

**Malibu Unification Negotiations Committee
Meeting Minutes**

**Tuesday, October 25, 2016
7:00 pm – 9:00 pm
SMMUSD District Office Conference Room
1651 16th St., Santa Monica, CA 90404**

I. Call to Order / Roll Call

The committee called the meeting to order at 7:00 p.m. with the following committee members present:

<i>Tom Larmore</i>	<i>Laura Rosenthal</i>
<i>Paul Silvern</i>	<i>Manel Sweetmore</i>
<i>Debbie Mulvaney</i>	<i>Makan Delrahim</i>

II. Approval of October 18, 2016 Meeting Minutes

- *Mr. Silvern offered minor corrections to the minutes of October 18, 2016.*
- *By consensus, the committee approved the corrected minutes for 10/18/2016.*

III. Discussion: MUNC Feedback to School Services of California, Inc. (SSC)

Background: Mr. Robert Miyashiro, Vice President, SSC, had asked for the MUNC's feedback on the request SSC had received from District staff (on behalf of Board Leadership) for SSC to brief the Board and answer questions on the completed Phase-1 reports at the Board's November 17, 2016 meeting.

The results of the committee's deliberative discussion of issues related to SSC's request for feedback are summarized below:

1. *By consensus, the committee sees benefits to SSC's briefing the Board on the Phase-1 reports. Specifically, it provides the Board with the opportunity to: become more familiar with the content of SSC's reports; hear directly from the consultants who prepared these reports; and ask questions to enhance their understanding of the material.*
2. *By consensus, the committee does not believe it is appropriate for the MUNC to stand in the way of the Board's agenda-setting decisions.*
3. *Members of the Malibu Team voiced some concerns about the proposed November 17, 2016 timing of the SSC briefing. In sum, the concerns expressed were that:*
 - *The composition of the Board on November 17, 2016 will not be the composition of Board that receives and acts on the MUNC's report back to the Board;*
 - *The contents of the SSC reports (presented by themselves) could be taken out of context; and*
 - *There is some "fear of the unknown" meaning that there is no way of knowing how a briefing on the SSC report before the MUNC negotiations are complete could affect the substance of the negotiations.*
4. *By consensus, the committee agreed to prepare a brief letter/statement addressed to the Board and signed by all six MUNC members, and to ask the Board President if she would read the letter/statement directly before the SSC briefing. In sum, the MUNC's*

letter/statement will: communicate the benefits that the committee sees in the Board's receiving the SSC briefing; and based on the ongoing nature of the MUNC's negotiations, respectfully request that Board members reserve their opinions about the details of any agreement until the committee completes its work, which the committee hopes to do before the end of the year.

The committee also agreed on the following next steps:

- 1. Mr. Delrahim and Mr. Silvern will write a draft of the committee's letter/statement to the Board for full committee review and approval at the committee's next meeting.*
- 2. On the MUNC's behalf, Ms. Orlansky will communicate the outcome of the committee's discussion to SSC (i.e., Mr. Miyashiro and Mr. Ricketts) and to the Board President. In addition to asking the Board President about reading the MUNC's letter/statement, she will ask whether there might be a way to provide Mr. Jon Kean (the new Board member who will be seated in December) the opportunity to ask SSC questions during the Q&A portion of the briefing.*
- 3. On the MUNC's behalf, Ms. Mulvaney will communicate to Mr. Jon Kean the committee's hope that he can attend the Board's meeting that includes the SSC briefing. And also to ensure Mr. Kean knows the background related to the committee's hiring of SSC, as well as the status and timing of the MUNC's negotiations.*

IV. Continuation of Worksession on Principles and Terms of Agreement

Due to time constraints, the committee did not get to this item on the agenda. The worksession on the principles and terms of agreement will be continued at the next meeting, scheduled for Saturday, October 29, 2016.

V. Public Comments

There were no public comments.

VI. Upcoming Meetings

A. Topics for October 29, 2016 Agenda

Given the posting requirement, Ms. Orlansky will prepare the October 29, 2016 agenda the next day (Wednesday, October 26). The agenda will consist of a continuation of the committee's worksession on the principles and terms of agreement, plus the committee's review and approval of the draft letter/statement to the Board.

