposes of determining gain or loss on sale, exchange, or other disposition of such Note. Accrued OID may be taken into account as an increase in the amount of tax-exempt income received or deemed to have been received for purposes of determining various other tax consequences of owning a Discount Obligation even though there will not be a corresponding cash payment.

Owners of Discount Obligations should consult their own tax advisors with respect to the treatment of original issue discount for federal income tax purposes, including various special rules relating thereto, and the state and local tax consequences of acquiring, holding, and disposing of Discount Obligations.

### ***Note Premium***

In general, if an owner acquires a Note for a purchase price (excluding accrued interest) or otherwise at a tax basis that reflects a premium over the sum of all amounts payable on the Note after the acquisition date (excluding certain "qualified

stated interest" that is unconditionally payable at least annually at prescribed rates), that premium constitutes "note premium" on that Note (a "Premium Obligation"). In general, under Section 171 of the Code, an owner of a Premium Obligation must amortize the note premium over the remaining term of the Premium Obligation, based on the owner's yield over the remaining term of the Premium Obligation determined based on constant yield principles (in certain cases involving a Premium Obligation callable prior to its stated maturity date, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such Note). An owner of a Premium Obligation must amortize the note premium by offsetting the qualified stated interest allocable to each interest accrual period under the owner's regular method of accounting against the note premium allocable to that period. In the case of a tax-exempt Premium Obligation, if the note premium allocable to an accrual period exceeds the qualified stated interest allocable to that accrual period, the excess is a nondeductible loss. Under certain circumstances, the owner of a Premium Obligation may realize a taxable gain upon disposition of the Premium Obligation even though it is sold or redeemed for an amount less than or equal to the owner's original acquisition cost. Owners of any Premium Obligation should consult their own tax advisors regarding the treatment of note premium for federal income tax purposes, including various special rules relating thereto, and state and local tax consequences, in connection with the acquisition, ownership, amortization of note premium on, sale, exchange, or other disposition of Premium Obligations.

## **DOCUMENTS ACCOMPANYING DELIVERY OF THE NOTES**

### ***Absence of Litigation***

Upon delivery of the Notes, the District shall furnish a certificate of the School District Attorney, dated the date of delivery of the Notes, to the effect that there is no action, suit, proceeding or investigation, at law or in equity, before or by any court, public board or body pending or, to the best knowledge of the School District attorney, based upon a review of the District's files and discussions with District Officials, threatened against or affecting the District to restrain or enjoin the issuance, sale or delivery of the Notes or the levy and collection of taxes or assessments to pay same, or in any way contesting or affecting the validity of the Notes or any proceedings or authority of the District taken with respect to the authorization, issuance or sale of the Notes or contesting the corporate existence or boundaries of the District.

### ***Legal Matters***

The legality of the authorization and issuance of the Notes is covered by the approving opinion of Bond Counsel. The opinion of Bond Counsel related to the Series A Notes will be substantially in the form attached hereto as Appendix D. The opinion of Bond Counsel related to the Series B Notes will be substantially in the form attached hereto as Appendix E.

There is not now pending or threatened, to the best of the District's knowledge, any litigation restraining or enjoining the issuance or delivery of the Notes or questioning or affecting the validity of the Notes or the proceedings and authority under which they are to be issued.

### ***Closing Certificates***

Upon the delivery of the Notes, the purchaser will be furnished with the following items: (i) a Certificate of the President of the Board of Education of the District to the effect that as of the date of this Official Statement and at all times subsequent thereto, up to and including the time of the delivery of the Notes, this Official Statement did not and does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements herein, in the light of the circumstances under which they were made, not misleading, and further stating that there has been no adverse material change in the financial condition of the District since the date of this Official Statement to the date of issuance of the Notes; and having attached thereto a copy of this Official Statement; (ii) a Certificate signed by an officer of the District evidencing payment for the Notes; (iii) a Closing Certificate evidencing the due execution of the Notes, including statements that (a) no litigation of any nature is pending or, to the knowledge of the signers, threatened, restraining or enjoining the issuance and delivery of the Notes or the levy and collection of taxes to pay the principal of and interest thereon, nor in any manner questioning the proceedings and authority under which the Notes were authorized or affecting the validity of the Notes thereunder, (b) neither the corporate existence or boundaries of the District nor the title of the signers to their respective offices is being contested, (c) no authority or proceedings for the issuance of the Notes have been repealed, revoked or rescinded; and (iv) an Arbitrage and Use of Proceeds Certificate executed by the President of the Board of Education, as described under "Tax Exemption" herein.

## ***Certificated Notes***

DTC may discontinue providing its services with respect to the Notes at any time by giving notice to the District and discharging its responsibilities with respect thereto under applicable law, or the District may terminate its participation in the system of book-entry-only system transfers through DTC at any time. In the event that such book-entry-only system is discontinued, the following provisions will apply:

The Notes will be issued in registered form in denominations of \$5,000 or integral multiples thereof, except for one necessary odd denomination. Principal of and interest on the Notes will be payable at a principal corporate trust office of a bank or trust company located and authorized to do business in the State of New York to be named by the District. The Notes will remain not subject to redemption prior to their stated final maturity date.

### **DISCLOSURE UNDERTAKING**

This Official Statement is in a form “deemed final” by the District for the purposes of Securities and Exchange Commission Rule 15c2-12 (the “Rule”). At the time of the delivery of the Notes, the District will provide an executed copy of its “Undertaking to Provide Notice of Material Events” (the “Undertaking”). Such Undertaking will constitute a written agreement or contract of the District for the benefit of holders of and owners of beneficial interests in the Notes, to provide, or cause to be provided, to (i) the Electronic Municipal Market Access system established and operated by the Municipal Securities Rulemaking Board (“MSRB”) currently at <http://www.emma.msrb.org>, or such other similar system established and operated by the MSRB, and (ii) the appropriate state information depository (“SID”), if any, for the State of New York, as designated by the Commission in accordance with the Rule, in a timely manner not in excess of ten (10) business days notice of the occurrence of any of the following events with respect to the Notes:

- (a) principal and interest payment delinquencies;
- (b) non-payment related defaults, if material;
- (c) unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) in the case of credit enhancement, if any, provided in connection with the issuance of the Notes, unscheduled draws on credit enhancements reflecting financial difficulties;
- (e) substitution of credit or liquidity providers, or their failure to perform;
- (f) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701 TEB) or other material notices or determinations with respect to the tax status of the Notes, or other material events affecting the tax status of the Notes;
- (g) modifications to rights of Noteholders, if material;
- (h) note calls, if material, and tender offers;
- (i) defeasances;
- (j) release, substitution, or sale of property securing repayment of the Notes;
- (k) rating changes;
- (l) bankruptcy, insolvency, receivership or similar event of the District;
- (m) the consummation of a merger, consolidation, or acquisition involving the District or the sale of all or substantially all of the assets of the District, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (n) appointment of a successor or additional trustee or the change of the name of a trustee, if material.
- (o) incurrence of a financial obligation of the District, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the District, any of which affect security holders, if material; and
- (p) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the District, any of which reflect financial difficulties.

Event (c) is included pursuant to a letter from the SEC staff to the National Association of Bond Lawyers dated September 19, 1995. However, event (c) is not applicable, since no “debt service reserves” will be established for the Notes.

With respect to event (d) the District does not undertake to provide any notice with respect to credit enhancement added after the primary offering of the securities.

With respect to event (l), the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the District in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the District, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry if an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the District.

With respect to events (o) and (p) described above, the term “financial obligation” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term “financial obligation” shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with the Rule.

The District may provide notice of the occurrence of certain other events, in addition to those listed above, if it determines that any such other event is material with respect to the Notes; but the District does not undertake to commit to provide any such notice of the occurrence of any material event except those events listed above.

The District’s Undertaking shall remain in full force and effect until such time as the principal of, redemption premiums, if any, and interest on the Notes shall have been paid in full. The sole and exclusive remedy for breach or default under the Undertaking is an action to compel specific performance of the Undertaking of the District, and no person or entity, including a holder of the Notes, shall be entitled to recover monetary damages thereunder under any circumstances. Any failure by the District to comply with the Undertaking will not constitute a default with respect to the Notes.

The District reserves the right to amend or modify the Undertaking under certain circumstances set forth therein; provided that any such amendment or modification will be done in a manner consistent with the Rule as then in effect.

The District is in compliance in all material respects with all previous undertakings made pursuant to Rule 15c2-12 for the past five years.

#### ***Prior Disclosure History***

The District is in compliance in all material respects with all prior undertakings pursuant to the Rule for the past five years.

### **MUNICIPAL ADVISOR**

Capital Markets Advisors, LLC has served as Municipal Advisor to the District in connection with the sale of the Notes.

In preparing the Official Statement, the Financial Advisor has relied upon governmental officials, and other sources, who have access to relevant data to provide accurate information for the Official Statement, and the Financial Advisor has not been engaged, nor has it undertaken, to independently verify the accuracy of such information. The Financial Advisor is not a public accounting firm and has not been engaged by the District to compile, review, examine or audit any information in the Official Statement in accordance with accounting standards. The Financial Advisor is an independent advisory firm and is not engaged in the business of underwriting, trading or distributing municipal securities or other public securities and therefore will not participate in the underwriting of the Notes.

### **RATING**

The District did not seek a rating with respect to the Notes.

Standard & Poor’s Ratings Services (“S&P”) has assigned the uninsured outstanding bonded indebtedness of the District a rating of “AA” Stable.

With respect to the S&P’s rating applicable to uninsured debt, such rating reflects only the view of such organization, and an explanation of the significance of such rating may be obtained only from such rating agency. There can be no assurance that

such rating will continue for any specified period of time or that such rating will not be revised or withdrawn, if in the judgment of S&P's circumstances so warrant. Any such change or withdrawal of such rating may have an adverse effect on the market price of the Notes or the availability of a secondary market for the Notes.

### **ADDITIONAL INFORMATION**

Additional information may be obtained from the District's Chief Business & Financial Officer John McPhillips, at 700 Delaware Avenue., Delmar, New York 12054, phone: (518) 439-7481, email: [jmcphillips@bethlehemschools.org](mailto:jmcphillips@bethlehemschools.org) or from the District's Financial Advisor, Capital Markets Advisors, LLC, (716) 662-3910.

This Official Statement is submitted only in connection with the sale of the Notes by the District and may not be reproduced or used in whole or in part for any other purpose.

Capital Markets Advisors, LLC may place a copy of this Official Statement on its website at [www.capmark.org](http://www.capmark.org). Unless this Official Statement specifically indicates otherwise, no statement on such website is included by specific reference or constitutes a part of this Official Statement. Capital Markets Advisors, LLC has prepared such website information for convenience, but no decisions should be made in reliance upon that information. Typographical or other errors may have occurred in converting original source documents to digital format, and neither the District nor Capital Markets Advisors, LLC assumes any liability or responsibility for errors or omissions on such website. Further, Capital Markets Advisors, LLC and the District disclaim any duty or obligation either to update or to maintain that information or any responsibility or liability for any damages caused by viruses in the electronic files on the website. Capital Markets Advisors, LLC and the District also assume no liability or responsibility for any errors or omissions or for any updates to dated website information.

This Official Statement has been duly executed and delivered by the President of the Board of Education.

By: /s/ Holly M. Dellenbaugh  
Holly M. Dellenbaugh  
President of the Board of Education

Dated: June 22, 2023

## **APPENDIX A**

## **THE DISTRICT**

### ***General Information***

The District, with an area of approximately 52 square miles and an estimated population of 28,255, is located in upstate New York in Albany County, adjacent to and south of the City of Albany.

