

**BOARD OF EDUCATION  
PASADENA UNIFIED SCHOOL DISTRICT  
PASADENA, CALIFORNIA**

**Topic:** Approval of Bond Underwriter Agreement

**RECOMMENDATION:** The Board of Education approve the Investment Banking Agreement between the District and RBC Capital Markets Corporation ("RBC").

**District Priority/Strategy:** To ensure a clean, safe and orderly environment that supports learning.

**I. BACKGROUND:**

On July 1, 2008, the Board of Education (the "Board") approved a resolution to place a ballot measure on the November 4, 2008 ballot for a general obligation bond. As part of that board report, the necessity of either hiring an underwriter or financial advisor to assist in the process of marketing the bonds which could result from the passage of the measure was noted. Staff, in concert with members of the Board Facilities Subcommittee convened a process for determining whether the District should engage in a competitive sale or a negotiated sale. Presentations were given to the group by representatives of George K. Baum and Company, a prominent underwriting firm, and Dale Scott and Company, a prominent financial advisor. The result of that process was a consensus that a negotiated sale would be preferable. Following that process, staff was directed to conduct a Statement of Qualifications process involving four prominent investment bankers, George K. Baum and Company, Piper Jaffray, RBC Capital Markets, and Stone and Youngberg. Submittals were received from all four bankers.

**II. STAFF ANALYSIS:**

The same group which handled the process of deciding between a negotiated sale and a competitive sale presided over the selection process for an investment banker, save for one member who was on vacation. The field was narrowed to two after the initial submittal, RBC Capital Markets and Stone and Youngberg. Interviews were held and a series of questions posed, with numerical scores given by the panel of four. RBC Capital Markets came out slightly ahead on points. A consensus seeking process resulted in the selection of RBC. Final underwriting discount of \$3.25 per \$1,000 bond including all expense were negotiated. The original pricing submitted ranged from \$11.00 per bond down to \$3.21 per bond. It is widely agreed that \$3.25 per bond is a very low rate.

**Attachments:** Investment Banking Agreement

**III. FISCAL IMPACT:** Based on a bond par total of \$350,000,000, the cost to the District would be \$1,137,500.

**Pasadena Unified School District  
Board of Education Agenda  
August 26, 2008  
Prepared by: Steve Brinkman, Chief of Staff**

## INVESTMENT BANKING AGREEMENT

THIS AGREEMENT is made and entered into this [ ] day of August, 2008, by and among the **Pasadena Unified School District** (the "District") and RBC Capital Markets Corporation (the "Banker" or "RBC CM"), with reference to the following facts:

### RECITALS

WHEREAS, the District plans to issue 2008 Election General Obligation Bonds in a single financing or in a series of financings (hereinafter called "the Bonds") to fund various capital improvement projects (the "Project"); and

WHEREAS, the District desires and is authorized by law to retain the services of the Banker in connection with the issuance of the Bonds; and

WHEREAS, the Banker agrees to be retained by the District and to provide to the District the services described herein; and

WHEREAS, the Banker agrees to act as sole managing underwriter, subject to the conditions set forth herein,

NOW therefore, for and in consideration of the mutual promises, covenants, and conditions herein contained, the parties hereto agree as follows:

### *Section 1 Scope of Services*

The Banker shall develop a financing plan with the purpose of assisting the District in achieving its financial objectives. The services of the Banker shall consist of the following:

1. Analyze the financing alternatives available to the District for the issuance of the Bonds and recommend the appropriate financing mechanism to provide the lowest cost of funds taking into account the District's policy considerations; and
2. Together with the District, and other parties, develop a financing plan consistent with the goals and objectives established by the District; and
3. Size the Bonds taking into account construction costs, reimbursements to the District, rating services fees, other costs of issuance; and
4. In cooperation with District, review all documents necessary to implement the issuance of Bonds, including but not limited to the authorizing resolutions, bond purchase agreement, and preliminary and final official statements distributed to potential investors, as required; and
5. Structure those terms and conditions for the Bonds such as maturities, coupon rates, call features, and security features, which most advantageously meet demands of current market conditions, meet the objectives of the District, and provide the lowest possible net interest cost; and
6. Prepare presentations for the rating agencies and/or bond insurance companies, and arrange for the printing and distribution of the preliminary and final official statements; and
7. Schedule, coordinate, and attend necessary rating agency meetings (if applicable) in order to obtain the highest possible rating on the issue; and

8. Organize and participate in information meetings, if needed, to create investor interest in the Bond issue with retail and institutional clients; and
9. Advise the District on the timing of the sale of the Bonds in relation to the market conditions and financing needs; and
10. Arrange for distribution of the final official statements in accordance with Section 240.15c2-12 of Title 17 of the Code of Federal Regulations; and
11. Arrange for the printing of the Bonds and assist in the signing and delivering of the Bonds; and
12. Serve as sole managing underwriter of the Bonds, which obligation is conditioned upon the execution of a mutually satisfactory bond purchase agreement and other customary documentation, and coordinate with all parties so as to consummate the sale and delivery of the Bonds in a timely manner.

