

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

FINANCING OF ENERGY EFFICIENCY IMPROVEMENTS

SUMMARY STATEMENT

Assembly Bill 811, signed in July 2008, gave cities and counties the authority to create assessment districts in which property owners can decide to finance energy efficient improvements or the installation of distributed generation renewable energy resources. City officials and willing property owners would enter into contractual assessments that would be paid back via an item on their property tax bill over the next twenty years. The one limitation is that it only applies to properties (residential, commercial, industrial or other real property) that are improved or developed.

If it is the intention of the Town Council to provide up-front financing for energy efficiency improvements, then in accordance with AB 811 the Council is required to adopt a resolution that designates an area encompassing the entire Town or a lesser portion, within which authorized Town officials and property owners may enter into contractual assessments. The resolution shall also include a statement that the Town proposes to make contractual assessment financing available to property owners, shall identify the kinds of energy efficiency improvements that may be financed and shall briefly describe the proposed arrangements for financing the program. The resolution shall also state that a public hearing will be held at which interested persons may object to or inquire about the proposed program, and shall state the time and place of hearing. The resolution shall direct an appropriate Town official to prepare a report and enter into consultations with the county auditor's or controller's office in order to reach agreement on what additional fees, if any, will be charged to the Town for incorporating the proposed contractual assessments via an item on property tax bills.

(continued on next page)

Recommended Action:

That the Town Council take no action on this item until there is a financing mechanism in place, either public or private, to fund the program.

Proposed by: William Pattison, Assistant Town Manager **Item Number** _____

T. M. Approval: _____ **Budgeted Item** Yes No N/A

Palm Desert and Berkeley have the most active programs in the state and have already bonded out for the upfront costs. Attached to this staff report are the following documents from Palm Desert:

- Summary of Loan Process
- Energy Independent Program (EIP) Administration Guidelines

The City of Indian Wells is in the process of investigating the possibility of a collaboration of the nine Coachella Valley cities within the County of Riverside to create a “regional boundary” whereby an alternative energy loan program could be offered to all within the boundary.

The City of Murrieta has done some research on implementing a program for AB 811, but will not be moving forward because of the upfront cost. However, their local council of governments (WRCOG) is also looking into implementing on a region-wide basis.

Analysis:

In response to rising energy costs and concerns about climate change, local governments want to promote energy efficiency and renewable energy generation. Up-front installation costs can deter property owners from installing solar panels, or making energy efficiency improvements. Using contractual benefit assessments, counties and cities can help to finance these investments at low interest rates. Property owners who voluntarily enter into a contractual assessment agreement for energy improvements will realize immediate savings on their utility bills while paying off their costs over time on their property tax bills.

AB 811 permits cities to use municipal revenue bonds to cover the up-front cost and then a line item is added to the property owner’s tax bill to repay the cost plus interest over twenty years. However, this is dependent on willing buyers in the municipal bond market. The housing crisis makes the program somewhat more expensive. Bond buyers are requiring higher interest rates and that translates to a higher interest rate for program participants. The revenue from the property tax bill is security for the bond, but in light of the increasing number of Californians facing the threat of foreclosure, there is concern about the risk of homeowners defaulting on their contractual assessment loans. If municipal revenue bonds are not used to fund AB 811, then the alternative would be a direct liability to the Town’s general fund.

**PALM DESERT
ENERGY INDEPENDENCE PROGRAM
SUMMARY OF LOAN PROCESS**

Project Scoping

The first step in the loan process is project scoping. Property owners can work directly with contractors to determine the scope of a project. Property owners can also schedule a meeting with OEM staff to discuss proposed Energy Improvements and to get no-cost and objective assistance with planning for those Energy Improvements.

Property owners can also request an optional, no-cost, on-site energy survey to be completed by OEM professionals. The energy survey is intended to assist property owners in determining their most effective means for EIP participation. A no-cost solar site check is also available to help a property owner weigh his or her solar options.

As the project is defined, the property owner obtains a contractor's bid or determines the cost of the equipment if self-installing.

Program Application

The property owner calls, e-mails, or visits the Office of Energy Management to request an EIP application form (the "Application"). The OEM staff will provide an Application by hard copy, e-mail, facsimile, or web link as requested by the property owner. Applications and instructions are available online at the Palm Desert web site.

