

RESOLUTION NO. 2017-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS APPROVING, AUTHORIZING, AND DIRECTING EXECUTION OF A JOINT EXERCISE OF POWERS AGREEMENT RELATING TO THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY; CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE TERRITORY OF THE CITY 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; 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 (the "Members"), formed pursuant to a Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority, dated as of January 1, 2004 (the "Agreement") for the purpose of promoting economic, cultural and community development and in order to exercise any powers common to its Members, including the issuance of bonds, notes or other evidences of indebtedness; and

WHEREAS, the Authority offers 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, City of Desert Hot Springs (the "City") is a member of the Coachella Valley Association of Governments ("CVAG"), also a joint powers authority;

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;

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;

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 has determined that it is in the public interest and for the public benefit that the City become a Member of the Authority so that property owners within the City's territory may participate in any Regional PACE programs implemented by CVAG pursuant to any Administration Agreements by and between CVAG and CMFA program administrators;

WHEREAS, said participation by the City shall facilitate the promotion of economic, cultural and community development activities in the City, including the financing of projects therefore by the Authority; and

WHEREAS, there is now before this City Council the form of the Agreement for becoming a Member of the Authority; and

WHEREAS, the Agreement has been filed with the City, and the members of the City Council, with the assistance of its staff, have reviewed said document; 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 Desert Hot Springs as follows:

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

Section 2. The Agreement is hereby approved and the Mayor, City Manager, or the designee thereof is hereby authorized and directed to execute said document, and the City Clerk or such clerk's designee is hereby authorized and directed to attest thereto.

Section 3. 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 4. In connection with the Regional 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 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 5. 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 following staff persons, together with any other staff persons chosen by the Mayor or City Manager of the City from time to time, are hereby designated as the contact persons for the Authority in connection with the Programs: _____ [specify name of position].

Section 6. 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 7. 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 8. 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 AND ADOPTED by the City Council of the Desert Hot Springs at a regular meeting held on this 7th day of February, 2017, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

[SIGNATURES FOLLOW ON THE NEXT PAGE]

ATTEST:

Jerryl Soriano, CMC, City Clerk

APPROVED:

Scott Matas, Mayor

APPROVED AS TO FORM:

Jennifer Mizrahi, City Attorney

CERTIFICATE OF CLERK

I, Jerryl Soriano, City Clerk of the City of Desert Hot Springs, do hereby certify that the foregoing is a full, true and correct copy of a resolution duly adopted at a regular meeting of the City Council of the City of Desert Hot Springs duly and regularly held at the regular meeting place thereof on February 7, 2017, of which meeting all of the members of said City Council had due notice, and at said meeting said resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

I do hereby further certify that an agenda of said meeting was posted at least 72 hours before said meeting at 65950 Pierson Boulevard, Desert Hot Springs, CA 92240, a location freely accessible to members of the public, and a brief description of said resolution appeared on said agenda.

I do hereby further certify that I have carefully compared the foregoing copy with the original minutes of said meeting on file and of record in my office; that said copy is a full, true and correct copy of the original resolution adopted at said meeting and entered in said minutes; and that said resolution has not been amended, modified, rescinded or revoked in any manner since the date of its adoption, and the same is now in full force and effect.

Dated: February 7, 2017

City Clerk of the City of Desert Hot Springs

[SEAL]