



RESOLUTION 20-30

**RESOLUTION OF THE GOVERNING BOARD OF
THE MORAGA ELEMENTARY SCHOOL DISTRICT AUTHORIZING THE
ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, ELECTION OF
2016, SERIES B, IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO
EXCEED \$12,000,000, AND APPROVING RELATED DOCUMENTS AND
ACTIONS**

WHEREAS, an election was duly and regularly held in the Moraga Elementary School District (the "District") on November 8, 2016, in accordance with Section 1(b)(3) of Article XIII A of the California Constitution, for the purpose of submitting Measure V (the "Bond Measure") to the qualified electors of the District, authorizing the issuance of general obligation bonds in the aggregate principal amount of \$33,000,000 (the "Bonds"), and the requisite 55% of the votes cast were in favor of the issuance of the Bonds; and

WHEREAS, the abbreviated form of Measure V is:

"To improve the quality of education at Moraga schools with funding that cannot be taken away by the State; repair or replace leaky roofs; improve student access to modern technology; modernize, renovate and/or construct classrooms, restrooms and school facilities; upgrade inadequate electrical systems; and make health, seismic, safety and security improvements; shall Moraga Elementary School District issue \$33,000,000 of bonds at legal interest rates, with citizens' oversight, annual audits and NO money used for administrative salaries?"; and

WHEREAS, at its meeting on January 10, 2017, the Governing Board (the "Board") duly certified the successful election results and caused such entry in its minutes; and

WHEREAS, the Board is authorized to provide for the issuance and sale of any series of Bonds under the provisions of Article 4.5 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (the "Bond Law"); and

WHEREAS, on April 6, 2017, the District issued a first series of bonds pursuant to Measure V in the principal amount of \$12,000,000 to provide the first phase of financing for Measure V projects; and

WHEREAS, the District wishes at this time to initiate proceedings for the issuance of a second series of the Bonds under the Bond Law in the aggregate principal amount of not to exceed \$12,000,000 to provide the second phase of financing for Measure V projects, to be designated "Moraga Elementary School District (Contra Costa

County, California) General Obligation Bonds, Election of 2016, Series B" (the "Series B Bonds") as provided in this Resolution; and

WHEREAS, the District's most recent interim report was certified positive and the District intends, with the County's consent, to sell the Series B Bonds on its own behalf pursuant to the Bond Law; and

WHEREAS, as required by Government Code Section 5852.1 enacted January 1, 2018 by Senate Bill 450, attached hereto as Appendix B is the information relating to the Series B Bonds that has been obtained by the Board and is hereby disclosed and made public; and

WHEREAS, the Board has approved a Debt Issuance and Management Policy (BP 3470) which complies with Government Code Section 8855, and the delivery of the Series B Bonds will be in compliance with said policy; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Moraga Elementary School District as follows:

ARTICLE I

DEFINITIONS; AUTHORITY

SECTION 1.01. *Definitions.* The terms defined in this Section 1.01, as used and capitalized herein, shall, for all purposes of this Resolution, have the meanings given them below, unless the context clearly requires some other meaning.

"Authorized Investments" means the County Investment Pool, the Local Agency Investment Fund, any investments authorized pursuant to Sections 53601 and 53635 of the California Government Code, provided that said investments are part of the County treasury, in accordance with Education Code Section 15146(g). The Treasurer-Tax Collector shall assume no responsibility in the reporting, reconciling and monitoring in the investment of proceeds related to the Series B Bonds.

"Board" means the Governing Board of the District.

"Bond Counsel" means (a) the firm of Jones Hall, A Professional Law Corporation, or (b) any other attorney or firm of attorneys nationally recognized for expertise in rendering opinions as to the legality and tax exempt status of securities issued by public entities.

"Bond Law" means Article 4.5 of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California, commencing with Section 53506 of said Code, as in effect on the date of adoption hereof and as amended hereafter.

"Bond Measure" means Measure V submitted to and approved by the requisite 55% of the voters on November 8, 2016, under which the issuance of the Bonds has been authorized.

"Bond Purchase Agreement" means the Bond Purchase Agreement between the District and the Underwriter, under which the Underwriter agrees to purchase the Series B Bonds and pay the purchase price therefor.

"Bonds" means, collectively, all bonds issued pursuant to the Bond Measure.

"Building Fund" means the fund established and held by the County by the County Controller and maintained by the County Treasurer under Section 3.03.

"Closing Date" means the date upon which there is a delivery of the Series B Bonds in exchange for the amount representing the purchase price of the Series B Bonds by the Underwriter.

"Continuing Disclosure Certificate" means the Continuing Disclosure Certificate which is executed and delivered by a District Representative on the Closing Date.

"Costs of Issuance" means all items of expense directly or indirectly payable by or reimbursable to the District and related to the authorization, issuance, sale and delivery of the Series B Bonds, including but not limited to the costs of preparation and reproduction of documents, printing expenses, filing and recording fees, initial fees and charges of the Paying Agent and its counsel, legal fees and charges, fees and disbursements of consultants and professionals, rating agency fees and any other cost, charge or fee in connection with the original issuance and sale of the Series B Bonds.

"County" means the County of Contra Costa, a political subdivision of the State of California, duly organized and existing under the Constitution and laws of the State of California.

"County Auditor-Controller" means the Contra Costa County Auditor-Controller, or any authorized deputy thereof.

"County Treasurer" means the Contra Costa County Treasurer-Tax Collector, or any authorized deputy thereof.

"Debt Service Fund" means the account established by the County Controller and held by the County Treasurer under Section 4.02.

"Depository" means (a) initially, DTC, and (b) any other Securities Depository acting as Depository under Section 2.09.

"Depository System Participant" means any participant in the Depository's book-entry system.

"District" means the Moraga Elementary School District, a school district organized under the Constitution and laws of the State of California, and any successor thereto.

"District Representative" means the President of the Board, the Vice President of the Board, the Superintendent, the District's chief business official or other fiscal officer, or the written designee of such officers, or any other person authorized by resolution of

the Governing Board of the District to act on behalf of the District with respect to this Resolution and the Bonds.

"DTC" means The Depository Trust Company, and its successors and assigns.

"Education Code" means the Education Code of the State of California, as in effect on the Closing Date or as thereafter amended from time to time.

"Federal Securities" means (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged; (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.

"Interest Payment Dates" means February 1 and August 1 in each year during the term of such Series B Bond, commencing on the date set forth in the Bond Purchase Agreement, provided, however, that such dates are subject to modification as provided in the Bond Purchase Agreement.

"Office" means the office or offices of the Paying Agent for the payment of the Bonds and the administration of its duties hereunder. The Paying Agent may designate and re-designate the Office from time to time by written notice filed with the County and the District.

"Outstanding," when used as of any particular time with reference to Series B Bonds, means all Series B Bonds except: (a) Series B Bonds theretofore canceled by the Paying Agent or surrendered to the Paying Agent for cancellation; (b) Series B Bonds paid or deemed to have been paid within the meaning of Section 9.02; and (c) Series B Bonds in lieu of or in substitution for which other Series B Bonds have been authorized, executed, issued and delivered by the District under this Resolution.

"Owner", whenever used herein with respect to a Series B Bond, means the person in whose name the ownership of such Series B Bond is registered on the Registration Books.

