

California Statewide Communities Development Authority

Open PACE Program Report

March 15, 2018 (Updated)

Deleted: December 4, 2014

1. Introduction

The California Statewide Communities Development Authority ("CSCDA") has established the CSCDA Open PACE Program for the benefit of its county-members (including any incorporated city within those counties) and the cities in Los Angeles County that are members of CSCDA (Los Angeles County is not currently a member of CSCDA). This CSCDA Open PACE Program Report (this "Program Report") outlines the basic design and financing structure of a property assessed clean energy ("PACE") municipal financing program called the CSCDA Open PACE Program (the "Open PACE Program" or "Program").

CSCDA anticipates that there will be multiple program administrators engaged to independently administer and provide financing under the Open PACE Program. Separate Program Handbooks will provide additional details about how the Open PACE Program will operate in respect of a particular program administrator.

1.1 California Statewide Communities Development Authority

The California Statewide Communities Development Authority ("CSCDA") is a statewide joint powers authority sponsored by the California State Association of Counties and the League of California Cities. CSCDA's mission is to provide local governments access to low-cost financing for projects that provide a tangible public benefit, contribute to social and economic growth, and improve the overall quality of life in local communities.

1.2 Purpose of the Open PACE Program

CSCDA is offering the Open PACE Program on a statewide basis to encourage the installation of distributed generation renewable energy sources, energy efficiency improvements, water efficiency improvements, seismic strengthening improvements and electric vehicle charging infrastructure within the existing residential and non-residential building stock. CSCDA will issue assessment-backed bonds that will allow property owners to access competitive interest rates offered by the capital markets.

With the passage of AB 32, the State of California (the "State") set ambitious goals for reducing carbon emissions and building alternative energy use. The California Public Utilities Commission has set a goal of retrofitting over 13 million residences in the State to be at least 30% more energy efficient. Many California cities and counties have also set their own greenhouse gas reduction targets. Similarly, water conservation efforts, including the promotion of water-related improvements to residential, commercial, industrial, or other real property, are necessary to address the issue of chronic water shortages in the State.

Property owners can help to achieve greenhouse gas reductions and reduce water use and, at the same time, save money by investing in distributed generation renewable energy sources, energy efficiency, and/or water efficiency improvements. The number one barrier to achieving these goals is the large upfront cost. Utilities sell power and water to their customers as a simple pay-as-you-go service. Homes and businesses can be converted to clean energy and reduce water use quickly, but many believe that it can happen only if paying for distributed generation renewable energy sources, energy efficiency improvements and water efficiency improvements becomes simple – like paying a utility bill. The Open PACE Program can make this happen.

Many cities and counties in the State have begun screening properties in their jurisdictions for deficient wood frame construction ("Soft Story") and enacting mandatory seismic retrofit ordinances to address these problems. The Open PACE Program can provide property owners with an efficient means to finance these seismic retrofits and comply with local law.

1.3 Assessment Financing; Contractual Assessments

The Open PACE Program uses a tool that is widely used by local agencies in California to finance public benefit projects: land-secured financing. State law has long provided cities and counties with the power to issue bonds and levy assessments on the county property tax bill to finance public projects such as sewers, parks, and the undergrounding of utilities.

Chapter 29 of the Improvement Act of 1911, commencing with Section 5898.10 of the Streets & Highways Code of the State ("Chapter 29"), authorizes the levy of "contractual assessments" to finance the installation of distributed generation renewable energy sources, energy efficiency improvements, water efficiency improvements, seismic strengthening improvements, and electric vehicle charging infrastructure that are permanently fixed to real property.

A "contractual assessment" is an assessment that is levied by contract, between a public agency and property owner, pursuant to Chapter 29. A draft form of assessment contract is attached to this Program Report as Exhibit A (the "Assessment Contract"). The Assessment Contract is strictly voluntary and will be executed by each participating property owner and CSCDA.

Under the Open PACE Program, a contractual assessment lien is placed on each participating property in an amount necessary to (i) finance the installation of authorized renewable energy, energy efficiency, water efficiency, seismic strengthening or electric vehicle charging infrastructure improvements over a 5-39 year period of time, depending upon the expected useful life of the financed improvements, (ii) pay for costs of issuing bonds (including funding a reserve fund, if required), and (iii) pay the costs of administering the Open PACE Program. The contractual assessment installments are collected on the property tax bill of the county in which the participating property is located. If the owner sells the property, the contractual assessment obligation remains an obligation of the property.

