

**RESOLUTION NO. 15/16-37**

**RESOLUTION OF THE BOARD OF EDUCATION OF THE MT. DIABLO UNIFIED SCHOOL DISTRICT ACTING AS THE LEGISLATIVE BODY OF THE MT. DIABLO UNIFIED SCHOOL DISTRICT COMMUNITY FACILITIES DISTRICT NO. 1 AUTHORIZING THE ISSUANCE OF THE MT. DIABLO UNIFIED SCHOOL DISTRICT COMMUNITY FACILITIES DISTRICT NO. 1 SERIES 2016 SPECIAL TAX REFUNDING BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$21,000,000 AND APPROVING CERTAIN DOCUMENTS AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

**WHEREAS**, the Board of Education of the Mt. Diablo Unified School District (the "School District"), acting as the legislative body of Mt. Diablo Unified School District Community Facilities District No. 1 (hereinafter sometimes referred to as the "legislative body of the District"), has heretofore undertaken proceedings and declared the necessity to issue bonds on behalf of the Mt. Diablo Unified School District Community Facilities District No. 1 (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2, Title 5 of the California Government Code (the "Act"); and

**WHEREAS**, the legislative body of the District has previously issued its special tax bonds captioned "\$15,760,000 Mt. Diablo Unified School District Community Facilities District No. 1 Series 2005 Special Tax Revenue and Refunding Bonds" (the "2005 Bonds"), under the Act and Resolution No. 1:8-7-90-91 adopted by the legislative body of the District on August 7, 1990 (the "Original Resolution"), as subsequently supplemented and amended, including as supplemented by Resolution No. 04/05-48 adopted on May 10, 2005; and

**WHEREAS**, the legislative body of the District has previously issued its special tax bonds captioned "\$29,995,000 Mt. Diablo Unified School District Community Facilities District No. 1 Series 2006 Special Tax Refunding Bonds" (the "2006 Bonds" and together with the 2005 Bonds, the "Prior Bonds"), under the Act and the Original Resolution as supplemented from time to time, including as supplemented by Resolution No. 05/06-79 adopted on May 23, 2006; and

**WHEREAS**, the School District and the District desire to defease and refund the outstanding Prior Bonds through the issuance by the School District of bonds in an aggregate original principal amount not to exceed \$21,000,000 designated as the "Mt. Diablo Unified School District Community Facilities District No. 1 Series 2016 Special Tax Refunding Bonds" (the "2016 Bonds"); and

**WHEREAS**, in order to effect the defeasance and refunding of the Prior Bonds, the School District will cause a portion of the net proceeds of the 2016 Bonds to be deposited in an escrow account established under an Escrow Agreement to be entered into by and between the School District and U.S. Bank National Association, as escrow agent; and

**WHEREAS**, the legislative body of the District has determined in accordance with Government Code Section 53583(c)(1) that a negotiated sale of the 2016 Bonds to Stifel, Nicolaus & Company, Incorporated and Brandis Tallman LLC (collectively, the "Underwriters"), in accordance with the terms of the Bond Purchase Agreement approved as to form by this legislative body herein, will result in a lower overall cost to the District than a public sale;

**NOW, THEREFORE, THE BOARD OF EDUCATION OF THE MT. DIABLO UNIFIED SCHOOL DISTRICT ACTING AS THE LEGISLATIVE BODY OF THE MT. DIABLO UNIFIED**

**SCHOOL DISTRICT COMMUNITY FACILITIES DISTRICT NO. 1 DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:**

SECTION 1. Recitals. Each of the above recitals is true and correct and is adopted by the legislative body of the District.

SECTION 2. Issuance of 2016 Bonds. The issuance of the 2016 Bonds in a principal amount not to exceed \$21,000,000 is hereby authorized with the exact principal amount to be determined by the official signing the Bond Purchase Agreement in accordance with Section 6 below. The legislative body of the District hereby determines that it is prudent in the management of its fiscal affairs to issue the 2016 Bonds, and that the Prior Bonds may be defeased and refunded in full or in part, depending on market conditions at the time the 2016 Bonds are sold. The 2016 Bonds shall mature on the dates and pay interest at the rates set forth in the Bond Purchase Agreement to be executed by the School District, on behalf itself and the District, in accordance with Section 6 below. All other provisions of the 2016 Bonds shall be governed by the terms and conditions set forth in the Fiscal Agent Agreement (the "Fiscal Agent Agreement") by and between the School District, on behalf of itself and the District, and the Fiscal Agent on file with the Secretary of the legislative body of the District.

