



City Council Staff Report

Date: March 15, 2017

CONSENT AGENDA

Subject: APPROVAL OF THE INCLUSION OF PROPERTIES WITHIN THE CITY OF PALM SPRINGS IN THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY (CMFA) OPEN PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM

From: David H. Ready, City Manager

Initiated by: Office of Sustainability

SUMMARY

Approval of this item will adopt a resolution allowing the California Municipal Finance Authority to operate within the City of Palm Springs as an additional option available to Palm Springs residents pursuing financing of energy efficiency improvements on their real property.

RECOMMENDATION:

Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE TERRITORY OF THE CITY OF PALM SPRINGS IN THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY OPEN PACE PROGRAMS; AUTHORIZING THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE CITY OF PALM SPRINGS; AND AUTHORIZING RELATED ACTIONS."

BACKGROUND:

Assembly Bill (AB) 811 was signed into law on July 21, 2008, and AB 474, effective January 1, 2010, amended Chapter 29 of Part 3 of Division 7 of the Streets & Highways Code of the State of California ("Chapter 29") and authorizes a legislative body to designate an area within which authorized public officials and willing property owners may enter into voluntary contractual assessment programs known as Property Assessed Clean Energy ("PACE") programs. PACE programs are intended to finance

ITEM NO. 1.I.

the installation of distributed generation renewable energy sources, energy efficiency, and/or water conservation improvements that are permanently fixed to real property.

The City of Palm Springs and the Coachella Valley Association of Governments ("CVAG") have both approved implementation of PACE programs on a city and regional level. The City of Palm Springs currently has four programs operating within City boundaries including HERO, Ygrene, FIGTREE, and CaliforniaFIRST. CVAG has endorsed these various PACE providers.

The California Municipal Finance Authority ("CMFA") represents the fifth PACE program considered for adoption by the City. The first PACE program adopted in the Coachella Valley was adopted only by the City of Palm Springs in 2012 – this PACE program, finalized December 2012 by the City of Palm Springs, is known as the FIGTREE program. Subsequently, CVAG has provided regional coordination with PACE programs within the Coachella Valley, and formally vetted three other programs: HERO, Ygrene, and CaliforniaFIRST. The City adopted the Ygrene program on June 5, 2013, adopted the HERO program on January 15, 2015, and adopted the CaliforniaFIRST program on May 4, 2016. Those PACE programs adopted valley wide through CVAG rather than City by City have proven to be the most successful.

STAFF ANALYSIS:

CMFA is now the fourth PACE program formally vetted and recommended for approval by CVAG. On September 26, 2016, the CVAG Executive Committee approved agreements with CMFA's PACE providers to participate in the regional PACE program; a copy of the CVAG staff report is included as **Attachment 1**.

The CMFA program gives the City of Palm Springs another PACE program that provides property owners a choice among multiple pre-qualified PACE financing providers based on their rates, experience and capital commitment to the California PACE market.

The CMFA is a California Joint Powers Authority ("JPA") formed in 2004 to strengthen local communities by promoting economic development and charitable activities throughout the State of California. The CMFA acts as a municipal conduit issuer and assists eligible institutions in obtaining financing through the issuance of revenue bonds. The bonds are special, limited obligations of the CMFA, payable solely from the revenues of the projects and other funds of the borrower. To date, over 230 municipalities have become members of CMFA, including Blythe, Indio, La Quinta, Palm Desert, Palm Springs, and Rancho Mirage.

The City of Palm Springs took action on July 9, 2008, by adoption of Resolution No. 22269, and approval of Agreement No. 5697, to join membership of CMFA and is now a part of the JPA.

The CMFA is committed to promoting economic and social programs in its member communities. The CMFA shares a minimum of 25% of all issuance fees collected directly with its member communities, and donates a minimum of another 25% to the California Foundation for Stronger Communities, for the support of local charities designated by its member agencies.

CMFA's function is similar to that provided by CVAG for the CV Upgrade/Ygrene program and by Western Riverside Council of Governments for the HERO program. The consumer protection policies and procedures adopted by CVAG are used by CMFA for this PACE program and are adopted by CaliforniaFIRST. These are the same policies used by the City's already implemented PACE programs.

Similar to our other four existing PACE programs, the CMFA Program is offered to allow property owners in participating cities and counties to finance renewable energy, energy and water efficiency improvements on their property. If a property owner chooses to participate, the installed improvements will be financed by the issuance of bonds. The bonds are secured by a voluntary contractual assessment levied on the owner's property, with no recourse to the local government. Property owners who wish to participate in the program agree to repay the amount borrowed through the voluntary contractual assessment collected together with their property taxes.

