



Agenda

INTERNAL OPERATIONS COMMITTEE

March 9, 2015

2:30 P.M.

651 Pine Street, Room 101, Martinez

Supervisor Karen Mitchoff, Chair

Supervisor John Gioia, Vice Chair

Agenda Items:

Items may be taken out of order based on the business of the day and preference of the Committee

Present: Karen Mitchoff, Chair; John Gioia, Vice Chair

Staff Present: Julie DiMaggio Enea, Staff

Attendees: Jason Crapo, County Building Official
Kate Bieker, Contra Costa Superior Court
Keith Freitas, Airports Manager
Cynthia Belon, Behavior Health Director
Warren Hayes, Health Services Dept.
Jamar Stamps, DCD
Lindy Lavender, District IV Supervisor's Office
Jill Ray, District II Supervisor's Office
Maurice Gunderson
Charles Kreling
Charles Madison
Candace Pereira
Patricia Mantelli Bristow
Stan Baraghin
Connie Spears
Janet Marshall Wilson
Tom Weber, Aviation Advisory Cte
Tyra Wright, CC Assoc of Realtors
Carla Weston, CC Assoc of Realtors
Nick Solis, CC Assoc of Realtors
Fred Weston, CC Assoc of Realtors
Lauren Rettagliata, Mental Health Commission
Theresa Pasquini, Mental Health Commission
Matt Turville, Del Sol Energy
Robert Rogers, District I Supervisor's Office
Heather Schiffman, CC Assoc of Realtors
Lea Bristol, District IV Supervisor's Office
Sharon Madison
Jonathan Kevles, CA First Program Administrator
Eva Perez, HERO Program

Steve Padburg, Solar Universe
Brandon Wilkers
Josh Aldrich, Del Sol Energy

1. Introductions
2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).

No public comment was offered.

- a. CONSIDER approving Record of Action for the February 9, 2015 IOC Meeting, as posted on the County Website.

The Record of Action for the February 9, 2015 Internal Operations Committee meeting, attached hereto, was approved as published on the County website.

AYE: Chair Karen Mitchoff, Vice Chair John Gioia
Passed

Attachments:

IOC Record of Action for 2/9/15

3. APPROVE nomination of Patricia Mantelli Bristow (Byron) to the County seat on the Contra Costa Transportation Authority Citizens Advisory Committee to a four-year term ending on March 31, 2019.

The Committee approved the nomination of Patricia Mantelli Bristow to the County seat on the Contra Costa Transportation Authority Citizens Advisory Committee to a four-year term ending on March 31, 2019 and directed staff to forward the Committee's recommendation to the Board of Supervisors.

AYE: Chair Karen Mitchoff, Vice Chair John Gioia
Passed

Attachments:

DCD Recruitment Material for CCTA CAC

Candidate Application_CCTACAC_Patricia Mantelli Bristow

4. INTERVIEW four candidates and DETERMINE nomination for the At Large #1 seat on the Aviation Advisory Committee, for a three-year term ending on February 28, 2018.

Candidates Elizabeth Clough and Gary Olsen did not appear for the interview. The Committee interviewed candidates Maurice Gunderson and Charles Kreling, and decided to recommend the appointment of Maurice Gunderson to the At Large #1 seat on the Aviation Advisory Committee to a three-year term ending on February 28, 2018, and directed staff to forward its recommendation to the Board of Supervisors.

AYE: Chair Karen Mitchoff, Vice Chair John Gioia
Passed

Attachments:

Candidate Application_Elizabeth Clough_AAC
Candidate Application_Maurice Gunderson_AAC
Candidate Application_Charles Kreling_AAC
Resume_Charles Kreling
Candidate Application_Gary Olsen_AAC

5. The potentially significant environmental and economic benefits of PACE financing suggest the County may want to consider participating in such programs. However, ongoing efforts by FHFA to discourage mortgage lending on residential properties with PACE loans requires that the County act prudently in considering the formation and operation of PACE financing districts.

Should the Board decide to permit PACE financing within the county unincorporated area, each proposal to form a PACE district should be evaluated by County staff to ensure the benefits of PACE financing can be made available while also protecting the interests of the County and the public. Factors such as a PACE program's participation in the State's Loss Reserve Program, disclosure of potential negative impacts to participating property owners resulting from federal regulatory action, and agreement to release the County from liability associated with operation of the program should all be considered as preferred program elements.

To this end, we recommend that entities interested in forming PACE financing districts within the unincorporated area of the county submit an application with their proposal to the Department of Conservation and Development (DCD), which will serve as the central point of contact for applicants and would work closely with other County departments, including County Counsel, the County Auditor-Controller and the County Treasurer Tax-Collector, in the review of applications. Following a satisfactory review of application materials, staff would proceed to develop contracts with program providers to operate PACE programs within the county. Such contracts would be developed in consultation with County Counsel and would include terms requiring that program providers participate in the State's PACE Loss Reserve Program, disclose potential mortgage risk to borrowers resulting from federal regulatory actions, and indemnify the County from claims that may arise from operation of PACE programs within the county. Other conditions may also apply based on staff review of application materials. Following successful negotiation of contracts with PACE providers, staff would submit such contracts to the Board of Supervisors for consideration.

DCD proposes to collect an initial deposit of \$5,000 from each applicant to pay for County staff time and other costs incurred by the County to review an application. Staff may seek additional reimbursement of application processing costs from program providers if such costs exceed the initial \$5,000 application fee deposit. Any portion of the deposit not spent will be returned to the applicant at the conclusion of the application process.

Jason Crapo presented the staff report and concluded that should the Committee and the Board decide to proceed with PACE, then staff recommends contractual agreements that include the following risk mitigation provisions: (1) a requirement to participate in the State's PACE Loss Reserve Program, (2) a requirement that the program disclose to property owners potential financial risks associated with PACE financing, and (3) a requirement that the PACE provider indemnify the County for potential legal claims resulting from the program. Jason noted that the larger PACE providers already comply with these requirements in other jurisdictions.

Supervisor Gioia commented that the PACE programs are voluntary and one of many financing options available to consumers, and that it is important to give residents of the county unincorporated area (est. 50,000-60,000 households) the same opportunities as other county residents. He noted that San Diego County, which is reputed to be fiscally conservative, was comfortable with implementing PACE with California First, HERO, and Fig Tree because there were adequate consumer disclosures. He added that there have been no draws to date from the State's loan loss reserve and that the loan loss reserve program incorporates some underwriting standards. The challenge is to implement a program that ensures that people get proper information when they are making their choices about financing.

Nick Solis commented that FHFA does 90%+ of mortgage lending and, from a real estate practitioner's point of view, there are weaknesses in the PACE programs. He said that none of the risk mitigations under consideration change the fact that a PACE lien takes senior position on the tax bill (the basis for FHFA's objection). He said that the FHFA's warnings that the State's PACE loan loss reserve was inadequate should be taken seriously. He said realtors and lenders "don't know that they don't know" -- that due to time lapse between approval of a PACE lien and the appearance of a PACE lien on tax or title documents, lenders aren't always aware of the existence of a PACE encumbrance when a loan is approved.

Carla Weston commented that PACE is still relatively new and that problems are only now beginning to emerge in counties that were in the forefront of PACE, such as Riverside County. She expressed concern over aggressive marketing or "trolling" to seniors, who may not understand the nuances of PACE financing and may not be in their homes long enough to recoup any of the costs.

Tyra Wright suggested that homeowners of properties with PACE encumbrances should be required to sign indicating that the homeowner is aware of the risks (FHFA) and that proper disclosures will be made to buyers and mortgage lenders.

Jason Crapo clarified for Jonathan Kevles that he is not recommending an competitive RFP (Request for Proposals) process to implement a County PACE program in which only one program is selected but, rather, that the County would receive all applications and evaluate each application on its own merits. He anticipated having multiple PACE providers operating in the County if the Board decided to implement PACE.

David McCord of the Sierra Club spoke in favor of PACE. Steve Padburg of Solar America commented that homeowners want to match the asset life with the financing method. He added that PACE was not just about solar panels but other types of energy and water improvements to reduce energy consumption. His company has added four staff to meet consumer demand.

Eve Perez commented that HERO has over 90% of all PACE projects, estimated at 27,000 projects valued at \$525 million. She stated that of the 2,033 PACE lien holders who sold or refinanced their properties: 55% of those who sold their property successfully transferred the PACE lien to the buyer and 85% of refinances transacted successfully with the PACE lien, despite the FHFA warnings.

Matt Turville commented in favor of PACE and stated that his Brentwood-based solar energy company that operates statewide has hired 14 new employees to meet consumer demand.

Supervisor Gioia commented that PACE will eventually become systemized and with evolution, the County can develop educational materials to inform consumers about opportunities and risks. Heather Schiffman requested that the County put all disclosures about FHFA policies and their potential impacts to PACE borrowers on the County's website to help people understand the risks.

Jason Crapo commented that should PACE continue to prosper, more companies will enter the market and programs may change over time. Consequently, he recommended the use of operating contracts that specify the County's requirements anticipating new entrants into the future market, ensuring the County's requirements are met as long as a program is operating in the county.

Supervisor Mitchoff directed staff to prepare a plan of implementation for recommendation to the Board of Supervisors ideally by the end of April (last April Board meeting is April 21) or as soon as possible thereafter. Staff is to outline a structure and process modeled on Sonoma County and using the contractual agreement and risk mitigation measures recommended in the staff report.

AYE: Chair Karen Mitchoff, Vice Chair John Gioia

Passed

Attachments:

- Attachment A FHFA Statement
- Attachment B Fannie Mae Statement
- Attachment C Program Summary
- Attachment D Letter to Gov. Brown
- Attachment E_FHFA Letter to Santa Clara County Counsel
- Attachment F_SolarCity news article 10-8-14
- Attachment G EMPower Program
- Attachment H_Suspension of Fees for CA PACE Loss Reserve
- Attachment I_Public Comment from Renewable Funding_November 2014
- Attachment J_Pace Industry Response to IOC Request for PACE Information
- Attachment K_CC Assoc of Realtors Response to IOC Request for PACE Information

Attachment L_Email to Bob Campbell re Pace Loss Reserve

Attachment M_Survey on CA Counties re PACE

Attachment N_San Diego County PACE Implementation

Attachment O_Diablo Solar Svcs Ltr of Support for PACE

6. The IOC review the above information and analysis and request the County to clarify the following respective roles pertaining to the MHSA budget process:
 - a. The Board of Supervisors approves the MHSA Three Year Program and Expenditure Plan and yearly Plan Updates.
 - b. The County Administrator's Office provides recommendations to the Board of Supervisors regarding the MHSA Three Year Plan and Updates prepared by the Health Services Department.
 - c. The Mental Health Commission reviews the adopted MHSA Three Year Plan or Update, and makes recommendations to the Behavioral Health Services Director for any revisions. The Mental Health Commission also monitors the implementation of the MHSA Three Year Plan or Update through Program Review reports and monthly Finance Reports as part of its review and evaluation of the community's mental health needs, services facilities, and special problems, and reports to the Board of Supervisors.
 - d. The Consolidated Planning Advisory Workgroup advises the Behavioral Health Services Director regarding prioritized service needs and strategies to meet these needs, and assists the County to implement a comprehensive community program planning process in order to ensure active participation by the community in public mental health planning and evaluation efforts.
 - e. All bodies commissioned by the County to support the above efforts are to abide by the letter and/or intent of the Brown Act to identify and mitigate any potential conflict of interest pertaining to recommendations regarding use of public resources, to include MHSA funds.

Staff framed the issue as "is CPAW functioning effectively or is there a need to have CPAW function differently?"

Supervisor Mitchoff commented that while CPAW is advisory to the Behavioral Health Director and not subject to the Brown Act/Better Government Ordinance, she would like to establish a requirement that CPAW operate in accordance with the Brown Act/Better Government Ordinance. She noted the criticism about the membership of CPAW being weighted towards contractors and service providers, but verified that the actual composition of CPAW is balanced between consumers/family members and services providers.

Warren Hayes clarified that while one or two CPAW members may happen to be members of NAMI, no seats are designated specifically for NAMI. He said that the stakeholders are defined in statute and, based on the stakeholder requirements, 35 seats are currently authorized, of which 22 are currently filled.

Supervisor Mitchoff suggested that the number of seats could be reduced. She asked staff to provide list and number of stakeholder categories so that the IOC can determine the appropriate composition of CPAW at a future IOC meeting.

Theresa Pasquini commented that CPAW was originally formed by combining several other stakeholder groups, which operated more formally than CPAW. The MHC operates in conformance with the Brown Act/ BGO and has two representatives on CPAW. There has been some territorialism between the MHC and CPAW. Some consumer members struggle with the formal process. She said that a goal in this review should be to minimize redundancy between the MHC and CPAW so that members would not have to attend so many meetings.

Lauren Rettagliata commented that 35 is too many people on CPAW and she supports reducing the committee size. She reported that the three-hour meetings are too long and unfocused.

Sharon Madison commented that the CPAW meetings were open to the public but said that at the meeting she attended, committee members were disrespectful to the public when they commented and the paid moderator did not effectively control the meeting. That experience made her concerned about transparency, effectiveness and oversight.

Candace Pereira thinks that the changes to CPAW that IOC is contemplating should adequately address the weaknesses. She commented that some CPAW members serve on the executive committee and multiple subcommittees, and so the same voice is being repeated in every venue instead of many stakeholder voices.

Kate Bieker commented that the Superior Court is a stakeholder and would like to participate in the County's planning and implementation of Laura's Law.

Janet Marshall spoke in support of having CPAW operate under the Brown Act/BGO. She expressed concern about how consumers receive and process complex information and provide written public comment, attached hereto. Supervisor Mitchoff concurred that consumer advocates are needed.

Charles Madison clarified that currently only one member of CPAW is a member of NAMI. He felt that other counties' models should be considered, with the goal that all stakeholders should be represented.

Douglas Dunn offered some recommendations on changes to the CPAW structure: prohibit multiple membership designations per individual, limit the number services contractors and Behavioral Health staff, break up the current Steering and Membership Subcommittees to open up the process.

Supervisor Mitchoff requested staff's recommendations for alternate models at a future IOC meeting. Cynthia Belon indicated that she is open to reconstituting CPAW and reviewing other models; and that this is an opportune time to make other kinds of changes to improve how CPAW functions. Supervisor Mitchoff asked Behavioral Health staff to report back to IOC in 60 days with its findings and recommendations on how to reconstitute CPAW.

AYE: Chair Karen Mitchoff, Vice Chair John Gioia
Passed

Attachments:

Board Order Referral_MHSA

Public Comment Submitted at Meeting

Synopsis of CPAW (Consolidated Planning Advisory Workgroup)

7. The next meeting is currently scheduled for April 13, 2015.

8. Adjourn

The Chair adjourned the meeting at 4:10 p.m.

The Internal Operations Committee will provide reasonable accommodations for persons with disabilities planning to attend Internal Operations Committee meetings. Contact the staff person listed below at least 72 hours before the meeting.

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to a majority of members of the Internal Operations Committee less than 96 hours prior to that meeting are available for public inspection at 651 Pine Street, 10th floor, during normal business hours.

Public comment may be submitted via electronic mail on agenda items at least one full work day prior to the published meeting time.

For Additional Information Contact:

Julie DiMaggio Enea, Committee Staff
Phone (925) 335-1077, Fax (925) 646-1353
julie.enea@cao.cccounty.us



Contra Costa County Board of Supervisors

Subcommittee Report

INTERNAL OPERATIONS COMMITTEE

3.

Meeting Date: 03/09/2015
Subject: NOMINATION TO THE CONTRA COSTA TRANSPORTATION
AUTHORITY CITIZEN ADVISORY COMMITTEE
Submitted For: John Kopchik, Director, Conservation & Development Department
Department: Conservation & Development
Referral No.: IOC 15/5
Referral Name: ADVISORY BODY RECRUITMENT
Presenter: Jamar Stamps **Contact:** Jamar Stamps (925) 674-7832

Referral History:

The Contra Costa Transportation Authority Citizens Advisory Committee (CCTA CAC) reviews transportation issues pertaining to Contra Costa County, advising and providing recommendations to the Transportation Authority's Board. Among other transportation issues the committee will assist the Authority in reviewing the Biennial Growth Management Compliance checklists submitted by local jurisdictions.

The IOC reviews nominations to the County Representative seat. The County's previous citizen appointee, Jeff Altman, resigned in September 2014.

Referral Update:

In September 2014, the Conservation and Development Department advertised a vacancy on the CCTA CAC and received one application. The attached memo contains DCD's recommended appointment.

Recommendation(s)/Next Step(s):

APPROVE nomination of Patricia Mantelli Bristow (Byron) to the County seat on the Contra Costa Transportation Authority Citizens Advisory Committee to a four-year term ending on March 31, 2019.

Fiscal Impact (if any):

No County cost. If authorized, CAC members may be reimbursed by the CCTA for travel expenses incurred to attend meetings.

Attachments

DCD Recruitment Material for CCTA CAC
Candidate Application CCTACAC Patricia Mantelli Bristow

Minutes Attachments

No file(s) attached.



**CONTRA COSTA COUNTY
DEPARTMENT OF CONSERVATION & DEVELOPMENT
30 Muir Road
Martinez, CA 94553
Telephone: 674-7832 Fax: 674-7258**

TO: Members, Board of Supervisors
Members, Municipal Advisory Council

FROM: John Kopchik, Interim Director

By: Jamar Stamps, Planner

Handwritten initials "JS" in a circle.

DATE: September 5, 2014

SUBJECT: **Vacancy on the Citizen Advisory Committee of the Contra Costa
Transportation Authority**

This is to inform you that there is currently a vacancy for County representation on the Citizen Advisory Committee (CAC) of the Contra Costa Transportation Authority (CCTA). The CCTA CAC is comprised of 23 members, 20 of whom are individually appointed by the 20 local governments within Contra Costa (The County, cities and towns); and, three "at-large" members nominated by community-based stakeholder organizations within Contra Costa, and subsequently appointed to the CAC by CCTA. All CAC members serve a four-year term in volunteer capacity.

The Department of Conservation and Development (DCD) is seeking candidates who reside in unincorporated areas to represent the County on the CCTA CAC. Relevant information on the function of the CAC and a copy of the ordinance and by-laws governing the Committee is enclosed for your reference. This information can also be found on the DCD website at <http://www.contracosta.ca.gov/>.

In addition, Contra Costa Television (CCTV) will forward a news release to various daily and weekly newspapers and publications for countywide public advertisement.

DCD is accepting applications until Friday, October 10, 2014. Interested candidates can either apply on line, or download the application and fax the completed form to DCD. Should you have any questions, please contact Jamar Stamps at (925) 674-7832, or via email at jamar.stamps@dcd.cccounty.us.

Enclosures

cc: Clerk of the Board
CAO
GTC Staff
Better Government Ordinance file
J. Cunningham, DCD
A. Bhat, DCD

Call for a County Representative
Citizen Advisory Committee of the County's Transportation Authority

Contra Costa County seeks a resident from an unincorporated area to fill a vacancy on the Citizen Advisory Committee (CAC) of the Contra Costa Transportation Authority (CCTA). The CAC members serve a four-year term in a volunteer capacity and are eligible to receive travel expenses. The CAC meetings are held at CCTA on the fourth Wednesday of each month at 6:00 p.m. The CCTA offices are located at 2999 Oak Road, Suite 100, Walnut Creek, CA 94597.

The Transportation Authority maintains its standing CAC in order to provide citizen perspective, participation and involvement in CCTA's \$3 billion voter-approved Transportation Expenditure Plan and Growth Management Program. The CAC members have an opportunity to learn about and influence transportation and growth issues within Contra Costa County and in other jurisdictions through scheduled presentation by transportation experts, advocates and CCTA staff.

CCTA CAC is comprised of 23 members, 20 of whom are individually appointed by the 20 local governments within Contra Costa (The County, cities and towns); and, three "at-large" members nominated by community-based stakeholder organizations within Contra Costa, and subsequently appointed to the CAC by CCTA.

The CAC Charter and Bylaws are provided below for your reference. For further information regarding transportation projects and programs, please visit the CCTA website at www.ccta.net.

Should you have any questions, please call (925) 674-7832. To apply for this vacant CAC position, you can fill out the application form online at <http://www.contracosta.ca.gov/> under Departments>Conservation and Development > Committees and Commissions. Alternatively, you can download the application and fax the completed form to the attention of Jamar Stamps at (925) 674-7258. **Interested residents should apply by Friday, October 10, 2014.**

ORDINANCE 06-05
AMENDMENTS TO THE ADMINISTRATIVE CODE REGARDING THE
STRUCTURE, COMPOSITION AND APPOINTMENT OF MEMBERS OF THE
AUTHORITY'S CITIZENS ADVISORY COMMITTEE

AN ORDINANCE amending the Administrative Code regarding the structure, composition and appointment or members of the Authority's Citizens Advisory Committee.

WHEREAS, the Measure C Ordinance as amended establishes the Citizens Advisory Committee (CAC) to serve as the Authority's citizens advisory committee; and

WHEREAS, the Authority has determined that it is necessary and advisable to restructure the CAC to increase community perspective, participation and involvement in Authority policy determination and implementation; and

WHEREAS, at the July 17, 1996 Regular Meeting of the Authority Board, the Board approved and adopted a revised structure, membership and appointment procedure for the CAC (formerly TPAC – the Transportation Partnership Advisory Committee), subject to review and approval of necessary amendments to the Authority's Administrative Code; and

WHEREAS, at the September 18, 1996 Regular Meeting of the Authority Board, Ordinance 96-04, incorporating the recommended structure, membership and appointment procedures for the CAC (formerly TPAC) was duly approved and adopted by the Board, amending Chapter 1, Article IV of the Administrative Code, Section 104.3(b)(1) and (2), excluding section 104.3 (b) (3) & (4), which was referred back to staff for further development; and

WHEREAS, at its October 19, 1996 Regular Meeting of the Authority Board, Ordinance 96-04 (Revision 1) was duly approved and adopted by the Board, including section 104.3 (b)(3) & (4) of Chapter 1, Article IV of the Administrative Code; and

WHEREAS, at the June 21, 2006 Regular Meeting of the Authority Board, Ordinance 06-01 was duly approved and adopted by the Board, Amending and Restating Sales Tax Ordinance 88-01, as Amended, to Make Non-Substantive Changes and Conform to Existing Conditions, among which changes included changing the name of the Authority's citizen advisory committee from the TPAC to the CAC; and

WHEREAS, at its meeting on September 27, 2006, the CAC has reviewed and unanimously approved proposed bylaws to govern the CAC's operations; and

WHEREAS, it is necessary and advisable to further amend the Administrative Code to reflect revisions to the Authority citizen advisory committee's name structure, composition, and

incorporation of proposed bylaws as recommended to the Board at its October 18, 2006 meeting.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

1. Section 104.3, subdivision (b) of Article IV of Chapter 1 of the Administrative Code is amended to read in full as follows:
 - (b) **Citizens Advisory Committee.** The CAC is a citizens' advisory committee to the Authority. The purpose of the citizens' advisory committee is to provide citizen perspective, participation and involvement in Authority policy development and implementation.
 - (1) Membership. Each of the Cities and the County shall appoint one member to the CAC. In addition, three (3) members shall be appointed by the Authority as "at large" members. Members shall be selected to reflect community and business organizations and interests within the County. Members shall not serve in a representative capacity with respect to their appointing authorities.
 - (2) Terms of membership. Members shall be appointed for four (4) year terms. There shall be no limit on the number of consecutive terms which a member may serve. At the discretion of the respective appointing body, CAC members are subject to re-call at anytime.
 - (3) Subcommittees, select committees and ad hoc committees. The CAC may create such subcommittees, select committees and ad hoc committees, and shall fix the membership and duties thereof, as it determines necessary or advisable to carry out its functions. Except as otherwise provided herein, such subcommittees, select committees and ad hoc committees shall be advisory only, and their recommendations and reports shall be made to the CAC.
 - (4) Growth Management Compliance Checklist Review Subcommittee. A Growth Management Compliance Checklist Review subcommittee may be created, and its members appointed from the CAC membership by the full membership of the CAC. The subcommittee, if constituted, shall be charged with responsibility for reviewing and making recommendations to the Authority and any appropriate standing committee of the Authority with respect to Growth Management checklists which have been submitted to the Authority by the Cities and the County in accordance with requirements of Ordinance 88-01 (as amended). In the interest of meeting timetables established by the Authority for review of Growth Management Checklists by the subcommittee, the report and recommendations of the Growth Management Compliance Checklist Review subcommittee may be submitted directly by the subcommittee to the Authority and/or any appropriate Authority standing committee. In such event, the report and recommendation

need not be reviewed or approved by the full membership of the CAC. In the event the full membership of the CAC reviews reports and recommendations made by the subcommittee, such review shall comply with the Authority timetable for review of the Checklists.

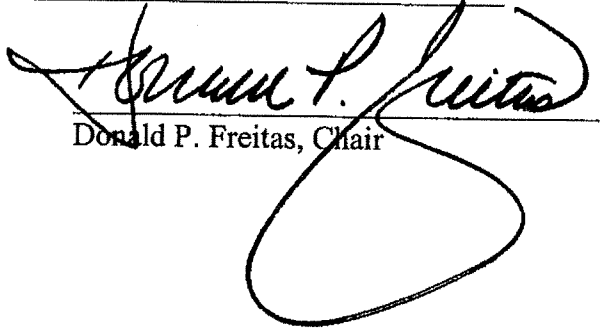
- (5) **CAC Bylaws.** The CAC may develop and adopt bylaws setting forth procedures for meetings, election of officers, attendance requirements, and other matters as necessary to facilitate CAC functions. Initial adoption of the bylaws, and subsequent approval of any amendments to the bylaws, requires a two-thirds (2/3) vote of the CAC members present and voting at any regular meeting of the CAC, and subsequent approval by the full Authority Board.
2. Ordinance 96-04 is hereby rescinded;
3. Ordinance 96-04 (Rev. 1) is hereby rescinded.

Passed and adopted by the Contra Costa Transportation Authority on October 18, 2006, 2006 by the following vote:

Abelson, Abrams, Alegria, Freitas, Gioia, Glover, Hudson,
AYES: Tatzin for Metcalf, Nix, Pierce, Viramontes

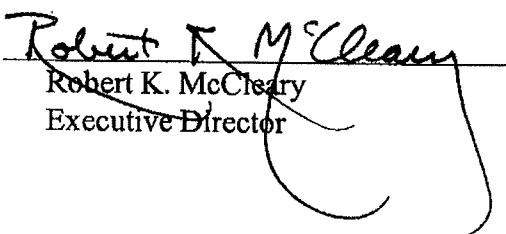
NOES: None

ABSENT: Metcalf


Donald P. Freitas, Chair

This ORDINANCE was entered into at a meeting of the Contra Costa Transportation Authority held on October 18, 2006 and held in Pleasant Hill, California, and became effective forthwith.

Attest:


Robert K. McCleary
Executive Director

**CONTRA COSTA TRANSPORTATION AUTHORITY
CITIZENS ADVISORY COMMITTEE (CAC)**

BYLAWS

November 29, 2006

1.0 NAME AND AUTHORIZATION

The name of this organization shall be the Citizens Advisory Committee (CAC). The CAC was authorized and established pursuant to Ordinance 88-01 as amended.

2.0 PURPOSE

- 2.1. The purpose of the CAC is to provide citizen perspective, participation and involvement in Authority policy development and implementation.
- 2.2. Subject to the direction and concurrence of the Board of Directors of the Contra Costa Transportation Authority (the Authority), the CAC may engage in related activities as appropriate to the discharge of its responsibilities, and bring matters of public concern to the attention of the Authority. The CAC shall identify and educate themselves on transportation issues of regional, countywide, and local concern. The CAC shall report to the Authority on those issues deemed of importance to the CAC. The Authority may also assign issues to the CAC for its review, comment and recommendation.
- 2.3. The CAC shall provide recommendations to the Authority regarding matters of interest and concern to the community.

3.0 MEMBERSHIP

- 3.1. Each of the cities, towns, and the County of Contra Costa shall appoint one member to the CAC. In addition, three (3) members shall be appointed by the Authority as "at large" members. Members shall be selected to reflect community and business organizations and interests within Contra Costa County. Members shall not serve in a representative capacity with respect to their appointing authorities or any specific organization.
- 3.2. At the discretion of the respective appointing body, CAC members are subject to recall at anytime.
- 3.3. Members shall be appointed for four (4) year terms. There shall be no limit on the number of consecutive terms which a member may serve. To assure continuity, membership terms should be staggered and should overlap.
- 3.4. The CAC shall encourage prompt filling of vacancies.
- 3.5. Except as noted in Section 8.0 below, CAC members serve without any compensation.

4.0 OFFICERS

4.1. The Officers of the CAC shall be a Chair and a Vice-Chair. Their duties shall be as follows:

4.1.1. Chair: Presides over CAC meetings; develops the monthly meeting agenda; appoints subcommittees and subcommittee chairs; and reports the CAC's actions and decisions to the Authority as appropriate.

4.1.2. Vice-Chair: Presides over the CAC meetings in the absence of the Chair; conducts the other duties of the Chair in his/her absence.

4.2. Election of Officers shall be made as follows:

4.2.1. Chair: The Chair's term of office shall be for one calendar year. The Chair shall be elected each year at the last meeting of the calendar year by a majority of the CAC members present and voting, and shall serve until replaced by a newly-elected chair. If the term of appointment of the Chair expires before the year is out, and that member does not seek or accept reappointment, the Vice-Chair will serve as Chair until the following January.

4.2.2. Vice-Chair: This officer shall be elected by a majority of the CAC members present and voting at the last meeting of the calendar year. The term of office shall be for one year. If the term of appointment of the Vice-Chair expires before the year is out and that member does not seek or accept reappointment, the Committee will hold an election for a Vice-Chair to serve out the remainder of the term.

5.0 MEETINGS

5.1. The regular meetings of the CAC are generally scheduled for the fourth Wednesday of each month at 6:30 p.m. in the Authority offices at 3478 Buskirk Avenue, Suite 100, Pleasant Hill, California 94523.

5.2. The CAC meetings and subcommittee meetings are subject to the Brown Act.

5.3. A quorum is defined as a majority of currently appointed members.

5.4. Any member who is absent for four (4) of any twelve (12) regularly scheduled consecutive meetings shall be subject to termination. Any resulting vacancy shall be filled for a new four-year period. There are no provisions for alternates to serve as substitutes for CAC members who are unable to attend a CAC meeting.

5.5. The rules contained within the current edition of Robert's Rules of Order (Newly Revised) shall govern the CAC in all cases to which they are applicable and in which they are not inconsistent with these bylaws, the Authority's Administrative Code, the Authority's Office Procedures Guide, and any special rules of order the CAC may adopt.

6.0 SUBCOMMITTEES

- 6.1. The Chair may establish Subcommittees and Ad Hoc Committees as necessary.
- 6.2. Each subcommittee shall consist of at least three (3) CAC members appointed by the CAC Chair and reappointed annually.
- 6.3. A Growth Management Compliance Checklist Review Subcommittee may be created, and its members appointed from the CAC membership by the CAC Chairperson with the concurrence of the full CAC. The subcommittee, if constituted, shall be charged with responsibility for reviewing and making recommendations to the Authority and any appropriate standing committee of the Authority with respect to Growth Management Checklists which have been submitted to the Authority by the Cities and the County in accordance with requirements of Ordinance 88-01 as amended and the applicable sales tax expenditure plan.
 - 6.3.1. Normally, the subcommittee's recommendations will be forwarded to the full CAC for review and recommendation for approval. In the interest of meeting timetables, however, the report and recommendations of the Growth Management Compliance Checklist Review subcommittee may be submitted directly by the Checklist Review subcommittee to the Authority and/or any appropriate Authority standing committee. In such event, the report and recommendation need not be reviewed or approved by the full membership of CAC.
 - 6.3.2. When the full membership of the CAC reviews reports and recommendations made by the subcommittee, such review shall comply with the Authority timetable for review of the Checklists.
 - 6.3.3. Questions or requests for additional information from a local jurisdiction shall be communicated from the CAC to local staff through Authority staff.