"Paying Agent" means the bank, trust company, national banking association or other financial institution appointed as paying agent for the Series B Bonds in the manner provided in Article VI of this Resolution.

"Record Date" means the 15th day of the month preceding an Interest Payment Date, whether or not such day is a business day.

"Registration Books" means the records maintained by the Paying Agent for the registration of ownership and registration of transfer of the Series B Bonds under Section 2.08.

"Resolution" means this Resolution, as originally adopted by the Board and including all amendments hereto and supplements hereof which are duly adopted by the Board from time to time in accordance herewith.

"Securities Depositories" means DTC; and, in accordance with the then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the District may designate in a Written Request of the District delivered to the Paying Agent.

"Series B Bonds" means the not-to-exceed \$12,000,000 aggregate principal amount of Moraga Elementary School District (Contra Costa County, California) General Obligation Bonds, Election of 2016, Series B, issued and at any time Outstanding under this Resolution.

"Tax Code" means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under said Code.

"Underwriter" means Raymond James & Associates, Inc., the designated underwriter of the Series B Bonds upon the negotiated sale thereof, as designated pursuant to Section 3.01.

"Written Certificate of the District" means an instrument in writing signed by a District Representative or by any other officer of the District duly authorized by the District and listed on a Written Request of the District for that purpose.

SECTION 1.02. *Interpretation.*

(a) Unless the context otherwise indicates, words expressed in the singular include the plural and singular and the use of the neuter, masculine, or feminine gender is for convenience only and includes the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Resolution; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Resolution as a whole and not to any particular Article, Section or subdivision hereof.

SECTION 1.03. *Authority for this Resolution; Findings.* This Resolution is entered into under the provisions of the Bond Law. The Board hereby certifies that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of the Series B Bonds do exist, have happened or have been performed in due and regular time and manner as required by the laws of the State of California, and that the amount of the Series B Bonds, together with all other indebtedness of the District, does not exceed any limit prescribed by any laws of the State of California.

ARTICLE II

THE SERIES B BONDS

SECTION 2.01. *Authorization.* The Board hereby authorizes the issuance of the Series B Bonds in the aggregate principal amount not to exceed \$12,000,000 under and subject to the terms of Article XIII A, Section 1 paragraph (b) of the California Constitution, the Bond Law and this Resolution, for the purpose of raising money for the acquisition or improvement of educational facilities in accordance with Measure V and to pay Costs of Issuance. This Resolution constitutes a continuing agreement between the District and the Owners of all of the Series B Bonds issued or to be issued hereunder and then Outstanding to secure the full and final payment of principal thereof and interest and premium, if any, on all Series B Bonds, subject to the covenants, agreements, provisions and conditions herein contained. The Series B Bonds shall be issued as bonds which bear current interest and shall be designated the "Moraga Elementary School District (Contra Costa County, California) General Obligation Bonds, Election of 2016, Series B".

SECTION 2.02. *Terms of Series B Bonds.*

(a) Terms of Series B Bonds. The Series B Bonds will be issued as fully registered bonds, without coupons, in the denomination of \$5,000 each or any integral multiple thereof, but in an amount not to exceed the aggregate principal amount of Series B Bonds maturing in the year of maturity of the Series B Bonds for which the denomination is specified. Series B Bonds will be lettered and numbered as the Paying Agent may prescribe. The Series B Bonds will be dated as of the Closing Date.

Interest on the Series B Bonds is payable semiannually on each Interest Payment Date. Each Series B Bond will bear interest from the Interest Payment Date next preceding the date of registration and authentication thereof unless (i) it is authenticated as of an Interest Payment Date, in which event it will bear interest from such date, or (ii) it is authenticated prior to an Interest Payment Date and after the close of business on the Record Date preceding such Interest Payment Date, in which event it will bear interest from such Interest Payment Date, or (iii) it is authenticated prior to the first Record Date, in which event it will bear interest from the Closing Date. Notwithstanding the foregoing, if interest on any Series B Bond is in default at the time of authentication thereof, such Series B Bond will bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

(b) Maturities; Basis of Interest Calculation. The Series B Bonds will mature on August 1 (unless otherwise provided in the Bond Purchase Agreement) in the years and in the amounts, and will bear interest at the rates (up to a maximum of 8 percent per annum), as determined upon the sale thereof as provided in the Bond Purchase Agreement. Interest on the Series B Bonds will be calculated on the basis of a 360-day year comprised of twelve 30-day months. The final maturity of the Series B Bonds shall not exceed the legal limit identified in the Bond Law, and if the final maturity is more than thirty years after the Closing Date, the Superintendent is authorized to execute a certification confirming that the useful life of the facilities to be financed with the proceeds of the Series B Bonds which mature more than thirty years after the Closing Date exceeds the final maturity date of said Series B Bonds.

(c) CUSIP Identification Numbers. CUSIP identification numbers will be imprinted on the Series B Bonds, but such numbers do not constitute a part of the contract evidenced by the Series B Bonds and any error or omission with respect thereto will not constitute cause for refusal of any purchaser to accept delivery of and pay for the Series B Bonds. In addition, failure on the part of the District to use such CUSIP numbers in any notice to Owners of the Series B Bonds will not constitute an event of default or any violation of the District's contract with such Owners and will not impair the effectiveness of any such notice.

(d) Payment. Interest on the Series B Bonds (including the final interest payment upon maturity or redemption) is payable by check, draft or wire of the Paying Agent mailed to the Owner thereof (which will be DTC so long as the Series B Bonds are held in the book-entry system of DTC) at such Owner's address as it appears on the Registration Books at the close of business on the preceding Record Date; except that at the written request of the Owner of at least \$1,000,000 aggregate principal amount of the Series B Bonds, which written request is on file with the Paying Agent as of any Record Date, interest on such Series B Bonds will be paid by wire payment on the succeeding Interest Payment Date to such account as will be specified in such written request. Principal of and premium (if any) on the Series B Bonds is payable in lawful money of the United States of America upon presentation and surrender at the Office of the Paying Agent.

(e) Provisions of Bond Purchase Agreement to Control. Notwithstanding the foregoing provisions of this Section and the following provisions of Section 2.03, any of the terms of the Series B Bonds may be established or modified under the Bond Purchase Agreement provided such terms are in conformity with the Bond Law. In the event of a conflict or inconsistency between this Resolution and the Bond Purchase Agreement relating to the terms of the Series B Bonds, the provisions of the Bond Purchase Agreement will be controlling.

SECTION 2.03. *Redemption of Series B Bonds.*

(a) Optional Redemption Dates and Prices. The Series B Bonds are subject to redemption prior to maturity, at the option of the District, in whole or in part among maturities on such basis as shall be designated by the District and by lot within a maturity, from any available source of funds, commencing on the date identified in the Bond Purchase Agreement, at a price equal to 100% of the principal amount thereof, without premium, together with accrued interest thereon to the redemption date, or as otherwise provided in the Bond Purchase Agreement.

(b) Mandatory Sinking Fund Redemption. If the Bond Purchase Agreement specifies that any one or more maturities of the Series B Bonds are term bonds which are subject to mandatory sinking fund redemption, each such maturity of Series B Bonds shall be subject to such mandatory sinking fund redemption on August 1 (unless otherwise provided in the Bond Purchase Agreement) in each of the years and in the respective principal amounts as set forth in the Bond Purchase Agreement, at a redemption price equal to 100% of the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption. If any such term bonds are redeemed under the provisions of the preceding clause (a), the total amount of all future payments under this subsection (b) with respect to such term bonds shall be reduced by the aggregate principal amount of such term bonds so

redeemed, to be allocated among such payments on a pro rata basis in integral multiples of \$5,000 (or on such other basis as the District may determine) as set forth in written notice given by the District to the Paying Agent.

(c) Selection of Series B Bonds for Redemption. Whenever less than all of the Outstanding Series B Bonds of any one maturity are designated for redemption, the Paying Agent shall select the Outstanding Series B Bonds of such maturity to be redeemed by lot in any manner deemed fair by the Paying Agent. For purposes of such selection, each Series B Bond will be deemed to consist of individual bonds of \$5,000 principal amount. The Series B Bonds may all be separately redeemed.

(d) Redemption Procedure. The Paying Agent will cause notice of any redemption to be mailed, first class mail, postage prepaid, at least 20 days but not more than 60 days prior to the date fixed for redemption, to the respective Owners of any Series B Bonds designated for redemption, at their addresses appearing on the Registration Books. Such notice may be a conditional notice of redemption and subject to rescission as set forth in clause (e) below. Such mailing is not a condition precedent to such redemption and the failure to mail or to receive any such notice will not affect the validity of the proceedings for the redemption of such Series B Bonds. In addition, the Paying Agent will give notice of redemption by telecopy or certified, registered or overnight mail to the Municipal Securities Rulemaking Board and each of the Securities Depositories at least two days prior to such mailing to the Series B Bond Owners.

Such notice shall state the redemption date and the redemption price and, if less than all of the then Outstanding Series B Bonds are to be called for redemption, shall designate the serial numbers of the Series B Bonds to be redeemed by giving the individual number of each Series B Bond or by stating that all Series B Bonds between two stated numbers, both inclusive, or by stating that all of the Series B Bonds of one or more maturities have been called for redemption, and shall require that such Series B Bonds be then surrendered at the Office of the Paying Agent for redemption at the said redemption price, giving notice also that further interest on such Series B Bonds will not accrue from and after the redemption date.

Upon surrender of Series B Bonds redeemed in part only, the District shall execute and the Paying Agent shall authenticate and deliver to the Owner, at the expense of the District, a new Series B Bond or Bonds, of the same maturity, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Series B Bond or Bonds.

From and after the date fixed for redemption, if notice of such redemption has been duly given and funds available for the payment of the principal of and interest (and premium, if any) on the Series B Bonds so called for redemption have been duly provided, the Series B Bonds called for redemption will cease to be entitled to any benefit under this Resolution other than the right to receive payment of the redemption price, and no interest will accrue thereon on or after the redemption date specified in the notice. The Paying Agent will cancel all Series B Bonds redeemed under this Section and will furnish a certificate of cancellation to the District.

(e) Right to Rescind Notice of Redemption. The District has the right to rescind any notice of the optional redemption of Series B Bonds under subsection (a) of this Section by written notice to the Paying Agent on or prior to the date fixed for redemption.

Any notice of redemption shall be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Series B Bonds then called for redemption. The District and the Paying Agent shall have no liability to the Series B Bond Owners or any other party related to or arising from such rescission of redemption. The Paying Agent shall mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent under subsection (c) of this Section.

SECTION 2.04. *Form of Series B Bonds.* The Series B Bonds, the form of the Paying Agent's certificate of authentication and registration and the form of assignment to appear thereon will be substantially in the forms, respectively, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Resolution and the Bond Purchase Agreement, as are set forth in Appendix A attached hereto.

SECTION 2.05. *Execution of Series B Bonds.* The Series B Bonds shall be signed by the manual or facsimile signature of the President of the Board and shall be attested by the manual or facsimile signature of the Secretary or Clerk of the Board. Only those Series B Bonds bearing a certificate of authentication and registration in the form set forth in Appendix A attached hereto, executed and dated by the Paying Agent, shall be valid or obligatory for any purpose or entitled to the benefits of this Resolution, and such certificate of the Paying Agent is conclusive evidence that the Series B Bonds so registered have been duly authenticated, registered and delivered hereunder and are entitled to the benefits of this Resolution.

SECTION 2.06. *Transfer of Series B Bonds.* Subject to Section 2.10, any Series B Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Series B Bond for cancellation at the Office of the Paying Agent, accompanied by delivery of a written instrument of transfer in a form approved by the Paying Agent, duly executed. The District may charge a reasonable sum for each new Series B Bond issued upon any transfer.

Whenever any Series B Bond or Bonds is surrendered for transfer, the District shall execute and the Paying Agent shall authenticate and deliver a new Series B Bond or Bonds, for like aggregate principal amount. No transfers of Series B Bonds shall be required to be made (a) 15 days prior to the date established by the Paying Agent for selection of Series B Bonds for redemption or (b) with respect to a Series B Bond which has been selected for redemption.

SECTION 2.07. *Exchange of Series B Bonds.* Series B Bonds may be exchanged at the principal Office of the Paying Agent for a like aggregate principal amount of Series B Bonds of authorized denominations and of the same maturity, together with a request for exchange signed by the owner or by a person legally empowered to do so in a form satisfactory to the Paying Agent. The District may charge a reasonable sum for each new Series B Bond issued upon any exchange (except in the cases of any exchange of temporary Series B Bonds for definitive Series B Bonds). No exchange of Series B Bonds is required to be made (a) 15 days prior to the date established by the Paying Agent for selection of Series B Bonds for redemption or (b) with respect to a Series B Bond after it has been selected for redemption.

SECTION 2.08. *Registration Books.* The Paying Agent shall keep or cause to be kept sufficient books for the registration and transfer of the Series B Bonds, which shall at all times be open to inspection by the District upon reasonable notice; and, upon presentation for such purpose, the Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, Series B Bonds as herein before provided.

SECTION 2.09. *Book-Entry System.* Except as provided below, DTC shall be the Owner of all of the Series B Bonds, and the Series B Bonds shall be registered in the name of Cede & Co. as nominee for DTC. The Series B Bonds shall be initially executed and delivered in the form of a single fully registered Series B Bond for each maturity date of the Series B Bonds in the full aggregate principal amount of the Series B Bonds maturing on such date. The Paying Agent and the District may treat DTC (or its nominee) as the sole and exclusive owner of the Series B Bonds registered in its name for all purposes of this Resolution, and neither the Paying Agent nor the District shall be affected by any notice to the contrary. The Paying Agent and the District have no responsibility or obligation to any Depository System Participant, any person claiming a beneficial ownership interest in the Series B Bonds under or through DTC or a Depository System Participant, or any other person which is not shown on the register of the District as being an owner, with respect to the accuracy of any records maintained by DTC or any Depository System Participant or the payment by DTC or any Depository System Participant of any amount in respect of the principal or interest with respect to the Series B Bonds. The District shall cause to be paid all principal and interest with respect to the Series B Bonds only to DTC, and all such payments shall be valid and effective to fully satisfy and discharge the District's obligations with respect to the principal and interest with respect to the Series B Bonds to the extent of the sum or sums so paid. Except under the conditions noted below, no person other than DTC shall receive a Series B Bond. Upon delivery by DTC to the District of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the term "Cede & Co." in this Resolution shall refer to such new nominee of DTC.

