RENEWABLE FUNDING

MEMORANDUM

TO: Contra Costa County Internal Operations Committee
FROM: Jonathan Kevles, CaliforniaFIRST PACE Financing Program
DATE: November 3, 2014
RE: Update on Property Assessed Clean Energy (PACE) Financing for Residential Properties

Preface

This memorandum speaks exclusively to Residential PACE financing. Residential PACE financing is limited to residential properties that have up to three residential units.[1]

Introduction

The Contra Costa County Board of Supervisors voted to opt into the CaliforniaFIRST program in 2010. In response to the statement issued by the Federal Housing Finance Agency (FHFA) in July of 2010, the California Statewide Communities Development Authority (CSCDA), which sponsors the CaliforniaFIRST program, put the program on hold. Following the creation in 2013 of the Governor's and State Treasurer's PACE Loss Reserve Program, in the summer of 2014, CSCDA re-launched the CaliforniaFIRST program in 17 California counties, including most Bay Area counties.

For the reasons outlined below, we urge the Board of Supervisors to re-affirm its resolution opting into the CaliforniaFIRST program.

CaliforniaFIRST costs the County nothing and poses no liability to the County.
CaliforniaFIRST is a program of CSCDA, which is a trusted partner with Contra Costa County. CSCDA has worked with Contra Costa County and its constituent cities since 1988 to issue $1.7 billion in bonds to finance public improvements in the County. Because CaliforniaFIRST operates under CSCDA's Joint Powers Authority structure, there is no cost to Contra Costa County for the operation of the CaliforniaFIRST program, and no liability to the County for the issuance of the bonds, as CSCDA is the entity that issues the CaliforniaFIRST bonds for residential PACE transactions.

Through CaliforniaFIRST, the unincorporated areas of Contra Costa County (as well as the incorporated cities within Contra Costa County) would participate in the program through a statewide AB 811 Special District, which we fully expect to be in

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[1] CaliforniaFIRST and other PACE programs offer PACE financing for commercial properties as well as for residential. Given that a) many of the questions concerning PACE in the County staff report and elsewhere stem from statements made by the Federal Housing and Finance Administration (FHFA), and b) FHFA does not buy mortgages connected to commercial properties and thus has no position on commercial PACE, addressing commercial PACE in this memo would not be relevant.

effect beginning November 18, 2014. This statewide district eliminates the need for the County to go through its own, separate AB 811 Special District validation process. As such, the County would have no need to form and fund any separate infrastructure to manage or otherwise administer the CaliforniaFIRST program.

FHFA risk is minimal and is managed by the California PACE Reserve. In July 2010, FHFA instructed Fannie Mae and Freddie Mac not to purchase mortgages on properties with PACE assessments attached to them. It also threatened to take more drastic action: to change underwriting standards in communities with PACE programs. FHFA has not taken more aggressive action against the nearly 250 local governments in California that are now operating PACE programs. Also, it has not taken action against the 20,000+ California homeowners that have PACE assessments on their properties.

It is important to note that FHFA did not question the right of state and local governments to place valid assessments on properties. California has more than 4,700 special assessment districts – including many that are voluntary like PACE. FHFA hasn't taken issue with any of the other special assessment districts.

Governor Brown and the California Legislature in 2013 passed SB 96, which established a $10 million PACE Loss Reserve that is administered by an agency (he California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) within the Office of the California Treasurer. The California PACE Reserve protects Fannie and Freddie from losses associated with PACE assessments by paying the outstanding PACE assessments in the event of a foreclosure on a home with a PACE assessment. (Note that the amount due in the event of foreclosure is only the amount of the PACE assessment that is in arrears, <u>not</u> the full remaining balance of the PACE assessment.)

The CaliforniaFIRST application discloses clearly the Fannie/Freddie risk to participating homeowners:

> *Before completing a program application, you should carefully review any mortgage agreement(s) or other security instrument(s) that affect the property or to which you as the property owner are a party. Entering into an assessment contract without the consent of your existing lender(s) could constitute an event of default under such agreements or security instruments. Defaulting under an existing mortgage agreement or security instrument could have serious consequences to you, which could include the acceleration of the repayment obligations due under such agreement or security instrument. In addition, Fannie Mae and Freddie Mac, the owner of a significant portion of all home mortgages, stated that they would not purchase home loans with assessments such as those offered by CSCDA. This may mean that property owners who sell or refinance their*

property may be required to prepay such assessments at the time they close their sale or refinancing.

Finally, if FHFA decides to take more aggressive action against PACE programs and the communities that offer them, Contra Costa County can simply opt out of the program and CaliforniaFIRST will cease operations within the County.

The Demand for PACE is Large and Growing. Nearly 20,000 California homeowners have completed projects financed with PACE – totaling more than $350 million in energy efficiency, renewable energy, and water efficiency investments. These investments are estimated to save homeowners more than $500 million on their utility bills over the life of the water and energy improvements. Further, nearly 250 local governments have opted into or are creating their own PACE program – including all the other Bay Area counties, and Los Angeles, San Diego, San Bernardino, Riverside, and Sacramento counties. The point here is not that Contra Costa County should opt into a PACE program because other local governments are doing so, but rather that if FHFA hasn't yet taken more drastic action, it becomes increasingly unlikely that it will take action if local governments throughout California have adopted PACE.

CaliforniaFIRST has robust consumer protections and contractor standards.
The program has strong consumer protections:

- Disclosure of Fannie/Freddie risks and financing costs/terms
- Contractors are registered and monitored
- Contractors must be licensed, bonded and have a good Better Business Bureau rating
- The program verifies that proper local building permits are issued
- The program verifies that only eligible products are installed, e.g. Energy Star rated by U.S. Department of Energy
- The program ensures the project is completed
- The program utilizes an independent, third party to verify quality installation of all products
- The program provides dispute resolution for homeowner and contractor if necessary

A County Application Process for PACE Program Applicants Would Be Unnecessary
There is no need for County staff to conduct its own evaluation of the CaliforniaFIRST PACE Financing program. Such an evaluation would add unnecessary costs and delays to the launch of CaliforniaFIRST in the unincorporated areas of the County. The following points support this position:

- An evaluation of each PACE program where such evaluation would include the factors outlined in the staff report would duplicate the oversight and review tasks already undertaken or currently overseen by California state agencies.

- As a CSCDA-sponsored program, the County can rely on its long history with CSCDA and the $1 billion+ of public infrastructure projects that CSCDA has financed within the County since CSCDA's inception in 1988. The County should be assured of CSCDA's competence and experience.
- CaliforniaFIRST is a participant in CAEATFA's Loss Reserve Program, and thus abides by all of the Program's rules and regulations, and provides regular reports to CAEATFA of its PACAE activities.
- CaliforniaFIRST provides the relevant disclosures pertaining to FHFA risk in the PACE Assessment Contract documentation.
- Renewable Funding can provide the County a supplementary Indemnification Agreement to shield the County from liability concerns.
- No other County or City across the state that has a PACE program in place has required such a study, nor the associated funding of the administrative fees for conducting such a study.
- The CaliforniaFIRST program would not require any new County expenditures to create or manage the program's activities. All program activities are the responsibility of CSCDA, and carried out by Renewable Funding, who serves as CSCDA's Program Administrator for CaliforniaFIRST.
    - The program does create minor administrative costs borne by the County – for the one-time recording of the PACE assessment, and for the collection and disbursement of PACE assessment payments over the term of each PACE contract. These costs are paid by the property owner and are collected through fees included in each PACE contract.