7.0 AMENDMENT OF BYLAWS

Amendment of these bylaws requires a two-thirds (2/3) vote of the CAC members present and voting at any regular meeting of the CAC, and subsequent approval by the full Authority Board.

8.0 REIMBURSEMENT OF TRAVEL EXPENSES

If authorized by the Authority, CAC members will be reimbursed for travel expenses incurred for transportation to and from regular and subcommittee meetings of the CAC. Such reimbursement shall be consistent with the Authority's Administrative Code and Office Procedures Guide. If applicable, payment will be issued quarterly based upon members' signed verification of mileage on a monthly Meeting Attendance Log.

9.0 COMMUNICATIONS AND REPORTING

- 9.1. The primary channel of communication for the CAC shall be through written and oral reports from the Chair of the CAC to the Authority or its standing committee.
- 9.2. Reports from the CAC to the Authority should reflect the consensus of the CAC. If consensus has not been achieved, the Chair shall convey to the Authority that the CAC position reflects a majority vote, and the Chair shall acknowledge and convey minority opinions.
- 9.3. CAC members are encouraged to report back to their appointing Councils or boards on at least an annual basis and more frequently if warranted.

10.0 CONFLICT OF INTEREST

- 10.1. There shall be no monetary gain by members of the CAC as a result of their membership and actions on the CAC.
- 10.2. CAC members shall recuse themselves from discussion and voting on issues in which they might have a financial interest or benefit.

NEWS RELEASE

Contra Costa County Department of Conservation and Development

For Immediate Release: Friday, September 5, 2014

Contact: Jamar Stamps, Department of Conservation and Development (925) 674-7832

Citizen Advisory Committees on Transportation Seeks New Representative

The Contra Costa County Board of Supervisors is seeking one resident to serve on the Citizen Advisory Committee (CAC) as Public Representative on behalf of the County.

The Contra Costa Transportation Authority (CCTA) CAC reviews transportation programs and plans throughout the County with the objective of advising and providing recommendations to the Authority's Board of Directors. The individual selected for this position must live in the unincorporated area of the County and be available to attend committee meetings on the 4th Wednesday of every month at 6:00 p.m. at the CCTA offices in Walnut Creek.

CCTA maintains its standing CAC in order to provide citizen perspective, participation and involvement in the \$3 billion voter-approved Transportation Expenditure Plan and Growth Management Program. The CAC members have an opportunity to learn about and influence transportation and growth issues within Contra Costa County and in other jurisdictions through scheduled presentations by transportation experts, advocates and CCTA staff.

The deadline to apply is Friday, October 10, 2014. To request an application or for more information call (925) 674-7832 or go to the Department of Conservation and Development website at:

<http://www.co.contra-costa.ca.us/>



CONTRA COSTA
**transportation
authority**

Citizens Advisory Committee Application

The Contra Costa Transportation Authority (CCTA) maintains a standing Citizens Advisory Committee (CAC) to provide citizen perspective, participation and involvement in the CCTA's \$3 billion voter-approved Transportation Expenditure Plan and Growth Management Program. The CAC is comprised of 23 members: 20 are appointed by each of the 20 local jurisdictions within Contra Costa (the cities, towns, and the County); three "at-large" members are nominated by community-based stakeholder organizations within Contra Costa, and subsequently appointed to the CAC by CCTA.

To become a member of the CAC, you must reside within the local jurisdiction making the appointment, and your Council or Board must take formal action to confirm your membership on the Committee. At-large members should be residents of Contra Costa.

Meetings are scheduled for the fourth Wednesday of the month at 6:30 p.m. in the CCTA's Walnut Creek offices at 2999 Oak Road, Suite 100. CAC members are appointed to serve for a four-year term without compensation. Members will, however, receive reimbursement for travel expenses to and from the CAC meetings.

For further information regarding transportation projects and programs Contra Costa, please visit the CCTA website at www.ccta.net. To view the CAC Charter and Bylaws, or to download the Word® file for this application, go to <http://www.ccta.net/GEN/downloads.htm>.

This application is for (check one): Local Jurisdiction ☐ At-large member ☐

Name of Appointing Agency/Organization: _____

Name _____

Address _____
Street City Zip Code

Phone _____

E-mail _____ Fax _____

How many years have you lived in Contra Costa County? _____

Are you registered to vote in Contra Costa County? ☐ Yes ☐ No

Education _____

Briefly describe your interest in serving on the Citizens Advisory Committee, citing any relevant volunteer or work experience.

List and briefly describe any participation in volunteer, community or professional organizations that are relevant to your candidacy for the Citizens Advisory Committee.

What is your particular interest in transportation?

I have sufficient time to devote to this responsibility and will attend the required meetings if appointed to the Citizens Advisory Committee.

Applicant's
Signature

Date

INSTRUCTIONS

APPLICANTS: Submit your completed application directly to your city or town of residence or appointing organization.

JURISDICTIONS/STAKEHOLDER ORGANIZATIONS: Following formal action by your Council or Board, please forward a copy of your candidate's application and appointment confirmation letter to:

CAC Staff Liaison – Diane Bodon
Contra Costa County Transportation Authority
2999 Oak Road, Suite 100
Walnut Creek, CA 94597

dbodon@ccta.net
Phone 925-256-4720



CONTRA COSTA
transportation
authority

Citizens Advisory Committee Application

The Contra Costa Transportation Authority (CCTA) maintains a standing Citizens Advisory Committee (CAC) to provide citizen perspective, participation and involvement in the CCTA's \$3 billion voter-approved Transportation Expenditure Plan and Growth Management Program. The CAC is comprised of 23 members: 20 are appointed by each of the 20 local jurisdictions within Contra Costa (the cities, towns, and the County); three "at-large" members are nominated by community-based stakeholder organizations within Contra Costa, and subsequently appointed to the CAC by CCTA.

To become a member of the CAC, you must reside within the local jurisdiction making the appointment, and your Council or Board must take formal action to confirm your membership on the Committee. At-large members should be residents of Contra Costa.

Meetings are scheduled for the fourth Wednesday of the month at 6:00 p.m. in the CCTA's Walnut Creek offices at 2999 Oak Road, Suite 100. CAC members are appointed to serve for a four-year term without compensation. Members will, however, receive reimbursement for travel expenses to and from the CAC meetings.

For further information regarding transportation projects and programs Contra Costa, please visit the CCTA website at www.ccta.net. To view the CAC Charter and Bylaws, or to download the Word® file for this application, go to <http://www.ccta.net/GEN/downloads.htm>.

This application is for (check one): Local Jurisdiction ☐ At-large member ☐

Name of Appointing Agency/Organization: _____

Name			
Address			
	Street	City	Zip Code
Phone			
E-mail		Fax	

Patricia Mantelli Bristow

[Redacted Address]

Byron CA 94514

[Redacted Phone and Fax]

How many years have you lived in Contra Costa County? 66 years

Are you registered to vote in Contra Costa County? ☒ Yes ☐ No

Education

Colorado State University - B.S. and teaching credential - 1970
University of San Francisco - M.A. Organization & Leadership - 1976

Briefly describe your interest in serving on the Citizens Advisory Committee, citing any relevant volunteer or work experience.

I am interested in serving on CAC because of my concern for the traffic issues particularly in East Contra Costa County.

List and briefly describe any participation in volunteer, community or professional organizations that are relevant to your candidacy for the Citizens Advisory Committee.

Bentwood Union School District Foundation board member 1987-2000
John Marsh Historic Trust board member 2004-2011
Union Elementary Board member - present
Byron Community Library President - present
St. Anne Church Development Advisory Panel - present

What is your particular interest in transportation?

I'm very interested in the development of SR 239.

I have sufficient time to devote to this responsibility and will attend the required meetings if appointed to the Citizens Advisory Committee.

Applicant's
Signature

Date

12/12/14





Contra Costa County Board of Supervisors

Subcommittee Report

INTERNAL OPERATIONS COMMITTEE

4.

Meeting Date: 03/09/2015
Subject: CANDIDATE INTERVIEWS FOR AVIATION ADVISORY COMMITTEE
Submitted For: Keith Freitas, Airports Director
Department: Airports
Referral No.: IOC 15/5
Referral Name: ADVISORY BODY RECRUITMENT
Presenter: Keith Freitas **Contact:** Natalie Oleson (844) 359-8687

Referral History:

The Aviation Advisory Committee was established by the Board of Supervisors in 1977. It's current charge is to provide advice and recommendations to the Board of Supervisors on the aviation issues related to the economic viability and security of airports in Contra Costa County and to advance and promote the interests of aviation and protect the general welfare of the people living and working near the airport and the County in general.

The IOC interviews candidates for the two At Large seats on the committee. The At Large #1 seat became vacant when the term expired on February 28, 2015. Seat terms are three years.

Referral Update:

A recruitment conducted by the Airports Department garnered four applications:

- Elizabeth Clough (Byron)
- Maurice Gunderson (Orinda)
- Charles Kreling
- Gary Olsen (Pacheco)

All of the applicants were invited to interview with the IOC today.

Recommendation(s)/Next Step(s):

INTERVIEW four candidates and DETERMINE nomination for the At Large #1 seat on the Aviation Advisory Committee, for a three-year term ending on February 28, 2018.

Fiscal Impact (if any):

None.

Attachments

Candidate Application Elizabeth Clough AAC

Candidate Application Maurice Gunderson AAC

Candidate Application Charles Kreling AAC

Resume Charles Kreling

Candidate Application Gary Olsen AAC

Minutes Attachments

No file(s) attached.



Contra
Costa
County

For Office Use Only

Date Received:

FEB 12 2015

CLERK BOARD OF SUPERVISORS
CONTRA COSTA CO.

For Reviewers Use Only:

Accepted

Rejected

BOARDS, COMMITTEES, AND COMMISSIONS APPLICATION

MAIL OR DELIVER TO:

Contra Costa County
CLERK OF THE BOARD

651 Pine Street, Rm. 106
Martinez, California 94553-1292

PLEASE TYPE OR PRINT IN INK

(Each Position Requires a Separate Application)

BOARD, COMMITTEE OR COMMISSION NAME AND SEAT TITLE YOU ARE APPLYING FOR:

AVIATION ADVISORY COMMITTEE

PRINT EXACT NAME OF BOARD, COMMITTEE, OR COMMISSION

PRINT EXACT SEAT NAME (if applicable)

1. Name: CLOUGH ELIZABETH A
(Last Name) (First Name) (Middle Name)

2. Address: [REDACTED] BYRON CA 94514
(No.) (Street) (Apt.) (City) (State) (Zip Code)

3. Phones: [REDACTED] [REDACTED]
(Home No.) (Work No.) (Cell No.)

4. Email Address: [REDACTED]

5. **EDUCATION:** Check appropriate box if you possess one of the following:

High School Diploma ☐ G.E.D. Certificate ☐ California High School Proficiency Certificate ☐

Give Highest Grade or Educational Level Achieved

Names of colleges / universities attended	Course of Study / Major	Degree Awarded	Units Completed		Degree Type	Date Degree Awarded
			Semester	Quarter		
A) <u>CHICO STATE</u>	<u>B.S. IN NURSING</u>	Yes No <input checked="" type="checkbox"/> <input type="checkbox"/>	<u>9</u>		<u>BS</u>	<u>1968</u>
B) <u>[REDACTED]</u>	<u>[REDACTED]</u>	Yes No <input type="checkbox"/> <input type="checkbox"/>				
C) <u>[REDACTED]</u>	<u>[REDACTED]</u>	Yes No <input type="checkbox"/> <input type="checkbox"/>				
D) Other schools / training completed:	Course Studied	Hours Completed	Certificate Awarded: Yes No <input type="checkbox"/> <input type="checkbox"/>			

6. PLEASE FILL OUT THE FOLLOWING SECTION COMPLETELY. List experience that relates to the qualifications needed to serve on the local appointive body. Begin with your most recent experience. A resume or other supporting documentation may be attached but it may not be used as a substitute for completing this section.

<p>A) Dates (Month, Day, Year)</p> <p>From <u>1967</u> To <u>1970</u></p> <p>Total: Yrs. <u>3</u> Mos. <u> </u></p> <p>Hrs. per week <u>40</u> . Volunteer <input type="checkbox"/></p>	<p>Title</p> <p><u>ENGINEER LT. JG</u></p> <p>Employer's Name and Address</p> <p><u>NAVY</u> <u>NEWPORT R.I.</u> <u>CHARLESTON S.C</u> <u>SAN DIEGO CA</u></p>	<p>Duties Performed</p> <p><u>CHARGE NURSE</u></p>
<p>B) Dates (Month, Day, Year)</p> <p>From <u>1988</u> To <u>2010</u></p> <p>Total: Yrs. <u>22</u> Mos. <u> </u></p> <p>Hrs. per week <u> </u> . Volunteer <input type="checkbox"/></p>	<p>Title</p> <p><u>STAFF RN</u></p> <p>Employer's Name and Address</p> <p><u>SUMMIT</u> <u>MEDICAL CTR</u> <u>OAKLAND, CA</u></p>	<p>Duties Performed</p> <p><u>STAFF AND</u> <u>CHARGE NURSE</u></p>
<p>C) Dates (Month, Day, Year)</p> <p>From <u> </u> To <u> </u></p> <p>Total: Yrs. <u> </u> Mos. <u> </u></p> <p>Hrs. per week <u> </u> . Volunteer <input type="checkbox"/></p>	<p>Title</p> <p><u> </u></p> <p>Employer's Name and Address</p> <p><u> </u></p>	<p>Duties Performed</p> <p><u> </u></p>
<p>D) Dates (Month, Day, Year)</p> <p>From <u> </u> To <u> </u></p> <p>Total: Yrs. <u> </u> Mos. <u> </u></p> <p>Hrs. per week <u> </u> . Volunteer <input type="checkbox"/></p>	<p>Title</p> <p><u> </u></p> <p>Employer's Name and Address</p> <p><u> </u></p>	<p>Duties Performed</p> <p><u> </u></p>

7. How did you learn about this vacancy?

☐ CCC Homepage ☐ Walk-In ☐ Newspaper Advertisement ☐ District Supervisor ☐ Other FRIEND

8. Do you have a Familial or Financial Relationship with a member of the Board of Supervisors? (Please see Board Resolution no. 2011/55, attached): No ☒ Yes ☐

If Yes, please identify the nature of the relationship:

9. Do you have any financial relationships with the County such as grants, contracts, or other economic relations? No ☒ Yes ☐

If Yes, please identify the nature of the relationship:

I CERTIFY that the statements made by me in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge and understand that all information in this application is publically accessible. I understand and agree that misstatements / omissions of material fact may cause forfeiture of my rights to serve on a Board, Committee, or Commission in Contra Costa County.

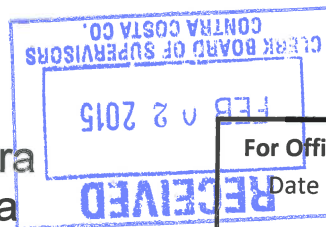
Sign Name:  Date: 12 FEB 2015

Important Information

1. This application is a public document and is subject to the California Public Records Act (CA Gov. Code §6250-6270).
2. Send the completed paper application to the Office of the Clerk of the Board at: **651 Pine Street, Room 106, Martinez, CA 94553.**
3. A résumé or other relevant information may be submitted with this application.
4. All members are required to take the following training: 1) The Brown Act, 2) The Better Government Ordinance, and 3) Ethics Training.
5. Members of boards, commissions, and committees may be required to: 1) file a Statement of Economic Interest Form also known as a Form 700, and 2) complete the State Ethics Training Course as required by AB 1234.
6. Advisory body meetings may be held in various locations and some locations may not be accessible by public transportation.
7. Meeting dates and times are subject to change and may occur up to two days per month.
8. Some boards, committees, or commissions may assign members to subcommittees or work groups which may require an additional commitment of time.



Contra
Costa
County



For Office Use Only

Date Received:

For Reviewers Use Only:

Accepted Rejected

BOARDS, COMMITTEES, AND COMMISSIONS APPLICATION

MAIL OR DELIVER TO:

Contra Costa County
CLERK OF THE BOARD
651 Pine Street, Rm. 106
Martinez, California 94553-1292

PLEASE TYPE OR PRINT IN INK

(Each Position Requires a Separate Application)

BOARD, COMMITTEE OR COMMISSION NAME AND SEAT TITLE YOU ARE APPLYING FOR:

Aviation Advisory Committee

At-Large

PRINT EXACT NAME OF BOARD, COMMITTEE, OR COMMISSION

PRINT EXACT SEAT NAME (if applicable)

1. **Name:** GUNDERSON, Maurice Edward Phillips

(Last Name)

(First Name)

(Middle Name)

2. **Address:** [REDACTED] Orinda, CA 94563

(No.)

(Street)

(Apt.)

(City)

(State)

(Zip Code)

3. **Phones:** [REDACTED]

(Home No.)

(Work No.)

(Cell No.)

4. **Email Address:** [REDACTED]

5. **EDUCATION:** Check appropriate box if you possess one of the following:

High School Diploma ☒ G.E.D. Certificate ☐ California High School Proficiency Certificate ☐

Give Highest Grade or Educational Level Achieved MS and MBA

Names of colleges / universities attended	Course of Study / Major	Degree Awarded	Units Completed		Degree Type	Date Degree Awarded
			Semester	Quarter		
A) Stanford University Graduate School of Business	Corporate Strategy and Management	Yes No <input checked="" type="checkbox"/> <input type="checkbox"/>			MBA	June 1985
B) Oregon State University College of Engineering	Thermodynamics	Yes No <input checked="" type="checkbox"/> <input type="checkbox"/>			MSME	June 1975
C) Oregon State University College of Engineering	Mechanical Engineering	Yes No <input checked="" type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/>	BAME	June 1974
D) Other schools / training completed: Pacific States Aviation	Course Studied Instrument Rating	Hours Completed 40	Certificate Awarded: Yes No <input checked="" type="checkbox"/> <input type="checkbox"/>			

6. PLEASE FILL OUT THE FOLLOWING SECTION COMPLETELY. List experience that relates to the qualifications needed to serve on the local appointive body. Begin with your most recent experience. A resume or other supporting documentation may be attached but it may not be used as a substitute for completing this section.

<p>A) Dates (Month, Day, Year) <u>From</u> <u>To</u> 1992 Present</p> <p>Total: <u>Yrs.</u> <u>Mos.</u> 23 1</p> <p>Hrs. per week <u>40</u> . Volunteer <input type="checkbox"/></p>	<p>Title Managing Member</p> <hr/> <p>Employer's Name and Address Shingebiss LLC PO Box 609 Orinda, CA 94563</p>	<p>Duties Performed Management consulting and real estate management, as well as the holding company for several businesses.</p>
<p>B) Dates (Month, Day, Year) <u>From</u> <u>To</u> 2006 2010</p> <p>Total: <u>Yrs.</u> <u>Mos.</u> 4 0</p> <p>Hrs. per week <u>40</u> . Volunteer <input type="checkbox"/></p>	<p>Title Senior Partner and Venture Partner</p> <hr/> <p>Employer's Name and Address CMEA Capital One Embarcadero Center, Suite 3250 San Francisco, CA 94111</p>	<p>Duties Performed Venture capital investment in the energy industry.</p>
<p>C) Dates (Month, Day, Year) <u>From</u> <u>To</u> 1992 2006</p> <p>Total: <u>Yrs.</u> <u>Mos.</u> 14 2</p> <p>Hrs. per week <u>40</u> . Volunteer <input type="checkbox"/></p>	<p>Title Founder and Managing Director</p> <hr/> <p>Employer's Name and Address Nth Power LLC 50 California Street, Suite 840 San Francisco, CA 94111</p>	<p>Duties Performed Venture capital investment in the energy industry.</p>
<p>D) Dates (Month, Day, Year) <u>From</u> <u>To</u> 2014 Present</p> <p>Total: <u>Yrs.</u> <u>Mos.</u> 0 6</p> <p>Hrs. per week <u>3</u> . Volunteer <input checked="" type="checkbox"/></p>	<p>Title ASN KCCR Volunteer</p> <hr/> <p>Employer's Name and Address Aircraft Owners and Pilots Association (AOPA) 421 Aviation Way Fredrick, MD 21701</p>	<p>Duties Performed Support the airport community at Concord Buchanan Field (KCCR) through the AOPA Airport Support Network.</p>

7. How did you learn about this vacancy?

☐ CCC Homepage ☐ Walk-In ☐ Newspaper Advertisement ☐ District Supervisor ☒ Other Email from airport staff

8. Do you have a Familial or Financial Relationship with a member of the Board of Supervisors? (Please see Board Resolution no. 2011/55, attached): No ☒ Yes ☐

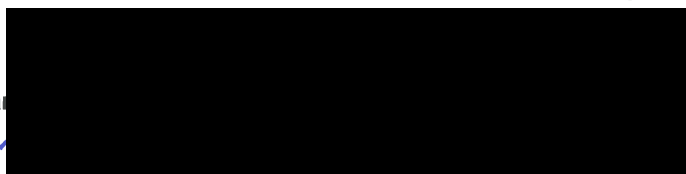
If Yes, please identify the nature of the relationship:

9. Do you have any financial relationships with the County such as grants, contracts, or other economic relations? No ☒ Yes ☐

If Yes, please identify the nature of the relationship:

I CERTIFY that the statements made by me in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge and understand that all information in this application is publically accessible. I understand and agree that misstatements / omissions of material fact may cause forfeiture of my rights to serve on a Board, Committee, or Commission in Contra Costa County.

Sign Name



Date:

January 28, 2015

Important Information

1. This application is a public document and is subject to the California Public Records Act (CA Gov. Code §6250-6270).
2. Send the completed paper application to the Office of the Clerk of the Board at: **651 Pine Street, Room 106, Martinez, CA 94553.**
3. A résumé or other relevant information may be submitted with this application.
4. All members are required to take the following training: 1) The Brown Act, 2) The Better Government Ordinance, and 3) Ethics Training.
5. Members of boards, commissions, and committees may be required to: 1) file a Statement of Economic Interest Form also known as a Form 700, and 2) complete the State Ethics Training Course as required by AB 1234.
6. Advisory body meetings may be held in various locations and some locations may not be accessible by public transportation.
7. Meeting dates and times are subject to change and may occur up to two days per month.
8. Some boards, committees, or commissions may assign members to subcommittees or work groups which may require an additional commitment of time.

Maurice Gunderson, MS, MBA, PE



EDUCATION & PERSONAL DETAILS

MBA	Corporate Strategy & Management	Stanford University	1983 - 1985
MS	Thermodynamics	Oregon State Univ.	1974 - 1975
BA	Mechanical Engineering	Oregon State Univ.	1970 - 1974

Born on Kodiak Island, Alaska Territory, USA, Dec. 10, 1951. Married, no children.
Previously held (during aerospace industry employment) US DOD Top Secret Clearance
Registered Professional Engineer, State of California since 1977
Instrument-rated private pilot and aircraft owner since 1975

HONORS AND AWARDS

Fellow, American Society of Mechanical Engineers (ASME), elected 2014
Board Leadership Fellow, National Association of Corporate Directors, elected 2011
CleanTech Pioneer, CleanTech Venture Network, awarded 2004

VENTURE CAPITAL MANAGEMENT

Mr. Gunderson is one of the Founders of Runway Capital Partners, a venture capital firm dedicated to the aeronautics and astronautics industries. He currently serves as Senior Advisor and Chair of the Investment Committee at Runway.

Mr. Gunderson is also a Senior Advisor at Auto Tech Ventures, a venture capital firm concentrating opportunities in the quickly evolving ground transportation sector.

From 2006 to 2010, Mr. Gunderson was a Venture Partner with CMEA Capital, an early-stage, high-technology venture capital investment firm, with US\$1.2B under management. He helped raise CMEA Fund VII, a \$400M venture fund investing in Information Technology, Life Sciences, and Energy and Materials (E&M). He was responsible for managing relationships with several of CMEA's corporate investors, including Chevron and 3M. Mr. Gunderson developed CMEA's E&M strategy and established the firm's E&M deal flow, which grew to nearly 3000 business plans per year.

Mr. Gunderson lead CMEA's investments in NuScale Power (<http://www.nuscalepower.com/>, scalable modular nuclear power plants), and Contour Energy Systems (<http://www.contourenergy.com/>, fluorine-ion batteries), and served on the Boards of Directors of both companies. Both NuScale and Contour were spin-outs from universities, and he formed the investor syndicates to establish the companies and hired the management teams. Fluor Corporation acquired a majority equity stake in NuScale in 2011.

Previously, Mr. Gunderson was co-Founder of Nth Power LLC, one of the first energy-focused venture capital firms in the world. (www.nthpower.com) He was Managing Director of Nth Power from 1992 to 2006. During his tenure, Nth Power raised four strategic venture funds totaling \$260M, and made investments in over thirty energy technology start-ups. Nth Power's deal flow grew from inception to approximately 500 business plans per year, which at the time was the largest deal flow in the energy technology sector.

Nth Power was founded and built on deep strategic relationships with energy-industry investors. It was through this experience that Mr. Gunderson developed the techniques and programs to involve strategic investors in all phases of the venture investment process. Nth Power's strategic

investors included numerous US and Canadian energy companies, plus ABB, Chevron, Dow Chemical, Emerson Electric, and Electricite de France.

CORPORATE MANAGEMENT AND DIRECTORSHIPS

Mr. Gunderson is a Member of the National Association of Corporate Directors, and is a graduate of NADC's Director Masters Program. His particular governance specialties are in compensation and corporate strategy.

From 2007 to 2014, Mr. Gunderson served as Chairman of the Board of Contour Energy Systems, first representing CMEA, and later as an Independent Director. He also served as Contour's interim CEO in 2012, stabilized the company following the departure of the previous CEO, and lead the company until a permanent CEO was recruited.

Since 2007, Mr. Gunderson has served on the board of directors of Gentherm, Inc. (<http://www.gentherm.com/>) (NASDAQ: THRM), a supplier of heating, cooling and power generation systems for automotive, industrial and military applications. Gentherm has operations in the US, Canada, Germany, Korea, Japan, Ukraine, and China. Mr. Gunderson is Chairman of the Compensation Committee and a Member of the Nominating Committee.

Mr. Gunderson was also a member of the advisory board of Scion-Sprays, Ltd., a UK-based manufacturer of fuel injection and engine management systems for small internal combustion engines. Scion-Sprays supplies engine management systems to large European and Asian motorbike manufacturers, and was acquired by a large European automotive company in early 2012.

PREVIOUS INVESTMENT AND EMPLOYMENT EXPERIENCE

Prior to founding Nth Power, Mr. Gunderson has had numerous previous business and investment interests, as well as a successful engineering career in the aerospace and energy sectors. In summary:

Shingebiss LLC, Orinda, California, Managing Director, 1992-Present
Management consulting and real estate management, as well as the holding company for several businesses.

Edison Systems Corp., So. San Francisco, California, Founder and CEO, 1985 - 1991
Manufacturer of aerospace test equipment.

Airco Cryogenics, div. of BOCI, Irvine, CA, Director, Advanced Technologies, 1980 - 1983
Manufacturer of oil well service equipment and industrial gas systems.

Equity Services, Inc., Fountain Valley, CA, Founder and CEO, 1979 - 1987
Real estate management services company, serving owners of multi-family apartments.

The Everest Fund, LP, Fountain Valley, CA, General Partner, 1982-1999
Gu, Gunderson and Wu, LP, Palos Verdes, CA, General Partner, 1981-2000
Queens Lane Apartments, LP, Anaheim, CA, General Partner, 1980-1986
Cambridge Properties, Anaheim, CA, Proprietor, 1978-1985
El Monaco Apartments, Gardena, CA, Proprietor, 1977-1982
Lincoln Avenue Properties, Corvallis, OR, Proprietor, 1975-1977
Owners and operators of multi-family residential real estate developments.

Kodiak Corporation, Torrance, CA, Founder and CEO, 1977-1983
Designer and manufacturer of vandal-resistant and energy-saving lighting fixtures.

AiResearch Manufacturing Company, Division of Garrett Corp,
(became AlliedSignal, then Honeywell Aerospace), Torrance, CA, Senior Aerospace Systems Engineer, 1977-1980

Manufacturer of aircraft systems and propulsion engines.

CH2M Hill, Corvallis, OR, Control Systems Engineer, 1974-1977 *Consulting engineers.*

Oregon State University School of Engineering, Corvallis, OR
Graduate Teaching Assistant, Thermodynamics and Mechanics of Structures, 1974-1976

RUNWAY CAPITAL PARTNERS

MAURICE GUNDERSON

ORINDA, CA 94563 USA



Contra
Costa
County

For Office Use Only

Date Received:

For Reviewers Use Only:

Accepted

Rejected

BOARDS, COMMITTEES, AND COMMISSIONS APPLICATION

MAIL OR DELIVER TO:

Contra Costa County
CLERK OF THE BOARD
651 Pine Street, Rm. 106
Martinez, California 94553-1292

PLEASE TYPE OR PRINT IN INK

(Each Position Requires a Separate Application)

BOARD, COMMITTEE OR COMMISSION NAME AND SEAT TITLE YOU ARE APPLYING FOR:

PRINT EXACT NAME OF BOARD, COMMITTEE, OR COMMISSION

PRINT EXACT SEAT NAME (if applicable)

1. **Name:** _____
(Last Name) (First Name) (Middle Name)

2. **Address:** _____
(No.) (Street) (Apt.) (City) (State) (Zip Code)

3. **Phones:** _____
(Home No.) (Work No.) (Cell No.)

4. **Email Address:** _____

5. **EDUCATION:** Check appropriate box if you possess one of the following:

High School Diploma ☐ G.E.D. Certificate ☐ California High School Proficiency Certificate ☐

Give Highest Grade or Educational Level Achieved _____

Names of colleges / universities attended	Course of Study / Major	Degree Awarded	Units Completed		Degree Type	Date Degree Awarded
			Semester	Quarter		
A)		Yes No <input type="checkbox"/> <input type="checkbox"/>				
B)		Yes No <input type="checkbox"/> <input type="checkbox"/>				
C)		Yes No <input type="checkbox"/> <input type="checkbox"/>				
D) Other schools / training completed:	Course Studied	Hours Completed	Certificate Awarded: Yes No <input type="checkbox"/> <input type="checkbox"/>			

THIS FORM IS A PUBLIC DOCUMENT

6. **PLEASE FILL OUT THE FOLLOWING SECTION COMPLETELY.** List experience that relates to the qualifications needed to serve on the local appointive body. Begin with your most recent experience. A resume or other supporting documentation may be attached but it may not be used as a substitute for completing this section.

<p>A) Dates (Month, Day, Year) <u>From</u> <u>To</u></p> <p>Total: <u>Yrs.</u> <u>Mos.</u></p> <p>Hrs. per week _____ . Volunteer <input type="checkbox"/></p>	<p>Title</p> <hr/> <p>Employer's Name and Address</p>	<p>Duties Performed</p>
<p>B) Dates (Month, Day, Year) <u>From</u> <u>To</u></p> <p>Total: <u>Yrs.</u> <u>Mos.</u></p> <p>Hrs. per week _____ . Volunteer <input type="checkbox"/></p>	<p>Title</p> <hr/> <p>Employer's Name and Address</p>	<p>Duties Performed</p>
<p>C) Dates (Month, Day, Year) <u>From</u> <u>To</u></p> <p>Total: <u>Yrs.</u> <u>Mos.</u></p> <p>Hrs. per week _____ . Volunteer <input type="checkbox"/></p>	<p>Title</p> <hr/> <p>Employer's Name and Address</p>	<p>Duties Performed</p>
<p>D) Dates (Month, Day, Year) <u>From</u> <u>To</u></p> <p>Total: <u>Yrs.</u> <u>Mos.</u></p> <p>Hrs. per week _____ . Volunteer <input type="checkbox"/></p>	<p>Title</p> <hr/> <p>Employer's Name and Address</p>	<p>Duties Performed</p>

7. How did you learn about this vacancy?

☐ CCC Homepage ☐ Walk-In ☐ Newspaper Advertisement ☐ District Supervisor ☒ Other Email from Airport Staff

8. Do you have a Familial or Financial Relationship with a member of the Board of Supervisors? (Please see Board Resolution no. 2011/55, attached): No ☒ Yes ☐

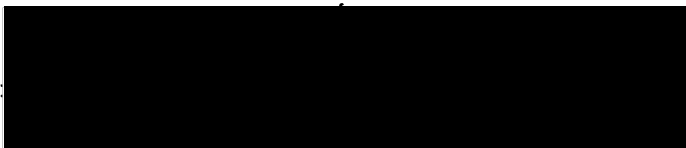
If Yes, please identify the nature of the relationship: _____

9. Do you have any financial relationships with the County such as grants, contracts, or other economic relations? No ☐ Yes ☒

If Yes, please identify the nature of the relationship: Paid small stipend (\$75/meeting) for Merit Board.