The property owner submits the Application together with its required attachments to the OEM. The OEM determines whether each Application is complete within 15 business days of receipt of the Application. The OEM will notify the property owner if the Application is complete, incomplete or denied by U.S. Mail, and additionally by phone, facsimile, or e-mail if requested by the property owner.

Applications will be processed on first-come, first-served basis until funds are no longer available.

Title Check

The OEM will verify that the applicant is the property owner through a City of Palm Desert contract with a nationally-recognized title company. This contract will provide for expedited title checks for EIP participants. The title company will provide a copy of the vesting deed for the property prior to the OEM's approval of the Application, and the OEM will also obtain a title insurance policy for the amount of the loan.

Application Review

During the Application Review process the OEM verifies that:

- (i) The application is complete and accurate;
- (ii) The property owner(s) owns the subject property;
- (iii) The subject property is developed and located in the City of Palm Desert;
- (iv) The subject property is not exempt from ad valorem property taxes;
- (v) The property owner(s) is/are current in the payment of ad valorem property taxes for the subject property;
- (vi) The property owner(s) has/have declared that the property owner(s) and the subject property is/are not currently involved in a bankruptcy proceeding;
- (vii) The proposed Energy Improvements and costs are eligible to be financed under the Program. If the proposed Energy Improvements are part of a project that includes new construction (e.g., a room addition), the costs of the work have been properly allocated between retrofitting and new construction;
- (viii) The cost estimate(s) is/are reasonable;
- (ix) The proposed contractor(s) is/are licensed by the State of California and is/are in good standing with the Contractors State Licensing Board;
- (x) The requested loan amount (including contingency) is equal to or greater than \$5,000 and is less than or equal to \$60,000; or the requested loan amount (including contingency) is greater than \$60,000 and less than or equal to \$200,000 and the City Manager has approved the application; or the requested loan amount is greater than \$200,000 (including contingency) and has been approved by City Council; and
- (xi) EIP funding is available.

Within 15 business days of receipt of an application, the OEM notifies the property owner if the application is incomplete, approved or denied.

- a. **Incomplete**. An application shall be deemed incomplete if it is missing any information or attachments the property owner is required to provide. Incomplete applications may be resubmitted. The OEM will process resubmitted applications on a first-come, first-served basis based upon the new receipt date.
- b. **Approved**. An application shall be deemed approved if the OEM has verified all of the items in step (i) through (xi).
- c. **Denied**. An application shall be deemed denied if the OEM cannot verify any of the items in steps (i) through (xi). A property owner may request a written statement of specific reasons for the denial within 60 business days

of the date of notification of denial. In such case, the OEM will provide such a statement to the property owner within 15 business days of receipt of a request for a statement. Denied applications may be resubmitted. The OEM will process resubmitted applications on a first-come, first-served basis based upon the new receipt date.

- i. If an application is denied on the sole basis that EIP funding is not available, the application does not need to be resubmitted; applicants will be placed on a waiting list based on the date of application receipt.
 - ii. If an application is denied because the cost estimate(s) is/are not deemed reasonable by the Director, a resubmitted application must be accompanied by additional documentation of cost estimates as determined in the Director's discretion, including, but not limited to, cost estimates provided by one or more additional contractors. The property owner will not be required to select the low bid; however, the Director may limit the maximum loan amount to an amount deemed reasonable by the Director.
- d. With respect to an application to finance a renewable energy system(s) other than solar (such as wind or geothermal) or a custom energy efficiency measure(s) (such as a combined heat and power system cogeneration system), or to finance an emerging technology, the OEM reserves the right to require the appropriate energy studies showing the energy savings and/or energy generation capabilities of the proposed project.

Loan Contract and Reservation

Within 10 business days of notification that an Application has been approved, the Director, on behalf of the City, will enter into a contractual assessment agreement (the "Loan Contract") with the property owner. This will assure the property owner that the EIP Loan has been approved and that funds are reserved for the property owner's approved project. Failure of the property owner to execute a Loan Contract within such 10-day period will require the Application to be resubmitted. The OEM will process resubmitted applications on a first-come, first-served basis based upon the new receipt date.