B. The Committee agreed to the following schedule of upcoming meetings:

- Saturday, October 29, 2016, 1-4 PM at Malibu City Hall*
- Thursday, November 3, 6:30-8:30 PM at SMMUSD District Offices*
- Tuesday, November 15, 7-9 PM at Malibu City Hall*
- Tuesday, November 22, 7-9 PM at SMMUSD District Offices*
- Tuesday, November 29, 7-9 PM at Malibu City Hall*

VII. Adjournment

The committee adjourned the meeting at 9:00 p.m.

Ground Rules for the Malibu Unification Committee

The Malibu Unification Committee unanimously adopted the ground rules outlined below. The Committee recognizes that: ground rules are based on the concept that a negotiation process should treat all parties fairly; ground rules apply equally to all involved; and it is the joint responsibility of all participants to assure that these ground rules are observed. Participants are free to question, in good faith, others' actions that are covered by these ground rules.

A. Committee Member Conduct 101

1. Listen politely without interrupting (even when you don't agree).
2. Do not dominate the conversation.
3. Speak and act respectfully at all times; avoid blaming, personal attacks, and cheap shots.
4. Be present.

B. Other Behaviors that Make for Effective Groups and Effective Decision-making

1. Stay on track; keep your contributions focused on the task.
2. Speak from your own perspective and explain the reasons for your point of view.
3. Test for assumptions and inferences – your own and others'.
4. Do not impugn another person's intent or motive.
5. Encourage differences of opinion, while also committing to disagree agreeably.
6. Regard disagreements as problems to be solved as opposed to battles to be won.
7. Be open to other perspectives and alternative courses of action.
8. Find opportunities to praise others' ideas.
9. Focus on interests, not positions.
10. Deal as much as possible with facts; facts give opinions and feelings more credibility.
11. Share all relevant information; do not withhold information for "tactical advantage."

C. Process and Procedures

1. General

- a. The Committee's meetings will comply with the Ralph M. Brown Act (Government Code Sections 54950-54963), referred to as the "Brown Act".
- b. There will be no substitute Committee members.
- c. Committee members agree to do periodic self-critiques of the Committee's progress.
- d. The Committee can make additions or changes to these ground rules along the way.

2. Meeting Logistics and Agendas

- a. The time, location, and scheduling of the Committee's meetings, unless the Committee decides otherwise, are as follows:
 - Committee meetings will be held from 7-9 PM on Tuesday evenings.

- The Committee meeting location will alternate between SMMUSD District Offices and Malibu City Hall.¹
 - No Committee meeting will be scheduled unless at least two members of each negotiating team can attend.
- b. Committee meetings will begin when all members expected to attend have arrived.
 - c. Committee meetings will adjourn at the time stated on the agenda unless there is a Committee consensus to extend the meeting for a specified purpose and time period.
 - d. Any Committee member (or the facilitator) can request that the Committee take a break, for example, for a team caucus or to collect information. The general operating rule is that any request for a break will be honored.
 - e. In consultation with Committee members, the facilitator will develop the agenda for each meeting; all agenda items suggested by a Committee member will be agendaized.

3. Decision-making by consensus

- a. The Committee will make its decisions by consensus, defined as the general agreement of all participants on a proposal; a proposal may include more than a single element.
- b. Consensus does not necessarily mean that all Committee members are equally satisfied with every aspect of a proposal, but it does mean that all Committee members can live with the proposal and no Committee member will stand in the way of implementation.
- c. The table below summarizes the method adopted by the Committee for members to communicate their respective degree of agreement with a proposal. In order for the Committee to reach “consensus” on a proposal, all Committee members must register a degree of agreement at three, four, or five.

Number*	Degree of Agreement	Included in Committee’s definition of consensus
Five	I am for it and will work hard for it.	Yes
Four	I have reservations but will go along with it.	Yes
Three	I don’t like it. I won’t work for it, but I won’t work against it.	Yes
Two	I cannot agree yet.	No
One	I hate it and will actively work against the proposal as it stands.	No

* Committee members have the option of communicating their 1-5 degree of agreement by speaking the number or raising the requisite number of fingers.