The District is primarily suburban residential. Residents find employment in various professional, industrial and commercial concerns located in Albany and the other nearby cities of the region.

Based on recent projections, the District does not anticipate any major residential growth within the District boundaries in the next three years, which will result in relatively stable (slightly declining) enrollment levels.

The District has available all the usual commercial services in the hamlet of Delmar as well as at various shopping centers. Fire protection is supplied by various volunteer fire departments. Police protection is furnished by local and State agencies. Gas and electric are furnished by National Grid.

### ***District Organization***

Subject to the provisions of the State Constitution, the District operates pursuant to the Education Law, the Local Finance Law, other laws generally applicable to the District, and any special laws applicable to the District. Under such laws, there is no authority for the District to have a charter or adopt local laws.

The legislative power of the District is vested in the Board of Education. Normally on the third Tuesday of May of each year an election is held within the District boundaries to elect members to the Board. They are elected for a term of three years. There are seven members of the Board of Education and two or three members are elected each year.

Within the first fifteen days of July of each year, the Board meets for the purposes of reorganization. At that time an election is held within the Board to elect a president and vice president. The president of the Board is the chief fiscal officer of the District.

### ***Financial Organization***

Pursuant to the Local Finance Law, the President of the Board of Education is the chief fiscal officer of the District. However, certain of the financial functions of the District are the responsibility of the Superintendent, Chief Business and Financial Officer and the District Treasurer.

### ***District Facilities***

The District operates nine buildings throughout the District as follows:

**TABLE 1**  
**School Statistics**

<b><u>Name</u></b>	<b><u>Grades</u></b>	<b><u>Capacity</u></b>	<b><u>Year Built</u></b>
Elementary Schools:			
Eagle	K-5	625	2008, 2009
Elsmere	K-5	425	1927, 1948, 1965
Glenmont	K-5	575	1957, 1991
Hamagrael	K-5	575	1954, 1991
Slingerlands	K-5	675	1940, 1954, 1991, 1997
Middle Schools:			
Bethlehem	6-8	2,075	1932, 1958, 1991, 1997, 2006
Senior High Schools:			
Bethlehem	9-12	2,675	1952, 1961, 1968, 1987, 2000, 2006

*Source: School Officials*

## ***Employees***

The District provides services through 832 full and part-time employees, who are represented by the following units of organized labor.

**TABLE 2**  
**Employees**

<b><u>Number of Employees</u></b>	<b><u>Organization</u></b>	<b><u>Contract Expiration Date</u></b>
413	Bethlehem Central Teachers' Association	6/30/25
406	Bethlehem Central United Employees' Association	6/30/24
13	Bethlehem Central Principals' Association	6/30/23

*Source: School Officials*

## ***Employee Pension Benefits***

All non-teaching and non-certified administrative employees of the School District eligible for pension or retirement benefits under the Retirement and Social Security Law of the State of New York are members of the New York and Local Employees' Retirement System ("ERS").

Teachers and certified administrators are members of the New York State Teachers' Retirement System ("TRS"). Payments to the Retirement System are deducted from the School District's State aid payments.

Both the ERS and the TRS (together, the "Retirement Systems") are non-contributing with respect to members hired prior to July 27, 1976. The Retirement Systems are non-contributory with respect to members working ten or more years except for Tiers V and VI as described below. Employees hired on or after April 1, 2013 have a variable contribution amount. See further details herein.

The following schedule reflects the District's contribution to ERS and TRS for the last three audited fiscal years and the current and ensuing budgeted fiscal year:

<b><u>Year ended</u></b>	<b><u>ERS</u></b>	<b><u>TRS</u></b>
2024 <i>Budgeted</i>	\$2,100,000	\$3,874,684
2023 <i>Budgeted</i>	1,980,000	3,935,000
2022	2,429,297	3,258,467
2021	2,346,534	3,263,277
2020	2,270,565	2,897,620

In 2003, Chapter 49 of the Laws of 2003 amended the Retirement and Social Security Law and the Local Finance Law. The amendments empowered the State Comptroller to implement a comprehensive structural reform program for the ERS. The reform program established a minimum contribution for any local governmental employer equal to 4.5% of pensionable salaries for bills which were due December 15, 2003 and for all fiscal years thereafter, as a minimum annual contribution where the actual rate would otherwise be 4.5% or less due to the investment performance of the fund. In addition, the reform program instituted a billing system to match the budget cycle of municipalities and school districts that will advise such employers over one year in advance concerning actual pension contribution rates for the next annual billing cycle. Under the previous method, the requisite ERS contributions for a fiscal year could not be determined until after the local budget adoption process was complete.

Under the new system, a contribution for a given fiscal year is based on the valuation of the pension fund on the prior April 1 of the calendar year proceeding the contribution due date instead of the following April 1 in the year of contribution so that the exact amount may now be included in a budget.

On December 10, 2009, the Governor signed into law pension reform legislation that will provide (according to a Division of the Budget analysis) more than \$35 billion in long-term savings to State taxpayers over the next thirty years. The legislation creates a new Tier V pension level, the most significant reform of the State's pension system in more than a quarter-century. Key components of Tier V include:

- Raising the minimum age of which most civilians can retire without penalty from 55 to 62 and imposing a penalty of up to 38 percent for any civilian who retires prior to age 62.xx

- Requiring employees to continue contributing three percent of their salaries toward pension costs so long as they accumulate additional pension credits.
- Increasing the minimum years of service required to draw a pension from five years to 10 years.
- Capping the amount of overtime that can be considered in the calculation of pension benefits for civilians at \$15,000 per year, and for police and firefighters at 15 percent of non-overtime wages.

Members of the TRS will have a separate Tier V benefit structure that will achieve equivalent savings as other civilian public employees. It includes:

- Raising the minimum age an individual can retire without penalty from 55 to 57 years.
- Contributing 3.5 percent of their annual wages to pension costs rather than 3.0 percent and continuing this increased contribution so long as they accumulate additional pension credits.
- Increasing the two percent multiplier threshold for final pension calculations from 20 to 25 years.

In accordance with constitutional requirements, these new pension reforms would apply only to public employees hired after January 1, 2010 and before April 1, 2012.

On March 16, 2012, the Governor signed into law the new Tier VI pension program, effective for new ERS and TRS employees hired after April 1, 2012. The Tier VI legislation provides, among other things, for increased employee contribution rates of between 3% and 6%, an increase in the retirement age from 62 to 63 years, a readjustment of the pension multiplier, and a change in the time period for final average salary calculation from three years to five years. Tier VI employees will vest in the system after ten years of employment and will continue to make employee contributions throughout employment.

In accordance with constitutional requirements, these new pension reforms would apply only to public employees hired after the particular dates specified in the statutes establishing Tier V and Tier VI, respectively.

Pension reform legislation enacted in 2003 and 2004 changed the cycle of ERS billing to match budget cycles of the District. Under the previous method, the District was unsure of how much it paid to the system until after its budget was implemented. Under the current method the contribution for a given fiscal year will be based on the value of the pension fund on the prior April 1 instead of the following April 1 so that the District will be able to more accurately include the cost of the contribution into its budget. The reform legislation also (i) required the District to make a minimum contribution of 4.5% of payroll every year, including years in which the investment performance of the fund would make a lower contribution possible and (ii) moved the annual payment date for contributions from December 15th to February 1st, effective December 15, 2004.

The New York State ERS rate for the 2021-22 ERS rate was 16.2%. The 2022-23 ERS decreased to 11.6%. The 2022-23 TRS rate is 10.3%. The 2023-24 ERS is estimated to be 13.1%.

In recent years, due to prior poor performance of the investment portfolio of the State Retirement System in the wake of the 2008-09 recession, New York State Comptroller Thomas DiNapoli announced that the employer contribution rates for required pension contributions to the SRS would continue to increase. To help mitigate the impact of their ERS increases, legislation has been enacted that permits local governments and school districts to amortize a portion of such contributions. Under such legislation, local governments and school districts that choose to amortize a portion of their ERS contributions will be required to set aside and reserve funds with the SRS for certain future rate increases. The District did not opt into the pension amortization plan.

In Spring 2013, the State and TRS approved a Stable Contribution Option (“SCO”) that gives school districts the ability to better manage the spikes in Actuarially Required Contribution rates (“ARCs”). ERS followed suit and modified its existing SCO, which was adopted in 2010. Each plan allows school districts to pay the SCO amount in lieu of the ARC amount, which is higher, and defer the difference in payment amounts as described below. The plan, which was approved in Governor Cuomo’s 2016-17 budget would let districts contribute 14.13% of employee costs toward pensions. The District has not opted into the pension smoothing plan.

The TRS SCO deferral plan is available to school districts for seven years after enactment. Under the TRS SCO plan, payment of the deferred amount will commence in year six of the program (2018-19) and continue for five years. School districts can elect to no longer participate in the plan at any time, resume paying the ARC and begin repayment of deferred amounts over five years. Under the ERS SCO, payment of deferred amounts begins the year immediately following the deferral and the repayment period is 12 years. Once made, the election to participate in the ERS SCO is permanent. However, the school districts can choose not to defer payment in any given year. In both plans, interest on the deferred amounts is based on the yield of 10-year U.S. Treasury securities plus 1%.

The primary benefit of participation in the SCO plans is the elimination of the uncertainty in the volatility of future pension contribution ARCs in the near term, thereby providing school districts with significant assistance in its ability to create a stable and reliable fiscal plan.

### ***Other Post-Employment Benefits***

The District provides post-retirement healthcare benefits to various categories of former employees. These costs may be expected to rise substantially in the future. School Districts and Boards of Cooperative Education Services, unlike other municipal units of government in the State, have been prohibited from reducing retiree health benefits or increasing health care contributions received or paid by retirees below the level of benefits or contributions afforded to or required from active employees. This protection from unilateral reduction of benefits had been extended annually by the New York State Legislature until recently when legislation was enacted to make permanent these health insurance benefit protections for retirees. Legislative attempts to provide similar protection to retirees of other local units of government in the State have not succeeded as of the date hereof. Nevertheless, many such retirees of all varieties of municipal units in the State do presently receive such benefits.

Effective July 1, 2016, the District adopted GASB Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other than Pensions* (OPEB), which supersedes GASB Statement No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits Other than Pensions*. This statement requires the District to recognize the total OPEB liability and related deferred outflows and deferred inflows of resources. The cumulative effect of implementing this required change in accounting principle resulted in a restatement of beginning net position as detailed in Note 2 to the financial statements. This statement addresses accounting and financial reporting for other postemployment benefits offered by the District and requires various note disclosures and required supplementary information.

For the fiscal year ended June 30, 2022, the District implemented GASB Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*. The implementation of the statement requires Districts to report other postemployment benefits (OPEB) liabilities, OPEB expenses, deferred outflow of resources and deferred inflow of resources related to OPEB. The implementation of the statements resulted in an increase in the liability for other postemployment benefits payable in the Statement of Net Position. The District's net position has been restated as follows:

	<u><b>2022</b></u>
Balance as of June 30, 2021	\$277,722,966
Changes for the year:	
Service cost	12,475,424
Interest	6,212,605
Change in benefit terms	0
Difference between expected & actual experience	239,918
Changes of assumptions or other inputs	(65,299,558)
Benefit payments	<u>(5,183,243)</u>
Net Changes	<u>(51,554,854)</u>
Balance as of June 30, 2022	<u><b>\$226,168,112</b></u>

Actuarial valuation will be required every two years for OPEB plans with more than 200 members, and every three years if there are less than 200 members.