Upon execution of a Loan Contract, the City records an assessment lien against the subject property in the City offices and the County Recorder's office.

A 10% contingency will be included in the Loan Contract to reserve additional funds for the property owner to draw against if needed in the case of change orders. A copy of the draft Loan Contract is included as Appendix D of this Report.

Installation of Improvements

Property owner enters into a contractual arrangement directly with a contractor for Energy Improvements unless the property owner is self-installing the Improvements. All work is subject to the City's Building Department permitting and inspections and all other applicable federal state and local laws and regulations. All work must be completed within 180 days of execution of the Loan Contract.

Progress Payments

If the maximum loan amount is \$20,000 or greater, the property owner may request in writing that the OEM make a progress payment prior to the completion of the work. The OEM shall make the progress payment within 10 business days of receipt of the request provided all of the following conditions have been met:

- At least 75 percent of the required materials have been delivered to the property and have been reasonably secured. The OEM has the discretion to make its own determination with respect to whether this condition has been satisfied; and
- The requested progress payment does not exceed 50 percent of the maximum loan amount.

Final Inspections

The Property owner notifies the OEM that all work has been completed. The OEM reserves the right to inspect completed work within five business days of receipt of notification that work is completed.

Based on satisfactory project completion, the OEM disburses loan funds to the property owner within 10 business days of the completion of the inspection. The total amount of funds to be disbursed shall not exceed the lesser of (i) the maximum loan amount provided in the loan agreement (less the property owner's share of the title costs if not paid in cash by the property owner) or (ii) the actual costs.

Property Tax Rolls

The City staff sends a database of assessment installments to the Riverside County Assessor for collection of the assessment on the property tax roll.



Energy Independence Program Report and Administrative Guidelines

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Introduction

This Report has been prepared pursuant to Section 5898.22 of the California Streets and Highways Code in connection with the establishment of the City of Palm Desert Energy Independence Program (“EIP”). This is the guiding document for EIP and fulfills the Section 5898.22 requirements that this report contain:

1. A map showing the boundaries of the territory within which contractual assessments are proposed. (See Appendix B.)
2. A draft contract between a property owner and the City. (See Appendix D.)
3. City policies concerning contractual assessments.
4. A plan for raising a capital amount to pay for the work performed.

The Energy Independence Program described herein is designed to help Palm Desert property owners save energy and gain independence from the scarcity of sources of energy that are compromising the California power grid, threatening national security, and endangering the global climate.

The Energy Independence Program helps Palm Desert property owners save energy and money while doing right for the environment.

Goals

EIP will carry out the City’s mission of helping property owners of improved real property make principled investments in the long-term health of the local, state, and national economy and global environment.

EIP aims to provide multiple benefits. By enabling property owners to take responsible energy actions, the program seeks to cut their utility bills. At the same time it shores up the local economy, the California power grid, and national and global energy interests, and makes it possible for Palm Desert to fulfill energy conservation and climate protection commitments.

The City has established a goal to reduce electric and natural gas energy consumption by 30%. The City welcomes innovative energy solutions that will contribute to this goal. The City intends to initially fund EIP with \$2.5 million for energy reduction investments that might not have otherwise been possible, with a maximum aggregate amount of \$25 million.

Background

As a result of Palm Desert’s authorship and advocacy of what became Assembly Bill 811, the bill was approved by the California Legislature, signed into law by the Governor on July 21, 2008 and became immediately effective as an urgency measure. Under this bill, the California Legislature has declared that a public purpose will be served by a contractual assessment program that provides the local government with the authority to finance the installation of distributed generation renewable energy sources – such as solar -- and energy efficiency improvements that are affixed to residential, commercial, industrial, or other real property (collectively known as “Energy Improvements”).

To make Energy Improvements more affordable and to promote their installation, AB 811 provides procedures for authorizing voluntary assessments to finance the cost of these improvements. The Energy Independence Program works with the free and willing consent of owners of the property on which the Energy Improvements are to be made.

The City will make loans (“EIP Loans”) to property owners within the City to finance the installation of Energy Improvements pursuant to contractual assessment agreements. Property owners in the City will repay EIP Loans through an assessment levied against their property which is payable in semi-annual installments on property tax bills.

