

**CONTRACT FOR PROFESSIONAL FINANCIAL ADVISORY SERVICES BY AND BETWEEN  
THE ACTION-AGUA DULCE UNIFIED SCHOOL DISTRICT AND CALDWELL FLORES WINTERS, INC.**

This contract is entered into this \_\_\_ day of \_\_\_\_\_ 2018, and is made by and between Caldwell Flores Winters, Inc. and the Acton-Agua Dulce Unified School District of Los Angeles County.

**RECITALS**

WHEREAS, the Acton-Agua Dulce Unified School District (hereinafter, "District"), a California Public School District located in Los Angeles County, is seeking to renew and extend its agreement with Caldwell Flores Winters, Inc. (hereinafter, "CFW") for professional financial advisor services for the purpose of issuing bonds;

WHEREAS, CFW has served as the District's professional financial advisor since 1994;

WHEREAS, the District desires to extend or continue the relationship with CFW for advice, counsel and assistance as its financial advisor to structure and restructure existing debt, provide interim financing solutions, and issue new debt, all to achieve the short and long term facilities objectives and implement the debt policies of the District;

WHEREAS, CFW has also provided the District with professional State Aid services per a contract dated December 18, 2006 and amended on February 24, 2009;

WHEREAS, the District understands that the Financial Advisory Services provided by CFW are governed by the Municipal Securities Rulemaking Board ("MSRB");

WHEREAS, CFW is registered with the MSRB and the U.S. Securities and Exchange Commission ("SEC") as a Municipal Advisor;

WHEREAS, the District has determined that it cannot provide through its own personnel the services to be performed by CFW under this Agreement, the services provided by CFW are exempt from Public Contract Code section 20111, and the District has fully complied with its policies, bylaws, rules, and/or procedures for entering into this Agreement;

NOW THEREFORE, for good and valuable consideration of the covenants set forth herein and other good and valuable consideration, the receipt and adequacy of which is acknowledged by the District and CFW (hereinafter, "Parties"), the Parties hereby agree as follows:

**CONTRACT**

**I. CONSULTANT SERVICES**

Caldwell Flores Winters, Inc. agrees to provide the District with professional consulting services consisting primarily of municipal/financial advisor services as that term is defined by the Dodd-Frank Wall Street Reform and Consumer Protection Act and its subsequent regulations. Exhibit A to this Agreement, incorporated herein by reference, sets forth the Scope of Services to be provided by CFW. CFW does not provide legal advice with respect to the issuance of municipal securities or the structure thereto. The District will be required to retain the services of Bond Counsel and Disclosure Counsel to advise it with respect to the issuance of municipal securities.

The District recognizes that CFW provides additional professional consulting services, including planning services, facilities assessments, State Aid services and facilities implementation services that are not municipal/financial advisory services. The District may solicit from CFW proposals for these services. Upon request, CFW will provide the District with a proposal, including fees, to provide said services.

## **II. DISTRICT COOPERATION**

The successful issuance of new debt instruments or refunding of existing debt instruments (hereinafter, the "Transaction") will require the District to assemble a team of professionals (hereinafter, "Financing Team") consisting of legal counsel, underwriter, trustee and in some cases a paying agent. The District agrees to retain the Finance Team professionals or authorize the retention of these professionals to complete the transaction. CFW will also request that representatives from the County Office of Education and the County participate at various times during the financing process.

The Transaction requires a complete and thorough review of existing documentation and District information. The debt issuance process requires a disclosure in the form of an Official Statement that accurately represents District information, debt structure and other related information to the public and the investors. The Underwriter and Bond Counsel are responsible for preparing the Official Statement and documents to issue debt.

The District agrees to cooperate with CFW and the Financing Team to provide all the necessary District information, records and data necessary to structure the debt, complete the Official Statement and prepare the transaction documentation. Furthermore, the District agrees to provide CFW and members of the financing team the opportunity to consult with District personnel as necessary.

The District further agrees to provide complete and accurate information on a timely basis. The District recognizes that CFW and the Financing Team will be relying on the District's information without further independent verification for purposes of the structuring of the debt.

## **III. CONFIDENTIALITY OF INFORMATION**

CFW recognizes that much of the information related to the Transaction is public information that must be published and/or disclosed to the public upon request. It is the responsibility of the District to make the determination of whether a particular document or other tangible information is subject to disclosure and to disclose said information at the appropriate times. While the District makes that determination, CFW shall regard all information received during the performance of services pursuant to this Contract and all information produced by CFW as confidential and shall not disclose such information to any other person without prior consent of the District. Upon determination by the District, CFW will cooperate to disclose or publicize those documents requested or determined to be public.

