

RESOLUTION NUMBER R- 310486

DATE OF FINAL PASSAGE JUN 01 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE TERRITORY OF THE CITY OF SAN DIEGO IN THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY (CSCDA) OPEN PACE PROGRAMS; AUTHORIZING THE CSCDA TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE CITY; 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 San Diego (City); and

WHEREAS, by Resolution No. R-307693 on September 19, 2012 the City Council authorized the City's participation in the Authority's Property Assessed Clean Energy (PACE) program with the Authority's initial program provider CaliforniaFIRST; and

WHEREAS, the Authority has now determined that it will allow other program providers to provide services under its PACE program; and

WHEREAS, the Authority has designated its new wider program as 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 the 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;

WHEREAS, the program administrators now active in administering CSCDA Open PACE programs are, in addition to CaliforniaFIRST, the AllianceNRG Program (presently consisting of Deutsche Bank Securities Inc., CounterPointe Energy Solutions LLC and Leidos Engineering, LLC), PACE Funding LLC, and Renewable Funding LLC; and

WHEREAS the Authority will notify the City in advance of any additions or changes in its Open PACE program providers and obtain the City’s written consent for any additional or different providers;

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, subject to the terms of this resolution the City desires to allow the owners of property (Participating Property Owners) within its territory to participate in the Programs and allow the Authority to conduct assessments proceedings under Chapter 29 within its territory and is to issue bonds to finance or refinance Improvements; and

WHEREAS, the City deems it prudent to limit the availability of PACE programs in the City to applicants meeting the following criteria:

1. Applicant must be the property owner of record. If the legal property owner is a corporation, trust or similar legal entity, the applicant must be authorized to act on behalf of such entity;
2. Applicant must be current on all property taxes for the subject property and have no more than one late payment penalty assessed during the prior 36 months, or since the purchase of the property, whichever is longer;
3. Applicant must be current on all debt secured by the subject property for the prior 24 months;
4. Applicant must not have declared bankruptcy within the past seven years and the subject property must not be an asset in any bankruptcy proceeding;
5. Total indebtedness secured by the property, including all mortgages, tax liens and assessment liens, when combined with the PACE lien, must not exceed 95% of the property value prior to installation of the Improvements;
6. Property must not have any involuntary liens, including construction liens; 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, by the Council of the City of San Diego, as follows:

1. The above Recitals are incorporated herein.
2. This Council of the City of San Diego hereby finds and declares that properties in the territory of the City will benefit from the availability of the Open 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.
3. In connections with the Open PACE 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.
4. The appropriate officials and staff of the City are hereby authorized and directed to make applications for the Open 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 following staff persons, together with any other staff persons chosen by City's Chief Operating Officer from time to time, are hereby designated as the contact persons for the Authority in connection with the Programs: Environmental Services Department Director or designee.

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 Programs.

6. The City 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).

7. This Resolution shall take effect immediately upon its adoption. The San Diego 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.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Frederick M. Ortlieb
Deputy City Attorney

FMO:mt
April 4, 2016
Or.Dept: Engineering & Capital Projects
Doc. No.: 1257702

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAY 24 2016.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 5/31/16
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on MAY 24 2016, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 01 2016

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By Mary Fernandez, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 310486