COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Office of the Board of Supervisors

DATE: March 5, 2012
BOARD MEETING DATE: March 13, 2012
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Dave Pine, Supervisor District 1

SUBJECT: Letter to the Federal Housing Finance Agency in Support of Property Assessed Clean Energy Financing Districts

RECOMMENDATION:
Adopt a resolution authorizing the President of the Board of Supervisors to execute and send a letter to the Federal Housing Finance Agency in Support of Property Assessed Clean Energy Financing (PACE) Districts.

BACKGROUND:
In December of 2010, our Board voted to join the California First program to create a countywide Property Assessed Clean Energy (PACE) district. The district would have offered county homeowners the option of financing renewable energy and energy upgrades projects for up to 20 years through an assessment on their property taxes. While the Board vote created a countywide district, all 20 city and town councils in the County also voted to support the creation of the San Mateo County PACE district.

Although the PACE concept was widely supported in San Mateo County, the creation of the assessment district was stopped in July of 2011 when the Federal Housing Finance Agency (FHFA) halted all PACE programs by ruling that Fannie Mae and Freddie Mac could not purchase mortgages with PACE assessments.

DISCUSSION:
A legal appeal of the July 2011 ruling by FHFA has resulted in the opening of a comment period on PACE programs from January 29, 2012 to March 26, 2012. I respectfully request that the Board reaffirm our commitment to PACE funding by sending a letter to FHFA with the following points:

- PACE financing is done through special districts, not through loans as asserted by FHFA.
- PACE financing has minimal risks and there has been no evidence of problems where this financing method has been used.

- Home energy improvements financed through PACE have created both environmental and economic benefits. PACE financed projects have created jobs, reduced dependence on foreign oil and increased the generation of energy through renewable sources.

I suggest that the letter conclude by recommending that FHFA adopt a new rule that allows Fannie Mae and Freddie Mac and other FHFS regulated lenders to invest in residential mortgages with PACE assessments. A draft letter is attached to this memo for review by the Board.

This action supports the environmentally conscious community Shared Vision by supporting PACE funding for renewable energy and energy retrofit work on residential properties.

The resolution has been reviewed and approved by County Counsel.

FISCAL IMPACT:
There is no cost associated with sending a letter to FHFA in support of PACE districts.

Proposed Letter to the Federal Housing Finance Agency Regarding PACE Programs
Draft of March 7, 2012

Mr. Alfred Pollard
General Counsel
Federal Housing Finance Agency
400 7th St., N.W.
Washington, DC 20024

RE: RIN 2590-AA53 Mortgage Assets Affected by PACE Programs

Dear Mr. Pollard:

In December of 2010, the San Mateo County Board of Supervisors voted to join California First, a statewide Property Assessed Clean Energy (PACE) program. Our Board took that action because we believed offering a PACE option to our residents would help reduce our community reliance on imported fuel, promote energy security, avoid the cost of building new power plants and transmission systems and protect the environment. In addition, we supported the PACE program because it will save homeowners money, create local jobs and dramatically reduce energy use by spurring homeowner investment in energy efficiency and clean, on-site renewable energy. A total of 28 states passed PACE legislation in just two and a half years. And many local jurisdictions' joined San Mateo County in approving local PACE programs.

We believe that FHFA's action to unilaterally halt local government PACE programs on July 6, 2010 was unwarranted. This rulemaking provides an opportunity to establish a fact-based record and correct misinformation and misunderstandings, to the benefit of all stakeholders: local governments, mortgage lenders, homeowners, and our nation. We appreciate the opportunity, and urge you to look for ways to accommodate these broadly beneficial programs. To this end, we recommend that the FHFA adopt reasonable underwriting standards that ensure local PACE programs are designed to maximize benefit and minimize risk and consider the following key points:

1) **PACE assessments are valid - and are not "loans" as asserted by FHFA**
FHFA has repeatedly referred to PACE assessments as "loans." To the contrary, they are property tax assessments with characteristics similar to those of more than 37,000 other land-secured special assessment districts in the United States that are rooted in hundreds of years of state and local law. Such districts are typically created voluntarily by property owners who vote to allow their local governments to finance public improvements such as sewer systems, sidewalks, lighting, parks, open space acquisitions, and business improvements on their behalf. Other districts allow property owners to act voluntarily and individually to adopt municipally financed improvements to their property that are repaid with assessments. PACE districts are also similar to many other special assessment districts in the size of their assessments and length of their repayment period.

