

CITY OF PALM DESERT

STAFF REPORT

REQUEST: CONSIDERATION OF ADOPTION OF RESOLUTION NO. 08-89
IN CONNECTION WITH ESTABLISHING THE CITY OF PALM
DESERT ENERGY INDEPENDENCE LOAN PROGRAM

SUBMITTED BY: Patrick Conlon, Director of the Office of Energy Management

DATE: **August 28, 2008**

CONTENTS: RESOLUTION NO. 08-89
ENERGY INDEPENDENCE LOAN PROGRAM REPORT AND
ADMINISTRATIVE GUIDELINES
CITY CONTRACT # c28140 WITH WILLDAN SERVICES
2008-2009 ENERGY INDEPENDENCE LOAN PROGRAM
BUDGET BREAKDOWN OF COSTS AND SERVICES

Recommendation: By Minute motion City Council adopt the following:

- 1) Adopt Resolution No. 08-89, A Resolution of the City Council of the City of Palm Desert Approving the Report of the Director of the City's Office of Energy Management in Connection with the Proposed Establishment of a Contractual Assessment Program pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code; Establishing a Program To Finance Distributed Generation Renewable Energy Sources and Energy Efficiency Improvements; Appropriating Moneys from the General Fund To Fund the Program; Confirming Assessments To Be Levied within the Parameters of the Report; Amending Resolution No. 08-75; and Taking Certain Other Actions.
- 2) Authorize the Director of Finance to appropriate \$2.5 million dollars from unobligated General Fund Reserves to Palm Desert Energy Independence Loan Fund for this program.
- 3) Approve city contract # C-28140 with Willdan Financial Services for providing assessment levy administration services necessary for this Energy Independence Loan Program. There is no cost to the City for this service as costs will be borne by the loan applicants.
- 4) Authorize the transfer of \$160,000 from the unallocated General Fund reserves to Office of Energy Management's Advertising and Promotion account # 110-4511-422-3223.

Executive Summary:

Approval of the attached Energy Independence Program Report and Administrative Guidelines is required in order for the City to establish a contractual assessment program to finance the installation of distributed generation renewable energy sources and energy efficiency improvements that are permanently fixed to real property in the City.

Background:

On July 21, 2008, the Governor signed into law AB 811, which became effective immediately as an emergency measure. The bill authorizes cities to establish a program to enter into contractual assessment agreements with property owners to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property. In summary, an AB 811 program allows cities to make a loan to property owners for the purchase and installation of such improvements. Property owners repay the loan through a contractual assessment on their property. The contractual assessments are collected on property owner's tax bills at the same time and in the same manner as property taxes.

On July 21, 2008, the City Council Adopted Resolution No. 08-75 declaring its intent to establish the Energy Independence Program ("EIP") pursuant to AB 811. Resolution No. 08-75, among other things, briefly described the proposed arrangements for funding the EIP, directed the Director of the City's Office of Energy Management (the "Director") to prepare a report as required by AB 811 and set August 28, 2008 as the date for a public hearing on the EIP. Pursuant to AB 811, the City Clerk provided notice of the public hearing by publishing Resolution No. 08-75 once a week for two weeks in the Desert Sun.

AB 811 requires the report to provide all of the following:

- 1) A map showing the boundaries of the territory within which contractual assessments are proposed to be offered.
- 2) A draft contract specifying the terms and conditions that would be agreed to by a property owner and the City.
- 3) A statement of City policies concerning contractual assessments including all of the following:
 - a. Identification of types of facilities, distributed generation renewable energy sources, or energy efficiency improvements that may be financed through the use of contractual assessments;
 - b. Identification of a city official authorized to enter into contractual assessments on behalf of the City,
 - c. A maximum aggregate dollar amount of contractual assessments; and

- d. A method for setting requests from property owners for financing through contractual assessments in priority order in the event that requests appear likely to exceed the authorization amount.
- 4) A plan for raising a capital amount required to pay for work performed pursuant to contractual assessments, including a statement of or method for determining the interest rate and time period during which contracting property owners would pay any assessment; whether the City will provide for any reserve fund or funds; and the apportionment of all or any portion of the costs incidental to financing, administration, and collection of the contractual assessment program among the consenting property owners and the City.
- 5) A report on the results of the consultations with the County Auditor-Controller's Office regarding the additional fees that will be changed to the City for incorporating the proposed contractual assessments into the assessments of general taxes of the City on real property, and a plan for financing the payment of those fees.

Staff prepared the Energy Independence Program Report and Administrative Guidelines (the "Report") to comply with the requirements of AB 811. The Report is on file with the City Clerk.

Discussion:

A. The Report. Resolution No. ~~08-89~~⁰⁸⁻⁸⁹ approves the Report and establishes the EIP as provided in the Report. In addition to satisfying the requirements of AB 811, the Report provides the guidelines for administering the EIP. A brief description of the Report follows.

EIP Administration. The EIP will be administered by the City's Office of Energy Management (the "OEM"). EIP loans are available for owners of improved real property in the City. EIP loans are not available for properties that do not pay property taxes. EIP loans are available for a broad range of energy efficiency improvements, solar systems and custom energy measures (the "Energy Improvements"), which are described in Appendix A to the Report. OEM will offer property owners on-site surveys to advise property owners about potential Energy Improvements, the estimated costs of Energy Improvements and the estimated savings through EIP.

EIP Process. Property owners may request EIP loans for the costs of equipment for and installation of Energy Improvements by submitting an application (the "Application"). A draft application is provided in Appendix C to the Report. Installation costs may include, but are not limited to, labor, drafting, engineering, permit fees and inspection charges. Installation of Energy Improvements can be completed by a qualified contractor or by the property owner. OEM reviews the submitted Applications on a first come-first-served basis to determine, among other things, that the applicant owns the property, that the proposed improvements are eligible for an EIP loan and that the costs of the Energy Improvements are reasonable.