Program Benefits

From the City’s perspective, the Energy Independence Program will be a key element in achieving the City’s 30% energy reduction goals. EIP provides a significant channel for funneling more resources into the shift to greater efficiency and renewable energy, while securing the energy future. For example, \$25 million of energy efficiency and renewable energy investments has the potential to provide over \$50 million in direct consumer benefits over time while contributing to regional, state, national and international goals.

For property owners, EIP offers:

- A no-money-down means of financing Energy Improvements.
- Fixed-rate loans.
- Financing without requiring a property appraisal.
- A stream-lined loan process.

Program Administration

EIP will be administered by the City’s Office of Energy Management (“OEM”), which is headed by the Director of the Office of Energy Management (the “Director”) and staffed by EIP professionals. EIP staff will be responsible for:

- Community outreach
- Energy surveys
- Solar site checks
- Advising property owners
- Processing loan applications
- Managing and tracking funds available for EIP Loans
- Monitoring individual and collective energy conservation
- Integrating EIP with Palm Desert’s successful Set to Save rebate program.

The intent of these services is to provide a “turn-key” service for Palm Desert property owners who would otherwise be unable or unwilling to finance efficiency measures and renewable energy options. Their participation is critical to the City in achieving its 30% energy reduction goals and for the State to meet its greenhouse gas commitments to reduce carbon emissions to 1990 levels by 2020.

Program Requirements

Eligible Property Owners

All owners of improved real property are eligible for the Energy Independence Program. Owners may be individuals, associations, business entities, cooperatives, and virtually any owner which pays real property taxes.

A property owner needs to be current in the payment of property taxes. Property owners are eligible to make multiple applications for additional Energy Improvements.

Eligible Properties

EIP Loans are available to all owners of improved real properties in the City including, but not limited to, residential, commercial, and industrial properties. Unfortunately at this time, EIP Loans are not available for properties that do not pay property taxes, such as governmental entities and certain non-profit corporations.

Eligible Equipment

EIP affords property owners in Palm Desert the opportunity to take advantage of a wide range of energy-savings measures, consistent with the following provisions:

1. EIP provides financing for Energy Improvements that are permanently affixed to property.
2. EIP Loans are specifically made available for Energy Improvements. Property owners that elect to engage in broader retrofit projects – such as home or business remodeling – will only be provided EIP Loans for that portion of the costs used to retrofit existing structures with Energy Improvements. (This is discussed further in Eligible Costs.)
3. EIP Loans are intended for retrofit activities to replace outdated equipment and to install new equipment that takes energy off the grid. However, EIP Loans are also made available for purchasers of new homes and businesses that wish to add Energy Improvements after the property owner takes title to the property.
4. EIP Loans are made available for the following types of improvements that are presented in greater detail in Appendix A:
 - a. Efficiency Measures. EIP supports a wide range of efficiency measures as presented in Appendix A. EIP also supports Energy Improvements that are eligible for Set to Save program rebates.
 - b. Solar Systems. EIP Loans will be available for a range of solar systems, from photovoltaic to solar thermal.

- c. Custom Measures. Upon review and approval by the Office of Energy Management, EIP Loans are made available for emerging technologies for Energy Improvements that provide new ways to save or generate energy and that will be evaluated on a case-by-case basis.
5. EIP is flexible and provides three “Tracks” for participation that focus on Efficiency Measures, Solar Systems, and Custom Measures. See “Tracks for Participation” below for more information.
6. EIP Loans are also made available for combinations of Energy Improvements such as bundling energy efficiency and renewable energy measures. For instance, a property owner may choose to replace both an aging and inefficient air conditioner and install a solar system.

Eligible Costs

Eligible costs of the Energy Improvements include the cost of equipment and installation. Installation costs may include, but are not limited to, labor, drafting, engineering, permit fees, and inspection charges.

The installation of Energy Improvements can be completed by a qualified contractor of the property owner’s choice. Eligible costs do not include labor costs for property owners that elect to do the work themselves.

In each case, the Office of Energy Management will determine whether the estimated equipment and installation costs are reasonable. The OEM will evaluate market conditions and may require additional bids to determine whether costs are reasonable. While the property owner will be able to select the bidder of his or her choice, the amount available for the EIP Loan may be limited to an amount deemed reasonable by the OEM, and may be reviewed by the City Manager and the Palm Desert City Council.