If the District determines that it is in the best interest of the beneficial owners that they be able to obtain Series B Bonds and delivers a written certificate to DTC and the District to that effect, DTC shall notify the Depository System Participants of the availability through DTC of Series B Bonds. In such event, the District shall issue, transfer and exchange Series B Bonds as requested by DTC and any other owners in appropriate amounts.

DTC may determine to discontinue providing its services with respect to the Series B Bonds at any time by giving notice to the District and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the District shall be obligated to deliver Series B Bonds as described in this Resolution. Whenever DTC requests the District to do so, the District will cooperate with DTC in taking appropriate action after reasonable notice to (a) make available one or more separate Series B Bonds evidencing the Series B Bonds to any Depository System Participant having Series B Bonds credited to its DTC account or (b) arrange for another securities depository to maintain custody of certificates evidencing the Series B Bonds.

Notwithstanding any other provision of this Resolution to the contrary, so long as any Series B Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal and interest with respect to such Series B Bond and all notices with respect to such Series B Bond shall be made and given, respectively, to DTC as provided as in the representation letter delivered on the date of issuance of the Series B Bonds.

Section 2.10. *Transfer Under Book-Entry System: Discontinuation of Book-Entry System.* Registered ownership of the Series B Bonds, or any portion thereof, may not be transferred except as follows:

(i) To any successor of Cede & Co., as nominee of DTC, or its nominee, or to any substitute depository designated pursuant to clause (ii) of this section (a "substitute depository"); *provided that* any successor of Cede & Co., as nominee of DTC or substitute depository, shall be qualified under any applicable laws to provide the services proposed to be provided by it;

(ii) To any substitute depository not objected to by the District, upon (1) the resignation of the DTC or its successor (or any substitute depository or its successor) from its functions as depository, or (2) a determination by the District to substitute another depository for DTC (or its successor) because DTC or its successor (or any substitute depository or its successor) is no longer able to carry out its functions as depository; *provided*, that any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(iii) To any person upon (1) the resignation of DTC or its successor (or substitute depository or its successor) from its functions as depository, or (2) a determination by the District to remove The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository.

ARTICLE III

SALE OF SERIES B BONDS; APPLICATION OF PROCEEDS

SECTION 3.01. *Sale of Series B Bonds; Approval of Sale Documents.*

(a) Negotiated Sale of Series B Bonds. Pursuant to Section 53508.7 of the Bond Law, the Board hereby expressly authorizes the negotiated sale of the Series B Bonds to the underwriting firm of Raymond James & Associates, Inc., as Underwriter. The Series B Bonds shall be sold to the Underwriter pursuant to the Bond Purchase Agreement in substantially the form on file with the Clerk of the Board with such changes therein, deletions therefrom and modifications thereto as a District Representative may approve, such approval to be conclusively evidenced by the execution and delivery of the Bond Purchase Agreement; provided that the Bond Purchase Agreement shall contain the following terms:

- (i) the Series B Bonds shall bear a rate of interest of not to exceed 8 percent per annum and the final maturity shall not exceed the limits contained in the Bond Law;
- (ii) the Series B Bonds shall have a ratio of total debt service to principal of not to exceed four to one; and
- (iii) the Underwriter's discount shall not exceed 0.75% of the principal amount of the Series B Bonds.

The Board hereby authorizes a District Representative to execute and deliver the final form of the Bond Purchase Agreement in the name and on behalf of the District.

In accordance with Section 53508.7 of the Bond Law, the Board has determined to sell the Series B Bonds at negotiated sale for the following reasons: (a) a negotiated sale provides more flexibility to choose the time and date of the sale which is often advantageous in the municipal bond market; (b) the involvement of the Underwriter in preparing documents, rating agency presentations and structuring bonds generally enhances the quality and results of the bond offering; (c) a negotiated sale will permit the time schedule for the issuance and sale of the Series B Bonds to be expedited, if necessary; (d) a negotiated sale provides the District access to the underwriter's trading desk for providing estimates of the cost of various bond structures (yields, discounts, premiums and maturities) for the purpose of evaluating alternative potential bond structures with the goal of producing the best match between District objectives and investor acceptance and demand; and (e) a negotiated sale provides time for underwriters to educate potential investors about the District and the Series B Bonds with the goal of maximizing investor orders/reducing interest cost on the day of bond pricing.

As required pursuant to Section 53509.5 of the Bond Law, after the sale of the Series B Bonds, the Board will present actual cost information for the sale at its next scheduled public meeting.

(b) Official Statement. The Board hereby approves, and hereby authorizes the Superintendent to deem final as of its date within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934, the Preliminary Official Statement describing the Series B Bonds in substantially the form on file with the Clerk of the Board. The Superintendent is hereby authorized to execute an appropriate certificate stating that the Preliminary Official Statement has been deemed final within the meaning of such Rule. A District Representative 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 a District Representative shall be conclusive evidence of his or her approval of any such changes and additions. The Board hereby authorizes the distribution of the Official Statement by the Underwriter. The final Official Statement shall be executed in the name and on behalf of the District by a District Representative.

(c) Actions to Close Bond Issuance. Each District Representative and any and all other officers of the District are each authorized and directed in the name and on behalf of the District to execute and deliver any and all certificates, requisitions, agreements, notices, consents, warrants and other documents, which they or any of them might deem necessary or appropriate in order to consummate the lawful issuance, sale and delivery of the Series B Bonds, including but not limited to the execution and delivery of a document with respect to the engagement of the Paying Agent appointed hereby, and an agreement facilitating the payment of Costs of Issuance. 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 by such officer to act on his or her behalf if such officer is absent or unavailable.

(d) Bond Insurance. If the District is advised by its financial advisor that it is in the best financial interests of the District to obtain a municipal bond insurance policy to insure the payment of debt service on the Series B Bonds, a District Representative is authorized to apply for said insurance and to take all actions and execute all documents and certifications relating thereto.

(e) Actions to Close Bond Issuance. Each District Representative and any and all other officers of the District are each authorized and directed in the name and on behalf of the District to execute and deliver any and all certificates, requisitions, agreements, notices, consents, warrants and other documents, which they or any of them might deem necessary or appropriate in order to consummate the lawful issuance, sale and delivery of the Series B Bonds, including but not limited to the execution and delivery of a document with respect to the engagement of the Paying Agent appointed hereby, and the payment of Costs of Issuance. 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 by such officer to act on his or her behalf if such officer is absent or unavailable.

SECTION 3.02. *Application of Proceeds of Sale of Series B Bonds*. The proceeds of the Series B Bonds shall be paid to the County Treasurer on the Closing Date, and shall be applied by the County Treasurer as follows:

- (a) The portion of the proceeds representing the premium (if any) received by the County Treasurer on the sale of the Series B Bonds

will be deposited in the Debt Service Fund established pursuant to Section 4.02.

- (b) All remaining proceeds received by the County Treasurer from the sale of the Series B Bonds will be deposited in the Building Fund established pursuant to Section 3.03.