I CERTIFY that the statements made by me in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge and understand that all information in this application is publically accessible. I understand and agree that misstatements / omissions of material fact may cause forfeiture of my rights to serve on a Board, Committee, or Commission in Contra Costa County.

Sign Name:



March 2, 2015

Important Information

1. This application is a public document and is subject to the California Public Records Act (CA Gov. Code §6250-6270).
2. Send the completed paper application to the Office of the Clerk of the Board at: **651 Pine Street, Room 106, Martinez, CA 94553.**
3. A résumé or other relevant information may be submitted with this application.
4. All members are required to take the following training: 1) The Brown Act, 2) The Better Government Ordinance, and 3) Ethics Training.
5. Members of boards, commissions, and committees may be required to: 1) file a Statement of Economic Interest Form also known as a Form 700, and 2) complete the State Ethics Training Course as required by AB 1234.
6. Advisory body meetings may be held in various locations and some locations may not be accessible by public transportation.
7. Meeting dates and times are subject to change and may occur up to two days per month.
8. Some boards, committees, or commissions may assign members to subcommittees or work groups which may require an additional commitment of time.

THIS FORM IS A PUBLIC DOCUMENT

**THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA and for
Special Districts, Agencies and Authorities Governed by the Board Adopted Resolution
no. 2011/55 on 2/08/2011 as follows:**

IN THE MATTER OF ADOPTING A POLICY MAKING FAMILY MEMBERS OF THE BOARD OF SUPERVISORS INELIGIBLE FOR APPOINTMENT TO BOARDS, COMMITTEES OR COMMISSIONS FOR WHICH THE BOARD OF SUPERVISORS IS THE APPOINTING AUTHORITY

WHEREAS the Board of Supervisors wishes to avoid the reality or appearance of improper influence or favoritism;
NOW, THEREFORE, BE IT RESOLVED THAT the following policy is hereby adopted:

- I. SCOPE: This policy applies to appointments to any seats on boards, committees or commissions for which the Contra Costa County Board of Supervisors is the appointing authority.
- II. POLICY: A person will not be eligible for appointment if he/she is related to a Board of Supervisors' Member in any of the following relationships:
1. Mother, father, son, and daughter;
 2. Brother, sister, grandmother, grandfather, grandson, and granddaughter;
 3. Great-grandfather, great-grandmother, aunt, uncle, nephew, niece, great-grandson, and great-granddaughter;
 4. First cousin;
 5. Husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepson, and stepdaughter;
 6. Sister-in-law (brother's spouse or spouse's sister), brother-in-law (sister's spouse or spouse's brother), spouse's grandmother, spouse's grandfather, spouse's granddaughter, and spouse's grandson;
 7. Registered domestic partner, pursuant to California Family Code section 297.
 8. The relatives, as defined in 5 and 6 above, for a registered domestic partner.
 9. Any person with whom a Board Member shares a financial interest as defined in the Political Reform Act (Gov't Code §87103, Financial Interest), such as a business partner or business associate.

Accounting/Finance/Audit/Compliance/Information Technology Leader

An experienced compliance and audit professional with a focus on strategy, delivery and improvement of regulatory compliance and internal controls processes and procedures.

High-value combination of business and information technology disciplines.

Highly effective leader focused on prioritization, implementation and attainment of results via team development, coaching, and collaboration across diverse organizations.

Specialties: Executive level leadership, strong technical skills in accounting, finance, internal controls, audit, SOX, compliance, risk management, NAIC Model Audit Rule (MAR), HIPAA Security, Meaningful Use and Information Technology.

Professional Experience

Independent Consultant

2014 - Present

Audit, Compliance, Finance, SOX, Model Audit Rule, HIPAA, IT, SOC2

- Bazell Technologies, Independent – Executive dashboards, Business Planning, IT Strategy.
- Abbyy, Accretive Solutions – HIPAA Security.
- Castlight Health, BVOH – SOC2 policies & procedures.
- GoodData, Accretive Solutions – HIPAA Security/Privacy risk analysis.
- Autodesk, Accretive Solutions – IT SOX, IT Compliance Strategy.
- Prothena, Accretive Solutions – IT SOX.
- Wells Fargo Bank, Accretive Solutions – Loan Portfolio Compliance.

Kaiser Permanente Information Technology

2012 - 2014

Executive Director, HIPAA Security

- Developed and achieved a comprehensive, risk-based strategy for Kaiser's HIPAA Security compliance program.
- Provided leadership, direction, and oversight for technology-related aspects of the HIPAA Omnibus Rule.
- Led compliance with the HIPAA Security Rule ensuring privacy and security of member electronic protected health information (ePHI).
- Collaborated across diverse organizations including information technology and business senior leadership, the National Compliance Office, Internal Audit Services, the SOX PMO, Medical Group leadership, and Finance.
- Combined disparate groups into an integrated team of twenty-four professionals while promoting nine individuals and creating a high performing team.

2007 - 2012

Kaiser Permanente

Executive Director, Sarbanes-Oxley

- Provided strategic leadership to the Company through the SOX Project Management Office (PMO) and facilitation for all key SOX functions: Scoping and Planning, Design, Documentation, Remediation, Testing and Evaluation.
- Led an integrated SOX/NAIC Model Audit Rule (MAR) initiative across all locations and for all business processes to completion for the first time at Kaiser Permanente. Attained the goal of no Material Weaknesses set by the SOX Governance Board.
- Partnered with Ernst & Young (SOX Advisors), KPMG (External Auditor) and multiple business leaders to achieve results through collaboration and teamwork across a diverse and complex organization.
- Subject matter expert on SOX, PCAOB and NAIC Model Audit Rule (MAR) internal controls guidelines for the Company. Authored whitepapers for complex SOX issues.
- Created and implemented a comprehensive, automated risk rating model that determined the testing strategy for the Company.

- Developed the methodology for evaluation of control deficiencies for the Company and presented to senior leadership and the Audit and Compliance Committee.
- Communicated and presented regularly to senior leadership the status and issues related to the project and its outcomes.
- Recruited and developed a high performing team.

Kaiser Permanente**2006 - 2007****Director, SOX Information Systems & Processes**

- Partnered with Senior Leadership (SOX Governance Board, Audit and Compliance Committee) to create meaningful metrics and reporting for internal controls.
- Implemented a national compliance tool (Risk Navigator) enabling tracking, reporting and measurement of internal controls performance.
- Developed and implemented the first integrated executive reporting dashboards for SOX and other compliance areas.
- Hired and led a team of professionals.
- Developed and delivered national training materials and education for regional SOX teams, process leads and key project participants.

Resources Global Professionals**2005 - 2006****Finance / Information Technology Consultant at Kaiser Permanente**

- Provided leadership and solutions for Sarbanes Oxley (SOX) systems architecture and applications leading to efficient project management at the Company's Corporate Program Offices and Northern California regional headquarters.
- Implemented Risk Navigator, an Enterprise Risk Management solution that provides data storage, reporting and accountability services to the entire enterprise wide SOX project.
- Member of key committees creating and deploying SOX project methodologies, plans, training and directions across the organization.

Bazell Technologies Corporation**2002 - 2005****Chief Financial Officer, Chief Technology Officer**

- Managed all accounting, financial reporting, administration, human resources and information technology functions.
- Key strategist in company turnaround from annual losses to profitability through process improvement, cost cutting, and faster, accurate information processing and presentment.
- Created and implemented custom software and database applications that improved productivity of operations and financial activities.
- Successfully managed relationships with banking and credit facilities.
- Led all finance and accounting activities during acquisition due diligence process.

Past Experience**Independent Consultant** – Principal, Finance, Accounting, Information Technology**Telocity** - Senior Director Financial Information Systems**AirTouch Communications** - Director Financial Information Systems**Pacific Bell** - Applications Development Manager / Senior Accounting Manager**Coopers & Lybrand** - Senior Associate, EDP Auditor, Consultant**Arthur Andersen & Co.** - In-Charge Accountant, EDP Auditor

Education and Certifications

Certified Management Accountant (CMA)

Certified HIPAA Professional (CHP)

B.S. Business Administration, University of California Berkeley, Summa Cum Laude, University Certificate of Distinction, University Medal Finalist

Professional and Community Affiliations

Institute of Management Accountants, Past Treasurer, Director of Corporate Relations and Director of Academic Relations

United States Coast Guard Auxiliary, Staff Officer / Instructor, Flotilla 1-9, US Coast Guard Air Station San Francisco

San Francisco Sheriff's Air Squadron, Special Deputy, Pilot, Past Commander

Federal Aviation Administration, Licensed Pilot, Advanced/Instrument Ground Instructor

Contra Costa County Merit Board, Chair (similar to a civil service commission)



Contra
Costa
County

RECEIVED

FEB 12 2015

CLERK BOARD OF SUPERVISORS
CONTRA COSTA CO.

For Office Use Only

Date Received:

For Reviewers Use Only:

Accepted

Rejected

BOARDS, COMMITTEES, AND COMMISSIONS APPLICATION

MAIL OR DELIVER TO:

Contra Costa County
CLERK OF THE BOARD
651 Pine Street, Rm. 106
Martinez, California 94553-1292
PLEASE TYPE OR PRINT IN INK
(Each Position Requires a Separate Application)

BOARD, COMMITTEE OR COMMISSION NAME AND SEAT TITLE YOU ARE APPLYING FOR:

Airport Advisory Committee

PRINT EXACT NAME OF BOARD, COMMITTEE, OR COMMISSION

PRINT EXACT SEAT NAME (if applicable)

1. Name: OLSEN, Gary EDWARD
(Last Name) (First Name) (Middle Name)
-5260
2. Address: [REDACTED] PACHECO, CALIF 94553
(No.) (Street) (Apt.) (City) (State) (Zip Code)
3. Phones: [REDACTED]
(Home No.) (Work No.) (Cell No.)
4. Email Address: [REDACTED]

5. EDUCATION: Check appropriate box if you possess one of the following:

High School Diploma ☒ G.E.D. Certificate ☐ California High School Proficiency Certificate ☐

Give Highest Grade or Educational Level Achieved 15

Names of colleges / universities attended	Course of Study / Major	Degree Awarded Yes No <input checked="" type="checkbox"/> <input type="checkbox"/>	Units Completed		Degree Type	Date Degree Awarded
			Semester	Quarter		
A) DIABLO VALLEY	Building Insp	Yes No <input checked="" type="checkbox"/> <input type="checkbox"/>	45		Cert	
B) OAKLAND CITY	Airport Draft	Yes No <input checked="" type="checkbox"/> <input type="checkbox"/>	45		Cert	
C)		Yes No <input type="checkbox"/> <input type="checkbox"/>				
D) Other schools / training completed:	Course Studied	Hours Completed	Certificate Awarded: Yes No <input type="checkbox"/> <input type="checkbox"/>			
U.S.A.F	Ground Support					

6. PLEASE FILL OUT THE FOLLOWING SECTION COMPLETELY. List experience that relates to the qualifications needed to serve on the local appointive body. Begin with your most recent experience. A resume or other supporting documentation may be attached but it may not be used as a substitute for completing this section.

<p>A) Dates (Month, Day, Year) <u>From</u> <u>To</u> <div>1991</div> <div>2012</div> Total: <u>Yrs.</u> <u>Mos.</u> <div>21</div> <div>6</div> Hrs. per week <u>40</u> . Volunteer <input type="checkbox"/></p>	<p>Title <div>FACILITIES MANAGER</div> Employer's Name and Address <div>FREEDMAN USA 2637 SHADLANDS DR WALNUT CREEK</div></p>	<p>Duties Performed <div>MANAGED PRODUCTION BUILD, INCLUDING SEWER, BUILD JOSP OSHA, EPA</div></p>
<p>B) Dates (Month, Day, Year) <u>From</u> <u>To</u> <div>1977</div> <div>1990</div> Total: <u>Yrs.</u> <u>Mos.</u> <div></div> <div></div> Hrs. per week <div></div> . Volunteer <input type="checkbox"/></p>	<p>Title <div>BUILDING CONTRACTOR</div> Employer's Name and Address <div>SELF EMPLOYED</div></p>	<p>Duties Performed <div>BUILT HOUSING THROUGHOUT CALIF</div></p>
<p>C) Dates (Month, Day, Year) <u>From</u> <u>To</u> <div></div> <div></div> Total: <u>Yrs.</u> <u>Mos.</u> <div></div> <div></div> Hrs. per week <div></div> . Volunteer <input type="checkbox"/></p>	<p>Title <div></div> Employer's Name and Address <div></div></p>	<p>Duties Performed <div></div></p>
<p>D) Dates (Month, Day, Year) <u>From</u> <u>To</u> <div></div> <div></div> Total: <u>Yrs.</u> <u>Mos.</u> <div></div> <div></div> Hrs. per week <div></div> . Volunteer <input type="checkbox"/></p>	<p>Title <div></div> Employer's Name and Address <div></div></p>	<p>Duties Performed <div></div></p>

7. How did you learn about this vacancy?

☐ CCC Homepage ☐ Walk-In ☐ Newspaper Advertisement ☐ District Supervisor ☐ Other E-MAIL

8. Do you have a Familial or Financial Relationship with a member of the Board of Supervisors? (Please see Board Resolution no. 2011/55, attached): No ☒ Yes ☐

If Yes, please identify the nature of the relationship:

9. Do you have any financial relationships with the County such as grants, contracts, or other economic relations? No ☒ Yes ☐

If Yes, please identify the nature of the relationship:

I CERTIFY that the statements made by me in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge and understand that all information in this application is publically accessible. I understand and agree that misstatements / omissions of material fact may cause forfeiture of my rights to serve on a Board, Committee, or Commission in Contra Costa County.

Sign Name

Date:

2-10-2015

Important Information

1. This application is a public document and is subject to the California Public Records Act (CA Gov. Code §6250-6270).
2. Send the completed paper application to the Office of the Clerk of the Board at: 651 Pine Street, Room 106, Martinez, CA 94553.
3. A résumé or other relevant information may be submitted with this application.
4. All members are required to take the following training: 1) The Brown Act, 2) The Better Government Ordinance, and 3) Ethics Training.
5. Members of boards, commissions, and committees may be required to: 1) file a Statement of Economic Interest Form also known as a Form 700, and 2) complete the State Ethics Training Course as required by AB 1234.
6. Advisory body meetings may be held in various locations and some locations may not be accessible by public transportation.
7. Meeting dates and times are subject to change and may occur up to two days per month.
8. Some boards, committees, or commissions may assign members to subcommittees or work groups which may require an additional commitment of time.



Contra Costa County Board of Supervisors

Subcommittee Report

INTERNAL OPERATIONS COMMITTEE

5.

Meeting Date: 03/09/2015

Subject: FOLLOW-UP REPORT ON PROPERTY ASSESSED CLEAN ENERGY (PACE) FINANCING DISTRICTS

Submitted For: John Kopchik, Interim Director, Conservation & Development Department

Department: Conservation & Development

Referral No.: IOC 15/9

Referral Name: PACE Financing Districts

Presenter: Jason Crapo, County Building
Official

Contact: Jason Crapo (925) 674-7722

Referral History:

California law allows cities, counties, and other authorized public agencies to establish voluntary financing districts to facilitate energy and water efficiency improvements to existing residential and commercial properties. Such financing is commonly referred to as Property Assessed Clean Energy (PACE) financing. Once established, property owners within the boundaries of such a district can opt to borrow funds from the district to make energy efficiency improvements, and repay the funds in installments on their property tax bill. PACE financing districts represent a form of lending activity that can generate both environmental and economic benefits to County residents. However, the extent of these benefits is uncertain because PACE financing is relatively new and the degree to which it might be utilized by property owners is unknown. Furthermore, because of regulatory intervention by the federal government to discourage the use of PACE financing, such programs carry potential risks and costs. Therefore, the County should carefully review the design of such programs before authorizing them to become operational.

On June 22, 2010, the Board of Supervisors adopted Resolution No. 2010/331 authorizing the formation of a PACE financing district for the CaliforniaFIRST program, a partnership between a private financial services firm called Renewable Funding and the joint powers authority, California Statewide Communities Development Authority (CSCDA), of which Contra Costa County is a member. CSCDA is a public agency having the legal authority to establish a PACE financing district within the County. Shortly thereafter, however, the Federal Housing Finance Agency (FHFA) issued a statement advising Fannie Mae and Freddie Mac to avoid buying mortgages with PACE assessments and hinted at more drastic actions, such as finding PACE homeowners in default under their mortgages. These actions stalled the development of residential PACE programs throughout most of the State.

Many developments related to clean energy financing have occurred since the Board's resolution to join CaliforniaFIRST in 2010. These developments, which are discussed throughout this report, include:

- regulatory intervention by the federal government with consequential prohibitions and prospective negative actions,
- lawsuits challenging this federal intervention, in which the federal government's right to intervene was upheld,
- changes to State law expanding the authority to form and operate such financing districts,
- the establishment of a State-funded loan loss reserve for PACE loans,
- the emergence of additional firms proposing to operate Clean Energy Financing Districts within the county, and
- the emergence of conventional financing specifically for energy retrofit projects.

In light of the rapidly changing landscape of developments in energy retrofit financing, the Board of Supervisors, on August 14, 2012, referred to the IOC a re-evaluation of establishing PACE financing districts within the county. The matter was taken up by the IOC in December 2012, but as new information became available regarding legal and federal regulatory issues, Supervisor Mitchoff, who introduced the matter to the Board for study, decided to withdraw her committee referral.

Resolution in 2013 of the lawsuit filed by the State of California *et al* vs. FHFA, in favor of the FHFA, and also the establishment by the State of a loan loss reserve for PACE loans, have revived interest in offering PACE lending as an option to residential property owners within the county. The Board on September 9, 2014 referred PACE district financing to the IOC for further study and recommendation, to consider recent developments on this issue.

District Formation and Property Owner Participation

State law allows for the formation of a PACE district either under the Improvement Act of 1911 as amended by AB 811 or the Mello-Roos Community Facilities Districts Act of 1982 as amended by SB 555, for the purpose of financing energy or water efficiency improvements to existing residential and commercial properties. Once established, the district would raise capital either through selling bonds or securing financing from banks or other lenders. The raised capital would be made available to finance energy efficiency improvements on private property. If the County were to establish a PACE district, property owners within the district boundary could voluntarily opt into the district by entering into a contract with the County. By entering into such a contract, a property owner would be able to borrow funds from the district to construct energy or water efficiency improvements. The loan would be repaid in installments collected on property tax bills. If the property owner were to default on the loan, the County would have the authority to foreclose on the property to collect the outstanding balance.

Demand for PACE Financing Uncertain

PACE financing benefits property owners by providing an additional source of capital to fund energy efficiency improvements. Such lending activity also has the potential to produce indirect public benefits that are consistent with County policy objectives. Improved energy efficiency on private property reduces greenhouse gas emissions and the associated negative impacts of climate change, consistent with the County's Climate Action Plan. Construction of energy and water efficiency improvements on private property also stimulates the local economy, expanding employment and increasing tax revenue for the County.

However, the extent to which PACE financing may generate public and private benefits within the County is unknown. PACE is a relatively new financial product, and the market for the services

offered by PACE districts is still evolving. PACE financing is in competition with other established forms of energy efficiency financing, such as equipment leasing and conventional bank lending, that offer competitive financing terms (see examples in Attachments F and G). As the housing market recovers and home owners gain equity in their property, more will qualify for conventional financing, such as an equity line of credit. In light of the uncertain public demand for PACE financing, and the sensitivity of the free market, which is beginning to respond with competitive conventional financing options that do not conflict with FHFA regulations, the County should be judicious in expending its resources to form and operate a PACE program.

Federal Intervention to Regulate Residential PACE

In 2010, soon after the County adopted a resolution to participate in CaliforniaFIRST, the FHFA intervened and took the position that PACE financing represents a form of lending that is detrimental to the mortgage industry, and directed Fannie Mae and Freddie Mac to restrict their purchase of mortgages where PACE districts exist (Attachment A). Fannie Mae and Freddie Mac subsequently stopped purchasing mortgages for properties that had been opted into PACE districts (Attachment B).

The federal government's assertion that PACE financing has an adverse impact on mortgage lenders results from the senior position the PACE lien has over other debts on the property, such as a mortgage or other forms of private lending. The federal government argues that the senior position of a PACE lien undermines the credit value of other debt on a property, such as a mortgage.

FHFA's actions have created negative financial impacts for property owners with PACE loans. Due to FHFA's actions and resulting decisions by Fannie Mae and Freddie Mac to cease purchases of mortgages for properties with PACE liens, home owners have sometimes been required to pay off their PACE loans in order to obtain new mortgage financing on their property, as is typically necessary to sell a home or refinance an existing mortgage. For residential properties, this requirement countervails one of the primary features of PACE financing, which is that the loan obligation attaches to the property rather than the initiating property owner. However, FHFA rules notwithstanding, the PACE industry reports that the banks are permitting the transfer of the PACE lien during sale and refinancing.

In November 2014 we updated the Committee on several new developments:

State and Federal Officials in Continuing Disagreement Regarding PACE

Shortly after FHFA intervened to regulate residential PACE lending in 2010, the State of California and several local jurisdictions, including Sonoma County, litigated against the federal government over its regulatory intervention into this area, arguing that FHFA had not followed the required rulemaking process for establishing such regulation. The State ultimately lost this lawsuit in federal court in 2013.

Failing to overturn FHFA's position in court, the State has subsequently attempted to address FHFA's concerns regarding the negative impacts of PACE on the mortgage industry by establishing a PACE Loss Reserve Program to insure mortgage lenders against financial losses resulting from PACE liens (Attachments C and H). The creation of California's Loss Reserve Program has resulted in renewed interest in residential PACE lending throughout the state. This program represents a positive step by the State to provide appropriate regulation of the emerging PACE industry to ensure basic standards of lending criteria and program effectiveness are being achieved. However, despite these efforts, FHFA remains opposed to residential PACE lending and

continues to prevent Fannie Mae and Freddie Mac from purchasing mortgages on properties with a PACE lien. This position was reiterated in a recent letter from the Director of FHFA to Governor Brown (Attachment D).

The ongoing dispute between the State of California and FHFA places local jurisdictions that implement residential PACE programs and consumers who subordinate their mortgage loan with a PACE loan at risk of potential negative action by FHFA. The magnitude of this risk is unknown. However, FHFA's General Counsel has recently sent letters to county counsels in California, such as the County Counsel for Santa Clara County (Attachment E) requesting that counties participating in PACE disclose the potential adverse implications of PACE loans to property owners.

City Participation in PACE Programs

Most of the PACE lenders do not require formation of a county PACE financing district as a prerequisite for city participation. CaliforniaFirst recently announced that in early 2015 it will, likewise, offer individual cities the option to participate in CaliforniaFirst without participation by the county in which the city is located.

Free Market is Responding

For both the lease and purchase of solar panels for residential properties, other types of private financing are emerging that will be in direct competition with PACE financing (Attachment F). While qualifying for PACE financing is easier than conventional financing, the interest rates for PACE financing are generally 1-2% higher than comparable conventional financing and are repaid in fewer installments and possibly over longer periods of time.

Referral Update:

At the conclusion of our November 2014 report and after public comment and discussion including receipt of written public comment (Attachment I), the Committee asked that this matter be brought back in March 2015 and that the following information be gathered by staff, PACE lenders/administrators, mortgage lenders, and the realtors' association:

1. How many counties and cities have implemented PACE Programs and what are the populations of those jurisdictions? Of the counties that have implemented a PACE program(s), which, if any, are Teeter counties?
2. From the PACE lenders, what is your monitoring and foreclosure process for Teeter counties?
3. With regard to the State's PACE loss reserve, what constitutes a default that is covered by the reserve? Is the lender not being paid or the tax lien not being paid? (This is significant for Teeter counties.)
4. In those counties or cities that obtained indemnification agreements, what did the indemnification cover? In the case of a JPA, who is the indemnifying party?
5. What is the measurable increase in property tax revenue due to the energy efficiency upgrades? Assessor/industry.
6. What problems do mortgage lenders report regarding mortgage sales and refinancing of properties with the PACE liens?
7. Number of PACE loan defaults by implementing jurisdiction and how much was defaulted?
8. What remains of the State of California's PACE loan loss reserve and what is the mechanism to replenish the reserve? Is the fund protected from seizure or the whims of the state budget process?

9. What is the position of the local real estate association boards on PACE financing?
10. What happens when a new buyer doesn't want to assume the PACE lien?
11. What financing alternatives to PACE currently exist for energy efficiency upgrades?
12. How is the property owner protected from being misled or inadequately informed of the possible consequences of PACE financing?
13. How many PACE lienholders were able to sell/refinance since the settlement of the FHFA lawsuit without having to repay the entire PACE loan balance? How many instances have occurred of a buyer withdrawing from a sale or requiring the owner to remove equipment or repay the PACE balance because the buyer refused the PACE upgrade/encumbrance?
14. Is there any evidence that PACE projects actually increase a property's appraised value or, conversely, that a PACE lien has been a hindrance to resale?

A significant amount of written materials, articles, and comments have been received in response to the Committee's November request for additional information. Staff has organized this information as follows:

PACE Programs. CaliforniaFIRST, Figtree, and HERO PACE Programs collaborated to provide the unified response to all of the Committee's questions, representing the PACE financing industry, included as Attachment J. Attachment J includes the following exhibits:

- A: Where is PACE in California as of 1/25/14
- B1: Draft Indemnification Agreement_CA First and City of Concord
- B2: Draft Indemnification Agreement_HERO and City of Antioch
- C: Dec 2014 email from California Alternative Energy and Advanced Transportation Financing Authority indicating no PACE defaults
- D: Energy upgrade financing alternatives comparisons
- E: Consumer protections and Quality Assurance Measures in PACE Programs
- F: Annotated Excerpts from November IOC meeting comments

Contra Costa Association of Realtors. The Contra Costa Association of Realtors collaborated to provide the unified response to Items 6, 9, 10, 13 and 14, contained in Attachment K. Attachment K includes the following exhibits:

- A: American Bankers Association, Consumer Mortgage Coalition, Housing Policy Council of the Financial Services Roundtable, Independent Community Bankers of America and Mortgage Bankers Association – September 13, 2012
- B: Inland Valleys Association of REALTORS® Backgrounder
- C: Statement of Melvin L. Watt Director, FHFA Before the U.S. House of Representatives Committee on Financial Services (ref on page 12 of the statement)– January 27, 2015
- E: Statement of the Federal Housing Finance Agency on Certain Super Priority Liens – December 22, 2014
- F: Two letters to California Governor Brown – May 1, 2014

County Staff: County Auditor-Controller Bob Campbell researched Item 3 and the 1/22/15 email message, included as Attachment L, provides the explanation.

Staff surveyed California counties to determine the current status of PACE programs implemented at the county level. The compilation of survey responses is included as Attachment M for reference.

We received responses from 17 counties, nine of which reported that they had formed PACE

districts and eight of which reported that they had not done so. Of the eight no-PACE respondents, three are currently researching it and one, San Diego County, opted to join statewide PACE districts in lieu of establishing its own. Attachment N contains San Diego County's April 2014 Board documents containing actions to expand that County's existing PACE program participation to include residential properties.

Of the nine responding PACE counties, two -- San Bernardino and Yolo -- reported funding any residential loans as of December 2014. Placer has funded loans but it is unclear whether any of the loans were residential. Note that Sacramento County, which has an active PACE program did not respond to the survey. Administration or processing fees appear not to be of significant concern or issue for the reporting counties. Most of the PACE counties use a third-party administrator to operate the programs and the few that have incurred staff costs either planned for them or recouped those costs through fees. The PACE counties generally were unable to report much in the way of statistics because the programs are so new. No loan defaults were reported. Both Placer and San Bernardino reported that a small percentage (less than 1% for Placer) of PACE loans had to be paid off due to FHFA restrictions. Interest rates ranged from 6-9% depending on the length and type of loan.

Recommendation(s)/Next Step(s):

The potentially significant environmental and economic benefits of PACE financing suggest the County may want to consider participating in such programs. However, ongoing efforts by FHFA to discourage mortgage lending on residential properties with PACE loans requires that the County act prudently in considering the formation and operation of PACE financing districts.

Should the Board decide to permit PACE financing within the county unincorporated area, each proposal to form a PACE district should be evaluated by County staff to ensure the benefits of PACE financing can be made available while also protecting the interests of the County and the public. Factors such as a PACE program's participation in the State's Loss Reserve Program, disclosure of potential negative impacts to participating property owners resulting from federal regulatory action, and agreement to release the County from liability associated with operation of the program should all be considered as preferred program elements.

To this end, we recommend that entities interested in forming PACE financing districts within the unincorporated area of the county submit an application with their proposal to the Department of Conservation and Development (DCD), which will serve as the central point of contact for applicants and would work closely with other County departments, including County Counsel, the County Auditor-Controller and the County Treasurer Tax-Collector, in the review of applications. Following a satisfactory review of application materials, staff would proceed to develop contracts with program providers to operate PACE programs within the county. Such contracts would be developed in consultation with County Counsel and would include terms requiring that program providers participate in the State's PACE Loss Reserve Program, disclose potential mortgage risk to borrowers resulting from federal regulatory actions, and indemnify the County from claims that may arise from operation of PACE programs within the county. Other conditions may also apply based on staff review of application materials. Following successful negotiation of contracts with PACE providers, staff would submit such contracts to the Board of Supervisors for consideration.

DCD proposes to collect an initial deposit of \$5,000 from each applicant to pay for County staff time and other costs incurred by the County to review an application. Staff may seek additional reimbursement of application processing costs from program providers if such costs exceed the initial \$5,000 application fee deposit. Any portion of the deposit not spent will be returned to the applicant at the conclusion of the application process.

Fiscal Impact (if any):

None at this time, as this report is informational. The staff recommendation anticipates that should the Board want to implement a PACE program(s), County costs would be covered by application review fees.

Attachments

Attachment A FHFA Statement

Attachment B Fannie Mae Statement

Attachment C Program Summary

Attachment D Letter to Gov. Brown

Attachment E FHFA Letter to Santa Clara County Counsel

Attachment F SolarCity news article 10-8-14

Attachment G EMPower Program

Attachment H Suspension of Fees for CA PACE Loss Reserve

Attachment I Public Comment from Renewable Funding November 2014

Attachment J Pace Industry Response to IOC Request for PACE Information

Attachment K CC Assoc of Realtors Response to IOC Request for PACE Information

Attachment L Email to Bob Campbell re Pace Loss Reserve

Attachment M Survey on CA Counties re PACE

Attachment N San Diego County PACE Implementation

Attachment O Diablo Solar Svcs Ltr of Support for PACE

Minutes Attachments

No file(s) attached.

FEDERAL HOUSING FINANCE AGENCY



STATEMENT

For Immediate Release
July 6, 2010

Contact: Corinne Russell (202) 414-6921
Stefanie Mullin (202) 414-6376

FHFA Statement on Certain Energy Retrofit Loan Programs

After careful review and over a year of working with federal and state government agencies, the Federal Housing Finance Agency (FHFA) has determined that certain energy retrofit lending programs present significant safety and soundness concerns that must be addressed by Fannie Mae, Freddie Mac and the Federal Home Loan Banks. Specifically, programs denominated as Property Assessed Clean Energy (PACE) seek to foster lending for retrofits of residential or commercial properties through a county or city's tax assessment regime. Under most of these programs, such loans acquire a priority lien over existing mortgages, though certain states have chosen not to adopt such priority positions for their loans.

First liens established by PACE loans are unlike routine tax assessments and pose unusual and difficult risk management challenges for lenders, servicers and mortgage securities investors. The size and duration of PACE loans exceed typical local tax programs and do not have the traditional community benefits associated with taxing initiatives.