Upon Approval of an Application, the City and property owner may enter into a contractual assessment agreement (the "Loan Contract"). A draft Loan Contract is provided in Appendix D to the Report. The City will record an assessment lien against the property upon execution of the Loan Contract and assessment installments will be collected from the property owner with property taxes.

Energy Improvements must be completed 180 days after executing a Loan Contract. OEM disburses EIP loan funds to a property owner after OEM determines that the Energy Improvements have been satisfactorily completed. The amount of funds to be disbursed will not exceed the lesser of the maximum loan amount in the Loan Contract or the actual costs of the Energy Improvements. Prior to completion of an Energy Improvement and after satisfying certain conditions, OEM may make a progress payment for EIP loans that exceed \$20,000.

EIP Financing. The City will establish an Energy Independence Loan Program Fund that may accept funds from any available source for the purpose of funding EIP loans. Assessment installments will be deposited into the Energy Loan Program Fund and may be used to reimburse City advances or to make EIP loans.

Pursuant to the Report, the maximum total aggregate dollar amount of contractual assessments is limited to \$25 million. Resolution No. 08-89 directs that an initial \$2.5 million is appropriated from the General Fund to the Energy Loan Program Fund. At least \$1.25 million of this amount would be reserved for EIP loans to residential property owners. However, the City Council may adjust this amount at its discretion based on program participation.

The minimum EIP loan amount is \$5,000 and there is no maximum EIP loan amount. ELP loans greater than \$60,000 must be approved by the City Manager and ELP loans greater than \$200,000 must be approved by the City Council.

Pursuant to the Report, the maximum term for EIP loans is 20 years. Additionally, for Loans made from the initial \$2.5 million, the interest rate cannot exceed 7%. For EIP loans entered into thereafter, the City Council may set the interest rate at an amount that does not exceed 10%. For a comparison, the average yield on the City's current portfolio of investments is **3.7%**.

The City may issue notes or bonds or enter into agreements with utilities, or public or private lenders or other governmental entities and quasi-governmental entities to reimburse the General Fund for the initial deposit to the Energy Independence Loan Fund.

Staff has recommended that initial loans be made at 7.00% for up to 20 years. Under current market conditions, the City could borrow money in the taxable municipal bond market at 8.00% for 20 years. Therefore, the City could realize a negative spread between the interest rate on the loans (7.00%) and the interest rate on the bonds (8.00%). This negative spread is currently estimated at \$525,000 for the period of the

initial loan program. The Staff would only recommend accessing the bond market should one of two things occur:

- 1) City Council decides to not continue to fund the program from additional General Fund contributions and would need to borrow to replenish the loan fund
- 2) Other possible cheaper financing sources are not available

Should the City find another source to finance these loans that is at or below the 7.00% loan rate, the City could realize a positive spread to the program to cover administrative costs or to make additional loans. The City could always continue to fund the loan program from General Fund sources and use the rate on the loans to repay the General Fund at the LAIF or other pooled cash rate and to cover administrative costs of operating the program. These findings are under current market conditions and continually subject to change. Once the initial loans are made, the Staff and finance team members will continue to explore financing options and bring these back to the City Council with updates and or recommendations.

B. Amendments to Resolution No. 08-75. Resolution No. ~~08-89~~ amends certain provisions contained in Resolution No. 08-75 regarding the issuance of bonds. In the event bonds are issued, Resolution No. 08-75 provides that the bonds may not bear an interest rate in excess of 7%, provides a maximum maturity of 15 years for such bonds and declares that the City will not obligate itself to advance available funds from the City treasury to cure any deficiency which may occur in the bond redemption fund. Resolution No. 08-89 amends those provisions to provide that in the event bonds are issued, the bonds may not bear an interest rate in excess of 12%, the maximum maturity for such bonds is 40 years and the City may obligate itself to advance available funds from the City treasury to cure any deficiency which may occur in the bond redemption fund.

C. Other provisions of Resolution No. ____. Resolution No. ~~__~~⁰⁸⁻⁸⁹ also provides the following in connection with the EIP:

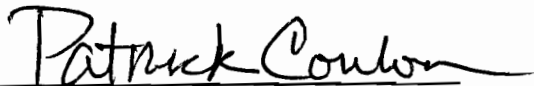
- Establishes the Energy Independence Loan Fund.
- Appropriates \$2.5 million from the General Fund to the Energy Independence Loan Fund.
- Confirms the contractual assessments to be levied within the parameters of the Report.
- Directs the Director to file with the City Treasurer and to revise as appropriate a list of the parcels for which the City and property owner have entered into a Loan Contract.
- Directs the City Clerk to cause to be recorded in the office of the County Recorder a notice of assessment upon the execution of any Loan Contract.

- Authorizes and Directs the Director and City Manger, jointly and severally, to do all acts and things which may be required of them in carrying out the ELP and all matters incidental thereto, including to make clarifying changes to the Report and to modify the draft Application and draft Contract included therein.

The Willdan Financial Services contract is necessary to cover the customary assessment district administration services for this program. This cost will not exceed \$40 per parcel per year and will be added to the property tax bill.

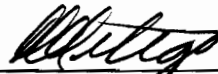
Attached to this report is a breakdown of costs and services for advertising and promotions which staff recommends for this program.

Submitted by:



Patrick Conlon
Director, Office of Energy Management

Approval:



Carlos Ortega
City Manager