Should the District be required to fund its unfunded actuarial accrued OPEB liability, it could have a material adverse impact upon the District's finances and could force the District to reduce services, raise taxes or both. At the present time, however, there is no current or planned requirement for the District to partially fund its actuarial accrued OPEB liability. At this time, New York State has not developed guidelines for the creation and use of irrevocable trusts for the funding of OPEB. As a result, the District has decided to continue funding the expenditure on a pay-as-you-go basis.

### ***Investment Policy/Permitted Investments***

Pursuant to State law, including Sections 10 and 11 of the General Municipal Law (the "GML"), the District is generally permitted to deposit moneys in banks and trust companies located and authorized to do business in the State. All such deposits, including special time deposit accounts and certificates of deposit, in excess of the amount insured

under the Federal Deposit Insurance Act, are required to be secured in accordance with the provisions of and subject to the limitations of Section 10 of the GML.

The District may also temporarily invest moneys in: (1) obligations of the United States of America; (2) obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America; (3) obligations of the State of New York; (4) with the approval of the New York State Comptroller, in tax anticipation notes or revenue anticipation notes issued by any municipality, school district, or district corporation, other than those bonds issued by the District; (5) certificates of participation issued by political subdivisions of the State pursuant to Section 109-b(10) of the GML; (6) obligations of a New York public benefit corporation which are made lawful investments for municipalities pursuant to the enabling statute of such public benefit corporation; or (7) in the case of moneys held in certain reserve funds established by the District pursuant to law, obligations of the District.

All of the foregoing instruments and investments are required to be payable or redeemable at the option of the owner within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of instruments and investments purchased with the proceeds of bonds or notes, shall be payable or redeemable in any event, at the option of the owner, within two years of the date of purchase. Unless registered or inscribed in the name of the District, such instruments and investments must be purchased through, delivered to and held in custody of a bank or trust company in the State pursuant to a written custodial agreement as provided in Section 10 of the GML.

The Board of Education has adopted an investment policy and such policy conforms with applicable laws of the State governing the deposit and investment of public moneys. All deposits and investments of the District are made in accordance with such policy.

## **FINANCIAL FACTORS**

### ***Revenues***

More than 98% of all District revenues come from three sources: property taxes, state aid and non-property taxes. For the fiscal year ended June 30, 2022 property taxes accounted for 71.2% of total general fund revenues while state aid accounted for 27.0%.

**Property Taxes.** The District derives a significant portion of its revenues from a tax on the taxable real property located within the District. For purposes of the following table, real property taxes include the tax levy, payments received in lieu of taxes and the interest and penalties collected on delinquent taxes.

The following table sets forth total general fund revenues and real property taxes and tax item revenues received during the last five audited fiscal years and the amounts budgeted for the current and ensuing fiscal year.

<b>Table 3</b>			
<b><u>Real Property Taxes and Tax Items</u></b>			
<b><u>Fiscal Year</u></b>	<b><u>General Fund Revenues</u></b>	<b><u>Real Property Taxes and Tax Item Revenues</u></b>	<b><u>Real Property Taxes To Revenues</u></b>
2018	\$97,195,907	\$67,491,283	69.4%
2019	99,872,227	69,071,683	69.2%
2020	100,606,065	70,574,925	62.5%
2021	100,955,163	72,262,460	71.6%
2022	102,444,763	72,918,040	71.2%
2023 <i>Adopted Budget</i>	102,698,000	73,013,000	71.1%
2024 <i>Adopted Budget</i>	106,691,303	74,709,965	70.0%

*Source: Financial Statements for the Fiscal Years ended June 30, 2018-2022, and 2023 and 2024 Adopted Budgets.*

**State Aid.** The District receives State aid. However, there is no assurance that the State appropriation for State Aid to Districts will continue, either pursuant to existing formulas or in any form whatsoever. The State is not constitutionally obligated to maintain or continue such aid. State budgetary restrictions which eliminate or substantially reduce State aid could have a material adverse effect upon the District, requiring either a counterbalancing increase in revenues from other sources to the extent available, or a curtailment of expenditures.

No delay in payment of State aid for the District’s future fiscal years is presently anticipated although no assurance can be given that there will not be a delay in payment thereof. Should the District fail to receive moneys expected from the State in the amounts and at the times expected, the District is permitted to issue revenue anticipation notes in anticipation of the receipt of delayed State aid, after adoption by the Board of a resolution authorizing same.

The following table sets forth total general fund revenues and State aid received during the last five audited fiscal years and the amounts budgeted for the current and ensuing fiscal year.

<b>Table 4</b>			
<b><u>State Aid</u></b>			
<b><u>Fiscal Year</u></b>	<b><u>General Fund Revenues</u></b>	<b><u>State Aid</u></b>	<b><u>State Aid To Revenues</u></b>
2018	\$97,195,907	\$27,759,101	28.6%
2019	99,872,227	28,372,306	28.4%
2020	100,606,065	28,296,735	28.1%
2021	100,955,163	27,622,454	27.4%
2022	102,444,763	27,692,159	27.0%
2023 <i>Adopted Budget</i>	102,698,000	28,019,000	27.3%
2024 <i>Adopted Budget</i>	106,691,303	30,297,234	28.4%

*Source: Financial Statements for the Fiscal Years ended June 30, 2018-2022, and 2023 and 2024 Adopted Budgets.*

In addition to the amount of State aid budgeted annually by the District, the State makes payments of STAR aid representing tax savings provided by school districts to their taxpayers under the STAR Program (see “STAR-School Tax Exemption”). The District has received timely STAR aid from the State for the previous and current fiscal years.

The Smart Schools Bond Act was passed as part of the Enacted 2014-15 State Budget. The Smart Schools Bond Act authorizes the issuance of \$2 billion of general obligation bonds to finance improved educational technology and infrastructure to improve learning and opportunity for students throughout the State. The District's estimated allocation of funds is \$2,039,178, and has spent \$1,708,984.

There can be no assurance that the State appropriation for State aid to school districts will be continued in future years, either pursuant to existing formulas or in any form whatsoever. The availability of such monies and the timeliness of such payment could be affected by a delay in the adoption of the State budget. In any event, State aid appropriated and apportioned to the District can be paid only if the State has such monies available therefor.

No delays in payment of State aid for the District’s 2023-24 fiscal year is presently anticipated, although no assurance can be given that there will not be a delay in payment thereof. Should the District fail to receive monies expected from the State in the amounts and at the times expected, the District is permitted to issue revenue anticipation notes in anticipation of the receipt of delayed State aid.

### ***Recent Events Affecting New York Districts***

School district fiscal year (2016-17): The State budget included an increase of \$991 million in State aid for school districts over the 2015-16 budget, \$863 million of which consisted of traditional operating aid. In addition to the \$408 million of expense-based aid, the budget included a \$266 million increase in Foundation Aid and \$100 million in Community Schools Aid, a newly adopted aid category, to support school districts that wish to create community schools. Community Schools Aid funds may only be used for certain purposes such as providing health, mental health and nutritional services to students and their families. The budget also featured the elimination of the Gap Elimination Adjustment (“GEA”) that had been instituted in the State’s 2010-11 to 2012-13 fiscal years to address State funding shortfalls due to the ongoing effects of a recession. Under the GEA legislation, a portion of the funding shortfall was divided among all school districts across the State, resulting in a reduction in school district general aid funds.

School district fiscal year (2017-18): The State budget included an increase of \$1.1 billion in State Aid to school districts, including a \$700 million increase in Foundation Aid. The budget included School Aid spending of \$25.8 billion, an increase of 4.4% from the prior fiscal year.

School district fiscal year (2018-19): The budget increased Education Aid by \$1 billion, including a \$619 million increase in Foundation Aid, without revision to the formula, bringing the new Education Aid total to \$26.7 billion or an increase of 3.9 percent.

School district fiscal year (2019-20): The budget increased Education aid by more than \$1 billion which included a \$618 million dollar increase in Foundation Aid. The new Education Aid total is \$27.9 billion — an increase of 3.8%. The budget directs a majority of such additional funding (over 70%) to the State’s more economically disadvantaged school districts.

School district fiscal year (2020-21): Due to the below-described decrease in State revenues as a result of the COVID-19 pandemic, the State budget included an increase of only \$95 million in State Aid (0.035% increase from the prior budget year), and Foundation Aid remained at essentially the same level as it was during the 2019-2020 fiscal year. While the budget actually included a decrease in State Aid (referred to as a “Pandemic Adjustment”), the decrease in State aid be fully offset by the State’s allocation of federal stimulus funds. Absent the federal stimulus funds, there would have been a \$1.127 billion decrease in State Aid from the 2019-2020 year.

School district fiscal year (2021-22): The State budget includes large-scale increases in State aid to school districts, including a \$105 million expansion of full-day prekindergarten that will provide funding to 200 school districts that didn’t previously receive State funding for such full-day prekindergarten programs. In contrast to the 2020-21 budget, this budget provides that additional federal aid would supplement, not supplant, State funding. Most notably, Foundation Aid is increased by \$1.4 billion (7.6%), and the State has committed to a three-year phase-in of the restoration of the full Foundation Aid formula to finally fulfill the State’s commitments from the *Campaign for Fiscal Equity* case from the early 2000s.

The City of New York was an early epicenter of the COVID-19 pandemic in the United States, and as a result the State suffered significant revenue shortfalls and unanticipated expenses beginning at the end of the State’s 2019-2020 fiscal year, and continuing during the State’s 2020-2021 fiscal year.

In response, the enacted State budget for the 2020-21 fiscal year allowed the State to reduce expenditures (including aid to local school districts and municipalities) if tax receipts were lower than anticipated. Accordingly, in June, 2020 the State Division of the Budget (“DOB”) began withholding 20 percent of most local aid payments, although such aid has generally since been restored.

Many of the State’s 2020-2021 budget decisions were based on the uncertainty of future federal aid. In the period of time since such decisions were made, the \$1.9 trillion American Rescue Plan Act was signed into law (on March 11, 2021), which legislation includes almost \$24 billion in funding for various levels of government in the State, including approximately \$12.5 billion for the State, \$6 billion for New York City, and \$4 billion to be divided among counties in the State; another \$12 billion is intended to be used toward the safe reopening of K-12 schools as well as colleges and universities.

Accordingly, the State enacted budget for the 2021-2022 fiscal year is more expansive (about 10% higher) than the prior budget, including significantly increased funding for schools and local governments. School districts will benefit from a \$1.4 billion increase in Foundation Aid and a three-year Foundation Aid full restoration phase-in that will allow all school districts to receive the increased level of Foundation Aid that was originally promised in 2007, along with a \$105 million expansion of full-day prekindergarten. Local governments will receive a full restoration of proposed cuts to Aid and Incentives for Municipalities (AIM) funding. Further, municipalities that host Video Lottery Terminal (VLT) facilities will receive a full restoration of \$10.3 million in proposed VLT aid cuts.

Although the 2021-2022 budget contains additional aid for school districts and municipalities, it is uncertain whether the State will have future budget shortfalls necessitating cuts to State aid. Reductions in the payment of State aid could adversely affect the financial condition of school districts in the State, including the District.

See “COVID-19,” herein, for further details on such pandemic and its effects on the State.

School district fiscal year (2022-23): The Governor’s Enacted budget provided \$31.5 billion in School Aid for the 2022-23 fiscal year, an increase of \$2.1 billion (7.2 percent) from \$29.1 billion 2021-22. Foundation Aid is increased by \$1.5 billion (7.7% increase). This is the second year of the Foundation Aid Formulation, a three-year phase-in of the

restoration of the full Foundation Aid formula to finally fulfill the State's commitments from the Campaign for Fiscal Equity case from the early 2000s. The budget continues the expansion of full-day prekindergarten that will provide funding to 200 school districts with an increase of \$125 million from the 2022-23 fiscal year and increase of 13%. The Budget also includes \$451 million increase in all other School Aid programs.

