

**MALIBU UNIFICATION NEGOTIATIONS COMMITTEE
PRE-NEGOTIATIONS FOLLOW-UP MEETING AGENDA**

**Monday, March 16, 2016
District Office Conference Room
1651 16th St., Santa Monica, CA 90404**

- I. Call to Order / Roll Call
- II. Approve 3/7/16 Meeting Minutes
- III. New Composite Draft Agreement
 - Attachments:*
 - *Agreement for Payment of Consultant Fees (provided by SMMUSD reps)*
 - *Agreement for Payment for Consultant Fees (provided by Malibu reps)*
- IV. Retention of Facilitator
 - Attachments:*
 - *Proposal from Karen Orlansky*
- V. Retention of Education and Legal Consultants
 - *Proposal from Procopio*
- VI. Confirm Tentative Meetings Dates, Locations, and Topics
 - *Tuesday, March 29, 2016 at Malibu City Hall from 7:00-9:00pm*
 - *Tuesday, April 12, 2016 at district office from 7:00-9:00pm*
- VII. Public Comments
- VIII. Adjournment

ATTACHMENTS FOR:

II. APPROVE 3/7/16 MEETING MINUTES

**MALIBU UNIFICATION NEGOTIATIONS COMMITTEE
PRE-NEGOTIATIONS MEETING MINUTES**

**Monday, March 7, 2016
District Office Board Room
1651 16th St., Santa Monica, CA 90404**

I. Call to Order / Roll Call

- *The committee called the meeting to order at 7:00pm. All committee members were present:*

<i>Tom Larmore</i>	<i>Laura Rosenthal</i>
<i>Debbie Mulvaney</i>	<i>Kevin Shenkman</i>
<i>Paul Silvern</i>	<i>Manel Sweetmore</i>

II. Retention of Education and Legal Consultants

- *The Santa Monica representatives and Malibu representatives explained the process and rationale for their respective versions of the agreement.*
- *The committee discussed the following: which details should be included in the agreement and which could wait until after the agreement had been signed; whether or not the specific consultants should be named in the agreement; whether or not the suggested consultants should be the final choices; which entity would retain the consultants; the method by which the consultants would be paid; and potential language changes in the agreement.*
- *The committee agreed that the following points would be included in a consolidated draft of the agreement:*
 - *SMMUSD would retain the consultants*
 - *In sections II.A.1. and II.A.2., strike the last phrase, "...and will advise the Board from time to time as requested."*
 - *In section II.B., the committee will be able to substitute a consultant should the primary choice be unable to continue the work.*
 - *In section II.C., the terms of payment language will need to be reworded to allow for direct payment from AMPS.*
 - *In section II.D., the specific language will change if Pillsbury is not the firm chosen.*
 - *In sections II.E-F, these will be removed if AMPS pays consultants directly.*
- *Larmore and Shenkman will work out the details of a consolidated agreement for the committee to consider at a follow-up meeting. They will send it to Sarah Wahrenbrock in the Superintendent's office (recording secretary for this pre-negotiations meeting), who will send it out to all committee members.*

III. Retention of Facilitator

- *The Santa Monica representatives explained the rationale behind the suggestion of Karen Orlansky.*
- *The committee discussed the following: the duties of the facilitator; the experiences of the names listed for consideration; and how a facilitator differs from a mediator.*
- *The committee decided that Karen Orlansky's proposal met the facilitator needs of the committee; however, if committee members have another name for consideration, they will provide that information to Sarah Wahrenbrock for inclusion in the follow-up meeting agenda. Those individuals will be invited to attend the follow-up meeting to further explain their skill sets. The committee also agreed that should the services of a mediator become necessary during the negotiations process, a mediator could be retained.*

IV. Public Comments

- *There were no public comments.*

V. Next Meeting Date & Possible Agenda Topics

- *The follow-up to this pre-negotiations meeting will be held on Wednesday, March 16, 2016, at 7:00pm at the district office. Moving forward, the committee meetings will alternate between Santa Monica and Malibu. The tentative dates for the first two official committee meetings are March 29, 2016, at Malibu City Hall and April 12, 2016, at the district office. Those dates are subject to change.*
- *Items on the March 16, 2016, agenda will include:*
 - *New Composite Draft Agreement*
 - *Retention of Facilitator*
 - *Retention of Education and Legal Consultants*
 - *Discuss Process of Agendas and Meetings*
 - *Confirm Tentative Meeting Dates and Locations*
- *The committee agreed that any committee member can request that any item be placed on the agenda, as long as it falls under the purview of the committee's purpose and work.*

VI. Adjournment

- *The committee adjourned the meeting at 9:00pm.*

ATTACHMENTS FOR:

III. NEW COMPOSITE DRAFT AGREEMENT

AGREEMENT FOR PAYMENT OF CONSULTANT FEES

This Agreement for Payment of Consultant Fees (this “Agreement”) is made and entered into as of _____, 2016, by and between Santa Monica Malibu Unified School District, a political subdivision of the State of California, (“SMMUSD”), and Advocates for Malibu Public Schools, a California unincorporated association, (“AMPS”). SMMUSD and AMPS are collectively referred to herein as the “Parties” and individually as “Party.” This Agreement is made with respect to the following facts and circumstances:

A. On June 7, 2012, the Board of Education for SMMUSD (the “Board”) accepted the recommendation of SMMUSD’s Financial Oversight Committee (the “FOC”) that the FOC “analyze all reports and research related to the proposed Malibu separation.”

B. In its annual report to the Board for 2012-2013, the FOC reported that a subcommittee of the FOC had reviewed a feasibility report prepared by West Ed, an educational consulting firm retained by AMPS (“WestEd”), discussed certain financial aspects relating to a proposed separation and concluded that it was premature to reach any conclusions regarding the financial viability of two separate districts. As a result of various legal and financial uncertainties, the FOC recommended, and the Board agreed, that this subcommittee be continued for at least another year. On June 6, 2013, the Board accepted this proposal.

C. On July 16, 2014, the FOC reported to the Board that the subcommittee had reviewed a revised feasibility report prepared by West Ed and concluded that there were legal issues that needed to be addressed before the subcommittee would be able to make a recommendation to the full FOC. A legal memorandum from AMPS’s counsel was expected on these issues. The minutes of the Board meeting reflect the following Board discussion in response to the FOC’s recommendation that this subcommittee be continued for an additional year:

“Issues associated with split unification, including the allocation of existing Measure BB bond indebtedness between two districts, new Measure ES bonds, and future bonds; CEQA indemnification costs; the continuation of the Measure R parcel tax in Malibu; the potential role of state legislation in regards to the split unification process; a division of assets and workforce; and LCFF calculations. It was decided that the FOC could assist the district in developing a scope of work for an independent contractor to help the district answer many of these questions. Mr. Foster, FOC member and President of AMPS, said AMPS would cover the cost of such an independent contractor. [FOC Subcommittee Chair] Mr. Larmore suggested that the FOC return in October with a scope of work for the independent contractor for the board to consider and plan to move forward. [SMMUSD Board Member] Dr. Escarce suggested staff create a matrix identifying and prioritizing all of the district’s questions and issues regarding split unification and determine where the FOC and/or independent consultant could assist reduce uncertainty. It was also decided that [SMMUSD Chief

Financial Officer] Ms. Maez, the independent contractor, and the FOC would report back to the board with findings. [SMMUSD Board Members] Ms. Lieberman and Dr. Escarce, board liaisons to the FOC, will work with the FOC unification subcommittee.”

On or about September 23, 2014, AMPS provided to the FOC a memorandum from its counsel, the law firm of Nielsen Merksamer Parinello Gross & Leoni LLP.

D. The FOC reported to the Board on October 16, 2014 regarding, among other things, recommendations for activities by two separate subcommittees - one focusing on budget issues and another on bond-related issues. Shelley Slaugh-Nahass, Chair of the FOC, advised the Board in her presentation that both subcommittees recommended that SMMUSD retain legal and financial consultants and that it was the FOC’s understanding that all costs would be paid by AMPS. In response to a question from Board Member Mechur, SMMUSD’s Chief Financial Officer, Jan Maez, advised that SMMUSD would retain the consultants and that AMPS would reimburse SMMUSD for the fees incurred.

E. On June 11, 2015, SMMUSD Staff submitted a request that it be authorized to enter into an agreement with the law firm of Dannis Woliver Kelley in response to recommendations from the FOC relating to the retention of legal counsel in connection with bond issues associated with the Malibu separation. The Agenda item stated: “Expenses will be reimbursed by AMPS upon completion of a reimbursement agreement between SMMUSD and AMPS. DWK to provide legal support to SMMUSD related to the creation of a new Malibu Unified School district.” The Board, on a motion by SMMUSD Board Member Dr. Escarce and seconded by SMMUSD Board Member Mr. Foster¹, voted 6-0 to “postpone approval of the Dannis Woliver Kelley contract for the Business Services Department until the agreement with Advocates for Malibu Public Schools (AMPS) has been signed by AMPS and is ready for board approval.” AMPS has advised SMMUSD that it did not sign the agreement due to the scope of the proposal by Dannis Woliver Kelley, the form of the agreement for financial responsibility, and its objection to the selection of Dannis Woliver Kelley.

F. On July 15, 2015, the FOC reported to the Board that it believed:

1. Assuming a new parcel tax in Malibu, the proposed reorganization would not cause a substantial negative effect on the fiscal status of a new Malibu Unified School District (“MUSD”) or SMMUSD, then operating as Santa Monica Unified School District (“SMUSD”).
2. Allocation of assets and liabilities, including bond indebtedness, should not create a significant obstacle to the proposed reorganization. While the FOC

¹ In November 2014, Mr. Foster was elected to the SMMUSD Board, and shortly thereafter resigned his position with AMPS in order to avoid any conflict. Mr. Foster currently serves as a Trustee of SMMUSD, and has no leadership role with AMPS.

subcommittee recommended what it believed to be equitable allocations of most categories of assets and liabilities, it was unable to reach a consensus on a few and concluded that these would need to be worked out through further discussions. While the subcommittee attempted to apply relevant law to its allocations, SMMUSD should retain legal counsel to review the subcommittee's work to assist the Board in working through the various issues.

3. Any separation would need to be conditioned upon (a) a release of any claim made in the lawsuit filed against SMMUSD, Board members and certain SMMUSD officials relating to the investigation and remediation of toxic substances in certain Malibu classrooms to the extent that such claim might continue to apply to SMUSD, its Board members and officers, (b) receipt of an indemnity from MUSD for any exposure to future claims based upon any failure to properly remediate any existing conditions because responsibility to deal with the Malibu facilities would, following a separation, be under the sole jurisdiction of MUSD.

4. SMMUSD should retain legal counsel experienced in the area of toxic contamination to advise it regarding the nature of any continuing exposure to SMUSD, the proper allocation of responsibility, and the appropriate means to achieve that allocation, including indemnifications.

