



CITY OF FERNLEY

CITY COUNCIL AGENDA REPORT

Meeting Date: August 5, 2020

REPORT TO: Mayor and City Council
REPORT FROM: Daphne Hooper, City Manager
REVIEWED BY: Brent Kolvet, Deputy City Attorney
REVIEWED BY: Denise Lewis, City Treasurer

FINANCIAL IMPACT:

Yes: No:

CURRENTLY BUDGETED:

Yes: No:

FUND/ACCOUNT:

ACTION REQUESTED: Consent Ordinance Resolution Motion Receive/File

AGENDA ITEM: (For Possible Action): Adoption of Resolution 20-016 to authorize the creation of the City of Fernley Commercial Property Assessed Clean Energy Program; to provide the means of financing one or more energy efficiency improvement projects or renewable energy projects for commercial or industrial property; together with other matters properly related thereto.

Agenda Item Brief: A Resolution to authorize the creation of the City of Fernley Commercial Property Assessed Clean Energy (C-PACE) Program and provide the means of financing one or more energy efficiency improvement projects or renewable energy projects for commercial or industrial property.

Recommended Motion:

“I move to adopt Resolution 20-016, a Resolution to authorize the creation of the City of Fernley Commercial Property Assessed Clean Energy (C-PACE) Program; to provide the means of financing one or more energy efficiency improvement projects or renewable energy projects for commercial or industrial property.”

Business Impact (per NRS Chapter 237):

- A Business Impact Statement is Attached.
- A Business Impact Statement is not required because this is not a rule (term excludes vehicles by which legislative powers are exercised under NRS Chapters 271, 278, 278A, or 278B).

See attached report for background, analysis, alternatives.

ALTERNATIVES:

Council may request additional information.

BACKGROUND:

During the 79th Session of the Nevada Legislature, the Legislature approved, and Governor Sandoval signed, Assembly Bill 5 enabling Nevada municipalities to create districts to finance energy efficiency and renewable energy projects for commercial and industrial properties (commonly known as Commercial Property Assessed Clean Energy, or C-PACE). The law requires local governments to pass a resolution should they wish to allow C-PACE in their jurisdiction.

The C-PACE model is an innovative mechanism for financing energy efficiency and renewable energy improvements on private property. C-PACE programs allow a property owner to finance the up-front cost of energy or other eligible improvements on a property and pay the costs back over time through a voluntary assessment. The unique characteristic of Property Assessed Clean Energy (PACE) assessments is that the assessment is attached to the property rather than an individual (Federal Department of Energy, PACE Brief).

This resolution creates such a program pursuant to NRS 271.6312 – NRS 271.6325. Qualifying real property includes commercial or industrial property other than a residential dwelling that contains fewer than five individual dwelling units, or property financed by a government-guaranteed financing program that prohibits the subordination of the government's interest in the property or otherwise prohibits a contract under NRS 271.6312 to 271.6325.

More than 30 states have adopted C-PACE enabling legislation, and \$521 million has been invested in energy efficiency and renewable energy projects through C-PACE financing. In Nevada, an existing property lien holder has the opportunity to provide the capital for the C-PACE project. This means an owner can take advantage of this mechanism while maintaining a business relationship with their bank. According to PACENation.org, C-PACE also creates opportunities for investment in local businesses, energy and costs savings, and creates jobs.

Following passage of Assembly Bill 5, the City of Las Vegas was the first city in Nevada to explore and implement a C-PACE financing program. In 2019, the City of Reno adopted a Resolution to move forward with the C-PACE Program.

The implementation process for launching a C-PACE program in accordance with Nevada law requires three specific activities, including:

1. Approve a resolution creating the C-PACE program
2. Approve a resolution creating the C-PACE district
3. Approve a resolution or contract for the administration of the C-PACE program

Sustainable Real Estate Solutions (SRS) was hired by the City of Las Vegas to assist in the development of a resolution enabling C-PACE financing and the C-PACE financing district, and to administer and oversee the C-PACE program.

This resolution is the first step to making available this innovative financing model within the City of Fernley. The resolution conforms to NRS Chapter 271 and the 2017 Nevada Assembly Bill 5. Specific sections that the city elected to include in the resolution include:

- Definition of Assessment and Financing Agreement that will set forth the applicable terms of and arrangements for the C-PACE financing for eligible projects.
- Definition of Estimated Maximum Benefit. The law does not define how estimated maximum benefit is calculated. The resolution states that the Property Capitalization Rate will be included in the formula. This determination will be made by and between the administrator, borrower, and financier.

- Definition of Program Guide that will provide a detailed description of the C-PACE program requirements.
- Section 3.2 outlines the duties of the Program Administrator.
- Section 3.5 states that the city may create a revenue fund to support the program.
- Section 5.2 states the city may collect a fee for the program.
- Collection of Payments may be in accordance with current practice for Special Improvement Districts. However, in other markets the lender or investor chooses to collect their own payments. This will be determined and established by the Program Administrator.

There are two primary models for C-PACE program administration. Program administration includes tasks that need to be performed for the program to function, such as application approvals, technical and financial underwriting, technical standards compliance, document development and updating, marketing, customer service, and IT activities such as website development and maintenance. They require financial resources and staff capacity and may require legal expertise (for development of documents such as contract templates) and technical expertise (for IT needs and engineering for technical standards). State or local government agencies or third parties typically handle program administration. Some C-PACE provides (i.e., third-party administrators offer turnkey services that include some or most of these functions (U.S. Department of Energy).

The two predominant models are listed below. However, the national trend is moving away from self-administered programs to ensure greater success.

- **Third-Party Administration:** Third-party program administrators often create all the process documents for the program. Private third-party program administrators find program administration and operations through interest rates and/or fees. The fees charged to the borrower by third-party administrators are typically higher when compared to fees charged by government agencies that self-administer C-PACE programs. However, third-party program administrators can offer more services.
- **Self-Administration:** A self-administered program will require that the city have sufficient expertise, staff and financial resources to handle the functions stated above and would require that the city secure financing for projects.

The City of Fernley will contract with a Third-Party Administrator for the Fernley C-PACE Program.

LEGAL IMPLICATIONS: None

FINANCIAL IMPLICATIONS: None at this time

**ATTACHMENTS:
Resolution 20-016**