

**SOLANO COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD AGENDA ITEM**

TO: **Members of the Governing Board**

SUBJECT: **RESOLUTION TO APPROVE CHANGE ORDER #01 TO
CLEAR BLUE ENERGY CORPORATION FOR BUILDING
LIGHTING UPGRADE PROJECT,
RESOLUTION NO. 18-19/23**

REQUESTED ACTION:

Information **OR** **Approval**
 Consent **OR** **Non-Consent**

SUMMARY:

Board approval is requested for Change Order #01 to Clear Blue Energy Corporation for the Building Lighting Upgrade Project in the amount of \$79,315. Because this Change Order exceeds 10% of the value of the construction contract, it is required that the Board of Trustees pass a Resolution to approve the Change Order.

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STUDENT SUCCESS IMPACT:

- Help our students achieve their educational, professional and personal goals
- Basic skills education
- Workforce development and training
- Transfer-level education
- Other: Providing safe school facilities and classrooms.

<i>Ed. Code:</i>	<i>Board Policy:</i>	<i>Estimated Fiscal Impact: \$49,164.13 Proposition 39 Funds \$30,150.87 Redevelopment Funds</i>
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SUPERINTENDENT'S RECOMMENDATION: **APPROVAL** **DISAPPROVAL**
 NOT REQUIRED **TABLE**

Lucky Lofton
Executive Bonds Manager

PRESENTER'S NAME

4000 Suisun Valley Road
Fairfield, CA 94534

ADDRESS

(707) 864-7209

TELEPHONE NUMBER

Robert V. Diamond
VP, Finance & Administration

VICE PRESIDENT APPROVAL

June 5, 2019

**DATE SUBMITTED TO
SUPERINTENDENT-PRESIDENT**

Celia Esposito-Noy, Ed.D.
Superintendent-President

June 5, 2019

**DATE APPROVED BY
SUPERINTENDENT-PRESIDENT**

**SOLANO COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD AGENDA ITEM**

TO: Members of the Governing Board

**SUBJECT: RESOLUTION TO APPROVE CHANGE ORDER #01 TO
CLEAR BLUE ENERGY CORPORATION FOR BUILDING
LIGHTING UPGRADE PROJECT,
RESOLUTION NO. 18-19/23**

SUMMARY:

CONTINUED FROM THE PREVIOUS PAGE

On February 2, 2019 the Board approved a contract award for construction services to Clear Blue Energy Corporation for lighting and lighting control upgrades for Building 1700A. Using the remaining Proposition 39 Funds available, and additional support using Redevelopment Funds, Facilities staff is requesting Board approval to upgrade the lighting and lighting control system for an additional building. This Change Order represents work requested by the District to replace the lighting fixtures and lighting control system for Building 1800A to improve energy efficiency and controllability.

This Resolution affirms that, based on project scope and schedule, it is more costly and time-consuming to bid this additional work to other contractors and it would not produce any advantage to the District.

Revised contract figures are as follows:

Contract Award Amount	\$ 228,607.00
Prior Change Orders	\$ 0.00
Change Order No. 01	\$ 79,315.00
Total Change Orders	\$ 79,315.00
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Revised Contract Amount	\$ 307,992.00

This Change Order can be accomplished using the District's remaining Proposition 39 Funds (\$49,164.13) and Redevelopment Funds (\$30,150.87). The Board is asked to approve Resolution No. 18-19/23 Change Order #01 to Clear Blue Energy Corporation in the amount of \$79,315.