School district fiscal year (2023-24): The Governor's Enacted State budget provides \$34.5 billion in School Aid for the 2023-24 fiscal year, an increase of \$3.1 billion (10.0 percent). Foundation Aid is increased by \$2.7 billion (12.8 percent). This is the third year of the Foundation Aid Formulation, a three-year phase-in of the restoration of the full Foundation Aid formula to finally fulfill the State's commitments from the Campaign for Fiscal Equity case from the early 2000s. The budget continues the expansion of full-day prekindergarten that will provide funding to 200 school districts with an increase of \$1.2 million from the 2022-23 fiscal year. The total funding for the Universal Pre-Kindergarten includes \$25 million in expansion grants supported by the American Rescue Plan Act.

The State budget for the 2023-24 fiscal year provides \$31.88 million of State Aid to the District, a 11.29% increase from the district 2022-23 school year. subject to reductions as described above.

The District presently anticipates an increase in its State Aid related to foundation for its 2023-2024 fiscal year in an amount of \$2,764,007.

It should also be noted that the School District receives federal aid for certain programs. In its last audited fiscal year, the School District received \$160,194 in such direct federal aid. It is not possible to predict whether such aid will continue in the future, or if continued, whether it will be funded at present levels.

The District cannot predict at this time whether there will be any reductions in and/or delays in the receipt of State aid during the District's 2023-24 fiscal year. The District believes that it would mitigate the impact of any delays or the reduction in State aid by reducing expenditures, increasing revenues, appropriating other available funds on hand, and/or by any combination of the foregoing.

### ***The State Comptroller's Fiscal Stress Monitoring System***

The New York State Comptroller has reported that New York State's school districts and municipalities are facing significant fiscal challenges. As a result, the Office of the State Comptroller has developed a Fiscal Stress Monitoring System ("FSMS") to provide independent, objectively measured and quantifiable information to school district and municipal officials, taxpayers and policy makers regarding the various levels of fiscal stress under which the State's school districts and municipalities are operating.

The fiscal stress scores are based on financial information submitted as part of each school district's ST-3 report filed with the State Education Department annually, and each municipality's annual report filed with the State Comptroller. Using financial indicators that include year-end fund balance, cash position and patterns of operating deficits, the system creates an overall fiscal stress score which classifies whether a school district or municipality is in "significant fiscal stress", in "moderate fiscal stress," as "susceptible to fiscal stress" or "no designation". Entities that do not accumulate the number of points that would place them in a stress category will receive a financial score but will be classified in a category of "no designation." This classification should not be interpreted to imply that the entity is completely free of fiscal stress conditions. Rather, the entity's financial information, when objectively scored according to the FSMS criteria, did not generate sufficient points to place them in one of the three established stress categories.

The most current applicable report of the State Comptroller designates the District as "No Designation." (<https://www.osc.state.ny.us/files/local-government/fiscal-monitoring/pdf/2022-schools-summary.pdf>)

### ***New York State Comptroller's Audit***

Many school districts throughout the state can be subject to an audit of the New York State Office of the Comptroller ("OSC") pursuant to Article V, Section 1 of the State Constitution, and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

On July 15, 2022, OSC, Division of Local Government and School Accountability released an audit of the District in which they reviewed the District's used resources to ensure the District's Internet connectivity meets the Federal Communication Commission's (FCC) recommended bandwidth. The audit found that the District's Internet connectivity

met the FCC's recommended bandwidth. There were no recommendations from the OSC. The full report and the District's response can be found on the District's web page.

<https://www.osc.state.ny.us/files/local-government/audits/2022/pdf/bethlehem-s9-22-1.pdf>

### ***Budgetary Procedure***

The District's fiscal year begins on July 1 and ends on June 30. Starting in the fall or winter of each year, the District's financial plan and enrollment projection are reviewed and updated, and the first draft of the next year's proposed budget is developed by the central office staff. During the winter and early spring, the budget is developed and refined in conjunction with the school building principals and department supervisors. The District's budget is subject to the provisions of the Tax Levy Limit Law, which imposes a limitation on the amount of real property taxes that a District may levy, and by law is submitted to voter referendum on the third Tuesday of May each year. (See "Tax Levy Limit Law," herein.)

On May 16, 2023, a qualifies of the voters of the District approved the District's budget for the 2023-24 fiscal year. Summaries of the District's Adopted Budgets for the fiscal years 2022-23 and 2023-24 may be found in Appendix B, herein.

## **TAX INFORMATION**

### ***Real Property Tax Assessment and Rates***

**Table 5**  
**Real Property Tax Assessment and Rates**  
(Fiscal Year Ending June 30)

<b>Roll Year:</b>	<b><u>2018</u></b>	<b><u>2019</u></b>	<b><u>2020</u></b>	<b><u>2021</u></b>	<b><u>2022</u></b>
<b>Tax Year:</b>	<b><u>2019</u></b>	<b><u>2020</u></b>	<b><u>2021</u></b>	<b><u>2022</u></b>	<b><u>2023</u></b>
<b>Town of Bethlehem</b>					
Assessed Value	\$2,901,482,118	\$2,923,931,347	\$2,953,747,223	\$2,983,774,337	\$3,009,674,982
Equalization Rate	95.00%	95.00%	95.00%	93.00%	86.00%
Full Value	\$3,054,191,703	\$3,077,822,471	\$3,109,207,603	\$3,208,359,502	\$3,499,622,072
Tax Rate <sup>(1)</sup>	\$21.07	\$21.27	\$21.54	\$21.51	\$21.27
<b>Town of New Scotland</b>					
Assessed Value	\$223,565,373	\$225,198,898	\$226,472,484	\$229,484,871	\$231,484,643
Equalization Rate	96.00%	92.00%	91.00%	91.00%	81.00%
Full Value	\$232,880,597	\$244,781,411	\$248,870,862	\$252,181,177	\$285,783,510
Tax Rate <sup>(1)</sup>	\$20.85	\$21.96	\$22.49	\$21.98	\$22.58
<b>Total:</b>					
Assessed Value	\$3,125,047,491	\$3,149,130,245	\$3,180,219,707	\$3,213,259,208	\$3,241,159,625
Full Value	\$3,287,072,300	\$3,322,603,881	\$3,358,078,465	\$3,460,540,679	\$3,785,405,582
Tax Levy	\$65,810,000	\$67,145,000	\$68,718,000	\$69,233,000	\$69,233,000

<sup>(1)</sup> Composite rate for the Towns of Bethlehem and New Scotland. Per \$1,000 taxable assessed value.  
Source: District Officials.

### ***The Tax Levy Limit Law***

On June 24, 2011, Chapter 97 of the Laws of 2011 was signed into law by the Governor (the "Tax Levy Limitation Law"). The Tax Levy Limitation Law applies to all local governments, including school districts (with the exception of New York City, and the counties comprising New York City). The discussion herein does not include school districts in New York City, Buffalo, Rochester, Syracuse, or Yonkers.

Prior to the enactment of the Tax Levy Limitation Law, there was no statutory limitation on the amount of real property taxes that a school district could levy as part of its budget if its budget had been approved by a simple majority of its voters. In the event the budget had been defeated by the voters, the school district was required to adopt a contingency

budget. Under a contingency budget, school budget increases were limited to the lesser of four percent (4%) of the prior year's budget or one hundred twenty percent (120%) of the consumer price index ("CPI").

The Tax Levy Limitation Law requires that a school district submit its proposed tax levy to the voters each year beginning with the 2012-13 fiscal year.

The Tax Levy Limitation Law restricts, among other things, the amount of real property taxes that may be levied by or on behalf of a school district in a particular year. It expires on June 15, 2020 unless other legislation is extended. Pursuant to the Tax Levy Limitation Law, the tax levy of a school district cannot increase by more than the lesser of (i) two percent (2%) or (ii) the annual increase in the CPI, over the amount of the prior year's tax levy. Certain adjustments would be permitted for taxable real property full valuation increases due to changes in physical or quantity growth in the real property base as defined in Section 1220 of the Real Property Tax Law. A school district could exceed the tax levy limitation for the coming fiscal year only if the voters of such school district first approve a budget by at least 60% affirmative vote of those voting to override such limitation for such coming fiscal year only. Tax levies that do not exceed the limitation will only require approval by at least 50% of those voting.

A school district's calculation of each fiscal year's tax levy limit is subject to review by the Commissioner of Education and the Commissioner of Taxation and Finance prior to adoption of each fiscal year budget. It should be noted that the permissible amount of increase for the District's 2023-24 budget year is 3.89%. The approved budget by the District includes a 2.30% increase in the tax levy.

There are exceptions for school districts to the tax levy limitation provided in the Tax Levy Limitation Law, including expenditures made on account of certain tort settlements and certain increases in the average actuarial contribution rates of the New York State and Local Employees' Retirement System, and the Teachers' Retirement System. School districts are also permitted to carry forward a certain portion of their unused levy limitation from a prior year.

There is also an exception for school districts for "Capital Local Expenditures" subject to voter approval where required by law. This term is defined in a manner that does not include certain items for which a school district may issue debt including the payment of judgments or settled claims, including tax certiorari payments, and cashflow borrowings including tax anticipation notes, revenue anticipation notes, budget notes and deficiency notes. "Capital Local Expenditures" are defined as "the taxes associated with budgeted expenditures resulting from the financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of or otherwise providing for school district capital facilities or school district capital equipment, including debt service and lease expenditures, and transportation capital debt service, subject to the approval of the qualified voters where required by law". The portion of the tax levy necessary to support "Capital Local Expenditures" is defined as the "Capital Tax Levy", and this is an exclusion from the tax levy limitation.

While the Tax Levy Limitation Law may constrict a school district's power to levy real property taxes for the payment of debt service on debt contracted after the effective date of the Tax Levy Limitation Law (June 24, 2011), it is clear that no statute is able (1) to limit a school district's pledge of its faith and credit to the payment of any of its general obligation indebtedness or (2) to limit a school district's levy of real property taxes to pay debt service on general obligation debt contracted prior to the effective date of the Tax Levy Limitation Law. Whether the Constitution grants a school district authority to treat debt service payments as a constitutional exception to any such statutory tax levy limitation is not clear.

On February 20, 2013, the New York State United Teachers ("NYSUT") organization filed a lawsuit against the State challenging the Tax Levy Limitation Law as applied to school districts on multiple federal and state constitutional grounds. The Board of Education of the District did not join the NYSUT lawsuit as a plaintiff. On September 23, 2014, a justice of the New York State Supreme Court dismissed each of NYSUT's causes of action but granted NYSUT's motion to amend the complaint. After the ruling, NYSUT amended its complaint to include a challenge to the Chapter 59 Real Property Tax Rebate, also on federal and state constitutional grounds. On March 16, 2015, all causes of action contained in the amended complaint were dismissed. NYSUT has stated that the organization will appeal the decision; therefore, the ultimate outcome of this litigation cannot be determined at this time. On May 5, 2016, the Third Department of the State Supreme Court Appellate Division upheld the lower court's decision to dismiss the suit. An appeal by NYSUT was dismissed on October 20, 2016 by the Court of Appeals, New York's highest court, on the ground that no substantial constitutional question was directly involved and thereafter leave to appeal was denied on January 14, 2017 by the Court of Appeals. See also "State Aid" for a discussion of the New Yorkers for Students' Educational Rights v. State of New York case which includes a challenge to the supermajority requirements regarding school.