At the option of the District, a portion of the proceeds to be used to pay Costs of Issuance may be deposited with a fiscal agent selected by the District, as provided in Section 15146(h) of the Education Code, as directed by the District, in order to facilitate the payment of Costs of Issuance. In addition, the Bond Purchase Agreement may provide that the Underwriter shall apply its funds to the payment of Costs of Issuance. A District Representative is authorized to execute an agreement with a custodian in order to facilitate the payment of Costs of Issuance.

SECTION 3.03. *Building Fund.* The County Auditor-Controller shall create and maintain a fund designated as the "Moraga School District, Election of 2016, Series B Building Fund," into which the proceeds from the sale of the Series B Bonds shall be deposited, to the extent required under Section 3.02(b). In order to ensure that the District is able to meet its federal tax law covenants with respect to separate accounting of funds holding proceeds of the Series B Bonds, the County Auditor-Controller is requested to maintain separate accounting for the proceeds of the Series B Bonds, including all earnings received from the investment thereof. Amounts credited to the Building Fund for the Series B Bonds shall be expended by the District solely for the financing of projects for which the Series B Bond proceeds are authorized to be expended under Measure V (which includes related Costs of Issuance). All interest and other gain arising from the investment of proceeds of the Series B Bonds shall be retained in the Building Fund and used for the purposes thereof. At the Written Request of the District filed with the County Auditor-Controller, any amounts remaining on deposit in the Building Fund and not needed for the purposes thereof shall be withdrawn from the Building Fund and transferred to the Debt Service Fund, to be applied to pay the principal of and interest on the Series B Bonds.

If excess amounts remain on deposit in the Building Fund after payment in full of the Series B Bonds, any such excess amounts shall be transferred to the general fund of the District, to be applied for the purposes for which the Series B Bonds have been authorized or otherwise in accordance with the Bond Law.

SECTION 3.04. *Estimated Financing Costs.* The firm of Jones Hall, A Professional Law Corporation, has previously been engaged to act as the District's bond counsel and disclosure counsel, and the firm of Isom Advisors, A Division of Urban Futures, Inc., has previously been engaged to act as the District's financial advisor. Said engagements are confirmed in accordance with the terms of existing contracts. The estimated costs of issuance associated with the bond sale are \$170,000, which include bond counsel and disclosure counsel fees, underwriter's counsel fees, costs of printing the Official Statement, financial advisor fees, rating agency fees, and paying agent fees, but which do not include underwriting fees and the cost of municipal bond insurance, if obtained.

ARTICLE IV

SECURITY FOR THE SERIES B BONDS; DEBT SERVICE FUND

SECTION 4.01. *Security for the Series B Bonds.* The Series B Bonds are general obligations of the District. The Board has the power to direct the County to levy *ad valorem* taxes upon all property within the District that is subject to taxation by the District, without limitation of rate or amount, for the payment of the Series B Bonds and the interest and redemption premium (if any) thereon. The District hereby directs the County to levy on all the taxable property in the District, in addition to all other taxes, a continuing direct and *ad valorem* tax annually during the period the Series B Bonds are Outstanding in an amount sufficient to pay the principal of and interest on the Series B Bonds when due, including the principal of any Series B Bonds upon the mandatory sinking fund redemption thereof under Section 2.03(b), which moneys when collected will be paid to the County Treasurer and placed in the Debt Service Fund.

The principal of and interest and redemption premium (if any) on Series B Bonds do not constitute a debt of the County, the State of California, or any of its political subdivisions other than the District, or any of the officers, agents or employees thereof. Neither the County, the State of California, any of its political subdivisions nor any of the officers, agents or employees thereof are liable on the Series B Bonds. In no event are the principal of and interest and redemption premium (if any) on Series B Bonds payable out of any funds or properties of the District other than *ad valorem* taxes levied on taxable property in the District. The Series B Bonds, including the interest thereon, are payable solely from taxes levied under Sections 15250 and 15252 of the Education Code. The District acknowledges that the Series B Bonds are secured by a statutory lien on all revenues received pursuant to the levy and collection of the voter-approved tax for the Series B Bonds.

As required by Education Code Section 15140(c), the District shall transmit a copy of this resolution, together with the debt service schedule for the Series B Bonds, to the office of the County Controller and County Treasurer in sufficient time to permit the County to establish tax rates for the Series B Bonds.

SECTION 4.02. *Establishment of Debt Service Fund.* The District hereby directs the County Auditor-Controller to establish a fund to be known as the "Moraga Elementary School District Election of 2016, Series B General Obligation Bonds Debt Service Fund", which the County Auditor-Controller shall hold and maintain as a separate account, distinct from all other funds of the County and the District. All taxes levied by the County, at the request of the District, for the payment of the principal of and interest and premium (if any) on the Series B Bonds shall be deposited in the Debt Service Fund by the County promptly upon apportionment of said levy.

SECTION 4.03. *Disbursements From Debt Service Fund.* The County Auditor-Controller shall administer the Debt Service Fund and make disbursements therefrom in the manner set forth in this Section. The County Auditor-Controller shall transfer amounts on deposit in the Debt Service Fund, to the extent necessary to pay the principal of and interest on the Series B Bonds when due and payable, to the Paying Agent which, in turn, shall pay such moneys to DTC to pay the principal of and interest

on the Series B Bonds. DTC will thereupon make payments of principal and interest on the Series B Bonds to the DTC Participants who will thereupon make payments of principal and interest to the beneficial owners of the Series B Bonds. In addition, amounts on deposit in the Debt Service Fund shall be applied to pay the fees and expenses of the Paying Agent insofar as permitted by law, including specifically by Section 15232 of the Education Code. Any moneys remaining in the Debt Service Fund after the Series B Bonds and the interest thereon have been paid, shall be transferred to any other interest and sinking fund for general obligation bond indebtedness of the District, and in the event there is no such debt outstanding, shall be transferred to the District's general fund upon the order of the County, as provided in Section 15234 of the Education Code.

SECTION 4.04. *Pledge of Taxes.* The District hereby pledges all revenues from the property taxes collected from the levy by the Board of Supervisors of the County for the payment of the Series B Bonds and amounts on deposit in the Debt Service Fund to the payment of the principal or redemption price of and interest on the Series B Bonds. This pledge shall be valid and binding from the date hereof for the benefit of the owners of the Series B Bonds and successors thereto. The property taxes and amounts held in the Debt Service Fund shall be immediately subject to this pledge, and the pledge shall constitute a lien and security interest which shall immediately attach to the property taxes and amounts held in the interest and sinking fund to secure the payment of the Series B Bonds and shall be effective, binding, and enforceable against the District, its successors, creditors and all others irrespective of whether those parties have notice of the pledge and without the need of any physical delivery, recordation, filing, or further act. This pledge constitutes an agreement between the District and owners of the Series B Bonds to provide security for the Series B Bonds in addition to any statutory lien that may exist. The District hereby represents and warrants that all of its general obligation bonds, including the Series B Bonds are or were issued to finance or refinance one or more of the projects specified in the applicable voter-approved measure.

SECTION 4.05. *Investments.* All moneys held in any of the funds or accounts established with the County hereunder may be invested in Authorized Investments in accordance with the investment policies of the County, as such policies exist at the time of investment. Obligations purchased as an investment of moneys in any fund or account will be deemed to be part of such fund or account. The County has no responsibility in the reporting, reconciling and monitoring of the investment of the proceeds of the Series B Bonds.

All interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder shall be deposited in the fund or account from which such investment was made, and shall be expended for the purposes thereof. The District covenants that all investments of amounts deposited in any fund or account created by or under this Resolution, or otherwise containing proceeds of the Series B Bonds, shall be acquired and disposed of at the Fair Market Value thereof. For purposes of this Section, the term "Fair Market Value" shall mean, with respect to any investment, the price at which a willing buyer would purchase such investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Tax Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as described above) if (i) the investment is a

certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, or (iii) the investment is a United States Treasury Security - State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt.

ARTICLE V

OTHER COVENANTS OF THE DISTRICT

SECTION 5.01. *Punctual Payment.* The Board hereby directs the County to levy *ad valorem* taxes, as provided in Section 15250 of the Education Code, so as to enable the District to punctually pay, or cause to be paid, the principal of and interest on the Series B Bonds, in conformity with the terms of the Series B Bonds and this Resolution. In no event shall the District be obligated to pay principal of and interest and redemption premium, if any, on this Series B Bond out of any funds or properties of the District other than *ad valorem* taxes levied upon all taxable property in the District; provided, however, nothing herein contained prevents the District from making advances of its own moneys howsoever derived to any of the uses or purposes permitted by law, including, in its sole discretion, to debt service with respect to the Series B Bonds.

SECTION 5.02. *Books and Accounts; Financial Statements.* The District will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the District in which complete and correct entries are made of all transactions relating to the expenditure of the proceeds of the Series B Bonds. Such books of record and accounts shall at all times during business hours be subject to the inspection of the Paying Agent and the Owners of not less than 10% in aggregate principal amount of the Series B Bonds then Outstanding, or their representatives authorized in writing.

SECTION 5.03. *Protection of Security and Rights of Series B Bond Owners.* The District will preserve and protect the security of the Series B Bonds and the rights of the Series B Bond Owners, and will warrant and defend their rights against all claims and demands of all persons. Following the issuance of the Series B Bonds by the District, the Series B Bonds shall be incontestable by the District.

SECTION 5.04. *Tax Covenants.*

(a) Private Activity Bond Limitation. The District shall assure that the proceeds of the Series B Bonds are not so used as to cause the Series B Bonds to satisfy the private business tests of Section 141(b) of the Tax Code or the private loan financing test of Section 141(c) of the Tax Code.

(b) Federal Guarantee Prohibition. The District shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of

the Series B Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Tax Code.

(c) No Arbitrage. The District shall not take, or permit or suffer to be taken by the Paying Agent or the County or otherwise, any action with respect to the proceeds of the Series B Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Series B Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Tax Code.

(d) Maintenance of Tax-Exemption. The District shall take all actions necessary to assure the exclusion of interest on the Series B Bonds from the gross income of the Owners of the Series B Bonds to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the Closing Date.

(e) Rebate of Excess Investment Earnings to United States. The District shall calculate or cause to be calculated excess investment earnings with respect to the Series B Bonds which are required to be rebated to the United States of America under Section 148(f) of the Tax Code, and shall pay the full amount of such excess investment earnings to the United States of America in such amounts, at such times and in such manner as may be required under the Tax Code, if and to the extent such Section 148(f) is applicable to the Series B Bonds. Such payments shall be made by the District from any source of legally available funds of the District. The District shall keep or cause to be kept, and retain or cause to be retained for a period of six years following the retirement of the Series B Bonds, records of the determinations made under this subsection (e). In order to provide for the administration of this subsection (e), the District may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the District may deem appropriate.

SECTION 5.05. *Continuing Disclosure*. The District hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate, which shall be executed by a District Representative and delivered on the Closing Date. Notwithstanding any other provision of this Resolution, failure of the District to comply with the Continuing Disclosure Certificate does not constitute a default by the District hereunder or under the Series B Bonds; however, any Participating Underwriter (as that term is defined in the Continuing Disclosure Certificate) or any holder or beneficial owner of the Series B Bonds may, take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

SECTION 5.06. *CDIAC Annual Reporting*. The District hereby covenants and agrees that it will comply with and the provisions of California Government Code Section 8855 subdivision (k) with respect to annual reporting to the California Debt and Investment Advisory Commission. Said reporting will occur at the times and include the types of information as set forth therein. Notwithstanding any other provision of this Resolution, failure of the District to comply with said reporting does not constitute a default by the District hereunder or under the Series B Bonds.

SECTION 5.07. *Further Assurances*. The District will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be

reasonably necessary or proper to carry out the intention or to facilitate the performance of this Resolution, and for the better assuring and confirming unto the Owners of the Series B Bonds of the rights and benefits provided in this Resolution.

ARTICLE VI

THE PAYING AGENT

SECTION 6.01. *Appointment of Paying Agent.* The Bank of New York Mellon Trust Company, N.A. is hereby appointed to act as Paying Agent for the Series B Bonds. In such capacity, the Paying Agent shall also act as registration agent and authentication agent for the Series B Bonds. The Paying Agent undertakes to perform such duties, and only such duties, as are specifically set forth in this Resolution, and even during the continuance of an event of default with respect to the Series B Bonds, no implied covenants or obligations shall be read into this Resolution against the Paying Agent. The Board hereby approves the execution and delivery of a Paying Agent Agreement between the District and the Paying Agent. A District Representative is hereby authorized and directed to execute the final form of such Paying Agent Agreement on behalf of the District.

The District may remove the Paying Agent initially appointed, and any successor thereto, and may appoint a successor or successors thereto, but any such successor shall be a bank, national banking association or trust company doing business and having an office in the State of California, having a combined capital (exclusive of borrowed capital) and surplus of at least \$50,000,000, and subject to supervision or examination by federal or state authority. If such bank, national banking association or trust company publishes a report of condition at least annually, under law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section 6.01 the combined capital and surplus of such bank, national banking association or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The appointed Paying Agent may at any time resign by giving written notice to the County Treasurer, the District and the Series B Bond Owners of such resignation. Upon receiving notice of such resignation, the County Treasurer shall promptly appoint a successor Paying Agent by an instrument in writing. Any resignation or removal of the appointed Paying Agent and appointment of a successor Paying Agent will become effective upon acceptance of appointment by the successor Paying Agent.

SECTION 6.02. *Paying Agent May Hold Series B Bonds.* The Paying Agent may become the owner of any of the Series B Bonds in its own or any other capacity with the same rights it would have if it were not Paying Agent.

SECTION 6.03. *Liability of Agents.* The recitals of facts, covenants and agreements in this Resolution and in the Series B Bonds constitute statements, covenants and agreements of the District, and the Paying Agent assumes no responsibility for the correctness of the same, nor makes any representations as to the validity or sufficiency of this Resolution or of the Series B Bonds, nor shall incur any responsibility in respect thereof, other than as set forth in this Resolution. The Paying

Agent is not liable in connection with the performance of its duties hereunder, except for its own negligence or willful default.

In the absence of bad faith, the Paying Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Paying Agent and conforming to the requirements of this Resolution.

The Paying Agent is not liable for any error of judgment made in good faith by a responsible officer in the absence of the negligence of the Paying Agent.

No provision of this Resolution requires the Paying Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it has reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

The Paying Agent may execute any of the powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys the Paying Agent shall be responsible for any misconduct or negligence on the part of any agent or attorney appointed by it hereunder.

