

MOUNT DIABLO UNIFIED SCHOOL DISTRICT

RESOLUTION NO. 10/11-28

**FINDINGS AND APPROVAL
OF SOLAR POWER DESIGN/BUILD CONTRACT
WITH SUN POWER CORPORATION, SYSTEMS**

WHEREAS, the Mount Diablo Unified School District Board of Education ("Board") has endorsed the goal of sustainable school operations and directed staff to develop energy efficient projects for use in the modernization of existing District sites;

WHEREAS, the California legislature seeks to encourage the implementation of energy projects at public facilities through legislation designed to provide the greatest possible flexibility to public agencies in structuring agreements for alternative energy projects (Government Code sections 4217.10 et seq. and 5659.4 et seq.)

WHEREAS, Section 4217.12(a) of the California Government Code authorizes the District to enter into a contract for design and construction of solar facilities on terms the Board determines are in the best interests of the District if the Board finds that the anticipated cost of the solar facilities will be less than the anticipated marginal cost to the District of energy that would have been consumed by the District in the absence of such facilities;

WHEREAS, from August 4, 2010 to September 15, 2010, as directed by the Board, District staff conducted a Request for Proposals ("RFP") process to determine which proposal would best fulfill the District's requirements for the design, construction, installation, operation and maintenance of solar facilities in the form of photovoltaic panel systems on selected District sites; and

WHEREAS, on September 16, 2010, District staff and consultants presented an analysis of the RFP responses to the Board and the Board directed District staff to enter into negotiations with SunPower Corporation, Systems ("SunPower") for a design-build agreement; and

WHEREAS, SunPower proposed a design/build agreement ("Agreement"), a copy of which is attached hereto as Exhibit A, under which SunPower will design, install, operate and maintain photovoltaic systems on selected District sites ("Solar Facilities"), and District will own the Solar Facilities and benefit from all environmental incentives, including rebates, credits, reductions, offsets, and entitlements of any kind;

WHEREAS, on October 26, 2010, pursuant to Government Code section 4217.12(a), the Board heard public comment on and considered the details of the Agreement; and

WHEREAS, the Board has determined it is in the best interests of the District to retain SunPower to design, install, maintain and operate the Solar Facilities in selected District sites pursuant to the terms and conditions of the Agreement;

NOW THEREFORE, BE IT RESOLVED that based on staff and consultant reports, materials presented by SunPower, public comment and the administrative record as a whole, and pursuant to Government Code section 4217.12, the Board finds that the anticipated cost to the District for SunPower to construct and install the Solar Facilities at selected District sites pursuant to the Agreement will be less than the anticipated cost to the District of energy that would have been consumed by the District in the absence of the Solar Facilities; and

BE IT FURTHER RESOLVED that the Board received public comment on the proposed Solar Facilities at its regularly scheduled meeting prior to consideration of this resolution.

BE IT FURTHER RESOLVED that based on staff and consultant reports reviewed by the Board, materials presented by SunPower, public comment and the administrative record as a whole, the Board finds it is in the best interests of the District to enter into the Agreement and hereby approves the Agreement, attached as Exhibit A; and

BE IT FURTHER RESOLVED that the District's superintendent or his designee is authorized to enter into the Agreement on behalf of the District and to take all steps and perform all actions necessary to execute and implement the Agreement and to take any actions deemed necessary to best protect the interests of the District.

ADOPTED, SIGNED and APPROVED this 26th day of October, 2010.

President of the Governing Board of
Mount Diablo Unified School District

I, Steven Lawrence, Secretary of the Board of Education of the Mount Diablo Unified School District, do hereby certify that the foregoing Resolution was regularly introduced, passed and adopted by the Board of Education at its regularly scheduled meeting held on October 26, 2010.

Steven Lawrence, Superintendent
Mount Diablo Unified School District

AYES:

NOES:

ABSTAIN:

ABSENT: