

**RESOLUTION NO. 10/11-52**

**MT. DIABLO UNIFIED SCHOOL DISTRICT  
DESIGNATION OF SPECIFIC MATERIALS AND PRODUCTS  
ON 2010 MEASURE 'C' HVAC IMPROVEMENT PROGRAM PROJECT**

**WHEREAS**, the Mt. Diablo Unified School District (“District”) is constructing an expansion to existing school facilities at multiple school sites (“the Project”);

**WHEREAS**, pursuant California Public Contract Code Section 3400 (“PCC § 3400”) and other applicable law, the District wishes to list and/or designate in its bids on the Project, specific materials and products;

**WHEREAS**, PCC § 3400 states that a school district generally cannot call for a specific material or product by brand or trade name when letting “contracts for the construction, alteration, or repair of public works”;

**WHEREAS**, PCC § 3400 states that its restrictions on the listing of only one specific name or brand are inapplicable if the district makes a finding that is described in the invitation for bids that a particular material, product, thing, or service is designated by specific brand or trade name for any of the following purposes:

- “In order that a field test or experiment may be made to determine the product’s suitability for future use.” (PCC §3400 [b] [1])
- “In order to match other products in use on a particular public improvement either completed or in the course of completion.” (PCC § 3400 [b] [2])
- “In order to obtain a necessary item that is only available from one source.” (PCC § 3400 [b] [3])
- To respond to certain emergency situations. (PCC § 3400 [b] [4]);

**WHEREAS**, the District desires to list certain items attached in list marked as Exhibit A as the only acceptable materials or products for the Project because the items are a match for other materials and products in use on the existing portions of the Project, and necessary to match same for continuity and maintenance purposes.

**NOW, THEREFORE**, the Governing Board of the Mt. Diablo Unified School District hereby finds, determines, declares, orders, and resolves as follows:

**Section 1.** The above recitals are true and correct.

**Section 2.** The items listed in Exhibit A are the only acceptable materials and products in order to match materials and products in use in the Project.

**Section 3.** The District shall list in its invitation to bid for the Project, that these are the only acceptable materials and products for said reason.

**Section 4.** The District's Superintendent and /or his or her designee are authorized pursuant to this Resolution to take any action which is necessary to carry out, give effect to, and comply with the terms and intent of this Resolution.

**APPROVE, PASSED, AND ADOPTED** by the Governing Board of the Mt. Diablo Unified School District on \_\_\_\_\_, 2011, by the following vote.

AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSTENTIONS: \_\_\_\_\_

\_\_\_\_\_  
President of the Governing Board  
Mt. Diablo Unified School District

Attested to:

\_\_\_\_\_  
Secretary to the Governing Board