Tracks for Participation

There are three ways for property owners to participate in the Program. Eligible equipment and standards are presented in greater detail in Appendix A:

The Efficiency Track

The Efficiency Track covers a wide range of energy efficiency fixtures, from windows and doors, attic insulation that are Energy Star rated. Packaged and central air conditioning systems must meet the minimum efficiencies specified in the Set to Save program. Given Palm Desert’s preponderance of pools, specific efficiency requirements are presented for pool pumps and heaters. All other efficiency measures must go through the Custom Measure Track. .

The Solar System Track

The Solar System Track makes available Energy Independence Program loans for Energy Improvements. The Solar Track also helps property owners with solar electric and solar thermal investments by offering optional, no-cost solar site checks and consultation by EIP experts.

Custom Measure Track

All other proposed measures follow the Custom Measure Track. These measures may include renewable energy sources (other than solar), such as wind, geothermal, and potentially solar-hydrogen fuel cells, as well as more complex and innovative energy management solutions and emerging technologies. The development of technologies are encouraged by EIP as a means of diversifying the City's energy sources.

Applicants for the Custom Measure Track should consult the OEM to determine eligibility. In some cases, the findings of national energy laboratories and nationally accredited research and testing centers will be required for EIP approval. In all cases, the City reserves the right to decline funding of a custom measure.

Energy Surveys and Solar Site Checks

The Office of Energy Management offers energy surveys at owners' properties. During these on-site surveys, a trained Program expert will review as appropriate, energy efficiency, energy management, and renewable energy opportunities and EIP financial details with the property owner. The property owner will then be advised as to the potential Energy Improvements, their estimated costs and savings through EIP participation.

Energy surveys are highly recommended but not required.

The Financial Strategy

The City will create the Energy Independence Program Fund which may accept funds from any available source and which may disburse such funds for the purpose of funding Energy Improvements. Loan repayments – through the property assessment mechanism – will be made to the Energy Loan Fund.

The City initially will seed the Energy Loan Fund with \$2.5 million from the General Fund. Thereafter, the Energy Loan Fund may be funded from a number of other potential sources, and combinations of sources, which may include but are not limited to additional funding from the General Fund, the issuance of notes, bonds, or agreements with utilities or public or private lenders or other governmental entities and quasi-governmental entities such as CALPERS.

EIP Funds will then be used by the City for additional EIP Loans and/or to establish a Reserve Fund or pay administrative costs and/or to reimburse itself for advancing moneys from the General Fund to the EIP Fund.

At a minimum, \$1.25 million of the \$2.5 million loan amount will be reserved for EIP Loans for residential property owners. The Office of Energy Management will report on penetration to the City Manager and Council on a quarterly basis at a minimum, providing Council with the information necessary to shift funds as it elects to do so at its sole discretion.

The City may also establish an EIP Reserve Fund if bonds are issued to cover EIP Loan payments in the event of assessment delinquencies prior to foreclosure and tax sale if deemed necessary by the City Manager and the City Council.

Energy Independence Program Parameters

Minimum Energy Loan Amount

The minimum size for an EIP Loan is \$5,000.

Maximum Energy Loan Amount

There is no maximum size for Energy Program Loans. All Energy Loans greater than \$60,000 must be approved by the City Manager. EIP loans greater than \$200,000 must be approved by the City Council.

Maximum Portfolio

The maximum principal amount of the Energy Loans to property owners under the Program is \$25 million. This may be increased by the City Council at its discretion.

Duration

EIP Loans are made available for up to 20-year terms to accommodate a wide range of efficiency measures and renewable energy investments. The term of the loan is in the discretion of the property owner in consultation with the Office of Energy Management.

Interest Rate

EIP Loans will be made for the initial \$2.5 million an annual interest rate not to exceed 7% for all loans. Thereafter, the City Council will maintain the discretion to adjust the interest rate up to an amount not to exceed 10%. The Council will determine interest rates so that the Energy Loan Fund remains financially viable up to the legal limit.

The City will set the interest rate for an EIP Loan at the time that the City and property owner enter into the contractual assessment agreement.

