

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

**Monday, March 7, 2016 at 7:00pm  
District Office Conference Room  
1651 16<sup>th</sup> St., Santa Monica, CA 90404**

- I. Call to Order / Roll Call
  
- II. Retention of Education and Legal Consultants  
Attachments:
  - Agreement for Payment of Advisor Fees (*provided by SMMUSD*)
  - Agreement for Payment for Consultant Fees (*provided by AMPS*)
  
- III. Retention of Facilitator  
Attachments:
  - Proposal from Karen Orlansky
  - Information on Hon. Steven J. Stone (Ret.)
  - Information on Antonio Piazza
  - Information on Hon. Margaret A. Nagle (Ret.)
  - Information on Hon. Russell Bostrom (Ret.)
  
- IV. Public Comments
  
- V. Set Date of First Official Meeting & Possible Agenda Topics
  
- VI. Adjournment

**ATTACHMENTS FOR:**

**II. RETENTION OF EDUCATION AND LEGAL CONSULTANTS**

## **AGREEMENT FOR PAYMENT OF ADVISOR FEES**

This Agreement for Payment of Advisor Fees (the “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:

### **I. RECITALS**

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.” 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 for AMPS, 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.

B. On July 16, 2014, the FOC reported to the Board that the subcommittee had reviewed a revised feasibility report prepared for AMPS and, after discussion, agreed 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.”

C. 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 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.

D. 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 Dr. Escarce and seconded by SMMUSD Board Member Mr. Foster, 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."

E. 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 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 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 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 SMMUSD, the proper allocation of responsibility, and the appropriate means to achieve that allocation, including indemnifications.

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

G. 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 approved the Recommendation with modifications. (As adopted, the Recommendation is referred to herein as the “Action Item.”)

H. The Action Item expresses the Board’s concern about the negative financial consequences expressed by the FOC but confirms 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.”

I. To accomplish that end, the Action Item established a process for negotiating suggested resolutions of financial concerns raised by the FOC report and those that remain unresolved from previous discussion. Specifically, the Action Item called for the appointment of six negotiators – three from Santa Monica to represent the interests of a potential SMUSD and three from Malibu to represent the interests of a potential MUSD – with the three Malibu negotiators to be appointed by the City of Malibu, a political subdivision of the State of California, (“MALIBU”), and the three Santa Monica negotiators (the “Santa Monica Team”) 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.”

J. 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) 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 (4) 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.

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

1. 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;

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

3. 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

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

L. 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.

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

## **II. ADVISORS’ SERVICES**

A. SMMUSD shall retain the services of the following advisors (the “Advisors”):

1. School Services of California (“SSC”) 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. SSC will be made available by SMMUSD to the negotiators during the negotiation process and will advise the Board from time to time as requested.

2. The law firm of Dannis Woliver Kelley (“DWK”), as counsel to SMMUSD, 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. In addition, such law firm shall, as counsel to SMMUSD, provide such further legal advice as the Santa Monica Team or SMMUSD shall determine to be necessary in order for the

Board to conclude that the negotiations have been successfully completed, except that such law firm shall not be engaged by SMMUSD to address the legal issues described in paragraph A3 below. DWK will be made available by SMMUSD to the negotiators during the negotiation process and will advise the Board from time to time as requested.

3. The law firm of Pillsbury Winthrop Shaw Pittman LLP (“Pillsbury”), as counsel to SMMUSD, 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 or the failure to undertake appropriate work, dismissal 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.

B. If at any time and for any reason, any of the foregoing named firms is unavailable to be retained by SMMUSD for such purposes, or is unable to continue to provide such services, SMMUSD shall be entitled to retain a replacement firm to provide the services described herein and payment for such services shall be governed by this Agreement.