SECTION 6.04. *Notice to Paying Agent.* The Paying Agent may rely and is protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Paying Agent may consult with counsel, who may be counsel to the District, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

Whenever in the administration of its duties under this Resolution the Paying Agent deems it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof is specifically prescribed in this Resolution) may, in the absence of bad faith on the part of the Paying Agent, be deemed to be conclusively proved and established by a certificate of the District, and such certificate shall be full warrant to the Paying Agent for any action taken or suffered under the provisions of this Resolution upon the faith thereof, but in its discretion the Paying Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

SECTION 6.05. *Compensation; Indemnification.* The District shall pay to the Paying Agent from time to time reasonable compensation for all services rendered under this Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of their attorneys, agents and employees, incurred in and about the performance of their powers and duties under Resolution. Amounts on deposit in the Debt Service Fund shall be applied to pay the fees and expenses of the Paying Agent insofar as permitted by law, including specifically by Section 15232 of the Education Code. The District further agrees to indemnify the Paying Agent against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder which are not due to its negligence or bad faith.

ARTICLE VII

REMEDIES OF SERIES B BOND OWNERS

SECTION 7.01. *Remedies of Series B Bond Owners.* Any Series B Bond Owner has the right, for the equal benefit and protection of all Series B Bond Owners similarly situated:

- (a) by mandamus, suit, action or proceeding, to compel the District and its board members, officers, agents or employees to perform each and every term, provision and covenant contained in this Resolution and in the Series B Bonds, and to require the carrying out of any or all such covenants and agreements of the District and the fulfillment of all duties imposed upon it;
- (b) by suit, action or proceeding in equity, to enjoin any acts or things which are unlawful, or the violation of any of the Series B Bond Owners' rights; or
- (c) upon the happening and continuation of any default by the District hereunder or under the Series B Bonds, by suit, action or proceeding in any court of competent jurisdiction, to require the District and its board members and employees to account as if it and they were the trustees of an express trust.

SECTION 7.02. *Remedies Not Exclusive.* No remedy herein conferred upon the Owners of Series B Bonds is exclusive of any other remedy. Each and every remedy is cumulative and may be exercised in addition to every other remedy given hereunder or thereafter conferred on the Series B Bond Owners.

SECTION 7.03. *Non-Waiver.* Nothing in this Article VII or in any other provision of this Resolution or in the Series B Bonds, affects or impairs the obligation of the District, which is absolute and unconditional, to pay the principal of and interest on the Series B Bonds to the respective Owners of the Series B Bonds at the respective dates of maturity, as herein provided, or affects or impairs the right of action against the District, which is also absolute and unconditional, of such Owners to institute suit against the District to enforce such payment by virtue of the contract embodied in the Series B Bonds.

A waiver of any default by any Series B Bond Owner shall not affect any subsequent default or impair any rights or remedies on the subsequent default. No delay or omission of any Owner of any of the Series B Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the Series B Bond Owners by this Article VII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Owners of the Series B Bonds.

If a suit, action or proceeding to enforce any right or exercise any remedy be abandoned or determined adversely to the Series B Bond Owners, the District and the

Series B Bond Owners shall be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

ARTICLE VIII

AMENDMENT OF THIS RESOLUTION

SECTION 8.01. *Amendments Effective Without Consent of the Owners.* The Board may amend this Resolution from time to time, without the consent of the Owners of the Series B Bonds, for any one or more of the following purposes:

- (a) To add to the covenants and agreements of the District in this Resolution, other covenants and agreements to be observed by the District which are not contrary to or inconsistent with this Resolution as theretofore in effect;
- (b) To confirm, as further assurance, any pledge under, and to subject to any lien or pledge created or to be created by, this Resolution, of any moneys, securities or funds, or to establish any additional funds or accounts to be held under this Resolution;
- (c) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in this Resolution, in a manner which does not materially adversely affect the interests of the Series B Bond Owners in the opinion of Bond Counsel filed with the District; or
- (d) To make such additions, deletions or modifications as may be necessary or desirable to assure exemption from federal income taxation of interest on the Series B Bonds.

SECTION 8.02. *Amendments Effective With Consent of the Owners.* The Board may amend this Resolution from time to time for any purpose not set forth in Section 8.01, with the written consent of the Owners of a majority in aggregate principal amount of the Series B Bonds Outstanding at the time such consent is given. Without the consent of all the Owners of such Series B Bonds, no such modification or amendment shall permit (a) a change in the terms of maturity of the principal of any Outstanding Series B Bonds or of any interest payable thereon or a reduction in the principal amount thereof or in the rate of interest thereon, (b) a reduction of the percentage of Series B Bonds the consent of the Owners of which is required to effect any such modification or amendment, (c) a change in any of the provisions in Section 7.01 or (d) a reduction in the amount of moneys pledged for the repayment of the Series B Bonds, and no right or obligation of any Paying Agent may be changed or modified without its written consent.

ARTICLE IX

MISCELLANEOUS

SECTION 9.01. *Benefits of Resolution Limited to Parties.* Nothing in this Resolution, expressed or implied, gives any person other than the District, the County, the Paying Agent and the Owners of the Series B Bonds, any right, remedy, claim under or by reason of this Resolution. The covenants, stipulations, promises or agreements in this Resolution are for the sole and exclusive benefit of the Owners of the Series B Bonds.

SECTION 9.02. *Defeasance of Series B Bonds.*

(a) Discharge of Resolution. Any or all of the Series B Bonds may be paid by the District in any of the following ways, provided that the District also pays or causes to be paid any other sums payable hereunder by the District:

- (i) by paying or causing to be paid the principal or redemption price of and interest on such Series B Bonds, as and when the same become due and payable;
- (ii) by irrevocably depositing, in trust, at or before maturity, money or securities in the necessary amount (as provided in Section 9.02(c) hereof) to pay or redeem such Series B Bonds; or
- (iii) by delivering such Series B Bonds to the Paying Agent for cancellation by it.

If the District pays all Outstanding Series B Bonds and also pays or causes to be paid all other sums payable hereunder by the District, then and in that case, at the election of the District (evidenced by a certificate of a District Representative filed with the Paying Agent, signifying the intention of the District to discharge all such indebtedness and this Resolution), and notwithstanding that any Series B Bonds have not been surrendered for payment, this Resolution and other assets made under this Resolution and all covenants, agreements and other obligations of the District under this Resolution shall cease, terminate, become void and be completely discharged and satisfied, except only as provided in Section 9.02(b). In such event, upon request of the District, the Paying Agent shall cause an accounting for such period or periods as may be requested by the District to be prepared and filed with the District and shall execute and deliver to the District all such instruments as may be necessary to evidence such discharge and satisfaction, and the Paying Agent shall pay over, transfer, assign or deliver to the District all moneys or securities or other property held by it under this Resolution which are not required for the payment or redemption of Series B Bonds not theretofore surrendered for such payment or redemption.

(b) Discharge of Liability on Series B Bonds. Upon the deposit, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 9.02(c) hereof) to pay or redeem any Outstanding Series B Bond (whether upon or prior to its maturity or the redemption date of such Series B Bond), provided that, if such Series B Bond is to be redeemed prior to maturity, notice of such redemption has been

given as provided in Section 2.03 or provision satisfactory to the Paying Agent has been made for the giving of such notice, then all liability of the District in respect of such Series B Bond shall cease and be completely discharged, except only that thereafter the Owner thereof shall be entitled only to payment of the principal of and interest on such Series B Bond by the District, and the District shall remain liable for such payment, but only out of such money or securities deposited with the Paying Agent as aforesaid for such payment, provided further, however, that the provisions of Section 9.02(d) shall apply in all events.

