

RESOLUTION NO. 11/12-2
MT. DIABLO UNIFIED SCHOOL DISTRICT

A RESOLUTION OF THE BOARD OF EDUCATION OF THE MT. DIABLO UNIFIED
SCHOOL DISTRICT AUTHORIZING USE OF THE LEASE LEASEBACK
CONSTRUCTION DELIVERY METHOD PURSUANT TO EDUCATION CODE SECTION
17406 FOR THE DESIGN AND INSTALLATION OF CUSTOM BLEACHERS AT
NORTHGATE HIGH SCHOOL

WHEREAS, the Mt. Diablo Unified School District (“District”) is the owner of certain real property commonly known as the Northgate High School located at 425 Castle Rock Road, City of Walnut Creek, Contra Costa County, State of California (“Project Site”).

WHEREAS, with the completion of the new athletic field and track and Northgate High School, the District and the Northgate Community Pride Foundation (“Foundation”) are partnering together for the custom design, construction and installation of horizontal beam bleachers at Northgate High School so that students, spectators and District residents are able to enjoy events at the new athletic facilities (“Bleacher Project”). The custom bleachers installed will be compliant with all applicable laws and regulations, including the requirements of the Department of State Architect (“DSA”), American Disabilities Act (“ADA”) and California Environmental Quality Act (“CEQA”).

WHEREAS, California Education Code § 17406 permits school district governing boards to lease to any person, firm, or corporation any real property owned by the District if the instrument by which such property is leased requires the lessee to construct on the leased premises, or provide for construction thereon, of improvements for the use of the District during the term of the lease, and provided that title to those improvements shall vest in the District at the expiration of the lease ("Lease Leaseback Process").

WHEREAS, the Board of Education of the District (“Board”) desires to use the Lease Leaseback Process for the permanent improvement of the Project Site with the Bleacher Project.

WHEREAS, Southern Bleacher Company ("Company") has been selected as the lessee/builder for the Bleacher Project.

WHEREAS, Pursuant to the site lease ("Site Lease") that will be entered into between the District and the Company, the District will lease a portion of the Project Site to the Company in order for the Company to construct the Bleacher Project as a permanent improvement to Northgate High School. The Company will then lease the Project Site back to the District pursuant to a facilities lease ("Facilities Lease") under which the District will make lease payments to the Company.

WHEREAS, the Company has agreed to construct the Bleacher Project for a guaranteed maximum price ("GMP") not to exceed Six Hundred Fifty Thousand Dollars (\$650,000.00), which amount will be inserted into the Construction Provisions/Construction Services Agreement that will be attached as an exhibit to the Facilities Lease and made a part thereof.

Pursuant to the partnership between the Foundation and the District, the Foundation will donate One Hundred Fifty Thousand Dollars (\$150,000.00) towards the completion of the Bleacher Project.

WHEREAS, in order to complete the work within the contemplated timelines and maximize the value of the generous private funds being contributed by the Foundation, the District has determined it is necessary and in the District's best interests to work on the Bleacher Project as soon as possible.

NOW, THEREFORE, the Board of Education of the Mt. Diablo Unified School District does hereby resolve, order and determine as follows:

1. The above recitals are true and correct.
2. The Board authorizes the use of the Lease Leaseback Process for the permanent improvement of the Project Site.
3. The Board authorizes the Superintendent, or his designee, to execute the Site Lease and Facilities Lease, including all incorporated exhibits, and any other documents necessary to implementing the Site Lease and/or Facilities Lease, subject to minor revisions during the course of negotiation necessary to effect the intent of the parties.
4. The Board authorizes the Superintendent, or his designee, to take all actions necessary or appropriate to effectuate the purposes of the foregoing resolution and complete the Bleacher Project.
5. The foregoing resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED on this ____ day of August, 2011 by the following vote:

AYES:

NOES:

ABSENT:

Gary Eberhart, President, Board of Education

Steven Lawrence, Secretary, Board of Education