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File Number  
4450

May 23, 2022

**VIA E-MAIL ONLY**

Kirsten Perez  
Deputy Superintendent, Chief Financial Officer  
Morgan Hill Unified School District  
15600 Concord Circle  
Morgan Hill, CA 95037

Re: Retention of Orbach Huff & Henderson LLP

Dear Kirsten:

Thank you for the opportunity to continue to provide legal services to the Morgan Hill Unified School District ("District"). This letter shall serve to outline the proposed terms and conditions of our representation of the District. If you have any questions concerning any of the information provided in this letter, I welcome your call.

1. Scope of Services. Our responsibilities shall be to represent the District in matters related to its property, business, facilities, construction and on other matters from time to time as the District may request upon our mutual agreement.
2. Fees. The measure for our services will be the actual time expended performing legal services at hourly rates in effect at the time services are performed for the lawyers, paralegals and clerks who are directly involved in the matters for which you have retained us. Because of its public mission and it being our privilege to perform services for the District, we will charge the District at the following discounted rates: Partners/Senior Counsel/Of Counsel: \$315/hour; Associates: \$285/hour; Paralegals: \$160/hour; and Clerks at \$50/hour. Each rate will increase annually by 3%.



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3. Retainer. As a matter of policy, we require new clients of the firm to pay us an initial retainer to be applied towards fees and costs. In your instance, however, we are willing to waive this policy.

4. Expenses Incurred and Other Charges. In addition to our fee, we will expect the District to reimburse us for all expenses we incur on its behalf, including expert witness fees, court reporters, long distance telephone calls, travel costs, postage, air freight, messenger services, computer research time, external printing costs and the like. We will bill you our direct costs for these expenses without mark-up. We will charge the District for all internal photocopying (at 10¢ per page) done by us with respect to District matters. **All research, preparation and response for audit letter inquires requested of OHH on behalf of the District will be at no charge to District.**

5. Billing Practices. We will send an invoice to you monthly detailing all of the expenses incurred during the previous month. These invoices will be of sufficient detail to enable you to determine the nature of any expenses incurred. Payment is due upon receipt.

6. Termination of Representation. The attorney-client relationship is one of mutual trust and confidence, and the District is, of course, free to terminate our relationship at any time. We will also be free to terminate the relationship at any time, and should that unlikely event occur, we will do so in a manner which complies with applicable law, court rules and the Rules of Professional Conduct of the State Bar of California. These rules permit us to withdraw if, among other reasons, your conduct renders it unreasonably difficult for us to carry out the representation effectively.

7. Professional Liability Insurance. Orbach Huff & Henderson LLP carries professional errors and omissions liability insurance. No representation is made by Orbach Huff & Henderson LLP as to "insurance coverage" for the types of service which we may perform for the District.

8. Mediation, Binding Arbitration and Related Fees and Costs. We look forward to a beneficial and mutually productive relationship with the District. If, however, you become dissatisfied for any reason with the services we have performed, we encourage you to bring that to our attention immediately. It is our belief that most such problems can be resolved by good faith discussions between the parties. Nevertheless, it is always possible that some dispute may arise which cannot be resolved by discussions between us. We believe that such disputes can be resolved more expeditiously and with less expense to all concerned by mediation and, if mediation is unsuccessful through binding arbitration, rather than through court proceedings. Therefore, the parties will first attempt to resolve all disputes through mediation with a mediator mutually agreed to by the parties.



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a. To the extent mediation is unsuccessful in resolving any dispute, the parties agree to proceed with binding arbitration. Arbitration is a process by which both parties to a dispute agree to submit the matter to an arbitrator and to abide by the arbitrator's decision. In arbitration, there is no right to a trial by jury, and the arbitrator's legal and factual determinations are generally not subject to appellate review. Rules of evidence and procedure are often less formal and rigid than in a court trial. Arbitration usually results in a decision much more quickly than proceedings in court, and the attorneys' fees and other costs incurred by both sides are usually substantially less. Of course, you are encouraged to discuss the advisability of arbitration with other counsel or any of your other advisors and to ask any questions which you may have.

b. Any dispute based upon, arising out of or relating to our engagement, this letter agreement and/or the performance or non-performance of services (including, without limitation, claims of professional negligence) as well as any dispute as to the arbitrability of any such claims will be subject to binding arbitration to be held in the county in which the District resides before a retired California superior court judge pursuant to the commercial arbitration rules of the American Arbitration Association. The arbitrator's award will be final and binding and judgment thereon may be entered in any court of competent jurisdiction. As a practical matter, by agreeing to arbitrate all parties are waiving the right to a jury trial.

c. In any dispute, at any stage, including mediation or arbitration, the parties shall bear their own attorneys' fees and costs.

9. File Retention and Destruction. As discrete matters conclude, we may close those matters and we will retain a client file of that matter for a period of three (3) years. We may store some or all client file materials in a digital format. In the process of digitizing those documents, we will return to you any original paper documents provided by you. We will not return copies of paper documents provided by you unless you request those copies in writing. After a paper document is digitized, we will destroy all paper documents in the client file, subject to the exceptions noted above. At the expiration of the 3-year period, we will destroy all client file materials unless you notify us in writing that you wish to take possession of them. This clause applies to any client file materials being held or stored by a third-party vendor.

10. Term. The term of this agreement and our representation of the District shall begin on the date you indicate by your signature below and shall continue unless our representation is terminated as indicated herein.



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**My signature below binds our firm to the foregoing. If you agree with the foregoing, please electronically or physically sign this letter, and return it to me. Please keep a duplicate for your records.** If you ever have any concerns about our work, please contact me at any time. I look forward to working with you and thank you again for your trust in choosing Orbach Huff & Henderson LLP.

Very truly yours,  
**ORBACH HUFF & HENDERSON LLP**



Phil Henderson

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The undersigned has read and understood this agreement, represents that he or she has the authority to execute this agreement on behalf of the District, and acknowledges that this agreement is subject to mediation and binding arbitration as provided above. The foregoing accurately sets forth all the terms of your engagement and is approved and accepted on \_\_\_\_\_, 2022.

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

Title: \_\_\_\_\_

At its public meeting of \_\_\_\_\_, 2022, the District's Board of Education approved or ratified / will approve or ratify this Agreement.