FHFA urged state and local governments to reconsider these programs and continues to call for a pause in such programs so concerns can be addressed. First liens for such loans represent a key alteration of traditional mortgage lending practice. They present significant risk to lenders and secondary market entities, may alter valuations for mortgage-backed securities and are not essential for successful programs to spur energy conservation.

While the first lien position offered in most PACE programs minimizes credit risk for investors funding the programs, it alters traditional lending priorities. Underwriting for PACE programs results in collateral-based lending rather than lending based upon ability-to-pay, the absence of Truth-in-Lending Act and other consumer protections, and uncertainty as to whether the home improvements actually produce meaningful reductions in energy consumption.

Efforts are just underway to develop underwriting and consumer protection standards as well as energy retrofit standards that are critical for homeowners and lenders to understand the risks and rewards of any energy retrofit lending program. However, first liens that disrupt a fragile housing finance market and long-standing lending priorities, the absence of robust underwriting standards to protect homeowners and the lack of energy retrofit standards to assist homeowners, appraisers, inspectors and lenders determine the value of retrofit products combine to raise safety and soundness concerns.

On May 5, 2010, Fannie Mae and Freddie Mac alerted their seller-servicers to gain an understanding of whether there are existing or prospective PACE or PACE-like programs in jurisdictions where they do business, to be aware that programs with first liens run contrary to the Fannie Mae-Freddie Mac Uniform Security Instrument and that the Enterprises would provide additional guidance should the programs move beyond the experimental stage. Those lender letters remain in effect.

Today, FHFA is directing Fannie Mae, Freddie Mac and the Federal Home Loan Banks to undertake the following prudential actions:

1. For any homeowner who obtained a PACE or PACE-like loan with a priority first lien prior to this date, FHFA is directing Fannie Mae and Freddie Mac to waive their Uniform Security Instrument prohibitions against such senior liens.
2. In addressing PACE programs with first liens, Fannie Mae and Freddie Mac should undertake actions that protect their safe and sound operations. These include, but are not limited to:

- Adjusting loan-to-value ratios to reflect the maximum permissible PACE loan amount available to borrowers in PACE jurisdictions;

- Ensuring that loan covenants require approval/consent for any PACE loan;

- Tightening borrower debt-to-income ratios to account for additional obligations associated with possible future PACE loans;

- Ensuring that mortgages on properties in a jurisdiction offering PACE-like programs satisfy all applicable federal and state lending regulations and guidance.

Fannie Mae and Freddie Mac should issue additional guidance as needed.

3. The Federal Home Loan Banks are directed to review their collateral policies in order to assure that pledged collateral is not adversely affected by energy retrofit programs that include first liens.

Nothing in this Statement affects the normal underwriting programs of the regulated entities or their dealings with PACE programs that do not have a senior lien priority. Further, nothing in these directions to the regulated entities affects in any way underwriting related to traditional tax programs, but is focused solely on senior lien PACE lending initiatives.

FHFA recognizes that PACE and PACE-like programs pose additional lending challenges, but also represent serious efforts to reduce energy consumption. FHFA remains committed to working with federal, state, and local government agencies to develop and implement energy retrofit lending programs with appropriate underwriting guidelines and consumer protection standards. FHFA will also continue to encourage the establishment of energy efficiency standards to support such programs.

###

The Federal Housing Finance Agency regulates Fannie Mae, Freddie Mac and the 12 Federal Home Loan Banks. These government-sponsored enterprises provide more than \$5.9 trillion in funding for the U.S. mortgage markets and financial institutions.



Announcement SEL-2010-12

August 31, 2010

Options for Borrowers with a PACE Loan

On July 6, 2010, the Federal Housing Finance Agency (FHFA) issued a statement regarding Property Assessed Clean Energy (PACE) loan programs. PACE loans are made by localities to finance residential energy improvements and are generally repaid through the homeowner's real estate tax bill. In its July 6 statement, FHFA advised that PACE programs that provide for automatic lien priority over mortgage loans pose safety and soundness risk to mortgage investors.

The purpose of this Announcement is to issue additional lender requirements to address these risks, and to issue special instructions regarding Fannie Mae borrowers who obtained PACE loans prior to July 6, 2010. The *Selling Guide* will be updated to incorporate these policy changes at a future date.

Requirements for PACE loans originated prior to July 6, 2010

Fannie Mae is implementing specific requirements for lenders regarding borrowers who obtained PACE loans prior to July 6, 2010. These requirements are intended to address safety and soundness concerns caused by PACE loans originated prior to the issuance of statements by FHFA and other banking regulators.

Fannie Mae is waiving the uniform security instrument prohibition against PACE loans with lien priority for whole loans purchased before July 6, 2010 and for loans in an MBS pool with an issue date on or before July 1, 2010.

Additionally, the following requirements apply to borrowers with loans that are owned or securitized by Fannie Mae who seek to refinance and who obtained a PACE loan prior to July 6, 2010. To mitigate the risk posed by PACE obligations that take lien priority over the mortgage, Fannie Mae is requiring that borrowers with sufficient equity pay off the existing PACE obligation as a condition to obtaining a new mortgage loan. If a lender determines that a borrower does not have sufficient equity to pay off the existing PACE obligation, the lender may underwrite the loan as described in the second bullet below. This "waterfall" approach is designed to mitigate Fannie Mae's exposure, while avoiding borrower hardship.

- Lender must first attempt to qualify the borrower for either a cash-out or limited cash-out refinance option, with the PACE loan being paid off as part of the refinance. The prohibition against using the proceeds of a limited cash-out refinance to pay off a loan not used to purchase the property will not apply. (See the *Selling Guide*, B2-1.2-02, Limited Cash-Out Refinance Transactions, for structure and eligibility requirements.)
- If the borrower is unable to qualify for a cash-out or limited cash-out refinance with sufficient proceeds to pay off the PACE loan, the lender may underwrite the loan as a limited cash-out refinance, DU Refi Plus™, or Refi Plus™ loan, as applicable, with the PACE loan remaining in place. In these cases, it will not be necessary to include the PACE loan in the calculation of the combined loan-to-value ratio, however the PACE loan payment must be included in the monthly housing expense calculation.

Note: The PACE loan must be included on the Uniform Residential Loan Application (Form 1003) as an installment debt with the balance and payment reflected. If the PACE loan will not be paid off with the transaction, the payment must be included in the total expense ratio.

Due to the complexity of data entry options for limited cash-out refinance transactions in which the PACE loan is being paid off with mortgage proceeds, these transactions must be manually underwritten.

Requirements for PACE loans originated on or after July 6, 2010
--

Fannie Mae will not purchase mortgage loans secured by properties with an outstanding PACE obligation unless the terms of the PACE program do not permit priority over first mortgage liens.

Lenders are responsible for monitoring state and local law to determine whether a jurisdiction has a PACE program that provides for lien priority.

Fannie Mae supports the need for programs to help homeowners fund energy efficiency improvements, and believes it may be accomplished without altering the lien status of first mortgages. In the event that PACE or similar programs with automatic lien priority proliferate, Fannie Mae will consider further limitations as necessary to address safety and soundness concerns posed by PACE programs, in line with the July 6 FHFA statement. These restrictions may include tightening borrower debt-to-income ratios or loan-to-value ratios in jurisdictions offering such programs.

Effective Date

This Announcement is effective immediately.

Lenders who have questions about this Announcement should contact their Customer Account Team.

John S. Forlines
Vice President
Single-Family Chief Risk Officer



PACE Loss Reserve Program Summary

September 10, 2014

Program Goals

The PACE Loss Reserve Program (the Program) launched in March 2014 to support residential PACE following concerns raised by the Federal Housing Financing Agency (FHFA) regarding the potential risks PACE financing may pose to first mortgage holders. The Program is intended to mitigate potential risk to first mortgage lenders by making them whole for losses incurred due to the existence of a first-priority PACE lien on a property during a foreclosure or forced sale.

In communications with CAEATFA, FHFA has indicated that the Program does not address all of its concerns and that it retains its position regarding the first-priority lien structure inherent to PACE. CAEATFA will continue to operate the reserve as a first-step in addressing any risks to first mortgage lenders associated with PACE. During this time, CAEATFA will also collect necessary data on the performance of PACE financing over time to better understand the actual risk to mortgage lenders and inform future best practices and standards for residential PACE financing.

Function of the Reserve

The PACE Loss Reserve (the Reserve) makes first mortgage lenders whole for any direct losses incurred due to the existence of a PACE lien on a property during a foreclosure or forced sale. The Reserve covers the following losses:

1. PACE payments paid while a first mortgage lender is in possession of a foreclosed home.
2. Any losses to the first mortgage lender up to the amount of outstanding PACE assessments in a forced sale for unpaid taxes or special assessments.

PACE administrators submit claims directly to CAEATFA and provide satisfactory evidence of an eligible loss, including but not limited to the loss amount, the name of the first mortgage lender and the date of loss or losses. Payment from the Reserve may be used as a reimbursement to the PACE administrator or as a pass-through to the first mortgage lender.

Coverage of PACE Portfolios by the Reserve

Each eligible financing originated by an enrolled PACE administrator and included in its semi-annual reports may be covered by the Reserve for its full term. Additionally, PACE administrators that applied to the Program on or before June 9, 2014, were allowed to have their entire existing portfolios included under the Reserve to maximize the Program's effectiveness. To allow new PACE programs (created on or after March 10, 2014) to enroll in the Program without delaying their operations, the Reserve also covers financings originated up to 30 days before their enrollment date.

Application to Participate

To enroll in the Program, a PACE administrator must submit an application with the following attachments:

1. The formation documents required pursuant to:
 - a. Streets and Highways Code Sections 5898.20 – 5898.22, and 5898.24; or,

- b. Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code; or,
 - c. For charter cities only: a copy of a resolution or other document adopted by the city's governing board evidencing approval of the PACE Program.
2. If not included in the documentation required in (a) above:
- a. Documents showing that the underwriting criteria listed in Section 10081(b) of the Program regulations are met;
 - b. A detailed description of the PACE Program's transactional activities and costs associated with financing;
 - c. A detailed description of the PACE Program's quality assurance and consumer protection requirements as related to achieving efficiency and clean energy production; and
 - d. A detailed description of any credit enhancement associated with the PACE Program.
3. If the PACE Program is administered by a third-party, the letter described in Section 10087(b) of the Program regulations certifying that the PACE Program has the ability to audit the records of the third-party administrator signed by an appropriate public official.
4. A certificate including the signatures of individuals authorized to sign on behalf of the PACE Program.

Reporting and Administrative Fee

Enrolled PACE programs must report to CAEATFA on the size and status of their portfolios in March and October of each year. Each report includes detailed information on the financings issued during the reporting period. An administrative fee of 0.25% of the total principal value of the financings issued during that period will be assessed. The October report will also include information on the size and value of the cumulative financing portfolio and information on energy and water savings resulting from the funded projects.

Funding Level

The Budget Act of 2013 funded the Program with \$10 million. CAEATFA anticipates the \$10 million will last beyond ten years in most scenarios. Even in very conservative scenarios with high PACE portfolio growth and enrollment and high claim rates, the Reserve is expected to last through the Program's eighth year. After a few years of operation, CAEATFA should have a better understanding of actual PACE portfolio growth, performance and enrollment, as well as claim rates and amounts, which will allow for more precise projections.

For more information on CAEATFA's [PACE Loss Reserve Program](http://www.treasurer.ca.gov/caeatfa/pace/index.asp), visit:

<http://www.treasurer.ca.gov/caeatfa/pace/index.asp>

or call (916) 651-8157.

###



FEDERAL HOUSING FINANCE AGENCY
Office of the Director

May 1, 2014

The Honorable Edmund G. Brown Jr.
Governor, State of California
State Capitol
Sacramento, CA 95814

RE: California Property Assessed Clean Energy Program

Dear Governor Brown:

Thank you for your letter of April 28, 2014 about California's Property Assessed Clean Energy (PACE) program. The Federal Housing Finance Agency's (FHFA) General Counsel has been in touch with your staff, and I appreciate the time and materials they have provided concerning California's PACE program and intentions in creating the Reserve Fund.

I am writing to inform you that FHFA is not prepared to change its position on California's first-lien PACE program and will continue to prohibit the Enterprises from purchasing or refinancing mortgages that are encumbered with first-lien PACE loans. California's PACE program would allow local governments to finance energy-related home improvement projects by placing an assessment on a homeowner's property in a first lien position, resulting in the subordination of an existing Enterprise-backed mortgage to a second lien position. The effect of this is to increase the risks and possibility of losses to the Enterprises. Additionally, because these loans run with the land, the ongoing monthly assessments for PACE loans are passed on to any subsequent property owners – including after a foreclosure or other distressed sale – unless fully paid off beforehand.

In making this determination, FHFA has carefully reviewed the Reserve Fund created by the State of California and, while I appreciate that it is intended to mitigate these increased losses, it fails to offer full loss protection to the Enterprises. The Reserve Fund is not an adequate substitute for Enterprise mortgages maintaining a first lien position and FHFA also has concerns about the Reserve Fund's ongoing sustainability.

Should you wish to discuss this matter further, I would be happy to discuss alternatives to first-lien PACE programs with you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Melvin L. Watt", is written over the "Sincerely," line.

Melvin L. Watt

xc: The Honorable Barbara Boxer
The Honorable Zoe Lofgren



Federal Housing Finance Agency

Constitution Center
400 7th Street, S.W.
Washington, D.C. 20024
Telephone: (202) 649-3800
Facsimile: (202) 649-1071
www.fhfa.gov

August 20, 2014

Orry P. Korb
County Counsel
Office of County Counsel for County of Santa Clara
70 West Hedding Street,
East Wing, 9th Floor
San Jose, CA 95110-1770

RE: PACE Lending

Dear Mr. Korb:

The Federal Housing Finance Agency has been advised that a number of communities in California, including yours, recently announced plans to move forward with programs to approve Property Assessed Clean Energy (PACE) loans with a first lien on residential properties. Consequently, I am writing to remind you that Fannie Mae and Freddie Mac do not purchase mortgages for either home sales or re-financings that are encumbered with first lien PACE (or similar program) loans. This policy has been in place since 2010 and was reaffirmed by FHFA in 2014. The Federal Home Loan Banks, which also are regulated by FHFA, have been directed to protect their interests in the collateral they accept for advances, which could become subject to PACE encumbrances.

FHFA urges your community to inform potential borrowers of the policies of Fannie Mae and Freddie Mac and to provide them the web addresses that homeowners can utilize to determine whether their loan is currently held or guaranteed by one of the Enterprises. These websites are <https://knowyouroptions.com/loanlookup> for Fannie Mae and for Freddie Mac <https://ww3.freddiemac.com/loanlookup/?intcmp=LLT-HPstep1>.

Thank you for your attention in this matter. If you have any questions, you may contact me directly at 202 649 3050.

With all best wishes, I am

Sincerely,

A handwritten signature in black ink, which appears to read "Alfred M. Pollard", is written over a horizontal line.

Alfred M. Pollard
General Counsel



CONTRA COSTA TIMES (<http://www.contracostatimes.com>)

BUSINESS (/BUSINESS)

HOT TOPICS: [I-80 wildfires \(/california/ci_26694187/i-80-wildfires?source=inthenews\)](#)

FIND UNFINDABLE TECH TALENT THROUGH **TALENT BIN BY MONSTER**

FIND BETTER TALENT ►

[Home](#) ► [Business](#) ► [Story](#)



MORE VIDEOS:



SolarCity to offer solar loans to homeowners, which could juice market

By Jonathan Fahey | Associated Press

POSTED: 10/08/2014 08:57:08 AM PDT | UPDATED: NAN YEARS AGO

0 COMMENTS



[\(/portlet/article/html/imageDisplay.jsp?contentItemRelationshipId=6295122\)](http://portlet/article/html/imageDisplay.jsp?contentItemRelationshipId=6295122)

In this undated photo provided by SolarCity, workers install solar panels on the roof of a home. SolarCity will begin offering loans to homeowners for rooftop solar systems, a move that analysts say could reshape the market for rooftop solar and propel its rapid adoption. (AP Photo/Courtesy SolarCity) (Uncredited)

NEW YORK -- SolarCity will begin offering loans to homeowners for solar systems, a move that industry analysts say could reshape the market for rooftop solar and propel its rapid adoption.

Most current rooftop solar deals involve a lease or an agreement to buy power over a period of time, but the company owns the panels. San Mateo-based SolarCity's loan will allow customers to own their systems and still pay less for electricity, a simpler and cheaper prospect.

"The value proposition is becoming clearer and less complicated for consumers," says Patrick Jobin, an analyst at Credit Suisse. "Solar is going mainstream."

Other solar companies have begun to offer loans in recent months, but SolarCity is the nation's biggest installer, and its loan has a twist that may convince reluctant customers to sign up: The customer pays the loan back based only on the electricity that the panels produce.

The growth of rooftop solar has been propelled by financing schemes that allow customers to have solar panels installed for little or no money down. The solar company installs the system, and

GREEN ENERGY
([HTTP://WWW.MERCURYNEWS.COM](http://www.mercurynews.com/green-energy)
/GREEN-ENERGY)

■ [Alternative energy, cleantech and related topics.](http://www.mercurynews.com/green-energy)
(<http://www.mercurynews.com/green-energy>)

customers either lease it or enter an agreement to pay for the power over a 20-year period. The combined price that customers pay to the solar company and the electric utility is less than what the customer paid for power without solar panels.

Advertisement

Those plans were rolled out in 2007 and 2008 by SunRun, SolarCity, Sungevity and others. Last year, two-thirds of all solar systems were installed under those types of plans, according to Shayle Kann, senior vice president of GTM Research, an analysis and consulting firm.

But they are more confusing than a loan and some states do not allow third-party ownership of solar panels.

Lyndon Rive, SolarCity's CEO, said in an interview that many customers say they'd rather own, but then sign up for a lease because

it has been the only way to get a system without high upfront costs.

"Ownership is an important factor for our customers," he says.

The company can offer the loans now because it has better access to financing, it can predict the performance of panels well, and it has decreased installation costs dramatically, Rive says.

The loans will be offered at 4.5 percent over 30 years. But customers won't pay a fixed amount every month. Instead, they will pay only for the power the panels produce. If the panels produce more in given month, customers will pay their loan off faster. But because the solar power is cheaper than power from the electric utility, it means the customer's monthly electricity cost would fall further.

If the panels produce less, the customer pays less to SolarCity, and, in theory, will not have to pay the loan off in full. But SolarCity is confident that it can predict the output of the panels over 30 years well enough to ensure the loan will be repaid.

"It takes the production risk of the system off the customer's plate and puts it on Solar City's," Kann says.

Another important factor that could make these loans more attractive is how the federal tax credit for solar will be handled.

With a solar lease, the credit of 30 percent of the cost of the system goes to the solar company or its financiers. With a loan, it goes to the customer. Assuming the customer uses the tax credit, \$9,000 for a \$30,000 system, to help pay down the loan, customer power prices would fall significantly.

For example, Rive calculates that a California solar loan customer would pay the equivalent of 16 cents per kilowatt-hour in the first year, but then the equivalent of 11 to 12 cents in the second year and beyond if the tax credit is used to pay down the loan. The average electricity rate for a California residential customer this year through July was 15.9 cents per kilowatt-hour, according to the Energy Department.

Rive says he expects that by the middle of next year more than half of SolarCity customers will chose to go with a loan instead of a lease.

Walnut Creek Local Guide (<http://mylocal.contracostatimes.com/>)

Featured Businesses

Carpet One Livermore
(<http://mylocal.contracostatimes.com/livermore-CA/house-and-home/home-furnishings/Carpet-One-Livermore-925-455-9210>)
Able Hearth & Home
(<http://mylocal.contracostatimes.com/antioch-CA/house-and-home/household-appliances/Able-Hearth-and-Home-925-586-0378>)
Wilson Property Mgmt
(<http://mylocal.contracostatimes.com/pleasanton-CA/business-services/management-services/Wilson-Property-Mgmt-925-462-1101>)
City of Sacramento
(<http://mylocal.contracostatimes.com/sacramento-CA/community/government-office/City-of-Sacramento-916-264-5011>)
st. Paul's Towers
(<http://mylocal.contracostatimes.com/oakland-CA/travel/travel-tours/st-Pauls-Towers-510-891-8542>)

Find Walnut Creek Attractions

Search for a business

Search by keyword or Zip



Add your business here +
(http://mylocal.contracostatimes.com/#add_business)

Offers and articles from around the Web

ADVERTISEMENT



[30 Child Actors Who Tragically Died Young](#)



[The 40 MPG Cars of 2014](#)



[Martinez arrest records. Who do you know? \[Results could be shocking\]](#)



[14 Benefits Most Seniors Didn't Know They Had](#)

Recommended for You

- ▶ [Barnidge: Helping the severely mentally ill who...](#)
- ▶ [Jahi McMath: Attorney shows video he says...](#)
- ▶ [Richmond looks to earmark \\$15 million to save...](#)
- ▶ [California wildfires: Eastbound I-80 closed, 80...](#)
- ▶ [Alameda: Interest growing over new housing...](#)
- ▶ [Alameda briefs: Blue Angels may bring noise to...](#)

-- SPONSORED LINK --

Out of the Mouths of Constituents,
Candidates Find a Message
(From DailyMe.com)

Powered by
newstogram

- [Article commenting rules of the road \(/opinion/ci_24039589/article-commenting-rules-road\)](#)

AROUND THE WEB

WHAT'S THIS?

The Motley Fool
Please Don't Retire
At 62. Here's Why.

Moneynews
Social Security: How
To Get \$1,000 More a
Month

Fit Mom Daily
Controversial "Skinny
Pill" Sweeps the
Nation

Lifefactopia
How New iPads are
Selling for Under \$40

ALSO ON CONTRACOSTATIMES

Purdy: Giants take advantage of Nationals' inexperience 1 comment

Rodeo-Hercules fire district candidates differ widely on pay, resource deployment 1 comment

Danville: I-680 lanes closed after debris causes dozens of flat tires 2 comments

Raiders quarterback David Carr expects to play Sunday 1 comment

0 Comments **ContraCostaTimes**

 Login ▾

Sort by Newest ▾

Share  Favorite ★



Start the discussion...

Be the first to comment.

 Subscribe

 Add Disqus to your site

 Privacy

THE BOTTOM LINE

. Video News Feed

After you watch our featured video above, you can enjoy cartoon-shorts starring: David Spade, Julianne Moore, Chris Rock and more!

Sponsored by



Premium Optics

 bearbasin.com

Bay Area's Leading Source For All Birding, Hunting & Sport Optics

CONTRA COSTA TIMES

<http://www.contracostatimes.com>

Copyright © 2014 Contra Costa Times Copyright (<http://www.contracostatimes.com/copyright>)

Privacy Policy (<http://www.contracostatimes.com/portlet/layout/html/privacypolicy/privacypolicy.jsp?siteId=571>)

Site Map (<http://www.contracostatimes.com/site-map>)

MNG Corporate (<http://www.medianewsgroup.com/Pages/default.aspx>)

emPower Central Coast Program Information

This program was initially developed by the County of Santa Barbara to help homeowners countywide overcome obstacles to making energy saving improvements to their homes. Now they are also partnering with the Counties of San Luis Obispo and Ventura to offer program services throughout the Tri County region. By making home upgrade projects easier and more affordable through incentives, financing, qualified contractors and expert energy advice, emPower helps homeowners be more comfortable in their homes and lower utility bills. There are several important aspects of this program:

- Free Energy Coach home consultation and assistance throughout your upgrade
- Utility rebates up to \$6,500 to lower project costs
- Lower interest, longer term unsecured loans by local credit unions*
 - Rates starting at 5.90% (fixed, vary based on creditworthiness)
 - Loan size \$1,000-\$25,000
 - Terms up to 15 years
 - No equity or collateral required
 - No pre-payment penalties (can use pre-payment for one-time reamortization)
 - No closing costs or fees
 - Approval time in 1 day or less
- Directory of qualified contractors with advanced skills to get results
- Friendly customer service to answer questions and suggest other useful resources (i.e. tax credits, income qualified programs)
- Community workshops and educational events to help the community learn how energy improvements can help them



Big community impact with little public investment

By offering \$3M in credit enhancements to local credit unions for home energy financing, Santa Barbara County created tens of millions of dollars in value for Santa Barbara, Ventura and San Luis Obispo Counties, while achieving lasting outcomes for homeowners, the local economy and environment.

Why does a local credit enhancement (CE) financing program make sense?

A Better Financing Option for Homeowners

Through a partnership with CoastHills Federal Credit Union and Ventura County Credit Union, emPower gives homeowners an affordable way to overcome the upfront cost of energy –saving home improvements. This local partnership provides more attractive terms and rates than otherwise available in the current unsecured financing market.

Long terms: Up to 15 years, with no prepayment penalty

Low rates: Starting at 3.90%

Accessibility: Must have over 590 FICO and meet underwriting criteria. Homeowners can access up to \$25,000 in financing.

Convenience: Unsecured products are quick and easy, with 20 minute pre-approval available 24-7. Participating contractors steward the process, built to be streamlined with utility rebates.

Real outcomes: Energy measurement and project verification enables good choices and real savings.

Leveraging Private Resources

In 2011, the County dedicated \$1 million in federal stimulus grant funds to a loan loss reserve (LLR) available to cover 90% of a default loss, up to 5% of the loan portfolio. In exchange, lending partners agreed to facilitate up to \$20M in unsecured loans for County residents at longer terms and lower rates. In 2014, the program received additional stimulus and ratepayer dollars and expanded the program to Ventura and San Luis Obispo Counties, while piloting an interest rate buy down. The program currently has \$3M in credit enhancements (CE) available to support up to \$56M in emPower loans. Utility incentive programs also add tremendous value through utility rebates and project verification.

Appropriate Roles Support Sustainable Market Transformation

Lenders lend private capital, service loans, hold and transfer CE funds, collect required documentation and track loan performance. The lending partnership offers a valuable opportunity for lenders to do something positive for their local community, create new lines of business, and gain the credibility through County partnership.

Local government identifies lenders, establishes local, customized lending partnership agreement to make the most of public funds, develops effective procedures, and administers critical program delivery functions including customer service, contractor recruitment, training and management, driving demand through extensive outreach and education, and free on-site advising through expert Energy Coaches. The County, as a neutral public agency with a community mission, is well positioned to be a trusted messenger. It also has the proximity to adequately implement a new program. Working with local lenders keeps the investment circulating in the local economy, creating additional stimulus.

Contractors complete sales, perform testing and install upgrades. Participating contractors enjoy the credibility of County and utility program qualification and marketing to drive demand their way, meaning more work and more local jobs.

Utilities determine appropriate energy efficiency measures and metrics, administer quality control and project verification, and pay a rebate to homeowners based on savings.

More Than Just a Loan

It is important to note that effective financing programs involve far more than just financing products. Loan products must be connected to programmatic infrastructure that can establish eligible measures, verify projects, calculate energy and loan data, and drive demand through marketing and contractor engagement efforts.

An Opportunity to Prove a Concept and Scale Up

By spreading out upfront costs, credit enhancement financing programs help address a key obstacle homeowners face when considering energy upgrades to their home. Programs like emPower allow more homeowners to take advantage of the many benefits of home performance, thereby accelerating progress towards important local, State and national goals related to energy and green economic growth.

While effective, CE programs were not designed as a permanent solution, but rather a first step in phased approach to market transformation. These programs provide a safer opportunity for otherwise hesitant lenders to enter a new market. The experience gained by a sufficient sampling size of participating lenders will produce data that can inform the future of energy efficiency financing. It is hoped that this data will prove that energy efficiency loans are under demand, can result in real energy savings and low default rates, and can therefore perform better than conventional asset classes. If this occurs, it is expected that lenders will no longer need government enticement or subsidy to continue offering energy efficiency financing at favorable terms and rates for consumers, and that other primary lenders will enter the market, spurring natural and healthy competition. It is also expected that secondary markets will become comfortable purchasing energy efficiency loan assets, which is key to scalability.

CE programs have begun to ignite an otherwise stalled market, but it is unlikely that government funds will be available to enhance private credit for every home upgrade in the nation. It is the job of early programs to prove market viability and set the stage for the private sector to offer lasting, attractive, mainstream products without subsidy. If revenue streams are identified, local govts can continue to serve as important leaders and partners in comprehensive program delivery.

emPowering a Lasting Energy Improvement Market

With Credit Enhancements and Credit Unions



emPower
Central Coast

Program Background

- County program designed to help **owners** and **builders** overcome obstacles to improving **existing buildings**
 - County awarded ARRA funding in 2010, program launched in Nov 2011
 - Expanded to Ventura and SLO Counties in 2014 with ARRA and IOU funding
- Goal: to lower **energy** use and create **jobs**
- Vision: a sustainable energy improvement market that can support **efficient, safe and comfortable** buildings throughout the **Central Coast region**

Program Background: Homeowner Services



Incentives
up to \$6,500



Low-interest
unsecured
loans



Qualified
contractors



Personalized
customer support



Community
education



Onsite expert
energy advice

Program Background: Contractor Services



**Trainings and
enrollment**



Mentorship



**Tool lending
library**



**Personalized support
and input**



**Exposure and
lead generation**



**Retrofit
rewards**

Getting Started

- First, let emPower's **Energy Coach** and **Participating Contractors** help you select the best qualifying upgrades for your home
- The emPower advantage:
 - An **Energy Coach** site visit is free
 - **Participating Contractors** are specially trained in home efficiency
 - **Participating Contractors** handle all paperwork
 - Eligible upgrades are qualified for incentives and financing



ELIGIBLE UPGRADE OPTIONS	DETAILS	UTILITY INCENTIVES
Home Upgrade	Whole House. Install 3 or more measures. Opt to add solar PV.	Up to \$2,500
Advanced Home Upgrade	Whole House. Install 2 or more measures. Opt to add solar PV.	Up to \$4,500 \$6,500 New!!
Solar Water Heating Upgrade	Use sun's warmth to heat water. Opt to add solar PV.	Up to \$2,719 30% tax credit
SimpleStart Upgrade New!!	Select one or more measures: hvac, insulation, or water heating	Varies by measure

Program Background: Financing

- Rebates aren't always enough to achieve affordability
- Loans must be affordable, accessible and convenient
- Credit enhancements engage lenders in making home energy loans
 - County offers loan loss reserve and interest rate buy down
 - Selected CoastHills and Ventura County Credit Union (leveraging private capital 20:1)



Program Background: Financing

Attributes	emPower loan	HELOC/Refi	Other unsecured
Loan Type	Unsecured	Secured	Unsecured
Starting rate	3.90% (fixed)	3-6% variable	13-30%
Loan size	\$1,000 - 25000	90% Loan to Value	\$5-15,000
Term	15 years	5- 30 years	5 or less
Collateral	None required	Home	None required
Equity required	No	Yes	No
Closing costs	No	Maybe	No
Fees	0	Yes	Maybe
Prepayment penalties	No	Maybe	Maybe
Approval time	1 day or less	3+ weeks	1 day or less
Minimum FICO	590	varies	varies



Loans for home upgrades
 Interest rates starting at **3.9%**
Limited time only...
 For Santa Barbara County homeowners
[Learn more](#)



Program Background: Financing

Combining rebates and low-cost local financing make home energy improvements *affordable*

Enter your information here to calculate your monthly payments:

Total Project Cost	\$ <input type="text" value="20000"/>	Interest Rate	<input type="text" value="3.9"/> %*
Rebates & Cash Down	\$ <input type="text" value="3000"/>	Loan Term	<input type="text" value="180"/>
		months	

Your Results

CALCULATE

Amount Financed	\$17,000.00
Estimated Monthly Payment	\$124.90

Recent Program Enhancements

- **Tri-County expansion (SLO and Ventura) = 315,000 sf homes**
- **Interest buy down to SB County residents (starting at 3.9%)**
- **Progress payment option**
- **Prepayment reamortization option**
- **New Eligible Energy Efficiency Measures**



Home Upgrade Loan Success Story

Ortega family from Santa Maria

Issues in the home:

- House was freezing or boiling hot
- Starting to smell mold and see dry rot
- Air and water coming in through doors
- Leaking, single paned windows didn't close

Obstacles:

- Traditional financing had high interest rates and short terms, or tightened lending restrictions

End results:

- Received \$3,000 utility incentive
- 31.5% model annual energy savings = \$351 monthly cost savings
- Paying \$225/month with emPower Home Upgrade Loan
- Could tackle a larger project instead of “micky mouse” patches and repairs:
 - **Whole House Air Sealing**
 - **Wall Insulation**
 - **Energy Efficient Windows**
 - **Roof & Attic Insulation**
 - **Sealed & Insulated HVAC Duct System**
 - **Insulated Hot Water Pipes**



“All the things we upgraded pointed toward energy efficiency but also solved practical problems. We are believers now. Our home is comfortable instead of being an oven where you just want to escape. So many homes in our area could use the exact same types of upgrades. It’s really a quality of life issue.”

