

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SUNNYVALE CONSENTING TO THE INCLUSION OF
PROPERTIES WITHIN THE TERRITORY OF THE CITY
OF SUNNYVALE 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 CITY OF SUNNYVALE; AND
AUTHORIZING RELATED ACTIONS**

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 City of Sunnyvale (the “City”); 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, CleanFund Commercial PACE Capital and Renewable Funding LLC, 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

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; and

WHEREAS, CSCDA Open PACE has agreed that any of its providers which chooses to operate in Sunnyvale will agree to comply with City’s operational requirements for PACE providers;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

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 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 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 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.

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. The following staff persons, together

with any other staff persons chosen by the City Manager of the City from time to time, are hereby designated as the contact persons for the Authority in connection with the Programs: Director of Environmental Services, P.O. Box 3707, Sunnyvale, CA 94088-3707.

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 once it is adopted only for a program administrator that has entered into a Regional Collaborative Services Agreement (RCSA) with the Association of Bay Area Governments (ABAG) and provides the City a fully executed copy of such agreement with ABAG. In addition, each program administrator shall sign a written acknowledgment of its obligations to defend and indemnify City pursuant to the terms of the RCSA. 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.

Adopted by the City Council at a regular meeting held on _____, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM:

City Attorney