The District may at any time surrender to the Paying Agent for cancellation by it any Series B Bonds previously issued and delivered, which the District may have acquired in any manner whatsoever, and such Series B Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

(c) Deposit of Money or Securities with Paying Agent. Whenever in this Resolution it is provided or permitted that there be deposited with or held in trust by the Paying Agent or other escrow holder money or securities in the necessary amount to pay or redeem any Series B Bonds, the money or securities so to be deposited or held may include money or securities held by the Paying Agent in the funds and accounts established under this Resolution and shall be:

- (i) lawful money of the United States of America in an amount equal to the principal amount of such Series B Bonds and all unpaid interest thereon to maturity, except that, in the case of Series B Bonds which are to be redeemed prior to maturity and in respect of which notice of such redemption has been given as provided in Section 2.03 or provision satisfactory to the Paying Agent has been made for the giving of such notice, the amount to be deposited or held shall be the principal amount or redemption price of such Series B Bonds and all unpaid interest thereon to the redemption date; or
- (ii) Federal Securities (not callable by the issuer thereof prior to maturity) the principal of and interest on which when due, in the opinion of a certified public accountant delivered to the District, will provide money sufficient to pay the principal or redemption price of and all unpaid interest to maturity, or to the redemption date, as the case may be, on the Series B Bonds to be paid or redeemed, as such principal or redemption price and interest become due, provided that, in the case of Series B Bonds which are to be redeemed prior to the maturity thereof, notice of such redemption has been given as provided in Section 2.03 or provision satisfactory to the Paying Agent has been made for the giving of such notice.

(d) Payment of Series B Bonds After Discharge of Resolution. Notwithstanding any provisions of this Resolution, any moneys held by the Paying Agent in trust for the payment of the principal or redemption price of, or interest on, any Series B Bonds and remaining unclaimed for two years after the principal of all of the Series B Bonds has become due and payable (whether at maturity or upon call for redemption as provided in this Resolution), if such moneys were so held at such date, or two years after the date of deposit of such moneys if deposited after said date when all of the Series B Bonds became due and payable, shall, upon request of the District, be repaid to the District free

from the trusts created by this Resolution, and all liability of the Paying Agent with respect to such moneys shall thereupon cease; *provided, however*, that before the repayment of such moneys to the District as aforesaid, the Paying Agent may (at the cost of the District) first mail to the Owners of all Series B Bonds which have not been paid at the addresses shown on the Registration Books a notice in such form as may be deemed appropriate by the Paying Agent, with respect to the Series B Bonds so payable and not presented and with respect to the provisions relating to the repayment to the District of the moneys held for the payment thereof. Thereafter, the District shall remain liable to the Owners for payment of any amounts due on the Series B Bonds, which amounts shall be deemed to be paid by the District from moneys remitted to it by the Paying Agent under this subsection (d).

SECTION 9.03. *Execution of Documents and Proof of Ownership by Series B Bond Owners.* Any request, declaration or other instrument which this Resolution may require or permit to be executed by Series B Bond Owners may be in one or more instruments of similar tenor, and shall be executed by Series B Bond Owners in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Series B Bond Owner or his or her attorney of such request, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he or she purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him or her the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

Except as otherwise herein expressly provided, the ownership of registered Series B Bonds and the amount, maturity, number and date of holding the same shall be proved by the Registration Books.

Any request, declaration or other instrument or writing of the Owner of any Series B Bond shall bind all future Owners of such Series B Bond in respect of anything done or suffered to be done by the District or the Paying Agent in good faith and in accordance therewith.

SECTION 9.04. *Waiver of Personal Liability.* No Board member, officer, agent or employee of the District shall be individually or personally liable for the payment of the principal of or interest on the Series B Bonds; but nothing herein contained shall relieve any such Board member, officer, agent or employee from the performance of any official duty provided by law.

SECTION 9.05. *Limited Duties of County; Indemnification.* Notwithstanding anything stated to the contrary in this Resolution, the Series B Bonds are not a debt of the County, including its Board, officers, officials, agents and employees, and the County, including its Board, officers, officials, agents and employees, has no obligation to repay the Series B Bonds. Neither the County, nor its Board of Supervisors, nor any officer, official, agent or employee of the County, shall have any obligation or liability hereunder or in connection with the transactions contemplated hereby other than as specified in the Education Code other than due to its negligence or bad faith. The Series B Bonds, including the interest thereon, are payable solely from taxes levied under

Section 15250 of the Education Code. The County has no responsibility and assumes no liability whatsoever arising from the expenditure of the proceeds of the Series B Bonds by the District.

The County (including its officers, agents and employees) shall undertake only those duties of the County under this Resolution which are specifically set forth in this Resolution and in applicable provisions of the Bond Law and the Education Code, and even during the continuance of an event of default with respect to the Series B Bonds, no implied covenants or obligations shall be read into this Resolution against the County (including its officers, agents and employees).

The District further agrees to indemnify and hold harmless, to the extent permitted by law, the County, including its officers, agents and employees (the "Indemnified Parties") against any and all losses, claims, damages or liabilities, joint or several, which it may incur in the exercise and performance of its powers and duties hereunder, including legal and other expenses incurred in connection with investigating or defending any such claims or actions, which are not due to its negligence or bad faith.

SECTION 9.06. *Destruction of Canceled Series B Bonds.* Whenever in this Resolution provision is made for the surrender to the District of any Series B Bonds which have been paid or canceled under the provisions of this Resolution, a certificate of destruction duly executed by the Paying Agent shall be deemed to be the equivalent of the surrender of such canceled Series B Bonds and the District shall be entitled to rely upon any statement of fact contained in any certificate with respect to the destruction of any such Series B Bonds therein referred to.

SECTION 9.07. *Partial Invalidity.* If any section, paragraph, sentence, clause or phrase of this Resolution shall for any reason be held illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Resolution. The District hereby declares that it would have adopted this Resolution and each and every other section, paragraph, sentence, clause or phrase hereof and authorized the issue of the Series B Bonds pursuant thereto irrespective of the fact that any one or more sections, paragraphs, sentences, clauses, or phrases of this Resolution may be held illegal, invalid or unenforceable. If, by reason of the judgment of any court, the District is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the District hereunder shall be assumed by and vest in the chief financial officer of the District in trust for the benefit of the Series B Bond Owners.

SECTION 9.08. *Effective Date of Resolution.* This Resolution shall take effect from and after the date of its passage and adoption.

* * * * *

The foregoing Resolution was adopted by the Governing Board of the Moraga Elementary School District of Contra Costa County, being the Board authorized by law to make the designations therein contained by the following vote, on September 10, 2019.

Adopted by the following votes:

AYES: Nickens, Davis, Severy, Giordani, Chng

NOES: None

ABSENT: None

A handwritten signature in cursive script, reading "Bruce K. Burns", is written over a horizontal line.

Bruce K. Burns, Secretary
Governing Board, Moraga School District