### ***Tax Limit***

The Constitution does not limit the amount that may be raised by the District-wide tax levy on real estate in any fiscal year. However, the Tax Levy Limit Law imposes a statutory limit on the amount of real property taxes that a District may levy. (See “*The Tax Levy Limit Law*” herein).

### ***Tax Collection Procedure***

Taxpayers are billed for real property taxes in the month of August. Beginning in the 2014-15 fiscal year, school taxes are collected by the Capital Region BOCES. Taxes are due during the month of September. Taxes paid in October carry a 2% penalty for the Town of New Scotland and the Town of Bethlehem. On November 15, any unpaid taxes are returned to the Albany County Treasurer for collection.

The District is reimbursed by Albany County for all unpaid taxes in April of each year and is thus assured of 100% of its annual levy.

### ***STAR - School Tax Exemption***

The Basic and Enhanced STAR (School Tax Relief) Property Tax Exemptions are homestead exemptions. Basic STAR is available to anyone who owns and lives in his or her own home. Enhanced STAR is available to senior homeowners whose incomes do not exceed the statewide standard.

For the 2023-24 school levy year, homeowners subject to certain household income limitations are eligible for an enhanced exemption and basic exemption as follows:

<u><b>Towns of:</b></u>	<u><b>Enhanced Exemption</b></u>	<u><b>Basic Exemption</b></u>
Bethlehem	\$70,000	\$25,800
New Scotland	\$65,930	\$24,300

*Date Certified: 04/06/2023*

The enhanced or basic STAR exemption is the amount that an assessment will be reduced prior to the levy of school taxes. For example, if a home is assessed at \$150,000 and the enhanced STAR exemption for a municipality is \$50,000, the school taxes on the property would be paid on a taxable assessment of \$100,000 (\$150,000 - \$50,000 = \$100,000).

Since the 2011-12 school tax bills, there has been a 2% limit on STAR savings increases. When school district initially calculates their tax bills, for each municipal segment they will compare the amount of STAR savings to the maximum. If the STAR savings exceeded the maximum, the school district will use the maximum when calculating tax bills for the segment.

The maximum savings for each of the municipalities within the District for the 2023-24 fiscal year are as follows:

<u><b>Towns of:</b></u>	<u><b>Basic Maximum Savings</b></u>	<u><b>Enhanced Maximum Savings</b></u>
Bethlehem	\$593	\$1,330
New Scotland	\$600	\$1,365

*Date Certified: 03/22/2023*

The District received full reimbursement of such exempt taxes from the State during the current fiscal year and expects to receive full reimbursement of such exempt taxes from the State during the 2023-24 fiscal year.

### ***Ten Largest Taxpayers for 2022-23***

The following table presents the District's top ten taxpayers for the 2022-23 fiscal year.

**Table 6**  
**Taxable Assessments**

<b><u>Taxpayer</u></b>	<b><u>Type</u></b>	<b><u>Assessed Valuation</u></b>	<b><u>% of Total Assessed Valuation</u></b> <sup>(1)</sup>
National Grid	Utility	\$86,101,752	2.66%
Tennessee Gas and Pipe	Utility	25,490,218	0.79%
Mansions at Delmar Investors	Apartments	22,000,000	0.68%
Bethlehem Associates LLC	Retail	13,800,000	0.43%
Adams Station, LLC	Apartments	11,600,000	0.36%
Windsor Properties Co	Apartments	10,800,000	0.33%
Van Dyke Spinney, LLC	Senior Living	10,644,000	0.33%
Delmar Place LLC	Senior Living	10,600,000	0.33%
Slingerlands 1220	Medical	10,200,000	0.31%
Delaware Plaza LLC	Apartments	9,500,000	0.29%
		<u>\$210,735,970</u>	<u>6.50%</u>

<sup>(1)</sup> The District's assessed value for fiscal year 2022-23 was \$3,241,159,625.

Source: Town Assessors.

## **DISTRICT INDEBTEDNESS**

### ***Constitutional Requirements***

The New York State Constitution limits the power of the District (and other municipalities and Districts of the State) to issue obligations and to otherwise contract indebtedness. Such constitutional limitations include the following, in summary form, and are generally applicable to the District.

**Purpose and Pledge.** The District shall not give or loan any money or property to or in aid of any individual or private corporation or private undertaking or give or loan its credit to or in aid of any of the foregoing or any public corporation.

The District may contract indebtedness only for a District purpose and shall pledge its faith and credit for the payment of principal of and interest hereon.

**Payment and Maturity.** Except for certain short-term indebtedness contracted in anticipation of taxes, or to be paid in one of the two fiscal years immediately succeeding the fiscal year in which such indebtedness was contracted, indebtedness shall be paid in annual installments commencing no later than two years after the date such indebtedness shall have been contracted and ending no later than the expiration of the period of probable usefulness of the object or purpose (as determined by statute) or, in the alternative, the weighted average period of probable usefulness of the several objects or purposes for which such indebtedness is to be contracted; no installment may be more than fifty per centum in excess of the smallest prior installment unless the Town determines to issue debt amortized on the basis of substantially level or declining annual debt service. The Town is required to provide an annual appropriation for the payment of interest due during the year on its indebtedness and for the amounts required in such year for amortization and redemption of its serial bonds and bond anticipation notes.

**General.** The District is further subject to constitutional limitation by the general constitutionally imposed duty on the State Legislature to restrict the power of taxation and contracting indebtedness to prevent abuses in the exercise of such power; however, the State Legislature is prohibited by a specific constitutional provision from restricting the power of the District to levy taxes on real estate for the payment of interest on or principal of indebtedness theretofore contracted. There is no constitutional limitation on the amount that may be raised by the District by tax on real estate in any fiscal year to pay principal of and interest on all indebtedness. However, the Tax Levy Limit Law imposes a statutory limitation on the power of the District to increase its annual tax levy. The amount of such increase is limited by the formulas set forth in such law. (See "*The Tax Levy Limit Law*," herein.)

## ***Statutory Procedure***

In general, the State Legislature has, by enactment of the Local Finance Law, authorized the power and procedure for the District to borrow and incur indebtedness subject, of course, to the constitutional provisions set forth above. The power to spend money, however, generally derives from other law, including the Education Law.

The District is generally required by such laws to submit propositions for the expenditure of money for capital purposes to the qualified electors of the District. Upon approval thereby, the Board of Education may adopt a bond resolution authorizing the issuance of bonds or notes in anticipation of bonds. With respect to certain school building construction projects, the District is not permitted to spend in excess of \$100,000 until the plans and specifications for such project have been approved by the Commissioner of Education of the State.

The Local Finance Law also provides a twenty-day statute of limitations after publication of a bond resolution, together with a statutory form of notice which, in effect, estops legal challenges to the validity of obligations authorized by such bond resolution except for alleged constitutional violations. The District has complied with such procedures with respect to the Bonds and the Notes.

The Board of Education, as the finance board of the District, also has the power to authorize the sale and issuance of bonds and notes. However, such finance board may delegate the power to sell such securities to the President of the Board of Education, the chief fiscal officer of the District, pursuant to the Local Finance Law.

## ***Debt Limit***

Pursuant to the Local Finance Law, the District has the power to contract indebtedness for any District purpose authorized by the Legislature of the State of New York so long as the principal amount thereof shall not exceed ten per centum of the full valuation of taxable real estate of the District and subject to certain enumerated deductions such as State aid for building purposes. The constitutional and statutory method for determining full valuation is by taking the assessed valuation of taxable real estate for the last completed assessment roll and applying thereto the ratio, which such assessed valuation bears to the full valuation as determined by the State Board of Real Property Services. The State Legislature is required to prescribe the manner by which such ratio shall be determined.

## ***Statutory Debt Limit and Net Indebtedness***

The debt limit of the District is \$378,540,558. This is calculated by taking 10% of the current full value of the District.

**Table 7**  
**Statutory Debt Limit and Net Indebtedness**  
*As of June 21, 2023*

Full Valuation of Taxable Real Property	\$3,785,405,582
Debt Limit (10% of Full Valuation)	<u>378,540,558</u>
Outstanding Indebtedness:	
Bonds	\$35,950,000
Bond Anticipation Notes <sup>(2)</sup>	<u>3,255,000</u>
Gross Indebtedness	\$39,205,000
Exclusions:	
Estimated Building Aid <sup>(1)</sup>	<u>0</u>
Net Indebtedness of the District	<u>\$39,205,000</u>
Net Debt-Contracting Margin	<u>\$339,335,558</u>
Percentage of Debt-Contracting Margin Exhausted	<u>10.36%</u>

(1) The District has received and expects to continue to receive State Aid on a portion of existing indebtedness contracted for school building purposes pursuant to Section 121.20 of the Local Finance Law. However, since the District has not applied for a building aid exclusion certificate from the Commissioner of Education, the District may not exclude such portion from the gross indebtedness. State aid for qualifying building purposes is currently estimated by District officials at 73.4%.

(2) The Series A Notes will be renewing the outstanding BANs in part.

### ***Remedies Upon Default***

Section 99-b of the State Finance Law (the "SFL") provides for a covenant between the State of New York (the "State") and the purchasers and the holders and owners from time to time of the bonds and notes issued by Districts in the State for school purposes that it will not repeal, revoke or rescind the provisions of Section 99-b of the SFL, or amend or modify the same so as to limit, impair or impede the rights and remedies granted thereby.

Said section provides that in the event a holder or owner of any bond or note issued by a District for school purposes shall file with the State Comptroller, a verified statement describing such bond or note and alleging default in the payment thereof or the interest thereon or both, it shall be the duty of the State Comptroller to immediately investigate the circumstances of the alleged default and prepare and file in his office a certificate setting forth his determinations with respect thereto and to serve a copy thereof by registered mail upon the chief fiscal officer of the District which issued the bond or note. Such investigation by the State Comptroller shall set forth a description of all such bonds and notes of the District found to be in default and the amount of principal and interest thereon past due.

Upon the filing of such a certificate in the office of the State Comptroller, he shall thereafter deduct and withhold from the next succeeding allotment, apportionment or payment of such State aid or assistance due to such District such amount thereof as may be required to pay (a) the District's contribution to the State Teachers' Retirement System, and (b) the principal of and interest on such bonds and notes of such District then in default. In the event such State aid or assistance initially so withheld shall be insufficient to pay said amounts in full, the State Comptroller shall similarly deduct and withhold from each succeeding allotment, apportionment or payment of such State aid or assistance due such District such amount or amounts thereof as may be required to cure such default. Allotments, apportionments and payments of such State aid so deducted or withheld by the State Comptroller for the payment of principal and interest on the bonds and notes shall be forwarded promptly to the paying agent or agents for the bonds and notes in default of such District for the sole purpose of the payment of defaulted principal of and interest on such bonds or notes. If any such successive allotments, apportionments or payment of such State aid so deducted or withheld shall be less than the amount of all principal and interest on the bonds and notes in default with respect to which the same was so deducted or withheld, then the State Comptroller shall promptly forward to each paying agent an amount in the proportion that the amount of such bonds and notes in default payable to such paying agent bears to the total amount of the principal and interest then in default on such bonds and notes of such District. The State Comptroller shall promptly notify the chief fiscal officer of such District of any payment or payments made to any paying agent or agents of defaulted bonds or notes pursuant to said section SFL.

Under current law, provision is made for contract creditors (including the Noteholders) of the District to enforce payments upon such contracts, if necessary, through court action, although the present statute limits interest on the amount adjudged due to creditors to nine per centum per annum from the date due to the date of payment. As a general rule, property and funds of a municipal corporation servicing the public welfare and interest have not been judicially subjected to execution or attachment to satisfy a judgment, although judicial mandates have been issued to officials to appropriate and pay judgments out of current funds or the proceeds of a tax levy.