G. In September, 2015, the FOC received new information regarding the manner in which the State of California provides funds to SMMUSD relevant to the opinion it expressed in its July 15, 2015 report to the Board regarding the effect on the fiscal status of the proposed reorganization. After studying the new information the FOC adopted the following motion on November 12, 2015:

“After careful analysis of updated operating budgets and projections provided by the District’s fiscal services department and WestEd, which now reflect the District’s new understanding about the effects of minimum state aid, the FOC concludes that the Santa Monica-only district financial picture would be significantly different than what was reported to the Board by the FOC in July 2015 and is significantly worse on a per-student basis, as compared with continued operation of the existing District. As part of the discussion, the FOC also considered other issues that could affect the overall financial change with a Malibu-only district and a Santa Monica-only district. These changes are outside of the operating budget but could include for a Santa Monica-only district some relief from ongoing legal fees related to facility-related litigation in Malibu and SMMEF funding that will no longer be required by a separate Malibu-only district.”

This motion was reported to the Board by the FOC on November 19, 2015. While the Board took no action at this meeting, each Board member present stated that he or she understood the desire of many Malibu residents for an independent school district and that they were in support

of a separate district as long as there was no materially negative financial impact to Santa Monica students, and the Board directed that its Malibu unification subcommittee (Ms. Lieberman, Dr. Escarce and Mr. Foster) meet and return to the full Board with recommendations regarding next steps.

H. On December 17, 2015, in furtherance of all of the foregoing events, the Board considered a Major Action Item Recommendation from the Board's Malibu unification subcommittee entitled "Process of Negotiations Between Santa Monica-Malibu Board of Education and Representatives of a Potential Malibu Unified School District Regarding Resolution of Issues and Concerns Pertinent to Unification of a Separate Malibu Unified School District." After discussion, the Board unanimously approved the Recommendation with modifications. (As adopted, the Recommendation is referred to herein as the "Action Item.")

1. The Action Item expresses the Board's concern about the negative financial consequences to the resulting SMUSD arising from unification, as identified by the FOC report and the Board's "unanimous desire for the co-existence of the Santa Monica Unified School District and the Malibu Unified School District as two excellent school districts serving their respective communities and providing the best educational opportunities for their respective students as long as it can be accomplished in a manner that does not have a negative impact on the financial condition of the remaining Santa Monica Unified School District."

2. To accomplish that end, the Action Item established a negotiating process "in an effort to resolve both the financial concerns raised by the FOC report and any other financial issues regarding unification of a separate [MUSD] that remain unresolved from previous discussions." Specifically, the Action Item called for the appointment of two teams of negotiators – a maximum of three to be appointed by the SMMUSD Superintendent and approved by the Board to represent the interests of a potential separate SMUSD, and a maximum of three to be appointed by the Malibu City Manager to represent the interests of a potential separate MUSD. The Action Item further instructed the negotiators "to work cooperatively with one another and with their counterparts, to develop and agree upon terms that promote the [stated] aspirations of the Board."

3. The Action Item (1) sets forth a series of objectives of the Board, (2) contemplates that "the negotiators will likely require access" to certain consultants "to address questions that arise during the negotiations," (3) encourages the negotiators to communicate with the staff of the Los Angeles County Office of Education, various elected representatives and other parties in the State Legislature to address such questions as well, (4) expresses the Board's expectation that "Advocates for Malibu Public Schools (AMPS) will agree to pay for all mutually agreed upon services provided to the negotiators by" one or more educational consultants and legal consultants that may be necessary to address questions concerning "non-budgetary financial issues" and "environmental liability," and directs the execution prior to the commencement of

negotiations of appropriate agreements between SMMUSD and AMPS to ensure that AMPS is responsible for the payment of such mutually agreed upon services.

4. The Action Item listed four conditions that must be met before the negotiations will be determined to have been completed successfully:

a. The negotiating teams collectively determine that negotiations have achieved the Board's objectives and present the evidence for their determination in a Discussion Item during a regular meeting of the Board;

b. Any technical and legal concerns regarding the negotiated agreements have been resolved satisfactorily;

c. The Board determines that negotiations have achieved their objectives and formally approves the written report and the agreements therein as a Major Action Item during one of its regular public meetings; and

d. The Malibu City Council formally approves the written report and the agreements therein during one of its regular public meetings.

I. Negotiators have been appointed consistent with the Action Item, and this Agreement is intended to comply with the Board's direction to ensure payment by AMPS of mutually agreed upon services provided by consultants who are to be made available to the negotiators, and mutually agreed upon by those negotiators.

Now, therefore, in view of the foregoing, the Parties make the agreements set forth herein.

II. AMPS PAYMENT FOR CONSULTANTS' SERVICES

A. AMPS shall pay for the services of each of the consultants described in Section C below, each of whom shall be mutually agreed upon by the negotiators and after receipt of a scope of work proposal from said consultant(s) that has been approved by the negotiators.

B. Each consultant shall be (1) retained by SMMUSD pursuant to an engagement agreement approved by SMMUSD to assist the Board in its evaluation of any recommendations the negotiators might make pursuant to the Action Item and (2) as contemplated in the Action Item, made available to support the negotiators. However, neither the negotiators, nor SMMUSD, nor The City of Malibu ("MALIBU") shall be responsible for payment to such consultant(s) for said services. Rather, AMPS shall be responsible for all payments for said services provided by such consultant(s), and each engagement agreement shall be signed by AMPS to reflect its obligation to pay for all services provided to SMMUSD and the negotiators and shall provide that such

consultant has no financial recourse to collect any money from SMMUSD, MALIBU or the negotiators for any such services.

C. It is contemplated that the following consultants may be retained pursuant to the Action Item and this Agreement, for the services and advice described below:

1. An educational consultant with respect to issues relating to (a) the extent and nature of any fiscal impact of separation on each of the districts and, if necessary, available methods to address any significant adverse financial impacts, (b) the allocation of assets and liabilities of SMMUSD between the two districts, and (c) any other financial issues which the negotiators agree should also be addressed as a part of the negotiations.

2. A legal consultant, to provide legal advice as to the legality and enforceability of (a) any method selected by the negotiators to address any significant adverse financial impact of separation, and (b) methods selected by the negotiators to allocate assets and liabilities of SMMUSD between the two districts and to address issues relating to outstanding bonds and authorized but unissued bonds.

3. An environmental law consultant, to provide legal advice with respect to all matters relating to the elimination of post-unification liability of SMMUSD (operating then as SMUSD) for environmental issues at Malibu schools, including, without limitation, assumption of responsibility for any remaining remediation work, a release from MUSD from any such liability, an indemnification for any future claims arising from such remediation work after separation or the failure to undertake appropriate work post-unification, resolution of the pending litigation against SMMUSD or an enforceable agreement from the plaintiffs that SMMUSD, then operating as SMUSD, the Board and all individuals will be dismissed from the lawsuit.

III. REPRESENTATIONS AND WARRANTIES OF AUTHORITY

Each person executing this Agreement represents and warrants that he or she has the full right and authority to enter into and consummate this Agreement.

IV. MISCELLANEOUS

A. This Agreement constitutes the entire agreement between and among the Parties with regard to the matters herein set forth.

B. This Agreement may not be amended, canceled, revoked or otherwise modified except by written agreement executed by all of the Parties.

C. This Agreement is the product of negotiation and preparation by and among the Parties and their respective attorneys. This Agreement shall be interpreted without regard to the drafter of this Agreement and shall be construed as though all Parties hereto participated equally in the drafting of this Agreement.

D. Nothing in this Agreement or any actions taken by SMMUSD in connection herewith shall be deemed to constitute an agreement by SMMUSD to approve, or participate in, any petition proposed to be filed by AMPS or any other person seeking approval of a school district separation. AMPS acknowledges that any decision by SMMUSD relating to such a petition will be subject to the consideration of a variety of factors, that SMMUSD must retain the unfettered right to decide whether, and to what extent, to support any such petition and to elect not to do so for any reason whatsoever. No decision by SMMUSD to refuse to support a petition shall give AMPS the right to be reimbursed by SMMUSD for any amounts paid by AMPS hereunder.

E. Nothing in this Agreement obligates SMMUSD to continue with any of the negotiations contemplated in the Action Item and the Board retains the right to terminate all such negotiations or modify instructions to the Santa Monica Team at any time for any reason in its sole discretion. Furthermore, nothing in this Agreement shall obligate the Board to accept the recommendations of the negotiators and the Board retains the right to modify or reject any such recommendations at any time for any reason in its sole discretion. No action by the Board to terminate or modify negotiations or amend or reject any recommendations of the negotiators shall give AMPS the right to be reimbursed by SMMUSD for any amounts paid by AMPS hereunder.

F. MALIBU and all members of the Malibu City Council are intended to be third-party beneficiaries of this Agreement.

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V. COUNTERPARTS

This Agreement may be executed in counterparts, and all so executed shall constitute an agreement which shall be binding upon all Parties, notwithstanding that the signatures of all Parties do not appear on the same page. This Agreement may also be enforced where the signature of any party is, or has been, transmitted by facsimile or electronic transmission, and the fact that a party has only provided its signature by facsimile or electronic transmission shall not prevent any other party from enforcing this Agreement.

IT IS SO UNDERSTOOD AND AGREED. IN WITNESS OF THEIR AGREEMENT TO THE FOREGOING TERMS, THE PARTIES HAVE EXECUTED THIS AGREEMENT AS OF THE DATE FIRST SET FORTH ABOVE.

SANTA MONICA-MALIBU UNIFIED
SCHOOL DISTRICT:

By: Sandra Lyon
Its: Superintendent

ADVOCATES FOR MALIBU PUBLIC SCHOOLS:

By:
Its:

AGREEMENT FOR PAYMENT OF CONSULTANT FEES

I. RECITALS

This Agreement for Payment of Consultant Fees (this “Agreement”) is made and entered into as of _____, 2016, by and among Santa Monica Malibu Unified School District, a political subdivision of the State of California, (“SMMUSD”), and Advocates for Malibu Public Schools, a California unincorporated association, (“AMPS”). SMMUSD and AMPS are collectively referred to herein as the “Parties” and individually as “Party.” This Agreement is made with respect to the following facts and circumstances:

A. On June 7, 2012, the Board of Education for SMMUSD (the “Board”) accepted the recommendation of SMMUSD’s Financial Oversight Committee (the “FOC”) that the FOC “analyze all reports and research related to the proposed Malibu separation.”

B. In its annual report to the Board for 2012-2013, the FOC reported that a subcommittee of the FOC had reviewed a feasibility report prepared by West Ed, discussed certain financial aspects relating to a proposed separation and concluded that it was premature to reach any conclusions regarding the financial viability of two separate districts. As a result of various legal and financial uncertainties, the FOC recommended, and the Board agreed, that this subcommittee be continued for at least another year. On June 6, 2013, the Board accepted this proposal.