**SOLANO COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD**

**RESOLUTION TO APPROVE CHANGE ORDER #01
TO CLEAR BLUE ENERGY CORPORATION**

RESOLUTION NO. 18-19/23

WHEREAS, Solano Community College District (the “District”) previously competitively bid and awarded contract for work for the Building Lighting Upgrade Project (the “Project”) to Clear Blue Energy Corporation;

WHEREAS, subsequent to the award of the Project, it was determined that additional work was necessary as part of the Project (the “Change Order”);

WHEREAS, the Change Order provides for the work set forth in Exhibit “A;”

WHEREAS, the total cost for the Change Order is \$79,315 and exceeds the limitations set forth in Public Contracts Code Section 20659;

WHEREAS, it will be more costly and time-consuming to bid this additional work since it is integral to the Project and the work being performed by the Contractor;

WHEREAS, competitive bidding the additional work covered by the Change Order would result in the delay of the completion of the Project and result in coordination issues if another contractor is performing similar work at the Project site at the same time as Contractor;

WHEREAS, it would work an incongruity and not produce any advantage to the District to competitively bid the Change Order since such competitive bid work could result in multiple contractors being required to performed work more efficiently and effectively performed by one contractor;

WHEREAS, a change in contractors in the middle of the Project may cause an inability to enforce the warranty provisions of the Contract; and

WHEREAS, Los Angeles Dredging v. Long Beach (1930) 210 Cal. 348 holds that statutes requiring competitive bidding to not apply when competitive bidding would work an incongruity or not produce any advantage; and

WHEREAS, while pursuant to Public Contract Code section 20659, a community college district is required to competitively bid any change or alteration to a contract that has a value over 10% of the original contract price, California law provides that, “[w]here competitive proposals work an incongruity and are unavailing as affecting the final result or where they do not produce any advantage . . . the statute requiring competitive bidding does not apply.” Hiller v. City of Los Angeles, (1961) 197 Cal.App.2d 685, 694; now therefore be it

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**SOLANO COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD**

**RESOLUTION TO APPROVE CHANGE ORDER #01
TO CLEAR BLUE ENERGY CORPORATION**

**RESOLUTION NO. 18/19-23
(Continuing Page 2)**

RESOLVED that the Governing Board of the Solano Community College District makes the following findings:

1. That the above recitals are true and correct.
2. That it would work an incongruity and not produce any advantage to the District to bid the completion of the work set forth in the Change Order under the competitive process.
3. That the District approves the immediate completion of the work stated in the Change Order without competitively bidding such work and approves the District's payment in the amount set forth in the Recitals to the Contractor upon the terms and conditions set forth in the Change Order.

PASSED AND ADOPTED by the Governing Board of the Solano Community College District, on June 6, 2019.

A. MARIE YOUNG

BOARD PRESIDENT

CELIA ESPOSITO-NOY, Ed.D.

SECRETARY

AYES:

NOES:

ABSENT:

ABSTAIN:



EXHIBIT A

Solano Community College District

4000 Suisun Valley Road
 Fairfield, CA 94534
 Tel: 707-864-7189

Change Order # 1
 Project No.: 19-001
 Date: 6/5/2019

DSA File No. : N/A
 DSA Number: N/A

Project: Building Lighting Upgrade Project
 4000 Suisun Valley Road
 Fairfield CA 94534

Architect: CA Architects
 475 Gate Five Road, Suite 107
 Sausalito, CA 94965

To: Clear Blue Energy Corporation
 17150 Via Del Campo, Suite 203
 San Diego, CA 92127

The Contract is Changed as Follows:

PCO #	Description	Amount	Days Added
N/A	Lighting and Lighting Control System Replacement for Building 1800A	\$ 79,315.00	42
TOTAL COST OF CHANGE ORDER		\$ 79,315.00	

Original Contract Sum:	\$ 228,607.00
Total change By Previous Change Orders:	\$ -
Contract Sum Prior to This Change Order:	\$ 228,607.00
Original Contract Sum will be Increased by This Change Order:	\$ 79,315.00
The New Contract Sum Including This Change Order Will Be:	\$ 307,922.00

The Contract Completion Date is: 5/31/2016
 Contract Time Will be Changed by This Change Order: 42 calendar days
 The date of substantial completion as of the of this change order is: 7/12/2019

CONTRACTOR: _____
 Jon Luther
 Project Manager
 Clear Blue Energy Corporation

Date: _____

OWNER: _____
 Lucky Lofton
 Executive Bonds Manager
 Solano Community College District

Date: _____