

May 1, 2020

Dr. Nellie Meyer, Superintendent
Mountain View-Los Altos Union High School District
1299 Bryant Avenue
Mountain View, CA 94040

**Re: Mountain View-Los Altos Union High School District
Agreement for Financial Advisory/Continuing Disclosure/ADTR Services**

Dear Dr. Meyer,

As requested, attached please find our proposal to advise and assist the Mountain View-Los Altos Union High School District as financial advisor. We look forward to the opportunity of working with the District.

Sincerely,



Dale Scott, President



**Mountain View-Los Altos Union High School District
Agreement for Financial Advisory/Continuing Disclosure/ADTR Services**

The purpose of this Agreement is to identify the terms and conditions under which Dale Scott & Company (DS&C) shall assist the Mountain View-Los Altos Union High School District (the "District") to address its capital funding needs, review its current debt profile, and issue general obligation bonds, certificates of participation, refunding bonds, bond anticipation notes, and/or tax and revenue anticipation notes (collectively, the "Bonds"). Additionally, the District wishes to comply with obligations under the continuing disclosure certificates the District has executed and delivered in connection with its outstanding long-term debt financings. Dale Scott & Company, Inc. ("DS&C", together with the District, the "Parties"; individually each a "Party") hereby agrees to assist the District as its continuing disclosure dissemination agent ("Dissemination Agent"). DS&C proposes to advise and assist the District as its financial advisor as set forth below (the "Agreement").

- I. **Advisory Services Provided.** The services to be provided under this Agreement are set forth below:
 - 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 proposed ballot language for legal review
 - Review financial aspects of resolutions prepared by bond counsel to confirm that potential financing plans are permitted by the terms of the resolution
 - 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. **Bond Issuance Services.**
 - Analyze issues such as debt capacity, assessed valuation growth, alternative financing structures, and developments in the bond market
 - If requested, oversee the selection process and assembly of finance team members
 - 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 information necessary for the 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. **Continuing Disclosure Services Provided.** The services to be provided under this Agreement are set forth below:
- a. **Preparation of Annual Report.** Include all 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 through its Electronic Municipal Market Access portal.
 - c. **Preparation and Filing of Notice of Significant Events.** Notices of significant market events are required to be filed within 10 business days of their occurrence. DS&C will prepare notices of significant events as required by any CDC when DS&C becomes aware of such event. DS&C will monitor third-party sources for occurrences of significant events related to the rating of the District or any applicable credit enhancement such as bond insurance. The District will notify DS&C if it becomes aware of any significant event requiring a filing. The terms of the CDC govern but such significant events 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 underlying rating of the District
 - Changes in the ratings of the insurers on the District's outstanding financings
 - Any other significant event required to be disclosed by a CDC
- III. **Preparation and Filing of Annual Debt Transparency Reports ("ADTRs")** shall include but not be limited to:
- a. Complete an Annual DTR for each applicable District bond or note issuance.
 - b. Obtain outstanding data from the District not otherwise available as required for the filing of each Annual DTR.
 - c. Annually file ADTRs with the California Debt and Investment Advisory Commission ("CDIAC").
 - d. Provide the District with notice and confirmation of each successful filing.



IV. **Limitations on Services.**

- a. The services provided under this Agreement are limited to the services described above unless otherwise agreed to in writing by DS&C.
- b. Unless otherwise provided above, 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.
- c. Under the terms of this Agreement, DS&C is not responsible for determining whether any Annual Report makes an untrue statement of material fact or omits to state any material information or to make any determination with respect to the "materiality" of a significant event or whether such event reflects "financial difficulties" of the District.

V. **Compensation.** Payment of all fees and expenses may be made from any source of legally available funds. 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 one-time fee of \$10,000 per election, contingent on the success of the bond election.
- b. **Bond Issuance Services.** For Bond Issuance Services, the District shall pay DS&C a fee of \$60,000 per series of Bonds. For issuances combining two or more of series, the fee for the second series would be reduced by 50%.
- c. **Tax & Revenue Anticipation Notes.** For services related to the issuance of an individual tax and revenue anticipation note of the District, a fee of \$15,000 per series.
- d. **Continuing Disclosure Services.** 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 payable within 30 days of receipt of invoice from DS&C.
- e. **ADTR Services.** For the preparations and filing of ADTRs:
 - A one-time set up fee of \$500 for each ADTR
 - An annual fee of \$500 for each filed ADTR provided however:
 - That for any one year, the total annual fee for all services related to the preparation and filing of ADTRs shall not exceed \$2,500.
 - An Annual DTR fee and cap shall escalate by 2.5% per year
- f. **Expenses.** The District agrees to reimburse DS&C approved reasonable and necessary out-of-pocket expenses (including travel, copy, print and courier services) at their direct cost not to exceed \$5,000 per transaction.

VI. **Effective Date, Terms, and Conditions.** This Agreement shall be effective on the date signed by an authorized representative of the District and 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.



The District agrees 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. This provision shall not prohibit the District from issuing Bonds through pooled financings or similar mechanisms organized by another organization using a financial advisor selected by that organization.

VII. Additional Matters.

- a. **Insurance.** DS&C shall maintain in full force and effect workers' compensation insurance and general liability insurance covering its employees at its own expense and naming the District as an additional insured thereunder. Certificates of insurance naming the District as an additional insured shall be submitted to the District evidencing coverage and limits to which the insurance applies, and the policies shall contain a 30-day notice of cancellation or non-renewal.
- b. **Indemnification.** DS&C shall indemnify and hold harmless the District from and against any and all losses, claims, damages, expenses, including legal fees for defense, or liabilities (collectively "Damages") to which the District may be subjected by reason of DS&C's acts, errors or omissions arising out of the performance of the services under this Agreement; provided, however, that DS&C shall not indemnify the District from or against Damages arising from conditions beyond the control of DS&C or arising from the intentional or willful misconduct of the District.
- c. **Registration/Permits/Licenses.** DS&C shall act as a fiduciary to the District in the provision of all services hereunder. DS&C represents and warrants to the District (i) it is a "municipal advisor" (within the meaning of Section 15B of the Securities Exchange Act of 1934); (ii) has registered in accordance with Rules 15Ba1-1 through 15Ba1-8 and 15Bc4-1 of the Securities Exchange Commission (SEC), effective July 1, 2014, with the SEC and the Municipal Securities Rulemaking Board (MSRB); and (iii) all employees performing services under this Agreement are properly license and qualified to perform all services required or provided, and shall maintain in full force throughout the Term all registration, license, credential, permits and any other legal qualifications required by law to perform the services and to fully and faithfully satisfy all of the terms set forth in this Agreement.
- d. **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.
- e. **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.
- f. **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.

- g. **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.
- h. **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.
- i. **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.
- j. **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.
- k. **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.
- l. **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.
- m. **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.

Dale Scott & Company, Inc.

Mountain View-Los Altos Union High School District

By:

Accepted:

DS&C



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 on metrics such as a percentage of refunding savings. While contingent compensation is customary in the municipal securities market, this may present a conflict because it could create an incentive for DS&C to advise the District to complete a financing or to alter the structure of a 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 structure of the financing is appropriate for the District's needs.
 - 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.** We do not believe that there are any 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. However, please note the disclosure provided in the next paragraph.
- d) **Most Recent Change in Legal or Disciplinary Event Disclosure.** As required by the SEC, DS&C regularly updates its Forms MA and MA-I with information pertinent to the firm. In response to item 9(C) on DS&C's Form MA, DS&C has filed notice regarding an administrative action related to the potential indirect involvement of DS&C in alleged SEC registration violations of certain consultants that worked for DS&C. DS&C agreed to settle with the SEC without admitting or denying any wrongdoing. There were no allegations of any misrepresentations or harm to any school district in the SEC's order.
- e) **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>