C. On July 16, 2014, the FOC reported to the Board that the subcommittee had reviewed a revised feasibility report prepared by West Ed and, after discussion, agreed majority of the FOC decided that there were legal issues that needed to be addressed before the subcommittee would be able to make a recommendation to the full FOC. A legal memorandum from AMPS’s counsel was expected on these issues. In response to the FOC’s recommendation that this subcommittee be continued for an additional year, the Board adopted a resolution that the FOC examine, among other things:

“Issues associated with split unification, including the allocation of existing Measure BB bond indebtedness between two districts, new Measure ES bonds, and future bonds; CEQA indemnification costs; the continuation of the Measure R parcel tax in Malibu; the potential role of state legislation in regards to the split unification process; a division of assets and workforce; and LCFF calculations. It was decided that the FOC could assist the district in developing a scope of work for an independent contractor to help the district answer many of these questions. Mr. Foster, FOC member and President of AMPS, said AMPS would cover the cost of such an independent contractor. [FOC Subcommittee Chair] Mr. Larmore suggested that the FOC return in October with a scope of work for the independent contractor for the board to consider and plan to move forward. [SMMUSD Board Member] Dr. Escarce suggested staff create a matrix identifying and prioritizing all of the district’s questions and issues regarding split unification and determine where the FOC and/or independent consultant

could assist reduce uncertainty. It was also decided that [SMMUSD Chief Financial Officer] Ms. Maez, the independent contractor, and the FOC would report back to the board with findings. [SMMUSD Board Members] Ms. Lieberman and Dr. Escarce, board liaisons to the FOC, will work with the FOC unification subcommittee.”

On or about September 23, 2014, AMPS’s counsel – the law firm of Nielsen Merksamer Parinello Gross & Leoni LLP – provided to the FOC the memorandum referenced above.

D. In response to the foregoing resolution, the FOC reported to the Board on October 16, 2014 regarding, among other things, recommendations for activities by two separate subcommittees - one focusing on budget issues and another on bond-related issues. Shelley Slauch-Nahass, Chair of the FOC, advised the Board in her presentation that both subcommittees recommended that SMMUSD retain legal and financial consultants and that it was the FOC’s understanding that all costs would be paid by AMPS. In response to a question from Board Member Mechur, SMMUSD’s Chief Financial Officer, Jan Maez, advised that SMMUSD would retain the consultants and that AMPS would reimburse SMMUSD for the fees incurred.

E. On June 11, 2015, SMMUSD Staff submitted a request that it be authorized to enter into an agreement with the law firm of Dannis Woliver Kelley in response to recommendations from the FOC relating to the retention of legal counsel in connection with bond issues associated with the Malibu separation. The Agenda item stated: “Expenses will be reimbursed by AMPS upon completion of a reimbursement agreement between SMMUSD and AMPS. DWK to provide legal support to SMMUSD related to the creation of a new Malibu Unified School district.” The Board, on a motion by SMMUSD Board Member Dr. Escarce and seconded by SMMUSD Board Member Mr. Foster¹, voted 6-0 to “postpone approval of the Dannis Woliver Kelley contract for the Business Services Department until the agreement with Advocates for Malibu Public Schools (AMPS) has been signed by AMPS and is ready for board approval.” Due to the scope of the proposal by Dannis Woliver Kelley, the form of the agreement for financial responsibility, and its objection to the selection of Dannis Woliver Kelley, AMPS did not sign the agreement.

F. On July 15, 2015, the FOC reported to the Board that it believed:

1. Assuming a new parcel tax in Malibu, the proposed reorganization would not cause a substantial negative effect on the fiscal status of a new Malibu Unified School District (“MUSD”) or SMMUSD, then operating as Santa Monica Unified School District (“SMUSD”).
2. Allocation of assets and liabilities, including bond indebtedness, should not create a significant obstacle to the proposed reorganization. While the FOC

¹ In November 2014, Mr. Foster was elected to the SMMUSD Board, and shortly thereafter resigned his position with AMPS in order to avoid any conflict. Mr. Foster currently serves as a Trustee of SMMUSD, and has no leadership role with AMPS.

subcommittee recommended what it believed to be equitable allocations of most categories of assets and liabilities, it was unable to reach a consensus on a few and concluded that these would need to be worked out through further discussions. While the subcommittee attempted to apply relevant law to its allocations, SMMUSD should retain legal counsel to review the subcommittee's work to assist the Board in working through the various issues.

3. Any separation would need to be conditioned upon (a) a resolution of claims made against SMMUSD, the Board and certain SMMUSD officials in an existing lawsuit arising from the procedures followed by SMMUSD in connection with the presence of certain toxic substances in certain Malibu schools and (b) an indemnity in favor of SMUSD for any exposure to future claims based upon any failure, after the date of separation, to properly remediate any existing conditions because responsibility to deal with the Malibu facilities would, following a separation, be under the sole jurisdiction of MUSD.

4. SMMUSD should retain legal counsel experienced in the area of toxic contamination to advise it regarding the nature of any continuing exposure to SMUSD, the proper allocation of responsibility, and the appropriate means to achieve that allocation, including indemnifications.

G. In September, 2015, the FOC received new information regarding the manner in which the State of California provides funds to SMMUSD relevant to the opinion it expressed in its July 15, 2015 report to the Board regarding the effect on the fiscal status of the proposed reorganization. After studying the new information the FOC adopted the following motion on November 12, 2015:

“After careful analysis of updated operating budgets and projections provided by the District’s fiscal services department and WestEd, which now reflect the District’s new understanding about the effects of minimum state aid, the FOC concludes that the Santa Monica-only district financial picture would be significantly different than what was reported to the Board by the FOC in July 2015 and is significantly worse on a per-student basis, as compared with continued operation of the existing District. As part of the discussion, the FOC also considered other issues that could affect the overall financial change with a Malibu-only district and a Santa Monica-only district. These changes are outside of the operating budget but could include for a Santa Monica-only district some relief from ongoing legal fees related to facility-related litigation in Malibu and SMMEF funding that will no longer be required by a separate Malibu-only district.”

This motion was reported to the Board by the FOC on November 19, 2015. While the Board took no action at this meeting, each Board member stated that they understood the need for Malibu to have an independent school district and that they were in support of a separate district as long as there was no materially negative financial impact to Santa Monica students, and the

Board directed that its Malibu unification subcommittee (Ms. Lieberman, Dr. Escarce and Mr. Foster) meet and return to the full Board with recommendations regarding next steps.

H. On December 17, 2015, in furtherance of all of the foregoing events, the Board considered a Major Action Item Recommendation from the Board's Malibu unification subcommittee entitled "Process of Negotiations Between Santa Monica-Malibu Board of Education and Representatives of a Potential Malibu Unified School District Regarding Resolution of Issues and Concerns Pertinent to Unification of a Separate Malibu Unified School District." After discussion, the Board unanimously approved the Recommendation with modifications. (As adopted, the Recommendation is referred to herein as the "Action Item.") Notwithstanding the discussion of the history of the FOC and Board deliberations above, the Action Item, which was carefully negotiated between the Board members on the Malibu unification subcommittee, guides and controls the process by which the negotiating committee established by that Action Item (and discussed below) is to complete its task (defined by the Action Item).

1. The Action Item confirms the SMMUSD Board of Education's "unanimous desire for the co-existence of the Santa Monica Unified School District and the Malibu Unified School District as two excellent school districts serving their respective communities and providing the best educational opportunities for their respective students as long as it can be accomplished in a manner that does not have a negative impact on the financial condition of the remaining Santa Monica Unified School District."

2. To accomplish that end, the Action Item established a process for negotiating suggested financial terms for the unification of a Malibu Unified School District from the current territorial boundaries of SMMUSD. Specifically, the Action Item called for the appointment of six negotiators – three from Santa Monica, and three from Malibu – with the three Malibu negotiators appointed by the City of Malibu, a political subdivision of the State of California, ("MALIBU") and the three Santa Monica negotiators appointed by SMMUSD. The Action Item further instructed the negotiators "to work cooperatively with one another and with their counterparts, to develop and agree upon terms that promote the [stated] aspirations of the Board."

3. The Action Item (1) sets forth a series of objectives of the Board, (2) contemplates that "the negotiators will likely require access" to certain consultants "to address questions that arise during the negotiations," (3) encourages the negotiators to communicate with the staff of the Los Angeles County Office of Education, various elected representatives and other parties in the State Legislature to address such questions as well, (4) expresses the Board's expectation that "Advocates for Malibu Public Schools (AMPS) will agree to pay for all mutually agreed upon services provided to the negotiators by" one or more educational consultants and legal consultants that may be necessary to address questions concerning "non-budgetary financial issues" and "environmental liability," and directs the execution prior to the commencement of

negotiations of appropriate agreements between SMMUSD and AMPS to ensure that AMPS is responsible for the payment of such mutually agreed upon services.

4. The Action Item listed four conditions that must be met before the negotiations will be determined to have been completed successfully:

a. The negotiating teams collectively determine that negotiations have achieved the Board's objectives and present the evidence for their determination in a Discussion Item during a regular meeting of the Board;

b. Any technical and legal concerns regarding the negotiated agreements have been resolved satisfactorily;

c. The Board determines that negotiations have achieved their objectives and formally approves the written report and the agreements therein as a Major Action Item during one of its regular public meetings; and

d. The Malibu City Council formally approves the written report and the agreements therein during one of its regular public meetings.

I. SMMUSD and MALIBU have, respectively, appointed negotiators consistent with the Action Item, and this Agreement is intended to comply with the Board's direction to ensure payment by AMPS of mutually agreed upon services provided by consultants who are to be made available to the negotiators, and mutually agreed upon by those negotiators, that are in furtherance of establishing a Malibu Unified School District co-existing with the Santa Monica Unified School District as two excellent school districts serving their respective communities and providing the best educational opportunities for their respective students.

Now, therefore, in view of the foregoing, the Parties make the agreements set forth herein.

II. AMPS PAYMENT FOR CONSULTANTS' SERVICES

A. AMPS shall pay for the services of one or more consultants mutually agreed upon by the negotiators, consistent with the Action Item, and after receipt of a scope of work proposal from said consultant(s) that has been approved by the negotiators.

B. The services provided by any such consultant(s) shall be for the benefit of the negotiators in carrying out their task as specified in the Action Item, and such consultant(s) shall be retained by SMMUSD. However, neither the negotiators, nor SMMUSD, nor MALIBU shall be responsible for payment to such consultant(s) for said services. Rather, AMPS shall be responsible for all payments for said services provided by such consultant(s), and AMPS shall secure an agreement from each such consultant specifying that each such consultant has no

financial recourse to collect any money from SMMUSD, MALIBU or the negotiators for any such services.

C. It is contemplated that the following consultants may be retained pursuant to the Action Item and this Agreement, for the services and advice described below:

1. An educational consultant with respect to issues relating to (a) the extent and nature of any fiscal impact of separation on each of the districts and, if necessary, available methods to address any significant adverse financial impacts, (b) the allocation of assets and liabilities of SMMUSD between the two districts, and (c) any other financial issues which the negotiators agree should also be addressed as a part of the negotiations. The educational consultant will be made available by SMMUSD to the negotiators during the negotiation process.

2. A legal consultant, to provide legal advice as to the legality and enforceability of (a) any method selected by the negotiators to address any significant adverse financial impact of separation, and (b) methods selected by the negotiators to allocate assets and liabilities of SMMUSD between the two districts and to address issues relating to outstanding bonds and authorized but unissued bonds. Except as may be agreed by the negotiators, the legal consultant described in this paragraph will be made available by SMMUSD to the negotiators during the negotiation process.

3. An environmental law consultant, to provide legal advice with respect to all matters relating to the elimination of post-unification liability of SMMUSD (operating then as SMUSD) for environmental issues at Malibu schools, including, without limitation, assumption of responsibility for any remaining remediation work, a release from MUSD from any such liability, an indemnification for any future claims arising from such remediation work after separation or the failure to undertake appropriate work post-unification, resolution of the pending litigation against SMMUSD or an enforceable agreement from the plaintiffs that SMMUSD, then operating as SMUSD, the Board and all individuals will be dismissed from the lawsuit.

III. REPRESENTATIONS AND WARRANTIES OF AUTHORITY

Each person executing this Agreement represents and warrants that he or she has the full right and authority to enter into and consummate this Agreement.

IV. MISCELLANEOUS

A. This Agreement constitutes the entire agreement between and among the Parties with regard to the matters herein set forth.

B. This Agreement may not be amended, canceled, revoked or otherwise modified except by written agreement executed by all of the Parties.

C. This Agreement is the product of negotiation and preparation by and among the Parties and their respective attorneys. This Agreement shall be interpreted without regard to the drafter of this Agreement and shall be construed as though all Parties hereto participated equally in the drafting of this Agreement.

D. Nothing in this Agreement or any actions taken by SMMUSD in connection herewith shall be deemed to constitute an agreement by SMMUSD to approve, or participate in, any petition proposed to be filed by AMPS or any other person seeking approval of a school district separation. AMPS acknowledges that any decision by SMMUSD relating to such a petition will be subject to the consideration of a variety of factors, that SMMUSD must retain the unfettered right to decide whether, and to what extent, to support any such petition and to elect not to do so for any reason whatsoever. No decision by SMMUSD to refuse to support a petition shall give AMPS the right to be reimbursed by SMMUSD for any amounts paid by AMPS hereunder.

E. Nothing in this Agreement obligates SMMUSD to continue with any of the negotiations contemplated in the Action Item and the Board retains the right to terminate all such negotiations or modify instructions to the Santa Monica Team at any time for any reason in its sole discretion. Furthermore, nothing in this Agreement shall obligate the Board to accept the recommendations of the negotiators and the Board retains the right to modify or reject any such recommendations at any time for any reason in its sole discretion. No action by the Board to terminate or modify negotiations or amend or reject any recommendations of the negotiators shall give AMPS the right to be reimbursed by SMMUSD for any amounts paid by AMPS hereunder.

F. MALIBU and all members of the Malibu City Council are intended to be third-party beneficiaries of this Agreement.

[The balance of this page has been intentionally left blank.]

V. COUNTERPARTS

This Agreement may be executed in counterparts, and all so executed shall constitute an agreement which shall be binding upon all Parties, notwithstanding that the signatures of all Parties do not appear on the same page. This Agreement may also be enforced where the signature of any party is, or has been, transmitted by facsimile or electronic transmission, and the fact that a party has only provided its signature by facsimile or electronic transmission shall not prevent any other party from enforcing this Agreement.

IT IS SO UNDERSTOOD AND AGREED. IN WITNESS OF THEIR AGREEMENT TO THE FOREGOING TERMS, THE PARTIES HAVE EXECUTED THIS AGREEMENT AS OF THE DATE FIRST SET FORTH ABOVE.

SMMUSD:

By:
Its:

AMPS:

By:
Its:

ATTACHMENTS FOR:

IV. RETENTION OF FACILITATOR

KAREN ORLANSKY

February 29, 2016

Ms. Sandra Lyon, Superintendent of Schools
Santa Monica-Malibu Unified School District
1651 16th Street
Santa Monica, California 90404

Dear Superintendent Lyon,

Thank you for the opportunity to submit an expanded proposal to facilitate a negotiation process focused on resolving financial issues pertinent to a potential separate Malibu Unified School District.

As a seasoned local government professional with expertise in facilitating resolutions to multifaceted public policy disputes, I am well qualified to perform this assignment. In addition to having the essential knowledge and experience, nothing precludes me from serving as an impartial facilitator for these negotiations. I am free from bias, prejudice, or favoritism, and have no financial or personal stake in the substantive outcome of these negotiations.

This proposal includes: my understanding of the assignment; an overview of my professional qualifications; a description of my approach to public sector facilitation; and information about my fees. In the interest of full disclosure, I have attached a summary of the one project that I've done for the City of Malibu and the one project that I've done for the Santa-Monica Malibu Unified School District.

A. Understanding of the Facilitator Assignment

The Board of Education for the Santa Monica-Malibu Unified School District (Board of Education) and the City of Malibu are seeking a professional third-party neutral to facilitate a negotiation process that all participants perceive as fair and constructive. The purpose of the negotiations is to resolve financial concerns raised by the Financial Oversight Committee report and any other financial issues regarding unification of a potential separate Malibu Unified School District that remain unresolved from previous discussions. The parameters of the facilitator's role will be decided as part of the negotiations.

In a memorandum approved by the Board of Education on December 17, 2015 (Major Item No. A.16), the Board of Education outlines its objectives for the negotiations and identifies financial items that must be negotiated. This memorandum also specifies that the items listed do not necessarily limit the Board's objectives or the financial items to be negotiated.

The negotiations will be between two teams consisting of a maximum of three members each. One team, appointed by the Superintendent of SMMUSD and approved by the Board of Education, will represent the interests of a potential separate Santa Monica Unified School District. The other team, appointed by the City Manager of the City of Malibu, will represent the interests of a potential separate Malibu Unified School District.

The Board of Education anticipates that negotiations will conclude within 60 days of the first meeting of the two negotiating teams. An extension of an additional 30 days is possible if the two teams agree and the Board of Education approves.

Finally, the Board of Education has set forth requirements for reporting back to the Board on the progress of negotiations. In addition, the Board has established a requirement for a final written report signed and approved by both negotiating teams at the conclusion of successful negotiations.

B. Professional Qualifications

I am a local government professional and experienced facilitator of public policy disputes that involve a myriad of legal, financial, management, and political issues, as well as divergent community interests. In addition to graduate degrees in public policy and dispute resolution, I have a strong track record of working with elected officials, agency staff, and community members to understand, analyze, and resolve complex and divisive issues involving law, policy, and the allocation of resources.

Frontline Local Government Experience. Between 1985 and 2012, I worked for Montgomery County, Maryland. For 18 years, I served as the Council-appointed director of the Office of Legislative Oversight, whose mission is to develop evidenced-based findings and actionable recommendations for improving the effectiveness, efficiency, and sustainability of publicly funded programs and services.

Montgomery County is a jurisdiction of a million residents with an annual operating budget of \$4.5 billion, of which about half is appropriated to the public schools. In addition to working on many school system related projects, my portfolio extended across all local government operations, including police and fire/rescue services, human services, parks and recreation, and land use planning, as well as labor relations and internal service functions such as finance, budgeting, human resources, and procurement.

I learned early on that decisions to make changes are most durable when the individuals charged with implementing the changes are part of the process of identifying the problems to be solved and crafting solutions. As a result, I developed, practiced, and trained my staff in a collaborative approach to conducting our projects. Integral to our process was to convene and facilitate task forces and other groups consisting of stakeholders with different and often disparate interests and points of view.

Listed below are examples of durable resolutions of public policy issues that I worked to facilitate during my tenure with Montgomery County. In addition to being matters of strong community interest, they all involved working through multiple legal, policy, and fiscal/budget issues:

- A memorandum of understanding among the Superintendent of Schools, the Police Chief, and the State's Attorney regarding the public reporting of criminal and other serious incidents that occur on school property.
- An agreement among four agencies (including the Public Schools and County Government) to reduce the long-term costs of retiree health benefits by making plan design changes and entering into cooperative procurements.
- An agreement among the Public Schools, Health and Human Services Department, Police Department, District Court, and State's Attorney's Office to coordinate services provided to adult and child victims of domestic violence.

Fellow, Straus Institute for Dispute Resolution. Between 2012 and 2014, I refined and expanded my facilitation skills as a Fellow at the Pepperdine University's School of Law, Straus Institute for Dispute Resolution. While completing my course and clinical work for my Master in Dispute Resolution, I also:

- Taught modules in a graduate-level course on mediation theory and practice.
- Mediated small claims and civil harassment cases in LA Superior Court as a volunteer mediator for the California Academy of Mediation Professionals and Center for Conflict Resolution.
- Worked on facilitation projects with the Center for Collaborative Policy, a unit of CSU-Sacramento whose mission is to improve policy outcomes by building the capacity of public agencies, stakeholder groups, and the public to use collaborative strategies.

Facilitator/Mediator and Management Consultant. Since 2014, I have provided facilitation and other conflict resolution services to public sector clients as an independent contractor. In addition, I am employed as a Senior Advisor for Management Partners, Inc., a consulting firm that works exclusively for local governments. Engagements during the past year have been to:

- Facilitate results-oriented meetings of elected officials, such as City Council goal setting sessions.
- Facilitate meetings of task forces and other groups, which includes helping to: establish agendas, develop and enforce ground rules, keep the discussion on track, serve as the liaison to outside experts, and offer process suggestions so that the group can achieve its goals.
- Mediate inter-personal and organizational conflicts.
- Conduct analysis and develop actionable recommendations to improve management, effectiveness, and efficiency of operations.
- Provide executive coaching to senior local government managers.

In addition to my Master of Dispute Resolution from the School of Law at Pepperdine University, I have a Master of Public Affairs from Princeton University, with a concentration in economics and public policy. My Bachelor of Arts is from Oberlin College, where I graduated Phi Beta Kappa with a double major in economics and government.

C. Approach to Public Sector Facilitation

My overall approach to public sector facilitation reflects my experience with what it takes to be an impartial and effective process guide who has no decision-making authority. Specifically, I always:

- Remain substantively neutral.
- Define my client as the whole group.
- Believe in the good will of all group members; recognizing that each voice has value, perception, and wisdom.
- Provide expert information on the group's issues only if requested by a member of the group and only if the group as a whole has agreed that I provide it.
- Abide by the rules of confidentiality, as decided by the group and in accordance with applicable open meetings provisions of state and local law.

It is common for a group to decide the scope of its facilitator's duties and responsibilities. When facilitating a negotiation, the facilitator's role most often revolves around assisting the negotiating parties to navigate the following four basic steps: (1) adopt procedures; (2) educate one another; (3) generate workable options; and (4) reach a mutually acceptable agreement.

Specific ways that I have supported a group's efforts to accomplish these four steps have been to do some or all of the following:

- Help the group to establish procedural ground rules on issues such as: meeting logistics; the working definition of "agreement;" the role of observers; and interactions with the media.
- Help the group to establish ground rules on conduct that encourage participation and candor.
- Assist with clarifying the problem(s) and issues to be addressed.
- Assist with establishing boundaries on the group's substantive discussions.
- Assist with agenda setting in advance of meetings.
- Assist with designing a process that can move the group along a path that results in reaching agreement on durable solutions.
- Maintain a safe and productive working environment by enforcing ground rules and keeping the group focused on the agenda.
- Encourage joint fact-finding and information sharing.
- Assist with internal group communication, to include for example: encouraging the respectful airing of different points of view; addressing any disruptive communication patterns; and helping the group to identify different interests and needs.
- Help the group to identify options, safely explore their BATNAs, (Best Alternative to a Negotiated Agreement), focus on areas of mutual gain, and summarize areas of agreement.
- Serve as the group's liaison to subject experts.
- Encourage specificity in agreements.
- Offer assistance to break an impasse.
- Help the group evaluate its progress along the way, to include advising the parties when the process no longer appears to be meeting its objectives.

D. Fee for Services

My fee for the scope of work outlined in this letter proposal is \$150 per hour. I understand that the cost of my services will be shared (50/50) between the Santa Monica-Malibu Unified School District (SMMUSD) and Advocates for Malibu Public Schools (AMPS). For the record, this proposed fee structure represents a discount because of my personal interest in being of service to the public schools.

Thank you again for the opportunity to be considered as the facilitator for these important negotiations. I would be happy to meet with you, members of the negotiating teams, or others to discuss any questions or concerns about my background, qualifications, or approach to this assignment.

Sincerely,

Karen Orlansky

Karen Orlansky

Acceptance

This proposal is accepted and forms an agreement between the Santa Monica-Malibu Unified School District and Karen Orlansky.

Sandra Lyon _____ Date _____
Superintendent of Schools
Santa Monica-Malibu Unified School District

Karen Orlansky _____ Date _____
Facilitator

Attachment: Disclosures

Disclosures of Previous Work for the City of Malibu and Santa Monica-Malibu Unified School District

As stated in my proposal, there is nothing that precludes me from serving as an impartial facilitator of negotiations related to the potential unification of Malibu as a separate unified school district. I am free from bias, favoritism, or prejudice on the issues that are the subject of this negotiation. I have no financial or personal stake in the substantive outcome of the negotiations.

In the interest of full disclosure, below is information about the one assignment I performed for the City of Malibu and the one assignment I performed for SMMUSD. I include mention of the individuals that I interacted with who are involved, because of the official position that he or she holds, in discussions between the City of Malibu and SMMUSD on the potential unification of Malibu as a separate unified school district.

- In the summer of 2014, the City of Malibu retained my services as a third-party neutral to assist with the planning for and facilitation of a Town Hall style of public meeting for the purpose of disseminating accurate, reliable, and straightforward information about the safety of the air, soil, and surfaces in Malibu's public school facilities. While we completed much of the planning, for various reasons, the Town Hall meeting was not held at that time.

During the course of my work for the City of Malibu, I interacted with: Mr. Jim Thorsen, Malibu's City Manager; members of the Malibu City Council, including Ms. Laura Rosenthal (then Council Member and now Mayor); Mr. Craig Foster in his role as President of Advocates for Malibu Public Schools (this was before Mr. Foster's election to the SMMUSD Board of Education); and Mr. Seth Jacobsen, in his role as an AMPS Board Member (this was before Mr. Jacobsen's appointment to SMMUSD's Financial Oversight Committee); Ms. Sandra Lyon, Superintendent of SMMUSD; and Ms. Laurie Lieberman, Member and now President of the SMMUSD Board of Education.

- In the fall of 2014, the Superintendent of SMMUSD retained my services as a third-party neutral to facilitate a series of "learning conversations" between two teams (three members each) who held different views about the future of the John Muir Woods mural painted on the exterior walls of Olympic High School. While both teams agreed that the deteriorating condition of the walls must be addressed, one team represented Olympic High School's interest in painting a new mural, and the other team represented members of the community with an interest in restoring the current mural image.

A written report on the results of these facilitated conversations, signed by all six participants, was submitted to the Superintendent in the spring of 2015.

ATTACHMENTS FOR:

V. RETENTION OF EDUCATION AND LEGAL CONSULTANTS



PROCOPIO

Qualifications and Proposal for Legal Services

Presented to the Santa Monica–Malibu Unified School District’s Unification Negotiation Committee

Submitted March 11, 2016

John C. Lemmo
Partner
525 B Street, Suite 2200
San Diego, CA 92101
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Letter of interest

PROCOPIO
525 B Street, Suite 2200
San Diego, CA 92101

John C. Lemmo
P. 619.515.3294
john.lemmo@procopio.com

AUSTIN
DEL MAR HEIGHTS
PHOENIX
SAN DIEGO
SILICON VALLEY

March 11, 2016

Via Email

Committee Members
Unification Negotiation Committee
Santa Monica–Malibu Unified School District
1651 16th Street
Santa Monica, CA 90404

Re: Procopio Legal Proposal to Santa Monica–Malibu Unified School District for Legal Services

Dear Committee Members:

At the request of a committee member, we are very pleased to submit this statement of interest and qualifications to provide legal services to the Santa Monica–Malibu Unified School District with regard to district unification.

As a full-service law business firm with a focus on public agency representation, Procopio, Cory, Hargreaves & Savitch LLP is uniquely qualified to provide specialized services to the District with regard to unification, as well as the environmental liability issues we understand are implicated. Procopio believes a true “team effort” is essential to the representation of our clients, and our multi-disciplinary team will work closely and efficiently with the Santa Monica–Malibu Unified School District Board, staff, and Unification Negotiation Committee. We fully recognize the high cost of legal services, and have earned a reputation for providing genuine legal value by combining the highest quality legal services with reasonable billing rates, sensible staffing practices and overall sensitivity to cost effectiveness.

We understand that the District is in the process of negotiation with regard to unification and the potentially separate Malibu Unified School District. As you know, the unification process can take many turns, and a great part of the financial aspect of the process is negotiated or arbitrated. Our attorneys have advised and assisted school districts and other stakeholders with reorganizations including unifications, and have deep experience with the municipal analogue in Local Agency Formation Commission matters. We have handled school district boundary changes, and advised on legal and political implications of district reorganizations, and the petition process itself. We have also litigated disputed matters related to district reorganizations, including property valuation.



We further understand that there are site contamination issues and associated liability concerning at least two school sites affected by the unification. Our attorneys have extensive experience with environmental liability and remediation, both in the regulatory world and in the courts. Our expertise in this area will be valuable with regard to successful negotiation and implementation of unification.

We are unaware of any conflicts that would complicate our engagement and believe that our combined expertise and strengths in the areas you seek legal counsel make us a strong candidate to represent the Santa Monica-Malibu Unified School District in these matters.

We look forward to your review of our qualifications, and will be happy to make ourselves available for an initial consultation and/or to address any and all issues you may have with respect to our prospective representation.

Sincerely,

John C. Lemmo
Partner, Public Agencies and Charter Schools
619.515.3294
john.lemmo@procopio.com

1. Procopio Firm Highlights

Based in San Diego, we have offices in the Western Region including Silicon Valley, Phoenix and Austin with over 150 attorneys. Procopio is a full-service business law firm with professional problem solvers who understand our clients' businesses and agencies and work tirelessly to mitigate business and legal risks. Procopio is the largest San Diego-based law firm and one of most well-established law firms in the Western Region of the United States. While based in Southern California, we serve our clients' interests around the country and the world, with global threads to our expanding practice throughout the west and in Asia and Latin America. While a majority of our attorneys practice out of our San Diego offices, they routinely travel to onsite locations throughout the west when personal meetings are preferred or warranted. We have found that this model, which we have used consistently with our public agency, land use, and environmental practices is an efficient way to provide excellent client service while extending our capabilities and avoiding conflicts. The Santa Monica–Malibu Unified School District would have a primary contact in the firm's San Diego office.

We want to meet and exceed your expectations. Equally important, we believe in, and invest in, long-term and trusted relationships with our clients. We structure and manage our practice with our focus firmly fixed on what matters to you: experienced business attorneys acting as partners to deliver the most intelligent and pragmatic legal solutions in the most cost-effective fashion. At Procopio, we foster a culture of innovation, and our people are among the most skilled and experienced in the industries we serve. For that reason, we believe that solving your business challenges are best achieved through ongoing collaboration. Just ask our clients.

"From drought ordinances to water rate changes, to public works and labor matters, our team at Procopio has been by our side for over a decade. We depend on them to help us navigate major legal decisions that have a lasting impact on our business."

Dave Seymour, Former General Manager, Rainbow Municipal Water District

Practice areas include:

- Appellate
- Aviation
- Beer, Wine & Spirits
- Class Action
- Energy and Environment
- Construction
- Corporate and Commercial Litigation
- Corporate and Securities
- Emerging Growth and Technology
- Environmental and Land Use
- Family Law
- Finance, Restructuring and Bankruptcy
- Health Care
- Intellectual Property Counseling
- Intellectual Property Litigation
- International Law
- Labor and Employment
- Latin America
- Licensing
- Litigation
- Medical Technology
- Mergers and Acquisitions and Strategic Joint Ventures
- Native American Law
- Patent Prosecution and Counseling
- Private Client
- Public Agencies and Charter Schools
- Real Estate
- Sports and Active Lifestyle
- Tax
- Trade Secrets
- Trademark and Copyrights
- Trust, Estate and Probate



As one of the most well-established law firms in California, while serving clients' interests throughout the world, we understand that clients expect results. We structure and manage our practice with our focus firmly fixed on what matters to clients: experienced business attorneys acting as partners to deliver the most intelligent and pragmatic legal solutions in the most cost-effective fashion. We advise companies at every stage in the business life cycle, helping them to plan, finance and operate their businesses. Our attorneys have done hundreds of deals, big and small. Along with that, we provide the superior client service you would expect from a smaller firm.

Our Value Proposition

We're always available and we staff our commitments intelligently. We have the infrastructure to support smaller and mid-sized companies, districts and cities, as well as large multinational entities.

