

**BERKELEY UNIFIED SCHOOL DISTRICT
BERKELEY, CALIFORNIA**

**RESOLUTION NO. 19-032
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 Sysco Inc. ("VENDOR") to for the replacement of the heating controls at three sites 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, which include the replacement of the heating controls, for the price stated therein, at the following District sites:

- Berkeley High School D & E Buildings
- King Middle School (Main Building)
- 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; 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 May 8, 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 the replacement of the specified heating controls, 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 May 8, 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