

**BERKELEY UNIFIED SCHOOL DISTRICT  
BERKELEY, CALIFORNIA**

**RESOLUTION NO. 19-026  
RESOLUTION TO ENTER INTO AN ENERGY SERVICE CONTRACT**

**WHEREAS**, Berkeley Unified School District ("DISTRICT"), is a public school district organized and existing as a political subdivision of the State of California, and is authorized by the laws of the State of California to implement projects to promote energy efficiency to achieve energy cost reductions; and

**WHEREAS**, the District finds it to be in its best interest to implement projects to promote energy efficiency to achieve energy cost reductions; and

**WHEREAS**, Government Code section 4217.12(a)(1) authorizes a public agency to enter into an energy service contract with respect to an energy conservation facility on terms that the public agency's governing board determines are in the best interests of the public agency so long as the governing board of such public agency finds that the anticipated cost to the public agency for the energy provided by the energy conservation facility will be less than the anticipated marginal cost to the public agency of thermal, electrical or other energy that would have been consumed by the public agency in the absence of those purchases; and

**WHEREAS**, DISTRICT staff reviewed a number of proposals from various vendors to design and install clean energy efficiency projects at various DISTRICT sites; and

**WHEREAS**, DISTRICT staff reviewed the qualifications presented by Clear Blue Energy Corp. ("VENDOR") to implement LED Lighting Retrofits included in the District's Proposition 39 Energy Expenditure Plan, approved by the California Energy Commission, and found VENDOR's qualifications to appear bona fide and adequate; and

**WHEREAS**, VENDOR has offered to enter into the Agreement for Implementation of Approved Proposition 39 Energy Expenditure Plan (the "Energy Services Contract") to provide energy conservation services to implement the approved energy conservation measures, LED interior lighting retrofits, for the price stated therein, at the following District sites:

- Berkeley Technology Academy
- Berkeley High School
- Berkeley Arts Magnet
- Emerson Elementary
- Cragmont Elementary
- Berkeley Adult School

**WHEREAS**, VENDOR has provided an analysis that demonstrates that the cost of the Energy Services Contract to the District for the electrical energy or conservation services provided thereunder is less than the anticipated marginal cost to the District of electrical, or other energy that would have been consumed by the Districts in the absence of the Energy Services Contract (the "Savings Analysis") based upon the energy analysis, a copy of which is attached hereto as Exhibit "A" and incorporated herein; and

**WHEREAS**, the Districts posted a notice of its intent to conduct a public hearing and take public comment upon the subject matter of this Resolution at least two weeks prior to the regularly scheduled public meeting of the Districts' Board of Trustees, as required by Government Code section 4217.10 et seq.; and

**WHEREAS**, on April 10, 2019, pursuant to Government Code section 4217.10 et seq., the Board held a public hearing at a regularly scheduled Board meeting, with respect to the Districts entering into an Energy Service Contract; and

**WHEREAS**, based upon the reports, analysis and presentation by DISTRICT Staff, the anticipated cost to the District for LED lighting retrofits, and other energy conservation facilities (the "Energy Conservation Facilities") will be less than the anticipated marginal cost to the District of electrical, or other energy that would have been consumed by the District in the absence of the Energy Conservation Facilities; and

**WHEREAS**, DISTRICT desires to enter into an Energy Service Contract, through which VENDOR would install the Energy Conservation Facilities pursuant to the terms and conditions of the Energy Service Contract.

**NOW, THEREFORE, BE IT RESOLVED** that it is found, determined and resolved by the Governing Board of the District as follows:

1. The above recitals are true and correct.
2. The Districts held a public hearing at a regularly scheduled meeting of the Board for which notice was given not less than two weeks in advance.
3. Based upon all available information, including but not limited to reports, analysis and presentations by DISTRICT Staff, reviewed by the Board in connection herewith, and pursuant to Government Code section 4217.12, the Board hereby determines that the cost of the Energy Services Contract to the District for the conservation services provided thereunder is less than the anticipated marginal cost to the District of other energy that would have been consumed by the District in the absence of the Energy Services Contract and that it is in the best interests of the District to enter into the Energy Service Contract with VENDOR.
4. The Districts' Superintendent, and designees of the Superintendent, are hereby authorized to enter into the Energy Service Contract with VENDOR, in substantially the form on file with the Superintendent (with such changes therein as may be approved by the Superintendent not inconsistent with the intent of this Resolution), and to take all steps and perform all actions necessary to enter into the Energy Service Contract with VENDOR, and to take any actions deemed necessary to protect the interests of the Districts.

PASSED AND ADOPTED by the Governing Board of the Berkeley Unified School District at a regular meeting held on April 10, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

DATED: \_\_\_\_\_

BERKELEY UNIFIED SCHOOL DISTRICT,

By: \_\_\_\_\_  
President, Board of Trustees

I, \_\_\_\_\_, Clerk of the Board of Trustees, do hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Board of Trustees of the Berkeley Unified School District at the regular meeting on April 10, 2019, which resolution is on file in the office of said Board.

DATED: \_\_\_\_\_

SIGNED:

\_\_\_\_\_  
Clerk, Board of Trustees

**EXHIBIT "A"**  
Savings Analysis

Pursuant to Government Code section 4217.12, the below Savings Analysis is intended to demonstrate that anticipated cost to District for energy conservation provided by Energy Conservation Facilities is less than the anticipated marginal cost to the District for energy that would have been consumed by the District in the absence of the Energy Conservation Facilities.

(1) Anticipated cost to District for energy efficiency project:

\$433,639 – Prop 39 (Clean Energy Jobs Act) funds  
\$433,639 – Cost of the project  
\$ 51,484 – Estimated Utility Rebate  
\$382,155 – Estimated Net Cost to District after Utility Rebates  
\$0 – Cost to the District

(2) Anticipated marginal cost to District if energy efficiency project not installed (per Vendor Energy Analysis) for all sites included:

Annual kWh Savings  
315,000 kWh

$315,000 \text{ kWh} \times .20 \text{ \$/kWh} = \$63,030 \text{ per year}$

Estimated Savings Per Year to Berkeley Unified School District  
 $\$63,030 \text{ (annual electrical cost)} \times 100\% \text{ (projected offset)} = \underline{\$63,030}$

Anticipated cost < Anticipated marginal cost

$\$0 < \$63,030$