"Because of the range of services Procopio offers, we're able to rely on their expertise in several areas including intellectual property, environmental regulation, public works contracting and dispute resolution."

Kevin Hardy, General Manager, Encina Wastewater Authority

Our Commitment to Community

Procopio's founders endowed the firm with an enduring commitment to its clients and the community. The values, foresight, and business acumen forged by its founders have become embedded in the firm and in its employees, who have powered six decades of growth and investment in the community. Today the firm is business partners with its clients and advocates for the San Diego region, investing time and resources back into over 250 organizations including the San Diego Rescue Mission and their commitment to San Diego's homeless and poor populations to create better lives for themselves and build a better community for all.

2. Scope of Work

Public Agency Counseling and School District Unification

Safe-guarding the needs and interests of clients in the public sector is challenging and demands a focused set of skills and experience from attorneys. Our public agency attorneys advise public and private clients on laws regulating public and quasi-public political subdivisions, including areas such as public-private partnerships, conflicts of interest, open meeting (Brown Act) laws and best practices, practical approaches to Public Records Act issues, governmental transparency, Government Code, Water Code, Political Reform Act, parliamentary procedures and public contracting. We provide clients advice and training on ethics laws, secure opinions from the staff of the Fair Political Practices Commission, and counsel on the formation of special purpose organizations ranging from joint powers agencies to limited liability companies.

Our attorneys regularly provide strategic guidance to clients in an array of industries and subject matters ranging from real estate, utilities, pharmaceutical, healthcare, construction, emerging growth and technology. We represent public sector clients throughout California, including school districts, water and sanitation agencies, hospital districts and joint powers authorities for insurance pooling by fire agencies, charter schools and municipalities.

Representative Matters / Listing of Current and Past Public Agency Clients

- Serve as general counsel to the Alpine School District, Rainbow Municipal District, Encina Wastewater Authority, Tri-City Healthcare District, San Elijo Joint Powers Authority and Lakeside Water District.
- Provide counseling and litigation services related to taxpayer challenge to general obligation bond issuance and program to Alpine Union School District regarding proposed high school.
- Advise on petition-initiated school district unification petition.
- Represent Vista Unified School District with regard to large school bond-funded construction program, and advise and defend CEQA compliance.
- Provide counseling and litigation defense for school districts, water districts and other local agencies.
- Serve as legal counsel in connection with large, controversial public projects; residential, commercial and industrial approvals; and litigation with respect to CEQA and NEPA issues.
- Serve as special counsel to city council for administrative appeals.
- Provide counseling and litigation defense related to sewer service allocation, and other rate-payer disputes.
- Provide counseling and litigation defense related to taxpayer challenge to general obligation bond issuance
- Provide counseling and litigation defense in connection with the formation and operation of charter schools.
- Represent Rainbow Municipal Water District in direct and inverse condemnation litigation.
- Negotiated recycled water supply contracts with neighboring water agencies on behalf of the San Elijo Joint Powers Authority.
- Negotiated agreements for the operation of water recycling facilities for municipalities, as general counsel to the Encina Wastewater Authority.
- Negotiated agreements for the supply of effluent for irrigation purposes, as special counsel to the San Diego Country Estates Homeowners Association.
- Provided water rights analysis to the Fall River Resource Conservation District concerning property to be acquired.

Environmental Land Use

Every public agency, business and owner or occupant of land in California is affected by environmental and land use laws and regulations. We provide comprehensive legal counsel to public agency and private clients involved in a wide array of environmental, natural resources, and land use matters. Our work includes all levels of project planning, permitting and development, regulatory compliance and enforcement counseling, as well as dispute resolution and litigation.

In addition to their broad experience and legal and technical expertise in environmental and land use issues, our attorneys have excellent working relationships with regulators, key legislators, community activists, and non-governmental organizations—all of whom influence environmental and land use policy and enforcement.

Permitting and Entitlements

We help clients process or obtain the environmental and land use permits and approvals needed to develop property for commercial, industrial and residential uses. Additionally, we represent clients who seek project approvals or denials from oversight agencies throughout the state.

Air and Water Quality Compliance

Our environmental attorneys counsel and represent a wide variety of clients in the full range of issues arising under federal, state, and local laws regulating the quality of air and water, including counseling on climate change laws and pending regulations. We have drafted documents establishing rights and liabilities with respect to air emissions credits. We also assist clients in obtaining the discharge permits they need to operate their businesses, and also represent private and public entities in disputes before the Regional Water Quality Control Board and the State Water Resources Control Board. We have extensive experience with Army Corps section 404 and state section 401 certifications for projects affecting waters of the United States and reports of waste discharge for those projects that discharge waste into waters of the state. We also advise clients on matters related to asbestos and lead contamination in buildings.

Environmental Litigation

We represent project proponents and public agencies, as well as community organizations, regarding projects in administrative proceedings and litigation under the California Environmental Quality Act and the California Coastal Act. We also represent clients in cases involving Clean Water Act permits, decisions and appeals.

Resource-Constrained Properties

We assist property owners with resource-constrained property, the permitting of creative development plans, the establishment of mitigation banks, and finding resolutions for tough constraint issues which could significantly limit or deter the economic development of property. Our attorneys draft and negotiate the transactional documents involved in the transfer of real property to ensure that environmental responsibilities and liabilities are apportioned in accordance with the intent of the parties and that appropriate insurance protection is obtained when necessary. We also have significant experience with property contamination and Brownfields matters representing public entities and private clients.

Contaminated Properties

We assist sellers and buyers of contaminated properties in sales and lease negotiations and contracts, including for cities and other agencies; we work with consultants and the agencies to obtain certificates of closure and to manage remediation obligations.

Endangered Species and Sensitive Habitat Issues

Our attorneys deal with the legal issues that arise whenever endangered species or their habitats—including wetlands and vernal pools—are affected by land development. We have also developed and worked extensively with species and habitat plans, conservation easements, mitigation banks and community stewardship entities, as well as single-project permitting for public and private clients.

Proposition 65

We advise clients on the notice obligations, discharge prohibitions, and other provisions of California's Proposition 65, and represent clients in enforcement actions brought under this law.

Representative Environmental and Land Use Matters

- Represented a water district in its action against major oil companies for causing the contamination of sewer and drinking water pipelines.
- Assisted clients in their challenge to NEPA and CEQA review provided on a Caltrans project EIR/EIS in which a third party private corporation was undertaking a toll road project. The primary challenges were to the project descriptions, project changes and requirements for subsequent environmental review and public comment.
- Represented numerous developers of Brownfields properties.
- Represented a major developer in the conversion of an 80 year old military installation for a landmark mixed-use facility.
- Represented City of San Diego on industrial wastewater permitting for Point Loma Outfall.
- Represented company in the development and permitting of a 59 million gallon a day wastewater treatment plant for Tijuana, Mexico to deal with border sewage.
- Represented state university on NPDES/ROWD and exemption from California Ocean Plan for discharge into federal and state waters from campus facilities, labs and aquaria.
- Represented numerous clients on Clean Water Act section 404 dredge and fill permits and state certification under section 401.
- Represent Native American tribes and public agencies in the development of internal regulatory programs to protect resources while facilitating development.
- Represented numerous clients in connection with the purchase of environmental insurance policies and claims under such policies.

3. Attorney Biographies

The attorneys at Procopio, Cory, Hargreaves & Savitch LLP that will primarily handle the project for the Santa Monica–Malibu Unified School District are listed below followed by their Biographies.

John C. Lemmo, Partner - Primary Contact
Environmental and Land Use, Public Agencies and Charter Schools.

Gregory V. Moser, Partner
Environmental and Land Use, Health Care, Public Agencies and Charter Schools.

Walter E. Rusinek, Senior Counsel
Environmental and Land Use, Native American Law.

Robert G. Russell, Partner
Environmental and Land Use.

Chip Eady, Senior Counsel
Bond Counsel, Investment Counseling.



John C. Lemmo, Partner

Practice Areas	Public Agencies and Charter Schools Environmental and Land Use
Admissions	California
Direct Phone	619.515.3294
Direct Fax	619.398.0162
Email	

Professional Summary

John is a member of Procopio's Public Agencies and Charter Schools Practice Group, and provides general and focused counseling to charter schools, school districts, water districts and municipalities regarding governance, Operational and business matters. He also represents public agencies, private developers and landowners in matters involving environmental and land use regulation and litigation. He has extensive experience working with and on behalf of local and state governmental and regulatory agencies on permitting, entitlement, compliance, California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) and enforcement matters.

Prior to joining Procopio, John practiced in the areas of public agency, environmental regulation and general commercial litigation with Foley & Lardner LLP. Prior to joining Foley & Lardner, he was with a boutique firm in Beverly Hills, where he practiced real estate, environmental and business litigation. Before graduating from the University of San Diego School of Law, John served as a student attorney with its Environmental Law Clinic and, after graduating, served as staff counsel for a nonprofit public interest organization. John is an adjunct professor at Southwestern College.

Selected Reported Cases

- California School Boards Association v. State Board of Education (2010) 191 Cal.App.4th 530
- New West Charter Middle School v. Los Angeles Unified School District (2010) 187 Cal.App.4th 831
- McLeod v. Vista Unified School District (2008) 158 Cal.App.4th 1156.
- Life Care Centers of America v. CalOptima (2005) 133 Cal.App.4th 1169

Representative Matters

- Provides counseling and litigation defense for charter schools, school districts, water districts and other local agencies.
- Served as legal counsel in connection with large, controversial public projects; residential, commercial and industrial approvals; and litigation with respect to CEQA and NEPA issues.
- Serves as special counsel to city council for administrative appeals.
- Provided counseling and litigation defense related to sewer service allocation, and other rate-payer disputes.
- Provided counseling and litigation defense related to taxpayer challenge to general obligation bond issuance and program.
- Provides counseling and litigation defense in connection with the formation and operation of charter schools.
- Represented board member in special district election dispute.
- Provided cost recovery and enforcement defense representation involving LUSTs and other hazardous waste-related cleanups, as well as counseling and negotiation for brownfields representation.
- Represented agencies and property owners in direct and inverse condemnation eminent domain litigation.
- Provides counseling and litigation defense in connection with coastal development permits (Coastal Act).

Education

- JD, University of San Diego School of Law
- BA, Occidental College, cum laude
- **Community Involvement**
- City of San Diego – Historical Resources Board Chair
- The State Bar of California – Environmental Section

Publications

- “The Ralph M. Brown Act and Related Statutes,” January 2016.
- “Compilation of Selected Laws and Regulations Applicable to Charter Schools,” January 2016.

