

**RESOLUTION RECOGNIZING
CEQA EXEMPTION FOR ENERGY CONSERVATION FACILITIES PROJECT**

**SANTA CLARA COUNTY BOARD OF EDUCATION
RESOLUTION No. 2329-2**

WHEREAS, the Santa Clara County Office of Education (“SCCOE”) desires to implement projects to promote energy efficiency and renewable energy production to achieve energy cost reductions;

WHEREAS, the County Superintendent of Schools will consider for approval an Energy Service Contract and Ground Lease with ENGIE Services U.S. Inc. for the implementation of certain energy related improvements (solar power generation) to SCCOE facilities in accordance with California Government Code Section 4217.10 to 4217.18 (the “Project”);

WHEREAS, the SCCOE has reviewed the provisions of the California Environmental Quality Act (“CEQA”) (Pub. Resources Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.);

WHEREAS, the CEQA Guidelines specify “classes” of projects that are categorically exempt from CEQA review;

WHEREAS, the CEQA Guidelines Section 15301 (Class 1 Existing Facilities) categorical exemption applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use;

WHEREAS, the CEQA Guidelines Section 15303 (Class 3 New Construction or Conversion of Small Structures) categorical exemption applies to the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure;

WHEREAS, the CEQA Guidelines Section 15304 (Class 4 Minor Alterations to Land) categorical exemption applies to minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes;

WHEREAS, the CEQA Guidelines Section 15311 (Class 11 Accessory Structures) categorical exemption applies to the construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to, small parking lots;

WHEREAS, the CEQA Guidelines Section 15314 (Class 14 Minor Additions to Schools) categorical exemption applies to minor additions to existing schools within existing school grounds where the addition does not increase original student capacity by more than 25% or ten classrooms, whichever is less;

WHEREAS, the SCCOE has reviewed the proposed Project and has determined that it is categorically exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15301 (Class 1 Existing Facilities), Section 15303 (Class 3 New Construction or Conversion of Small Structures), Section 15304

(Class 4 Minor Alterations to Land), Section 15311 (Class 11 Accessory Structures) and Section 15314 (Class 14 Minor Additions to Schools)

WHEREAS, the SCCOE has reviewed the proposed Project and has determined that none of the following exceptions to categorical exemption set forth in CEQA Guidelines Section 15300.2 apply:

“(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located--a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.”;

WHEREAS, Public Resources Code Section 21080.35 provides a statutory exemption from CEQA for the installation of a “solar energy system” (defined in Pub. Res. Code § 21080.35) on the roof of an existing building or at an existing parking lot;

WHEREAS, SCCOE has reviewed the exceptions to exemption in Public Resources Code Section 210835(d)&(e) and has determined that they do not apply to the proposed Project because the proposed Project will not require:

1. An individual federal permit pursuant to section 401 or 404 of the federal Clean Water Act (33 U.S.C. 1341 or 1344);
2. An individual take permit for species under protection of the federal Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the California Endangered Species Act (Chapter 1.5, commencing with section 2050 of Division 3, of the Fish and Game Code);
3. A streambed alteration permit pursuant to Chapter 6, commencing with section 1600 of Division 2, of the Fish and Game Code;

4. The removal of a tree required to be planted, maintained, or protected pursuant to local, state, or federal requirements, unless the tree dies and there is no requirement to replace the tree; or
5. The removal of a native tree over 25 years old.

NOW, THEREFORE, the County Superintendent of Schools hereby finds, determines, declares and resolves as follows:

Section 1. Determination of Recitals. That all of the recitals set forth above are true and correct.

Section 2. Finding of Categorical Exemption. That the proposed Project is categorically exempt from further CEQA review pursuant to CEQA Guidelines Section 15301 (Class 1 Existing Facilities), Section 15303 (Class 3 New Construction or Conversion of Small Structures), Section 15304 (Class 4 Minor Alterations to Land), Section 15311 (Class 11 Accessory Structures) and Section 15314 (Class 14 Minor Additions to Schools)

Section 3. Finding of No Exception to Categorical Exemption. That the proposed Project is not subject to any of the exceptions to categorical exemption set forth in CEQA Guidelines Section 15300.2.

Section 4. Finding of Statutory Exemption. That the proposed Project is statutorily exempt pursuant to Public Resources Code Section 21080.35.

Section 5. Finding of No Exception to Statutory Exemption. That none of the exceptions to Public Resources Code Section 21080.35's statutory exemption set forth in Public Resources Code Section 210835(d)&(e) apply.

Section 6. Notice of Exemption. The County Superintendent of Schools, or designee, is instructed to file and/or record a Notice of Exemption from CEQA, consistent with this Resolution, with any and all appropriate public agencies or entities if the proposed Project is approved by the Board.

Section 7. Authority to Take All Actions Necessary. The County Superintendent of Schools is hereby authorized to do all things that are necessary to give effect to and comply with the terms and intent of this Resolution.

Section 8. Effect. This Resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED by the County Board of Education at a meeting held on November 15, 2023, by the following vote:

AYES: President Chon, Vice President Sreekrishnan, and Trustees Berta, Lari, Mah, and Rocha

NOES: none

ABSTAIN: Trustee Di Salvo

ABSENT: none



Victoria Chon, President
Santa Clara County Board of Education



Mary Ann Dewan, Ph.D.
County Superintendent of Schools