2) **PACE assessments present minimal risks to lenders, investors, homeowners and Government Sponsored Enterprises (GSEs)**

FHFA asserts that PACE presents "significant safety and soundness" concerns, but there is no evidence that this is true. There is long-standing experience, borne out by studies, that energy efficiency and renewable energy improvements reduce homeowners' energy bills and increase their property's value, strengthening their financial position and increasing the value of a lender's collateral. PACE financed improvements allow homeowners to hedge themselves against fuel price spikes and rising fuel costs over time. These factors lessen, if not eliminate, the safety and soundness risk that the FHFA has asserted. Local governments that established PACE programs prior to the July 6, 2010 action by FHFA developed program standards to protect lenders and consumers. The White House (October 18, 2009) and the Department of Energy (May 7, 2010) both published national PACE guidelines with clear, strong underwriting standards to ensure that homeowners are able to afford the improvements. A bi-partisan bill in the House of Representatives (HR 2599 – Hayworth R-NY19) further delineates national standards to minimize risk to lenders and consumers. Finally, the early results of PACE pilot programs in Boulder County, CO; Sonoma County and Palm Desert, CA; and Babylon, NY; show that PACE presents minimal risk: there are only a handful of known defaults out of nearly 3,200 upgraded properties, substantially fewer than the rate of default for non-PACE property-owners in the same districts.

3) **Home energy improvements financed with PACE achieve important economic and environmental benefits**

State and local governments have also passed PACE laws because PACE has great potential to help governments attain important economic and environmental goals. For example, according to a May 2011 Department of Energy study, the Boulder County PACE program created over 120 jobs, generated more than $20 million in overall economic activity and reduced consumers' energy use by more than $125,000 in the first year alone. These benefits are important by themselves. In developing a rule that serves the public interest, the FHFA must weigh perceived risks against economic benefits that clearly reduce default rates.

We strongly urge you to reconsider your blanket opposition to PACE programs. We recommend that FHFA adopt a rule stipulating that Fannie Mae, Freddie Mac, and any other mortgage lenders regulated by FHFA be allowed to buy residential mortgages with PACE assessments that are originated by programs that conform to standards and guidelines such as those established in HR 2599 (The PACE Assessment Protection Act) to protect the interests of local governments, homeowners, mortgage lenders and Government Sponsored Enterprises (GSEs).

Sincerely,

RESOLUTION NO. _____________

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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RESOLUTION AUTHORIZING THE PRESIDENT OF THE BOARD TO EXECUTE AND SEND A LETTER TO THE FEDERAL HOUSING FINANCE AGENCY IN SUPPORT OF PROPERTY ASSESSED CLEAN ENERGY (PACE) DISTRICTS

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, in December of 2010, the County of San Mateo Board of Supervisors voted to join the California First program to create a countywide Property Assessed Clean Energy (PACE) district; and

WHEREAS, the Federal Housing Finance Agency halted all PACE districts in July of 2011 with a ruling forbidding the lenders they oversee from purchasing mortgages with PACE assessments; and;

WHEREAS, a legal challenge resulted in a new comment period on PACE districts; and

WHEREAS, PACE districts create a funding alternative for homeowners that want to reduce their energy consumption and/or install renewable energy systems; and

WHEREAS, PACE funded projects create jobs and help the environment.

NOW THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the

President of the Board is authorized to execute and send a letter to the Federal Housing Finance Agency in support of Property Assessed Clean Energy (PACE) districts.

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