The Board of Education hereby finds that the 2016 Bonds constitute "refunding bonds" within the meaning of the Act because the proceeds thereof will be used to refund the Prior Bonds, and that (i) the total net interest cost to maturity of the 2016 Bonds, plus the principal amount of the 2016 Bonds, is less than (ii) the total net interest cost to maturity of the Prior Bonds plus the principal amount of the Prior Bonds to be refunded.

SECTION 3. Fiscal Agent Agreement. The form of Fiscal Agent Agreement presented at this meeting is hereby approved and any one of the President or Vice-President, or a designee appointed by the President, and Secretary of the legislative body of the District, are hereby authorized to execute the Fiscal Agent Agreement, with such additions thereto and changes therein as the officers executing the same deem necessary, upon consultation with Bond Counsel, including any changes to enhance the security for or obtain a rating or municipal bond insurance on the 2016 Bonds, to cure any ambiguity or defect therein if such addition or change does not materially alter the substance or content thereof, to insert the offering prices, interest rates, selling compensation, principal amount per maturity, redemption dates and prices and such other related terms and provisions as limited by Section 6 below, or to conform any provisions therein to the Bond Purchase Agreement or the Official Statement delivered to the purchasers of the 2016 Bonds. Approval of such changes shall be conclusively evidenced by the execution and delivery of the Fiscal Agent Agreement by such officers. Capitalized terms used in this Resolution which are not defined herein have the meanings ascribed to them in the Fiscal Agent Agreement.

SECTION 4. Execution of 2016 Bonds. The 2016 Bonds shall be executed on behalf of the School District by the manual or facsimile signature of the President or Vice President, or a designee appointed by the President, of the legislative body of the District, and attested with the manual or facsimile signature of the Secretary of the legislative body of the District.

SECTION 5. Covenants. The covenants set forth in the Fiscal Agent Agreement to be executed in accordance with Section 3 above are hereby approved, shall be deemed to be covenants of the School District and shall be complied with by the School District and its officers. The Fiscal Agent Agreement shall constitute a contract between the School District, on behalf of itself and the District, and the Fiscal Agent.

SECTION 6. Bond Purchase Agreement. The form of the Bond Purchase Agreement presented at this meeting is hereby approved and any one of the President or Vice President of the legislative body of the District, the Superintendent, the Director of Fiscal Services or the General Counsel (each an "Authorized Officer"), is hereby authorized to execute the Bond Purchase Agreement, with such additions thereto and changes therein relating to dates and numbers as are necessary to conform the Bond Purchase Agreement to the dates, amounts, interest rates, and manner and timing of interest payments or accrual of interest, applicable to the 2016 Bonds as of the sale date. Approval of such additions and changes shall be conclusively evidenced by the execution and delivery of the Bond Purchase Agreement by an Authorized Officer; provided, however, that the Bond Purchase Agreement shall be signed only if the principal amount of the 2016 Bonds does not exceed \$21,000,000, the true interest cost (taking into account any original issue discount for purposes of such calculation) of the 2016 Bonds does not exceed the maximum permitted under applicable law, and the final maturity date of the 2016 Bonds is not later than August 1, 2026. Each of the Superintendent, his designee, and the Director of Fiscal Services are authorized to determine the day on which the 2016 Bonds are to be priced in order to attempt to produce the lowest borrowing cost for the District and may reject any terms presented by the Underwriters if determined not to be in the best interest of the District.

SECTION 7. Escrow Agreement. The form of the Escrow Agreement presented at this meeting is hereby approved and any Authorized Officer is hereby authorized to execute the Escrow Agreement, with such additions thereto and changes therein as the Authorized Officer executing the same may deem necessary and advisable, upon consultation with Bond Counsel, including changes relating to dates and numbers as are necessary to conform the Escrow Agreement to the dates and amounts applicable to the refunding of the Prior Bonds. Approval of such additions and changes shall be conclusively evidenced by the execution and delivery of the Escrow Agreement by an Authorized Officer.

SECTION 8. Official Statement. The Board of Education hereby approves the Preliminary Official Statement describing the 2016 Bonds in substantially the form on file with the Secretary, with such additions and such changes therein as an Authorized Officer may approve. Distribution of the Preliminary Official Statement by the Underwriters is hereby approved, and, prior to the distribution of the Preliminary Official Statement, any Authorized Officer is authorized and directed, on behalf of the District to deem the Preliminary Official Statement "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule"). The execution of the final Official Statement, which shall include such changes and additions thereto deemed advisable by an Authorized Officer, upon consultation with Bond Counsel, including without limitation such additions and changes as are necessary to reflect the terms of any municipal bond insurance or conditions imposed by any rating agency, and such information permitted to be excluded from the Preliminary Official Statement pursuant to the Rule, is hereby approved for delivery to the purchasers of the 2016 Bonds. Any Authorized Officer is authorized and directed to execute the final Official Statement for and on behalf of the District and to deliver to the Underwriters for the 2016 Bonds a certificate with respect to the information set forth therein.