Lessons Learned

- Financing alone is not a silver bullet
- Credit Unions are a good fit
- Market is transforming, but lenders still need subsidy
- Project eligibility is key to volume (i.e. solar only, single measures), but funding constraints limit
- Must measure energy saving to demonstrate program outcomes
- Build ongoing relationships with lenders and contractors
- Contractor cash flow and capacity are still a challenge
- Don't sell loans, solve problems



Make Your Home More Comfortable & Energy Efficient *with* emPower

Incentives & Financing for Home Energy Upgrades

From small improvements to complete home energy upgrades, single-family homeowners can choose from the following upgrade options. Benefits of upgrading include: saving energy and resources, a more comfortable home, and improved indoor air quality. These upgrade options qualify for incentives from your utility provider and low-cost financing through the emPower program:

ELIGIBLE UPGRADE OPTIONS	DETAILS	ELIGIBLE MEASURES	INCENTIVES
Home Upgrade	Whole house. Install 3 or more measures eligible through Home Energy Upgrade program. Point-based incentive. Opt to add solar PV.	HVAC, Water Heaters, Windows, Cool Roofs, Insulation, Air Sealing	\$1,000–\$2,500
Advanced Home Upgrade	Whole house. Install 2 or more measures eligible through Home Energy Upgrade Program. Incentive based on % of modeled energy usage reduced. Opt to add solar PV.	HVAC, Water Heaters, Windows, Cool Roofs, Insulation, Air Sealing	\$1,500–\$6,500
Solar Water Heating Upgrade	Install a solar water heater system eligible through the California Solar Initiatives Solar Thermal program. Opt to add solar PV.	CSI-Thermal Approved Solar Water Heating System	Up to \$2,719 30% tax credit
SimpleStart Upgrade	Select one or more energy efficiency measures eligible for utility rebates.	HVAC, Water Heaters and Insulation	Varies by measure/utility

To learn more visit **emPowerSBC.org**
or call **(805) 568-3566**

LOW-INTEREST LOANS

Starting at **3.9%**
Limited time only!

For SB COUNTY RESIDENTS

See reverse for details...



This Program is funded by California utility ratepayers and administered by Southern California Gas Company, Southern California Edison and Pacific Gas & Electric under the auspices of the California Public Utilities Commission.

Flexible Financing for Your Energy Efficiency Upgrades

Easy, Affordable, Accessible

You've picked your upgrades and know you'll get incentives to reduce the overall cost of your project. But you're struggling to find an affordable way to pay for the rest. emPower low-interest rate financing is specifically designed to help, so you can start your home upgrade project today!

emPower Financing Details



Interest rates
starting at
3.9%*

**Limited time!*
(Rates usually start at 5.9%)

- Interest rates start at 3.9%*
- Financing amounts: \$1,000-\$25,000
- Up to 15-year term
- Type of loan: unsecured
- No home equity or collateral required
- No prepayment penalties, fees or closing costs

Eligibility Requirements

- Single-family detached home
- Property located in Santa Barbara, San Luis Obispo or Ventura County
- Work must be performed by an emPower participating contractor to install an eligible home upgrade project (see reverse for eligible upgrade options)

Lending Partners



How to Make Home Energy Upgrades with emPower



1

Choose
Your
Upgrades



2

Contractor Helps
You Apply for
Utility Incentives
and Financing
(if needed)



3

Install Upgrades



4

Receive Funds
and Enjoy the
Benefits!

Contact us to get started today!

- Find an emPower participating contractor
- Get a free Energy Coach site visit



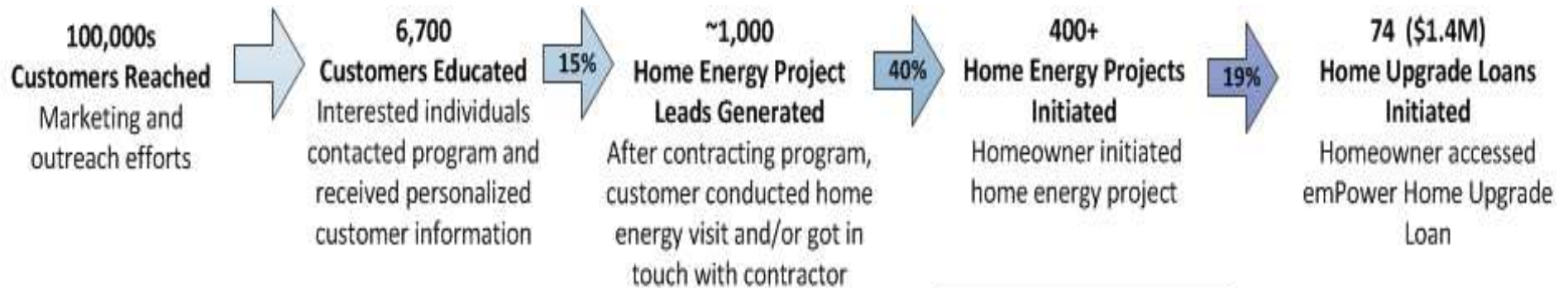
emPower
Santa Barbara County



Contact emPower at (805) 568-3566
or visit www.emPowerSBC.org

Summation of some of the key program outcomes through Sept 2014

(Tri-County Expansion just took place in July 2014)



1,000s
TV/Radio/Web/Print Ads
65
Earned Media Stories
40,000+
Direct Mail Recipients
20,000+
Website visits

370
Emails
646
Calls
661
Program website enrollment
4995
Attendees at 127 Outreach Events

325
Energy Coach Home Visits
~700
Contractor Leads

194
Projects reported "in progress"
88
Projects reported "complete"
47
Projects on hold or cancelled
~75
Other contractor assessments
?? (data NA)
Uncaptured Contractor Retrofits
?? (data NA)
DIY

31 Closed (64% Energy Upgrade)
36 Applications Open, 7 Declined

Subject:

FW: News Release: Treasurer Chiang Suspends Fees for Water and Energy Efficiency Program

Treasurer Chiang Suspends Fees for Water and Energy Efficiency Program

Annual Savings Could Total \$750,000 for Participants

PR15:04

1/21/15

**Contact: Jacob Roper
916-653-2995**

SACRAMENTO – State Treasurer John Chiang today announced the suspension of administrative fees for the Property Assessed Clean Energy (PACE) Loss Reserve Program, which allows California homeowners to finance energy and water efficiency projects through property assessment payments over a five-, 10- or 20-year period.

"This popular program enables homeowners to finance energy-efficient windows, heating and air-conditioning systems, solar power and water conservation measures," Chiang said. "I hope that by cutting fees we will make it more affordable for more Californians to make green investments in their own homes."

The program, which currently supports \$350 million of PACE financing, is part of the State's larger efforts to promote California-based jobs and reduce greenhouse gas emissions while limiting air and water pollution. The fees were cut when the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA), chaired by Chiang, adopted emergency regulations at a meeting Tuesday in Sacramento.

The most active PACE program is the Western Riverside County of Government's Home Energy Renovation Opportunity (HERO) Program, which has enrolled \$189 million in financings. Another \$80 million has been enrolled by a similar program in neighboring San Bernardino County. A complete list of local programs can be found [here](#).

"We in Sonoma County are very pleased that Treasurer Chiang took no time in removing the fees for the CAEATFA loss reserve program. This program protects mortgage lenders from any losses that could result from a PACE assessment," said David Sundstrom, Sonoma County's auditor-controller and treasurer-tax collector. "Removing the fees will help promote energy efficient retrofits and move us toward our goals of reducing greenhouse gas emissions and our dependency on foreign oil."

Previously, the program required participants to pay an administrative fee of one quarter of one percent of the principal value of each enrolled financing, or roughly \$50 for each \$20,000 of financing. Suspension of the program's administrative fee could save enrolled PACE programs and homeowners an estimated \$750,000 annually.

The PACE Loss Reserve program has supported 17,401 financings since its launch. It covers first mortgage lenders for PACE payments paid while the first mortgage lender is in possession of a foreclosed property and losses incurred resulting from PACE assessments being paid before the outstanding balance in a forced sale.

Visit the Treasurer's website to learn more about the [PACE Loss Reserve Program](#).

Read this press release in [Spanish](#).

For more news, please follow the Treasurer on Twitter at [@CalTreasurer](#), and on Facebook at [California State Treasurer's Office](#).

###

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

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 (the 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, not 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.

Submitted January, 26, 2015: Responses to Questions Regarding PACE Financing, Received from Julie Enea, Staff to the Contra Costa County Board of Supervisors' Internal Operations Committee. Responses provided by the following PACE Programs: CaliforniaFIRST, Figtree, and HERO

1. *How many counties and cities have implemented PACE Programs and what are the populations of those jurisdictions? Of the counties that have implemented a PACE program(s), which, if any, are Teeter counties?*

- Statistics are as of January, 2014
- Statewide:
 - There are PACE programs in 320+ jurisdictions, across 41 of California's 58 counties.
 - The total population covered is more than 25 million, which represents over 66% of the state's population.
 - Of the covered jurisdictions, 24 are in unincorporated County areas
 - These figures do not include most of Los Angeles County, whose Board of Supervisors has approved the creation of its own, multi-PACE provider program that would cover all 88 cities in the County as well as the County's unincorporated County areas. That program is expected to launch by summer, 2014. LA County's launch will add another 7.6 million people to the population coverage figures, increasing statewide coverage to well over 80%.
- In Contra Costa County:
 - Eleven cities have one or more active PACE programs covering 67% of the county's population, and 79% of the populations of the incorporated cities. The cities are:
 - Antioch
 - Brentwood
 - Concord
 - Lafayette
 - Martinez
 - Oakley
 - Pittsburg
 - Richmond
 - San Pablo
 - San Ramon
 - Walnut Creek
- See Exhibit "A" for a county-by-county list of jurisdictions that have one or more PACE programs.
- Teeter:
 - According to our research, all counties in the state are Teeter counties, excepting: Alpine, Calaveras, Los Angeles, and Mariposa.

2. *From the PACE lenders, what is your monitoring and foreclosure process for Teeter counties?*

- Note: State law allows counties to remove certain special districts from their Teeter plans, including AB 811 PACE special districts.
- Figtree's Response:
 - In the event of a delinquency PACE programs remove the assessment in question from the secured roll and place it on the unsecured roll. Once placed on the unsecured roll it should no longer be subject to the Teeter Plan and therefore no longer a concern in this regard.

Submitted January, 26, 2015: Responses to Questions Regarding PACE Financing, Received from Julie Enea, Staff to the Contra Costa County Board of Supervisors' Internal Operations Committee. Responses provided by the following PACE Programs: CaliforniaFIRST, Figtree, and HERO

- CaliforniaFIRST Response:
 - The CaliforniaFIRST Program team monitors 1st and 2nd property tax installment payments, and performs an annual review to check for delinquencies. If a property owner is delinquent, the Program will send letters to the property owner requesting that the past due amount be paid and advising the property owner that the property is subject to foreclosure for non-payment. The Program pursues payment on all delinquent accounts, regardless if the jurisdiction has a Teeter Program. In accordance with sections 8830 and 8835 of the Bond Act, the Program has the right to foreclose on the property. However, the mortgage lender will typically step in to ensure that foreclosure does not occur by paying delinquent taxes and, until the property is sold, keeping the property current on incoming tax payment obligations, including the PACE assessment payments. The State's PACE Loss Reserve will make the lender whole for any portion of the property taxes associated with the PACE lien that the mortgage lender paid.
- HERO Response
 - The Western Riverside Council of Governments (WRCOG) monitors 1st installments, 2nd installments and performs an annual review to check for delinquencies. If a property owner is delinquent, WRCOG will send letters to the property owner requesting the past due amount to be paid and advising the property is subject to foreclosure for non-payment. WRCOG pursues payment on all delinquent accounts, regardless if the jurisdiction has a Teeter Program. In accordance with sections 8830 and 8835 of the Bond Act, WRCOG has the right to foreclose on the property. However, the mortgage lender will typically step in to ensure that foreclosure does not occur by paying delinquent taxes and any other taxes until the property is sold - including the PACE lien. The PACE Loss Reserve will make the lender whole for any portion of the property taxes that the mortgage lender paid associated with the PACE lien.

3. *With regard to the State's PACE loss reserve, what constitutes a default that is covered by the reserve? Is the lender not being paid or the tax lien not being paid? (This is significant for Teeter counties.)*

- PACE Liens have accelerated foreclosure provisions. In the event that a property owner does not pay their PACE lien for a year (which would also mean that all other property taxes have not been paid; counties do not accept partial payment of property taxes, nor a partial payment that is earmarked for one or more line items on the property tax bill), the PACE foreclosure process can begin. The mortgage lender will typically step in to ensure that foreclosure does not occur by paying delinquent taxes and any other taxes until the property is sold - including the PACE lien. The PACE Loss Reserve will make the lender whole for any

Submitted January, 26, 2015: Responses to Questions Regarding PACE Financing, Received from Julie Enea, Staff to the Contra Costa County Board of Supervisors' Internal Operations Committee. Responses provided by the following PACE Programs: CaliforniaFIRST, Figtree, and HERO

portion of the property taxes that the mortgage lender paid associated with the PACE lien.

4. *In those counties or cities that obtained indemnification agreements, what did the indemnification cover? In the case of a JPA, who is the indemnifying party?*

- A draft of the CaliforniaFIRST indemnification agreement is provided as Exhibit "B1," and of the HERO indemnification agreement as Exhibit "B2."
- Figtree response:
 - Figtree, on behalf of itself and its JPA the California Enterprise Development Authority, agrees to defend, indemnify and hold harmless the Public Entity, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all actions, suits, proceedings, claims, demands, losses, costs and expenses, including legal costs and attorneys' fees, for injury or damage due to negligence or malfeasance of any type claims as a result of the acts or omissions of Figtree, except for such loss or damage which was caused by the sole negligence or willful misconduct of the Public Entity. This indemnity applies to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitation upon the amount of indemnification to be provided by Figtree.

5. *What is the measurable increase in property tax revenue due to the energy efficiency upgrades? Assessor/industry.*

- The following table provides a summary of three studies, two on solar PV and the other on energy efficiency, which estimate the increase in property value that would result from an energy efficiency upgrade with some form of "green labeling" provided, or a solar PV system installation. These property value gains would result in property tax gains when the properties are sold (per the limits of Proposition 13)

Name of Study and Source	Year Published	Findings
<i><u>Selling Into the Sun</u></i> , Lawrence Berkeley National Laboratory (LBNL) and Adomatis Appraisal Services	2014	Existing homes with PV sell for a premium of \$4.51/watt.
<i><u>Exploring California PV Home Premiums</u></i> , Lawrence Berkeley National Laboratory (LBNL)	2013	For 5KW PV systems that are 5 years old, <u>each kilowatt</u> adds a \$5,495 premium to the sale price. (<i>Study looked at 1,600 homes with PV systems, and 6,140 homes without PV systems.</i>)

Submitted January, 26, 2015: Responses to Questions Regarding PACE Financing, Received from Julie Enea, Staff to the Contra Costa County Board of Supervisors' Internal Operations Committee. Responses provided by the following PACE Programs: CaliforniaFIRST, Figtree, and HERO

Name of Study and Source	Year Published	Findings
<i>The Value of Green Labels in the California Housing Market: An Economic Analysis of the Impact of Green Labeling on the Sales Price of a Home</i> , UC Berkeley, UCLA, and Maastricht University (Netherlands)	2012	A green label adds an average 9% price premium to sale price versus other comparable homes. (Study looked at 1.6 million homes.)

- The size of the average solar system installed in Contra Costa County is 6 KWs (according to the California Solar Initiative database). Using the second study referenced above, the resulting price premium would be \$33,000, which translates to a \$300/per home increase in property tax revenues.
- The estimated median market value of homes in Contra Costa County is now approximately \$469,500. Thus the premium for each Green Labeled home would be \$42,000, which translates to between a \$400/per home increase in property tax revenues.
- If in one year, 0.75% of the single family homes in all of Contra Costa County were to use PACE financing to upgrade their homes to improve energy efficiency, and 0.25% used PACE to install solar PV systems, and 0.05% implemented both kinds of upgrades, the increase in property tax revenues would be about \$800,000 greater, once these homes sold, than if these homes were not to make these upgrades before selling. Over a ten year period, the increase in property tax revenues would be \$8 million.

6. *What problems do mortgage lenders report regarding mortgage sales and refinancing of properties with the PACE liens?*

- The PACE providers have not received any reports from mortgage lenders regarding mortgage sales and refinancing.
- *Sonoma County Experience and Data:* "Sonoma's records also reflect that 98 different lending institutions did not make new financing subject to the PACE lien being paid-off. This indicates that pay-off of the PACE lien is more likely due to buyer preference than due to lender requirement." ([from Placer County staff report, June, 2013, page 4.](#))
- *HERO Program Experience and Data:* Of the 20,197 projects that the HERO Program has financed to date, 2,233 property owners have successfully refinanced or sold their property. According to the data below, 55% of property owners who sold their property transferred the remaining balance of their PACE lien to the new owner. Of those who refinanced, 85% kept the PACE assessment in place (i.e. the mortgage lender did not require that it be paid off). Property owners have the right to pay off their PACE lien should they choose to do so with no pre-payment penalty. Property owners choose to pay off their PACE lien for various reasons, including access to a lower interest rate, receipt of a large tax refund or inheritance, or negotiation with a buyer. Some property owners

Submitted January, 26, 2015: Responses to Questions Regarding PACE Financing, Received from Julie Enea, Staff to the Contra Costa County Board of Supervisors' Internal Operations Committee. Responses provided by the following PACE Programs: CaliforniaFIRST, Figtree, and HERO

opted to pay off their PACE lien during a refinance because the interest rate for the new first mortgage was lower. That's not surprising given that interest rates on first mortgages have been at a historic low over the last few years.

	Properties Sold	Properties Refinanced
Number of Properties	355	1,878
PACE Assessment Not Paid-Off	197 (55%)	1,602 (85%)
PACE Assessments Paid-Off	158 (45%)	276 (15%)

HERO's data show that the vast majority of banks allow the PACE lien to stay on the property during a sale or refinance, including larger banks like Wells Fargo, Bank of America and Citibank. It's clear from the data that no bank has taken a stance against PACE. If a bank were opposed to PACE, they would require EVERY customer with a PACE lien to pay it off during a sale or refinance. This is simply not the case. Property owners are paying off their PACE lien for the reasons mentioned above.

7. *Number of PACE loan defaults by implementing jurisdiction and how much was defaulted?*

- In an email exchange on December 4, 2014 with Noah Proser from CAEATFA (the agency in the California State Treasurer's Office that manages the PACE Loss Reserve Fund), Mr. Proser stated that as of that date, there have been **zero** defaults. A copy of this email exchange is provided in Exhibit "C."

8. *What remains of the State of California's PACE loan loss reserve and what is the mechanism to replenish the reserve? Is the fund protected from seizure or the whims of the state budget process?*

- Given that there have been zero defaults, there has been no draw on the PACE Loss Reserve Program's Fund. It's balance remains at its originally funded amount of \$10 million.
 - The administration of the fund is paid for in part by a fee of 0.25% on each PACE-financed project's costs, thereby not drawing on the Fund to cover such expenses.
- The fund was established by state law. Eliminating the fund is always a possibility, in much the same way that a reduction in the flow of funds from the federal government or the state government to county governments is also always a possibility. That being said, the newly re-elected Governor and the state legislature are highly committed to PACE programs, including the Fund.

9. *What is the position of the local real estate association boards on PACE financing?*
CCAR to provide response.

10. What happens when a new buyer doesn't want to assume the PACE lien?

- When a new buyer does not want to assume the PACE lien, the seller has the option of paying off the full remaining balance of the PACE assessment.
 - In the Figtree, HERO and CaliforniaFIRST programs, there are no pre-payment penalties imposed for taking advantage of the pre-payment option.

11. What financing alternatives to PACE currently exist for energy efficiency upgrades?

- There are numerous ways for a homeowner to pay for an investment that consists of renewable energy, energy efficiency, and water conservation. Some of these ways fit well with some homeowners, and other ways fit well with others. Some ways are simply not available to certain homeowners because of their financial situation, and some may take too long to secure approval – such as the need for a new HVAC system in heat of summer or the cold of winter.
- Home Equity Lines of Credit (HELOCs) are often cited as a better option than PACE. According to the US Census' 2009 American Housing Survey, only 12% of all owner-occupied homes in the country have a HELOC in place. Looking at just those households whose owners self-identify as Black or Hispanic, and the numbers drop even lower, to 7% and 9%, respectively.
- Comparing financing alternatives requires looking at a handful of key variables:
 - Interest rates, with lower interest payments leading to lower payments
 - And the tax deductibility of the interest portion of financing payments, which if allowed, can be translated as lower effective interest rates
 - Minimum and maximum amounts that can be financed
 - Loan terms, with longer loan terms allowing for lower payments
 - The speed with which the financing can be approved
 - The ability to qualify for the financing
 - The consumer protections in place to ensure high and long-term customer satisfaction
 - Availability – geographically, and the amount of capital available to fund projects

The following discussion refers to the table in Exhibit "D," which assesses PACE against more traditional financing products

- Interest Rates and Deductibility of Interest: PACE financing interest rates range from about 5% to 9% - depending on the PACE program and, more so, on the loan term selected (shorter loan terms providing lower interest rates). Compared to a personal loan or credit card – whose interest costs are not deductible – the deductibility of the interest makes the effective interest rate between 200 and 300 basis points (or 2% to 3%) lower, depending on the financing term, the amount financed, and the tax bracket of the homeowner.
- Comparing Interest Rates: One of the most commonly cited alternatives to PACE is a Home Equity Loan (HEL) or a Home Equity Line of Credit (HELOC). Like PACE, both allow the deduction of interest payments for income tax purposes. However, unlike

PACE, both home equity products can take at least a month to put in place; PACE approval can take just one day. HELOC rates are similar to today's mortgage rates, which are both more competitive than PACE interest rates. HEL rates are comparable to PACE rates. PACE has much better interest rates than a credit card, and PACE interest rates are comparable to or better than a personal loan.

- Additional PACE-HELOC Comparison Notes:
 - If you've had your HELOC open for a while, it may expire in only a few years, thereby forcing a shorter loan term than may be desired. There are often options to lock in HELOC balances and pay them off over terms up to 20 years, yet this option typically leads to a higher fixed interest rate. Through a PACE-financed project, interest rates are locked in for the term of the loan.
 - Using PACE to finance a home's energy upgrade leaves the HELOC balance free from that draw, allowing the HELOC to be used for other purposes.
 - Using PACE financing – and thus having the additional line item on a property tax bill – does not impact the homeowner's debt-to-income ratio, which is important when applying for future debt, such as a car loan.
- Qualifying – Speed and Criteria: For those homeowners who do not have a HELOC or HEL in place when the need comes for a new HVAC system, roof, or other upgrade – which is the case for some 85% of homeowners in Contra Costa County, according to US Census figures – qualifying for one can be much more difficult than qualifying for PACE. PACE applications do not require a minimum FICO score in order to secure a competitive interest rate, whereas HELOC and HEL applications do consider one's FICO score in the application process.
- Consumer Protections: Through the PACE project development and application process, and after project completion, there are numerous protocols in place in each PACE program that exist to protect the consumer. These consumer protections include:
 - Certification of each contractor company to ensure quality work
 - Ensuring that all products to be installed meet high levels of energy or water-saving performance
 - Ensuring that all required permits are pulled
 - Post-install installation assessments by third party Quality Assurance companies
 - A process for identifying and disciplining badly performing contractors, which can lead to probation and ultimately to removal of a contractor from a PACE Program's certified contractor list
 - A dispute resolution process to resolve disagreements between a homeowner and her contractor.

Conventional financing alternatives do not come with any of these consumer protection measures. For more detail on each program's consumer protection measures, please see Exhibit "E."

12. How is the property owner protected from being misled or inadequately informed of the possible consequences of PACE financing?

- All PACE programs provide very similar disclosure language in the financing documentation.
- The CaliforniaFIRST language is as follows (and is presented in ALL CAPS format in the document, to help assure that homeowners review the language):

“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.”

- Figtree Response:
 - Figtree believes strongly that property owners should make fully informed decisions regarding PACE. To this end property owners in our residential program will be provide disclosures during the application process which outline the potential risk posed by the FHFA uncertainty, the impact this may have on their current mortgage contract, and information regarding the rates and fees being charged.
 - Figtree also believes strongly in maintaining a personal relationship with each and every customer. Based on our experience contractors often lack the ability to properly educate customers regarding the intricacies of PACE financing. Prior to financing each transaction Figtree intends to communicate directly with each property owner in order to ensure they understand how the program works, the disclosures they have signed, and the rates and fees associated with the program.
 - Figtree also maintains a zero tolerance policy for contractors who misled or cheat customers. Contractors engaging in this type of behavior are ejected from our program. This hasn't happened to date as we have an extensive on boarding process for contractors wishing to participate in our program. Contractors must demonstrate they have been licensed for three years, bonded, and participate in a mandatory training program prior to serving Figtree PACE customers.

Submitted January, 26, 2015: Responses to Questions Regarding PACE Financing, Received from Julie Enea, Staff to the Contra Costa County Board of Supervisors' Internal Operations Committee. Responses provided by the following PACE Programs: CaliforniaFIRST, Figtree, and HERO

13. How many PACE lienholders were able to sell/refinance since the settlement of the FHFA lawsuit without having to repay the entire PACE loan balance?

- Note #1: The lawsuit brought against FHFA by the State of California and other parties was not settled. The courts instead found that when FHFA issued its 2010 letter that put residential PACE programs to a halt, that FHFA was acting in the role of conservator of the assets of the government sponsored enterprises that it oversees, rather than as a regulator; the plaintiffs arguments were founded on FHFA acting improperly as a regulator. As a result, the lawsuit did not proceed any further.
- Note #2: We fail to see a connection between the FHFA lawsuit and an increase or decrease in the instances of homeowners who must pre-pay their PACE assessment in full upon sale or refinance. That being said, please see the statistics provided in the response to Question #6 above.

How many instances have occurred of a buyer withdrawing from a sale or requiring the owner to remove equipment or repay the PACE balance because the buyer refused the PACE upgrade/encumbrance?

- There are no data nor anecdotes available that reveal how many – if any – buyers withdrew from a sale because of the presence of the PACE assessment, or sellers who refused to pay off the PACE assessment's balance.
- In those instances when a homeowner paid her PACE assessment in full at the time of sale or refinance, we do not have data that tells us why the homeowner took that action.

14. Is there any evidence that PACE projects actually increase a property's appraised value or, conversely, that a PACE lien has been a hindrance to resale?

- To our knowledge, no studies have been done specifically on the impact of PACE financing on a home's market value, nor if the presence of a PACE assessment is a hindrance to sale. That being said, the data referenced in Question #5 above show that the types of projects that PACE financing facilitates lead to an increase in property values. Such increases will be partially offset by the balance of the PACE assessment; the impact of the offset will decrease as a result of two factors: the inevitable rise in utility rates, and, as time goes by, the reduction in the PACE assessment balance as payments are made.

In addition to providing responses to the questions above, Exhibit "F" provides comments and responses to statements made by opponents to PACE Programs during the November 3 meeting of the Internal Operations Committee of the Contra Costa County Board of Supervisors.