C. SMMUSD shall retain each of the Advisors under an engagement agreement approved and executed by SMMUSD as the client which, among other matters customarily required in such agreements by such Advisor, (a) describes the scope of services to be provided by such Advisor, as outlined above, (b) sets forth the amount or rates to be charged for such services, including costs, the amount of any deposit to be required before such services will commence and the frequency of billing, (c) provides that any deposit will be retained by the Advisor and applied only to invoices that remain unpaid forty-five (45) days after the date payment was due with any unused balance to be returned to SMMUSD upon completion of such Advisor’s services and payment of all amounts due, and (d) provides that such Advisor shall be entitled to cease providing services to SMMUSD if any portion of the deposit is used to pay outstanding invoices and the deposit is not replenished within ten (10) days of such Consultant’s demand.

D. The engagement agreement with Pillsbury shall provide, among other things, that (a) Pillsbury shall prepare a legal memorandum for the Board analyzing the potential exposure, if any, of SMUSD relating to contamination or alleged contamination of any of the property to be transferred to MUSD as a part of a separation, all remediation practices undertaken by SMMUSD prior to such separation or by MUSD thereafter, and such other related matters as Pillsbury and the Board shall deem appropriate, (b) the Board intends to share such memorandum with the negotiators, but only under a joint interest agreement with the negotiators intended to protect the privileged nature of the memorandum, but that, to the extent sharing of the memorandum results in a waiver of the attorney-client privilege, the waiver of the attorney-client privilege with respect to the memorandum shall not be treated as a waiver of any the privilege with regard to any confidential communications between Pillsbury and SMMUSD that relate to the preparation of the memorandum or with respect to any matter whatsoever, (c) Pillsbury shall attend one or more of the negotiators’ meetings to respond to questions and provide information to the negotiators, (d) Pillsbury shall advise the Board from time-to-time as its counsel with respect to such issues, (e) Pillsbury shall advise the Board regarding the provisions of any settlement that may be agreed to by the negotiators and presented to the Board, and (e) Pillsbury shall not represent or meet or consult with any of the negotiators separately.

E. Promptly after each engagement agreement is executed, AMPS shall make a deposit with SMMUSD in an amount equal to \$25,000 (the "Retained Deposit") for each Advisor plus the amount of any deposit required by such Advisor in such engagement agreement (the "Advisor Deposit"). SMMUSD shall use the Advisor Deposit to make the required deposit with such Advisor and shall retain the Retained Deposit for application or release as set forth below. The aggregate amount of the three Retained Deposits shall be \$75,000.

F. AMPS shall pay to SMMUSD on a monthly basis the amount due to each Advisor for fees and costs within ten (10) days following delivery of a copy of such Advisor's monthly statement by SMMUSD to AMPS. If AMPS fails to make any such monthly payment within fifteen (15) days following delivery of any such statement, SMMUSD may authorize such Advisor to apply the Advisor Deposit to pay such statement and, to the extent such amount is insufficient to pay the full amount due, SMMUSD is authorized to utilize funds in the applicable Retained Deposit to make such payment with AMPS remaining obligated to pay any deficiency. If either the Advisor Deposit or the Retained Deposit, or both, are applied to make any payment due to such Advisor, AMPS will, within five (5) days deliver to SMMUSD an amount sufficient to replenish the amount so utilized.

G. Upon completion of the services of any Advisor and payment in full for all such services, SMMUSD shall refund to AMPS any remaining balance in the applicable the Advisor Deposit which has been returned to SMMUSD and any remaining balance in the applicable Retained Deposit.

H. AMPS agrees that neither the negotiators, nor SMMUSD, nor MALIBU shall be responsible for payment to such Advisors for said services and shall indemnify, hold harmless and defend the negotiators, SMMUSD and its employees, MALIBU and its employees, all members of the Board and all members of the Malibu City Council against any claim from any Consultant for the payment of amounts due for such services.

