

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Randy Breault, Director of Public Works/City Engineer via City Manager

SUBJECT: CSCDA Property Assessed Clean Energy (PACE) Program

DATE: September 1, 2016

City Council Goals:

To develop plans and pursue opportunities to protect natural resources. (#8)

Purpose:

To establish an additional program within the city that allows homeowners to enter voluntarily into property-based assessment financing for energy and water efficiency projects for their real property. The recommended action is consistent with the community's values of being environmentally progressive and fiscally conservative.

Recommendation:

Adopt Resolution 2016-40, Consenting to the Inclusion of Properties within the City's Jurisdiction in the California Statewide Communities Development Association (CSCDA) Open PACE programs.

Background:

AB 811 (Levine, Contractual assessments: energy efficiency improvements) signed into law on 7/21/08, and AB 474 (Blumenfeld, Contractual assessments: water efficiency improvements) signed into law 10/11/09, amended Section 5898 of the CA Streets & Highways Code to authorize a legislative body to designate an area within which authorized public officials and free and willing property owners may enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources, energy efficiency, and/or water conservation improvements that are permanently fixed to real property.

The action to be taken under the proposed resolution is consistent with similar actions previously taken by the City Council:

- 2/16/10 - Resolution No. 2010-08, authorizing participation in the CaliforniaFIRST PACE program
- 8/1/11 Resolution No. 2011-41, urging support of H.R. 2599, PACE Assessment Protection Act of 2011
- 11/16/14 - approval of participation in Peninsula SunShares, a residential solar bulk purchase program developed by Foster City
- 12/17/15 - Resolution No. 2015-48, authorizing participation in the California HERO PACE program
- 4/21/16 - continued approval of participation in the residential solar bulk purchase program as it transitioned from Peninsula SunShares administered by Vote Solar to Bay Area SunShares administered by the Business Council on Climate Change.

Discussion:

PACE Programs throughout California typically provide the following benefits:

The benefits to the property owner include:

- Eligibility: In today's economic environment, alternatives for property owners to finance renewable energy/energy efficiency/water efficiency improvements or electric vehicle charging infrastructure may not be available. As such, many property owners do not have options available to them to lower their utility bills.
- Savings: Energy prices continue to rise; selecting energy efficient, water efficient and renewable energy models lower utility bills.
- 100% voluntary. Property owners choose to participate in the program at their discretion.
- Payment obligation stays with the property. A voluntary contractual assessment stays with the property upon transfer of ownership. Even if there were private enterprise alternatives, most private loans are due on sale of the benefited property, which makes it difficult for property owners to match the life of the repayment obligation with the useful life of the financed improvements. (Certain mortgage providers may require the assessment be paid off 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.

The benefits to the City include:

- Increase local jobs.
- An increase in housing prices (higher efficient homes are worth more money).
- An increase in sales, payroll and property tax revenue

- As in conventional assessment financing, the City is not obligated to repay the bonds or to pay the assessments levied on the participating properties.
- All PACE program and assessment administration, bond issuance and bond administration functions are handled by the program. Little, if any, City staff time is needed to participate in the program.
- The City can provide access for its residents to the PACE program without the higher staff costs that an independent program established by the City would require.

Fiscal Impact:

There is no fiscal impact to the City's general fund incurred by consenting to the inclusion of properties within the City limits in the CSCDA Open PACE Program. All Program administrative costs are covered through an initial administrative fee included in the property owner's voluntary contractual assessment and an annual administrative fee that is also collected on the property owner's tax bill. There is a minimal amount of staff time anticipated to advertise the program and to monitor participation.

Measure of Success

An established program that meets the needs of real property owners desiring to finance energy and water efficiency programs through assessments on their real property.

Attachments:

- Resolution No. 2016-40



Director of Public Works/City Engineer



City Manager

RESOLUTION NO. 2016-40

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

WHEREAS, the California Statewide Communities Development Authority (“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 Brisbane (“City”); and

WHEREAS, the Authority is implementing Property Assessed Clean Energy (PACE) programs, and 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

WHEREAS, the program administrators currently active in administering Programs are the AllianceNRG Program (presently consisting of CounterPointe Energy Solutions LLC and Leidos Engineering, LLC), PACE Funding LLC, Renewable Funding 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

RESOLUTION NO. 2016-40

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, by the City Council of the City of Brisbane as follows:

Section 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 its territory 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 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 by the Authority to finance or refinance Improvements; provided, that

(1) The Participating Property Owners, who shall be the legal owners of such property, will be required to 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 or administration of any bonds issued in connection with the Programs.

Section 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.

Section 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.

Section 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).

Section 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 at a regular meeting of the City Council
of the City of Brisbane held on the ___ day of _____, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor

ATTEST:

Sheri Marie Spediacci, City Clerk