

TO: BOARD OF EDUCATION

MEETING DATE: April 5, 2016

FROM: Malliga Tholandi

AGENDA ITEM: D-501

Staff Support: Sandi Burgoyne

SUBJECT: APPROVAL OF RESOLUTION NO. 36-2016 ENTITLED "AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF COMMUNITY FACILITIES DISTRICT NO. 6 (4S RANCH), IMPROVEMENT AREA 'C' SPECIAL TAX REFUNDING BONDS, SERIES 2016, APPROVING THE FORM OF A BOND INDENTURE, ESCROW DEPOSIT AND TRUST AGREEMENT, BOND PURCHASE AGREEMENT, PRELIMINARY OFFICIAL STATEMENT, CONTINUING DISCLOSURE AGREEMENT, AND OTHER DOCUMENTS, AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH BOND"

- Action
- Consent Calendar
- First Reading
- Information
- Presentation
- Public Hearing
- Roll Call Vote Required

RECOMMENDATION:

That Resolution No. 36-2016, with respect to the proposed issuance of Special Tax Refunding Bonds by Community Facilities District No. 6 (4S Ranch), Improvement Area 'C,' be approved.

DISCUSSION/PROGRAM:

District staff, financial advisor, and bond counsel have been working with the District's underwriter, Stifel, Nicolaus and Company, Incorporated, to assemble the necessary Financing Documents for the proposed issuance of Community Facilities District No. 6, Improvement Area 'C' Special Tax Refunding Bonds, Series 2016, (the "Bonds") in an amount not to exceed \$11,500,000, by the District's Community Facilities District No. 6 (the "CFD"). By adoption of this resolution, the Board, acting as legislative body of the CFD, will be approving the form of the Financing Documents and authorizing the Superintendent, or his designee, to execute these documents on behalf of the CFD with such further changes as they may approve within the limits established by the Board in this resolution.

Resolution No. 36-2016 authorizes the CFD to issue Bonds in an aggregate principal amount not to exceed \$11,500,000 for Community Facilities District No. 6, Improvement Area 'C,' for the purpose of defeasing and refunding, in whole or in part, the outstanding Community Facilities District No. 6, Improvement Area 'C,' 2012 Special Tax Bonds, (the "Series 2012 Bonds"). The actual principal amount of the Bonds will be finally determined at the pricing of the Bonds based on the final interest rate on the Bonds, and the Special Tax revenues available to pay debt service on the Bonds and the outstanding Series 2012 Bonds.

Continued...

**LEGAL REFERENCE: Mello-Roos Community Facilities Act of 1982
California Government Code Section 53311
Poway Unified School District Board Policy 6.37**

FISCAL IMPACT: N/A

MOVED BY: _____ **SECONDED BY:** _____

VOTE: BEATTY ____ O'CONNOR-RATCLIFF ____ PATAPOW ____ SELLERS ____ ZANE ____ **STUDENT PREFERENTIAL VOTE:** PUJAR ____

The various Financing Documents being approved by this resolution and a brief description of each document is as follows:

- A. **Bond Indenture.** The Second Supplemental Bond Indenture is a contract entered into between the CFD and Zions Bank, a division of ZB, National Association, acting as "Fiscal Agent," and is entered into for the benefit of Bond holders. The Bond Indenture provides for issuance and subsequent administration of the Bonds and provides that the Fiscal Agent will hold the applicable Special Tax Revenues in certain funds and accounts for the security of and payment to Bondholders. In addition, the CFD makes certain covenants to the Bondholder, including an obligation to foreclose the lien of Special Taxes if any parcel is seriously delinquent in those payments.
- B. **Escrow Deposit and Trust Agreement.** The Escrow Deposit and Trust Agreement to be entered into by and between the CFD and the Fiscal Agent as Escrow Bank setting forth the terms and conditions relating to the defeasance and the refunding, in whole or in part, of the Bonds with the exception of the Series 2012 Bonds maturing on September 1, 2016.
- C. **Bond Purchase Agreement.** Under this Agreement, the District agrees to sell the Series 2016 Bonds to the Underwriter, thus generating the proceeds of sale of the Bonds that will be used by the CFD to defease and refund the Series 2012 Bonds.
- D. **Preliminary Official Statement and Official Statement.** The Preliminary Official Statement is a disclosure document that the CFD is required to provide to the Underwriter in order to disclose to potential Bond purchasers all relevant, material information regarding an investment in the Bonds. The Official Statement will be distributed after the pricing of the bonds.
- E. **Continuing Disclosure Agreement.** Under the Continuing Disclosure Agreement, the CFD agrees to provide Bond owners and the capital markets with periodic updates of certain key information regarding the Bonds and the security for payment of the Bonds. The Continuing Disclosure Agreement is required by federal and state securities regulation laws applicable to the Bonds.

