



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Board of Supervisors



Date: August 22, 2014
Board Meeting Date: September 9, 2014
Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Supervisor Dave Pine

Subject: New Property Assessed Clean Energy (PACE) Programs

RECOMMENDATION:

Adopt a Resolutions authorizing:

- A) An agreement with the California Enterprise Development Authority ("CEDA") Joint Powers Authority making the County of San Mateo an Associate Member; and allowing CEDA, through the Figtree PACE Program, to conduct contractual assessment proceedings and levy contractual assessments within the County's unincorporated areas; and
- B) The County Manager to execute any related agreements necessary to implement the Figtree PACE Program, including an indemnification agreement; levy contractual assessments within the County's unincorporated areas; and
- C) An amendment to the Western Riverside Council of Governments ("WRCOG") Joint Powers Agreement making the County of San Mateo an Associate Member and authorizing the inclusion of properties within the County's unincorporated areas in WRCOG's HERO PACE Program to finance distributed generation renewable energy sources, energy and water efficiency improvements and electric vehicle charging infrastructure.

BACKGROUND:

Pursuant to Assembly Bill (AB) 811 (2008) and AB 474 (2010) local legislative bodies are authorized to designate areas within which authorized public officials and free and willing property owners may enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources, energy efficiency, and/or water conservation improvements that are permanently fixed to real property, as specified. The financing for these improvements has come to be known as PACE, which stands for Property Assessed Clean Energy.

On November 10, 2009, the Board adopted Resolution 070504, authorizing the County's first Energy Assistance Program with participation in CaliforniaFIRST, a property assessed clean energy program sponsored by the California Statewide Communities Development Authority. Since that time, CaliforniaFIRST has been offering commercial PACE financing in the County.

In contrast to the aforementioned commercial PACE financing, the company's residential PACE financing was placed on hold due to concerns expressed by the Federal Housing Finance Agency (FHFA). FHFA was reluctant to support residential PACE programs in California because PACE would allow local governments to place an assessment on a homeowner's property in a first lien position, effectively subordinating any existing Enterprise-backed mortgage to a second lien position.

The Governor's Office has responded to FHFA's concerns with the creation of a \$10 million Loan Loss Reserve to cover any losses to the Enterprises in the event of default or foreclosure, effectively paving the way for residential PACE in California. CaliforniaFirst launched its residential PACE financing in July and August 2014. There is nothing the County needs to do to approve the new residential PACE offering by CaliforniaFirst, since CaliforniaFirst was authorized by the Board in 2009.

In tandem with neighboring jurisdictions and cities within the County, it is recommended that the Board pursue an open market model for PACE to expand offerings to our residents and to foster competition by authorizing the County's participation in two new programs: the Figtree PACE Program for commercial PACE and the HERO PACE Program for residential PACE. There is no impediment to having multiple PACE programs active within a jurisdiction.

DISCUSSION:

Figtree Commercial PACE:

The Figtree PACE Program is being proposed to allow commercial property owners in participating cities and counties to finance renewable energy, energy and water efficiency improvements, and electric vehicle charging infrastructure on their property. The Figtree program is offered through the California Enterprise Development Authority ("CEDA"), a joint powers authority created by the California Association for Local Economic Development. There are currently over 80 cities and counties participating in the CEDA and 74 cities and counties participating in the Figtree PACE Program.

If a commercial property owner chooses to participate, the installed improvements will be financed by the issuance of bonds by CEDA. The bonds are secured by a voluntary contractual assessment levied on such owner's property, with no recourse to the local government or other participating jurisdictions. Participation in the program is 100% voluntary. Property owners who wish to participate in the program agree to repay the amount borrowed through the voluntary contractual assessment collected together with their property taxes.

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The Figtree Program has been in place in other counties since October 2010 and issued its initial bonds in December 2011. Its initial efforts were as a pilot program and it funded seven (7) projects in Fresno, Palm Springs, Clovis and Exeter. The total value of those projects was just over \$800K. The initial Figtree process was fairly labor intensive for cities, however, that process has been streamlined so that cities do not need to form assessment districts themselves and can adopt a resolution allowing CEDA to do so. Since this change, more cities have joined and financing application volumes are increasing. The cities of San Diego, San Marcos, Vista and the County of San Diego are examples of local jurisdictions that have joined the Figtree Program.

To address the concerns raised by FHFA, Figtree seeks lender consent for all commercial PACE transactions. The Figtree program, like the HERO Program, provides full consumer disclosure prior to approving PACE financing. The Figtree Program makes property owners aware that property owners run the risk of having their mortgage accelerated by their mortgage holder if they move forward with PACE financing without securing lender consent. The State of California allows a PACE assessment to be transferred upon sale or refinance. Banks can, however, request that the balance be paid off.

HERO Residential PACE:

The HERO PACE Program is being offered to allow residential property owners in participating cities and counties to finance renewable energy, energy water efficiency improvements and electric vehicle charging infrastructure on their property. If a property owner chooses to participate, the improvements to be installed on such owner's property will be financed by the issuance of bonds by a joint power authority, Western Riverside Council of Governments ("WRCOG"), secured by a voluntary contractual assessment levied on such owner's property. Participation in the program is 100% voluntary. Property owners who wish to participate in the program agree to repay the money through the voluntary contractual assessment collected together with their property taxes.

The benefits to property owners participating in these PACE programs include:

- § Eligibility: In today's economic environment, alternatives for property owners to finance renewable energy/energy efficiency/water efficiency improvements or electric vehicle charging infrastructure may not be available. As such many property owners do not have options available to them to lower their utility bills.
- § Savings: Energy prices continue to rise and selecting energy efficient, water efficient and renewable energy models can lower utility bills.
- § 100% voluntary. Property owners can choose to participate in the program at their discretion.

- § Payment obligation stays with the property. Under Chapter 29, a voluntary contractual assessment stays with the property upon transfer of ownership. Even if there were private enterprise alternatives, most private loans are due on sale of the benefited property, which makes it difficult for property owners to match the life of the repayment obligation with the useful life of the financed improvements. Certain mortgage providers will, however, require the assessment be paid off at the time the property is refinanced or sold.
- § Prepayment option. The property owner can choose to pay off the assessments at any time, subject to applicable prepayment penalties.

The benefits to the County include:

- § Increase local jobs, resulting from property improvements associated with the PACE programs.
- § An increase in property values (higher efficiency homes are more valuable).
- § An increase in sales, payroll and property tax revenue
- § As in conventional assessment financing, the County is not obligated to repay the bonds or to pay the assessments levied on the participating properties.

Authorization of both the Figtree and HERO programs will complement the County's existing commercial PACE offering through CaliforniaFirst. Additionally, both programs are non-exclusive; meaning adoption of the Figtree and HERO PACE Programs would not preclude the County from implementing other programs that become viable in the future.

County Counsel has reviewed and approved the Resolutions and Agreements as to form.

- § Approval of these Agreements contributes to the Shared Vision 2025 outcome of a Collaborative Community.

FISCAL IMPACT:

There is no fiscal impact to the County's General Fund. The intent of the Figtree Program (and all current PACE programs) is to provide a "turn-key" operation with no County funds required and very limited staff time necessary. All California HERO Program administrative costs are covered through an initial administrative fee included in the property owner's voluntary contractual assessment and an annual administrative fee which is also collected on the property owner's tax bill.