Some benefits to property owners include cost savings, the payment obligation stays with the property, and a prepayment option. Potential benefits to the City include increased local jobs, increase in property values and increase in sales, payroll and property tax revenue. As in conventional assessment financing, the City is not obligated to repay bonds or to pay delinquent assessments levied on the participating properties.

For our City to participate in the CMFA PACE program we must adopt the resolution accompanying this staff report. This enables the CMFA program to be available to owners of property within our City to finance renewable energy, energy efficiency and water efficiency improvements.

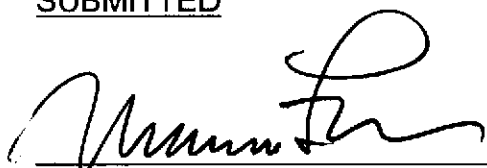
ENVIRONMENTAL IMPACT:

This action is not considered a "project" under the California Environmental Quality Act, because the action 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). Therefore no negative environmental impact is noted.

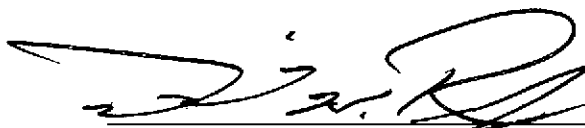
FISCAL IMPACT:

No negative fiscal impact to the City of Palm Springs will be incurred by consenting to the inclusion of properties within the City limits in the CMFA Program. The CMFA Program administrative costs are covered through an initial administrative fee included in the property owner's voluntary contractual assessment and an annual administrative fee which is also collected on the property owner's tax bill.

SUBMITTED



Marcus L. Fuller, MPA, P.E., P.L.S.
Assistant City Manager/City Engineer



David H. Ready, Esq., Ph.D.
City Manager

Attachment:

1. CVAG Staff Report
2. Resolution

Attachment 1



Staff Report

Subject: Allow new Property Assessed Clean Energy (PACE) Providers to Implement Regional Programs in the Coachella Valley through CVAG

Contact: Benjamin Druyon, Management Analyst (bdruyon@cvag.org)

Recommendation:

- 1) Continue allowing new PACE providers, once vetted by CVAG, to enter into agreements with CVAG to implement their programs on a regional scale.
- 2) Approve agreements between CVAG and Energy Efficiency Equity Inc, BlueFlame Energy Finance LLC, and Structured Finance Associates LLC as providers in CVAG's regional PACE program.
- 3) Authorize the Executive Director and/or CVAG legal counsel to make minor changes/revisions to the agreement(s) as needed for clarification purposes.

Energy and Environmental Resources Committee: CONCURS (Meeting of September 8th)

Technical Advisory Committee: CONCURS (Meeting of September 12th)

Background: On January 25, the Executive Committee approved CVAG staff's recommendation to implement new PACE programs regionally, with CVAG oversight and similar consumer protection policies and procedures that have been adopted for the existing PACE vendors - HERO, Ygrene, and CaliforniaFIRST.

At the Executive Committee meeting on June 27, staff presented a recommendation for adoption of an agreement with another PACE vendor, Energy Efficiency Equity, Inc. as part of the California Municipal Finance Authority's Open PACE program. This agreement was reviewed by the Energy and Environmental Resources Committee on June 9 with a recommendation to approve. The Executive Committee had a number of questions about existing PACE programs and the options for additional PACE vendors. After considerable discussion and questions, the Executive Committee voted to hold implementation of further PACE programs on a regional scale until the committee members had time to receive and review a matrix of PACE vendors and their programs. The Executive Committee also took action, in the interest of not slowing down commercial business for the California Municipal Finance Authority (CMFA) while the committees were dark, to allow CMFA to contact those cities where commercial projects are being developed and seek to have the necessary resolutions adopted. CVAG continues to assist the CMFA representative in this effort.

To address the questions and concerns brought forth by the CVAG committee members, staff has prepared the attached PACE white paper which gives an overview of the status of the industry. The following summarizes the issues of concern addressed in the white paper:

- The Executive Committee requested a summary matrix to compare items that committee members had concerns about, including loan-to-value ratios, interest rates, loan terms, and other features of PACE programs. The attached PACE matrix was prepared by the City of Riverside to compare program features from several of the active PACE providers in California; it covers the issues requested by the Executive Committee.
- Staff has ensured that the PACE providers included in the matrix which sign agreements with CVAG will follow the state standards for underwriting criteria. The maximum amount for a

residential PACE loan is 15% of property assessed value. No PACE vendor allows a property owner to have a total mortgage debt in excess of 100%.