Resolution No. 36-2016 is attached. Exhibits relating to the Resolution have been provided to the Board for their review.

Poway Unified School District

RESOLUTION NO. 36-2016

AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF SPECIAL TAX REFUNDING BONDS OF POWAY UNIFIED SCHOOL DISTRICT COMMUNITY FACILITIES DISTRICT NO. 6 (4S RANCH) IMPROVEMENT AREA 'C' SPECIAL TAX REFUNDING BONDS, SERIES 2016, APPROVING THE FORM OF A BOND INDENTURE, ESCROW DEPOSIT AND TRUST AGREEMENT, BOND PURCHASE AGREEMENT, PRELIMINARY OFFICIAL STATEMENT, CONTINUING DISCLOSURE AGREEMENT, AND OTHER DOCUMENTS AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS

ON MOTION of Member _____, seconded by Member _____, the following resolution is adopted:

RESOLVED, by the Board of Education (the "Board of Education") of the Poway Unified School District (the "School District"), acting in its capacity as the legislative body of Community Facilities District No. 6 (4S Ranch) ("Community Facilities District No. 6"), that:

WHEREAS, the Board of Education did previously conduct proceedings to form and did form Community Facilities District No. 6 (4S Ranch) and designate an improvement area therein as Improvement Area C ("Improvement Area C") pursuant to the terms and provisions of the "Mello-Roos Community Facilities Act of 1982", being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the "Act"), for the purpose of financing certain improvements to be owned, operated and maintained by the City of San Diego, County of San Diego, Olivenhain Municipal Water District, and the Rancho Santa Fe Fire Protection District and certain school facilities; and

WHEREAS, Community Facilities District No. 6 previously issued the Poway Unified School District Community Facilities District No. 6 (4S Ranch) Improvement Area C 2012 Special Tax Bonds (the "Prior Special Tax Bonds") for Improvement Area C; and

WHEREAS, as a result of the combination of favorable conditions in the municipal bond market and the level of development, diversity of ownership and increase in value of the properties within Community Facilities District No. 6 and Improvement Area C, the Board of Education desires to issue the Poway Unified School District Community Facilities District No. 6 (4S Ranch) Improvement Area C Special Tax Refunding Bonds, Series 2016 (the "Special Tax Refunding Bonds") for the purpose of defeasing and redeeming the Prior Special Tax Bonds prior to the scheduled maturity thereof in order to reduce the borrowing costs on such indebtedness:

WHEREAS, a reduction in borrowing costs will, in turn, result in the realization of additional special tax revenues that will be eligible to finance additional school facilities authorized to be financed by Community Facilities District No. 6; and

WHEREAS, any such Special Tax Refunding Bonds shall be issued pursuant to the terms and provisions of the Act and "Section 6.36 Management of Community Facilities Districts" of the Board of Education Policies containing the statement of goals and policies of the Board of Education regarding the establishment of community facilities districts, as amended to date (the "Goals and Policies"); and,

WHEREAS, this Board of Education desires to set forth the general terms and conditions relating to the authorization, issuance, sale, delivery, and administration of the Special Tax Refunding Bonds; and

WHEREAS, the Board of Education proposed to offer the Special Tax Refunding Bonds in a negotiated sale to the Stifel, Nicolaus & Company, Incorporated (the "Underwriter"); and

WHEREAS, forms of the following documents have been presented to and considered for approval by this Board of Education:

- A. **Bond Indenture** by and between Community Facilities District No. 6 and Zions Bank, a division of ZB, National Association ("Zions Bank"), as fiscal agent (the "Fiscal Agent"), setting forth the terms and conditions relating to the issuance, sale, delivery, and administration of the Special Tax Refunding Bonds (the "Bond Indenture");
- B. **Bond Purchase Agreement** by and between the School District for itself and on behalf of Community Facilities District No. 6, and the Underwriter authorizing the sale of the Special Tax Refunding Bonds to Underwriter (the "Bond Purchase Agreement");
- C. **Preliminary Official Statement** containing information including, but not limited to, Community Facilities District No. 6 and Improvement Area C thereof and the Special Tax Refunding Bonds (the "Preliminary Official Statement"); and
- D. **Continuing Disclosure Agreement** by and between the School District, acting on behalf of Community Facilities District No. 6 and Zions Bank, acting in its capacity as Fiscal Agent, and agreed to and accepted by Dolinka Group, LLC, in its capacity as dissemination agent (the "Dissemination Agent"), pursuant to which Community Facilities District No. 6 will be obligated to provide ongoing annual disclosure relating to Community Facilities District No. 6 and the Special Tax Refunding Bonds (the "Continuing Disclosure Agreement"); and
- E. **Escrow Deposit and Trust Agreement** by and between Community Facilities District No. 6 and Zions Bank, as escrow bank (the "Escrow Bank"), for the Prior Special Tax Bonds setting forth the terms and conditions related to the defeasance and redemption of the Prior Special Tax Bonds (the "Escrow Agreement");

WHEREAS, this Board of Education, with the aid of School District staff, has reviewed and considered the documents described above and finds those documents suitable for approval, subject to the conditions set forth in this resolution; and

WHEREAS, all conditions, things, and acts required to exist, to have happened and to have been performed precedent to and in the issuance of the bonds as contemplated by this resolution and the documents referred to herein exist, have happened, and have been performed or have been ordered to have been performed in due time, form, and manner as required by the laws of the State of California, including the Act and the applicable policies and regulations of the School District.