Remedies for enforcement of payment are not expressly included in the District's contract with holders of its notes or bonds, although any permanent repeal by statute or constitutional amendment of a bondholders and noteholders remedial right to judicial enforcement of the contract could be held unconstitutional.

In recent times, certain events and legislation affecting remedies on default have resulted in litigation. While courts of final jurisdiction have upheld and sustained the rights of bondholders and noteholders, such courts might hold that future events including financial crises as they may occur in the State and in municipalities of the State require the exercise by the State of its emergency and police powers to assure the continuation of essential public services.

### ***Bond Anticipation Notes***

Following the Issuance of the Notes, the District will have \$2,703,456 and \$24,310,000 of bond anticipation notes outstanding which will mature on July 12, 2024.

### ***Revenue and Tax Anticipation Notes***

The District has not issued revenue anticipation notes or tax anticipation notes in recent years.

### ***Other Long-Term Debt***

On June 30, 2016, the District entered into an Energy Performance Contract in the amount of \$4,241,984 which is accounted for as a capital lease. The leased assets and related obligations are accounted for in Capital Assets and Long-Term Debt, respectively. The District has agreed to make quarterly payments of \$86,133 of combined principal and interest beginning on December 1, 2017. The outstanding balance as of June 30, 2022, is \$3,136,889.

### ***Outstanding Indebtedness***

The following table provides information relating to indebtedness outstanding at year-end for the five prior fiscal years.

<b>Table 8</b>					
<b><u>Outstanding Indebtedness</u></b>					
	<b><u>2018</u></b>	<b><u>2019</u></b>	<b><u>2020</u></b>	<b><u>2021</u></b>	<b><u>2022</u></b>
Bonds	\$49,760,000	\$41,225,000	\$32,220,000	\$23,020,000	\$40,640,000
Bond Anticipation Notes	3,808,000	3,891,000	31,018,551	30,680,751	3,724,000
Energy Performance Contracts	<u>4,173,910</u>	<u>3,923,532</u>	<u>3,667,327</u>	<u>3,405,159</u>	<u>3,136,889</u>
Total:	<u>\$57,741,910</u>	<u>\$49,039,532</u>	<u>\$66,905,878</u>	<u>\$57,105,910</u>	<u>\$47,500,889</u>

### ***Overlapping and Underlying Debt***

In addition to the District, other political subdivisions have the power to issue bonds and to levy taxes or cause taxes to be levied on taxable real property in the District. The real property taxpayers of the District are responsible for a proportionate share of outstanding debt obligations of these subdivisions. Such taxpayers' share of overlapping and underlying debt is based on the amount of the District's equalized property values taken as a percentage of each separate unit's total values. The following table presents an estimated amount of overlapping and underlying debt and the District's share of this debt as of the dates shown. Authorized but unissued debt has not been included.

<b>Table 9</b>				
<b><u>Statement of Direct and Overlapping Indebtedness</u></b>				
<b><u>Issuer</u></b>	<b><u>Net Debt</u></b>		<b><u>District Share</u></b>	<b><u>Amount Applicable to District</u></b>
	<b><u>Outstanding</u></b>	<b><u>As of:</u></b>		
Albany County	\$258,380,000	05/17/22	2.35%	\$6,071,930
Bethlehem Town	14,219,430	04/14/23	76.76%	10,914,834
New Scotland Town	3,818,800	12/31/21	21.81%	832,880
Total Net Overlapping Debt				<u>\$17,819,645</u>
Total Net Direct Debt				<u>\$39,205,000</u>
Net Direct and Overlapping Debt				<u>\$57,024,645</u>

Source: Data provided by County, Town and Village officials and the Office of the State Comptroller.

### ***Debt Ratios***

The following table presents certain debt ratios relating to the District's direct and overlapping indebtedness.

<b>Table 10</b>			
<b><u>Debt Ratios</u></b>			
	<b><u>Amount</u></b>	<b><u>Debt Per Capita</u></b> <sup>(1)</sup>	<b><u>Debt to Full Value</u></b> <sup>(2)</sup>
Net Direct Debt	\$39,205,000	\$1,388	1.04%
Net Direct and Overlapping Debt	\$57,024,645	\$2,018	1.51%

<sup>(1)</sup> The population of the District is estimated by District officials to be approximately 28,255.

<sup>(2)</sup> The District's full value of taxable real property for fiscal year 2022-23 is \$3,785,405,582.

### ***Debt Service Schedule***

The following table shows the debt service requirements to maturity on the District's outstanding bonded indebtedness (as of June 21, 2023).

**Table 11**  
**Annual Maturity Schedule**

<u>FYE</u> <u>June 30th</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2024	\$4,460,000	\$1,443,100	\$5,903,100
2025	4,380,000	1,273,875	5,653,875
2026	4,570,000	1,071,450	5,641,450
2027	4,750,000	865,075	5,615,075
2028	4,940,000	678,000	5,618,000
2029	5,150,000	481,450	5,631,450
2030	5,290,000	277,625	5,567,625
2031	455,000	67,925	522,925
2032	465,000	54,125	519,125
2033	480,000	39,350	519,350
2034	500,000	23,425	523,425
2035	<u>510,000</u>	<u>7,650</u>	<u>517,650</u>
	<u>\$35,950,000</u>	<u>\$6,283,050</u>	<u>\$42,233,050</u>

### ***Authorized but Unissued Indebtedness***

The District approved a Bond Resolution on June 2, 2021, authorizing \$1,475,000 to finance the acquisition of nine 66-passenger school buses. The District has \$160,400 remaining against this resolution; however, the District does not intend to expend this remaining authorized amount. The District approved a Bond Resolution on June 7, 2023 (1) authorizing the issuance of not to exceed \$568,720 aggregate principal amount of serial general obligation bonds to finance the acquisition of one 70-passenger electric school buses and two eight-passenger gasoline 4x4 at an estimated maximum cost of \$568,720, the levy of tax in annual installments in payment thereof, the expenditure of such sum for such purpose, and determining other matters in connection therewith and (2) authorizing the execution and delivery of an installment purchase contract as an alternative method of financing said acquisition.

The District approved a Bond Resolution on November 17, 2021 authorizing the issuance of not to exceed \$27,293,106 aggregate principal amount of serial general obligation bonds to finance the acquisition, construction, reconstruction, improvement, rehabilitation, repair, furnishing and equipping of District facilities, along with the acquisition of certain original furnishings, machinery, equipment, apparatus, implements and fixtures and other site work and incidental improvements required in connection therewith for such construction and school use, including, without limitation, the payment of costs preliminary and incidental thereto, (the "2021 Capital Project"). Following the issuance of the Notes, the District will have \$2,983,106 unissued against this authorization.

## **ECONOMIC AND DEMOGRAPHIC DATA**

### ***School Enrollment Trends***

The following table presents the past and projected school enrollment for the District.

**Table 12**  
**School Enrollment Trends**

<u>Fiscal Year</u>	<u>Actual</u> <u>Enrollment</u>	<u>Fiscal</u> <u>Year</u>	<u>Projected</u> <u>Enrollment</u>
2020-21	4,212	2023-24	4,081
2021-22	4,151	2024-25	4,079
2022-23	4,068	2025-26	4,087

*Source: District Officials*

## Population

The District estimates its population to be approximately 27,844. The following table presents population trends for the Towns of Bethlehem and New Scotland, Albany County and New York State, based upon recent census data.

**Table 13**

<b>Population Trend</b>	<b><u>2010</u></b>	<b><u>2020</u></b>	<b>Percentage <u>Change</u></b>
Town Bethlehem	33,066	34,895	5.5%
New Scotland	8,840	8,641	(2.3%)
Albany County	304,206	305,506	0.4%
NY State	19,378,104	19,453,561	0.4%

*Source: US Census Bureau*

Figures not necessarily representative of the District.

## Employment and Unemployment

The following tables provide information concerning employment and unemployment in the County and State. Unemployment rates are not compiled for the Town or the District and data provided for the County and State is not necessarily representative of the District.

**Table 14**  
**Civilian Labor Force**

(Thousands)

	<b><u>2018</u></b>	<b><u>2019</u></b>	<b><u>2020</u></b>	<b><u>2021</u></b>	<b><u>2022</u></b>
<b>Town</b>	18.5	18.5	18.0	18.0	18.4
<b>County</b>	160.9	161.1	159.1	156.5	159.6
<b>State</b>	9,842.3	9,880.2	9,575.0	9,441.5	9,617.0

*Source: New York State Department of Commerce; New York State Department of Economic Development.*

**Table 15**  
**Yearly Average Unemployment Rates**

<b><u>Year</u></b>	<b><u>Town</u></b>	<b><u>County</u></b>	<b><u>State</u></b>
2018	2.9%	3.7%	4.1%
2019	2.7%	3.5%	3.8%
2020	4.8%	6.9%	9.9%
2021	3.2%	4.4%	6.9%
2022	2.3%	3.0%	4.3%

*Source: New York State Department of Labor, Bureau of Labor Statistics. Information not seasonally adjusted.*

**Table 16**  
**Monthly Unemployment Rates**

<b><u>Month</u></b>	<b><u>Town</u></b>	<b><u>County</u></b>	<b><u>State</u></b>
May 2022	2.2%	2.8%	4.0%
June	2.4%	3.1%	4.1%
July	2.5%	3.3%	4.3%
August	2.5%	3.4%	4.2%
September	2.2%	2.8%	3.6%
October	2.0%	2.6%	3.7%
November	2.2%	2.7%	3.8%
December	2.0%	2.7%	3.8%
January 2023	2.5%	3.5%	4.6%
February	2.4%	3.2%	4.5%
March	2.2%	2.9%	4.0%
April	1.7%	2.3%	3.7%

*Source: New York State Department of Labor, Bureau of Labor Statistics. Information not seasonally adjusted.*

**TABLE 17**  
**Top Employers**

<b><u>Name</u></b>	<b><u>Type of Product or Service</u></b>	<b><u>Approximate Number of Employees</u></b>
Bethlehem Central Schools	Education	868
Farm Family Insurance	Insurance	554
Wal-Mart	Retail	550
Town of Bethlehem	Government	220
Slingerland I/II LaSalle Med. Offices	Medical Offices	207
Lowe's	Retail	200

*Source: Bethlehem Chamber of Commerce*

## **LITIGATION**

In common with other school districts, the District from time to time receives notices of claim and is party to litigation. In the opinion of the District after consultations with its attorneys, unless otherwise set forth herein and apart from matters provided for by applicable insurance coverage, there are no claims or action pending which, if determined against the District, would have an adverse material effect on the financial condition of the District.

The District is presently defending one litigation matter that was brought in response to the recently enacted Child Victims Act. At this time, the District does not yet have sufficient information to determine if the potential claim is meritorious. This lawsuit has some level of insurance coverage subject to a reservation of rights. At this time, the scope of any potential damages cannot be predicted, and it is not yet clear whether any damages that are ultimately awarded will be covered, in whole or in part, by insurance.

Juneau Wang v. Bethlehem CSD and Jody Monroe was filed in the United States District Court for the Northern District of New York in September 2021. The District is being defended in this litigation by its insurance carrier, Utica National. Utica National is defending, subject to a reservation of rights. The action was filed by a student who claims that the District violated his First Amendment rights and discriminated against him based on his sex and ethnicity when the District decided not to allow him to give a graduation speech. The District moved to dismiss and the District's motion was granted, in part, however, the Plaintiff's First Amendment, Title IX, and Title VI claims survived. The court denied Plaintiff's motion for leave to amend the complaint. The case is entering the discovery phase. Plaintiff is seeking compensatory and punitive damages related to alleged harms to his reputation, as well as attorney's fees. The District intends to vigorously defend this litigation.

