

AGREEMENT FOR PROFESSIONAL SERVICES

SAN RAFAEL CITY SCHOOLS

This Agreement is made and entered into on _____, by and between San Rafael City Schools, a public school district comprised of the San Rafael City Elementary School District ("Elementary District") and the San Rafael City High School District ("High School District") served by a common administration and governing board, hereinafter referred to as "District," and Dannis Woliver Kelley, a professional corporation, hereinafter referred to as "Attorney."

WHEREAS, District desires to retain Attorney to provide legal services associated with the issuance and sale of general obligation bonds ("Bonds") from Measures A and B passed by the voters in November 2015, and other securities or financings and bond-related services as requested during the term of this Agreement.

In consideration of the promises and the mutual agreements hereinafter contained, District and Attorney agree as follows:

A. SCOPE OF WORK

District appoints Attorney as Bond Counsel and Disclosure Counsel from July 1, 2017, and continuing thereafter in connection with the issuance and sale of general obligation bonds of either or both the High School District and the Elementary School District ("Bond Services"). Bond Services shall include the issuance of general obligation bonds or other types of securities, as requested, and may include, if desired, services associated with the calling of future bond elections by one or both districts.

Excluded Services, as defined in Section B hereof, or services not included within Bond Services as described below, may be provided upon request to District on an hourly rate basis as described in Section C - Payment.

Bond Services for Measures A and B will include the following:

1. Bond Counsel Services: As Bond Counsel, Attorney will:

- Consult with the District and its staff, the County, and the District's financial advisor and underwriter concerning the Bonds and the timing, terms and structure of the offering;
- Prepare resolution(s) (or similar issuance document) and all other legal documents and agreements that are necessary for the authorization, issuance and sale of Bonds;
- For each Bond issuance, attend up to two (2) in-person meetings of the District governing board and with the District's financial advisor and other consultants regarding the issuance and sale of the Bonds, as needed or requested; and coordinate the finance team as necessary for the review of documents and finance plans; and
- Prepare the final Bonds and closing documents; organize and conduct the bond closing; render a final legal opinion at the time of delivery of and receipt of payment for the Bonds; and review post-closing legal compliance requirements with the District.

2. Disclosure Counsel Services: As Disclosure Counsel, Attorney will:

- Prepare the Preliminary Official Statement, the final Official Statement, and continuing disclosure certificate which accompanies the latter, for use in marketing and sale of Bonds;
- Deliver of a disclosure counsel opinion at closing; and
- Review of Continuing Disclosure filing status pursuant to MSRB Rule 15c2-12.

3. Election-Related Services: If District determines to conduct any future bond election during the Term, Attorney shall provide both Pre-Election legal services support as well as Bond Services for any such future approved bonds. If requested, Pre-Election Services would include:

- Assist with voter polling and election planning and research in advance of calling an election;
- Prepare a timetable setting forth the actions required to accomplish the election, and coordination with the County election officials to ensure that the necessary legal requirements are satisfied;
- Coordinate with finance team and preparation of Board resolutions required to call the election, including assistance with the drafting of the ballot proposition and ancillary materials;
- Attend all meetings of the District, as well as any administrative meetings at which the election and financing proceedings are to be discussed, when requested to attend or when attendance is deemed necessary for the proper planning or conduct of the financing proceedings
- Assist with the preparation of the tax rate statement and the County Counsel's independent analysis required for distribution to voters;
- Review ballot arguments to be prepared by or on behalf of the District;
- Consult with the District and its staff, the County and its staff, and the District's financial consultant(s) concerning the election proceedings and campaign law requirements, including review of all District communications, and planned activities, for compliance with legal requirements;
- Prepare the notices, affidavits and certificates required by law for conducting the election.

B. EXCLUDED SERVICES

The following additional services are excluded from Bond Services and are subject to the payment provisions on an hourly basis or as otherwise agreed by the Parties in writing. These include:

- Questions related to bonds outstanding prior to the date of Attorney's engagement by the District;
- Post-closing legal advice requiring significant legal research;
- Capital project planning, implementation, construction, and litigation;
- Applications for Private Letter Rulings from the IRS;
- Negotiation of investment contracts;
- In-person participation in Finance Team or Governing Board meetings exceeding two during a transaction;
- In-person participation in rating agency meetings or bond insurance agencies outside California;
- Assistance with the ongoing maintenance, training or support of a Citizen's Bond Oversight Committee.

In no event will Attorney provide campaign-related legal services to the District or any campaign committee formed to support a bond measure campaign of the District under this Agreement or any other Agreement.

C. PAYMENT

- (1) Bond Counsel Services for each separate series of General Obligation Bonds, shall be compensated a set fee of \$40,000, plus reimbursement of expenses of \$1,500. Fees shall not be due and owing unless and until Bonds are issued, and shall be paid or reimbursed from Bond proceeds.

Bond Counsel Services for any other type of bond issuance, such as certificates of participation, bond anticipation notes or other loans or other securities, shall be determined when needed, subject to the agreement of the parties.

- (2) Disclosure Counsel Services for each separate series of General Obligation Bonds shall be compensated a set fee of \$20,000, plus reimbursement of expenses of \$1,500. Fees shall not be due and owing unless and until Bonds are issued, and shall be paid or reimbursed from Bond proceeds.
- (3) If Pre-Election Services are requested during the Term, fees will be charged on an hourly basis at the rate of \$300.00 per hour for attorneys, to a maximum total of \$12,500.00. The hourly rate for paralegals, if needed, will be \$125.00 per hour. Fees shall be due and owing regardless of the outcome of the bond election. Fees for Pre-Election Services may not be paid from bond proceeds. Should a future election be successful, Bond Counsel and Disclosure Counsel Services shall be charged pursuant to the fees identified above in subsections (1) and (2).

District further agrees to reimburse Attorney for actual and necessary expenses ("Expenses") and costs with respect to providing the above services, including travel costs, support services such as copying costs, express postage, and facsimile transmittals. District agrees that such actual and necessary expenses may vary according to special circumstances necessitated by request of District or emergency conditions which occasionally arise.

D. TERM AND TERMINATION

1. Term. The term of this Agreement shall expire on June 30, 2022, unless sooner terminated.

2. Termination or Abandonment of Financing. If for any reason a Bond issuance is permanently abandoned or terminated prior to the issuance of the Bonds, then District shall compensate DWK for services performed up to the date of the abandonment or termination of the proposed financing at the rate of \$300 per hour for attorneys and \$120 per hour for paralegals, plus DWK's out-of-pocket expenses.

3. Termination of Attorney. District may terminate DWK without cause upon 30 days' written notice to Attorney; provided, however, that if District terminates these services after Attorney has rendered Bond Services on any bond issuance, then District shall pay Attorney for services rendered, at the rate of \$300 per hour for attorneys and \$120 per hour for paralegals, plus DWK's out-of-pocket expenses.

E. OTHER PROVISIONS

1. Malpractice Coverage. Attorney agrees to keep current and in force at all times a policy covering incidents of legal malpractice.

2. Performance of Obligations. District shall be truthful with Attorney, cooperate with Attorney, keep Attorney informed of developments, perform the obligations it has agreed to perform under this Agreement.

3. Independent Contractor. It is expressly understood and agreed to by both parties that Attorney, while carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and is not an employee of the District.

4. Use of Subconsultants/SubContractors. Attorney uses the services of legal sub-consultants and independent contractors from time to time on finance transactions, including federal taxation specialists, which costs are paid in full by Attorney without additional expense to District. District consents to the use of such sub-consultants or independent contractors at Attorney's discretion.

5. Conflicts of Interest. Because Attorney represents many school and community college districts, county offices of education, joint powers authorities, SELPAs, and bond underwriters on an occasional basis, conflicts of interest may arise in the course of Attorney's representation. Attorney hereby notifies District pursuant to Rule 3-310(B)(1) of the California Rules of Professional Conduct for Attorneys that it has represented the firm of Stifel Nicolaus ("Stifel") as underwriter's counsel on transactions for other school districts. Attorney is not general counsel to Stifel Nicolaus nor does Attorney provide general legal or liability advice to Stifel outside of advice concerning underwriter due diligence on specific bond financings for other school districts in California. Attorney will not provide any advice to Stifel in the course of representation of District in the described transactions and does not believe that this representation will interfere with its advocacy of District in the contemplated transactions. If Attorney becomes aware of any actual conflicts of interest, Attorney will inform the District of the conflict and comply with the legal and ethical requirements to fulfill its duties of loyalty and confidentiality to District. If District has any question about whether Attorney has a conflict of interest in its representation of District in any matter, it may contact Attorney or other legal counsel for clarification.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement for Professional Services.

SAN RAFAEL CITY SCHOOLS

Michael Watenpaugh, Ed.D.
Superintendent

Date

DANNIS WOLIVER KELLEY



Janet L. Mueller
Attorney at Law

Date

6/22/2017