



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
County Manager



Date: July 1, 2015
Board Meeting Date: August 4, 2015
Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Jim Eggemeyer, Director, Office of Sustainability

Subject: New Property Assessed Clean Energy (PACE) Programs

RECOMMENDATION:

Resolution authorizing:

- A) An agreement with the California Home Finance Authority Joint Powers Authority authorizing the inclusion of properties within the County's unincorporated areas in the CHF District No. 2014-1 to finance renewable energy improvements, energy efficiency and water conservation improvements, and electric vehicle charging infrastructure.
- B) An agreement with the California Home Finance Authority Joint Powers Authority authorizing the inclusion of properties within the County's unincorporated areas in the Ygrene Works for California PACE financing program to finance renewable energy improvements, energy efficiency and water conservation improvements, and electric vehicle charging infrastructure.

BACKGROUND:

Pursuant to Assembly Bill (AB) 811 (2008), 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. Pursuant to Senate Bill (SB) 555 (2011), local legislative bodies are authorized to create Community Facilities Districts for the purpose of financing or refinancing the acquisition, installation, and improvement of energy efficiency, water conservation, renewable energy and electric vehicle charging infrastructure improvements that are permanently fixed to real property, as specified. The financing for these improvements, as authorized

by the above legislation, 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 PACE program sponsored by the California Statewide Communities Development Authority. Since that time, CaliforniaFIRST has been offering commercial PACE financing and recently residential PACE financing in the County. On September 9, 2014, the Board authorized two additional PACE programs through the adoption of Resolution 073355 for the HERO PACE program and Resolutions 073356 and 073357 for the FigTree Financing PACE program. On July 7, 2015, the Board authorized the CSCDA's OpenPACE program, which now includes CaliforniaFIRST and AllianceNRG.

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 a new program through the California Home Finance Authority. There is no impediment to having multiple PACE programs active within a jurisdiction.

DISCUSSION:

California Home Finance Authority (CHF), which is in the process of formally changing its name to Golden State Finance Authority, is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the "Act") and the Joint Power Agreement entered into on July 1, 1993, as amended from time to time (the "Authority JPA"). The County is already an Associate Member of CHF.

CHF has established two Property Assessed Clean Energy ("PACE") financing programs for residential, commercial, industrial and agricultural properties to address high up-front costs for property owners who wish to improve their properties through installation of measures that will generate renewable energy or reduce their energy and water use. By offering low cost financing, CHF's PACE programs allow construction of these projects to proceed and, in the process, stimulate building activity and the overall local economy, reduce peak energy demand, increase property values, and generate savings on utility bills for property owners.

CHF contracts with Ygrene Energy Fund CA LLC (Ygrene) to serve as the program administrator and to operate the Ygrene Works for California PACE financing program. CHF has established two PACE programs under the legislative authority of two separate California PACE laws:

SB 555 PACE Community Facilities District: Senate Bill 555 amended the Mello-Roos Community Facilities Act, set forth in sections 53311 through 53368.3 of the California Government Code and particularly in accordance with sections 53313.5(l) and 53328.1(a) ("Mello-Roos Act"), to allow for the creation of Community Facilities Districts

“CFDs”) for the purpose of financing or refinancing the acquisition, installation, and improvement of energy efficiency, water conservation, renewable energy and electric vehicle charging infrastructure improvements permanently affixed to private or publicly-owned real property.

Individual properties can be annexed into the district and be subject to the special tax that is imposed to repay project financing only if (i) the Board adopts a resolution consenting to the inclusion of parcels in the unincorporated areas of the County within the CFD and (ii) each participating owner provides its unanimous written approval for annexation of its property into the PACE CFD.

AB 811 PACE Contractual Assessment Program: Through Chapter 29 of Division 7 of the Streets & Highway Code (AB 811), legislative bodies are authorized to designate an area within which authorized public officials and free and willing property owners may enter into voluntary contractual assessments for the purpose financing private property improvements that promote renewable energy generation, energy and water efficiency and electric vehicle charging infrastructure.

As with the SB 555 CFD, properties can be annexed into the AB 811 PACE program and be subject to the property tax assessment that is imposed to repay project financing only if (i) the Board adopts a resolution consenting to the inclusion of parcels in the unincorporated areas of the County within the program and (ii) each participating owner consents in writing to the annexation of its property into the PACE program.

CHF is in the process of seeking validation judgments for both the SB 555 and the AB 811 programs from the Superior Court for the County of Sacramento. However, CHF intends to only implement ONE of the above PACE programs. Once the court enters the validation judgments, CHF will select the PACE program it believes will provide property owners with the greatest flexibility. The other PACE program will not be implemented unless changes in the PACE laws warrant changing or adding that option.

In support of CHF’s approach, the Board is being asked to pass two resolutions that would approve the following actions:

The first resolution authorizes property owners within the unincorporated areas of the County to participate in the CHF SB 555 Community Facilities District. The second resolution authorizes property owners within the unincorporated areas of the County to participate in the CHF AB 811 Authority PACE Program.

Each resolution also authorizes CHF (1) to accept applications from property owners within the County’s unincorporated area to finance authorized improvements; and (2) to conduct proceedings and levy special taxes or contractual assessments, as applicable, on the property of participating owners.

The benefits to property owners participating in this PACE program 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 the CHF PACE programs, to be administered by Ygrene, will complement the County's existing PACE offerings through OpenPACE (includes CaliforniaFIRST and AllianceNRG), HERO, and FigTree Financing. Additionally, these programs are non-exclusive. The adoption the CHF Program would not preclude the County from implementing other programs that become viable in the future.

County Counsel has reviewed and approved the resolutions as to form.

Approval of this agreement contributes to the Shared Vision 2025 outcome of a Collaborative Community. Adopting new PACE programs fosters ongoing relationships with cities in the County, facilitates regional consistency in available PACE program, and increases the amount of choices for residents in securing PACE financing.

FISCAL IMPACT:

There is no net county cost. The intent of all current PACE programs is to provide a "turn-key" operation with no County funds required and very limited staff time necessary.