### **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 through all Parties hereto participated equally in the drafting of the 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, many of which will be unrelated to the advice of the Consultants contemplated by this Agreement or the results of any negotiations by the negotiators and 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 its employees and all members of the Malibu City Council are intended to be a third-party beneficiaries of the agreements of AMPS set forth in Section E of Article II above and to enforce the obligations of AMPS thereunder.

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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.**

SANTA MONICA - MALIBU UNIFIED SCHOOL DISTRICT

By: \_\_\_\_\_  
Name: Sandra Lyon  
Title: Superintendent

ADVOCATES FOR MALIBU PUBLIC SCHOOLS,  
a California unincorporated association

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **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”), the City of Malibu, a political subdivision of the State of California, (“MALIBU”), and Advocates for Malibu Public Schools, a California unincorporated association, (“AMPS”). SMMUSD, MALIBU 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 or about December 17, 2015, the Board of SMMUSD unanimously approved a Major Action Item 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” (hereinafter “the Action Item”).

B. 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.”

C. 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 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.”

D. The Action Item also contemplated that “the negotiators will likely require access” to certain consultants “to address questions that arise during the negotiations,” and encouraged the negotiating teams 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.

E. The Action Item further states that the SMMUSD Board “expects 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 of appropriate agreements between SMMUSD and AMPS to ensure that AMPS is responsible for the payment of such mutually agreed upon services.

F. SMMUSD and MALIBU have, respectively, appointed negotiators consistent with the Action Item, and AMPS has indicated its willingness to pay for consultants’ services to be provided 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.

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. 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.

## **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. ENTIRE AGREEMENT**

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.

**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.**

MALIBU:

\_\_\_\_\_  
By:  
Its:

SMMUSD:

\_\_\_\_\_  
By:  
Its:

AMPS:

\_\_\_\_\_  
By:  
Its:

**ATTACHMENTS FOR:**

**III. RETENTION OF FACILITATOR**

**KAREN ORLANSKY**

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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.

## Hon. Steven J. Stone (Ret.)

**Hon. Steven J. Stone (Ret.)** is a member of JAMS, a private alternative dispute resolution (ADR) provider. He is known for creative settlements on resolving complex matters. He has extensive experience in the resolution of complex multi-party disputes in all areas of civil litigation. Justice Stone has handled all types of civil disputes and litigation by way of trial, review and alternative resolution.

### ADR Experience and Qualifications

- Significant expertise in construction defect, inverse condemnation, professional liability, employment (wrongful termination and sexual harassment), business, insurance, product liability matters, and personal injury
- Also available as a consultant in trial strategy and appellate review
- Emphasized settlement conferences, whether requested by the parties or on his own motion, and used his considerable expertise in settlement techniques whenever possible at the appellate level
- Successfully mediated many serious and complex high stakes cases in the area of employment, business, insurance, HMO and high tech litigation
- A lecturer in civil law and procedure for the CEB and Rutter Group, he has taught all aspects of litigation and has spoken to legal associations and business and civic groups about the judicial process and settlement techniques

### Representative Matters

- Experience handling cases involving contracts, intellectual property, and related financial disputes in music, film, and entertainment fields
- Handled complex multi-party, multi-million-dollar trust and will dispute
- High-tech business and commercial dispute involving contract and intellectual property claims
- Mediated class actions, including mass torts and product liability claims
- Multi-million-dollar motor vehicle product liability claims involving catastrophic injuries and death
- Multi-million-dollar patient claim against HMO
- Numerous high-stakes insurance bad faith claims
- Resolved several multi-million-dollar real estate disputes
- Toxic tort claims involving landfill operation brought by nearby residents