EXHIBIT "A"

<http://www.dof.ca.gov/research/demographic/reports/estimates/e-5/2011-20/view.php>

Source:

Table 2: E-5 City/County Population and Housing Estimates, 1/1/2014

# of Jurisdictions in CA with at least one active PACE program, as of 12/4/2014	328
Total CA Population Covered	25,493,121
% of CA Population Covered	66%

County / City	POPULATION Total	Jurisdictions with ACTIVE PACE Programs
Alameda County		
Alameda	75,988	75,988
Albany	18,472	18,472
Berkeley	117,372	117,372
Dublin	53,462	53,462
Emeryville	10,491	10,491
Fremont	223,972	223,972
Hayward	151,037	151,037
Livermore	84,852	84,852
Newark	43,856	43,856
Oakland	404,355	404,355
Piedmont	11,023	11,023
Pleasanton	73,067	73,067
San Leandro	87,691	87,691
Union City	72,155	72,155
Unincorporated County	145,461	145,461
Incorporated	1,427,793	
County Total	1,573,254	
Butte		
Biggs	1,684	
Chico	88,389	88,389
Gridley	6,739	
Oroville	15,980	15,980
Paradise	26,109	26,109
Unincorporated County	83,415	83,415
Incorporated	138,901	
County Total	222,316	
Contra Costa		
Antioch	106,455	106,455
Brentwood	54,741	54,741
Clayton	11,200	

EXHIBIT "A"

Concord	124,656	124,656
Danville	43,146	
El Cerrito	24,087	
Hercules	24,572	
Lafayette	24,659	24,659
Martinez	36,842	36,842
Moraga	16,348	
Oakley	38,075	38,075
Orinda	18,089	
Pinole	18,794	
Pittsburg	66,368	66,368
Pleasant Hill	33,872	
Richmond	106,138	106,138
San Pablo	29,465	29,465
San Ramon	77,270	77,270
Unincorporated County	166,048	
Walnut Creek	66,183	66,183
Incorporated	920,960	
County Total	1,087,008	
El Dorado		
Placerville	10,527	
South Lake Tahoe	21,409	21,409
Unincorporated County	150,468	
Incorporated	31,936	
County Total	182,404	
Fresno		
Fresno	515,609	515,609
Unincorporated County	169,500	169,500
Clovis	102,188	102,188
Sanger	24,908	24,908
Selma	23,977	23,977
Reedley	25,122	25,122
Kingsburg	11,685	11,685
Kerman	14,339	14,339
Coalinga	16,467	
Parlier	15,019	
Mendota	11,225	
Orange Cove	9,410	9,410
Fowler	5,883	5,883
Firebaugh	7,809	7,809
San Joaquin	4,056	4,056
Huron	6,843	6,843
Incorporated	794,540	
County Total	964,040	

EXHIBIT "A"

Glenn County		
Orland	7,683	7,683
Willows	6,154	6,154
<hr/>		
Unincorporated County	14,516	
Incorporated	13,837	
<hr/>		
County Total	28,353	
Imperial County		
Brawley	25,897	25,897
Calexico	40,564	
Calipatria	7,517	7,517
El Centro	44,311	44,311
Holtville	6,154	
Imperial	16,708	
Westmorland	2,301	
<hr/>		
Unincorporated County	37,220	37,220
Incorporated	143,452	
<hr/>		
County Total	180,672	
Kern County		
Arvin	20,226	20,226
Bakersfield	367,315	367,315
California City	13,276	13,276
Delano	52,591	52,591
Maricopa	1,180	
McFarland	13,745	13,745
Ridgecrest	28,638	28,638
Shafter	17,461	17,461
Taft	8,942	8,942
Tehachapi	13,346	
Wasco	26,159	26,159
<hr/>		
Unincorporated County	310,213	310,213
Incorporated	562,879	
<hr/>		
County Total	873,092	
Kings County		
Avenal	13,239	
Corcoran	22,515	
Hanford	55,283	
Lemoore	25,281	25,281
<hr/>		
Unincorporated County	33,863	
Incorporated	116,318	
<hr/>		
County Total	150,181	

EXHIBIT "A"

Lake County		
Clearlake	15,194	15,194
Lakeport	4,807	4,807
<hr/>		
Unincorporated County	44,698	
Incorporated	20,001	
<hr/>		
County Total	64,699	
Los Angeles County		
Agoura Hills	20,625	
Alhambra	84,697	84,697
Arcadia	57,500	57,500
Artesia	16,776	
Avalon	3,820	
Azusa	48,385	48,385
Baldwin Park	76,715	76,715
Bell	35,972	
Bellflower	77,741	77,741
Bell Gardens	42,667	
Beverly Hills	34,677	
Bradbury	1,082	1,082
Burbank	105,543	
Calabasas	23,943	
Carson	92,636	92,636
Cerritos	49,741	
Claremont	35,920	35,920
Commerce	13,003	13,003
Compton	98,082	
Covina	48,619	48,619
Cudahy	24,142	
Culver City	39,579	
Diamond Bar	56,400	56,400
Downey	113,363	
Duarte	21,668	
El Monte	115,064	115,064
El Segundo	16,897	16,897
Gardena	60,082	60,082
Glendale	195,799	
Glendora	51,290	51,290
Hawaiian Gardens	14,456	
Hawthorne	86,644	86,644
Hermosa Beach	19,750	19,750
Hidden Hills	1,901	
Huntington Park	59,033	
Industry	438	
Inglewood	111,795	111,795
Irwindale	1,466	1,466
La Canada Flintridge	20,535	20,535
La Habra Heights	5,420	

EXHIBIT "A"

Lakewood	81,224	
La Mirada	49,178	
Lancaster	159,878	159,878
La Puente	40,478	
La Verne	32,228	32,228
Lawndale	33,228	33,228
Lomita	20,630	20,630
Long Beach	470,292	
Los Angeles	3,904,657	
Lynwood	70,980	
Malibu	12,865	
Manhattan Beach	35,619	
Maywood	27,758	
Monrovia	37,162	37,162
Montebello	63,527	63,527
Monterey Park	61,777	61,777
Norwalk	106,630	
Palmdale	155,657	155,657
Palos Verdes Estates	13,665	
Paramount	55,051	
Pasadena	140,879	
Pico Rivera	63,873	
Pomona	151,713	151,713
Rancho Palos Verdes	42,358	42,358
Redondo Beach	67,717	
Rolling Hills	1,895	1,895
Rolling Hills Estates	8,184	8,184
Rosemead	54,762	54,762
San Dimas	34,072	34,072
San Fernando	24,222	
San Gabriel	40,313	40,313
San Marino	13,341	13,341
Santa Clarita	209,130	
Santa Fe Springs	17,349	
Santa Monica	92,185	92,185
Sierra Madre	11,094	11,094
Signal Hill	11,411	
South El Monte	20,426	20,426
South Gate	96,057	
South Pasadena	26,011	26,011
Temple City	36,134	36,134
Torrance	147,706	147,706
Vernon	122	
Walnut	30,112	30,112
West Covina	107,828	107,828
West Hollywood	35,072	
Westlake Village	8,386	
Whittier	86,538	
Unincorporated County	1,046,557	
Incorporated	8,995,240	

EXHIBIT "A"

County Total	10,041,797	
Madera County		
Chowchilla	18,971	18,971
Madera	63,008	
Unincorporated County	71,918	71,918
Incorporated	81,979	
County Total	153,897	
Marin County		
Belvedere	2,094	
Corte Madera	9,381	9,381
Fairfax	7,541	7,541
Larkspur	12,102	12,102
Mill Valley	14,257	14,257
Novato	52,967	52,967
Ross	2,461	2,461
San Anselmo	12,514	12,514
San Rafael	58,566	58,566
Sausalito	7,175	
Tiburon	9,090	9,090
Unincorporated County	67,698	67,698
Incorporated	188,148	
County Total	255,846	
Mendocino County		
Fort Bragg	7,350	
Point Arena	454	
Ukiah	16,185	
Willits	4,937	
Unincorporated County	60,103	
Incorporated	28,926	
County Total	89,029	
Merced County		
Atwater	29,050	29,050
Dos Palos	5,050	
Gustine	5,648	
Livingston	13,793	
Los Banos	37,168	
Merced	81,130	81,130
Unincorporated County	93,083	93,083
Incorporated	171,839	

EXHIBIT "A"

County Total	264,922	
Mono County		
Mammoth Lakes	8,098	8,098
Unincorporated County	6,045	6,045
Incorporated	8,098	
County Total	14,143	
Monterey County		
Carmel-By-The-Sea	3,722	3,722
Del Rey Oaks	1,665	1,665
Gonzales	8,383	8,383
Greenfield	16,919	16,919
King City	13,211	13,211
Marina	20,268	20,268
Monterey	28,381	28,381
Pacific Grove	15,431	15,431
Salinas	155,205	155,205
Sand City	343	343
Seaside	33,534	33,534
Soledad	24,997	24,997
Unincorporated County	103,697	103,697
Incorporated	322,059	
County Total	425,756	
Napa County		
American Canyon	20,001	20,001
Calistoga	5,224	5,224
Napa	78,358	78,358
St Helena	5,943	5,943
Yountville	3,017	3,017
Unincorporated County	26,712	26,712
Incorporated	112,543	
County Total	139,255	
Nevada County		
Grass Valley	12,668	
Nevada City	3,016	3,016
Truckee	15,981	
Unincorporated County	65,560	
Incorporated	31,665	
County Total	97,225	
Orange County		

EXHIBIT "A"

Anaheim	348,305	348,305
Huntington Beach	195,999	195,999
Santa Ana	331,953	331,953
Irvine	242,651	
Unincorporated County	121,473	
Garden Grove	173,953	173,953
Orange	139,279	
Mission Viejo	95,334	
Fullerton	140,131	
Newport Beach	86,874	86,874
Yorba Linda	67,069	
Costa Mesa	111,846	111,846
Westminster	91,652	91,652
San Clemente	64,874	64,874
Lake Forest	79,139	79,139
Laguna Niguel	64,460	
Buena Park	82,344	82,344
Fountain Valley	56,702	
La Habra	61,717	
Placentia	52,094	52,094
Cypress	48,886	48,886
Tustin	78,360	78,360
Rancho Santa Margarita	48,834	48,834
Brea	42,397	42,397
Dana Point	34,037	
Laguna Beach	23,225	
Aliso Viejo	49,951	49,951
San Juan Capistrano	35,900	
Laguna Hills	30,857	30,857
Seal Beach	24,591	
La Palma	15,896	15,896
Stanton	38,963	38,963
Los Alamitos	11,729	
Villa Park	5,935	
Laguna Woods	16,581	
Incorporated	2,992,518	
County Total	3,113,991	
Riverside County		
Banning	30,325	30,325
Beaumont	40,876	40,876
Blythe	18,992	
Calimesa	8,231	8,231
Canyon Lake	10,826	10,826
Cathedral City	52,595	
Coachella	43,633	
Corona	159,132	159,132
Desert Hot Springs	28,001	
Eastvale	59,185	59,185
Hemet	81,537	81,537

EXHIBIT "A"

Indian Wells	5,137	
Indio	82,398	82,398
Jurupa Valley	97,774	97,774
La Quinta	39,032	
Lake Elsinore	56,718	56,718
Menifee	83,716	83,716
Moreno Valley	199,258	199,258
Murrieta	106,425	106,425
Norco	26,582	26,582
Palm Desert	50,417	
Palm Springs	46,135	46,135
Perris	72,103	72,103
Rancho Mirage	17,745	
Riverside	314,034	314,034
San Jacinto	45,563	45,563
Temecula	106,289	106,289
Unincorporated County	363,590	363,590
Wildomar	33,718	33,718
Incorporated	1,916,377	
County Total	2,279,967	
Sacramento County		
Citrus Heights	84,544	84,544
Elk Grove	160,688	160,688
Folsom	74,014	
Galt	24,289	24,289
Isleton	815	
Rancho Cordova	67,839	67,839
Sacramento	475,122	475,122
Unincorporated County	567,095	567,095
Incorporated	887,311	
County Total	1,454,406	
San Benito County		
Hollister	36,676	36,676
San Juan Bautista	1,905	1,905
Unincorporated County	18,936	18,936
Incorporated	38,581	
County Total	57,517	
San Bernardino County		
Unincorporated County	297,425	297,425
San Bernardino	212,721	212,721
Fontana	202,177	202,177
Rancho Cucamonga	172,299	172,299
Ontario	167,382	167,382

EXHIBIT "A"

Victorville	120,590	120,590
Rialto	101,429	101,429
Hesperia	91,506	91,506
Chino	81,747	81,747
Chino Hills	76,131	76,131
Upland	75,147	75,147
Apple Valley	70,755	70,755
Redlands	69,882	69,882
Highland	54,033	54,033
Colton	53,057	53,057
Yucaipa	52,654	52,654
Montclair	37,374	37,374
Adelanto	32,511	32,511
Twentynine Palms	26,576	26,576
Loma Linda	23,614	23,614
Barstow	23,292	23,292
Yucca Valley	21,053	21,053
Grand Terrace	12,285	12,285
Big Bear Lake	5,121	5,121
Needles	4,908	4,908
Incorporated	1,788,244	
County Total	2,085,669	
San Diego County		
Carlsbad	110,169	110,169
Chula Vista	256,139	256,139
Coronado	23,419	23,419
Del Mar	4,234	4,234
El Cajon	101,256	101,256
Encinitas	61,204	61,204
Escondido	147,102	147,102
Imperial Beach	26,675	26,675
La Mesa	58,769	58,769
Lemon Grove	25,928	25,928
National City	59,381	59,381
Oceanside	171,183	171,183
Poway	48,979	48,979
San Diego	1,345,895	1,345,895
San Marcos	90,179	90,179
Santee	55,806	55,806
Solana Beach	13,099	13,099
Vista	96,122	96,122
Unincorporated County	498,823	498,823
Incorporated	2,695,539	
County Total	3,194,362	
San Francisco County		
San Francisco	836,620	836,620

EXHIBIT "A"

San Joaquin County

Stockton	300,899	300,899
Unincorporated County	146,146	
Tracy	85,146	85,146
Manteca	72,880	
Lodi	63,651	63,651
Lathrop	19,831	
Ripon	14,855	
Escalon	7,323	

Incorporated 564,585

County Total 710,731

San Luis Obispo County

Arroyo Grande	17,334	17,334
Atascadero	28,675	28,675
El Paso De Robles	30,469	30,469
Grover Beach	13,153	13,153
Morro Bay	10,276	10,276
Pismo Beach	7,705	
San Luis Obispo	45,473	45,473

Unincorporated County 119,272

Incorporated 153,085

County Total 272,357

San Mateo County

Atherton	6,917	6,917
Belmont	26,559	26,559
Brisbane	4,431	4,431
Burlingame	29,685	29,685
Colma	1,470	1,470
Daly City	105,076	105,076
East Palo Alto	28,934	28,934
Foster City	32,168	32,168
Half Moon Bay	11,721	11,721
Hillsborough	11,260	11,260
Menlo Park	32,896	32,896
Millbrae	22,605	22,605
Pacifica	38,292	38,292
Portola Valley	4,480	4,480
Redwood City	80,768	80,768
San Bruno	43,223	43,223
San Carlos	29,219	29,219
San Mateo	100,106	100,106
South San Francisco	65,710	65,710
Woodside	5,496	5,496

Unincorporated County 64,177

EXHIBIT "A"

Incorporated	681,016
County Total	745,193
Santa Barbara County	
Buellton	4,893
Carpinteria	13,442
Goleta	30,202
Guadalupe	7,144
Lompoc	43,314
Santa Barbara	90,385
Santa Maria	101,103
Solvang	5,363
Unincorporated County	137,552
Incorporated	295,846
County Total	433,398
Santa Clara County	
Campbell	41,993
Cupertino	59,946
Gilroy	52,413
Los Altos	29,969
Los Altos Hills	8,354
Los Gatos	30,532
Milpitas	70,092
Monte Sereno	3,450
Morgan Hill	41,197
Mountain View	76,781
Palo Alto	66,861
San Jose	1,000,536
Santa Clara	121,229
Saratoga	30,887
Sunnyvale	147,055
Unincorporated County	87,263
Incorporated	1,781,295
County Total	1,868,558
Santa Cruz County	
Capitola	10,136
Santa Cruz	63,440
Scotts Valley	11,954
Watsonville	52,508
Unincorporated County	133,557
Incorporated	138,038

EXHIBIT "A"

County Total	271,595	
Shasta County		
Anderson	10,361	10,361
Redding	91,207	
Shasta Lake	10,128	
Unincorporated County	67,716	67,716
Incorporated	111,696	
County Total	179,412	
Solano County		
Benicia	27,454	27,454
Dixon	19,005	19,005
Fairfield	110,018	110,018
Rio Vista	7,934	
Suisun City	28,549	28,549
Vacaville	93,613	93,613
Vallejo	118,470	118,470
Unincorporated County	19,190	19,190
Incorporated	405,043	
County Total	424,233	
Sonoma County		
Unincorporated County	147,713	147,713
Santa Rosa	170,236	
Petaluma	59,000	
Windsor	27,104	
Rohnert Park	40,722	
Healdsburg	11,541	
Sonoma	10,801	
Cloverdale	8,641	
Sebastopol	7,440	
Cotati	7,288	
Incorporated	342,773	
County Total	490,486	
Stanislaus County		
Ceres	46,463	
Hughson	7,118	
Modesto	206,785	206,785
Newman	10,668	10,668
Oakdale	21,442	21,442
Patterson	20,922	
Riverbank	23,243	23,243
Turlock	70,132	70,132
Waterford	8,619	8,619

EXHIBIT "A"

Unincorporated County	110,650	
Incorporated	415,392	
County Total	526,042	
Sutter County		
Live Oak	8,481	8,481
Yuba City	65,677	65,677
Unincorporated County	21,575	
Incorporated	74,158	
County Total	95,733	
Tulare County		
Dinuba	23,666	
Exeter	10,539	10,539
Farmersville	10,932	10,932
Lindsay	12,650	
Porterville	55,697	
Tulare	61,857	61,857
Visalia	129,582	129,582
Woodlake	7,711	7,711
Unincorporated County	146,812	146,812
Incorporated	312,634	
County Total	459,446	
Ventura County		
Camarillo	66,752	66,752
Fillmore	15,339	15,339
Moorpark	35,172	35,172
Ojai	7,594	7,594
Oxnard	203,645	203,645
Port Hueneme	22,399	22,399
San Buenaventura	108,961	108,961
Santa Paula	30,448	30,448
Simi Valley	126,305	126,305
Thousand Oaks	129,039	129,039
Unincorporated County	97,313	97,313
Incorporated	745,654	
County Total	842,967	
Yolo County		
Davis	66,656	66,656
West Sacramento	50,836	50,836
Winters	6,979	6,979

EXHIBIT "A"

Woodland	57,223	57,223
Unincorporated County	24,687	24,687
Incorporated	181,694	
County Total	206,381	

**INDEMNIFICATION AND INSURANCE AGREEMENT
BY AND BETWEEN
CITY OF CONCORD
AND
RENEWABLE FUNDING, LLC**

This Indemnification and Insurance Agreement (the “Agreement”) is entered into by and between the City of Concord a municipal corporation (“City”) and Renewable Funding, LLC, a California limited liability company (the “Administrator”), the administrator of the CaliforniaFIRST Program, which is a program of the California Statewide Communities Development Authority, a California joint exercise of powers authority (the “Authority”).

RECITALS

WHEREAS, the Authority is a joint exercise of powers authority whose members of which include the City in addition to other cities and counties in the State of California; and

WHEREAS, the Authority established the CaliforniaFIRST Program (“PACE Program”) to allow the financing of certain renewable energy, energy efficiency and water efficiency improvements that are permanently affixed to real property through the levy of assessments voluntarily agreed to by the participating property owners pursuant to Chapter 29 of Division 7 of the Streets and Highways Code (“Chapter 29”) and the issuance of improvement bonds under the Improvement Bond Act of 1915 upon the security of the unpaid assessments; and

WHEREAS, the Authority has conducted or will conduct proceedings required by Chapter 29 with respect to the territory within the boundaries of the City; and

WHEREAS, on January 19, 2010, the City Council of the City of Concord adopted a resolution authorizing the City to join the PACE Program, authorizing the Authority to accept applications from eligible property owners, conduct assessment proceedings and levy assessments within the territory of the City and authorizing related actions; and

WHEREAS, the Authority is solely responsible for the formation, operation and administration of the PACE Program as well as the sale and issuance of any bonds in

connection therewith, including the conduct of assessment proceedings, the levy and collection of assessments and any remedial action in the case of such assessment payments, and the offer, sale and administration of any bonds issued by the Authority on behalf of the PACE Program; and

WHEREAS, the Administrator is the administrator of the PACE Program and agrees to indemnify the City and provide insurance and add the City as an additional insured on its insurance policy or policies in connection with the operations of the PACE Program as set forth herein; and

NOW, THEREFORE, in consideration of the above premises and of the City's agreement to join the PACE Program, the parties agree as follows:

1. Agreement to Indemnify. The Administrator agrees to defend, indemnify and hold harmless the City, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, fines, penalties, judgments, demands and defense costs (including, without limitation, actual, direct, out-of-pocket costs and expenses and amounts paid in compromise or settlement and reasonable outside legal fees arising from litigation of every nature or liability of any kind or nature including civil, criminal, administrative or investigative) arising out of or in connection with the PACE Program except such loss or damage which was caused by the sole negligence or willful misconduct of the City. The Administrator will conduct all defenses at its sole cost and expense and the City shall reasonably approve selection of the Administrator's counsel. This indemnity shall apply to all claims and liability regardless of whether any insurance policies of the Administrator, its affiliates or any other parties are applicable thereto. The policy limits of any insurance of the Administrator, its affiliates or other parties are not a limitation upon the obligation of the Administrator including without limitation the amount of indemnification to be provided by the Administrator.

2. Insurance. The Administrator agrees that, at no cost or expense to the City, at all times during the operation of the PACE Program, to maintain the insurance coverage set forth in Exhibit A to this Agreement.

3. Amendment/Interpretation of this Agreement. . This Agreement, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. This Agreement shall not be interpreted for or against any party by reason of the fact that such party may have drafted this Agreement or any of its provisions.

4. Section Headings. Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

5. Waiver. No waiver of any of the provisions of this Agreement shall be binding unless in the form of a writing signed by the party against whom enforcement is sought, and no such waiver shall operate as a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. Except as specifically provided herein, no failure to exercise or any delay in exercising any right or remedy hereunder shall constitute a waiver thereof.

6. Severability and Governing Law. If any provision or portion thereof of this Agreement shall be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California applicable to contracts made and to be performed in California.

7. Notices. All notices, demands and other communications required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered by hand, against receipt, or mailed certified or registered mail and addressed

as follows:

If to the Administrator

Renewable Funding, LLC
500 12th Street, #300
Oakland, CA 94607

If to the City:

City of Concord

8. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, which together shall constitute the same instrument.

9. Effective Date. This Agreement will be effective as of the date of the signature of City's representative as indicated below in the City's signature block.

IN WITNESS HEREOF, the parties hereto duly executed this Agreement as of the date below.

APPROVED AS TO FORM:

“City”

City of Concord, a municipal corporation

NAME

Title

By _____

Date: _____

“Administrator”

Renewable Funding, LLC

By _____

Name:

Title:

Date: _____

EXHIBIT A
INSURANCE

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors & Omissions for all professional services.

There shall be no endorsement reducing the scope of coverage required above unless approved by the City's Risk Manager.

B. Minimum Limits of Insurance

Administrator shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and
4. Professional Liability Errors & Omissions \$1,000,000 per occurrence/ aggregate limit.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by City's Risk Manager. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its officers, employees, agents and contractors; or Administrator shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City's Risk Manager.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages
 - a. City of Concord, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, Administrator; products and completed operations of Administrator; premises owned, leased or used by Administrator; and automobiles owned, leased, hired or borrowed by Administrator. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, agents and contractors.
 - b. Administrator's insurance coverage shall be primary insurance as respects City, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by City, its officers, employees, agents or contractors shall be excess of Administrator's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policies by Administrator shall not affect coverage provided City, its officers, employees, agents, or contractors.
 - d. Coverage shall state that Administrator's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - e. Coverage shall contain a waiver of subrogation in favor of the City, its officers, employees, agents and contractors.
2. Workers' Compensation and Employers' Liability

Coverage shall contain waiver of subrogation in favor of City of Concord, its officers, employees, agents and contractors.

3. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to City, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.

E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to City's Risk Manager.

F. Verification of Coverage

Administrator shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be either emailed in pdf format to: [REDACTED], or mailed to the following postal address or any subsequent address as may be directed in writing by the Risk Manager:

[REDACTED] ADDRESS of City of Concord

G. Subcontractors

Administrator shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.

**INDEMNIFICATION AND INSURANCE AGREEMENT
BY AND BETWEEN THE CITY OF ANTIOCH
AND RENOVATE AMERICA, INC.**

This Indemnification and Insurance Agreement (the "Agreement") is entered into by and between the City of Antioch, a municipal corporation ("City") and Renovate America, Inc., a Delaware corporation (the "Administrator"), the administrator of the WRCOG HERO Program, which is a program of the Western Riverside Council of Governments, a California joint exercise of powers authority (the "Authority").

RECITALS

WHEREAS, the Authority is a joint exercise of powers authority whose members of which include the City in addition to other cities and counties in the State of California; and

WHEREAS, the Authority established the WRCOG HERO Program ("PACE Program") to allow the financing of certain renewable energy, energy efficiency and water efficiency improvements that are permanently affixed to real property through the levy of assessments voluntarily agreed to by the participating property owners pursuant to Chapter 29 of Division 7 of the Streets and Highways Code ("Chapter 29") and the issuance of improvement bonds under the Improvement Bond Act of 1915 upon the security of the unpaid assessments; and

WHEREAS, the Authority has conducted or will conduct proceedings required by Chapter 29 with respect to the territory within the boundaries of the City; and

WHEREAS, on December 16, 2014, the City Council of the City of Antioch adopted a resolution authorizing the City to join the PACE Program, authorizing the Authority to accept applications from eligible property owners, conduct assessment proceedings and levy assessments within the territory of the City and authorizing related actions; and

WHEREAS, the Authority is solely responsible for the formation, operation and administration of the PACE Program as well as the sale and issuance of any bonds in connection therewith, including the conduct of assessment proceedings, the levy and

collection of assessments and any remedial action in the case of such assessment payments, and the offer, sale and administration of any bonds issued by the Authority on behalf of the PACE Program; and

WHEREAS, the Administrator is the administrator of the PACE Program and agrees to indemnify the City and provide insurance and add the City as an additional insured on its insurance policy or policies in connection with the operations of the PACE Program as set forth herein; and

NOW, THEREFORE, in consideration of the above premises and of the City's agreement to join the PACE Program, the parties agree as follows:

1. Agreement to Indemnify. The Administrator agrees to defend, indemnify and hold harmless the City, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, fines, penalties, judgments, demands and defense costs (including, without limitation, actual, direct, out-of-pocket costs and expenses and amounts paid in compromise or settlement and reasonable outside legal fees arising from litigation of every nature or liability of any kind or nature including civil, criminal, administrative or investigative) arising out of or in connection with the PACE Program, except such loss or damage which was caused by the sole negligence or willful misconduct of the City, and including but not limited to any obligations that the City undertakes pursuant to any agreement with the Authority. The Administrator will conduct all defenses at its sole cost and expense and the City shall reasonably approve selection of the Administrator's counsel. This indemnity shall apply to all claims and liability regardless of whether any insurance policies of the Administrator, its affiliates or any other parties are applicable thereto. The policy limits of any insurance of the Administrator, its affiliates or other parties are not a limitation upon the obligation of the Administrator including without limitation the amount of indemnification to be provided by the Administrator.
2. Insurance. The Administrator agrees that, at no cost or expense to the City, at all times during the operation of the PACE Program, to maintain the insurance coverage set forth in Exhibit A to this Agreement.

3. Amendment/Interpretation of this Agreement. . This Agreement, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. This Agreement shall not be interpreted for or against any party by reason of the fact that such party may have drafted this Agreement or any of its provisions.

4. Section Headings. Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

5. Waiver. No waiver of any of the provisions of this Agreement shall be binding unless in the form of a writing signed by the party against whom enforcement is sought, and no such waiver shall operate as a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. Except as specifically provided herein, no failure to exercise or any delay in exercising any right or remedy hereunder shall constitute a waiver thereof.

6. Severability and Governing Law. If any provision or portion thereof of this Agreement shall be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California applicable to contracts made and to be performed in California.

7. Notices. All notices, demands and other communications required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered by hand, against receipt, or mailed certified or registered mail and addressed

as follows:

If to the Administrator

Renovate America, Inc.
15073 Avenue of Science #200
San Diego, CA 92128

If to the City:

City of Antioch
PO Box 5007
Antioch, CA 94531
Attn: City Manager

With a copy to:

City of Antioch
PO Box 5007
Antioch, CA 94531
Attn: City Attorney

8. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, which together shall constitute the same instrument.

9. Effective Date. This Agreement will be effective as of the date of the signature of City's representative as indicated below in the City's signature block.

IN WITNESS HEREOF, the parties hereto duly executed this Agreement as of the date below.

APPROVED AS TO FORM:

Lynn Tracy Nerland
City Attorney

Attest:

Arne Simonsen, City Clerk

"City"

City of Antioch, a municipal corporation

By _____

Date: _____

"Administrator"

Renovate America, Inc., a Delaware
Corporation

By Scott A. 43

Name: Scott A. McKinley

Title: EVP

Date: 1/14/2015

EXHIBIT A
INSURANCE

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors & Omissions for all professional services.

There shall be no endorsement reducing the scope of coverage required above unless approved by the City's Risk Manager.

B. Minimum Limits of Insurance

Administrator shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and
4. Professional Liability Errors & Omissions \$1,000,000 per occurrence/ \$2,000,000 aggregate limit.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by City's Risk Manager. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its officers, employees, agents and contractors; or Administrator shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City's Risk Manager.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages
 - a. City of Antioch, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, Administrator; products and completed operations of Administrator; premises owned, leased or used by Administrator; and automobiles owned, leased, hired or borrowed by Administrator. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, agents and contractors.
 - b. Administrator's insurance coverage shall be primary insurance as respects City, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by City, its officers, employees, agents or contractors shall be excess of Administrator's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policies by Administrator shall not affect coverage provided City, its officers, employees, agents, or contractors.
 - d. Coverage shall state that Administrator's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - e. Coverage shall contain a waiver of subrogation in favor of the City, its officers, employees, agents and contractors.
2. Workers' Compensation and Employers' Liability

Coverage shall contain waiver of subrogation in favor of City of Antioch, its officers, employees, agents and contractors.

3. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to City, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.

E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to City's Risk Manager.

F. Verification of Coverage

Administrator shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be either emailed in pdf format to: Julie Haas-Wajdowicz at jhaaswajdowicz@ci.antioch.ca.us, or mailed to the following postal address or any subsequent address as may be directed in writing by the City Manager:

City of Antioch
PO Box 5007
Antioch, CA 94531

G. Subcontractors

Administrator shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.

Quick question on PACE defaults - any?

3 messages

Jonathan Kevles <jkevles@renewfund.com>

Thu, Dec 4, 2014 at 2:46 PM

To: noah.proser@treasurer.ca.gov

Noah - Hello. This is Jonathan Kevles from Renewable Funding. I have a quick question for you.

Can you provide me the number of defaults there have been to date by properties with PACE assessments?

I recall you saying on a RAC call back in November that there have been zero defaults. Please confirm that that number is still accurate.

I need your response in writing as I am preparing a response to questions from the Contra Costa County Board of Supervisors.

Thank you very much for your assistance,

Jonathan Kevles

Jonathan Kevles
Senior Director, PACE
Bay Area Region
Renewable Funding (Program Administrator for [CaliforniaFIRST](#))
500 12th Street, Suite #300
Oakland, CA 94607
(510) 350-3709 (o) // (213) 610-6805 (m)
jkevles@renewfund.com // www.renewfund.com

Proser, Noah <Noah.Proser@treasurer.ca.gov>

Thu, Dec 4, 2014 at 2:48 PM

To: Jonathan Kevles <jkevles@renewfund.com>

Hi Jonathan,

There have been no claims or associated defaults reported to CAEATFA as part of the PACE Loss Reserve Program to date, and as far as I'm aware, none outside of that either.

Hope that helps,

Noah

Noah Proser

California Alternative Energy

*and Advanced Transportation
Financing Authority (CAEATFA)*
(916) 653-3032
Noah.Proser@treasurer.ca.gov
www.treasurer.ca.gov/caeatfa

From: Jonathan Kevles [mailto:jkevles@renewfund.com]
Sent: Thursday, December 04, 2014 2:46 PM
To: Proser, Noah
Subject: Quick question on PACE defaults - any?

Noah - Hello. This is Jonathan Kevles from Renewable Funding. I have a quick question for you.

Can you provide me the number of defaults there have been to date by properties with PACE assessments?

I recall you saying on a RAC call back in November that there have been zero defaults. Please confirm that that number is still accurate.

I need your response in writing as I am preparing a response to questions from the Contra Costa County Board of Supervisors.

Thank you very much for your assistance,

Jonathan Kevles

Jonathan Kevles
Senior Director, PACE
Bay Area Region
Renewable Funding (Program Administrator for [CaliforniaFIRST](#))
500 12th Street, Suite #300
Oakland, CA 94607
(510) 350-3709 (o) // (213) 610-6805 (m)
jkevles@renewfund.com // www.renewfund.com

Jonathan Kevles <jkevles@renewfund.com>
To: "Proser, Noah" <Noah.Proser@treasurer.ca.gov>

Thu, Dec 4, 2014 at 2:49 PM

Perfect. Thank you for the super rapid reply!

Jonathan Kevles
Senior Director, PACE
Bay Area Region
Renewable Funding (Program Administrator for [CaliforniaFIRST](#))
500 12th Street, Suite #300
Oakland, CA 94607
(510) 350-3709 (o) // (213) 610-6805 (m)
jkevles@renewfund.com // www.renewfund.com

On Thu, Dec 4, 2014 at 2:48 PM, Proser, Noah <Noah.Proser@treasurer.ca.gov> wrote:

Hi Jonathan,

There have been no claims or associated defaults reported to CAEATFA as part of the PACE Loss Reserve Program to date, and as far as I'm aware, none outside of that either.

Hope that helps,

Noah

Noah Proser

*California Alternative Energy
and Advanced Transportation
Financing Authority (CAEATFA)*

(916) 653-3032
Noah.Proser@treasurer.ca.gov
www.treasurer.ca.gov/caeatfa

From: Jonathan Kevles [<mailto:jkevles@renewfund.com>]
Sent: Thursday, December 04, 2014 2:46 PM
To: Proser, Noah
Subject: Quick question on PACE defaults - any?

Noah - Hello. This is Jonathan Kevles from Renewable Funding. I have a quick question for you.

Can you provide me the number of defaults there have been to date by properties with PACE assessments?

I recall you saying on a RAC call back in November that there have been zero defaults. Please confirm that that number is still accurate.

I need your response in writing as I am preparing a response to questions from the Contra Costa County Board of Supervisors.

Thank you very much for your assistance,

Jonathan Kevles

Jonathan Kevles

Senior Director, PACE

Bay Area Region

Renewable Funding (Program Administrator for [CaliforniaFIRST](#))

500 12th Street, Suite #300

Oakland, CA 94607

[\(510\) 350-3709](#) (o) // [\(213\) 610-6805](#) (m)

jkevles@renewfund.com // www.renewfund.com

Exhibit D - Financing Alternatives Comparison Table

	PACE	Home Equity Line of Credit	Home Equity Loan	Personal Unsecured Loan	Credit Card
Interest Rate	5% - 9% (fixed)	3% - 7% (variable)	6% - 9% (fixed)	6% - 10% + (fixed)	5% - 25% (variable)
Tax Deductibility of Interest Portion of Payments	Yes	Yes	Yes	No	No
Minimum Finance Amounts	\$5K	\$1	\$1,000	\$1	\$1
Maximum Finance Amounts, and primary limiting factors	Lesser of \$200K or 10% of home equity	Limited by home's Combined Loan- to-Value and debt- to-income ratios	Limited by home's Combined Loan-to- Value and homeowner's debt- to-income ratios	Limited by homeowner's debt- to-income ratio	Limited by homeowner's debt- to-income ratio
Minimum Loan Term	5 years	1 day	1 day	1 day	1 day
Maximum Loan Term	20 years (25 for solar w/CAFIRST)	20 years	20 years	Unlimited	Unlimited
Speed to Approve Financing Application	1 day	1 month	1 month	1-2 weeks	1 day
Key Qualifying Criteria	Equity in the home	FICO score, Combined Loan- to-Value and debt- to-income ratios	FICO score, Combined Loan-to- Value and debt-to- income ratios	FICO score, homeowner's debt- to-income ratio	FICO score, homeowner's debt- to-income ratio

Exhibit E – Quality Assurance and Consumer Protection Measures in PACE Programs

The following quality assurance and consumer protection measures provided through CaliforniaFIRST do not exist when a homeowner finances their energy and water upgrade projects through their home equity line of credit, home equity loan, personal unsecured loan, or credit card.