- d. If a Committee member’s degree of agreement registers at a one or two, then that participant is responsible for explaining how his or her interests are adversely affected and how the proposal being discussed fails to meet those interests. The participant withholding agreement is then responsible for trying to propose alternatives that would raise his or her support to at least a three; the participant is welcome to ask for assistance from fellow Committee members. If, after a reasonable period of debate, there doesn’t appear to be a consensus, then a vote of at least two members on each team with a vote of four or five shall be considered approval of the item or proposal.

¹ Committee Member Rosenthal’s attendance is required for meetings held at Malibu City Hall.

- e. During the decision-making process, all Committee members should continue to consider options that meet everyone's interests sufficiently to garner everyone's degree of support at a three, four, or five level.
 - f. Any revised proposal must return to the full Committee for review and decision-making because one person's changes may lower the buy-in from others.
4. Committee interactions with consultants and other entities outside of Committee meetings
- a. Unless the Committee decides otherwise on any specific matter, the facilitator is assigned the job of coordinating and channeling communication to and from the Committee and subject experts or other consultants retained to support the Committee's work. This is expected to include, but not be limited to:
 - An educational consultant to provide support on technical budgeting questions;
 - A law firm to provide legal guidance related to non-budgetary financial issues; and
 - A law firm to provide legal guidance on questions related to environmental liability.
 - b. Unless the Committee decides otherwise on any specific matter, the facilitator is assigned the job of coordinating and channeling communication to and from the Committee and other entities, to include the Los Angeles County Office of Education, state legislators, or others designated by the Committee.
5. Public comments at Committee meetings
- The following guidelines apply to all speakers:
- a. Speakers are invited to address items on the Committee's agenda or topics relevant to the Committee's overall charge from the SMMUSD Board of Education.
 - b. Individuals who wish to address the Committee during a meeting are requested to
 - Complete a speaker card that asks for the speaker's name and the agenda item or other issue they wish to address; and
 - Hand the completed speaker card to the Committee's facilitator.

Note: Speaker cards will be available to the public at all meetings. While the card requests a speaker to provide his/her name for the record, the Committee will respect a speaker's desire for anonymity.
 - c. Individuals will be given three minutes to address the Committee.
 - If a speaker intends to address an item on the agenda, then the facilitator will call on the speaker at the beginning of the appropriate agenda item.
 - If a speaker intends to make a general comment or a comment on a topic not on the Committee's agenda, then the facilitator will call on the speaker during the time on the agenda designated for "Public Comments."
 - d. The facilitator will indicate when a speaker's three minutes has expired. At the request of any Committee member, a speaker's time can be extended beyond three minutes.
 - e. Efforts will be made to accommodate everyone who has filled out a speaker card. However, given time constraints, there may be times when the Committee needs to reduce the time per speaker allocated for public comment.

6. Interactions with representatives of the media

- a. When discussing the Committee's work with reporters, Committee members will present only their own views and not those of other Committee members.
- b. When discussing the Committee's work with reporters, Committee members will try not to blame or criticize each other.
- c. Committee members will try to avoid making any statements to the media prejudging the outcome of the Committee's work.
- d. Committee members will refrain from talking with representatives of the media during Committee meetings.

Note: The purpose of adopting ground rules regarding Committee members' interaction with the media is to minimize statements appearing in the press that could impede constructive discussion in the group and/or reduce participants' ability to accept or modify a proposal.

Attachment: The Role of the Facilitator

Attachment
The Role of the Facilitator for the Malibu Unification Committee

As a third-party neutral, the facilitator's job is to assist the Committee to learn and use effective group processes to navigate the following four basic steps in a negotiation: (1) adopt procedures; (2) educate one another; (3) generate workable options; and (4) reach a mutually acceptable agreement, pursuant to the 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," which was approved by the Santa Monica-Malibu Unified School District Board of Education on December 17, 2015.

The facilitator will:

- Serve as an impartial process guide for the Committee.
- Remain substantively neutral.
- Have no authority to make decisions for the Committee.
- Believe in the good will of all Committee members, recognizing that each voice has value, perception, and wisdom.

The Committee agrees that the facilitator will perform the specific tasks listed below:

1. Help the Committee to establish ground rules.
2. Assist with agenda setting in advance of each meeting.
3. Maintain a safe and productive working environment by enforcing ground rules and keeping the Committee focused on the agenda.
4. Assist with clarifying the problem(s) and issues to be addressed as well as the scope and boundaries of the Committee's discussions.
5. Assist with designing and implementing a process that can move the Committee along a path that results in reaching agreement on durable solutions; this can include:
 - Encouraging joint fact-finding and information sharing.
 - Assisting with internal group communication, e.g., addressing any disruptive communication patterns; helping the group to respectfully identify and discuss different interests.
 - Helping the Committee to identify options and summarize areas of agreement.
 - Encouraging specificity in agreements.
 - Offering assistance to break an impasse.
6. If and when requested by the Committee, serve as the Committee's liaison to subject experts or other entities designated by the Committee.
7. Help the Committee evaluate its progress along the way, to include advising the parties when the process no longer appears to be meeting its objectives.

Comparison of Scenarios

The table below compares the revenue neutrality proposals currently being discussed. Since last week, a row was added to include an affordability measure for MUSD's ability to pay, the definition of "tracking phase" is clarified as part of "b" (separated from the length of the tracking phase), and a column added to show where agreement exists.

Characteristic of Formula	PS	MD	Agreement
a. The first five years of separation include a guarantee of 100% revenue neutrality to SMUSD	Yes	Yes	✓
b. Specifies a "tracking phase" as years during which the delta continues to be calculated annually and SMUSD is guaranteed 100% revenue neutrality. If the tracking shows three consecutive years for which the payment for SMUSD to attain revenue neutrality is zero (because the calculated delta is below some minimum threshold without regard to any credits Malibu might have received from previous years), then the revenue neutrality arrangement ends.	Yes	Yes	✓
c. Minimum number of years SMUSD would be guaranteed 100% revenue neutrality	8	6	
d. Maximum number of years SMUSD would be guaranteed 100% revenue neutrality	12	6	
e. Maximum number of years transfer of revenue (of any amount) could occur	16	10	
f. When does the tracking phase begin and what is its maximum length?	Tracking begins in year 6 and can continue through year 12	Tracking occurs in years 4,5, and 6	
g. Can any of the tracking years overlap with the first five years of guaranteed 100% revenue neutrality?	No	Yes, during years 4 and 5	
h. Years of tapering to zero payment	4 years (i.e., no payment in year 5)	4 years (i.e., no payment in year 5)	✓
i. Formula for tapering	Year 1 – 80% Year 2 – 60% Year 3 – 40% Year 4 – 20%	Year 1 – 80% Year 2 – 60% Year 3 – 40% Year 4 – 20%	✓
j. Affordability measure that reflects Malibu's ability to pay calculated delta	To be further defined	To be further defined	

Table revised 10/24/2016

MUNC Term Sheets

A “term sheet” is a nonbinding agreement that sets forth the basic terms and conditions under which an agreement is made. It serves as a template for developing a document that provides more details about an eventual agreement.

Attached are the latest versions of the MUNC’s term sheets, which are considered works in progress until the MUNC reaches its final decisions. The left-hand column of the term sheets lists the issues the MUNC identified as needing to be addressed in an agreement and any basic principles that the MUNC agreed to. The right-hand column summarizes the most recent terms and conditions the MUNC has tentatively agreed on.

This draft reflects the MUNC’s tentative decisions through its October 18, 2016 meeting.

Topic	Begins on Page
Introduction: General Principles for MUNC’s Agreement on Recommendations to the Board	1
Topic 1, Balance Sheet Allocations	2
Topic 2, Allocation of Bond Debt and Authorization to Issue New Bonds	7
Topic 3, Operating Budget Impact	8
Topic 4, Environmental Liability	11
Topic 5, Implementation Steps	12

Introduction: General Principles for MUNC’s Agreement on Recommendations to the Board

The MUNC agrees that all terms and conditions of an agreement:

- 1) Must be financially viable for both SMUSD and MUSD. (Note: financial viability for each school district will need to be further defined.)
- 2) Must ensure a degree of predictability for both SMUSD and MUSD, to enable each school district to be able to plan ahead with a reasonable degree of resource certainty.
- 3) Must avoid establishing potential negative incentives for either SMUSD or MUSD. For example, creating a disincentive to pursue increased revenue or otherwise improve education in their schools.
- 4) Must be clear and understandable, legal, and enforceable.

Note: This list will likely be expanded as the MUNC ‘s work continues.

Term Sheet for Topic 1, Balance Sheet Allocations

The term sheet below outlines the general principles and terms for a nonbinding MUNC agreement on the issues and sub-issues identified for Topic 1, Balance Sheet Allocations.

Principle/Parameter	Terms of Agreement
<p>Issue #1: Allocation method for dividing SMMUSD’s cash assets.</p> <p>The allocation of cash assets, i.e., ending fund balances at the time of separation, will be decided by fund, and will be guided by a method representing a fair and equitable division of the ending fund balances between SMUSD and MUSD.</p>	<p>For certain funds, this means that the allocation between SMUSD and MUSD will be based on a calculation of the pro rata Average Daily Attendance (ADA).</p> <p>For purposes of the one-time allocation of cash balances, the term “ADA method” refers to a three-year average of the ADA split between what will be SMUSD and MUSD. The three years will be the year that separation occurs and the prior two years. As a point of reference, the Santa Monica/Malibu ADA ratio was 84%/16%.</p> <p>The exceptions will be for funds where the relative source of revenue (i.e., SMUSD vs. MUSD) has been substantially different from the ADA ratio, or if there is an alternative, more equitable method of allocating a fund balance.</p> <p>The table that begins on the next page summarizes the recommended method of allocation for each fund.</p>

Note: The term sheet for Topic 1 continues on page 5, following Table-1.

**Table-1
Summary of Recommended Allocation Method By Fund**

Fund	Method for Allocating Cash Balance in Fund	MUNC Comments
A. MAJOR FUNDS		
1. Unrestricted General Fund	ADA method	The ADA method for the Unrestricted General Fund is recommended because: it greatly simplifies the calculation required; and analysis of the revenue sources by line item for 2015-16 shows net contributions from Santa Monica and Malibu closely mirrors the ADA split. A similar analysis should be repeated at the time of separation to ensure this finding still holds.
2. Restricted General Fund	ADA method	The ADA method is recommended for the Restricted General Fund for the same reasons listed above for the Unrestricted General Fund.
3. Building Fund	<i>Revisit during worksession on bonds.</i>	
4. Bond Interest and Redemption Fund	N/A (Not Applicable)	There is no end-of-year cash balance in this fund to allocate.
B. SPECIAL REVENUE FUNDS		
1. Adult Education Fund	<p>Divide the fund balance based on the ratio (calculated as a three-year average) of students enrolled from each community in Adult Ed. The three years will be the year of separation and the prior two years.</p> <p>However, if MUSD does not plan to offer Adult Education, then the entire fund balance will be transferred to SMUSD.</p>	The source of revenue for this fund is the State, which pays school districts a set amount per student participating in Adult Education.
2. Child Development Fund	<p>Divide the fund balance based on the ratio (calculated as a three-year average) of students enrolled from each community in Child Development program(s). The three years will be the year of separation and the prior two years.</p> <p>However, if MUSD does not plan to offer a Child Development program, then the entire fund balance will be transferred to SMUSD.</p>	The source of revenue for this fund is the State, which pays school districts a set amount per student participating in Child Development programs.

Table-1 continued from previous page.		
Fund	Method for Allocating Cash Balance in Fund	MUNC Comments
3. Cafeteria Special Revenue Fund	ADA method	The ADA method is recommended because this fund gets its revenue from students in both Santa Monica and Malibu.
Fund	Method for Allocating Cash Balance in Fund	MUNC Comments
4. Deferred Maintenance Fund	The fund balance will be divided based on the percent of total floor area square footage in Santa Monica vs. Malibu buildings at the time of separation.	The purpose of this fund is to fund routine maintenance needs across all of SMMUSD's buildings, located in both Santa Monica and Malibu.
C. CAPITAL PROJECT FUNDS		
1. Capital Facilities Fund – developer fees	The fund balance will be divided based on a three-year average of the percent of total dollar amounts contributed from developments located in Santa Monica vs. Malibu. The three years will be the year of separation and the prior two years.	Development contributions by location are tracked annually, so the allocation method recommended should be relatively simple to implement.
2. Special Reserve for Capital Projects Fund – Tax increment Pass-Through Fund from the former Santa Monica RDA	<i>Because the funds in this Special Reserve fund are treated similarly to SMMUSD bond proceeds, the committee agreed to revisit the allocation method for this fund until the committee's next discussion of bonds.</i>	
D. RETIREE BENEFIT FUND	<i>The MUNC requested Jan Maez and her team to review the most recent actuarial report and provide a recommendation back to the committee about the most equitable way to divide the Retiree Benefit Fund balance.</i>	The allocation will likely be linked to how the liability for providing retiree health benefits is divided between SMUSD and MUSD at the time of separation.

Term Sheet for Topic 1 (continued from page 2)

Principle/Parameter	Terms of Agreement
<p>Issue #2: Allocation method for dividing SMMUSD’s land and buildings</p> <p>The committee agreed to consider the allocation of SMMUSD’s land and buildings, or their asset value, in three categories:</p> <ol style="list-style-type: none"> 1) Schools; 2) Land/buildings used for SMMUSD activities that serve both Malibu and Santa Monica; and 3) Land/buildings that are a source of revenue for SMMUSD 	<p>Category 1: Schools</p> <ul style="list-style-type: none"> • With the possible exception of Olympic High School (see second bullet), schools will be allocated to the respective district where they are located. • Olympic High School (located in Santa Monica) may need to be in a separate category because it is SMMUSD’s only alternative high school and currently serves eligible students from both Malibu and Santa Monica. <p>Category 2: Land/buildings used for SMMUSD activities that serve both Malibu and Santa Monica.</p> <ul style="list-style-type: none"> • This category includes two buildings located in Santa Monica (District Headquarters and Washington West). • The committee considered several allocation options and underlying principles for allocating the land/buildings in this category, but has not yet reached any decisions. <p>Note: While bus yards might also fit into this category, the current set-up excludes them. Specifically: the bus yard in Malibu is on the campus of Malibu High School and the buses parked there only serve Malibu students; and the bus yard in Santa Monica serves students in both Santa Monica and Malibu, but is located on leased space, so is a liability and not an asset.</p> <p>Category 3: Land/buildings that are a source of revenue for SMMUSD.</p> <p>The Committee wants some additional information about SMMUSD’s revenue-producing assets before proceeding with additional discussion of this category. The Committee recognized that the allocation options and principles considered for Category 2 assets (above) may influence the decisions for allocating Category 3 assets.</p> <p>Table continues on next page.</p>

Principle/Parameter	Terms of Agreement
<p>Issue #3: Allocation method for balance sheet liabilities (other than bond debt and environmental liability):</p> <p>a. Certificates of Participation</p> <p>b. Compensated absences</p> <p>c. OPEB</p>	<p>a. Certificates of Participation (COPs) The Certificates of Participation liability on SMMUSD’s balance sheet reflects the debt owed on the financing for the District’s Headquarters’ building. SMMUSD’s plan is to continue to pay the remaining debt associated with the COPs using RDA pass-through funds. As a result, at the time of separation, there may be no outstanding cash liability on the COPs to allocate between SMUSD and MUSD.</p> <p>b. Compensated absences The liability associated with compensated absences will “move” with the individual teacher or other staff member who has accrued this unused leave. In other words, post-separation, SMUSD will inherit the liability for personnel who are SMUSD employees, and MUSD will inherit the liability for personnel who are MUSD employees.</p> <p>c. OPEB (Other Postemployment Benefits) OPEB is a Government Accounting Standards Board (GASB) term that refers to the outstanding liability for paying benefits (other than pensions) to retired public sector employees.</p> <p>The Committee agreed to wait for Jan Maez’ recommendation regarding allocation of the balance in the Retiree Benefits Fund before further discussion of OPEB.</p>
<p>Issue #4: Any other financial items related to balance sheet allocations or off balance sheet items?</p>	<p><i>The committee agreed to return to this issue after reviewing whether previous reports and other background materials had identified any items in this category.</i></p>
<p>Issue #5: Procedures (if any) for revisiting agreements reached on balance sheet allocations.</p>	<p>Given that Balance Sheet Allocations are expected to be a one-time division between SMUSD and MUSD at the time of separation, there will unlikely be any need to revisit the agreements made for Topic 1 items.</p>

Term Sheet for Topic 2, Allocation of Bond Debt and Authorization to Issue New Bonds

The term sheet below outlines the general principles and terms for a nonbinding MUNC agreement on the issues and sub-issues identified for Topic 2, Allocation of Bond Debt and Authorization to Issue New Bonds

Principle/Parameter	Terms of Agreement
<p>Issue #1: Method of allocating SMMUSD's issued bond debt.</p> <p>Issue #2: Method of allocating authority to issue future bonds that have been authorized but not yet issued.</p> <p>Issue #3: Mechanism for refinancing of SMMUSD's outstanding bonds</p> <p>Issue #4: Any additional financial items related to bonds that need to be addressed.</p> <p>Issue #5: Procedures (if any) for revisiting agreements reached on bond-related issues.</p>	<p><i>See Procopio's July 21, 2016 memorandum for alternatives presented by John Lemmo and discussed by the Committee, and information provided by Tony Hsieh to the Committee on October 4, 2016.</i></p>

<p>B. Details of the calculation</p> <p>B.1 Annual calculations; payments vs. credits</p> <p>B.2. Are there any minimum threshold or <i>di minimis</i> amounts in the formula?</p>	<p>B.1 The delta will be calculated annually.</p> <ul style="list-style-type: none"> • If SMMUSD per ADA revenue <u>is greater than</u> SMUSD per ADA revenue, then MUSD will owe a payment to SMUSD. • If SMMUSD per ADA revenue <u>is less than</u> SMUSD per ADA revenue, then MUSD will accrue a credit that can be counted towards a future payment. <p>B.2 <i>TBD</i>.</p>
<p>C. Time frame for how long a formula for revenue neutrality remains in place. A time frame can be established either:</p> <ul style="list-style-type: none"> • According to the calendar; and/or • According to some event. 	<p><i>The Committee continues to discuss the revenue neutrality formula and the length of time some version of the formula will remain in place. The Committee has reached some tentative agreements on certain elements of a formula, but no decisions have been made. See separate handout for Agenda Item IV on the 10/25 agenda for a comparative table on the proposals currently under consideration.</i></p>
<p>D. Source of data to use when making calculations</p>	<ul style="list-style-type: none"> • Final calculations in the agreed-upon formulas should use data from the audited financial statements (“audited financials”) for SMUSD and MUSD, which are expected to be available in December of each year. • However, recognizing the realities of a school district’s budgeting process and flow of revenue (in and out) during the year, there may be interim calculations performed that use the best available data at the time, even if that data are not yet audited. <i>(Q: Members have weighed in with different views about the necessity of keeping this bullet, so the full MUNC will need to discuss this question.)</i>
<p>E. Other mechanics related to calculations/payments</p> <ul style="list-style-type: none"> • When in the calendar year the calculation is performed • Payment schedule • Timing of any reconciliation 	<ul style="list-style-type: none"> • The following steps outline the timing of the annual calculation and payment (or credit): <ol style="list-style-type: none"> 1. The audited financials for the first fiscal year of separation will be available in December of the second fiscal year of separation. 2. The formal calculation of the delta using these audited financials will be performed the following month, that is, in January of the second fiscal year of separation.

	<p>3. If the January calculation shows that MUSD owes SMUSD a payment for the first year of separation, then the payment will be made no later than June 30, the last day of the second fiscal year of separation. Similarly, if the calculation shows that MUSD accrues a credit, then that credit will be booked on June 30, the last day of the second fiscal year of separation.</p> <ul style="list-style-type: none"> • The decision to use audited financials as the source of data means that there will be no payment (or credit) at the beginning of the first or second fiscal year of separation. The payment (or booking of a credit) at the end of the second fiscal year of separation will reconcile the delta for the first fiscal year of separation. • This pattern of reconciling the delta for each fiscal year at the end of the next fiscal year will continue for the length of the payment agreement.
<p>F. Criteria and purpose for reopening any of the agreed-upon formulas and/or other terms of payment</p>	<p><i>TBD</i></p>
<p>G. Terms that ensure both the enforceability and legality of agreements</p>	
<p>H. Steps involved in implementation, e.g., MOU, special legislation</p>	<p>The MUNC’s agreements on this item will feed into terms for Topic 5, Implementation Steps.</p>

Term Sheet for Topic 4, Environmental Liability

The term sheet below outlines the general principles and terms for a nonbinding MUNC agreement on how to implement the Board’s objective, as stated in the Board’s December 17, 2015 Action Item, that “MUSD assumes responsibility for any remaining remediation of any contamination in Malibu schools and indemnifies SMUSD for any future claims arising from such remediation work or failure to undertake appropriate work.”

Principle/Parameter	Terms of Agreement
<p>A. Liability for environmental contamination in Malibu schools.</p> <p><u>Category (1)</u>: Contamination that is not known about at the time of separation.</p> <p><u>Category (2)</u>: Contamination that is known about before separation and for which SMMUSD has developed, approved, funded, and begun a remediation plan.</p> <p><u>Category (3)</u>: Contamination that is known about before separation but for which SMMUSD has not yet developed, approved, or funded a remediation plan.</p>	<p>The MUNC agreed to terms for three categories of liability, differentiated by whether the contamination in a Malibu school is unknown or known at the time of separation, and if known, how far along the remediation process is.</p> <p><u>Category (1)</u>: In sum, for environmental liability not known about at the time of separation, each district is on its own.</p> <p>Specifically, any source of environmental liability discovered post-separation will be the responsibility of the school district that owns the property where the liability exists. This includes responsibility for the cost of remediation as well any personal liability that arises related to this contamination. Further, each district will indemnify the other district against any environmental liability discovered post-separation.</p> <p><u>Category (2)</u>: The current ongoing remediation of PCBs, as contemplated in SMMUSD’s building replacement and renovation program will not be affected by separation and will continue to be funded after separation by the bond program. This program is scheduled to be completed by December 19, 2019.</p> <p>Any remediation project that is underway at the time of separation will be subject to further negotiation (by the “Transition Team”) at the time of separation to work out the logistics of project management and completion.</p> <p><u>Category (3)</u>: For this category of “known but not yet addressed at time of separation” contamination, each district will be liable for its own properties and in charge of developing, approving, funding, and implementing a remediation plan. For schools in Malibu, the portion of ES bonds allocated to Malibu are a potential source of funding for this remediation work.</p>

	<i>Note: The MUNC expressed an interest in obtaining the latest estimates about the costs of remediation for the known but not yet addressed environmental contamination in Malibu schools.</i>
B. Issues of liability for pending claims against SMMUSD that are specific to the Malibu school sites in the lawsuit brought by America Unites for Kids against SMMUSD.	On September 1, 2016, Judge Anderson issued his ruling on the America Unites for Kids lawsuit. The MUNC agreed that Judge Anderson’s ruling is clear. Judge Anderson’s ruling may remove this environmental liability issue from the Board’s assignment to the MUNC.
C. Other?	

Term Sheet for Topic 5, Implementation Steps

The term sheet below outlines the general principles and terms for a nonbinding MUNC agreement on what to recommend to the Board regarding implementation of the MUNC’s agreements on Topics 1 through 4.

Principle/Parameter	Terms of Agreement
<p>A. The MUNC’s final report will address next steps for the Board to take towards implementation of the agreements reached by the MUNC on Topics 1 through 4.</p> <p>B. The appointment and role of a “Transition Team.”</p>	<p>A. The MUNC’s report will address the next steps for the Board to take towards implementation by explaining the different options (e.g., petition to LACOE, special State legislation) that support for unification could take. However, the report will not include the details of these options because the MUNC believes that is beyond its charge.</p> <p>B. The MUNC will recommend that the Board appoint a “Transition Team” to work on the things that will need to happen between the time the Board approves moving forward with unification and the actual separation occurs.</p> <p>As the MUNC addresses each of the topics in the work plan, the “to do” list for the Transition Team will become more apparent. Candidate tasks for the Transition Team mentioned already are:</p> <ul style="list-style-type: none"> • Drafting special state legislation; • Negotiating final arrangements for completing remediation projects in Malibu schools that are underway at the time of separation.