News Coverage

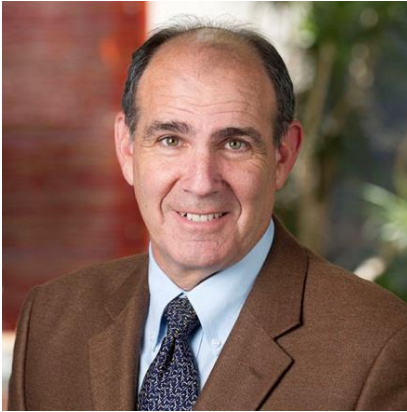
- Dolan, Maura. “LAUSD officials must revise how space is allotted to charter schools,” Los Angeles Times, April 9, 2015.
- Webster, Keeley. “Judge Intervenes in California School Bond Spending Plan,” The Bond Buyer, January 29, 2015.
- Davis, Lisa. “Schoolyard Fight: A charter school’s bid for more space divides a Silicon Valley suburb,” California Lawyer, October 2013.

Seminars

John has given numerous presentations on environmental matters to academic and professional organizations, including the California Charter Schools Association (CCSA), Coalition for Adequate School Housing (CASH), Charter Schools Development Center, University of California, US EPA Brownfields National Conference and the General Land Office of the State of Texas, and has published many articles in the areas of regulatory compliance. He has also made many local television and radio appearances discussing land use and environmental topics.

- Co-presenter. “Can You Do That With Charter School Money? Use of School Funds and Pupil Fees,” The 22nd Annual California Charter Schools Conference, Sacramento, CA, March 19, 2015.
- “How to Acquire Facilities Under Proposition 39,” The 22nd Annual California Charter Schools Conference, Sacramento, CA, March 19, 2015.
- Panelist. “Survival 101: Successful Renewal Strategies and How to Handle Revocation,” The 22nd Annual California Charter Schools Conference, Sacramento, CA, March 18, 2015.
- Panelist. “The Best (And Toughest) Board Meeting Ever: Best Practices Illustrated,” The 22nd Annual California Charter Schools Conference, Sacramento, CA, March 17, 2015.
- Co-presenter. “Charter Facilities: A How-To Guide (Non-Prop 39),” The 22nd Annual California Charter Schools Conference, Sacramento, CA, March 17, 2015.
- “Can You Do That with Charter School Money? School Expenses and Pupil Fees,” 21st Annual Charter School Conference, San Jose, CA, March 4-6, 2014.
- “In The Wake of Sandy Hook: How to Handle Threats from Students,” 21st Annual Charter School Conference, San Jose, CA, March 4-6, 2014.
- “How to Acquire Facilities Under Proposition 39,” 21st Annual Charter School Conference, San Jose, CA, March 4-6, 2014.
- “Student Expulsions and “Dismissals:” Charter Schools are Different,” 21st Annual Charter School Conference, San Jose, CA, March 4-6, 2014.
- “The Best Board Meeting Ever: Demonstrating Best Practices,” 21st Annual Charter School Conference, San Jose, CA, March 4-6, 2014.
- “The Aftermath of the Ivy Academia Case,” Procopio and CCSA Webinar, Nationwide, April 19, 2013.
- “Student Expulsions and Suspensions: Charter Schools are Different,” 20th Annual Charter Schools Conference, San Diego, CA, March 11-14, 2013.

- “Legal Fundamentals of Charter School and Nonprofit Governance,” 20th Annual Charter Schools Conference, San Diego, CA, March 11-14, 2013.
- “Free Legal Clinic on Charter School and Nonprofit Governance,” 20th Annual Charter Schools Conference, San Diego, CA, March 11-14, 2013.
- “How to Acquire Facilities Under Proposition 39,” 20th Annual Charter Schools Conference, San Diego, CA, March 11-14, 2013.
- “Charter Facilities: A How-to Guide (non-Prop 39),” 20th Annual Charter Schools Conference, San Diego, CA, March 11-14, 2013.
- “CCSA Governance Academy: Brown Act, Conflicts and Best Practices for Charter School Board Members and Officials,” April 2012.
- “Charter Facilities: A How-To Guide (non-Prop 39),” 19th Annual Charter Schools Conference, Sacramento, CA, February 27-March 1, 2012.
- “How to Acquire Facilities Under Proposition 39,” 19th Annual Charter Schools Conference, Sacramento, CA, February 27-March 1, 2012.
- “Expulsions and Suspensions: This Isn't How We Did It at the District!” 19th Annual Charter Schools Conference, Sacramento, CA, February 27-March 1, 2012.



Gregory V. Moser, Partner

Practice Areas	Government and Public Affairs Health Care Environmental and Land Use Energy and Environment
Admissions	California
Direct Phone	619.515.3208
Direct Fax	619-398-0179
Email	greg.moser@procopio.com

Professional Summary

Greg represents clients involved in the public sector throughout California, including charter schools, school districts, hospital districts, water and sanitation agencies, joint powers authorities for insurance pooling and municipalities. He also advises individuals and businesses on governmental affairs, including legislation, initiatives, ethics, permits and other entitlements.

Charter schools throughout California rely on Greg for advice on charter development, renewal, incorporation, Proposition 39 and other matters. Clients include King/Chavez Schools of Excellence, Celerity Educational Group, SIA Tech, Inc. and CharterSAFE.

Greg serves as general counsel to several successful public self-insurance pools for general liability and workers' compensation liability, including self-insurance pools in Orange and San Diego Counties.

Much of Greg's work has focused on the adoption of rates and charges, financing and intergovernmental relations. His public agency clients include Encina Wastewater Authority, Rainbow Municipal Water District and Alpine Union School District.

As part of his public agency practice, Greg regularly advises clients on compliance with the California Environmental Quality Act (CEQA) and other environmental laws and regulations. In addition, he advises public and private clients on environmental, land use and water law issues that arise in real estate development.

Reported Cases

Greg was counsel in litigation resulting in the following published appellate decisions relating to public law:

- American Indian Model Schools v. Oakland Unified School District, 227 Cal.App.4th 258 (2014)
- United Teachers of Los Angeles v. Los Angeles Unified School District, 54 Cal. 4th 504 (2012)
- Los Angeles International Charter High School v. Los Angeles Unified School District, 209 Cal.App.4th 1348 (2012)
- California School Boards Association v. State Board of Education, 191 Cal.App.4th 530 (2010)
- New West Charter Middle School v. Los Angeles Unified School District, 187 Cal.App.4th 831 (2010)
- Knapp v. Palisades Charter High School, 146 Cal. App. 708 (2007)
- Water Quality Association v. City of Escondido, 53 Cal. App.4th 755 (1997)
- Conrad v. Medical Board, 48 Cal.App.4th 1038 (1996)
- Ridgecrest Charter School v. Sierra Sands Unified School District, 130 Cal. App. 4th 986 (2005)
- Gentry v. City of Murrieta, 36 Cal. App. 4th 1359 (1995)
- Reported Cases (continued)
- El Monte v. So Cal Joint Powers, 38 Cal. App. 4th 1629 (1995)
- City of Lafayette v. East Bay Municipal Utility District, 16 Cal. App. 4th 1005 (1993)

Representative Matters

- Advised John Muir Health regarding the proceedings of the Contra Costa County Local Agency Formation Commission to dissolve or reorganize the local healthcare district which transferred its hospital to John Muir Health in 1997.
- Advises Tri-City Healthcare District regarding ongoing operations, focusing on compliance with public agency laws, including the Brown Act, conflict of interest laws and local healthcare district law. Also advises the district on real estate, financing and other matters.

Education

- JD, Georgetown University Law Center, cum laude, 1981
- BA, Haverford College, 1977

Distinctions

- Martindale-Hubbell® AV Preeminent Rating
- San Diego Super Lawyers® – 2007-2013 (Government/Cities/Municipalities)
- “Top Lawyers,” San Diego Magazine, 2013 - 2015.

Community Involvement

- Association of California Water Agencies
- California Association of Sanitation Agencies
- California Charter Schools Association
- San Diego County Bar Association
- The State Bar of California – Public Law Section

News Coverage

- Montenegro Brown, Richard. “El Centro council hears independent review of transfer agreement,” Imperial Valley Press, May 6, 2015.
- Frisch, Randy. “The Business of Law,” San Diego Business Journal, July 1, 2013.
- “Soundbite,” Law Exchange International, June 14, 2013.
- “Oakland American Indian Charter Schools Granted Reprieve,” KQED News, June 7, 2013.
- “Oakland charter school seeks court order to stay open,” KTVU, June 5, 2013.
- “Q&A With Procopio’s Greg Moser,” Law360, March 21, 2013.

Publications

- “The Ralph M. Brown Act and Related Statutes,” January 2016.
- “Compilation of Selected Laws and Regulations Applicable to Charter Schools,” January 2016.
- Co-author with Greta A. Proctor. “Charter Schools Boards Live A Double Life: What You Should Know About Financial Oversight of Your School,” 2013 California Charter Schools Financial Management Guide, February 2013.
- “California Supreme Court Rejects Union Attempts to Burden Charter Petition Process,” August 9, 2012.

Seminars

- Panelist. “The Best (And Toughest) Board Meeting Ever: Best Practices Illustrated,” The 22nd Annual California Charter Schools Conference, Sacramento, CA, March 17, 2015.
- Panelist. “The Worst Board Meeting Ever,” The 22nd Annual California Charter Schools Conference, Sacramento, CA, March 17, 2015.
- “Can You Do That with Charter School Money? School Expenses and Pupil Fees,” 21st Annual Charter School Conference, San Jose, CA, March 4-6, 2014.

- “The Best Board Meeting Ever: Demonstrating Best Practices,” 21st Annual Charter School Conference, San Jose, CA, March 4-6, 2014.
- “The Worst Board Meeting Ever: Learning From Outrageous Mistakes,” 21st Annual Charter School Conference, San Jose, CA, March 4-6, 2014.
- “Governance Q&A "Board Member Governance Summit," 21st Annual Charter School Pre-Conference, San Jose, CA, March 3, 2014.
- “The Aftermath of the Ivy Academia Case,” Procopio and CCSA Webinar, Nationwide, April 19, 2013.
- “The Worst Board Meeting Ever: Learning from Outrageous Mistakes,” 20th Annual Charter Schools Conference, San Diego, CA, March 11-14, 2013.
- “Legal Fundamentals of Charter School and Nonprofit Governance,” 20th Annual Charter Schools Conference, San Diego, CA, March 11-14, 2013.
- “Free Legal Clinic on Charter School and Nonprofit Governance,” 20th Annual Charter Schools Conference, San Diego, CA, March 11-14, 2013.
- “Authorizers’ Authority Over Charter Schools,” 20th Annual Charter Schools Conference, San Diego, CA, March 11-14, 2013.
- “Making the Parent Empowerment Work,” 20th Annual Charter Schools Conference, San Diego, CA, March 11-14, 2013.
- “Managing Growth: CMOs, EMOs and their Siblings,” 20th Annual Charter Schools Conference, San Diego, CA, March 11-14, 2013.



