

RESOLUTION NO. 5741

A Resolution of the City Council of the City of Sebastopol Entering Into a Cooperative Agreement with the County of Sonoma to Implement the Sonoma County Energy Independence Program (SCEIP)

WHEREAS, the County of Sonoma (County) and the City of Sebastopol (City) are committed to the development of renewable resources and energy efficiency, reduction of greenhouse gases, protection of our environment and reversal of climate change; and

WHEREAS, the County and City recognize the need for aggressive action and have committed to reducing green hous gas emissions associated with their activities by 25% below 1990 levels by 2015; and

WHEREAS, Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (the "Act") authorizes cities and counties to assist property owners in financing the cost of installing distributed generation renewable energy sources or making energy efficient improvements that are permanently fixed to their property through a contractual assessment program, and

WHEREAS, On March 25, 2009, pursuant to this authority, and by County Resolution 09-0272, County established the Sonoma County Energy Independence Program (SCEIP), and

WHEREAS, City has reviewed the Program Report prepared by the County of Sonoma that outlines the policies, initial list of eligible improvements, administration, and financing of SCEIP, and

WHEREAS, The Parties agree that City property owners should have the opportunity to participate in SCEIP under the terms and conditions contained in this Agreement.

WHEREAS, The Parties understand that City may have preferences that meet the needs of its property owners. The Parties will work together to consider those preferences.

NOW THEREFORE BE IT RESOLVED that the City of Sebastopol authorizes the Mayor to sign and execute a cooperative agreement with the County of Sonoma for the purpose of implementing the Sonoma County Energy Independence Program.

IN COUNCIL DULY PASSED this 7th day of April, 2009.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by City of Sebastopol City Council following a roll call vote:


City of Sebastopol City Council:

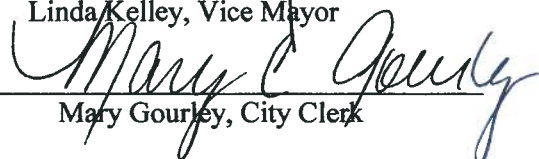
Ayes: Councilmembers Robinson, Wilson, Shaffer and Vice Mayor Kelley

Noes: None

Abstain: None

Absent: Mayor Gurney

APPROVED: 
Linda Kelley, Vice Mayor

ATTEST: 
Mary Gourley, City Clerk

**Cooperative Agreement to
Implement Sonoma County Energy Independence Program**

This Agreement is made by and between the County of Sonoma (“County”) and the City of Sebastopol (“City”) also referred to hereafter as the “Parties”.

RECITALS

- A. County and City are committed to development of renewable energy sources and energy efficiency improvements, reduction of greenhouse gases, protection of our environment, and reversal of climate change.
- B. County and City recognize the need for aggressive action and have committed to reducing GHG emissions associated with their activities by 25% below 1990 levels by 2015.
- C. Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (the “Act”) authorizes cities and counties to assist property owners in financing the cost of installing distributed generation renewable energy sources or making energy efficient improvements that are permanently fixed to their property through a contractual assessment program.
- D. On March 25, 2009, pursuant to this authority, and by County Resolution 09-0272, County established the Sonoma County Energy Independence Program (SCEIP).
- E. City has, by its Resolution 5741, adopted on April 7, 2009, approved the County’s Resolution of Intention to establish the SCEIP and consented to the inclusion of properties in the incorporated area governed by City in the SCEIP.
- F. City has reviewed the Program Report prepared by the County of Sonoma that outlines the policies, initial list of eligible improvements, administration, and financing of SCEIP.
- G. The Parties agree that City property owners should have the opportunity to participate in SCEIP under the terms and conditions contained in this Agreement.
- H. The Parties understand that City may have preferences that meet the needs of its property owners. The Parties will work together to consider those preferences.

The Parties agree as follows:

1. RECITALS

The above recitals are true and correct.