The District acknowledges and agrees that RBC CM is not making a commitment to extend credit, make a loan or otherwise fund the Project beyond the obligations contained in a mutually satisfactory bond purchase agreement. The District acknowledges that advice and recommendations involve professional judgment on our part and that the results cannot be, and are not, guaranteed.

### ***Section 2 Expenses***

The District, from the Bond proceeds, will pay the Banker's costs incurred in the performance of this Agreement, including costs of its legal counsel, if any, communication, preparation of the official statements, and overhead expenses.

The District, from the Bond proceeds or other lawfully available funds, will pay for legal fees, including disclosure counsel; rating agency and credit enhancement fees including all related travel (if any); the cost of appraisal, fiscal consultant, statistical, computer, and graphics services (if any), cost of printing and distribution of the official statements and expense of publication, advertising, and informational meetings; and the costs of fiscal agent or bond trustee and registrar.

### ***Section 3 Compensation***

The Banker agrees to prepare and coordinate all aspects of the sale of the Bonds. The Banker's total compensation will be **0.325%**, calculated on the total par amount of the Bonds.

Fees and commissions are paid from the proceeds of the Bonds and are calculated as a discount on the total bond amount. In no event shall the underwriting discount exceed [REDACTED] Dollars (\$[REDACTED]). All fees are contingent on a successful sale of the Bonds and are payable from the Bond proceeds.

### ***Section 4 Term of Agreement***

This Agreement is to continue until the Project is financed, or until all of the 2008 Election General Obligation Bonds are sold, or until the Governing Board of the District formally abandons the Project, unless previously terminated by mutual written consent of the parties hereto.

After the issuance of the first series of Bonds, the District or the Banker may terminate this agreement by providing 30 days' prior written notice to the other party. Prior to the issuance of the first series of bonds, neither the District nor the Banker may terminate this contract.

## ***Section 5 Severability of Provisions***

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

## ***Section 6 Governing Law***

This Agreement, and the rights and obligations of the parties hereto, shall be construed, interpreted and enforced pursuant to the laws of the State of California, and exclusive venue in any and all actions existing under this Agreement shall be laid in the action or proceeding which District or Banker may be required to prosecute to enforce its respective rights within this Agreement. The unsuccessful party therein agrees to pay all costs incurred by the prevailing party therein, including reasonable interest and attorney's fees, to be fixed by court, and said costs, interest, and attorneys' fees shall be made a part of the judgment in said action. Prior to the commencement of any litigation concerning this Agreement, the District and the Banker agree to first submit any disagreements to mediation. This mediation requirement is intended to reduce the costs of dispute resolution for both parties.

## ***Section 7 Subcontractors***

The Banker shall, with the prior written approval of the District, use such subcontractors as are necessary in the fulfillment of this Agreement.

## ***Section 8 Miscellaneous***

Nothing contained herein shall preclude the Banker from carrying on its customary and usual business activities. The Banker specifically reserves the right, but is not obligated, to bid for and maintain secondary markets on any District outstanding bonds subject to appropriate information barriers. Services provided by the Banker in connection with this Agreement shall not limit the Banker from providing services for the District in conjunction with other services requested by the District except as limited by rule of law or regulation.

In connection with services agreed to herein, it is understood that the Banker will render professional services as an independent contractor. Neither the Banker nor any of its agents or employees shall be deemed an employee of the District for any purpose.

The Banker shall not assign or otherwise transfer any interest in this Agreement without the prior written consent of the District.

This Agreement constitutes the entire agreement between the parties relating to the subject matter thereof and supersedes any prior understandings or representations. The Agreement may be amended or modified only by a writing signed by both parties. It is solely for the benefit of the District and RBC CM, and no other person.

This Agreement is submitted in duplicate originals. The acceptance of this Agreement by the District will occur upon the return of one original executed by an authorized District representative, and the District hereby represents that the signatory below is so authorized.

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

Respectfully submitted,

RBC CAPITAL MARKETS CORPORATION

By \_\_\_\_\_

Name Roderick A. Carter

Title Managing Director

**ACCEPTANCE:**

Pasadena Unified School District

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_