### Honors, Memberships, and Professional Activities

- Recognized as a Best Lawyer, Alternative Dispute Resolution Category, *Best Lawyers in America*, 2009-2016
- Recognized as a Top California Neutral, *Daily Journal*, 2012
- Selected as one of California's Most Sought-After Neutrals, *Daily Journal Extra*, 2002
- Trial Judge of the Year Award, Ventura County Trial Lawyers Association, 1980 and 1982
- Roger J. Traynor Appellate Justice of the Year Award by the Consumer Attorneys Association of Los Angeles, 1998
- Faculty of the Council on Judicial Education and Research and the California Judges Association teaching and training judges
- State Bar Board of Governors Special Task Force on Discovery
- "[The Power of Pester](#)," *Daily Journal*, ADR Profile, April 12, 2013
- Received comprehensive training in JAMS in-house Entertainment Law workshops including, but not limited to:

- *"Net Profits and New Media: The Future of Entertainment Litigation"*
- *"Legal Issues and Developments in Video Game Law"*

### **Background and Education**

- Presiding Justice, California District Court of Appeal, 1982-1999
- Judge, Ventura County Superior Court, 1976-1982 (Supervising Judge, Law and Motion, 1977-1980)
- Private practice, Principal, Beach, Stone, Smith, Drescher & Romney, Santa Paula, CA, 1962-1976
- J.D., University of California, Hastings College of Law, 1961; Associate Editor, *Hastings Law Journal*
- A.B., Medical Sciences, University of California, Berkeley, 1958

## **Antonio Piazza**

Antonio Piazza is recognized as one of the leading mediators in the world.

Mr. Piazza is a 1974 graduate of the New York University School of Law. He pioneered the development of mediated negotiations as the preferred alternative to protracted conflict in complex civil disputes, having successfully mediated the resolution of more than four thousand cases since 1980.

These have included some of the most complex, high stakes and high profile disputes in the commercial world. They have involved the world's preeminent companies, business leaders, and law firms, and have routinely reached resolution in a single day of mediated negotiation. Individual settlements have exceeded one billion dollars.

Mr. Piazza's unique ability to resolve immensely complex issues in intensely focused sessions has proven a resource for reaching closure in time-driven business deals and international negotiations.

## **Hon. Margaret A. Nagle (Ret.)**

**Hon. Margaret A. Nagle (Ret.)** is a member of JAMS, a private alternative dispute resolution (ADR) provider. She joined JAMS following an 18-year career as United States Magistrate Judge in the high-volume Central District of California. Here, she served as a settlement judge and presided over hundreds of diverse matters. Before the serving on the bench, Judge Nagle was a trial lawyer for more than 20 years during which she litigated product liability, intellectual property, employment, insurance, environmental, antitrust, malpractice, and business/commercial matters.

As a mediator, Judge Nagle approaches every matter fully prepared, and with patience and persistence. Her experience as a trial lawyer combined with her bench experience enable her to relay to parties how a judge or jury will react to their case. Judge Nagle's reputation as an effective settlement judge stems from her ability to quickly grasp complex issues and settle cases even when dealing with emotionally charged parties and intractable positions. She is evaluative, candid, and tough when needed. As an arbitrator, she is thorough, organized, and managerial. Her firm grasp of the law leads to timely, well-reasoned decisions.

### **ADR Experience and Qualifications**

- Served 18 years as a federal magistrate judge, presiding over trials and evidentiary hearings, hearing a full range of motions, and managing discovery
- Mediated hundreds of cases as a settlement judge involving a wide range of civil disputes including entertainment, employment, intellectual property, civil rights, business, and tort matters
- Extensive experience handling discovery issues in vigorously litigated commercial, pharmaceutical, and product liability actions including products subject to FDA jurisdiction
- Former litigator for more than 20 years
- Degree in mathematics and economics, giving her keen perspective in business disputes