Under the Open PACE Program, if a property owner fails to pay the annual contractual assessment installments, CSCDA is obligated to strip the delinquent installments off the property tax bill and commence judicial proceedings to foreclose the lien of the delinquent installments.

All property owners participating in the Open PACE Program need to consult their private lenders to determine that the execution of the Assessment Contract will not violate their existing loan agreements. Property owners may wish to obtain written consent or affirmative acknowledgement of existing lenders whose consent or affirmative acknowledgement is required for further encumbrance. The Open PACE Program's consent or affirmative acknowledgement requirement, if any, will be detailed in the Program Handbooks.

The Open PACE Program is completely voluntary, and property taxes for properties that do not choose to participate are completely unaffected by the Open PACE Program. Individual contractual assessments are not affected by other properties participating in the Open PACE Program.

1.4 Purpose of This Program Report

This Program Report constitutes the report required pursuant to Section 5898.22 of Chapter 29 for the Open PACE Program. The Open PACE Program will be offered throughout the State to owners of property that is located within the boundaries of:

- a. the unincorporated territory of a county that is a member of CSCDA, and the board of supervisors of that county has adopted an authorizing resolution in compliance with applicable law;
- b. the incorporated territory of a city located within a county that is a member of CSCDA, and the legislative body of the city has adopted an authorizing resolution in compliance with applicable law; or
- c. a city in Los Angeles County, and the legislative body of the City in Los Angeles County has adopted an authorizing resolution in compliance with applicable law.

1.5 Program Administration and Underwriting

CSCDA has engaged third-party administrators to administer the Open PACE Program, including AllianceNRG Program (CounterPointe Energy Solutions (CA) LLC), PACE Funding Group LLC, CaliforniaFirst (Renew Financial Group LLC), CleanFund Commercial PACE Capital and Spruce Pace LLC (the "Administrators"). The Administrators will review and process applications, train contractors and provide customer service through a website, email, and a toll-free phone number.

2. Program Requirements

This Program Report identifies the Open PACE Program requirements relating to the types of improvements that can be financed under the Open PACE Program, eligible properties and financing parameters.

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2.1 Eligible Products

The Open PACE Program offers financing of the installation of only approved distributed generation renewable energy sources, energy efficiency improvements, water efficiency improvements, seismic strengthening improvements and electric vehicle charging infrastructure improvements that will be permanently fixed to real property ("Eligible Products").

The Open PACE Program will offer financing for a number of eligible equipment types, energy efficiency measures, water efficiency/conservation improvements, solar systems, seismic strengthening improvements and other innovative, energy-saving, water saving, and energy generation custom products for residential and commercial property owners as specified in the applicable Program Handbook.

Minimum energy efficiency specifications are set at EnergyStar, California Title 24 and Title 20, and WaterSense standards, as applicable. Efficiency standards will "ratchet-up" with EnergyStar, WaterSense, California Title 24 and Title 20 standards, or other new standards as may be appropriate and as agreed upon by the applicable program administrator.

Any solar PV system must be eligible for and participate in CSI or an equivalent utility rebate program, unless the property is not connected to the electricity grid or such utility rebate program is not available.

Property owners are responsible for installation, operation and maintenance of the Eligible Products installed as a result of their participation in the Open PACE Program. Property owners must address performance and other system-related issues directly with the contractor according to the terms of the contract between the property owner and the contractor. The Open PACE Program is a financing program only. Neither CSCDA nor its employees or agents are responsible for the Eligible Products or their performance.

2.2 Property Eligibility Criteria

In order to receive financing from the Open PACE Program, the property to be assessed and its owners must meet the following basic requirements. Details on the criteria are provided in the Program Handbooks; the criteria may be modified from time to time by the program administrators (without action by the Commission of CSCDA) in order to conform to changes in law, emerging best practices or otherwise deemed appropriate but the criteria must at all times be in compliance with applicable law.

- a. **Applicant.** Applicant(s) must be the property owner(s) of record.
- b. **Address.** The applicant's property must be located within the boundaries of a jurisdiction that has authorized the Open PACE Program to operate within its boundaries as described in Section 1.4 of this Program Report.
- c. **Involuntary Liens.** The property must not be subject to involuntary liens, judgments or defaults or judgments in excess of the amount identified in the applicable Program Handbook.
- d. **Property Taxes.** The property owners must be current on their property taxes within the time period specified in the applicable Program Handbook.
- e. **Mortgage Debt.** The mortgage debt on the property must not exceed that certain percentage of the value of the property as set forth in the applicable Program Handbook and as required by State law.
- f. **Annual Property Taxes.** The total annual property tax and assessments, including the contractual assessment, on the property must not exceed 5% of the property's market value, as determined at the time of approval of the Assessment Contract and as required by State law.
- g. **Bankruptcy.** The property owner must not have declared bankruptcy within the time period specified in the applicable Program Handbook and as required by State law.