## **IV. TERM**

The Parties have agreed to a term of five (5) years, a period of time recognized as necessary to issue the Transactions contemplated by the Parties. The Term of this Contract shall commence upon approval by the Governing Board of the District and execution by the Superintendent and shall continue through January 31, 2023. The Parties recognize that the long term consistent management of the

District's debt portfolio is an important objective of the Governing Board. The District may choose to extend or renew the term of this Contract by a written instrument, mutually agreed to by the Parties and approved by the Governing Board of the District.

**V. FEE FOR FINANCIAL ADVISORY SERVICES**

The District agrees to compensate CFW for the professional services contemplated under Article I of this Contract and the Exhibit A attached hereto based on the following fee schedule:

**A. Services to Establish a General Obligation Bond Program**

The District agrees to compensate CFW a fee of \$25,000 to provide financial consultant services to establish a General Obligation Bond Program for the District, as set forth in Exhibit A. The fee shall be payable from legally available funds as determined by the District upon the sale of the first bond issuance subsequent to the execution of this Contract.

**B. Services to Issue Municipal Securities/Bonds**

The District agrees to compensate CFW a professional consulting fee for the services set forth in Exhibit A related to the issuance of municipal securities/bonds as follows:

<b>Instrument</b>	<b>Fee</b>
New Issuance of General Obligation Bonds, Certificates of Participation(COPs) and other similar Bond Issuances	\$75,000.00

The Fee set forth herein shall be payable solely from proceeds of the sale of each series of bonds, whether general obligation bonds or Certificates of Participation. The fee is contingent of the successful completion and sale of the particular instrument contemplated by the Parties.

**C. Expenses**

All expenses incurred on behalf of the completion of the approved scope of work by CFW shall be reimbursed at their direct cost plus ten percent (10%) by the District, not to exceed \$3,000 per bond issuance. Payment for financial advisory services shall be payable at the time of the bond sale solely from bond proceeds.

**VI. DISCLOSURE REGARDING POTENTIAL CONFLICT OF INTEREST REGARDING COMPENSATION STRUCTURES**

As a registered municipal advisor CFW is required to disclose to the District potential conflicts of interest as well as other information regarding CFW's registration, including where to locate CFW's registration information on the SEC's EDGAR system. The District has been provided with CFW's updated Rule G-42 Disclosures via email on January 29, 2018.

**VII. INTEGRATED CONTRACT**

This Contract in its entirety represents a full and complete understanding of every kind or nature whatsoever between the parties hereto related to Financial Advisory Services and replaces or supersedes any and all preliminary negotiations, representations or implied covenants inconsistent with the terms of this Contract.

**VIII. TERMINATION**

In the event CFW fails or refuses to reasonably perform the provisions of the scope of work, the District may declare a default in the performance of the terms of this Contract by providing written notice specifying the nature of the default and the steps necessary to cure the default. CFW shall be provided a period of no less than twenty-one (21) calendar days from the date of the notice to cure the default. The Parties may also agree to mutually terminate this Contract by a writing reflecting the agreement.

CFW may withdraw from its representation of the District upon written notice to the District subject to any fiduciary duty or duty of care that may require CFW to continue to represent the District until an appropriate replacement is identified. The timeline for determining an appropriate replacement will depend on the status of the transaction at the time of withdrawal.

**IX. NOTICES**

All notices, demands, requests or approvals to be given under this Contract shall be given in writing and shall be deemed served when delivered personally or on the fifth business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as provided below.

Action-Agua Dulce Unified School District

ATTN: Lawrence King, Superintendent  
32248 Crown Valley Road  
Acton, CA 93510

Caldwell Flores Winters, Inc.

ATTN: Emilio A. Flores, CEO  
6425 Christie Avenue, Suite 270  
Emeryville, CA 94608

**X. DISPUTE RESOLUTION**

Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall first be submitted to mediation, and if the matter is not resolved through mediation then to arbitration in Los Angeles County before one arbitrator. The arbitration shall be administered by an organization mutually agreeable by the parties or pursuant to CA Code of Civil Procedure section 1280 et. seq. Judgment on the award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from an appropriate court. The prevailing party in the arbitration shall be entitled to its

reasonable attorneys' fees and costs. All fees and costs for mediation and arbitration shall be split equally.

**XI. CONSULTANT NOT AN EMPLOYEE OF THE DISTRICT**

CFW shall have no authority to contract on behalf of the District and shall not represent itself as having such authority. It is expressly understood and agreed by the Parties that CFW, while engaged in carrying out and complying with any terms and conditions of this contract, is an independent contractor and not an officer, agent or employee of aforesaid District.

**XII. PREVAILING LAW**

This agreement shall be interpreted and shall be governed by California law.