Many of the consumer protection measures are in place because of requirements for participation in the State of California's PACE Loss Reserve Program. The three PACE Programs all participate in this Loss Reserve Program. The most widely known element of this Program is the Loss Reserve fund itself, which exists to ensure mortgage lenders and mortgage note buyers (e.g., Fannie Mae and Freddie Mac) that they are protected from the potential loss of unpaid PACE assessment payments should a home be foreclosed upon; the Program reimburses the note holder 100% of the unpaid PACE assessments that need to be paid before the property is sold to a new owner. (Note: As of October 31, 2014, zero properties have defaulted on their PACE assessment payments, and thus no claims have been made from the Loss Reserve's fund.)

An important but lesser known element of the program serves to protect consumers (as well as mortgage note holders). The [Program's regulations](#) require underwriting standards to ensure that homeowners do not over-leverage their properties. These standards are:

- All property taxes for the assessed property are current for the previous three years or since the current owner acquired the property, whichever period is shorter.
- The property is not subject to any involuntary lien in excess of \$1,000.
- The property is not subject to any notices of default.
- The property owner is not in bankruptcy proceedings.
- The property owner is current on all mortgage debt.
- The Assessment is for less than ten percent (10%) of the value of the property.

CaliforniaFIRST's underwriting standards exceed and add to those prescribed by the PACE Loss Reserve Program:

- No current involuntary liens and/or judgments totaling more than \$1,000 for all Property Owners
- Property Owners must be current on all subject Property-secured debt at the time of application and cannot have had more than one 30-day mortgage-related late payment over the previous 12 months
- There must be no notices of default or foreclosure filed against the Property within the last 2 years
- No bankruptcies (business or personal) in the last 2 years.

- The Property must not be an asset in any bankruptcy proceeding
- Property title cannot be subject to power of attorney, easements or subordination agreements restricting authority of the Property Owner(s) to a PACE lien
- Maximum financing amount is the lesser of \$200,000 or 10% of the value of the Property and combined amount financed under the Program plus mortgage-related debt cannot exceed 100% of the value of the Property
- Financing term cannot exceed the useful life of the highest cost Eligible Product (see below)
- The all-in tax rate on the Property (including the Assessment and other assessments) may not exceed 5% of the Property value

These same regulations also require PACE providers to include a detailed description of "Requirements for quality assurance and consumer protection, as related to achieving efficiency and clean energy production." To meet this requirement, CaliforniaFIRST includes the following quality assurance and consumer protection measures in our program:

- Only products from the program's Eligible Products list qualify for financing. To be on the list, a product must meet minimum efficiency and/or other performance standards. Not only does the eligible product list ensure that a CaliforniaFIRST-financed project meet the requirements of state law, it also helps assure that the project will yield utility bill savings through reduced water use and demand for utility-provided electricity and natural gas.
- All Eligible Products must be installed by a Participating Contractor.
- All required permits must be pulled.
- Participating contractors must become certified. The program's certification process includes a check of the contractor's:
 - Better Business Bureau grade (grade "B" or better)
 - License status with the California Contractors State Licensing Board (CSLB)
 - Bonding and workers' compensation insurance coverages, to ensure that they meet the CSLB's requirements
 - Liability insurance (minimum coverage of \$1 million)
- A third party quality assurance firm conducts a minimum check of contractors' projects, with newer contractors and contractors on probation receiving more frequent checks
- A process for putting contractors on probation for bad work quality or validated consumer complaints, which can ultimately lead to removal of the contractor from the Participating Contractor pool.
- A dispute resolution process for homeowners and contractors

Exhibit "F" – Comments on Excerpts from the Contra Costa County Board of Supervisors'
November 3, 2014 Internal Operations Committee meeting

The text below is excerpted from the "Record of Action" document, which was prepared by Julie Enea, staff to the Contra Costa County Board of Supervisors' Internal Operations Committee. The "Record of Action" documents the discussions that took place at this Committee's meeting on November 3, 2014. These excerpts are followed with comments, written by Jonathan Kevles, representing the CaliforniaFIRST PACE Financing Program.

Statements in quotation marks are taken verbatim from the "Record of Action" document.

"Nick Solis [CEO of Platinum Real Estate Group] later pointed out PACE-financed upgrades increase the asking price for a property, making it harder to afford and sell when combined with the additional tax obligation of the new owner."

Comment: If this statement is based on empirical data, such data should be provided. That being said, a good realtor will help a seller a) understand the value of the PACE-financed upgrades and their remaining useful life, b) understand how that value may be offset by however much the remaining balance is of the PACE assessment, and c) then set an asking price for the home based on numerous variables, including the home's amenities, recent upgrades (PACE-financed and otherwise), PACE assessment obligations, location, etc.

"Nick Solis pointed out that the main reason so many PACE loans have been made is that private lenders have the backstop of the State of California, in the form of a loan loss reserve, to make "risky" loans."

Comment: This statement is inaccurate. The Loss Reserve Fund does not serve as a backstop to protect the entities that provide PACE financing. The Loss Reserve Fund exists to protect the mortgage lenders in the event that default on the property results in the mortgage lender paying off the one year of unpaid PACE assessment payments that may have accrued. PACE financings are not risky – they are secured by the property.

In addition, PACE financings are not loans. They are tax assessments. Then-California State Attorney General Jerry Brown made this point in the brief he filed with the United States District Court September 15, 2010. The difference between loan and tax assessment is not merely one of semantics; the differences between the two carry important legal and financial implications.

"Solis also stated that the rapid growth of PACE financing has been driven less by consumer demand and benefit and more by private lenders wanting to make money with the benefit of State and local government sponsorship."

Comment: This statement is unsubstantiated; if this statement is based on empirical data, such data should be provided. The statement is wrong on how markets work. The supply of a product – financial or otherwise – does not create demand; a consumer need met by a quality, cost-effective product creates demand for that product. The growing demand for PACE financing is the result of pent up demand for which the marketplace did not supply a solution prior to the introduction of PACE.

Exhibit "F" – Comments on Excerpts from the Contra Costa County Board of Supervisors'
November 3, 2014 Internal Operations Committee meeting

To the issue of government sponsorship: Mr. Solis' comment seems contrary to an action of the Contra Costa Association of Realtors (CCAR) prior to the November 3 meeting. Prior to that meeting, CCAR presented County officials with information related to the emPower program in Santa Barbara County. Presented by CCAR as an alternative to PACE, the empower program also helps finance residential energy efficiency projects. This program exists in large part through government support, being "funded in part by the American Recovery and Reinvestment Act via the U.S. Department of Energy's Better Buildings program and the California Energy Commission" (<http://www.empowersbc.org/about-program>). Mr. Solis and the Realtors do not seem to be consistent on their position vis-à-vis government support for energy efficiency financing. It is not clear if Mr. Solis and CCAR support such programs, or if they oppose them. If the latter, then do they also oppose other government programs that support investments in – and drive tremendous demand for – housing, such as the mortgage interest deduction, or FHA's first-time homebuyer program?

"Nick Solis later contended that the reason mortgage lenders have not taken issue with the PACE liens is because they may not be aware of them. Since the PACE lien does not appear as a debt on a credit report, it is up to the borrower to disclose the PACE lien to the lender. The only independent way for the lender to become aware of a PACE lien is through a title search, which may not clearly identify a PACE encumbrance since it is an optional tax bill payment and not a tax."

Comment: All mortgage lenders routinely review title reports. All title reports will include clear mention of a PACE assessment if one is attached to the property. The mortgage lender will factor all property taxes into the underwriting of a prospective borrower, and thus that borrower's ability to make all of her property-related payment obligations, including mortgage, insurance, all property taxes, and insurance premiums. A sample title report is provided as Addendum "A" to this exhibit.

In addition, it is inaccurate to state that a "PACE encumbrance . . . is an optional tax bill payment." There is no such thing as an "optional tax." A tax is a tax and must be paid; there is nothing "optional" about it. A PACE encumbrance results in a tax payment, processed through the property tax bill.



MEMORANDUM FOR THE CONTRA COSTA COUNTY BOARD OF SUPERVISORS

TO: Internal Operations Committee

FROM: Tyra Wright, Chair, Local Government Relations Committee, Contra Costa Association of REALTORS®
Carla Weston, Local Government Relations Committee, Contra Costa Association of REALTORS®
Nick Solis, Local Government Relations Committee, Contra Costa Association of REALTORS®
Heather Schiffman, Director of Government Affairs, Contra Costa Association of REALTORS®

RE: Requested Information

DATE: February 27, 2015

We appreciate the opportunity to respond to the questions that were asked during the Internal Operation Committee Meeting on November 3, 2014 with Supervisor Karen Mitchoff and Candace Andersen. As it was explained during the meeting the Contra Costa Association of REALTORS® (CCAR) appreciates the County's efforts to provide constituents with options to update their homes with energy saving products. We also respect private property rights and the ability of individuals to enter into contracts. However, as representatives of over 3,600 real estate professionals in the county, our concern is that PACE/HERO loans have significant potential problems.

As requested by the Internal Operation Committee, we would like to provide the following answers to the questions provided by Julie Enea, Senior Deputy County Administrator and liaison to the Internal Operation Committee:

6. What problems do mortgage lenders report regarding mortgage sales and refinancing of properties with PACE/HERO liens?

Attached is a letter from the American Bankers Association in conjunction with the Consumer Mortgage Coalition, Housing Policy Council of the Financial Services Roundtable, Independent Community Bankers of America and the Mortgage Bankers Association, dated September 13, 2012. When an attempt was made to reach out to banks such as Wells Fargo, their representative was not willing to provide anything in writing as they follow the directive of FHFA and referred me back to their letters.

9. What is the position of the local real estate association boards on PACE/HERO financing?

CCAR supports voluntary programs over mandatory, therefore we have not taken an official position on opposition to the programs, as they are voluntary. However, we are very concerned about these programs. The disclosures are unclear, the potential liability to our members are uncertain, and the risks to the homeowners could be substantial. When a homeowner perceives that the County is backing a program like this it appears as a stamp of approval and therefore, homeowners are not likely to seek additional information regarding the programs offered.



10. What happens when a new buyer doesn't want to assume the PACE/HERO lien?

One of two things can occur; the seller must pay the loan in full, plus interest or the buyer walks away and sale does not go through.

13. How many PACE/HERO lienholders were able to sell/finance since the settlement of the FHFA lawsuit without having to repay the entire PACE loan balance? How many instances have occurred of a buyer withdrawing from the sale or requiring the owner to remove the equipment or repay the PACE/HERO balance because the buyer refused to PACE/HERO upgrade/encumbrance?

As this program is so new, there is lack of information currently available at the state or local level. However, we would suggest that you refer to the attached backgrounder information provided by the Inland Valleys Association of REALTORS® (Riverside County), where the programs began and where most of the loans reside. Additionally, our Sacramento Lobbyists have requested data from HERO regarding transactions and have yet to receive any documentation to date.

14. Is there any evidence that PACE/HERO projects actually increase a property's appraised value or, conversely, that a PACE lien has been a hindrance to resale?

There is no way to prove that a home with a PACE/HERO or any energy modification to the homes can increase a property's value. When in process of selling a home, appraised values are determined by finding properties nearby (generally within half mile to one mile radius) that have sold recently and are of the same or similar configurations (generally no longer than 12 months ago) that would support a price.

Even though there was not a question confirming that status of the Federal Housing Finance Agency's (FHFA) position regarding these types of loan, we have included past and a recent statement dated December 22, 2014 from FHFA stating, "*FHFA has an obligation to protect Fannie Mae's and Freddie Mac's rights, and will aggressively do so by bringing actions to void foreclosures that purport or extinguish Enterprise property interests in a manner that contravenes federal law.*"

Please find attached the following items:

- American Bankers Association, Consumer Mortgage Coalition, Housing Policy Council of the Financial Services Roundtable, Independent Community Bankers of America and Mortgage Bankers Association – *September 13, 2012*
- Inland Valleys Association of REALTORS® Backgrounder
- Statement of Melvin L. Watt Director, FHFA Before the U.S. House of Representatives Committee on Financial Services (ref on page 12 of the statement)– *January 27, 2015*
- Statement of the Federal Housing Finance Agency on Certain Super Priority Liens – *December 22, 2014*
- Two letters to California Governor Brown – *May 1, 2014*

**American Bankers Association
Consumer Mortgage Coalition
Housing Policy Council of the Financial Services Roundtable
Independent Community Bankers of America
Mortgage Bankers Association**

September 13, 2012

Mr. Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
400 Seventh Street, S.W., Eighth Floor
Washington, D.C. 20024
RegComments@fhfa.gov

Re: Comments: RIN 2590-AA53

Dear Mr. Pollard:

The undersigned are pleased to have the opportunity to submit comments on the Federal Housing Finance Agency's ("FHFA") proposed rule on enterprise underwriting standards relating to property assisted clean energy ("PACE") programs.

After reviewing the comments on an advance notice of proposed rulemaking, FHFA proposes a rule relating to PACE programs as they impact Fannie Mae and Freddie Mac (the "GSEs"). FHFA proposes to require the GSEs to secure their rights to accelerate loans on properties that become subject to a PACE lien without the mortgage holder's consent. In addition, FHFA proposes to prohibit the GSEs from purchasing mortgage loans on properties on which there is a PACE first lien. Finally, FHFA proposes three risk mitigation alternatives.

While we appreciate the extent to which FHFA has explored alternatives that would remove the risks of PACE loans, we cannot support them. The risk mitigation alternatives would provide varying degrees of protection for taxpayers and for consumers. However, none would address who would pay the cost of implementing them. It appears that they would impose additional duties on servicers without providing reimbursement.

It is also not clear whether the Consumer Financial Protection Bureau ("CFPB") has had the opportunity to address the predatory mortgage lending aspects of PACE loans, which we believe are unacceptable, as currently designed. We would encourage the FHFA to consider the potential predatory lending abuses that may result from PACE loans, along with the CFPB. At a

minimum, we believe the ability-to-repay rule required by the Dodd-Frank Act should apply to residential PACE loans.

Even if all the consumer protections issues were resolved and even if servicers could require compensation for their PACE-related services, the fact remains that PACE liens often take priority over preexisting mortgage liens. Therefore, we cannot support the PACE loan program.

PACE Loans

PACE programs are a method of financing energy retrofit equipment installations on real property. These programs are the 2012 version of the aluminum siding door-to-door sales programs that occurred in the late 1960s to the detriment of many borrowers. Under a typical PACE program, a municipality lends funds, often raised by issuing municipal bonds, to real property owners for energy retrofit purposes. Property owners repay the PACE loans over a number of years, typically 15 or 20 years, during which they pay interest. Generally, the loans are not prepayable. The municipality collects loan payments through its tax assessments. Like unpaid property taxes, an unpaid PACE loan results in a lien on the property, and that lien usually is a super-lien, meaning it takes priority over preexisting mortgage liens.

PACE municipal bonds are attractive to investors because they are backed by the loan payments that property owners make on the PACE loans. The bonds are also attractive because they enjoy the protections of using the municipality's tax assessment mechanism. Investors are also ensured of receiving their income stream without prepayment, adding to the value of their investment. PACE investors have strong reasons to advocate for more PACE lending. It does not necessarily follow that they are suitable for consumers or that a super-lien in front of a GSE mortgage is protective of taxpayers.

Ignoring Lessons Learned

PACE loans, as currently designed, ignore the lessons learned from the current mortgage crisis:

- Consumers should not obtain mortgage loans they are unable to repay.
- Consumers should not necessarily borrow as much as someone is willing to lend.
- Lenders should bear some risk of loss upon default.
- Tapping equity in a consumer's home for the benefit of a home improvement contractor, without regard to consumer protections, can lead to abuses.
- Consumers should not be deceptively encouraged to default on their mortgage obligations.

➤ Consumers Should Not Obtain Mortgage Loans They Are Unable to Repay

One of the most significant lessons learned from the mortgage crisis is that consumers should not obtain mortgage debt that they are unable to repay. A new requirement that consumer mortgage lenders thoroughly document ability to repay a mortgage loan, without regard to the property value, was a central aspect of the mortgage reforms in the Dodd-Frank Act.

PACE loans finance up to the entire cost of the retrofit project, without considering whether the homeowner can repay the PACE loan in addition to the mortgage. PACE lending is based on the

collateral value, regardless of the borrower's ability to repay the loan. For this reason, PACE lenders do not need to underwrite the borrower's credit profile and determine whether the borrower can pay the PACE loan and the mortgage. PACE lenders will not lend more than the property value because they rely on the property for repayment, but they bear no loss if the amount of the PACE loan and the mortgage loan exceed the property value.

This is not a problem to PACE investors because of their lien super-priority, but it is a serious risk to consumers because it increases the risk they will lose their home in a foreclosure.

We question whether the Consumer Financial Protection Bureau ("CFPB") would consider PACE loans to be exempt from all the federal consumer mortgage protections, such as those under the Truth in Lending Act ("TILA"). The simple expedient that PACE loans use an unusual manner of ensuring the investor is repaid should not be enough to entirely ignore all the mortgage lending rules. In economic effect and from the consumer's point of view, PACE loans are mortgage loans. Consumers receive cash up front to make a purchase, in exchange for an obligation to make periodic payments for a length of time, with interest that accrues over time, secured by real property.

We do not believe the GSEs should deal in, or be exposed to, mortgage loans for which the ability to repay has not been adequately documented. Rather than permitting PACE loans to be exempt from the ability-to-repay rule, applying that rule to PACE loans is particularly important because PACE loans increase the risk of default and foreclosure on the non-PACE mortgage loan.

➤ ***Consumers Should Not Necessarily Borrow as Much as Someone is Willing to Lend***

Another lesson learned from the mortgage crisis is that there is a limit on the appropriate amount of consumer mortgage debt. There can be healthy debate about where that limit is or should be, but there is no reasonable argument that mortgage credit should have no economic limit. From the mere fact that a consumer might benefit from something, such as an energy retrofit project, does not necessarily follow that a lien on the consumer's home is the best way to finance it regardless of the amount of preexisting mortgage debt on the home, but that is exactly the premise of PACE financing.

➤ ***Lenders Should Bear Some Risk of Loss Upon Default***

We also learned that lenders, brokers, and others arranging a loan should have some risk of loss in the event of default. One of the problems behind the mortgage crisis is that many players had little or no such risk. The inevitable result was widespread defaults.

Investors in PACE municipal bonds will be repaid because they have a super-lien on the property. Contractors who sell and mechanics who install the PACE retrofits get paid up front. None of these parties bears the risk that the PACE loan, or the consumer's mortgage loan, will not be repaid.

At the same time, the addition of a PACE loan on a property that has a mortgage reduces the homeowner's equity in the property immediately, possibly to negative territory. The amount of

equity a homeowner has is closely correlated to both the risk of default, and the severity of loss given default. PACE lending puts the risk of default, not on the PACE lender, but on the mortgage lender who did not make the PACE loan. The inevitable result will be yet more mortgage defaults.

➤ ***Tapping Equity in a Consumer's Home for the Benefit of a Home Improvement Contractor, Without Regard to Consumer Protections, Can Lead to Abuses***

One more of the lessons we have learned is that if unsuspecting consumers have equity in their homes, someone else may be willing to tap that equity for their benefit at the consumer's expense. Some home improvement contractors have taken this approach in the past. A significant concern is that PACE loans may be targeted to those for whom they are least appropriate. If a homeowner with a strong credit profile finds a cost-effective energy retrofit project, that homeowner can finance it in a number of ways, such as by a subordinate mortgage or by unsecured credit. PACE projects, however, are generally not cost effective, which is why more traditional forms of financing are unavailable.

One of the reasons Congress enacted the Home Ownership and Equity Protection Act of 1994 ("HOEPA")¹ was to prevent equity-stripping. PACE loans are just a new form of equity-stripping, a type of predatory lending that has harmed consumers in the past. The only real difference is that in PACE lending, its proponents believe they have found a way around the HOEPA and TILA rules.

➤ ***Consumers Should Not Be Deceptively Encouraged to Default on Their Mortgage Obligations***

Finally, we have learned that deceptively encouraging mortgage default is harmful. Fannie Mae and Freddie Mac mortgages use uniform security instruments nationwide that state that the borrower defaults on the mortgage if a lien with priority over the mortgage lien is created. The borrower is required to discharge that prior lien promptly. PACE loans often do not permit prepayment because PACE investors do not want to have their investments prepaid, that is, cease to exist. A PACE loan, then is a default on the mortgage loan that predated the PACE lien, and the borrower is not permitted thereafter to discharge the PACE lien to comply with the mortgage.

PACE programs do not make this clear to the homeowner. FHFA points to one program in which potential PACE borrowers are told that the mortgage "may" prohibit the PACE lien, and to another program in which homeowners are told that "FHFA's position" is that the mortgage prohibits the PACE lien. The GSEs' uniform security instruments are unequivocal that PACE liens that take priority over the mortgage lien are not permitted:

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal

¹ Home Ownership and Equity Protection Act of 1994, Pub. L. No. 103-325, §§ 151–158, 108 Stat. 2160, 2190–2198 (1994) (codified as amended in scattered sections of the Truth in Lending Act, 15 U.S.C. §§ 1601–1667f).

proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

There is no question that a new, senior PACE lien is not permitted to remain on a property on which there is a Fannie Mae or Freddie Mac mortgage. PACE liens are a default on the mortgage.

Encouraging consumers to read their mortgage instrument is not a sound consumer protection because many will not understand it even if they do read it. Implying to consumers that "FHFA's position" is just an opinion with which consumers can reasonably disagree is misleading, at best. We cannot support government-backed programs that deceptively encourage homeowners to unknowingly default on their mortgage loans, especially in a manner that prohibits them from curing the default.

PACE Loans Misalign Incentives

The reason investors in PACE income streams advocate for them is that the tax assessment payment mechanism assures the investors that they will be repaid regardless of whether the projects are cost-effective. Their incentive is to encourage homeowners to take out the largest PACE loan possible so the PACE investor has the largest future, guaranteed, income stream. PACE investors are not affected if the property value does not increase, or if the retrofit is not cost-effective or is deficient. Likewise, they are not affected if the homeowner takes out an unaffordable PACE loan and loses the home in a mortgage foreclosure.

Under a PACE program, vendors and contractors who earn profits by selling and installing energy retrofits have an incentive to sell these retrofits. Once they make the sale, they are paid and no longer involved. They have an incentive to sell the product with the highest profit margin and get paid immediately regardless of the risks that the product may not work or actually achieve the energy savings that the vendor may advertise.

➤ PACE Loans are Loans, not Taxes

Boulder County, Colorado argued that PACE liens are sound policy because they "are not significantly distinguishable from special assessment districts in other contexts, including special assessment districts designed to fund septic systems, sewer systems, sidewalks, lighting, parks, open space acquisition business improvements, seismic improvements, fire safety improvements, and even sports arenas."² Others made similar arguments. We do not doubt that there are beneficial ways states and municipalities can spend money. Nor do we doubt that some energy efficiency measures might be beneficial.

² 77 Fed. Reg. 36086, 36097 (June 15, 2012).

Unlike more traditional special property assessments, however, PACE loans affect individual property owners, one at a time. This is a significant difference because it misaligns the incentives of those involved in the transaction. Property owners elect whether to participate. This fact allows unscrupulous contractors to take advantage of unsuspecting homeowners. This misalignment of incentives is a significant concern in PACE programs, at least as they exist today.

PACE advocates' self-claimed exemption from mortgage lending rules can permit abusive practices to recur. PACE loans are more like mortgage loans than taxes, so the "exemption" from mortgage lending rules is a concern. We suggest that FHFA consult with the CFPB on the applicability of consumer mortgage rules.

Another problem with equating PACE loans with more traditional uses of special assessments is that it requires ignoring the context in which PACE loans are made. They are made based on the *assumption* that the energy project will: 1) be cost-effective; 2) result in less energy use; and 3) increase the property value. In fact, none of these is established.

➤ ***The Cost of Energy May Decrease***

The town of Babylon, New York argues that PACE programs "will help homeowners stay in their houses by reducing their utility bills while providing a hedge against rising energy costs in the future."³ Similarly, the Environmental Defense Fund argued that "PACE will simultaneously mitigate other, more significant risks" such as energy price increases, "to yield a net decline in the chance of mortgage default."⁴

These arguments rest on the unsupported assumption that energy costs will increase in the future. Given the recent advances in modern hydraulic fracturing technology and the discovery of large domestic natural gas reserves, the opposite is certainly a realistic possibility, and would defeat the purpose of PACE programs.

This also assumes that energy costs are related to mortgage default rates, a dubious and unsupported prospect. Mortgage default rates are closely correlated with debt-to-income ratios and loan-to-value ratios. Electric bills or gas bills are minor in comparison to income and mortgage payments in most cases, and are generally irrelevant to mortgage default rates.

➤ ***Energy Retrofits Are Not Necessarily Cost Effective***

Babylon, New York argues that PACE programs "enhance the value of participating homes and, in fact, reinforce, rather than 'impair', the first mortgages."⁵ Several others make similar arguments. If PACE retrofits increased property values, the property taxes would also increase proportionately. This would make a mortgage default more likely because the extra tax payments would drain cash away that would otherwise be available to make loan payments.

³ 77 Fed. Reg. 36086, 36089 (June 15, 2012).

⁴ 77 Fed. Reg. 36086, 36090 (June 15, 2012).

⁵ 77 Fed. Reg. 36086, 36089 (June 15, 2012).

Any increase in property value would only benefit a homeowner if the increase were equal to or greater than the cost of the energy retrofit, including the cost of financing the retrofit, and the cost of the increased property taxes from any increase in property value. There is simply no evidence that this is always true.

Home values are influenced by many factors unrelated to the cost of heating and cooling a home. Home values are impacted by supply and demand, including local foreclosure rates, the location of the property, the quality of the schools, access to transportation and employment, the condition of the home, and more. When appraisers determine home values, they look at these and many other factors, but not, except in very unusual cases, at the cost of electricity or water.

PACENow, a staunch supporter of PACE financing, argues that PACE financing solves the two major impediments to energy retrofit projects – high upfront costs and fear that the costs would not be recovered upon a property sale. In other words, PACENow’s argument in support of PACE financing is that the retrofit projects are *not* cost effective. *If they were cost-effective, there would be no need for PACE financing.* The energy savings from a cost-effective project would pay for the cost of the retrofit, the cost of traditional financing, and the increased property taxes due to any increased property value.

Also, if the energy retrofits were cost effective, it would be commonplace for homeowners to make the retrofits just before they sell a home because they could recover the cost, and the “resulting” increase in property value, as soon as the sale closes. Fannie Mae and Freddie Mac, who sell foreclosed properties every day, would routinely make energy retrofits on each REO property before putting it on the market. The GSEs would not need PACE financing because they can self-finance more cheaply. Moreover, they have such a large number of properties that they would use their economies of scale to purchase many retrofit products in bulk and install them at a lower cost than individual homeowners pay. Yet, the GSEs have not pursued energy retrofits because, as they well know, it would cost more than it would save.

The fact that pre-sale retrofits are not a widespread occurrence further reinforces what PACENow claims – the upfront cost is high, and the homeowner does not recover the cost upon selling the home.

The fact that energy retrofits are not cost effective for the homeowner reinforces the fact that they are not cost effective for mortgage investors.

➤ ***The Default Rate on PACE Loans is Irrelevant***

Several commenters argue that PACE loans constitute sound policy because they have a very low default rate. They are a super-lien, so it is expected that they have a low default rate. That is precisely why they are a problem for mortgage investors – the existence of the PACE loan draws away cash that would otherwise be available to make mortgage payments.

FHFA Proposes Alternatives

FHFA proposes a rule with three risk mitigation alternative. While we appreciate the attention FHFA put into its thorough and deliberate consideration of available options, we cannot support any of the alternatives at this time.

The proposed rule would provide:

- (a) The Enterprises shall immediately take such actions as are necessary to secure and/or preserve their right to make immediately due the full amount of any obligation secured by a mortgage that becomes, without the consent of the mortgage holder, subject to a first-lien PACE obligation. Such actions may include, to the extent necessary, interpreting or amending the Enterprises' Uniform Security Instruments.
- (b) The Enterprises shall not purchase any mortgage that is subject to a first lien PACE obligation.
- (c) The Enterprises shall not consent to the imposition of a first-lien PACE obligation on any mortgage.⁶

We agree with FHFA that the proposed rule is reasonable to limit, in the interest of safety and soundness, the financial risks that first-lien PACE programs would otherwise cause the GSEs to bear.⁷ We add that it is also reasonable in the interests of consumer protection.

FHFA also proposes three risk mitigation alternatives, to which we now turn.

➤ *Guarantee or Insurance*

FHFA is considering a risk mitigation alternative under which the GSEs would not consent to PACE obligations unless the obligation would be recorded in land records, and one of the following would be required:

- Repayment of the PACE obligation is irrevocably guaranteed by an insurer the GSEs determine is qualified;
- A qualified insurer insures the GSEs against all losses on the PACE obligation; or
- The PACE program provides a reserve fund, sufficient on an actuarially sound basis, for the benefit of holders of mortgage interests on affected properties.

Recording the obligation in land records is sensible. It is included in each of the three loss mitigation alternatives. However, as with many other aspects of the proposed risk mitigation alternatives, it is not clear who would pay for performing the service or for the recording taxes. We discuss the issue of who would pay for the risk mitigation alternatives more comprehensively below.

Any insurer can fail, no matter how qualified at the outset. Given that some PACE loans are for long terms, this is a significant concern. PACE programs to date do not establish reserve funds to protect mortgage holders, possibly because it would undermine the economics of PACE

⁶ 77 Fed. Reg. 36086, 36107 (June 15, 2012).

⁷ 77 Fed. Reg. 36086, 36107 (June 15, 2012).

investments. While that option has potential in the future, it would need to be developed. Any reserve fund would need to be protected against losses and fraud, which would be a significant undertaking.

Again, it is not clear who would pay for the servicer's confirmation that any insurance or reserve were adequate and in place.

➤ ***Protective Standards***

A second proposed loss mitigation option is protection through underwriting standards.

- The PACE obligation would be limited to the lesser of \$25,000 or ten percent of the property value;
- The combined loan-to-value ratio would be limited to 65 percent;
- The borrower's documented back-end debt-to-income ratio would be no more than 35 percent;
- The borrower's FICO score would be no lower than 720; and
- The GSEs would treat a home purchaser's prepayment of a preexisting PACE obligation as part of the purchase price in determining loan amounts and in underwriting.

While these underwriting criteria are sensible, it is not clear who would verify them. If the PACE obligation were originated at the same time as a mortgage loan, the PACE requirements could be verified by the mortgage originator. However, that would be a rare occurrence because the purchase of the energy retrofit could simply be combined into the mortgage loan.

In the more likely scenario, a PACE obligation would be sought after the mortgage loan is in place. In this event, the servicer would need to underwrite the PACE obligation. If the servicer did not do so and it were later to be discovered that requirements were not met, the GSE would presumably require the servicer to buy back the mortgage loan. A third party, such as the PACE lender, would have a potential conflict of interest with the GSE and the servicer.

This option does not address the question whether the PACE retrofit is cost-effective. It simply makes it more likely that borrower will be able to afford a possible waste of money.