### **Representative Settled Matters**

- **Business/Commercial**
  - Case asserting claims of fraud, breach of contract, and violations of civil RICO and unfair business practices statutes of California, Oregon, and Washington, involving sales of vending machines and highly caffeinated product
  - Breach of contract, false advertising, fraud, and Cal. B&P Code §17200 case related to emergency medical transport services for travelers, which involved substantial damages and the negotiation of revised advertising
  - Case alleging breach of fiduciary duties, fraud, and unjust enrichment against, and seeking millions of dollars from, officers and directors of a major credit union that failed in the wake of the sub-prime mortgage market collapse
  - Suit brought by vendor of customized and highly sophisticated software programs alleging tortious interference with contractual relations, trade libel, interference with prospective economic advantage, and Cal. B&P Code §17200 claims against competitor whose actions were alleged to have resulted in the loss of a \$25,000,000 contract; counterclaims alleged theft of trade secrets and patent infringement by plaintiffs
  - Breach of contract claim by major United States (U.S.) Internet vendor against German Internet service provider for failure to comply with exclusivity and compensation provisions of contract



- Action seeking damages in excess of \$15,000,000 for alleged breach of "teaming" contract to provide recruitment, training of personnel, technical assistance, and logistics field work in connection with U.S. government operations in high threat international locations
- Suit to recover Picasso's "Femme en Blanc", a Nazi looted painting, acquired through a New York art gallery to which it had been consigned by a French gallery; the suit and settlement negotiations focused on a complex conflict of laws issue related to whether title to the painting passed in the U.S. or France and the vigorously disputed value of the painting
- Several cases involving dissolutions of joint ventures and partnerships
- **Civil Rights**
  - Numerous cases involving alleged uses of excessive force by various police departments and law enforcement agencies that caused minor to significant injuries to plaintiffs or death to plaintiff's decedent
  - Four related and vigorously fought cases, pending in three courts, all arising out of disputes between dog owners and animal control officers regarding the constitutionality and propriety of various animal control regulations and enforcement policies; in addition to monetary compensation, the negotiation of myriad terms, including significant revisions to the local animal control laws, was essential to the settlement
  - Suit alleging violation of First Amendment rights brought by protestor ejected from public meeting of a city commission for wearing a Ku Klux Klan hood and T-shirt with profane, racist message
  - First Amendment case seeking substantial damages arising from a municipality's refusal to permit operation of an art studio/gallery offering tattoo services anywhere within its boundaries
  - Action asserting failure by prison authorities to protect 19-year-old inmate from capture and nearly fatal beating during an allegedly foreseeable race-based riot; plaintiff sustained brain injuries that rendered him a mentally-disabled quadriplegic without the ability to speak
  - Numerous cases involving alleged failures by hotels, restaurants, and other establishments to comply with ADA access requirements
  - Numerous cases against various school districts brought by parents alleging failures by the districts to provide special needs students with a free and appropriate public education and seeking reimbursement for extracurricular educational support services paid for by parents
  - Numerous housing discrimination cases involving refusals to rent to, or threats to evict, individuals with children or emotional support animals, or based on racial, ethnic, or national origin bias
- **Employment**
  - Multi-plaintiff action against bank for failure to pay millions of dollars in promised incentive and retention bonuses
  - Action by EEOC alleging that defendant employer, an adult toys manufacturer, subjected female employees to a pervasive atmosphere of sexual harassment in the workplace
  - Suit by a highly compensated, former female executive for a biosciences company, alleging gender and age discrimination, failure to accommodate under the ADA, and whistle-blower claims
  - Case brought by physician's assistant, who is an African American male, alleging discrimination, harassment, and wrongful termination in violation of Title VII and FEHA