**XIII. ASSIGNMENT**

CFW reserves the right to assign this contract in whole or in part to any successor-in-interest or assignee with the approval of the District. Such approval shall not be unreasonably withheld by the District.

**XIV. ATTORNEY'S FEES**

In the event that any action or proceeding, including any arbitration, is brought to enforce the provisions of this Contract for Services, the prevailing party shall be entitled to all costs of enforcement, including but not limited to, said party's actual attorney fees. As used herein, the term "actual attorney's fees" shall mean the fees actually charged for the services rendered by legal counsel to the prevailing party in connection with the enforcement of this Agreement, and shall not be limited to "reasonable attorney's fees" as determined by the court or any statute.

**XV. APPROVAL**

In executing this Contract, persons signing on behalf of CFW or District represent that each has the authority to do so. This Contract shall not be executed by the District until such time as the Governing Board has approved and authorized its execution.

This Contract is hereby agreed to and executed on this \_\_\_\_ day of \_\_\_\_\_ 2018.

**AGREED:**

\_\_\_\_\_  
Emilio A. Flores, CEO  
Caldwell Flores Winters, Inc.

\_\_\_\_\_  
Lawrence King, Superintendent  
Acton-Aguc Dulce Unified School District

## **EXHIBIT A SCOPE OF WORK**

Caldwell Flores Winters, Inc. ("CFW") agrees to provide the following scope of work for the Acton-Agua Dulce Unified School District ("District").

### **I. Services to Establish a General Obligation Bond Program**

In order to establish a general obligation bond program for District consideration, CFW shall provide the following consultant services and:

- a. Analyze the assessed valuation profile of the District, including existing tax rates and assessed values, and conduct an analysis of District's statutory bonding capacity and bond proceeds that may be generated immediately and over time
- b. Conduct a cash flow analysis of proposed expenditures, phasing, and required revenues, and incorporate other revenues that may be available as directed by the District
- c. Work with the District to design an acceptable financing plan to meet anticipated needs of the program, and incorporate proposed changes or need for modification
- d. Recommend a tax rate and method to assess the tax over the life of the proposed financing program
- e. Establish the maximum level of bonded authorization to be undertaken and a proposed schedule for the issuance of bonds
- f. Establish and manage a timeline in coordination with District and County by which to call election, certify election results, and issue bonds
- g. Assist team members as necessary in establishing a bond program, including bond counsel in the preparation of necessary resolutions calling election, establishing required ballot language, project list, and ballot arguments and rebuttals, if needed
- h. Work with the District and County to prepare a tax rate statement; including the maximum amount of bonds authorized to be issued, the projected tax rates over the estimated life of the bond program and the estimated timing of bonds to be sold
- i. Attend necessary meetings as requested by the District to explain the proposed program to staff, the community, and the Board

### **II. Services to Issue Bonds**

For all bond financing transactions, CFW shall provide the following professional consulting services related to its obligations as a municipal advisor:

- a. Research and analyze the current market for bonds and provide recommendations on the structure of the issue, credit enhancement, type of bond ratings, maturity schedule, method and timing of sale, and documentation requirements

- b. Assist District in selection of consultants and team members ("Financing Team"), including paying agent, underwriters, bond counsel, and trustee, if required
- c. Work with the financing team to develop the proposed financing structure, including sizing, amortization schedule, phasing of debt repayment, and call provisions
- d. Prepare rating agency presentations; assist District staff in preparing for the meeting or conference call with rating analysts; schedule and coordinate the rating; attend the presentation with District staff, if necessary; provide a response to the rating agency as required
- e. Negotiate bond insurance providers or letter of credit providers, if required
- f. Coordinate the preparation of legal and disclosure documents to be prepared by bond counsel, including District and County resolutions, bond purchase agreements, preliminary official statement, and final official statement
- g. Guide the District through the due diligence process as required by the underwriter
- h. Assist District staff in preparation for the sale of bonds, including a review of the required steps, available options, anticipated decisions to be made, and documents requiring to be executed
- i. For negotiated sales, work with the financing team to establish tax rate and required revenue line to meet amount of bonds to be sold, review pre-pricing interest rates and terms by underwriter, conduct final pricing and sale of bonds to underwriter on proposed sales date, including recommended interest rates, coordinate execution of bond purchase contract
- j. For competitive sales, review and comment on Notice of Sale and Bid Form and bid documents to qualified buyers, post, monitor, and verify bids on date of sale and coordinate award of bid
- k. Prepare wrap up presentation to District summarizing bond sale and attend Board meeting to explain bond sale as needed
- l. Provide updates to the District staff and Governing Board, as requested
- m. Assist the staff in the planning for the issuance of future series of bonds, if any