

April 29, 2015

Board of Trustees c/o  
Dr. Nellie Meyer, Superintendent  
Mt. Diablo Unified School District  
1936 Carlotta Dr.  
Concord, CA 94519

**Re: Mt. Diablo Unified School District  
Financial Advisory and Continuing Disclosure Services Agreement**

Ladies and Gentlemen:

It is our understanding that the Mt. Diablo Unified School District (the "District") wishes to address its capital needs by reviewing its current debt profile, issuing general obligation bonds, certificates of participation, and/or refunding bonds (collectively, the "Bonds"). Additionally, the District wishes to comply with secondary market disclosure ("Continuing Disclosure") as required under the tax regulations of the Treasury Department of the United States of America, in relation to its various tax-exempt financings. In connection with this District goal, Dale Scott & Company, Inc. ("DS&C") proposes to advise and assist the District as its independent financial advisor as set forth below (the "Agreement").

I. **Advisory Services Provided.** DS&C shall perform all the duties and services it deems necessary or advisable, or are reasonable and necessary, to accomplish the intent of this Agreement in a manner consistent with the standards and practices of professional financial advisors including:

a. **Bond Issuance Services.**

- Analyze issues such as debt capacity, assessed valuation growth, alternative financing structures, and developments in the bond market
- Oversee the selection process and assembly of finance team members
- Manage the overall financing process
- Prepare schedule of financing and see that all parties take the necessary actions to ensure timely completion of financing
- Size and structure the bond financing to meet District's cash flow needs and tax rate goals
- Provide legal counsel with all information necessary for the preparation of authorizing resolutions and related legal documentation

If District chooses to issue Bonds through a competitive bid process:

- Review competitive bid Notice of Sale and Bid Form
- Electronically distribute bid documents to qualified underwriters and post bid documents on DS&C's web site
- Monitor and verify bids on day of sale
- Coordinate award of winning bid
- Verify final interest calculations
- Review tax opinion, arbitrage certificate and continuing disclosure certificate
- Assist with management and coordination of pre-closing and closing as needed

If District chooses to issue Bonds through a negotiated bid process:

- Consult with District as to preferred members of financing team or, if requested by District, manage selection process of underwriting team through written and/or oral interviews and negotiate all fees
- Review underwriter's proposed structure and make recommendations as appropriate
- Independently gather interest rate information based on recent tax-exempt sales activity
- Review proposed underwriting fees as well as all other fees and make recommendations as appropriate

- Confer with underwriter to discuss sales goals, specific marketing concerns, timing of sale, and condition of the market
  - Review pre-pricing and final interest rate scale and make suggested modifications based on competitive market data
  - Review final pricing and give District final opinion regarding competitiveness of underwriter's proposed interest rate scale
  - Verify final interest calculations
  - Review tax opinion, arbitrage certificate and continuing disclosure certificate
  - Assist with management and coordination of pre-closing and closing as needed
- b. **Financial Analysis.** At the direction of the District, review current financings and recommend options after such review.
- II. **Continuing Disclosure Services provided.**
- a. **Preparation of Annual Report.** Include all relevant district information and required items from the continuing disclosure certificate ("CDC") from each of the District's outstanding financings. DS&C shall, whenever possible, attempt to consolidate information from separate CDCs into a single Annual Report.
- b. **Annual Filing of Annual Report, Budget and Audit.** File all materials as required under each CDC with the Municipal Securities Rulemaking Board ("MSRB") through its Electronic Municipal Market Access ("EMMA") portal.
- c. **Preparation and Filing of Significant Events.** Significant market events are required to be filed within 10 days of their occurrence, as reported in publicly-available media or as so informed by the District. DS&C shall prepare and file notices of these events on EMMA. Events requiring notice include but are not limited to:
- Delinquencies, defaults, unscheduled drawdowns of debt service reserves or credit enhancements, defeasances, bankruptcies, bond calls, adverse tax opinions, etc.
  - Changes in the rating of the District
  - Changes in the rating of any underlying insurer
  - Any other significant event
- III. **Compensation.** For its services as set forth in this Agreement, DS&C shall be compensated as follows.
- a. **Bond Issuance Services.** For Bond Issuance Services, the District shall pay DS&C a fee equal to \$85,000. Payment of all fees and expenses is wholly contingent on the passage and/or sale of the Bonds and, at the discretion of the District, may be paid from Bond funds.
- b. **Preparation of Annual Report and Preparation and Filing of Significant Events.** For the preparation and filing of the Annual Report (including budgets, audits, and any other required data) and for the reporting of significant events, an annual fee of \$5,000 per report, plus expenses.
- c. **Expenses.** The District agrees to reimburse DS&C approved reasonable and necessary out-of-pocket expenses at their direct cost plus 5%.
- IV. **Effective Date, Terms, and Conditions.** This Agreement shall be effective on the date signed by an authorized representative of the District and shall remain in effect for five years.
- Either the District or DS&C may terminate this Agreement at any time with 30 days written notice of such termination. If such termination is requested by the District, the District agrees to compensate DS&C for its services performed to date and expenses as mutually agreed upon.

