

RESOLUTION NO. 17/18-55

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE MT. DIABLO
UNIFIED SCHOOL DISTRICT AUTHORIZING THE EXECUTION, DELIVERY
AND SALE OF CERTIFICATES OF PARTICIPATION IN THE MAXIMUM
AGGREGATE PRINCIPAL AMOUNT OF \$20,000,000 TO FINANCE SCHOOL
FACILITIES AND IMPROVEMENTS, PLEDGING SPECIAL TAX REVENUES
TO THE PAYMENT OF LEASE PAYMENTS, AND APPROVING RELATED
DOCUMENTS AND ACTIONS**

WHEREAS, at a special election held on November 7, 1989, more than two-thirds of the voters of the District approved Measure A, authorizing the levy and collection of a special tax at the rate of \$67 per taxable unit (the "Special Taxes"), for the purpose of providing financing for the rehabilitation and improvement of existing elementary, middle and high school facilities and other facilities, and the construction and installation of new elementary, middle and high school facilities at existing school sites, together with necessary appurtenances thereto and furniture and equipment therefor (collectively, the "Authorized Projects"); and

WHEREAS, the District wishes at this time to provide financing for projects and facilities which constitute Authorized Projects under Measure A; and

WHEREAS, in order to provide financing for Authorized Projects, the District proposes to lease certain land and improvements consisting generally of the Delta View Elementary School (the "Leased Property") to the Mt. Diablo Unified School District Education Facilities Financing Corporation (the "Corporation") under a Site Lease in consideration of the payment of an upfront rental payment in an amount sufficient for such purposes, and the Corporation has proposed to lease the Leased Property back to the District under a Lease Agreement in consideration of the agreement by the District to pay semiannual lease payments (the "Lease Payments"); and

WHEREAS, the Lease Payments will be payable from any source of legally available funds of the District, including the General Fund of the District, and will additionally be payable from and secured by a pledge of and lien on the Special Taxes which is subordinate to the pledge and lien which secures outstanding Special Tax Bonds of the District; and

WHEREAS, the Corporation will assign its right to receive the Lease Payments to U.S. Bank National Association, as trustee (the "Trustee"), and in consideration of such assignment the Trustee will execute and deliver not to exceed \$20,000,000 aggregate principal amount of 2018 Certificates of Participation, each evidencing a direct, undivided fractional interest in the Lease Payments (the "Certificates"), the proceeds of which will be applied to finance Authorized Projects, as provided in a Trust Agreement among the Corporation, the District and the Trustee; and

WHEREAS, the District is authorized to enter into the Site Lease and the Lease Agreement under Section 17456 of the Education Code of the State of California, provided that the proceeds thereof are applied for capital outlay purposes of the District; and

WHEREAS, as required pursuant to Education Code Section 17150.1, the District has, at least thirty days prior to the date hereof, provided notice to the Contra Costa County Superintendent of Schools and Contra Costa County Auditor, of its intention to proceed with the issuance of the Certificates, together with evidence of its ability to repay the Certificates; and

WHEREAS, the Board of Trustees wishes at this time to authorize and approve all proceedings for the financing of Authorized Projects, the delivery and sale of the Certificates for such purpose, and all related documents and actions, in furtherance of the public purposes of the District; and

WHEREAS, pursuant to Government Code Section 5852.1 which became effective on January 1, 2018 by the enactment of Senate Bill 450, certain information relating to the Certificates is set forth in Appendix A attached to this Resolution, and such information is hereby disclosed and made public;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Trustees of the Mt. Diablo Unified School District as follows:

Section 1. Approval of Financing Plan and Related Documents. The Board of Trustees hereby approves the financing plan described above. To that end, the Board of Trustees hereby approves each of the following financing documents in substantially the respective forms on file with the Secretary of the Board together with any changes therein or additions thereto deemed advisable by the Superintendent or the Chief Business Officer (each, an "Authorized Officer"), whose execution thereof shall be conclusive evidence of such approval:

- Site Lease between the District as lessor and the Corporation as lessee, whereby the District leases the Leased Property to the Corporation in consideration of the payment by the Corporation to the District of an upfront rental payment which is sufficient to enable the District to finance the construction and improvement of Authorized Projects, including the payment of related financing costs.
- Lease Agreement between the Corporation as lessor and the District as lessee, whereby the Corporation leases the Leased Property back to the District in consideration of the payment by the District of semiannual lease payments.
- Trust Agreement among the District, the Corporation and the Trustee, whereby the Trustee agrees to execute and deliver the Certificates.

An Authorized Officer is authorized and directed for and in the name and on behalf of the District to execute and attest the final form of each of the foregoing documents. The schedule of lease payments attached to the Lease Agreement shall correspond to the payments of principal and interest represented by the Certificates, to be determined upon the sale thereof as set forth in Section 2.