- Based on the information in the matrix, and the previous adoption of standardized Consumer Protection Policies and Standards, staff believes that new PACE providers, who are required to adopt CVAG's policies and standards, are adhering to a high level of consumer protection. PACE vendors who meet these standards may pursue an agreement with CVAG to be brought to the Executive Committee for approval.
- Some questions were brought up about how to deal with general inquiries, information needs, and concerns from property owners about PACE programs.
 - CVAG has contacted staff from each city, inquiring about any PACE questions or complaints. Each city manager has appointed a PACE liaison to CVAG who can provide information about PACE issues.
 - CVAG will continue to work with each city's staff to provide regular updates, information about certified contractors, and address questions about PACE programs.
 - CVAG will continue to mediate any complaints or issues that come to our attention.
 - CVAG will continue to track concerns and complaints and update this committee quarterly.

As presented during CVAG committee meetings in June, the California Municipal Finance Authority (CMFA) has approached CVAG about implementing their Open PACE program on a regional scale in the Coachella Valley. Energy Efficiency Equity Inc (E3), BlueFlame Energy Finance LLC, and Structured Finance Associates LLC are all programs under the CMFA Open PACE platform. The following background information is provided about the CMFA and three companies it oversees:

- **The California Municipal Finance Authority (CMFA)** is a California Joint Powers Authority (JPA) formed in 2004 to strengthen local communities by promoting economic development and charitable activities throughout the State of California. The CMFA acts as a municipal conduit issuer and assists eligible institutions in obtaining financing through the issuance of revenue bonds. The bonds are special, limited obligations of the CMFA, payable solely from the revenues of the projects and other funds of the borrower. To date, over 230 municipalities have become members of CMFA, including Blythe, Indio, La Quinta, Palm Springs, and Rancho Mirage. The CMFA is committed to promoting economic and social programs in its member communities. The CMFA shares a minimum of 25% of all issuance fees collected directly with its member communities, and donates a minimum of another 25% to the California Foundation for Stronger Communities, for the support of local charities designated by its member agencies.
 - **Energy Efficiency Equity Inc (E3)** is a Los Angeles based clean energy finance company that specializes in affordable financing for renewable energy and energy efficiency residential projects.
 - **BlueFlame Energy Finance LLC** is a Building-to-Building specialty finance company started with the singular vision of serving the energy finance needs of small and middle market (Commercial & Industrial) customers and project developers across all clean energy sectors.
 - **Structured Finance Associates LLC** is a nationwide firm founded in 2010 which provides financing that allows owners to obtain the energy efficiency capital expenditures they want for their commercial and industrial buildings without spending a cent of the capital they need to continue grow their business.

The CMFA provides oversight of the aforementioned providers, including review of each application and underwriting criteria. Their function is similar to that provided by CVAG for the CV Upgrade/Ygrene program and by Western Riverside Council of Governments for the HERO program. As part of the process to make these new programs available to property owners, each CVAG member agency will need to adopt a resolution. If approved by the Executive Committee, CVAG staff would assist with this process.

These programs operate under AB 811 PACE legislation. As noted, these vendors are among several program administrators under CMFA's Open PACE platform. As administrators, these

entities recruit, train, and manage qualified contractors; manage the process of recording assessments and create, securitize, and issue bonds; and set the industry standard for consumer protections and disclosure. The consumer protection policies and procedures adopted by the CVAG Executive Committee on January 25 have been presented to each of these providers and have been accepted as their minimum standard.

A final commercial agreement is attached for your review. We have developed a standardized agreement for new PACE providers which has been reviewed by CVAG legal counsel. The agreement is similar to the one developed with Renovate America and the Western Riverside Council of Governments for HERO and more recently with CaliforniaFIRST. The language in each agreement is consistent, therefore only one agreement is provided for review. The recommendation for E3 residential agreement was approved by the Energy and Environmental Resources Committee on September 8 and approved by the Technical Advisory Committee on September 12 and can be accessed by clicking this link: [E3 residential agreement](#). This agreement will allow for CVAG to provide oversight on behalf of our member agencies to: 1) minimize issues that may arise from the operation of multiple programs simultaneously in the Coachella Valley; 2) assist with marketing and outreach; 3) coordinate with CVAG member agencies; and 4) assist in resolving any property owner or contractor complaints. The agreement would also provide for a participation fee associated with CVAG's role in working with these providers to implement a regional PACE program.

New PACE providers that desire to implement their program regionally in the Coachella Valley would follow these steps:

- Contact CVAG staff to discuss terms of implementation and what is expected of them.
- Finalize an agreement identifying the roles and responsibilities of CVAG and the new PACE provider.
- CVAG staff will present the agreement for consideration by the Executive Committee.
- If approved, work with CVAG staff on implementation of program.

