

RESOLUTION NO. 16-340

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO
COUNTY CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE
UNINCORPORATED TERRITORY OF THE COUNTY IN THE CMFA OPEN PACE
PROGRAM; AUTHORIZING THE CALIFORNIA MUNICIPAL FINANCE
AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS,
CONDUCT VOLUNTARY CONTRACTUAL ASSESSMENT PROCEEDINGS AND
LEVY VOLUNTARY CONTRACTUAL ASSESSMENTS WITHIN THE
UNINCORPORATED TERRITORY OF THE COUNTY; 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, including the County of Fresno (the “County”); and

WHEREAS, the Authority is implementing 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 “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 Part 3 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 administrator currently active in administering Programs is Energy Efficient Equity, LLC and Structured Finance Associates and the Authority will notify the County in advance of any additions or changes; and

WHEREAS, Chapter 29 provides that voluntary contractual 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 County desires to allow the owners of property (“Participating Property Owners”) within its unincorporated territory to participate in the Programs and to allow the Authority to conduct assessment proceedings under Chapter 29 within its unincorporated territory and to issue bonds to finance or refinance Improvements; and

WHEREAS, the Authority has obtained a final judgment, entered on June 2, 2015, in San Diego County Superior Court Case No. 37-2015-00002615-CU-MC-NC, a validation action filed by the Authority pursuant to Code of Civil Procedure section 860, establishing that such bonds are lawful obligations of the Authority and that the voluntary contractual assessments levied by the Authority to secure the repayment of those bonds are lawful; and

WHEREAS, the territory within which assessments may be levied for the Programs shall include all of the unincorporated territory within the County'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 County 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 approval, issuance, sale, administration, repayment or guarantee of, or investigations, representations, or disclosures in connection with, any bonds issued in connection with the Programs;

WHEREAS, the Authority expects to donate a portion of its bond issuance fees to the General Fund of the County;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Fresno as follows:

Section 1. This Board of Supervisors hereby finds and declares that the foregoing recitals are true and correct.

Section 2. This Board of Supervisors hereby finds and declares that properties in the unincorporated territory of the County will benefit from the availability of the Programs within the unincorporated territory of the County 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 3. In connection with the Programs, the County hereby consents to the conduct of voluntary contractual assessment proceedings by the Authority pursuant to Chapter 29 on any property within the unincorporated territory of the County 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 voluntary contractual assessments; and

(2) The County will not be responsible for the conduct of any assessment proceedings; the levy of assessments; the collection of any voluntary contractual assessments, except according to the terms of a reimbursement agreement, which shall include a provision requiring the Authority to indemnify the County for liability in connection with the Authority's levy of any voluntary contractual assessments within the unincorporated area of the County; any required remedial action in the case of delinquencies in such assessment payments; or the approval, issuance, sale, administration, repayment or guarantee of, or investigations, representations, or disclosures in connection with, any bonds issued in connection with the Programs; and

(3) The assessments levied in connection with the Programs shall not be included in the County's Teeter Plan (Revenue and Taxation Code, Division 1, Part 8, Chapter 3); and

(4) The consent of this Board of Supervisors only authorizes the Authority to conduct the proceedings contemplated by this resolution, subject to the terms of this resolution, and is not effective for any other purposes.

Section 4. The appropriate officials and staff of the County are hereby authorized 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 5. The appropriate officials and staff of the County 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 6. The Board of Supervisors 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 7. The Board of Supervisors hereby approves and accepts all donations of the Authority from its issuance fees to the General Fund of the County.

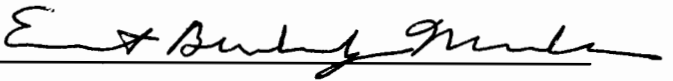
Section 8. This Resolution shall take effect upon the execution by the County and the Authority of the reimbursement agreement required by Section 3, paragraph (2), of this resolution. The Clerk of the Board of Supervisors is hereby authorized and directed, upon the execution by the County and the Authority of the reimbursement agreement, and not before, 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.

1 THE FOREGOING was passed and adopted by the following vote of the
2 Board of Supervisors of the County of Fresno this 23rd day of August, 2016, to-wit:

3 AYES: Supervisors Borgeas, Mendes, Pacheco, Perea, Poochigian

4 NOES: None

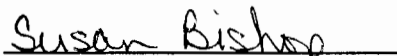
5 ABSENT: None

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8 CHAIRMAN, Board of Supervisors

9 ATTEST:

10 BERNICE E. SEIDEL
11 Clerk, Board of Supervisors

12 By 
13 Deputy

14 Agenda Item No. 33
15 Resolution No. 16-340
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