

**Education Audit Appeals Panel
State of California**

Appeal of Audit Finding 1 of Program Audit
by California Clean Energy Jobs Act by:

West Covina Unified School District,

Appellant.

EAAP Case No. 19-06

OAH No. 2020010338

Decision

The Education Audit Appeals Panel has adopted the attached Stipulated Agreement of the parties as its Decision in the above-entitled matter.

Effective date: April 26, 2021.

IT IS SO ORDERED.

April 26, 2021
Date

Original Signed By:
Joel Montero, Chairperson
for Education Audit Appeals Panel

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BEFORE THE EDUCATION AUDIT APPEALS PANEL
STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE HEARINGS

**IN THE MATTER OF THE APPEAL OF
AUDIT FINDING 1 OF 2017-18 PROGRAM
AUDIT BY CALIFORNIA CLEAN
ENERGY JOBS ACT BY:**

**WEST COVINA UNIFIED SCHOOL
DISTRICT,**

Appellant,

OFFICE OF THE STATE CONTROLLER,

Respondent,

DEPARTMENT OF FINANCE,

Respondent.

Case No. EAAP 19-06
OAH No. 2020010338

**STIPULATION AND SETTLEMENT
AGREEMENT**

West Covina Unified School District (Appellant or WCUSD), respondent California State Controller's Office (SCO), and respondent California Department of Finance (Finance) (collectively, the Parties) agree to a complete resolution of the above-captioned matter as follows:

RECITALS

A. The SCO conducted an audit of a selection of completed projects of the California Clean Energy Jobs Act for the period of July 1, 2017 through June 30, 2018, the results of which were included in an audit report titled "Program Audit of the California Clean Energy Jobs Act" issued on or about June 28, 2019 (Audit).

B. In its Audit, the SCO determined that WCUSD sole-sourced the contracts for its energy projects' implementation and energy management services in violation of Public Resources Code section 26235, subdivision (c), which prohibits local education agencies from using a sole source process to award Proposition 39 funds (Audit Finding 1). In Audit Finding 1,

1 the SCO found that WCUSD sole-sourced Proposition 39 implementation and energy
2 management services contracts totaling \$2,027,653.

3 C. The SCO also found in its Audit that WCUSD applied Proposition 39 funds towards
4 ineligible expenditures (Audit Finding 3). WCUSD did not appeal Audit Finding 3, and Audit
5 Finding 3 is not at issue in the present matter.

6 D. WCUSD timely filed a request for formal appeal of Audit Finding 1 pursuant to
7 Education Code section 41344, subdivision (d), instituting this appeal before the Education Audit
8 Appeals Panel (EAAP).

9 E. To avoid the cost and uncertainty of further litigation, the Parties to this case agree to
10 completely resolve this dispute on the terms and conditions described below.

11 **AGREEMENT**

12 For the purpose of completely settling and resolving the Appellant WCUSD's appeal of
13 Audit Finding 1, the Parties agree as set forth below:

14 1. Appellant shall repay in full satisfaction of Audit Finding 1 the total sum of
15 \$202,765.30 within thirty (30) days of EAAP's approval and adoption of the fully executed
16 stipulation and settlement agreement.

17 2. This stipulated agreement is subject to and conditioned upon approval and adoption
18 by EAAP, pursuant to Education Code section 41344.1, subdivision (b).

19 3. This stipulated agreement may be executed in counterparts, each of which shall
20 constitute an original. Facsimile and pdf signatures by the Parties and/or their designated
21 representatives are deemed the equivalent of original signatures.

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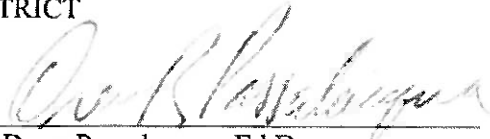
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4. The Parties shall bear their own attorneys' fees and costs.

Dated: 4-13-21

WEST COVINA UNIFIED SCHOOL DISTRICT

By: 
Drew Passalacqua, Ed.D.
Assistant Superintendent, Business Services
West Covina Unified School District

Dated: _____

DEPARTMENT OF FINANCE

By: _____
Chris Ferguson
Program Budget Manager
Department of Finance

Dated: _____

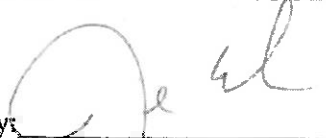
OFFICE OF THE STATE CONTROLLER

By: _____
John E. Dickerson
Counsel for Hon. Betty Yee
State Controller

AS TO FORM ONLY:

Dated: 4/14/2021

FAGEN FRIEDMAN & FULFROST LLP

By: 
Jessica Ehrlich
Attorney for West Covina Unified School District

Dated: _____

OFFICE OF THE ATTORNEY GENERAL

By: _____
Caroline C. Lam
Deputy Attorney General
Attorney for Department of Finance

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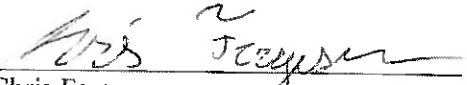
WEST COVINA UNIFIED SCHOOL DISTRICT

By: _____

Drew Passalacqua, Ed.D.
Assistant Superintendent, Business Services
West Covina Unified School District

Dated: 4/12/2021

DEPARTMENT OF FINANCE

By: 

Chris Ferguson
Program Budget Manager
Department of Finance

Dated: _____

OFFICE OF THE STATE CONTROLLER

By: _____

John E. Dickerson
Counsel for Hon. Betty Yee
State Controller

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OFFICE OF THE ATTORNEY GENERAL

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Attorney for Department of Finance

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Chris Ferguson
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Dated: 4-14-2021

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Dated: _____

By: _____
Jessica Ehrlich
Attorney for West Covina Unified School District

Dated: 04/14/2021

OFFICE OF THE ATTORNEY GENERAL

By: 
Caroline C. Lam
Deputy Attorney General
Attorney for Department of Finance

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