

**RESOLUTION No. 16/17-27**

**RESOLUTION OF THE BOARD OF EDUCATION OF THE  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
IN SUPPORT OF PRELIMINARY OFFER OF FACILITIES TO  
ROCKETSHIP EDUCATION EL FUTURO FOR THE 2017-2018 SCHOOL  
YEAR**

**WHEREAS**, on August 10, 2015, the Governing Board of the Mt. Diablo Unified School District (“District”) denied the petition to form the Rocketship Education Mt. Diablo Charter School (“Charter School”); and

**WHEREAS**, on October 21, 2015, the Contra Costa County Board of Education denied the Charter School’s appeal to form the Rocketship Education Mt. Diablo Charter School; and

**WHEREAS**, on February 9, 2016, the State Board of Education granted the Charter School’s appeal to form the Rocketship Education Mt. Diablo Charter School; and

**WHEREAS**, Education Code section 47614 and its interpreting regulations (Cal. Code Regs., tit. 5, section 11969.1 *et. seq.*) (collectively “Proposition 39”) require a school district to make available, to each eligible charter school operating therein, facilities sufficient for the charter school to accommodate all of the charter school’s in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the district; and

**WHEREAS**, Education Code section 47614 requires that the facility offered to the Charter School be contiguous, furnished and equipped; and

**WHEREAS**, on or about November 1, 2016, the Charter School, subsequently renamed Rocketship Education El Futuro, submitted to the District a request for facilities under Proposition 39, which projected a total of 367.65 in-District students; and

**WHEREAS**, on or about December 1, 2015, the District, in accordance with Cal. Code Regs., tit. 5, §11969(d), issued its written objections to the Charter School’s ADA projections for 2017-2018, which counter-projected 135.00 in-District classroom ADA; and

**WHEREAS**, on or about January 2, 2015, the Charter School reduced its projection to 285.00 ADA; and

**WHEREAS**, for the 2016-2017 school year, the Charter School made a projection of 330.40 in-District classroom ADA; the District make a counterprojection of 249.62 in-District ADA; and the Charter School’s in-District classroom ADA was only 101.65; and

**WHEREAS**, Cal. Code Regs., tit. 5, § 11969.2(d) states that “facilities are ‘contiguous’ if they are contained on the school site or immediately adjacent to the

school site;" and

**WHEREAS**, Cal. Code Regs., tit. 5, section § 11969.2(d) requires that "[i]f the in-district average daily classroom attendance of the charter school cannot be accommodated on any single school district school site, contiguous facilities also includes facilities located at more than one site, provided that the school district shall minimize the number of sites assigned and shall consider student safety"; and

**WHEREAS**, Cal. Code Regs., tit. 5, § 11969.2(d) requires the Board to make a finding that the charter school could not be accommodated at a single site, and adopt a written statement of reasons explaining the finding, should the District offer the Charter School facilities on a non-contiguous site; and

**WHEREAS**, District staff has evaluated all feasible facilities allocation options, and considered capacity, condition, location and other relevant factors, using as a point of reference a set of "comparison schools" as required by Proposition 39, to offer a facility to the Charter School that meets Proposition 39 standards for "reasonable equivalence" in terms of "capacity" and "condition"; and

**WHEREAS**, Cal. Admin. Code tit. 5, § 11969.3 states that "[t]he district is not obligated to pay for the modification of an existing school site to accommodate the charter school's grade level configuration"; and

**WHEREAS**, school districts have the discretion, in determining reasonable equivalent facilities allocations, to charter schools, to consider the impact upon existing district programs. (*Los Angeles Intern. Charter High School v. Los Angeles* (2012) 209 Cal.App.4th 1348; *Westchester Secondary Charter School v. Los Angeles* (2015) 237 Cal.App.4th 1226.)

**NOW, THEREFORE**, the Board of the District hereby finds, determines, declares, orders and resolves as follows:

**Section 1.** That all of the recitals set forth above are true and correct, and are hereby adopted as factual findings in support of the District's Preliminary and Final Offers to Charter School for 2017-2018.

**Section 2.** In accordance with Cal. Admin. Code tit. 5, § 11969.2(d), the Board makes the following findings in support of its conclusion that the in-district average daily classroom attendance of the charter school cannot be accommodated on any single school district school site:

- (A) The District has determined that all of its elementary schools are at sufficient capacity such that they would not be able to accommodate more than the 135 ADA counter-projected by the District for the 2017-2018 school year, in addition to Specialized Teaching Space and Non-Teaching Space. **(See, Exhibit A.)**
- (B) The District, within the past five (5) years, has closed two schools:

Glenbrook Middle School (“Glenbrook”) and/or Holbrook Elementary School (“Holbrook”).

- (C) The District intends to re-open Holbrook as a District elementary school for the 2017-2018 school year.
- (D) Glenbrook houses the Seneca Center, which provides services to District students as part of the District’s Mental Health Collaborative. Seneca provides services to the District students valued at \$570,000 year in lieu of paying rent.

**Section 3.** The District cannot offer facilities at Glenbrook to the Charter School without impacting or vacating the Seneca program, which provides valuable services to District students as part of the District’s Mental Health Collaborative.

**Section 4:** The District can promote student safety by not moving the Charter School from its current shared location at Ayers Elementary School; and

**Section 5:** Offering the Charter School co-location over two sites maximizes the use of District resources and funding.

**Section 6:** The District has considered student safety and has minimized the number of sites at which the Charter School would be located. An important feature of the Ayers site is that the District can carve out a separate and discrete parcel at the periphery of each site that will allow the Charter School’s students, staff and parents separate egress and ingress from the host site. Having a separate point of entrance and exit from Ayers will decrease traffic related to student dropoff and pickoff, disperse the concentration of students and staff at the sites, and therefore reduce the possibility of accidents. The District will attempt to provide similar ingress/egress at the Charter School’s second site.

**Section 7:** The District has minimized the number of site by co-locating the Charter School 2 sites.

**APPROVED, PASSED AND ADOPTED** by the Board of the District on the 23<sup>rd</sup> day of January, 2017, by the following vote:

AYES:  
NOES:  
ABSTENTIONS:

\_\_\_\_\_  
President of the Governing Board of the  
Mt. Diablo Unified School District

Attested to:

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Clerk of the Governing Board of the  
Mt. Diablo Unified School District

# EXHIBIT A

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