Janet Morsellino v. Bethlehem CSD, EEOC Charge No. 525-2021-01665, was filed on April 13, 2022 (and sent to the District on April 22, 2022) with the Equal Employment Opportunity Commission. The District is being defended in this litigation by its insurance carrier Utica National, subject to a reservation of rights. The Claimant alleges that she was subject to religious and disability discrimination when she was denied a religious exemption, based on her sincerely held religious belief, from a COVID Vaccination mandate as a term and condition of employment as a School Bus Driver in violation of Title VII of the Civil Rights Act of 1964 as amended (Title VII). Ms. Morsellino also alleges that she was asked to disclose information about her vaccination status in violation of the Americans with Disabilities Act of 1990 as amended (ADA). She alleges that the discrimination occurred between September 22, 2021 and October 20, 2021. The District filed a Position Statement and a Response to a Request for Information on May 23, 2022. The District intends to vigorously defend this litigation and asserts that the Claimant asserted personal concerns which do not establish that she is part of a protected class. The EEOC has not acted on this matter.

**APPENDIX B**

**SUMMARY OF FINANCIAL  
STATEMENTS AND BUDGETS**

**BETHLEHEM CENTRAL SCHOOL DISTRICT**  
**Statement of Budgeted Appropriations, Estimated Revenues and**  
**Appropriated Fund Balance**  
**General Fund**  
**Fiscal Year Ending June 30**

	Adopted Budget <u>2022-23</u>	Adopted Budget <u>2023-24</u>
Estimated Revenues:		
Real Property Tax	\$69,233,000	\$70,824,965
Real Property Tax Items	3,780,000	3,885,000
Miscellaneous	1,666,000	1,684,104
State Aid	28,019,000	30,297,234
Subtotal	<u>102,698,000</u>	<u>106,691,303</u>
Appropriated Fund Balance	<u>0</u>	<u>0</u>
Total Estimated Revenues	<u><u>102,698,000</u></u>	<u><u>106,691,303</u></u>
Appropriations:		
General Support	\$3,105,253	\$3,317,070
Instruction	54,252,608	56,687,484
Pupil Transportation	6,373,705	6,763,661
Operations/Maintenance	5,791,269	5,712,485
Employee Benefits	24,752,700	26,285,018
Debt Service	7,908,465	7,411,585
Interfund Transfers	<u>514,000</u>	<u>514,000</u>
Total Appropriations	<u><u>\$102,698,000</u></u>	<u><u>\$106,691,303</u></u>

Source: Adopted Budgets

**BETHLEHEM CENTRAL SCHOOL DISTRICT**  
**Statement of Revenues, Expenditures and Changes in Fund Balance**  
**General Fund**  
**Fiscal Year Ending June 30**

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
<u>Revenues:</u>					
Real Property Taxes & Tax Items	\$67,491,283	\$69,071,683	\$70,574,925	\$72,262,460	\$72,918,040
Charges for Services	529,109	451,597	382,499	310,079	354,805
Use of Money & Property	429,054	675,892	547,748	79,584	200,555
Sale of Prop & Comp for Loss	172,623	451,330	150,540	131,383	105,052
Miscellaneous	624,162	674,249	567,771	544,203	1,013,958
State Aid	27,759,101	28,372,306	28,296,735	27,622,454	27,692,159
Federal Sources	190,575	175,170	85,847	5,000	160,194
Total Revenues	<u>97,195,907</u>	<u>99,872,227</u>	<u>100,606,065</u>	<u>100,955,163</u>	<u>102,444,763</u>
<u>Expenditures:</u>					
General Support	\$7,347,532	\$7,726,654	\$7,400,997	\$7,333,690	\$8,303,160
Instruction	46,955,677	47,417,872	47,291,494	48,603,696	50,209,867
Pupil Transportation	5,888,156	5,838,909	5,177,206	5,030,672	5,593,690
Community Services	61,288	61,600	63,735	67,225	67,783
Employee Benefits	22,301,894	23,187,095	22,708,279	23,072,093	22,472,377
Debt Service	11,657,689	11,936,091	12,461,627	12,722,877	9,583,835
Capital Outlay	621,730	260,762	221,214	0	0
Total Expenditures	<u>94,833,966</u>	<u>96,428,983</u>	<u>95,324,552</u>	<u>96,830,253</u>	<u>96,230,712</u>
Excess (deficiency) of Revenues Over Expenditures	2,361,941	3,443,244	5,281,513	4,124,910	6,214,051
<u>Other Sources and Uses:</u>					
Premium on BAN	0	0	203,209	327,525	0
Interfund Transfer (In)	0	0	351,311	347,743	214,841
Operating Transfers (Out)	86,657	(5,073,356)	(686,981)	(509,101)	(7,480)
Total Other Sources and Uses	<u>86,657</u>	<u>(5,073,356)</u>	<u>(132,461)</u>	<u>166,167</u>	<u>207,361</u>
Excess (deficiency) of Revenues Over Expenditures and Other Uses	2,448,598	(1,630,112)	5,149,052	4,291,077	6,421,412
Fund Balance - Beg. Of Year	<u>17,238,983</u>	<u>19,687,581</u>	<u>18,057,469</u>	<u>23,206,521</u>	<u>27,497,598</u>
Fund Balance - End of Year	<u>\$19,687,581</u>	<u>\$18,057,469</u>	<u>\$23,206,521</u>	<u>\$27,497,598</u>	<u>\$33,919,010</u>

Source: Audited Financial Statements  
Summary not audited

**BETHLEHEM CENTRAL SCHOOL DISTRICT**  
**Balance Sheet**  
**General Fund**  
**Fiscal Year Ending June 30**

	<u>2021</u>	<u>2022</u>
Assets:		
Unrestricted Cash	\$9,243,138	\$6,746,415
Restricted Cash	23,364,718	30,143,203
State and Federal Aid Receivables	2,445,631	1,806,432
Due from Other Governments	83,282	160,752
Due From Other Funds	868,024	2,347,319
Other Receivables	<u>113,787</u>	<u>127,881</u>
Total Assets	<u><u>\$36,118,580</u></u>	<u><u>\$41,332,002</u></u>
Liabilities:		
Accounts Payable	\$215,465	\$364,299
Accrued Liabilities	740,231	421,668
Due to Other Funds	921,069	0
Due to Other Governments	715,139	608,380
Due to Teachers Retirement System	3,478,680	3,743,437
Due to Employees Retirement System	669,539	486,287
Other Liabilities	<u>0</u>	<u>935,792</u>
Total Liabilities	<u><u>6,740,123</u></u>	<u><u>6,559,863</u></u>
Deferred Inflow of Resources	<u>1,880,859</u>	<u>853,129</u>
Fund Balance:		
Restricted	22,615,200	29,345,000
Assigned	1,410,819	243,569
Unassigned	<u>3,471,579</u>	<u>4,330,441</u>
Total Fund Balance	<u><u>27,497,598</u></u>	<u><u>33,919,010</u></u>
Total Liabilities and Fund Balance	<u><u>\$36,118,580</u></u>	<u><u>\$41,332,002</u></u>

Source: Audited Financial Statements  
Summary not audited

**APPENDIX C**

**INDEPENDENT AUDITORS' REPORT  
FOR THE FISCAL YEAR ENDED  
JUNE 30, 2022**

**Can be accessed on the Electronic Municipal Market Access (“EMMA”) website  
of the Municipal Securities Rulemaking Board (“MSRB”)  
at the following link:**

**<https://emma.msrb.org/P11631642-P11257030-P11682186.pdf>**

**The audited financial statements referenced above are hereby incorporated into the  
attached Official Statement.**

**\* Such Financial Statements and opinion are intended to be representative only as  
of the date thereof. Marvin & Company, CPA’s LLC has not been requested by the  
District to further review and/or update such Financial Statements or opinion in  
connection with the preparation and dissemination of this Official Statement.**

## **Appendix D**

### FORM OF BOND COUNSEL'S OPINION – SERIES A NOTES

One Commerce Plaza  
Albany, New York 12260  
518.487.7600 phone  
518.487.7777 fax

July 13, 2023

Bethlehem Central School District  
700 Delaware Ave.  
Delmar, New York 12054

**Re:   \$2,703,456 Bethlehem Central School District, Albany County, New York  
Bond Anticipation Notes, 2023A**

Ladies and Gentlemen:

We have been requested to render our opinion as to the validity of the \$2,703,456 Bond Anticipation Notes, 2023A (the “Series A Notes”) issued by the Bethlehem Central School District, Albany County, New York (the “District”).

The Series A Notes are dated July 13, 2023 and are issued in fully registered form, bear interest from the date of issuance at the per annum rates of interest set forth in Exhibit “A” attached hereto and made a part hereof and are issued in the denominations set forth in Exhibit “A” attached hereto. Interest on the Series A Notes is payable at maturity and the Series A Notes mature on July 12, 2024. The Series A Notes will not be subject to redemption prior to maturity.

The Series A Notes are authorized to be issued pursuant to the Constitution and laws of the State, including, without limitation, the Education Law and the Local Finance Law, and various bond resolutions adopted by the District on various dates.

The Series A Notes are being issued to finance the purchase of various school vehicles and to repay portions of bond anticipation notes previously issued for such purpose.

We have examined:

- (1) the Constitution and applicable statutes of the State of New York;

(2) the Code; and

(3) an arbitrage and use of proceeds certificate (the “Arbitrage Certificate”) executed on behalf of the District and dated the date hereof which includes, among other things, covenants, relating to compliance with the Code, with the owners of the Series A Notes that the District will, among other things, (i) take all actions on its part necessary to cause interest on the Series A Notes not to be includable in the gross income of the owners thereof for federal income tax purposes, including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Series A Notes and investment earnings thereon, making required payments to the Federal Government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Series A Notes to be includable in the gross income of the owners thereof for federal income tax purposes, including, without limitation, refraining from spending the proceeds of the Series A Notes and investment earnings thereon on certain specified purposes.

We also have examined a certified copy of proceedings of the finance board of the District (within the meaning of the Law) and other proofs authorizing and relating to the issuance of the Series A Notes, including the form of the Series A Notes. In rendering the opinions expressed herein we have assumed the accuracy and truthfulness of all public records, documents and proceedings, including factual information, expectations and statements contained therein, examined by us which have been executed or certified by public officials acting within the scope of their official capacities, and we have not separately or independently verified the accuracy or truthfulness thereof. We also have assumed the genuineness of the signatures appearing upon such public records, documents and proceedings and the certifications thereof.

Based upon the foregoing, and subject to the limitations and assumptions contained herein, in our opinion:

(a) The Series A Notes have been authorized and issued in accordance with the Constitution and statutes of the State of New York and constitute the valid and legally binding general obligations of the District, all the taxable real property within which is subject to the levy of ad valorem taxes to pay the Series A Notes and interest thereon, without limitation as to rate or amount; provided, however, that the power of the District to levy unlimited real estate taxes on all the real property within the District may be subject to the statutory limitations imposed by Chapter 97 of the Laws of 2011 of the State of New York, as amended, depending upon the interpretation of such statute by a court of competent jurisdiction in the event of legal challenge. Additionally, the enforceability (but not the validity) of the Series A Notes: (i) may be subject to insolvency, reorganization, arrangement, fraudulent conveyance, moratorium, and applicable laws, including bankruptcy or other laws, including, without limitation, executive orders, now existing or hereafter enacted by said State or the Federal Government affecting the enforcement of creditors’ rights, and (ii) may be subject to the exercise of judicial discretion in appropriate cases.