SECTION 9. Continuing Disclosure Certificate. The form of the Continuing Disclosure Certificate on file with the Secretary is hereby approved and any Authorized Officer is hereby authorized and directed, for and in the name of and on behalf of the School District, to execute, acknowledge and deliver said Continuing Disclosure Certificate in substantially the form attached to the Preliminary Official Statement presented at this meeting with such changes

therein as any Authorized Officer may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 10. Appointment of Professionals. The appointment of the following professionals is hereby confirmed: Jones Hall, A Professional Law Corporation as bond and disclosure counsel; Dale Scott & Company as municipal advisor; and U.S. Bank National Association as fiscal agent.

SECTION 11. Property Valuation. In accordance with Section 53345.8 of the Act, the legislative body of the District hereby determines that the value of the real property in the District subject to the special tax is at least three times the principal amount of the 2016 Bonds and the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act or a special assessment levied on property within the District. This determination is based on the full cash value of such property as shown on the last equalized County Assessor's assessment roll.

SECTION 12. Findings and Determinations for Refunding Bonds Under the Act. For purposes of Section 53363.2 of the Act, the Board of Education hereby further finds and determines that: (i) it is expected that the purchase of the 2016 Bonds will occur on the Closing Date (as such term is defined in the Fiscal Agent Agreement); (ii) the date, denomination, maturity dates, places of payment and form of the 2016 Bonds shall be as set forth in the Fiscal Agent Agreement, as executed; (iii) the maximum true interest of the 2016 Bonds shall not exceed the amount necessary to make the findings set forth in Section 2 hereof; (iv) the final maturity date of the 2016 Bonds shall not be later than August 1, 2026; (v) the place of payment for the 2016 Bonds shall be as set forth in the Fiscal Agent Agreement; and (vi) the designated costs of issuing the 2016 Bonds shall be as described in Section 53363.8(a) of the Act, and as otherwise described in the Fiscal Agent Agreement, and the closing certificates for the 2016 Bonds, including but not limited to, fees and expenses of bond counsel, municipal advisor, disclosure counsel, general counsel, fiscal agent and special tax consultant, underwriters' discount, verification agent, printing costs for the Official Statement, other costs of issuance of the 2016 Bonds, and costs of School District staff incurred in connection with the sale and issuance of the 2016 Bonds.

SECTION 13. Other Actions. The President or Vice President and Secretary of the legislative body of the District and the other officers and staff of the School District responsible for the fiscal affairs of the School District and the District are hereby authorized and directed to take any actions and execute and deliver any and all documents as are necessary to accomplish the issuance, sale and delivery by the School District of the 2016 Bonds in accordance with the provisions of this Resolution and the fulfillment of the purposes of the 2016 Bonds as described in the Fiscal Agent Agreement. If the President or Vice President of the legislative body of the District is unavailable to sign any document authorized for execution herein, any other member of the legislative body of the District or the Superintendent, or his written designee, may sign such document.

SECTION 14. Effective Date. This Resolution shall be effective as of the date of its adoption.

ADOPTED, SIGNED AND APPROVED this 11th day of April, 2016.

BOARD OF EDUCATION OF THE MT. DIABLO UNIFIED SCHOOL DISTRICT ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF THE MT. DIABLO UNIFIED SCHOOL DISTRICT COMMUNITY FACILITIES DISTRICT NO. 1

By: \_\_\_\_\_  
Cheryl Hansen, President of the Board of Education

ATTEST:

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Dr. Nellie Meyer, Secretary of the Board of Education of Mt. Diablo Unified School District

STATE OF CALIFORNIA                    )  
  ) SS  
COUNTY OF CONTRA COSTA        )

I, Dr. Nellie Meyer, Secretary of the Board of Education of the Mt. Diablo Unified School District, do hereby certify that the foregoing Resolution was duly and regularly adopted by the Board of Education of said District at a regular meeting thereof held on the 11th day of April, 2016, and that it was so adopted by the following vote.

AYES:

NOES:

ABSENT:

ABSTAIN:

By: \_\_\_\_\_  
Dr. Nellie Meyer, Secretary of the Board of Education of Mt. Diablo Unified School District