The District agrees that during the term and any subsequent terms of this contract that DS&C shall be the sole financial advisor in relation to the sale of the Bonds, and that no additional financial advisors shall be hired by the District for the services described in this Agreement without the written consent of DS&C.

**V. Additional Matters.**

- a. **Definitions.** For the purposes of this Agreement, the term Bond refers to all bonds approved by the voters prior or subsequent to the date of this Agreement including but not limited to any refunding bonds.
- b. **Jurisdiction.** It is expressly understood and agreed that this Agreement and all questions arising there under shall be construed according to the laws of the State of California.
- c. **DS&C's Duty to Comply with Laws.** DS&C shall, at all times, comply with all laws, statutes, ordinances, rules and regulations applicable thereto, enacted and adopted by federal, state, regional, municipal or other government bodies, departments or offices thereof.
- d. **Discrimination Prohibited.** DS&C agrees not to discriminate in its employment practices against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, age or physical handicap. Any subcontract entered into by DS&C pursuant to this Agreement shall contain this provision.
- e. **Assignment of Agreement.** DS&C shall not assign or hypothecate this Agreement without first obtaining the written approval of the District.
- f. **Independent Contractor.** DS&C are independent contractors and not agents or employees of the District and shall have no authority to act as an agent of the District, nor to enter into any agreement for or on behalf of the District except as provided herein.
- g. **Property of District.** All work performed by DS&C pursuant to this Agreement shall become the property of the District, is for the sole use of the District, and shall not be released to any third party without prior written consent of the District.
- h. **Notices.** In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, postage paid. When so given, such notice shall be effective from the date of mailing of the same. For the purpose hereof, unless otherwise provided by notice in writing from the respective parties notice to the District shall be addressed to the Superintendent of the District. Notice to DS&C shall be addressed to: Dale Scott & Company Inc., 650 California Street, 8th Floor, San Francisco, California, 94108.
- i. **Attorneys' Fees.** If either party brings any action or proceeding to enforce, protect or establish any right or remedy arising out of or based upon this Agreement, including but not limited to the recovery of damages for its breach, the prevailing party in said action or proceeding shall be entitled to recovery of its costs and reasonable attorneys' fees, including the reasonable value of the services of the counsel of the District or the counsel of DS&C.
- j. **Section Headings.** The article and section headings appearing herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Agreement.
- k. **Entire Agreement.** This Agreement contains the entire understanding of the parties with respect to the subject matter herein. There are no representations, covenants or understandings other than those expressed or referred to herein. Each party to this Agreement acknowledges that no other party or agent of any other party has made any promise, representation or warranty, expressed or implied, not contained or referred to herein concerning the subject matter of this agreement, to induce that

party to execute this agreement. Each party acknowledges that it has not executed this Agreement in reliance upon any promise, representation or warranty not specifically contained or referred to herein.

- l. **Amendments to Agreement.** No amendment or addition to this agreement shall be valid unless such amendment or addition is in writing and signed by all parties hereto.
- m. **Indemnification.** DS&C agrees to defend, indemnify and hold harmless District from and against all demands, claims, actions, liabilities, losses, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from the performance of this Agreement, caused in whole or in part by the negligent or intentional acts or omissions of DS&C's officers, directors, agents, employees or subcontractors.
- n. **Payment of Taxes.** DS&C shall be solely responsible for the payment of all taxes associated with any

Dale Scott & Company

By:



Accepted:

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President

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Title:

Date: