

**AGREEMENT FOR SPECIAL COUNSEL SERVICES
(Certificates of Participation)**

THIS AGREEMENT ("Agreement") for special counsel services is made and entered into this 1st day of April, 2015 by and between Kronick, Moskovitz, Tiedemann & Girard, a Professional Corporation (hereinafter "KMTG"), and the Davis Joint Unified School District (hereinafter "District"). KMTG and District are collectively referred to herein as the "Parties".

WITNESSETH

WHEREAS, District desires to take all actions necessary for the issuance of certificates of participation ("COPs") issued for the purpose of financing the acquisition and construction of school facilities and various other capital improvement projects within the District's boundaries, and all in accordance with California law; and

WHEREAS, District desires to retain legal counsel to act as special counsel ("Special Counsel") to provide the legal services, specified herein, related to the authorization and issuance of the COPs.

NOW THEREFORE, the Parties hereby agree as follows:

1. **Scope of Services.** District retains KMTG under this Agreement to provide Special Counsel services pertaining to the authorization, issuance, and sale of the COPs. In particular, KMTG shall:
 - (a) Confer with District's representatives and other consultants (including but not limited to District's additional legal counsel, financing advisor(s), and underwriter(s)) as necessary regarding the structure, authorization, issuance and sale of the COPs; and any other related issues;
 - (b) Prepare a calendar of events that sets forth the actions required for the authorization, sale, and issuance of the COPs;
 - (c) Prepare or review any documents prepared by other parties in the proceedings for compliance with applicable law;
 - (d) Prepare for and attend such meetings of District's governing board as deemed necessary for the proper conduct of the proceedings;
 - (e) Prepare a paying agent agreement (or similar issuance document) and all other legal documents necessary for the authorization, issuance, and sale of the COPs;
 - (f) Assist the District in obtaining any necessary governmental approvals for the sale of the COPs;
 - (g) Assist the District in securing investment ratings for the COPs;

- (h) Prepare typewritten COPs;
- (i) Prepare the COP purchase contract pursuant to which the COPs will be sold to the underwriter and the requisite continuing disclosure certificate of District in order to facilitate the underwriter's compliance with SEC Rule 15c2-12;
- (j) Prepare and deliver to each participant in the financing a complete transcript of the proceedings for the authorization, issuance, and sale of the COPs;
- (k) Prepare a comprehensive closing memorandum and prepare and arrange the execution and delivery of a receipt for the COPs, a receipt for the proceeds of the COPs, signature certificates, an arbitrage/rebate certificate and associated certificates of underwriter and insurer (if any), Form 8038-G, DTC Letter of Representations, CDIAAC report of final sale, forms of opinions of other counsel, and all other necessary closing certificates and documents;
- (l) Upon due and proper completion of the proceedings to satisfaction of KMTG, deliver a final approving opinion confirming the validity of the COPs and opinions that interest on the COPs is excludable from gross income for federal income tax purposes and is exempt from State of California personal income taxes, under existing statutes, regulations, rulings, and court decisions; and
- (m) Any services incidental to the Special Counsel services.

2. **Services Outside the Scope of this Agreement.** KMTG's duties in this Agreement are limited to those set forth in Paragraph 1. Among other things, KMTG has not undertaken to do any of the following under this Agreement:

- (a) Perform an independent investigation to determine the accuracy, completeness, or sufficiency of the official statement or other disclosure document;
- (b) Conduct any investigation regarding the qualification for sale of COPs in any jurisdiction, provided that KMTG will coordinate with the underwriter regarding any statements requested to be added to the official statements so that the COPs may be sold in particular jurisdictions;
- (c) Render services in connection with compliance by District after the closing with the covenants contained in the bond documents, including without limitation, the calculation of any arbitrage rebate liability District may have and preparation of any annual reports or material events notices required pursuant to District's continuing disclosure undertaking; or
- (d) Render services with respect to any litigation concerning the financing of the COPs.

If District requests KMTG to provide any such services, compensation therefor shall be agreed upon in advance by the Parties and may be made and calculated at KMTG's hourly rate schedule for the type of services requested (either public finance or litigation) in effect at the time such services are rendered.

3. **Commencement of Services.** KMTG's obligation to provide legal services under this Agreement shall commence upon KMTG's receipt of a copy of this Agreement signed and dated by District.

4. **Completion of Services.** KMTG's representation of District with respect to a series of COPs will be concluded upon issuance of such series. Nevertheless, subsequent to issuance of a series of COPs, KMTG will file the Internal Revenue Service Form 8038 G and will prepare and distribute to the participants in the transaction a transcript of the proceedings.