- Discrimination/wrongful termination case alleging denial of tenure to university professor based on race
- Suit by EEOC alleging that hotel engaged in discriminatory hiring practices by favoring Chinese applicants
- Action against federal agency by female employee claiming sexual harassment by her supervisor; settlement involved monetary compensation and workplace oversight to guard against future harassment
- Numerous ERISA cases involving alleged failures by employers to pay required contributions to benefit plans or by plan administrators to pay proper medical and disability claims of employees, including disputes over level of care to be provided for behavioral disorders such as anorexia
- Numerous trade secrets/unfair competition disputes asserting violations of employment agreements
- **Entertainment**
  - Case brought by international movie star involving claims of libel per se, false light, invasion of privacy, and intentional and negligent interference with prospective economic advantage
  - Copyright matter regarding a television series that was allegedly pitched to a premier producer by screenwriters and later produced without credits
  - Consolidated copyright infringement cases, seeking multi-million damages awards, brought by major foreign television company against leading international producer and U.S. network broadcaster of long-running, non-scripted game show
  - Trademark infringement action brought by U.S. motion picture studio against prominent Canadian film distributor for infringing on the trademarked name and logo of award-winning and high-grossing animated feature film
  - Case asserting violation of copyright laws by the producer, broadcaster, and video distributor of a hit television show that used a several-second segment of the theme song for a classic program from the early days of television
  - Trademark cases involving the rights of former band members to perform under the name of a legendary Motown group and damages arising from alleged trademark infringement
  - Suit brought against Canadian creator/producer of film (awarded the Academy Award in the documentary feature category) concerning the career of a prominent big band leader and jazz clarinetist for violation of bandleader's copyrights
  - Damages and declaratory relief action brought by hit songwriter and judge on European singing competition television show against American writer to determine copyright ownership to various written works; suit involved resolution of complicated crediting, licensing, and royalty issues for uses in myriad media
  - Action involving conflict between California community property law and U.S. copyright law regarding the recapture of exclusive copyrights by the songwriter of a multimillion-dollar popular portfolio to which former spouse had obtained rights in a divorce settlement
- **Environmental**
  - Private CERCLA case brought by purchaser of large commercial property against former owner/operator for multimillion-dollar remediation costs
  - Series of actions brought by oil companies for contribution to multi-million dollar remediation costs of an Environmental Protection Agency (EPA) Superfund site polluted not only by oil refinery operation but also by waste disposal over a period of decades by over 30 cities, a county, and a waste disposal company
  - CERCLA contribution action brought by EPA against an owner and lessor of properties within an EPA Superfund site

- **Insurance**
  - Declaratory relief and indemnity action brought by title insurer against "hard money" lender and real estate broker involving allegedly fraudulent real estate transactions on multiple properties
  - Suit against insurer for failure to pay substantial claim for fire damage to production studio and inventory of adult entertainment company based on suspicion of arson by the insured
  - Action by vessels operator and its insurer against the lead underwriter on a maritime insurance policy covering the owner/operator of offshore oil platforms regarding coverage for personal injuries to workers disembarking from plaintiff's vessel onto oil platform
- **Intellectual Property**
  - Numerous trade secrets and unfair competition matters
  - Copyright case concerning educational programs marketed in the U.S. and internationally
  - Trademark infringement action brought by U.S.-based permanent makeup company against one of the world's largest hair care products companies; settlement involved monetary compensation, agreement to a run-off period for sales of infringing products within the U.S., and transfer of the trademark at issue to the defendant for use in global hair care markets outside the U.S.
  - Declaratory judgment action brought under the Lanham Act and the Paris Convention by a large Mexican store chain against San Diego store owners who used the same name and had priority of use in the U.S.; the case presented an issue on which no circuit authority then existed regarding the application of the famous-mark exception to the territoriality principle of trademark law
  - Action for injunctive relief and damages for trademark infringement brought by luxury brands holding company against international company advertising and selling counterfeit goods in the U.S.
  - Suit by surfer/artist alleging infringement of his copyrighted surfboard artworks by U.S. clothing company
  - Numerous suits involving alleged infringement of copyrighted fabric designs
  - Numerous patent cases involving design features in a variety of products, including medical devices, food display systems for restaurants, bicycle repair tools and protective packaging for electronics and computer parts
- **Product Liability/Torts**
  - Separately settled four cases brought in nationwide litigation involving serious kidney injuries and death related to physician-directed use of an over-the-counter pharmaceutical product
  - Collectively settled two consolidated cases, brought as class actions, arising from skin irritation allegedly caused by chemicals in tag-less labels for children's clothing
  - Spilled coffee case, seeking substantial damages for burn injuries, brought against a major U.S. airline
  - Numerous cases alleging medical malpractice and negligence against the U.S. Veterans Health Administration and state and federal prisons
- **Real Estate**
  - Multimillion-dollar real estate dispute involving 20 parties, including a foreign investor, a prominent developer, and partners in a law firm, asserting breach of contract, misrepresentation, and indemnity claims related to the purchase of, and leasing of space in, a San Diego high-rise office building
  - Four related lawsuits, pending in federal court and state courts in Texas and California, arising from the transfer of ownership of a premiere Los Angeles hotel

