

January 26, 2018

Board of Trustees
c/o Abby Saadat, Chief Business Officer
South Bay Union School District
601 Elm Avenue
Imperial Beach, CA, 91932

**Re: South Bay Union School District
Agreement for Financial Advisory Services**

Ladies and Gentlemen:

It is our understanding that the South Bay Union School District (the "District") wishes to address its capital needs by reviewing its current debt profile, placing future general obligation bonds before the voters, and issuing general obligation bonds, certificates of participation, refunding bonds, lease obligation bonds, bond anticipation notes, and/or tax and revenue anticipation notes (collectively, the "Bonds"). In connection with this 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. **Pre-Election Services.** If the District prepares for and/or conducts a bond election, DS&C will provide the following services:
 - Review District's overall financing needs and recommend appropriate financing vehicle
 - Review District project list including anticipated costs
 - Develop an election and financing timetable
 - Review historical assessed valuation patterns
 - Calculate bonding capacity of District, less any outstanding debt
 - Prepare a financing plan including alternative amortization schedules of the Bonds' principal repayment, alternative total bond issue amounts, alternative repayment plans (e.g. level debt service, ascending debt), alternative scenarios for timetable of bond issuance
 - Analyze impact of alternative bond scenarios on tax rates
 - Recommend proposed bond amount and issuance schedule
 - Prepare ballot language
 - Review resolutions prepared by bond counsel
 - Advise District as to information to be distributed to public regarding proposed bond issue
 - Prepare tax rate statement for ballot
 - Prepare argument for ballot and rebuttal (if necessary)
 - b. **Survey Research Services.** If so requested, design and draft a random survey of registered voters of the District, incorporating comments from the District, coordinating the gathering of data, and analyzing and presenting the results to the District. Specific information will include:
 - Perceived need for a bond issue
 - Need for the funding of specific projects
 - Willingness to raise taxes for bond



c. **Bond Issuance Services.**

- Analyze 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 members of the financing team 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 information as required to assist with their preparation of authorizing resolutions and related legal documentation
- Advise District as to available and appropriate pricing mechanisms for the Bonds
- Manage bid process for competitive sales including posting of Notice of Sale, monitoring bids, and coordinating the award of bonds
- Oversee negotiated sales process, review preliminary and proposed interest rate scales provided by underwriter, and make recommendation to the District on competitiveness of proposed interest rates
- Assist with management and coordination of pre-closing and closing as needed

II. **Compensation.** For its services as set forth in this Agreement, DS&C shall be compensated as follows:

- a. **Pre-Election Services.** For Pre-Election Services, the District shall pay DS&C a fee of \$15,000 per election, contingent upon the passage of the bond measure.
- b. **Survey Research Services.** If Survey Research Services are provided, the District shall pay DS&C a fee of \$12,000 per survey. In addition, the District agrees to reimburse DS&C for approved out of pocket expenses related to the collection of survey research data in an amount not to exceed \$5,000.
- c. **Bond Issuance Services.** For Bond Issuance Services, the District shall pay DS&C a fee for each series of Bonds based upon the following schedule:
 - i. General obligation bonds and certificates of participation (including refinancing transactions): \$85,000 per series of bonds issued.
 - ii. Bond anticipation notes: \$42,500 per series of bonds issued.
 - iii. Tax and revenue anticipation notes: \$12,000 per series issued.
- d. **Expenses.** The District agrees to reimburse DS&C approved reasonable and necessary out-of-pocket expenses at their direct cost plus 5%.

III. **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 party 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. Upon completion of the term of this Agreement, the Agreement shall be renewed for an additional five-year term. There shall be no limit on the number of extensions allowed under this Agreement.

The District agrees that DS&C shall be the sole financial advisor in relation to the sale of the Bonds during the term of this Agreement 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.



IV. Additional Matters.

- a. **Insurance.** DS&C shall maintain in full force and effect workers' compensation insurance, general liability insurance, and professional liability and/or errors and omissions insurance covering its employees at its own expense. Evidence of such insurance shall be provided to the District upon request.
- b. **Entire Agreement and Amendments.** This Agreement contains the entire understanding of the parties with respect to the subject matter herein. No amendment or addition to this Agreement shall be valid unless such amendment or addition is in writing and signed by the parties hereto.
- c. **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, without reference to any conflicts of law provisions. Any litigation or arbitration between the parties will take place in the appropriate court or legal forum located closest to San Francisco, California.
- d. **Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and permitted assigns; provided however, neither party may assign or transfer any of its rights or obligations hereunder without the prior written consent of the other party.
- e. **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.
- f. **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.
- g. **Notices.** The parties may deliver any documents related to this Agreement or any notices required by email or other electronic means. The parties consent to (i) conduct business electronically, (ii) receive documents and notices by such electronic delivery, and (iii) sign documents electronically. Where written notice is to be given under this Agreement, service shall be sufficient if deposited in the United States mail, postage paid, and shall be effective from the date of mailing. Notice to the parties shall be addressed to the signatories below at their respective addresses listed above.
- h. **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 proceedings 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.
- i. **Counterparts.** This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed an original, and all of which together shall constitute one and the same Agreement. Execution of a facsimile copy will have the same force and effect as execution of an original, and a facsimile signature will be deemed original and valid.
- j. **Severability.** If a provision of this Agreement is held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. If the parties cannot reach a mutually agreeable and enforceable replacement, then (i) such provision shall be excluded from this Agreement, (ii) the balance of this Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of this Agreement shall be enforceable in accordance with its terms.