NOW, THEREFORE, BE IT ORDAINED, DETERMINED, AND ORDERED by the Board of Education of the Poway Unified School District, acting in its capacity as the legislative body of Community Facilities District No. 6, as follows:

1. Recitals. The above recitals are true and correct.
2. Determinations. This Board of Education, acting in its capacity as the legislative body of Community Facilities District No. 6, hereby makes the following determinations pertaining to the proposed issuance of the Special Tax Refunding Bonds:
 - (a) The Goals and Policies generally require that the full cash value of the properties within a community facilities district or an improvement area thereof subject to the levy of the special taxes securing special tax bonds must be at least three (3) times the principal amount of

such special tax bonds and the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act on property within such community facilities district or improvement area or a special assessment levied on property within such community facilities district or improvement area (collectively, "Land Secured Bonded Indebtedness"). The Act authorizes the Board of Education, acting as the legislative body of a community facilities district, to sell bonds of such community facilities district only if the Board of Education has determined prior to the award of the sale of such bonds that the value of such properties will be at least three (3) times such Land Secured Indebtedness.

The value of the property within Improvement Area C of Community Facilities District No. 6, which will be subject to the special tax to pay debt service on the Special Tax Refunding Bonds, will be at least three (3) times the Land Secured Bonded Indebtedness allocable to such properties.

The foregoing determinations are based upon the assessed of the properties within Improvement Area C. Such determinations were made in a manner consistent with the Goals and Policies.

- (b) The terms and conditions of the Special Tax Refunding Bonds as contained in the Bond Indenture are consistent with and conform to the Goals and Policies.
- (c) As a result of the complexity of the proposed financing being undertaken the negotiated sale of the Special Tax Refunding Bonds will result in a lower overall cost to Community Facilities District No. 6.
- (d) It is prudent in the management of the fiscal affairs of Community Facilities District No. 6 and Improvement Area C thereof to issue the Special Tax Refunding Bonds for the purpose, inter alia, of defeasing and refunding the Prior Special Tax Bonds.
- (e) The total net interest cost to maturity of the Special Tax Refunding Bonds plus the principal amount of the Special Tax Refunding Bonds will not exceed the total net interest cost to maturity on the Prior Special Tax Bonds being defeased and refunded from the proceeds of the Special Tax Refunding Bonds plus the principal amount of the Prior Special Tax Bonds; and
- (f) For purpose of Section 53363 of the Act, the Board of Education hereby further finds and determines that: (i) it is expected that the purchase of the Special Tax Refunding Bonds will occur on the Closing Date (as such term is defined in the Bond Indenture); (ii) the date, denomination, maturity dates, places of payment, and form of the Special Tax Refunding Bonds shall be as set forth in the Bond Indenture as executed; (iii) the interest rate of the Special Tax Refunding Bonds shall not exceed **six percent (6.00%)** with the actual interest rate or rates to be set forth in the Bond Indenture as executed; (iv) the place of payment of the Special Tax Refunding Bonds shall be as set forth in the Bond Indenture and the place of payment of the Prior Special Tax Bods shall be as set forth in the bond indenture pertaining the Prior Special Tax Bonds; and (v) the designated costs of issuing the Special Tax Refunding Bonds shall be described in Section 53363.8(a) of the Act, and as otherwise described in the Official Statement for the Special Tax Refunding Bonds and the closing certificates for the Special Tax Refunding Bonds, including but not limited to the fees and expenses of Bond Counsel, Disclosure Counsel, the Financial Advisor, the Special Tax Consultant, the Fiscal Agent, the Escrow Bank, the Underwriter's discount, escrow verification expenses, and costs of the School District staff incurred in connection with the sale and issuance of the Special Tax Refunding Bonds; and

3. Bonds Authorized. Pursuant to the Act, this Resolution, and the Bond Indenture, the Special Tax Refunding Bonds are hereby authorized to be issued in an aggregate principal amount not to exceed **\$11,500,000.**

The date, manner of payment, interest rate or rates, interest payment dates, maturity dates, denominations, forms of bonds, registration privileges, manner of execution, place of payment, terms of redemption, and other terms, covenants, and conditions of the Special Tax Refunding Bonds shall be as provided in the Bond Indenture as finally executed.