2.3 Eligible Contractors

The cost of installation of Eligible Products shall be eligible to be financed under the Open PACE Program only if such installation is completed by a contractor that is registered with the Open PACE Program or by the property owner if self-installing such Eligible Products. A list of contractors that are registered with the Open PACE Program shall also be located on the Open PACE Program Administrator's website. Registration of a contractor with the Open PACE Program is neither a recommendation of such contractor nor a guaranty of or acceptance of responsibility for such of such contractors by CSCDA or any of its Administrators, or the City or County in which the property upon which the Eligible Products are installed is located, any of their respective officers, employees nor agents and none of CSCDA, or

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~~its Administrators~~ or the City or County in which the property upon which the Eligible Products are installed is located or any of their respective officers, employees or agents have any responsibility whatsoever for the selection by a property owner of a registered contractor or the work performed by such registered contractor.

2.4 Quality Assurance/~~Consumer Protection~~

Quality assurance protocols serve to prevent improper or low-quality installation of energy and water improvements and protect against fraud and abuse in the Open PACE Program. The Open PACE Program will institute a quality assurance protocol. All quality assurance procedures are subject to review and adjustment based on applicable State and federal standards. Details on the current quality assurance procedures are outlined in the applicable Program Handbook ~~and adopted by the CSCDA Commission~~. Despite the presence of these protocols and procedures, the responsibility for the successful operation of any products is that of the property owner and its contractor, and not of CSCDA, ~~its Administrators~~, or the City or County in which the property upon which the Eligible Products are installed is located, including their respective officers, agents or employees.

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3. Financing of the Open PACE Program

3.1 Minimum and Maximum Financing Amounts

~~Minimum and Maximum Financing Amounts for Each Property.~~ The minimum and maximum financing amount for a single property is defined in the Program Handbooks.

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3.2 Financing Structure

CSCDA will finance the installation of Eligible Products by issuing bonds backed by the assessments created by the Open PACE Program. The proceeds from the sale of the bonds will provide capital for the Open PACE Program to finance the Eligible Products. The financing or refinancing of Eligible Products may be in the form of paying for the ownership of the Improvements or, subject to the requirements of Chapter 29, paying or prepaying for the energy or other output of the Improvements, which Improvements may be owned for tax purposes or otherwise by a third-party.

3.3 Overview of Application and Financing Process

Applications from property owners for financing will be considered on a first come, first served basis. If an authorized maximum amount is exceeded, then the last property that caused the authorization amount to be exceeded will be ineligible for financing.▼

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Sample Residential Application and Financing Process

Education. Property owners visit the Open PACE Program ~~Administrator~~ website to learn about the Open PACE Program, financing terms and other details, and find approved contractors and products.

Application. Property owners may complete an application over the phone, mail, fax or on-line. Completed applications must include a proposed project and contractor bid. Property owners must agree to the Open PACE Program terms as part of the application.

Review and Approval. The Open PACE Program ~~Administrator~~ performs title search to confirm ownership, screens for unpaid taxes or other delinquent property-based debt, applies loan-to-value metrics, and evaluates the proposed project. CSCDA will approve an application only after confirming that the property meets the underwriting criteria and other Open PACE Program requirements as outlined in this Program Report and the applicable Program Handbook.

Reservation. If CSCDA approves an application, the Open PACE Program will provide a Notice to Proceed to the property owner. The property owner has a specific period of time to install the Eligible Products and to request funding when the property has met all the applicable requirements for funding.

Installation. A qualified contractor must complete the installation of Eligible Products on the property. See "Eligible Products" and "Eligible Contractors" in the applicable Program Handbook.

Financing. Once a project is complete, the property owner submits a Completion Certificate, a lien is placed on the property, a bond is issued, and payment is released to the payment designee; however, where identified in the applicable Program Handbook, progress payments in the form of multiple disbursements may be arranged.

Repayment. The property owner will be expected to pay the contractual assessment installments in the amounts and at the times specified in the Assessment Contract. In general, the contractual assessments will be due at the same time as property taxes.

Sample Non-Residential Application and Financing Process

Education. Property owners visit the Open PACE Program [Administrator](#) web site to learn about the Open PACE Program, financing terms and other details, and find approved contractors and products. Additional information will be provided to non-residential property owners to determine that they meet the eligibility requirements outlined in the applicable Program Handbook.