(b) The District has the power to comply with its covenants with respect to compliance with the Code as such covenants relate to the Series A Notes; provided, however, that the enforceability (but not the validity) of such covenants may be subject to insolvency, reorganization, arrangement, fraudulent conveyance, moratorium, and applicable laws, including bankruptcy or other laws, including, without limitation, executive orders, now existing or hereafter enacted by said State or the Federal Government affecting the enforcement of creditors' rights and may be subject to the exercise of judicial discretion in appropriate cases.

(c) The interest on the Series A Notes is excludable from gross income of the owners thereof for federal income tax purposes under Section 103 of the Code. Further, the interest on the Series A Notes is not a specific preference item for purposes of the federal alternative minimum tax on individuals imposed by the Code; provided however, for tax years beginning after December 31, 2022, interest on the Series A Notes is included in adjusted financial statement income of certain corporations and is not excluded from the federal corporate alternative minimum tax. The opinions set forth in the preceding sentences of this paragraph are based on the assumption that the District will comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Series A Notes in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The District has covenanted to comply with all such requirements. Failure to comply with certain of such requirements may cause the inclusion of interest on the Series A Notes in gross income for federal income tax purposes to be retroactive to the date of issuance of the Series A Notes. We express no opinion regarding other federal tax consequences relating to the ownership or disposition of, or the accrual or receipt of interest on, the Series A Notes.

(d) Interest on the Series A Notes is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York).

Certain agreements, requirements and procedures contained or referred to in the Arbitrage Certificate and other relevant documents may be changed and certain actions (including, without limitation, economic defeasance of the Series A Notes) may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents.

The opinions expressed herein are based on an analysis of existing, as of the date of this opinion, laws (including, without limitation, executive orders), regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. Accordingly, the opinions expressed herein are not intended to, and may not, be relied upon in connection with any such actions, events or matters subsequent to the date of this letter.

Our engagement with respect to the Series A Notes has concluded with their issuance, and we disclaim any obligation to update, revise, modify or supplement the opinions expressed herein to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

We have assumed, without undertaking to separately or independently verify, the accuracy of the factual matters represented, warranted or certified in the documents. Furthermore, we have assumed compliance with all covenants and agreements contained in the Arbitrage Certificate, including without limitation covenants and agreements compliance with which is necessary to assure that future actions, omissions or events will not cause interest on the Series A Notes to be included in gross income for federal income tax purposes. We call attention to the fact that the rights and obligations under the Series A Notes and the Arbitrage Certificate and their enforceability may be subject to insolvency, reorganization, arrangement, fraudulent conveyance, moratorium, and applicable laws, including bankruptcy or other laws, including, without limitation, executive orders, relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against municipal corporations in the State of New York such as the District. We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum, choice of venue, or waiver provisions contained in the foregoing documents.

The scope of our engagement in relation to the issuance of the Series A Notes has extended solely to the examination of the facts and law incident to rendering the opinions expressed herein. Such opinions are not intended and should not be construed to express or imply any conclusion that the amount of real property subject to taxation within the boundaries of the District, together with other legally available sources of revenue, if any, will be sufficient to enable the District to pay the principal of or interest on the Series A Notes as the same respectively become due and payable. Reference should be made to the Official Statement prepared by the District in relation to the Series A Notes for factual information which, in the judgment of the District, could materially affect the ability of the District to pay such principal and interest. While we have participated in the preparation of such Official Statement, we have not separately or independently verified the accuracy or completeness of the factual information contained therein and, accordingly, we express no opinion as to whether the District, in connection with the sale of the Series A Notes, has made any untrue statement of a material fact or omitted to state a material fact necessary in order to make any statements made, in light of the circumstances under which they were made, not misleading.

Very truly yours,

WHITEMAN OSTERMAN & HANNA LLP

## **Appendix E**

### FORM OF BOND COUNSEL'S OPINION – SERIES B NOTES

One Commerce Plaza  
Albany, New York 12260  
518.487.7600 phone  
518.487.7777 fax

July 13, 2023

Bethlehem Central School District  
700 Delaware Ave.  
Delmar, New York 12054

**Re:   \$24,310,000 Bethlehem Central School District, Albany County, New York  
Bond Anticipation Notes, 2023B**

Ladies and Gentlemen:

We have been requested to render our opinion as to the validity of the \$24,310,000 Bond Anticipation Notes, 2023B issued by the Bethlehem Central School District, Albany County, New York (the “District”).

The Series B Notes are dated July 13, 2023 and are issued in fully registered form, bear interest from the date of issuance at the per annum rates of interest set forth in Exhibit “A” attached hereto and made a part hereof and are issued in the denominations set forth in Exhibit “A” attached hereto. Interest on the Series B Notes is payable at maturity and the Series B Notes mature on July 12, 2024. The Series B Notes will not be subject to redemption prior to maturity.

The Series B Notes are authorized to be issued pursuant to the Constitution and laws of the State, including, without limitation, the Education Law and the Local Finance Law, and a bond resolution duly adopted by the District on November 17, 2021.

The Series B Notes are being issued to finance the acquisition, construction, reconstruction, improvement, rehabilitation, repair, furnishing and equipping of District facilities, along with the acquisition of certain original furnishings, machinery, equipment, apparatus, implements and fixtures and other site work and incidental improvements required in connection therewith for such

construction and school use, including, without limitation, the payment of costs preliminary and incidental thereto, (the "2021 Capital Project").

We have examined:

- (1) the Constitution and applicable statutes of the State of New York;
- (2) the Code; and
- (3) an arbitrage and use of proceeds certificate (the "Arbitrage Certificate") executed on behalf of the District and dated the date hereof which includes, among other things, covenants, relating to compliance with the Code, with the owners of the Series B Notes that the District will, among other things, (i) take all actions on its part necessary to cause interest on the Series B Notes not to be includable in the gross income of the owners thereof for federal income tax purposes, including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Series B Notes and investment earnings thereon, making required payments to the Federal Government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Series B Notes to be includable in the gross income of the owners thereof for federal income tax purposes, including, without limitation, refraining from spending the proceeds of the Series B Notes and investment earnings thereon on certain specified purposes.

We also have examined a certified copy of proceedings of the finance board of the District (within the meaning of the Law) and other proofs authorizing and relating to the issuance of the Series B Notes, including the form of the Series B Notes. In rendering the opinions expressed herein we have assumed the accuracy and truthfulness of all public records, documents and proceedings, including factual information, expectations and statements contained therein, examined by us which have been executed or certified by public officials acting within the scope of their official capacities, and we have not separately or independently verified the accuracy or truthfulness thereof. We also have assumed the genuineness of the signatures appearing upon such public records, documents and proceedings and the certifications thereof.

Based upon the foregoing, and subject to the limitations and assumptions contained herein, in our opinion:

- (a) The Series B Notes have been authorized and issued in accordance with the Constitution and statutes of the State of New York and constitute the valid and legally binding general obligations of the District, all the taxable real property within which is subject to the levy of ad valorem taxes to pay the Series B Notes and interest thereon, without limitation as to rate or amount; provided, however, that the power of the District to levy unlimited real estate taxes on all the real property within the District may be subject to the statutory limitations imposed by Chapter 97 of the Laws of 2011 of the State of New York, as amended, depending upon the interpretation of such statute by a court of

competent jurisdiction in the event of legal challenge. Additionally, the enforceability (but not the validity) of the Series B Notes: (i) may be subject to insolvency, reorganization, arrangement, fraudulent conveyance, moratorium, and applicable laws, including bankruptcy or other laws, including, without limitation, executive orders, now existing or hereafter enacted by said State or the Federal Government affecting the enforcement of creditors' rights, and (ii) may be subject to the exercise of judicial discretion in appropriate cases.

(b) The District has the power to comply with its covenants with respect to compliance with the Code as such covenants relate to the Series B Notes; provided, however, that the enforceability (but not the validity) of such covenants may be subject to insolvency, reorganization, arrangement, fraudulent conveyance, moratorium, and applicable laws, including bankruptcy or other laws, including, without limitation, executive orders, now existing or hereafter enacted by said State or the Federal Government affecting the enforcement of creditors' rights and may be subject to the exercise of judicial discretion in appropriate cases.

(c) The interest on the Series B Notes is excludable from gross income of the owners thereof for federal income tax purposes under Section 103 of the Code. Further, the interest on the Series B Notes is not a specific preference item for purposes of the federal alternative minimum tax on individuals imposed by the Code; provided however, for tax years beginning after December 31, 2022, interest on the Series B Notes is included in adjusted financial statement income of certain corporations and is not excluded from the federal corporate alternative minimum tax. The opinions set forth in the preceding sentences of this paragraph are based on the assumption that the District will comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Series B Notes in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The District has covenanted to comply with all such requirements. Failure to comply with certain of such requirements may cause the inclusion of interest on the Series B Notes in gross income for federal income tax purposes to be retroactive to the date of issuance of the Series B Notes. We express no opinion regarding other federal tax consequences relating to the ownership or disposition of, or the accrual or receipt of interest on, the Series B Notes.

(d) Interest on the Series B Notes is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York).

Certain agreements, requirements and procedures contained or referred to in the Arbitrage Certificate and other relevant documents may be changed and certain actions (including, without limitation, economic defeasance of the Series B Notes) may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents.

The opinions expressed herein are based on an analysis of existing, as of the date of this opinion, laws (including, without limitation, executive orders), regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. Accordingly, the opinions expressed herein are not intended to, and may not, be relied upon in connection with any such actions, events or matters subsequent to the date of this letter.

Our engagement with respect to the Series B Notes has concluded with their issuance, and we disclaim any obligation to update, revise, modify or supplement the opinions expressed herein to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

We have assumed, without undertaking to separately or independently verify, the accuracy of the factual matters represented, warranted or certified in the documents. Furthermore, we have assumed compliance with all covenants and agreements contained in the Arbitrage Certificate, including without limitation covenants and agreements compliance with which is necessary to assure that future actions, omissions or events will not cause interest on the Series B Notes to be included in gross income for federal income tax purposes. We call attention to the fact that the rights and obligations under the Series B Notes and the Arbitrage Certificate and their enforceability may be subject to insolvency, reorganization, arrangement, fraudulent conveyance, moratorium, and applicable laws, including bankruptcy or other laws, including, without limitation, executive orders, relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against municipal corporations in the State of New York such as the District. We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum, choice of venue, or waiver provisions contained in the foregoing documents.

The scope of our engagement in relation to the issuance of the Series B Notes has extended solely to the examination of the facts and law incident to rendering the opinions expressed herein. Such opinions are not intended and should not be construed to express or imply any conclusion that the amount of real property subject to taxation within the boundaries of the District, together with other legally available sources of revenue, if any, will be sufficient to enable the District to pay the principal of or interest on the Series B Notes as the same respectively become due and payable. Reference should be made to the Official Statement prepared by the District in relation to the Series B Notes for factual information which, in the judgment of the District, could materially affect the ability of the District to pay such principal and interest. While we have participated in the preparation of such Official Statement, we have not separately or independently verified the accuracy or completeness of the factual information contained therein and, accordingly, we express no opinion as to whether the District, in connection with the sale of the Series B Notes, has made any untrue statement of a material fact or omitted to state a material fact necessary in order to make any statements made, in light of the circumstances under which they were made, not misleading.

Very truly yours,

WHITEMAN OSTERMAN & HANNA LLP