Allowing more PACE programs to operate regionally in the Coachella Valley will benefit property owners by offering them more financing options, create an atmosphere of competition between PACE providers which could potentially drive interest rates down, and increase awareness of PACE financing opportunities throughout the valley. According to staff's research, as indicated in the PACE white paper, the current issues aren't with the PACE providers themselves, but rather with contractors or their staff. CVAG staff continues its diligence in this area.

Staff recommends the Executive Committee continue to allow new PACE providers that meet the standards set by CVAG to participate in PACE in the Coachella Valley. Staff also recommends that the Executive Committee approve the attached agreements with Energy Efficiency Equity Inc, BlueFlame Energy Finance LLC, and Structured Finance Associates LLC for regional PACE programs and authorize the Executive Director to execute the agreements.

Fiscal Analysis: The cost to CVAG from PACE programs is covered by a participation fee provided under an agreement with each program implementer.

Attachments:

1. PACE White Paper
2. PACE Matrix, prepared by City of Riverside
3. Agreement with BlueFlame Energy Finance, LLC

Attachment 2

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE TERRITORY OF THE CITY OF PALM SPRINGS IN THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY OPEN PACE PROGRAMS; AUTHORIZING THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE CITY OF PALM SPRINGS; AND AUTHORIZING RELATED ACTIONS

WHEREAS, the California Municipal Finance 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 Palm Springs, (the "City"); and

WHEREAS, the Authority is implementing Property Assessed Clean Energy (PACE) programs, which it has designated CMFA Open PACE, consisting of CMFA Open PACE programs each administered by a separate program administrator (collectively with any successors, assigns, replacements or additions, the "CMFA 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 CMFA Programs are Energy Efficient Equity, Inc.; BlueFlame PACE Services LLC; OnPACE Energy Solutions, LLC; and Structured Finance Associates, LLC; and the Authority will notify the City in advance of any additions or changes; and

WHEREAS, the "City" is a member of the Coachella Valley Association of Governments ("CVAG"), also a joint powers authority; and

WHEREAS, the City and other CVAG member jurisdictions have previously entered into an Implementation Agreement authorizing CVAG to implement, manage and administer Regional PACE Programs within the jurisdictional boundaries of the CVAG member jurisdictions; and

WHEREAS, CVAG proposes to enter into one or more Administration Agreements with program administrators currently active in the CMFA Programs to provide Regional PACE Programs; 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 any of the Regional PACE Programs for which CVAG has entered into an Administration Agreement with a CMFA program administrator and to allow the Authority to conduct assessment proceedings under Chapter 29 within its territory for any such Regional PACE Programs and to issue bonds to finance or refinance Improvements consistent with the terms of the CVAG Administration Agreements for the Regional PACE Programs; and

WHEREAS, the territory within which said assessments may be levied for the Regional PACE 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 Regional PACE Programs and issue any bonds issued in connection with Regional PACE 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, administration repayment or guarantee of any bonds issued in connection with the Programs.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Palm Springs as follows:

Section 1. This City Council hereby finds and declares that the foregoing recitals are true and correct.

Section 2. This City Council hereby finds and declares that properties in the territory of the City will benefit from the availability of the Regional PACE 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.

Section 3. In connection with the Regional PACE Programs, the City hereby consents to the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 and, subject to the scope of the Regional PACE Program as defined in the CVAG Administration Agreements, on any property within the territory of the City and the issuance of bonds to finance or refinance Improvements; provided, that

(1) 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

(2) 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, administration, repayment or guarantee of any bonds issued in connection with the Programs.

Section 4. The appropriate officials and staff of the City are hereby authorized and directed to make applications for the Regional PACE 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 Manager may, from time to time, designate appropriate staff as the contact persons for the Authority in connection with the Programs.

Section 5. 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 Regional PACE Programs.

Section 6. 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)).

Section 7. 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 Financial Advisor of the Authority at: California Municipal Finance Authority, 2111 Palomar Airport Road, Suite 320, Carlsbad, California 92011, Attn: Travis Cooper.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL
THIS 15th DAY OF MARCH, 2017.

DAVID H. READY, CITY MANAGER

ATTEST:

KATHLEEN D. HART, INTERIM CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, KATHLEEN D. HART, Interim City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy as was duly adopted at a regular meeting of the City Council of the City of Palm Springs on March 15, 2017, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

KATHLEEN D. HART, INTERIM CITY CLERK
City of Palm Springs, California