2. COMMUNICATION/DESIGNATED REPRESENTATIVES

The persons identified below as the Designated Representative shall, upon execution of this Agreement, have authority to grant discretionary approvals identified in this Agreement. Except as otherwise specifically provided in this Agreement, any notice, submittal, or communication required or permitted to be served on a party, may be served by personal delivery to the person or the office of the person identified below. Service may also be made by mail, by placing first-class postage, and addressed as indicated below, and depositing in the United States mail to:

County	
Project Manager:	
Phone:	
Fax:	
Email:	
Designated Representative:	
City/Town	
Project Manager: Jack Griffin	
City Manager	
Phone: 707-823-1153	
Fax: 707-823-1135	
Email: griffinj@sonic.net	
Designated Representative: Mary Gourley, City Clerk/Program Manager Email: mgourley@sonic.net	

3. COUNTY RESPONSIBILITIES.

- A. Except as provided in paragraph B below, County shall make the SCEIP available to City property owners subject to the same terms and conditions applicable to property owners in the unincorporated area of Sonoma County.
- B. If, at any time, City wishes to request modifications to SCEIP for City property owners, City shall so notify County in writing, identifying the modifications City requests to be implemented within City. County shall evaluate such request within 60 days and shall notify City in writing of the steps and conditions that would be necessary, if any, to implement City’s request. If County concludes that the request is not feasible or is detrimental to SCEIP, it may, after discussion with the City, deny the request but shall work with City to attempt to otherwise address City’s desires.

4. CITY/TOWN RESPONSIBILITIES.

- A. City agrees to require permits for all projects and improvements requesting SCEIP financing. City shall charge its usual and customary fees for such permits. City understands that County intends to rely upon issuance of a finalized permit as evidence that the improvements have been installed according to local building code requirements by the property owner.
- B. City agrees to make information about SCEIP, provided by County, available at appropriate locations in City. City agrees to work with County to market the Program through such means as inserting information into City’s utility bills, linking to the Program’s website from City’s website, and including information on the Program in community information bulletins.

5. ADDITIONAL REQUIREMENTS

- A. Authority to Amend Agreement: Changes to the Agreement may be authorized only by written amendment to this Agreement, signed by the Designated Representative of each party or such other representative as is authorized by the governing body of each party.
- B. No Waiver of Breach: The waiver by any party of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any later breach of the same or any other term or promise contained in this Agreement.
- C. Construction: To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The Parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.
- D. Making of Agreement: The Parties acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. The Parties acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.
- E. No Third-Party Beneficiaries: Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.
- F. Applicable Law and Forum: This Agreement shall be construed and interpreted according to the substantive law of California excluding the law of conflicts. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in the County of Sonoma.
- G. Captions: The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.
- H. Merger: This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by all parties.
- I. Time of Essence: Time is and shall be of the essence of this Agreement and every provision hereof.
- J. Entire Agreement: This Agreement is the entire Agreement between the Parties.

6. AGREEMENT BECOMING EFFECTIVE

This Agreement shall become effective upon execution by the Parties.


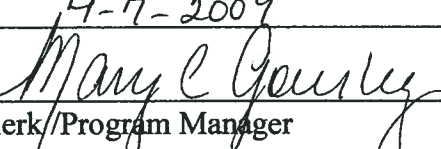
7. TERMINATION


Either Party may terminate its participation in this Agreement by giving one hundred eighty (180) days advance written notice to all other parties of its intent to terminate its participation in this Agreement. Termination shall not affect the validity of any contractual assessment agreement already entered into by the County within the incorporated area of City.

8. COUNTERPART SIGNATURES

This Agreement may be executed in counterpart and each of these executed counterparts shall have the same force and effect as an original instrument and as if all of the parties to the aggregate counterparts had signed the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as set forth below.

<p>CITY/TOWN</p> <p>By: <u></u> Mayor Sarah Glade Gurney</p> <p>Authorized by Resolution No. 5741 Date: <u>4-7-2009</u></p> <p>Attest: <u></u> City Clerk/Program Manager</p>	<p>COUNTY OF SONOMA</p> <p>By: _____ Rodney A. Dole Auditor-Controller-Treasurer-Tax Collector Program Administrator, Sonoma County Energy Independence Program</p>
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<p>Approved as to form:</p> <p><u></u> Larry McLaughlin, City Attorney</p>	<p>Approved as to form:</p> <p>_____ County Counsel</p>
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