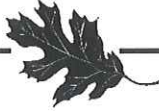


# OAKLEY



CALIFORNIA

## STAFF REPORT

Approved and forwarded to City Council

A handwritten signature in blue ink, appearing to read "B. Montgomery".

Bryan H. Montgomery, City Manager

**Date:** February 14, 2017

**To:** Bryan H. Montgomery, City Manager

**From:** Kenneth W. Strelo, Senior Planner

**SUBJECT:** **Resolution Consenting to the Inclusion of Properties within the City of Oakley in the CSCDA Open PACE Programs, and Authorizing Related Actions**

### SUMMARY

This is a resolution consenting to inclusion of properties within the City of Oakley in the California Statewide Communities Development Authority<sup>1</sup> ("CSCDA") Open PACE Program, and authorizing related actions. PACE is an acronym for "Property Assessed Clean Energy." Adoption of this resolution will enable property owners to finance permanently fixed renewable energy, energy efficiency, water efficiency, and seismic strengthening improvements as well as electric vehicle charging infrastructure.

### BACKGROUND

CSCDA, the largest Joint Powers Authority in California, founded and sponsored by the League of California Cities and California State Association of Counties ("CSAC"), is implementing Property Assessed Clean Energy ("PACE") under the provisions of Chapter 29 of Division 7 of the Streets & Highways Code (commonly referred to as "AB 811") on behalf of its member counties and cities. AB811 authorizes a legislative body to designate an area within which authorized public officials (including a joint powers authority like CSCDA) and free and willing property owners may enter into voluntary contractual

<sup>1</sup> The California Statewide Communities Development Authority (CSCDA) was created in 1988, under California's Joint Exercise of Powers Act, to provide California's local governments with an effective tool for the timely financing of community-based public benefit projects. CSCDA has over 500 member agencies and is the Joint Powers Authority and conduit bond issuer sponsored by the League of California Cities and the California State Association of Counties. More information about CSCDA is available at [www.cscda.org](http://www.cscda.org).

assessments to finance the installation of renewable energy, energy efficiency, water efficiency, and seismic strengthening improvements as well as electric vehicle charging infrastructure, in each case affixed to real property (the "Improvements").

CSCDA's Commissioners pre-qualified and appointed three PACE Administrators to manage the CSCDA Open PACE program in order to offer members turn-key PACE solutions that provide residential and commercial property owners the choice among prequalified PACE financing providers, creating competition on terms, service and interest rates. The prequalified program administrators operating the following programs are AllianceNRG Program<sup>TM2</sup>, PACE Funding LLC, Renewable Funding LLC (administering CaliforniaFIRST), Clean Fund Commercial PACE Capital and Spruce Finance.

CSCDA's Open PACE program offers turnkey solutions to save California jurisdictions the time and resources of developing standalone PACE programs. Jurisdictions only need to adopt the form of resolution accompanying this staff report related to the CSCDA Open PACE program to begin the process. There is no cost to approving the resolution.

PACE has been a very successful financing tool in California. PACE is operating in over 250 jurisdictions throughout the state, and nearly half a billion dollars in energy efficiency, water efficiency and renewable projects have been funded.

More information about CSCDA and CSCDA's Open PACE Program Administrators is available at [www.cscda.org](http://www.cscda.org).

Existing PACE Programs: Over the past few years, the City Council has adopted four other PACE-related financing programs options. Originally, in October 2014, the City Council approved inclusion of CaliforniaFIRST, HERO, and Figtree Lending. Later, in February of 2016, the City Council approved inclusion of Ygrene Works. Competition has been working, as Staff has received annual reports from various programs that outline the number of residential participants.

## **ANALYSIS**

CSCDA Open PACE is being offered to allow property owners in participating cities and counties to finance renewable energy, energy water efficiency improvements, seismic improvements and electric vehicle charging infrastructure on their property. Participation in the assessment is 100% voluntary by the property owner. The improvements installed on the owner's property are financed by the issuance of bonds by CSCDA. The bonds are secured by a voluntary contractual assessment levied on the owner's property. Property owners who wish to participate in PACE agree to repay the money through the voluntary contractual assessment collected with property taxes. The voluntary contractual

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<sup>2</sup> The AllianceNRG Program consists of. CounterPointe Energy Solutions LLC and Leidos Engineering, LLC.

assessments will be levied by CSCDA and collected in annual installments through the applicable county secured property tax bill.

The benefits to the property owner include:

Competition: CSCDA Open PACE provides three options to property owners: AllianceNRG Program, PACE Funding, CaliforniaFIRST, Clean Fund Commercial PACE Capital and Spruce Finance. Property owners can shop for the best price and service through the availability of the PACE administrators.

Eligibility: In today's economic environment, alternatives for property owners to finance renewable improvements may not be available. Many property owners do not have financing options available to them to lower their utility bills.

Savings: Energy prices continue to rise and installing energy efficient, water efficient and renewable energy models lower utility bills.

100% voluntary: Only property owners who choose to finance improvements will have assessments placed on their property.

Payment obligation can stay with the property: Under Chapter 29, a voluntary contractual assessment stays with the property upon transfer of ownership. Most private loans are due on sale of the property. Certain mortgage providers will, however, require the assessment be paid at the time the property is refinanced or sold.

Prepayment option: The property owner can choose to pay off the assessments at any time, subject to applicable prepayment penalties.

Customer oriented: Part of the success of the CSCDA Open PACE is prompt customer service.

## **RECOMMENDATION**

Staff recommends that the City Council adopt the resolution consenting to the inclusion of properties within the City of Oakley in the CSCDA Open PACE Programs, and authorizing related actions.

## **ATTACHMENTS**

1. Proposed Resolution

**RESOLUTION NO. XX-17**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE TERRITORY OF THE CITY IN THE CSCDA OPEN PACE PROGRAMS; AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE CITY; AND AUTHORIZING RELATED ACTIONS**

**RECITALS**

**WHEREAS**, the California Statewide Communities Development Authority (the "Authority") is a joint exercise of powers authority, the members of which include numerous cities and counties in the State of California, including the City of Oakley (the "City"); and

**WHEREAS**, the Authority is implementing Property Assessed Clean Energy (PACE) programs, which it has designated CSCDA Open PACE, consisting of CSCDA Open PACE programs each administered by a separate program administrator (collectively with any successors, assigns, replacements or additions, the "Programs"), to allow the financing or refinancing of renewable energy, energy efficiency, water efficiency and seismic strengthening improvements, electric vehicle charging infrastructure and such other improvements, infrastructure or other work as may be authorized by law from time to time (collectively, the "Improvements") through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code ("Chapter 29") within counties and cities throughout the State of California that consent to the inclusion of properties within their respective territories in the Programs and the issuance of bonds from time to time; and

**WHEREAS**, the program administrators currently active in administering Programs are the AllianceNRG Program (CounterPointe Energy Solutions (CA) LLC), PACE Funding LLC, CaliforniaFirst (Renew Financial Group LLC), CleanFund Commercial PACE Capital and Spruce Finance and the Authority will notify the City in advance of any additions or changes; and

**WHEREAS**, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner or owners of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

**WHEREAS**, the City desires to allow the owners of property ("Participating Property Owners") within its territory to participate in the Programs and to allow the Authority to conduct assessment proceedings under Chapter 29 within its territory and to issue bonds to finance or refinance Improvements; and



**WHEREAS**, the territory within which assessments may be levied for the Programs shall include all of the territory within the City's official boundaries; and

**WHEREAS**, the Authority will conduct all assessment proceedings under Chapter 29 for the Programs and issue any bonds issued in connection with the Programs; and

**WHEREAS**, the City will not be responsible for the conduct of any assessment proceedings; the levy of assessments; any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with the Programs;

**NOW, THEREFORE, BE IT RESOLVED:**

1. This City Council hereby finds and declares that properties in the territory of the City will benefit from the availability of the Programs within the territory of the City and, pursuant thereto, the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 and the issuance of bonds to finance or refinance Improvements.
2. In connection with the Programs, the City hereby consents to the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 on any property within the territory of the City and the issuance of bonds to finance or refinance Improvements; provided, that
  - a. The Participating Property Owners, who shall be the legal owners of such property, execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and
  - b. The City will not be responsible for the conduct of any assessment proceedings; the levy of assessments; any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with the Programs.
3. The appropriate officials and staff of the City are hereby authorized and directed to make applications for the Programs available to all property owners who wish to finance or refinance Improvements; provided, that the Authority shall be responsible for providing such applications and related materials at its own expense. The City Community Development Director or his/her designee, is hereby designated as the contact persons for the Authority in connection with the Programs.
4. The appropriate officials and staff of the City are hereby authorized and directed to execute and deliver such certificates, requisitions, agreements and related documents as are reasonably required by the Authority to implement the Programs.

5. The City Council hereby finds that adoption of this Resolution is not a "project" under the California Environmental Quality Act, because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4).
  
6. This Resolution shall take effect immediately upon its adoption. The City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to the Secretary of the Authority at: Secretary of the Board, California Statewide Communities Development Authority, 1400 K Street, Sacramento, CA 95814.

**PASSED AND ADOPTED** by the City Council of the City of Oakley at a meeting held on the February 14, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

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Sue Higgins, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date