Section 2. Negotiated Sale of Certificates. The Board of Trustees hereby approves the sale of the Certificates on a negotiated basis to Stifel, Nicolaus & Company, Incorporated (the "Underwriter"). The Certificates shall be sold pursuant to the terms and provisions of a Certificate Purchase Agreement (the "Purchase Agreement") between the District and the Underwriter. An Authorized Officer is hereby authorized and directed to execute and deliver the Purchase Agreement for and in the name and on behalf of the District, in substantially the form on file with the Secretary of the Board, with such changes therein, deletions therefrom and additions thereto deemed advisable by an Authorized Officer, whose execution thereof shall be conclusive evidence of such approval. The Certificates shall be sold at a true interest cost of not to exceed 5.00%, and the amount of the Underwriter's discount on the sale of the Certificates shall not exceed 2.00% of the par amount thereof. The District hereby authorizes the delivery and performance of the Purchase Agreement.

Section 3. Official Statement. The Board of Trustees hereby approves and deems final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934 (the "Rule"), the Preliminary Official Statement describing the Certificates in the form on file with the Secretary. An Authorized Officer is hereby individually authorized, at the request of the Underwriter, to execute an appropriate certificate affirming the Board of Trustees' determination that the Preliminary Official Statement has been deemed final within the meaning of such Rule. Distribution of the Preliminary Official Statement to prospective purchasers of the Certificates is hereby approved. An Authorized Officer is hereby authorized and directed to approve any changes in or additions to a final form of said Official Statement, and the execution thereof by an Authorized Officer shall be conclusive evidence of approval of any such changes and additions. The Board of Trustees hereby authorizes the distribution of the Final Official Statement by the Underwriter. The Final Official Statement shall be executed in the name and on behalf of the District by an Authorized Officer.

Section 4. Engagement of Professional Services. The Board of Trustees has previously engaged the firm of Jones Hall, A Professional Law Corporation, to serve as bond counsel and disclosure counsel to the District in connection with the issuance of Special Tax Bonds of the District, which engagement shall apply to the issuance of the Certificates.

Section 5. Pledge of Special Taxes. The Board of Trustees hereby finds and determines that the Special Taxes are authorized to be applied to pay the Lease Payments pursuant to the provisions of Measure A, and the Board of Trustees hereby authorizes the pledge of Special Taxes to pay the Lease Payments. Such authorization shall cause the pledge of Special Taxes to be in existence under and within the meaning of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure (the "Validation Statutes"). As provided in Section 53359 of the Government Code of the State of California, the validity of the levy, collection and application of the Special Taxes to pay the Lease Payments may be determined pursuant to the Validation Statutes. Any action in respect of such levy, collection and application of the Special Taxes must be commenced within 60 days following the adoption of this Resolution.

Section 56. Official Actions. The Board President, Board Vice President, the Superintendent, the Chief Business Officer, the Secretary and/or Clerk of the Board and all other officers of the District are each authorized and directed in the name and on behalf of the District to make any and all assignments, certificates, requisitions, agreements,

notices, consents, leases and other instruments of conveyance, warrants, termination and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution. Said authority extends to applying for municipal insurance for the Certificates, if in the best interests of the District. Whenever in this resolution any officer of the District is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated in writing by such officer to act on his or her behalf in the case such officer is absent or unavailable.

Section 67. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

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PASSED AND ADOPTED by the Board of Trustees of the Mt. Diablo Unified School District on June 25, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

President of the Board of Trustees

ATTEST:

Secretary to the Board of Trustees

EXHIBIT A

**REQUIRED GOOD FAITH ESTIMATES PURSUANT TO
GOVERNMENT CODE SECTION 5852.1**

(SB 450 effective January 1, 2018)*

1. True Interest Cost of the Certificates: _____%.
2. Finance charge of the Certificates, being the sum of all fees and charges paid to third parties (Costs of Issuance of approximately \$_____ plus estimated underwriter's compensation, bond insurance premium and reserve insurance policy premium, assuming bond insurance and reserve insurance are obtained): \$_____.
3. Amount of proceeds of the Certificates expected to be received by the District, net of proceeds for Costs of Issuance in (2) above and net of capitalized interest (if any) and reserves (if any) paid or funded with the proceeds of the Certificates: \$_____.
4. Total payment amount for the Certificates, being the sum of (a) debt service to be paid on the Certificates to final maturity, plus (b) any financing costs not paid from proceeds of the Certificates: \$_____.

**All amounts and percentages are estimates, and are made in good faith by the District based on information available as of the date of adoption of this Resolution. Estimates include certain assumptions regarding tax-exempt rates available in the bond market at the time of pricing the Certificates.*