Application. Property owners will complete an application over the phone, mail, fax or on-line. Applications must include a proposed project and contractor bid. Property owners must agree to the Open PACE Program terms as part of the application.

Review and Approval. The Open PACE Program performs title work to confirm ownership, screens for unpaid taxes or other delinquent property-based debt, applies loan-to-value metrics, and evaluates the proposed project. CSCDA will approve an application only after confirming that the property meets the underwriting criteria and other Open PACE Program requirements as outlined in this Program Report the applicable Program Handbook.

Reservation. If CSCDA approves an application, the Open PACE Program will provide a notice to proceed to the property owner. The property owner has a specific period of time to install the Eligible Products and request funding when the property has met all the applicable requirements for funding.

Installation. A qualified contractor must complete the installation of Eligible Products on the property. See Eligible Products” and “Eligible Contractors” in the applicable Program Handbook.

Financing. Once a project is complete, the property owner submits a Completion Certificate, a lien is placed on the property, a bond is issued, and payment is released to the payment designee; however, where identified in the applicable Program Handbook, progress payments in the form of multiple disbursements may be arranged.

Repayment. The property owner will be expected to pay the contractual assessment installments in the amounts and at the times specified in the Assessment Contract. In general, the contractual assessments will be due at the same time as property taxes.

3.4 Application; Approval or Denial

Application. All property owners interested in applying to the Open PACE Program must submit a signed application along with other application documents.

Approval or Denial. Based on the eligibility requirements listed in the applicable Program Handbook, CSCDA will approve or deny a residential or non-residential application within the specific time periods identified in the applicable Program Handbook. The applicant will be notified of approval or denial via email. See “Consumer Protection” in Section 4.

3.5 Costs of Issuance and Administrative Costs

The costs of issuing bonds and administering the Open PACE Program will be financed through participant application fees, proceeds of the financing, and an administrative component of the contractual assessment installments.

Financing of Upfront Costs. In addition to financing installation of the Eligible Products, CSCDA may finance certain costs of issuance and administrative costs, including but not limited to, the following amounts, which amounts may be included in the Assessment:

- **Program-Related Fees.** These include closing fees paid from a portion of bond proceeds to CSCDA, any other entities responsible for program management and administration, and bond counsel to CSCDA, as well as any other related costs of issuance of any bond.
- **Lien Recording Fee.** This one-time fee is paid from a portion of bond proceeds to cover the cost associated with recording the lien of the Assessment on the participating property.
- **Reserve Fund Deposit.** This is a one-time deposit from a portion of bond proceeds into a debt service reserve fund for bonds issued by CSCDA to finance installation of the Eligible Products on the property and other properties participating in the Open PACE Program.

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- **California Alternative Energy and Advanced Transportation Financing Authority (“CAEATFA”) PACE Loss Reserve Program Fee.** This is a one-time fee associated with the CAEATFA PACE Loss Reserve Program, which benefits any first mortgage lender on the property and other properties participating in the Open PACE Program. The fee will be paid from a portion of bond proceeds. This fee only applies to residential financing.
- **Deposit to Administrative Expense Fund for Foreclosure Expenses.** This is a one-time deposit from a portion of bond proceeds into an account that CSCDA may use to pay for the costs of foreclosing on the property and other properties participating in the Open PACE Program as a result of a delinquency in the payment of any contractual assessment installments or administrative expenses.
- **Capitalized Interest.** Each county establishes a deadline for placing contractual assessment installments and related administrative expenses on the county’s tax roll each year. Depending on the date that CSCDA issues a bond to finance installation of Eligible Products on a particular property in relationship to the applicable tax roll deadline of the county in which the related participating property is located a portion of the proceeds of the bond may be used to fund the payment of one or more interest payments on the bond.

Administrative Expenses. Pursuant to the 1915 Act (including Sections 8682(b) and 8682.1(a)), CSCDA may add annual amounts to any Financing Installment in order to pay for the costs of collecting that installment and administering the Open PACE Program.

3.6 Amounts That Can Be Financed

Financing Cost. In order to receive funding, property owners will agree to pay annual assessment installments in an amount equal to (i) a portion of the principal amount of the contractual assessment (ii) interest on the unpaid principal amount of the contractual assessment, and (iii) ongoing administrative expenses.

1. Principal Amount. The principal amount of the contractual assessment may be composed of various costs and deposits including, but not limited to, the following items:

- a. **Eligible Costs.** The Open PACE Program may finance the costs of installing Eligible Products, energy-efficiency or water-efficiency audit costs, and related professional services fees for engineering, project management and financing transaction structuring. All local and state rebates received for the project must be deducted from the financed amount prior to approval. The amount of the federal Investment Tax Credit (ITC) that the property may be eligible to receive does not need to be deducted from the financed amount.
- b. **Deposit to a Debt Service Reserve Fund.** CSCDA or project investors may require property owners to finance a deposit to a debt service reserve fund; the reserve fund would be used to pay debt service on the bonds in the event of contractual assessment installment delinquencies. The amount of the deposit to a debt service reserve fund will be provided in the applicable Program Handbook.
- c. **Deposit to CAEATFA Loss Reserve Fund.** The Open PACE Program may participate in the California Alternative Energy and Advanced Transportation Finance Authority’s Loss Reserve Program that will reimburse mortgage holders on losses experienced as a result of the Open PACE Program lien on foreclosed properties. The amount of the deposit to the Loss Reserve Fund will be provided in the applicable Program Handbook.
- d. **Deposit to Administrative Expense Fund for Foreclosure Expenses.** CSCDA may require property owners to finance a deposit to an account that will cover CSCDA’s costs to initiate judicial foreclosure for properties that are delinquent on payment of their assessment contract. The amount of such deposit will be provided in the applicable Program Handbook.
- e. **Capitalized Interest.** Because each county has established a deadline for placing the contractual assessments on its property tax bill, the principal component of the contractual assessment may also include the interest on the related bonds for one or more interest payment dates.
- f. **Costs of Issuance and Administrative Costs.** Initial administrative costs and the costs of issuing any bonds are built into the principal component of the contractual assessment. The costs to be included in the principal component are provided in the applicable Program Handbook. See Costs of Issuance of Administrative Costs in Section 3.5.

2. Interest Rate. The rate of interest on the contractual assessment will be a fixed interest rate. The rate will be fixed at the time of a completed application for each assessment contract.

3. Ongoing Program Administrative Fees. Ongoing administrative costs are reflected in the administrative component of the annual contractual assessment installments and subject to increase by CSCDA. See “Costs of Issuance and Administrative Costs” in Section 3.5.

3.7 Payment Terms

Payment of the Open PACE annual contractual assessment installments is made through the addition of a line item on the property tax bill. Payment terms range from five to 39 years, depending on the average expected useful life of the installed Eligible Product.

Contractual assessments may be prepaid in full or in part at any time and may or may not be subject to a prepayment penalty. The prepayment penalty will be identified in the Assessment Contract.

3.8 Transfer or Resale of Property

The contractual assessment obligation remains an obligation of the subject property following the sale of the subject property. Successor property owners will receive disclosure of the contractual assessment as a result of the two statutory notices recorded in the real property records: the “Notice of Assessment” and the “Payment of Contractual Assessment Required.” In addition, sellers of property are obligated by California law to disclose the contractual assessment obligations to prospective purchasers.

4. Consumer Protection

The Open PACE Program is subject to certain State and federal laws designed to protect consumers. Among other things, these laws require CSCDA to disclose information to property owners and, only during the three-day period following execution of the Assessment Contract, guarantee certain residential property owners the right to rescind the Assessment Contract without penalty (including the return of the application fee, if applicable). CSCDA will comply with all applicable State and federal laws in connection with the Open PACE Program.

5. Duration

The Open PACE Program will continue as long as there is sufficient demand and there is a positive regulatory environment.

6. Public Agency Official

CSCDA will, from time to time, authorize certain representatives to execute Assessment Contracts on its behalf; the current authorized representative(s) are:

Name: Laura Labanieh
Title: Authorized Signatory
Email: laura@csacfc.org
Address: 1100 K Street, Suite 100
Sacramento, CA 95814

7. Changes to the Report

CSCDA may make changes to this Report and the other Open PACE Program documents from time to time in its absolute discretion. No such changes will affect the amounts payable by a property owner under an existing Assessment Contract.

8. Program Handbooks

CSCDA has prepared Program Handbooks to communicate the Open PACE Program details to property owners and other interested parties. The Program Handbooks will be amended from time to time to reflect the details of the Open PACE Program.

9. Schedules and Exhibits

Schedule I: List of County-Members
Schedule II: List of City-Members Within Los Angeles County
Exhibit A: Form of Assessment Contract

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Exhibit B: Open PACE Program Boundary Maps