- k. **Official Statement.** DS&C is not responsible for preparing any preliminary or final official statement, or for certifying as to the accuracy or completeness of any preliminary or final official statement, other than with respect to any information about DS&C provided by DS&C for inclusion in such documents.
- l. **Certain Mandatory Disclosures.** DS&C agrees to provide to the District disclosures required by Municipal Securities Rulemaking Board (“MSRB”) Rule G-42 and Rule G-10 (the “Disclosures”), which are attached here as Appendix A. DS&C agrees to promptly amend or supplement the Disclosures to reflect any material changes or additions, which shall be delivered to the District and incorporated by reference as of the date thereof into this Agreement to the same extent as if set forth herein. Further, DS&C agrees to provide the District the Rule G-10 disclosures electronically on an annual basis for the term of this Agreement as required.

Dale Scott & Company, Inc.

South Bay Union School District

By:

Accepted:

Dale Scott, President

Title:

Date:



**APPENDIX A:
DISCLOSURES REQUIRED UNDER MSRB RULE G-10 AND G-42**

Required Disclosures. MSRB Rule G-10 and G-42 require that DS&C provide you with the following disclosures of actual and potential material conflicts of interest, of information regarding certain legal events and disciplinary history, and of information regarding municipal advisory client education and protection.

- 1) **Disclosures of Conflicts of Interest.** DS&C makes the following disclosures with respect to material conflicts of interest in connection with the Scope of Services under its Agreement with the District, together with explanations of how DS&C addresses or intends to manage or mitigate each conflict. To that end, with respect to all of the conflicts disclosed below, DS&C mitigates such conflicts through its adherence to its fiduciary duty to the District, which includes a duty of loyalty to the District in performing all municipal advisory activities for the District. This duty of loyalty obligates DS&C to deal honestly and with the utmost good faith with the District and to act in the District's best interests without regard to DS&C's financial or other interests. The disclosures below describe, as applicable, any additional mitigations that may be relevant with respect to any specific conflict disclosed below.
 - a) **Compensation-Based Conflicts.** The financial advisory fees due under DS&C's agreement with the District are contingent upon the completion of the financing for which DS&C is providing municipal advisory services and may be based partially on the size of the financing. While this form of compensation is customary in the municipal securities market, this may present a conflict because it could create an incentive for DS&C to complete or increase the size of the financing. This conflict of interest is mitigated by our fiduciary obligation to the District as described above. Further, DS&C works closely and carefully with the District to ensure the sizing of the financing is appropriate.
 - b) **Related Disclosure Relevant to the District.** DS&C may have made contributions to bond referendum campaigns or provided in-kind election-related assistance to bond referendum campaigns and the campaigns resulted in voter authorization for an issue under DS&C's agreement with the District. Similarly, DS&C may have made contributions to charitable organizations at the request of personnel of the District. The District may wish to consider any impact such circumstances may have on how it conducts its activities with DS&C under its Agreement.
 - c) **Other Municipal Advisor Relationships.** DS&C serves as municipal advisor to other municipal advisory clients and, in such cases, owes a regulatory duty to such other clients just as it does to the District under its agreement. These other clients may, from time to time and depending on the specific circumstances, have competing interests, such as accessing the new issue market with the most advantageous timing and with limited competition at the time of the offering. In acting in the interests of its various clients, DS&C could potentially face a conflict of interest arising from these competing client interests.
- 2) **Disclosures Regarding Legal Events, Disciplinary History and Client Education and Protection.** MSRB Rule G-42 requires that municipal advisors provide to its clients certain disclosures of legal or disciplinary events material to the clients' evaluation of the municipal advisor or the integrity of the municipal advisor's management or personnel. Additionally, MSRB Rule G-10 requires that municipal advisors provide to its clients certain disclosures of education and protection information. Accordingly, DS&C sets out below required disclosures and related information in connection with such disclosures.
 - a) **Registration.** DS&C is registered with the US Securities and Exchange Commission and the MSRB. The website for the MSRB is www.msrb.org.
 - b) **Client Brochure.** A municipal advisory client brochure is available to you on the MSRB website that describes the protections that may be provided by the MSRB rules and how to file a complaint with an appropriate regulatory authority.
 - c) **Material Legal or Disciplinary Events.** There are no legal or disciplinary events that are material to the District's evaluation of DS&C or the integrity of DS&C's management or advisory personnel disclosed, or that should be disclosed, on any Form MA or Form MA-I filed with the SEC.
 - d) **How to Access Form MA and Form MA-I Filings.** DS&C's most recent Form MA and each most recent Form MA-I filed with the SEC are located on the SEC's EDGAR system by searching for "Dale Scott & Co" at: <https://www.sec.gov/edgar/searchedgar/companysearch.html>
 - e) **Most Recent Change in Legal or Disciplinary Event Disclosure.** DS&C has not made any material legal or disciplinary event disclosures on Form MA or any Form MA-I filed with the SEC.