5. **Duties of KMTG and District.**

(a) **Duties of KMTG.** KMTG shall provide those legal services reasonably required to represent District in the matters described in Paragraph 1 of this Agreement. KMTG shall also take reasonable steps to keep District informed of significant developments and to respond to District's inquiries. While one attorney at KMTG may be primarily responsible for completing the work that is within the scope of this Agreement, that attorney may also delegate work to other attorneys, paralegals, law clerks, and office personnel within KMTG when it is determined that such delegation is appropriate in representation of District's interests. If District so requests, District will be notified prior to any delegation and a decision will be made in consultation with District.

(b) **Duties of District.** District shall timely communicate with KMTG; be truthful with KMTG in all communications; make all reasonable efforts to cooperate with KMTG (including making all reasonable efforts to timely provide any information that KMTG requests in order to carry out its duties under this Agreement); keep KMTG informed of developments pertaining to the COPs; perform the obligations District has agreed to perform under this Agreement; and pay all monies due to KMTG in a timely manner.

6. **Disclaimer of Guarantee.** By signing this Agreement, District acknowledges that KMTG has made no promises or guarantees to District about the outcome of District's matter, and nothing in this Agreement shall be construed as such a promise or guarantee.

7. **Fees and Expenses.**

(a) **Special Counsel.** KMTG's fees for Special Counsel services described above in Paragraph 1 for the COPs to be sold shall be in the amount of \$27,000 plus actual expenses not to exceed \$600.

(b) **Payment of Compensation.** The compensation provided for under subparagraph (a) shall be contingent upon the issuance and delivery of the COPs, and shall be payable solely from the proceeds of COPs issued and at the time of issuance of the COPs.

8. **Legal Action Upon Default.** If District does not pay the balance when due or breaches any other terms of this Agreement, KMTG may commence any legal action for collection of the balance due. District and KMTG agree that all legal proceedings related to the subject matter of this Agreement shall be maintained in courts sitting within the State of California. District and KMTG agree that the jurisdiction and venue for such proceedings shall

lie exclusively with such courts. Further, the prevailing party in any such dispute shall be entitled to reasonable costs, including attorneys' fees.

9. **Arbitration of Fee Dispute.** If a dispute arises between KMTG and District regarding KMTG's fees or costs under this Agreement and KMTG files suit in any court, or begins an arbitration proceeding other than through the State Bar or the local bar association within the jurisdiction of the District under Business and Professions Code Sections 6200-6206, District will have the right to stay that suit or arbitration proceeding by timely electing to arbitrate the dispute through the State Bar or a local bar association within the jurisdiction of the District under Business and Professions Code Sections 6200-6206, in which event KMTG must submit the matter to that arbitrator.

10. **Notices.** All notices, letters, and other communications authorized or required by this Agreement shall be considered transmitted, served, and effective for all purposes on the date that they are reduced to writing, deposited in the United States first class mail, postage prepaid, and addressed as follows:

(a) **To District:**

Davis Joint Unified School District
1919 5th Street
Davis, CA 95616
Attention: Superintendent

(b) **To KMTG:**

Kronick Moskowitz Tiedemann & Girard
400 Capitol Mall, 27th Floor
Sacramento, California 95814
Attention: Addison Covert, Esq.

11. **District Files.** At District's request, upon the termination of services under this Agreement, KMTG will promptly release all of District's papers and property to District (subject to any applicable protective orders or non-disclosure agreements).

12. **Destruction of District File.** If District does not request the return of its papers and property upon the termination of services under this Agreement, KMTG will retain District's file for seven (7) years from the date of issuance of the most recently issued series of COPs, after which time KMTG may have District's file destroyed. District acknowledges that it will not be notified prior to destruction of its papers and property, and consents to the same. The District must make separate arrangements with KMTG in order to have its file maintained beyond seven (7) years after District's matter is concluded.

13. **Termination.** This Agreement may be terminated by District or KMTG, or modified by mutual consent, at any time upon thirty (30) days written notice. If the District terminates this Agreement prior to the issuance of any series of COPs, other than for reasonable cause, KMTG shall be compensated in accordance with Paragraph 7(c) above. KMTG and

District each agree to sign any documents reasonably necessary to complete KMTG's discharge or withdrawal.

14. **Assignment.** This Agreement is not assignable by KMTG without the prior written consent of District.

15. **Modification by Subsequent Agreement.** This Agreement may be modified only by a written instrument signed by both Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day, month, and year first written above.

District:

DAVIS JOINT UNIFIED SCHOOL DISTRICT
a political subdivision of the State of California

Dated: 4/1/15

By: P. [Signature]

KMTG:

**KRONICK, MOSKOVITZ, TIEDEMANN &
GIRARD**, a professional corporation

Dated: _____

By: _____