- property, related financing issues, and early termination of a hotel management contract involving millions of dollars in claims and complex settlement terms
- Action by City of Rancho Mirage against luxury resort complex involving alleged zoning violations

#### **Honors, Memberships, and Professional Activities**

- Speaks frequently on mediation-related topics
- Member, American Bar Association
- Member, Los Angeles County Bar Association
- Former Board Member, Women Lawyers Association of Los Angeles
- Former Board Member, Association of Business Trial Lawyers of Los Angeles
- Former Member, Los Angeles County Bar Association Executive Committee for the Litigation Section
- Member, Council of Women of Boston College

#### **Background and Education**

- U.S. Magistrate Judge, U.S. District Court, Central District of California, 1997-2015
- Partner and Associate, Stroock & Stroock & Lavan LLP, 1978-1997
- Associate, Goodwin Procter LLP, 1975-1978
- J.D., Columbia University School of Law, 1975
- B.A. in Mathematics and Economics, *Summa Cum Laude* and *Phi Beta Kappa*, Boston College, 1972

## **Hon. Russell Bostrom (Ret.)**

Judge Bostrom retired from the bench in 1990. After teaching evidence and tort law for 3 years, he entered into the Dispute Resolution Profession. Since that time, Judge Bostrom has become one of the most requested mediators in the state. Beginning in 2002, when the Daily Journal began listing California's Top Neutrals, and every subsequent year, Judge Bostrom has been included in this select group. For the first 12 years as a Neutral, he was selected by many as an Arbitrator. Known for his clear analytical mind, detailed decision writing skills and easy going personality, he has presided over 2,500 Binding Arbitrations. Since 2002, he dedicated his practice to mediation and since successfully mediated over 6,000 complex and challenging cases in every area of Civil Litigation. Many attorneys have commented on the range of qualities that make Judge Bostrom a consistently effective mediator. Some attorneys said it is his breadth of trial experience, as he has tried over 80 jury trials to verdict, on behalf of both Defendants and Plaintiffs. Others say his years as a trial judge give him greater credibility with their clients. Many claim his sense of timing and persistent energy account for his remarkable success. All agreed his knowledge of the law, coupled with an unerring sense of fairness and intuitive sense of people, makes him one of the most effective and sought after mediators in the industry.

### **Specialties**

- Business/Commercial
  - Aviation
  - Banking/Finance
  - Breach Of Privacy
  - Consumer Class Action
  - Contractual
  - Entertainment
  - Securities
- Employment
  - Discrimination
  - Wage Hour Class Action
- Insurance
  - Bad Faith
  - Property Damage
  - Subrogation
- Intellectual Property
  - IP Trade Secrets
- Professional Malpractice
  - Medical Malpractice
  - Professional Malpractice Legal
- Real Estate
  - Breach of Contract
  - Buy/Sell
  - Eminent Domain
  - Landlord/Tenant
- Tort
  - Catastrophic Injury
  - Civil Rights
  - Common Carrier
  - General Negligence

- Personal Injury
- PI Auto
- PI Sexual Molestation
- Policy Distribution
- Premises Liability
- Product Liability
- Toxic Torts
- Workers Compensation
- Wrongful Death