Resolution No. 2013-08-27-1201-02

STOCKTON CITY COUNCIL

RESOLUTION AUTHORIZING THE CITY OF STOCKTON TO JOIN THE FIGTREE PACE PROGRAM AND AUTHORIZING THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY TO CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE CITY OF STOCKTON AND RELATED ACTIONS

The California Enterprise Development Authority ("CEDA") is a joint exercise of powers authority, comprised of cities and counties in the State of California, including the City of Stockton (the "City"); and

CEDA has adopted the FIGTREE Property Assessed Clean Energy (Figtree PACE) and Job Creation Program, to allow the financing of certain renewable energy, energy efficiency, and water efficiency improvements (the "Improvements") through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code ("Chapter 29"), and the issuance of improvement bonds or other evidences of indebtedness (the "Bonds") under the Improvement Bond Act of 1915 (Sts. & Hy. Code, § 8500 et seq.) (the "1915 Act") upon the security of the unpaid contractual assessments; and

Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

The City desires to allow the owners of property within its jurisdiction ("Participating Property Owners") to participate in Figtree PACE, and to allow CEDA to conduct assessment proceedings under Chapter 29 and to issue Bonds under the 1915 Act to finance the improvements; and

Based upon such authorization as provided in the Participation Agreement, a copy of which is attached hereto as Exhibit 1, 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, the issuance, sale, or administration of the bonds or other indebtedness issued in connection with Figtree PACE; and

CEDA will conduct assessment proceedings under Chapter 29 and issue Bonds under the 1915 Act to finance Improvements; and

There has been presented to this Council a proposed Resolution of Intention ("ROI") to be adopted by CEDA in connection with such assessment proceedings, a copy of which is attached hereto as Exhibit 2; and

Said ROI sets forth the territory within which assessments may be levied for Figtree PACE which territory shall be coterminous with the City's official boundaries of record at the time of adoption of the ROI; and

Pursuant to Chapter 29, the City authorizes CEDA to conduct assessment proceedings, levy assessments, pursue remedies in the event of delinquencies, and issue bonds or other forms of indebtedness to finance the Improvements in connection with Figtree PACE; and

To protect the City in connection with operation of the Figtree PACE program, FIGTREE Energy Financing, the program administrator, has agreed to defend and indemnify the City from and against any and all possible liability arising from or related to Figtree PACE; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. On the date hereof, the City Council hereby finds and determines that the issuance of Bonds by CEDA in connection with Figtree PACE will provide significant public benefits, including without limitation, savings in effective interest rates, bond preparation, bond underwriting, and bond issuance costs and reductions in effective user charges levied by water and electricity providers within the boundaries of the City.

2. In connection with Figtree PACE, the City hereby consents to the special assessment proceedings by CEDA pursuant to Chapter 29 on any property within its Boundaries and the issuance of Bonds under the 1915 Act, provided that:
a. Such proceedings are conducted pursuant to one or more ROI in substantially the form of the ROI attached hereto;

b. The Participating Property Owners, who shall be the legal owners of such property, voluntarily 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

c. The City is not 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 the Bonds in connection with Figtree PACE.

The City Council hereby approves the Participation Agreement between the City and CEDA attached hereto as Exhibit 1. The City Council hereby authorizes the City Manager to execute the Participation Agreement with such changes as the City Manager deems appropriate in order to commence the City’s participation in Figtree PACE within the jurisdiction of the City.

3. Pursuant to the requirements of Chapter 29, CEDA has prepared and will update from time to time the Program Report for Figtree PACE (the "Program Report") and all associated documents, and CEDA will undertake assessment proceedings and the financing of Improvements as set forth in the Program Report.

4. The appropriate officials and staff of the City are hereby authorized and directed to make applications for Figtree PACE available to all property owners who wish to finance improvements. The following staff person, together with any other staff designated by the City Manager from time to time, is hereby designated as the contact person for CEDA in connection with Figtree PACE: Janice Miller, Economic Development Program Manager II.

5. The appropriate City officials and staff are hereby authorized and directed to execute and deliver such closing certificates, requisitions, agreements, and related documents as are reasonably required by CEDA in accordance with the Program Report to implement Figtree PACE for Participating Property Owners.
6. 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)).

7. 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 FIGTREE Energy Resource Company.

8. Services related to the formation and administration of the assessment district will be provided by CEDA at no cost to the City.

9. The City Manager is authorized to take all necessary and appropriate actions to carry out the purpose and intent of this Resolution.

PASSED, APPROVED, and ADOPTED ______________ August 27, 2013 ______________.

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ANTHONY SILVA, Mayor
do of the City of Stockton

ATTEST:

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BONNIE PAIGE, City Clerk
do of the City of Stockton