Administrative Fees

The City of Palm Desert will offer the Energy Independence Program as an additional City service that will help property owners achieve their energy goals, while helping the City achieve its energy and climate protection goals. The City of Palm Desert will be responsible for all EIP marketing and outreach, as well as the duties of the Office of Energy Management.

The City may elect to cover a portion of its costs through the “spread” between its combined earnings rate, and the EIP Loan issuance rate. Similarly, it may elect to recover EIP costs through a spread between bond rates and loan rates, or the spread between interest rates of any financial vehicle. The City will not charge property owners a fixed administrative fee.

Two forms of costs will be the responsibility of the property owner:

1. Title costs – including title insurance – will be shared by the property owner and the City. This cost to the property owner will not exceed \$200 per EIP Loan
2. Assessment collection costs will appear as a line item on property taxes not to exceed \$40 per property per year – and will be paid by property owners. This cost was determined after consultation with the County of Riverside Assessor’s Office.

Changes to Report

The Director or City Manager may make changes to this Report that the Director or City Manager reasonably determines are necessary to clarify its provisions. Any changes to this Report that materially modify the Energy Independence Program shall only be made after approval by the City Council.

The City Manager or Director may modify from time to time the Equipment List, draft Loan Contract and draft Application attached hereto as Appendix A, Appendix D and Appendix C, respectively, as deemed necessary by the City Manager or the Director to effectuate the purposes of the Program.

Appendix A: Equipment List

The Energy Independence Program offers EIP loans for a number of equipment types, including efficiency measures, solar systems, and other innovative, energy-saving custom measures. In each case, the use of rebates and tax credits to prepay a portion of the loan is at the discretion of property owner.

Efficiency Measures

The Energy Independence Program provides services and loans for a wide range of Energy Star-rated efficiency measures, including many Set to Save Efficiency Measures for which property owners can get rebates as well as EIP Loans. Excepting HVAC equipment as noted below, efficiency measures that are Energy Star rated must meet the Energy Star minimum efficiency levels.

For all packaged and central air conditioning systems funded in this loan program, the minimum efficiency levels shall be as required by the current minimum requirements set forth in Set to Save program.

All other proposed efficiency measures will be considered in the Custom Measure Track.

The City of Palm Desert anticipates that Energy Star requirements will “ratchet up” to greater efficiency levels over time. Energy Star will also become more inclusive of technologies over time. Thus the EIP will evolve with Energy Star and the market for energy-efficient technologies.

The following Energy Star measures – among others – are eligible in the Efficiency Track.

- Attic and wall insulation
- Light fixtures (no bulb-only retrofits)
- Reflective roofs and coatings
- Windows, doors, and skylights

Pool Equipment

Given the preponderance of pools in Palm Desert the following prescriptive standards must be upheld for Efficiency Track funding:

- Pool circulating pumps (must be Variable Flow and/or Multi-speed with controllers)
- Natural gas pool heaters (must have a thermal efficiency of 84% or greater)

Solar Equipment

Solar Track funding is available for a wide range of solar equipment. EIP Loans will be available for photovoltaic equipment and installers listed by the California Energy Commission. Solar thermal equipment must be rated by the Solar Rating Certification Council (SRCC). As with efficiency measures, the property owner maintains the discretion as to whether to prepay a portion of the gross loan with any solar rebates and tax credits.

Eligible solar equipment includes:

- Solar thermal systems (hot water)
- Photovoltaic systems (electricity)
 - Battery back-up systems will be allowed
 - Funding for off-grid systems will be allowed
 - PV systems can be sized to accommodate plug-in electric vehicles

Custom Measures

The City of Palm Desert encourages innovation in saving energy to meet its energy-savings goals. Custom Measures will only be funded for EIP Loans if sufficient proof of energy savings is provided to the Office of Energy Management that the measure will reduce usage by 20%. The Director reserves the right to defer funding until he deems the evidence sufficient to verify this performance requirement.

The following types of measures – among others – will be considered for EIP Loans through the Custom Measure Track:

- Building Energy Management controls
- HVAC Duct zoning control systems
- Irrigation pumps and controls
- Lighting controls
- Motors and controls
- Natural gas fuel cells
- Water heating equipment
 - Tank-style
 - Tankless
 - Central water heating system

As these “Custom Measures” become Energy Star rated they will be included in the Efficiency Measure Track.