Walter E. Rusinek, Senior Counsel

Practice Areas	Environmental and Natural Resources Native American Law
Admissions	California Arizona
Direct Phone	619.525.3812
Direct Fax	619.398.0122
Email	walter.rusinek@procopio.com

Professional Summary

Walter has broad experience in handling environmental, natural resource and Native American law matters, counseling and defending clients and interacting with federal, state and local environmental and energy regulatory agencies. His practice includes compliance, permitting and litigation under federal and state energy regulatory bodies water and air quality and hazardous waste laws, the California Environmental Quality Act (CEQA), the National Environmental Policy Act (NEPA), the federal Superfund law and the Endangered Species Act. Walter has extensive experience in managing the cleanup of contaminated properties and in conducting environmental due diligence in real estate and asset transfers. He also counsels industrial and construction-related clients on stormwater compliance issues. He is the author of articles on water rights in the western US, including federal reserved water rights. Walter counsels Native American clients on various environmental and Indian law issues, including the transfer of fee-owned property into trust. He also worked for a number of years on hazardous waste and water quality issues in the hard rock mining industry. He has practiced environmental and natural resources law in San Francisco with Heller, Ehrman, White & McAuliffe and in Phoenix, AZ, with Gallagher & Kennedy.

Reported Cases

- RiverWatch, et al. v. Olivenhain Municipal Water District (2009) 170 Cal.App.4th 1186 (Reversed trial court's decision and held that the water district violated CEQA when it entered into a water-sales contract).
- RiverWatch, et al. v. County of San Diego (2009) 175 Cal.App.4th 768 (Upheld trial court's award of attorneys' fees for successful CEQA lawsuit).

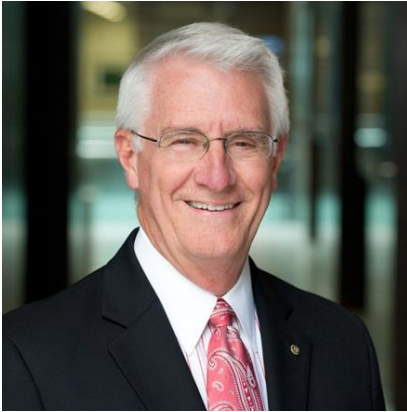
Representative Matters

- Represents the Pala Band of Mission Indians in challenging the proposed Gregory Canyon municipal solid waste landfill that would be constructed adjacent to the Pala Reservation and next to Native American sacred sites. The work has included successful litigation challenging the project under CEQA, resulting in five separate appellate actions in the California court of appeals and two published opinions. Challenging the project also has included reviewing and commenting on permit application documents and draft permits from the Regional Water Quality Control Board, the Air Pollution Control District, the Army Corps of Engineers and other agencies. Efforts to protect the sacred sites have included assisting the client in seeking to list the sites on the National Register of Historic Places and in conducting consultation with the Army Corps under Section 106 of the National Historic Preservation Act, and drafting state legislation to protect the sites.
- Resolved claims by a client that operates a public wastewater treatment facility for excessive charges by an electrical service provider in a Public Utilities Commission action.
- Assisted Native American clients in preparing the application for and completing the necessary environmental review for transferring fee-owned property into trust under the Indian Reorganization Act.
- Assisted Native American client in amending easements for a BIA road to allow infrastructure improvements and maintenance of the road and related areas.

- Assisted Native American client in obtaining “treatment as a state” status under the federal Clean Air Act and in its pending application for treatment as a state under the federal Clean Water Act.
- Headed group of responsible parties that resolved liability claims brought by the US Environmental Protection Agency concerning a Superfund site in California.
- Resolved claims by the Regional Water Quality Control Board seeking \$17M in penalties from a NYSE-listed company related to historic activities in San Diego County that caused groundwater contamination.
- Defended client charged with numerous felonies alleging violations of the California Water Quality Act and hazardous waste laws. Settlement resulted in misdemeanor with no jail time being served.
- Counseled major mining company on numerous water quality and hazardous waste issues related to ongoing operations and proposed expansions of operations.
- Managed closures of large industrial facilities and remedial actions at Superfund sites by negotiating with federal and state agencies and overseeing the work of environmental consultants, including review of consultant reports.

Education

- JD, UC Berkeley School of Law, 1990 (Ecology Law Quarterly Articles Editor)



Robert G. Russell, Partner

Practice Areas	Environmental Insurance Law
Admissions	California Nevada
Direct Phone	619.515.3244
Direct Fax	619.744.5444
Email	bob.russell@procopio.com

Professional Summary

Bob's practice focuses on environmental and insurance matters in California and Nevada. He has represented numerous landowners, developers and business operators in matters involving contamination and permitting issues.

Bob served three years in the US Navy achieving the rank of Lieutenant at the time of his discharge in 1972.

Representative Matters

- Represents a major developer in connection with acquisition and development of a former military base in San Diego.
- Represents owners, buyers and developers of numerous environmentally impacted residential and commercial property developments throughout San Diego County and Southern Nevada.
- Represents owners of shopping center properties impacted by releases of solvents from dry cleaning operations.
- Represented an East County property owner in proceedings before the Water Board to achieve rescission of a cleanup order issued by local officials at the well-known Lucy May Carender site.
- Represents business and property owners in a variety of matters involving underground storage tank problems and claims to the California Underground Storage Tank Cleanup Fund.
- Represents business and property owners in connection with all types of insurance coverage issues.

Education

- JD, University of San Diego School of Law, magna cum laude, 1975
- BA, Rice University, 1968

Distinctions

- Martindale-Hubbell® AV Preeminent Rating
- San Diego Magazine's San Diego's Top Environmental Lawyers
- San Diego Super Lawyers® – 2007-2015 (Environmental)
- Southern California's Top Rated Lawyers – 2012-2015
- Top Rated Lawyer in Energy Law, Environmental Law, Land Use Law – 2013
- Top Rated Lawyers Land Use and Zoning – 2013

Community Involvement

- Goodwill Industries of San Diego County – Board of Directors
- San Diego Rotary Club – Secretary/Treasurer (2014-2015), President (2017-2018)

News Coverage

- “Top Lawyers,” San Diego Magazine, 2013 - 2015.
- “34 Procopio Attorneys Named San Diego Super Lawyers® and Rising Stars,” LawExchange Soundbite, January 29, 2015.
- “San Diego Super Lawyers,” Super Lawyers Magazine, San Diego 2015.
- “Southern California Super Lawyers,” Super Lawyers Magazine, Southern California 2014.
- “San Diego Super Lawyers,” Super Lawyers Magazine, San Diego 2013.

Seminars

- “Environmental Legislative & Judicial Update,” San Diego Environmental Professionals, February 2008-2013.



Edsell "Chip" M. Eady, Jr., Of Counsel

Practice Areas	Public Agencies and Charter Schools Tax Energy and Environment
Admissions	California
Direct Phone	619.906.5749
Direct Fax	619.744.5470
Email	matt.short@procopio.com

Professional Summary

Chip represents public charter schools in their facilities financing nationwide. He also continues in his fourth decade representing California cities, agencies and special districts, with projects including mixed use development, affordable housing, municipal utilities, pension and retirement benefits, education, health care, cultural and recreational facilities, transportation infrastructure, green power, water and wastewater facilities, open space preservation, land development and equipment leasing. He also assists clients in their ongoing compliance with federal tax and securities law, including clients under investigation or responding to official enforcement actions and investor concerns, and clients who must communicate properly about sensitive situations and events.

Chip has served as special counsel in matters involving fiscal, fiduciary and risk management, debt restructuring, public and public/private enterprises, economic development and communication with public officials, constituencies, trustees, investors and credit rating agencies. His practice encompasses hundreds of municipal bond issues raising tens of billions of dollars. Chip's experience includes investigation and resolution of securities disclosure and related federal tax matters, the establishment of tax-exempt OPEB trust with IRS private letter ruling and assistance with responses to official and public records requests.

Earlier in his career, Chip practiced law at large international firms such as Holland & Knight LLP, Nixon Peabody LLP, Foley & Lardner LLP and Jones Day. He also worked several years as an accredited investment banker, structuring and executing municipal bond issues throughout southern California.

Representative Matters

- Served as lead bond counsel, disclosure counsel and borrower's counsel for the development of a new public charter school in downtown San Diego.
- Served as special counsel to the City of Cupertino on Apple Campus 2: a landmark project in the heart of Silicon Valley that will become the largest private-sector research and development facility in the United States.
- Created the first cover-to-cover plain English municipal bond offering document in 1999, with continuing refinements over the past 15 years for clients such as the Midpeninsula Regional Open Space District.
- Served as bond counsel and disclosure counsel for the largest wastewater treatment facility in the western United States.
- Won a civil RICO lawsuit that enabled a California city to recover 100% of its investment losses in land development bonds, while achieving termination of an SEC investigation of the city without any settlement or penalty.
- Served as bond counsel for electric and water system revenue bonds and tax-exempt trust funding of retirement health care benefits (including renewable energy projects such as hydroelectric and wind power) for the Eugene Water & Electric Board.

Education

- JD, The University of Michigan Law School
- AB (Government), *magna cum laude*, Harvard College

Distinctions

- Martindale-Hubbell® AV Preeminent Rating
- Southern California's Top Rated Lawyers – 2015

Community Involvement

- National Association of Bond Lawyers
- American Bar Association – State and Local Government Section
- The State Bar of California
- San Diego County Bar Association
- Tom Homann Law Association

News Coverage

- “2015 Top Lawyers,” *San Diego Magazine*, March 2015.
- Lovitt, Tony. “Urban Discovery Academy finds new home in East Village,” *The Daily Transcript*, February 25, 2015.
- “On The Move,” *Daily Journal*, November 25, 2013.
- “Procopio Continues Expansion of Public Agencies and Charter Schools Practice; Adds Key Bond Financing Attorney,” Procopio Press Release, November 15, 2013.

Publications

Chip is a frequent panelist and speaker at bond conferences nationwide.

- Co-presenter. “Tax Exempt Bonds: Are You Ready? What's the Plan? Can You Live With It?,” The 22nd Annual California Charter Schools Conference, Sacramento, CA, March 17, 2015.
- Co-presenter. “Facilities Financing for California Charter Schools,” Charter School Capital, Webinar, September 30, 2014.

4. Proposed Team and Fee Structure

As with most law firms, our attorneys' hourly rates vary with practice area and level of experience. Hourly rates for our attorneys described herein range from \$495 to \$620. But for many of our public agency clients, we typically provide services at a uniform "blended" rate, at a substantial discount. For the District, we propose a blended hourly rate of **\$350** for all partners and associates who provide any of the services to be provided regularly without regard to their standard billing rates, through January 1, 2018. Again, this represents a substantial discount and provides the District with access to any of our attorneys for such work.