4. Authorization and Conditions. Each of the Superintendent, the Associate Superintendent, Business Support Services and such other official or officials of the School District as may be designated by the Superintendent (each an "Authorized Officer") is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the Community Facilities District No. 6 to execute and deliver the final form of the various documents and instruments described in this Resolution, with such additions thereto or changes therein as such Authorized Officer may deem necessary and advisable; provided, however, that no additions or changes shall authorize an aggregate principal amount of Special Tax Refunding Bonds in excess of **\$11,500,000**, a true interest cost ("TIC") on the Special Tax Refunding Bonds in excess of **four and three-quarters percent (4.75%)** per year and an Underwriter's discount in excess of **one and three quarters percent (1.75%)** of the par amount of the Special Tax Refunding Bonds (excluding original issue discount, if any). The approval of such additions or changes shall be conclusively evidenced by the execution and delivery of such documents or instruments by an Authorized Officer, following consultation with and review by Best Best & Krieger LLP, as Bond Counsel.

5. Bond Indenture. The form of Bond Indenture by and between Community Facilities District No. 6 and the Fiscal Agent, with respect to the Special Tax Refunding Bonds, as presented to this Board of Education is hereby approved. An Authorized Officer is hereby authorized and directed to cause the execution of the Bond Indenture pursuant to the provisions of Section 4 above.

6. Official Statement and Continuing Disclosure Agreement. The Board of Education hereby approves the form of the Preliminary Official Statement as presented to this Board of Education, together with any changes therein or additions thereto deemed advisable by an Authorized Officer. Pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") an Authorized Officer is authorized to determine when the Preliminary Official Statement is deemed final. The execution of the final Official Statement, which shall include such changes and additions thereto deemed advisable by an Authorized Officer pursuant to the Rule, following consultation with and review by James F. Anderson Law Firm, APC, as Disclosure Counsel, shall be conclusive evidence of the approval of the final Official Statement by Community Facilities District No. 6.

7. Continuing Disclosure Agreement The form of Continuing Disclosure Agreement by and between the School District acting on behalf of Community Facilities District No. 6 and the Fiscal Agent and accepted and agreed to by the Dissemination Agent as presented to this Board of Education and on file with the Associate Superintendent, Business Support Services is hereby approved. An Authorized Officer is hereby authorized and directed to cause the same to be completed and executed on behalf of Community Facilities District No. 6, subject to the provisions of Section 4 above.

8. Sale of Special Tax Refunding Bonds. This Board of Education hereby authorizes and approves the negotiated sale of the Special Tax Refunding Bonds to the Underwriter. The form of the Bond Purchase Agreement is hereby approved and an Authorized Officer is hereby authorized and directed to execute the Bond Purchase Agreement on behalf of Community Facilities District No. 6 upon the execution thereof by the Underwriter, subject to the provisions of Section 4 above.

9. Special Tax Refunding Bonds Prepared and Delivered. Upon the execution of the Bond Purchase Agreement, the Special Tax Refunding Bonds shall be prepared, authenticated, and delivered, all in accordance with the applicable terms of the Act and the Bond Indenture, and any Authorized Officer and other responsible School District officials, acting for and on behalf of Community Facilities District No. 6, are hereby authorized and directed to take such actions as are required under the Bond Purchase Agreement and

the Bond Indenture to complete all actions required to evidence the delivery of the Special Tax Refunding Bonds upon the receipt of the purchase price thereof from the Underwriter.

10. Escrow Deposit and Trust Agreement. The form of the Escrow Deposit and Trust Agreement by and between Community Facilities District No. 6 and the Escrow Bank, with respect to the Prior Special Tax Bonds, as presented to this Board of Education are hereby approved. An Authorized Officer is hereby authorized and directed to cause the same to be completed and executed on behalf of Community Facilities District No. 6, subject to the provisions of Section 4 above.

11. Actions. All actions heretofore taken by the officers and agents of the School District, acting for and on behalf of Community Facilities District No. 6, with respect to the establishment of Community Facilities District No. 6, and the sale and issuance of the Special Tax Refunding Bonds are hereby approved, confirmed, and ratified, and the proper officers of the School District, acting for and on behalf of Community Facilities District No. 6, are hereby authorized and directed to do any and all things and take any and all actions and execute any and all certificates, agreements, contracts, and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Special Tax Refunding Bonds in accordance with the Act, this Resolution, the Bond Indenture, the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Escrow Agreement and any certificate, agreement, contract, and other document described in the documents herein approved.

14. Effective Date. This resolution shall take effect from and after its adoption.

PASSED AND ADOPTED on April 5, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

This is to certify that the foregoing document is a true copy of the Resolution of the Board of Education of the Poway Unified School District of San Diego County.

Andy Patapow, Clerk of the Board of Education