



Item No. 19 Town of Atherton

CITY COUNCIL STAFF REPORT – CONSENT AGENDA

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

FROM: THERESA DELLASANTA, CITY CLERK

DATE: OCTOBER 19, 2016

**SUBJECT: RESOLUTION 16-XX CONSENTING TO THE INCLUSION OF
PROPERTIES WITHIN THE TERRITORY OF THE TOWN OF
ATHERTON IN THE CSCDA OPEN PACE PROGRAM**

RECOMMENDATION

Adopt Resolution 16-xx authorizing the Town's participation in CSCDA Open PACE, which 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 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 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 several 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™, 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.

PACE has been a very successful financing tool in California. PACE is operating in over 400 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.

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 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, with no residential prepayment penalties.

- Customer oriented: Part of the success of the CSCDA Open PACE is prompt customer service.
- Favorable Terms: The economic terms of PACE financing will often be more favorable than other options.
- Not a personal loan or mortgage: The PACE assessment in effect is not a personal obligation of the property owner through a conventional loan or mortgage but an assessment on the property secured by an assessment lien and collected as part of the regular tax roll on the property.

The benefits to the Town include:

- Prequalified PACE Administrators. CSCDA has pre-qualified the PACE Administrators based on their business practices, qualifications, experience, and capital commitment to the PACE market.
- Single Resolution. The Town can pass a single resolution and provide access to residential and commercial property owners to highly qualified PACE administrators. There is no need to pass multiple resolutions to approve the administrators.
- Project Eligibility. The CSCDA Open PACE platform can provide financing for all aspects of PACE including: 1) Residential, 2) Commercial, and 3) Seismic strengthening programs such as Mandatory Soft Story programs,
- Increase local jobs. Property improvements provide jobs in the local economy.
- Increase in housing prices. Updated and higher efficient homes are generally more valuable.
- Increase Revenue to the Town. Property improvements result in an increase in sales, payroll and property tax revenue to the Town.
- No Town Obligation. As in conventional assessment financing, the Town is not obligated to repay the bonds or to pay the assessments levied on the participating properties. Unlike conventional assessment financing, the City/County has no administrative duties and its name is not on the bonds, as CSCDA's name is on the bonds.
- No Town staff support required. All CSCDA Open PACE and assessment administration, bond issuance and bond administration functions are handled by CSCDA and the Administrators; AllianceNRG Program, PACE Funding and Renewable Funding. No Town staff time is needed to participate in CSCDA Open PACE.

- No internal management requirements. The Town can provide access for its residents to CSCDA Open PACE without the higher staff costs that an independent program established by the [City/County] would require.
- Availability of Information on Projects Financed. The Town may receive, at its option, periodic updates on CSCDA Open PACE projects that have been completed in their community.
- Demonstration of Community Commitment to the Environment. Participating in CSCDA Open PACE demonstrates the Town's commitment to do everything in its power to improve the environment.

The proposed resolution enables CSCDA Open PACE programs to be available to owners of residential and commercial property within our Town to finance permanently fixed renewable energy, energy efficiency, water efficiency, and seismic strengthening improvements as well as electric vehicle charging infrastructure.

CSCDA (and not the county or city) will be responsible for entering into voluntary contractual assessment agreements with participating property owners, levying the voluntary contractual assessments, issuing bonds to finance the Improvements and taking remedial actions in the event of delinquent assessment payments. The resolution expressly provides that the county or 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 assessment payments, or the issuance, sale or administration of any bonds issued in connection with CSCDA Open PACE.

POLICY CONSIDERATIONS

There are no costs or risk associated with joining the program. Joining the programs simply allow Atherton residents to finance renewable energy, energy and water efficiency improvements, and electric vehicle charging infrastructure on their property.

FISCAL IMPACT

There is no negative fiscal impact to the Town's general fund by consenting to the inclusion of properties within the City limits in CSCDA Open PACE. All CSCDA Open PACE 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.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the item is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents

as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

ATTACHMENTS

- a. Resolution Consenting to the inclusion of properties within the territory of the Town of Atherton in CSCDA Open PACE Programs, including CSCDA Open PACE and CaliforniaFIRST, and
- b. 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 Town of Atherton; and

RESOLUTION NO. 16-xx

**RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE TERRITORY
OF THE TOWN OF ATHERTON 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 TOWN OF
ATHERTON**

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 Town of Atherton; 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 (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 Town of Atherton 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 Town of Atherton 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 Town of Atherton’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 Town of Atherton 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 Town of Atherton as follows:

Section 1. This City Council hereby finds and declares that properties in the territory of the Town of Atherton will benefit from the availability of the Programs within the territory of the Town of Atherton 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 Town of Atherton hereby consents to the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 on any property within the territory of the Town of Atherton 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 Town of Atherton 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 Town of Atherton 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 following staff persons, together with any other staff persons chosen by the City Council of the Town of Atherton from time to time, are hereby designated as the contact persons for the Authority in connection with the Programs: Theresa N. DellaSanta, City Clerk.

Section 4. The appropriate officials and staff of the Town of Atherton 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 this 19th day of October, 2016 by the following vote, to wit:

AYES:	Councilmembers:
NOES:	Councilmembers:
ABSENT:	Councilmembers:
ABSTAIN:	Councilmembers:

Elizabeth Lewis, Mayor
Town of Atherton

ATTEST:

Theresa N. DellaSanta, City Clerk

APPROVED AS TO FORM:

William B. Conners, City Attorney