➤ ***H.R. 2599 Underwriting Standards***

The third option would use underwriting standards set forth in H.R. 2599, the PACE Assessment Protection Act of 2012. This bill would require PACE programs, for residential property, to require a number of protections, including:

- Property taxes on the property must have been current for three years or the property owner's period of ownership, whichever is shorter;
- There must be no involuntary liens on the property in excess of \$1,000;
- There must be no default notices and not more than one property-based debt delinquency in the past three years or the property owner's period of ownership, whichever is shorter;
- The property owner must not have filed for or declared bankruptcy in the previous seven years;
- The property owner must be current on all mortgage debt on the property;

- The property title must not be subject to power of attorney, easements, or subordination agreements restricting the owner's authority to subject the property to a PACE lien;
- The property must meet any geographic eligibility requirements established by the PACE program;
- The energy retrofit must undergo an audit or feasibility study that:
 - Is commissioned by the local government, the PACE program, or the property-owner, and must not be more than 90 days old;
 - Was performed by building analyst certified by a specified organization;
 - Includes:
 - Identification of recommended energy conservation, efficiency, and/or clean energy improvements;
 - Identification of the proposed PACE-funded project as one of those recommended improvements;
 - An estimate of the potential cost savings, useful life, benefit-cost ratio, and simple payback or return on investment for each recommended improvement; and,
 - An estimate of the estimated overall difference in annual energy costs with and without the recommended improvements;
- The PACE retrofit must be determined by the local government as one expected to be affixed to the property for the entire useful life of the improvement based on the expected useful lives of energy conservation, efficiency, and clean energy measures approved by the Department of Energy ("DOE");
- The PACE retrofit will be installed by a contractor determined by the local government to be qualified;
- Disbursal of PACE funds is not be permitted unless the property owner submits to the PACE program a written request for disbursement, a certificate of completion, and adequate documentation of all costs to be financed and copies of any required permits;
- The total energy and water cost savings during the useful life of the improvements, as determined by the audit or feasibility study, are expected to exceed the total cost of the PACE assessment;
- The total PACE assessments shall not exceed 10 percent of the appraised value of the property;
- The property owner must have equity of not less than 15 percent of the appraised property value, without consideration of the PACE assessment or PACE retrofit;
- The maximum term of the PACE assessment is the shorter of 20 years or the weighted average expected useful life of the PACE retrofit, consistent with expected useful lives of energy and efficiency measures approved by the DOE.

This would be a reasonable set of criteria to ensure that PACE projects are cost-effective. However, the servicer would not approve any PACE proposal without ensuring all requirements are met in order to avoid a GSE buyback requirement. The servicer could not merely assume that the program requirements are met, even if the PACE program says they are.

Servicers do not have the expertise to verify some of the requirements. Some require understanding energy equipment. For example, the servicer would need to verify that a particular energy retrofit is expected to be affixed to the property for the entire useful life of the improvement based on the expected useful lives of energy conservation, efficiency, and clean

energy measures approved by the DOE. Presumably, this would require the servicer to determine that type of equipment and whether it is consistent with DOE expectations. Mortgage servicers do not have energy equipment expertise. They would need to either hire staff dedicated to PACE applications, or would need to retain a third party vendor who has the requisite expertise.

Either way, it would be costly for the servicer, but there is no apparent source of reimbursement to the servicer. Unlike the second loss mitigation alternative, this one could not be verified by the originating lender as part of underwriting a mortgage loan because it goes much farther than mortgage underwriting. Without a source of reimbursement for their costs, lenders and servicers will not be able to approve PACE proposals.

➤ *Remaining Concerns With PACE Loans*

Consumers do not need PACE loans for cost-effective energy retrofits that they are able to afford. Without some protection, PACE loans could become a new form of inappropriate predatory lending. The CFPB has not opined on the applicability of the federal consumer mortgage laws to PACE loans, but that would be advisable.

Super-liens are a risk to any mortgage servicer or investor. No amount of ensuring an energy retrofit is cost-effective, or that the LTV is a certain level, and no amount of consumer protections, will alter this basic fact of mortgage lending. We do not believe FHFA should permit the GSEs to be exposed to the financial risks of super-liens without some sound data on which to estimate the GSEs' future resulting costs.

The responsibility for determining whether any potential PACE loan meets the several criteria would fall largely on the servicer. If FHFA does adopt one of the alternatives, servicers will need either a right to refuse to consider approving any PACE loan, or to be compensated by the PACE borrower for the extra cost of determining whether the PACE loan is acceptable, and of monitoring its future performance. Servicers will need a way of receiving compensation even if, after reviewing a potential PACE loan, the servicer determines not to approve the loan. This cost would need to be included in the calculation of whether the PACE retrofit is cost-effective.

Servicers should have the ability to require payment in full before undertaking their determination process. Servicers need the ability to refuse to consider a PACE project if considering it could put the servicer in jeopardy of noncompliance with any applicable law, such as any requirements the CFPB may apply.

Conclusion

We appreciate FHFA's efforts to resolve the several issues surrounding PACE financing, including the risk mitigation alternatives. We remain concerned about the potential for predatory lending under PACE programs, and we encourage FHFA to work with the CFPB on resolving these concerns.

If FHFA adopts one or more of the risk mitigation alternatives, we request that participation not be mandatory for lenders or servicers who are not adequately compensated for the additional burdens the alternatives would place on them. Lenders and servicers should not be required to participate if doing so would risk noncompliance with any consumer protections the CFPB may apply. The best home improvement programs focused on increasing energy efficiency would be those that do not create super-liens or expose the GSEs, investors, and servicers to additional risk, which is today not quantified, and which actually deliver verifiable savings to the consumer.

Sincerely,

American Bankers Association
Consumer Mortgage Coalition
Housing Policy Council of the Financial Services Roundtable
Independent Community Bankers of America
Mortgage Bankers Association

PACE/HERO Program Backgrounder

Summary: Property Assessed Clean Energy (PACE) is the generic legislative umbrella term for a series of financing programs created under several pieces of legislation in the 2000s and refined in more recent years. The basic idea is to create new options to finance energy efficiency at the household level by leveraging local governments' ability to access bond markets and, more importantly, to collect payments through tax bills. However, unlike traditional financing for local government agencies, this borrowing activity becomes a direct contract between the property and the bond market. In other words, local government agencies will not, theoretically, be on the hook for the loans. Furthermore, it's important to note that the loan is to the property, not the property's owner. This was designed to mimic the function of parcel taxes, which move easily from owner to owner without impacting a borrower's overall debt or loan-to-value (LTV) calculations.

Six companies, all built as partnerships with local governments, are active "lenders" in PACE. Six are specific to a City or small/midsize County. Two, San Diego-based HERO and Oakland-based CaliforniaFIRST, are designed to eventually operate statewide. Other, smaller programs that live on a similar chassis were authorized under separate legislation. However, the subtle differences are significant and typically mean that they have done comparably little business in the market.

HERO is, by far, the dominant player in the market. In less than three full years of active marketing and lending – most of it in portions of Riverside and San Bernardino County – the company has grown from startup to well above half a billion dollars in total activity covering more than 25,000 loans.

2014: The Problems Take Root

REALTORS in Riverside County began reporting their concerns with HERO in summer of 2014. By fall, the sporadic complaints became weekly calls to local REALTOR associations and, by winter, the contacts became daily and more serious. In numerous instances, HERO loans and associated policies are directly responsible for real estate transactions falling out of escrow. In several instances, these problems have escalated to threats of legal action. IVAR began collecting information on the program in late August and opened dialogue with HERO program executives in late fall, following an earlier meeting with a government agency responsible for midwifing HERO into Riverside County.

The specific concerns about the program are detailed below. Please note that this is a working document that will be updated regularly as information changes. This version is as of February 2, 2015.

- **Transferability:** HERO claims that the loans can be transferred to another buyer. Technically, this is true – unless the buyer needs financing. Neither FHFA nor FHA will accept PACE (HERO) balances on any loan they are asked to insure or finance. Those two entities cover about 90 percent of all financed transactions at this time. So, for all intents and purposes, HERO balances have to be paid off when selling or refinancing a home. All three agencies have issued notices

and reinforced those notices on several occasions, most recently in December. For example, from Fannie Mae: "This Notice is provided as a reminder of the Fannie Mae policy prohibiting first-lien PACE loans ... As set forth ... Fannie Mae will not purchase mortgage loans secured by properties with an outstanding PACE or PACE-like loan unless the terms of the PACE program do not provide lien priority over first mortgage liens," *Fannie Mae Selling Notice, August 20, 2014*.

- **Breach of borrowing contract with existing mortgage:** One HERO disclaimer recommends that the borrower "review mortgage agreement(s) or other security instrument(s) which affect the property or to which you as the property owner are a party. Entering into a program assessment contract without the consent of your existing lender(s) could constitute an event of default under such agreements or security instruments." The reality is that for virtually anyone with a mortgage, entering into this agreement is a technical breach of their agreement and does place them in jeopardy. That said, while banks and servicers are aware that borrowers are violating their contracts, they have not (to our knowledge) taken any action to enforce remedies against borrowers.
- **Interest:** HERO loan rates carry an effective APR of 9% to 11% despite the fact that they are fully secured loans. The higher rate applies to 20-year terms. The nominal rate is about 9%, but fees and other costs push it to an effective rate of 11%.
- **Prepayment Penalties:** HERO loans carry significant prepayment penalties and minimum interest requirements. A loan of \$20,000 paid off in the first year will carry minimum interest and prepayment penalties of several thousand dollars. The borrowing contracts note prepayment penalties of 5% in year one, 4% in year two and 3% in years three through five. The penalty drops to zero in year six. Update: HERO notes that it has dropped prepayment penalties on all loans, including those offered prior to 2015. The company has not – and does not plan – to send notice of the change to its borrowers. However, they state that when borrowers request a payoff statement, the penalty will not be included in the total. According to HERO, the change does not reflect any change in the contracts with the borrowers or with bondholders. It simply reflects HERO's change of heart on the issue and willingness to absorb prepayment penalties internally. This raises a concern that HERO may just as easily change its mind again to reinstate prepayment penalties at some future date.
- **Project costs out of line with market:** In dozens of cases brought forward voluntarily, REALTORS report that the cost of improvements appeared to be seriously out of step with the same type of work completed outside of the PACE/HERO Program. While any individual project may be complicated by the particular structure, Realtors involved with the homes after the fact have repeatedly reported that the costs did not appear to be supported. HERO reports that it is taking action to attempt to identify such issues. However, details and enforcement procedures appear to be lacking for now. As of late January, 2015, with about 25,000 projects complete, HERO confirmed that it has never taken legal action against a contractor.

- **Lien Disclosure:** If an owner plans to use HERO to enhance the value of their home for resale (for off, this is a flawed idea in the first place since the cost of the upgrades will be greater than the increase in resale value), they need to be sure to disclose the debt to the buyer. Because of the timing of tax bills and assessments, the debt may not appear on the tax bill at the time of sale and according to some reports, it may not show up on the title report. Update: Several of these reports later showed that the loan was indeed placed in the prelim. However, due to its placement, it was missed by everyone involved in the transaction, including agents, brokers, lenders – not to mention the buyers. While this may indicate that HERO was, technically, properly disclosing, the fact that it has been missed by veteran professionals from real estate and lending remains troubling.
- **Impound accounts:** If the homeowner has an impound account to cover property taxes, the monthly payment amount needs to be disclosed to the servicer as soon as it is applied to the bi-annual tax bill. Otherwise, the borrower may have a shortage in the first year, leading the servicer to assess the borrower for both the missed year of payments and the actual payments that have now been apportioned as a monthly additional impound assessment. In practical terms, a \$200 per month payment becomes a \$400 a month payment – at least for one year – if the borrower fails to notify the servicer of the tax assessment.
- **Disclosure to borrowers:** While the material concerns listed above are of tremendous concern, Realtors have taken particular issue with the belief that many of these seem to be negligently withheld from borrowers as they complete the HERO Program borrowing process. Many agents report that sellers not only did not understand the issues above, but often contested the explanation from the brokers listing their home. In contesting issues such as problems with transferability, they recounted conversations with those involved with explaining and selling the financing option to them.
- **Riverside County as the California petri dish experiment:** While the program is active in about 220 communities and about half of California counties, the vast majority of complaints in the field have come from one place: Riverside County. Specifically, western Riverside County. Most, including HERO, believe that this is due simply to the fact that HERO has been active in Riverside County since 2011 and in most other regions since 2013 or later. HERO loans have a built-in incubation period of at least five months and up to 17 months during which they exert no costs to borrowers. Further, many of the issues, including transferability problems and the resulting prepayment costs, come to light only during a transaction. In other words, Riverside County is perhaps the only region with enough history to see the problems ripen.



Testimony

Statement of Melvin L. Watt Director, FHFA Before the U.S. House of Representatives Committee on Financial Services

"Sustainable Housing Finance: An Update from the Director of the Federal Housing Finance Agency"

1/27/2015

Chairman Hensarling, Ranking Member Waters and members of the Committee, thank you for inviting me to testify today about our work at the Federal Housing Finance Agency (FHFA) and for providing my first opportunity to return to this Committee since I left Congress.

FHFA was established by the Housing and Economic Recovery Act of 2008 (HERA) and is responsible for the effective supervision, regulation, and housing mission oversight of the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Federal Home Loan Bank System, which includes 12 Federal Home Loan Banks (FHLBanks) and the Office of Finance. FHFA's mission is to ensure that these regulated entities operate in a safe and sound manner and that they serve as a reliable source of liquidity and funding for housing finance and community investment. Since 2008, FHFA has also served as conservator of Fannie Mae and Freddie Mac (together, the Enterprises).

I am pleased to provide an overview of FHFA's statutory responsibilities and an update on the Enterprises' financial condition, FHFA's activities as regulator and conservator of the Enterprises, the FHLBanks' financial condition, and FHFA's regulatory activities as regulator of the FHLBanks.

FHFA's Statutory Responsibilities

I. FHFA's Regulatory Oversight of the Federal Home Loan Banks, Fannie Mae and Freddie Mac

The Federal Housing Enterprises Financial Safety and Soundness Act (the Safety and Soundness Act), as amended by HERA, requires FHFA to fulfill the following responsibilities in our oversight of the Federal Home Loan Bank System (FHLBank System) and the Enterprises:

(A) to oversee the prudential operations of each regulated entity; and

(B) to ensure that--

- (i) each regulated entity operates in a safe and sound manner, including maintenance of adequate capital and internal controls;
- (ii) the operations and activities of each regulated entity foster liquid, efficient, competitive, and resilient national housing finance markets (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities);
- (iii) each regulated entity complies with this chapter and the rules, regulations, guidelines, and orders issued under this chapter and the authorizing statutes;
- (iv) each regulated entity carries out its statutory mission only through activities that are authorized under and consistent with this chapter and the authorizing statutes; and
- (v) the activities of each regulated entity and the manner in which such regulated entity is operated are consistent with the public interest.

12 U.S.C. § 4513(a)(1).

II. FHFA's Role as Conservator of Fannie Mae and Freddie Mac

Congress granted the Director of FHFA the discretionary authority in HERA to appoint FHFA as conservator or receiver of Fannie Mae, Freddie Mac, or any of the Federal Home Loan Banks, upon determining that specified criteria had been met. On September 6, 2008, FHFA exercised this authority to place Fannie Mae and Freddie Mac into conservatorships. Subsequently, Fannie Mae and Freddie Mac together received \$187.5 billion in taxpayer support under the Senior Preferred Stock Purchase Agreements (PSPAs) executed with the U.S. Department of the Treasury. FHFA continues to oversee these conservatorships.

As conservator of the Enterprises, FHFA is mandated to:

(D) ...take such action as may be--

- (i) necessary to put the regulated entity in a sound and solvent condition; and
- (ii) appropriate to carry on the business of the regulated entity and preserve and conserve the assets and property of the regulated entity.

12 U.S.C. § 4617(b)(2)(D).

As conservator, FHFA must also fulfill the responsibilities enumerated above in 12 U.S.C. § 4513(a)(1). Additionally, FHFA has a statutory responsibility under the Emergency Economic Stabilization Act of 2008 (EESA) to “implement a plan that seeks to maximize assistance for homeowners and use its authority to encourage the servicers of the underlying mortgages, and considering net present value to the taxpayer, to take advantage of...available programs to minimize foreclosures.” 12 U.S.C. § 5220(b)(1).

My goal, as Director of FHFA since January 6, 2014, has been to lead FHFA in meeting the mandates assigned to it by statute until such time as Congress revises those mandates.

FHFA's Actions as Regulator and Conservator of Fannie Mae and Freddie Mac

As regulator and conservator of Fannie Mae and Freddie Mac, FHFA has taken consistent actions in the past year to ensure their safety and soundness, to ensure that they provide liquidity to the housing finance market, to preserve and conserve their assets, and to ensure that they meet their obligations to homeowners under EESA.

I. Financial Performance and Condition of Fannie Mae and Freddie Mac

Since the Enterprises were placed in conservatorship in 2008, their operations have stabilized and their financial performance has improved significantly. Fannie Mae has not made a draw under the PSPA since the fourth quarter of 2011, and Freddie Mac has not made a draw since the first quarter of 2012. Some of the improvement in the Enterprises' performance relates to one-time or transitory items, such as the reversal of each Enterprise's deferred tax asset valuation allowance, legal settlements, and the release of loan loss reserves as a result of rising house prices. Part of the improvement is also attributable to other factors, including responsible business practices, strengthened underwriting practices, rising house prices, and increased guarantee fees.

While steps taken in the conservatorships have helped stabilize the Enterprises' financial condition and the mortgage market, significant challenges remain. Serious delinquencies have declined but remain historically high compared to pre-crisis levels, and counterparty exposure remains a concern. While risks from the Enterprises' mortgage-related investment portfolios are declining as the size of their portfolios shrinks, revenues from these portfolios are also shrinking. Both Enterprises continue to work to maintain and improve the effectiveness and efficiency of their operational and information technology infrastructures. Additionally, under the terms of the PSPAs, the Enterprises do not have the ability to build capital internally while they remain in conservatorship. Attracting and retaining the best qualified workforce in this period in which the future of the Enterprises is uncertain also continues to be a challenge.

Other significant financial and performance highlights about the Enterprises include the following:

Fannie Mae

- For the first nine months of 2014, Fannie Mae reported earnings of \$12.9 billion compared to net income of \$77.5 billion for the first nine months of 2013, which reflected a number of one-time or transitory items. Calculations have not yet been completed for 2014 and, therefore, comparisons are being made here on the basis of three quarters.
- The cumulative amount of draws that Fannie Mae has received from the Treasury to date under its PSPA is \$116.1 billion. Through September 30, 2014, Fannie Mae has paid \$130.5 billion in cash dividends to Treasury on the company's senior preferred stock. Under the PSPA, dividends do not offset prior Treasury draws.
- The credit quality of new single-family acquisitions was strong through the third quarter of 2014, with a weighted average FICO score of 743 and a weighted average loan-to-value (LTV) ratio of 77 percent.
- The serious delinquency rate was 1.96 percent for Fannie Mae's total single-family book of business as of September 30, 2014. The serious delinquency rate for loans acquired between 2005 and 2008 was 8.27 percent compared to 0.34 percent for loans acquired since 2009 as of September 30, 2014. The serious delinquency rate for loans acquired prior to 2005 was 3.27 percent.
- Fannie Mae continues to reduce its retained portfolio in accordance with the PSPA. As of September 30, 2014, Fannie Mae's retained portfolio balance was \$438.1 billion, which represents a decline of \$52.6 billion since the beginning of the year, when the balance was \$490.7 billion.

Freddie Mac

- For the first nine months of 2014, Freddie Mac reported earnings of \$7.5 billion, compared to net income of \$40.1 billion for the first nine months of 2013, which reflected a number of one-time or transitory items.
- The cumulative amount of draws that Freddie Mac has received from the Treasury to date under its PSPA is \$71.3 billion. Through September 30, 2014, Freddie Mac has paid \$88.2 billion in cash dividends to Treasury on the company's senior preferred stock. Under the PSPA, dividends do not offset prior Treasury draws.
- The credit quality of new single-family acquisitions remained high through the third quarter of 2014, with a weighted average FICO score of 744 and a weighted average LTV ratio of 77 percent.
- The serious delinquency rate was 1.96 percent for Freddie Mac's single-family book of business as of September 30, 2014. The serious delinquency rate for loans originated between 2005 and 2008 was 7.66 percent compared to 0.23 percent for loans originated since 2009 as of September 30, 2014. The serious delinquency rate for loans originated prior to 2005 was 3.12 percent.
- Freddie Mac continues to reduce its retained portfolio in accordance with the PSPA. As of September 30, 2014, Freddie Mac's retained portfolio balance was \$413.6 billion, which represents a decline of \$47.4 billion since the beginning of the year, when the balance was \$461.0 billion.

II. FHFA's Supervisory Activities Related to the Enterprises

FHFA's supervision function evaluates the safety and soundness of the Enterprises' operations. Safety and soundness is a top priority in meeting FHFA's statutory obligations, in execution of Enterprise strategic initiatives and in all business and control functions. FHFA takes a risk-based approach to supervision, which prioritizes examination activities based on the risk a given practice poses to a regulated entity's safe and sound operation or its compliance with applicable laws and regulations. FHFA conducts on-site examinations at the regulated entities, ongoing risk analysis, and off-site review and surveillance. FHFA communicates supervisory standards to the regulated entities, establishes expectations for strong risk management, identifies risks, and requires remediation of identified deficiencies.

In 2014, FHFA issued supervisory guidance to the Enterprises on topics related to operational risk management, counterparty risk management, mortgage servicing transfers, cyber risk management, and liquidity risk management. This guidance articulates FHFA's supervisory expectations related to those matters and informs examination activities. Examples of important guidance issued during 2014 include the following:

Advisory Bulletin 2014-05, *Cyber Risk Management Guidance*, describes the characteristics of a cyber risk management program that FHFA believes will enable the regulated entities to successfully perform their responsibilities and protect their environments. FHFA's key expectations include Enterprise assessment of system vulnerabilities, effective monitoring of cyber risks, and oversight of third parties with access to Enterprise data.

Advisory Bulletin 2014-06, *Mortgage Servicing Transfers*, articulated FHFA's supervisory expectations for the Enterprises with regard to servicing transfers of mortgage loans that they hold or guarantee. Pursuant to contracts with their counterparties, the Enterprises must approve the transfer of servicing operations or servicing rights. FHFA has focused on Enterprise approval processes for these transactions due in large part to the significant recent transfers of mortgage servicing operations from federally-regulated banks to non-bank entities that are generally subject to less regulation and are more concentrated in their operations.

Advisory Bulletin 2014-07, *Oversight of Single Family Seller/Servicer Relationships*, articulated FHFA's requirement

that the Enterprises assess financial, operational, and compliance risks associated with their counterparties and develop a risk management framework that can be applied throughout the Enterprise's contractual relationship with seller/servicers.

Standards set by FHFA are also reflected in guidance to our examiners, which is provided in FHFA's Examination Manual. The manual includes twenty-six modules that cover various Enterprise operations and provide background on a range of operational, credit, and market risks. The manual is a valuable tool for implementing FHFA's risk-based approach to supervision of the Enterprises and is available on FHFA's website.

FHFA maintains a team of examiners on-site at each Enterprise, and the examiners receive support from off-site analysts and subject matter experts. Examination teams perform targeted examinations of specific Enterprise operations and conduct ongoing monitoring of risk control functions and business lines. The examination work is performed in accordance with plans prepared annually for each Enterprise, taking into account factors such as analysis of existing risks, changes in business operations and strategic initiatives, and mortgage market developments. Where FHFA's Enterprise supervision team identifies deficiencies, examiners communicate expectations for remedial action. Examiner risk assessments are updated during the year to ensure that emerging risks and Enterprise business changes receive appropriate examination coverage.

Findings from targeted examinations and ongoing monitoring conducted through the course of the year are relied upon by examiners in assigning ratings to each Enterprise under the ratings system adopted by FHFA in 2013. The system, known as CAMELSO, includes separate ratings for Capital, Asset quality, Management, Earnings, Liquidity, Sensitivity to market risk, and Operations. The examination findings are also incorporated into annual Reports of Examination, which capture FHFA's view of the safety and soundness of each Enterprise's operations. Information from the Reports of Examination is included in FHFA's annual Report to Congress.

III. FHFA's Strategic Goals and Scorecard Objectives for the Conservatorships of Fannie Mae and Freddie Mac

During 2014, FHFA defined and worked to further the objectives included in the *2014 Strategic Plan for the Conservatorships of Fannie Mae and Freddie Mac* (2014 Conservatorship Strategic Plan) and the 2014 Conservatorship Scorecard.

FHFA has already published the *2015 Scorecard for Fannie Mae, Freddie Mac and Common Securitization Solutions* (2015 Conservatorship Scorecard), which details FHFA's conservatorship expectations for the Enterprises during 2015 and builds on last year's Scorecard. Both the 2014 and 2015 Conservatorship Scorecards are centered around three strategic goals.

A. MAINTAIN, in a safe and sound manner, credit availability and foreclosure prevention activities for new and refinanced mortgages to foster liquid, efficient, competitive, and resilient national housing finance markets

FHFA's first strategic goal, MAINTAIN, requires the Enterprises to support access to credit for single-family and multifamily mortgages, as well as foreclosure prevention activities. FHFA and the Enterprises have focused on a number of objectives under this strategic goal in the last year, including clarifying the Representation and Warranty Framework, providing targeted access to credit opportunities for creditworthy borrowers, working with small and rural lenders, implementing loan modification and REO strategies in hardest hit communities, and prioritizing

affordable housing through multifamily loan purchases. In the 2015 Conservatorship Scorecard, FHFA also expressed an expectation that the Enterprises address other priorities, such as assessing the reliability of and the operational feasibility of using alternate or updated credit score models.

Representation and Warranty Framework

FHFA and the Enterprises made substantial progress on updating and clarifying the Representation and Warranty Framework (Framework) during 2014, and these efforts build on the agency's work over the last several years to refine the Framework. The Framework provides Fannie Mae and Freddie Mac with remedies – such as requiring a lender to repurchase a loan – when they discover that a loan purchase does not meet their underwriting guidelines. In updating and clarifying the Framework, FHFA's objectives are to continue to support safe and sound Enterprise operations, encourage lenders to reduce their credit overlays, and complement the agency's efforts to strengthen the Enterprises' quality control process.

FHFA prioritized providing greater clarity around the life-of-loan exclusions used in the Framework during 2014, and the Enterprises announced further improvements in this area on November 20, 2014. Specifically, those changes 1) limit repurchase requests under the life-of-loan exclusions to significant matters that impact the overall credit risk of the loan; 2) modify the life-of-loan exclusions for misrepresentations and data inaccuracies to incorporate a significance test; 3) clarify the requirements for requesting repurchase related to compliance with applicable laws and regulations; and 4) provide lenders a list of unacceptable mortgage products. The changes provide all parties with greater clarity about when the life-of-loan exemptions apply and when they do not. These revisions also maintain and support safe and sound Enterprise operations and are consistent with FHFA's broader efforts to ensure that the Enterprises' place more emphasis on upfront quality control reviews and other upfront risk management practices.

Earlier in 2014, FHFA and the Enterprises also announced other Framework refinements that included revising payment history requirements, providing written notification of repurchase relief to lenders, and eliminating automatic repurchases for mortgage insurance rescissions.

We also started efforts in 2014 to develop an independent dispute resolution program that could be used as a last step, in certain circumstances, to resolve disputes between lenders and the Enterprises. This would enable lenders to challenge a repurchase request by allowing them to request a neutral third party to determine whether there was a breach of the selling representations and warranties that justifies the repurchase request. Currently, FHFA and the Enterprises are engaged in outreach activities with a variety of lenders and dispute resolution providers to solicit their input on the initial design of the dispute resolution process. Under the 2015 Conservatorship Scorecard, FHFA expects the Enterprises to finalize these improvements to the Representation and Warranty Framework in 2015.

Providing Targeted Access to Credit Opportunities for Creditworthy Borrowers

On December 8, 2014, Fannie Mae and Freddie Mac announced purchase guidelines that enable creditworthy borrowers who meet stringent criteria and can afford a mortgage, but lack the resources to pay a substantial down payment plus closing costs, to get a mortgage with a three percent down payment. These purchase guidelines will provide an important – but targeted – access to credit opportunity for creditworthy individuals and families.

To appropriately manage the Enterprises' risk, the Enterprises' purchase guidelines emphasize strong underwriting

standards and do not allow the kind of risk layering that occurred in the years leading up to the housing crisis. First, the purchase guidelines for these loans include compensating factors and risk mitigants – such as housing counseling, stronger credit histories, or lower debt-to-income ratios – to evaluate a borrower’s creditworthiness. Second, like other loans purchased by the Enterprises, these loans must have full documentation and cannot include 40-year or interest-only terms. Third, 97 percent LTV loans must be fixed-rate and cannot have an adjustable rate. Fourth, the products will leverage the Enterprises’ existing automated underwriting systems. Finally, like other loans with down payments below 20 percent, these loans require private capital credit enhancement, such as private mortgage insurance.

The Enterprises’ purchase guidelines for the 97 percent LTV loan product provide a responsible approach to improving access to credit while also furthering safe and sound lending practices. The product focuses on first-time homebuyers and requires borrowers to be owner-occupants. Both Enterprises expect to purchase only a small amount of these loans each year compared to their overall loan purchase volume, and FHFA will be monitoring the ongoing performance of these loans.

Working with Small Lenders, Rural Lenders and Housing Finance Agencies

The Enterprises have also continued efforts to work with small lenders, rural lenders, and Housing Finance Agencies (HFAs) and to strengthen their understanding of how the Enterprises might be able to better serve these entities. This work is important because we know that community-based lenders and HFAs play a vital role in serving rural and underserved markets across the country.

In the first quarter of 2014, the Enterprises issued lender guidance clarifying a number of property and appraisal requirements for dwellings in small towns and rural areas. Further, as part of its ongoing effort to serve the affordable housing market and provide liquidity to small towns and rural areas, Fannie Mae revised its Selling Guide in September 2014 to allow for the delivery of Department of Housing and Urban Development (HUD)-guaranteed Section 184 mortgages and Department of Agriculture Rural Development (RD)-guaranteed Section 502 loans as standard instead of negotiated-only products. Fannie Mae also piloted expanded partnerships with county-level HFAs which go beyond its traditional state-level approach.

FHFA expects the Enterprises to continue outreach and initiatives with small lenders, rural lenders, and HFAs in 2015, including exploring the feasibility of purchasing a greater number of manufactured housing loans that are secured by real estate.

Loss Mitigation and Foreclosure Prevention Activities

Since entering conservatorship, the Enterprises have continued to focus on loss mitigation and borrower assistance activities. As of October 31, 2014, the Enterprises had conducted nearly 3.4 million foreclosure prevention actions since the start of the conservatorships in September 2008.

The 2015 Conservatorship Scorecard provides updated expectations for the Enterprises concerning their loss mitigation and foreclosure prevention activities. This includes expectations for the Enterprises to develop and execute strategies that reduce both the number of severely aged delinquent loans and the number of vacant real estate owned (REO) properties held by the Enterprises. These efforts will leverage and build on activities over the last year, including the Neighborhood Stabilization Initiative. Through this effort, FHFA has selected the City of Detroit and Cook County, IL for pilot programs. In these areas, the Enterprises have worked to improve outcomes

in hardest hit markets through developing pre-foreclosure strategies, such as deeper loan modifications, and post-foreclosure strategies that address individual properties.

The 2015 Conservatorship Scorecard expectation that the Enterprises reduce the number of seriously delinquent loans they hold will also draw upon recent experience with non-performing loan (NPLs) sales. FHFA's expectation is that the sale of seriously delinquent loans through NPL sales will result in more favorable outcomes for borrowers, while also reducing losses to the Enterprises and, therefore, to taxpayers. In 2014, Freddie Mac conducted a pilot sale of loans serviced by Bank of America that were, on average, more than three years delinquent at the time of sale. In addition, FHFA is working with both Enterprises to develop additional guidelines for ongoing NPL sales by the Enterprises, with a focus on guidelines that provide more favorable outcomes for borrowers, avoid foreclosure wherever possible and require post-sale reporting to track borrower outcomes. FHFA and the Enterprises plan to release further information about these NPL sale guidelines in early 2015.

FHFA also expects the Enterprises to continue targeted outreach activities to increase consumer awareness of the Home Affordable Refinance Program (HARP). Many borrowers could benefit from the HARP program, but may not fully understand the benefits or that they qualify. In addition, FHFA expects the Enterprises to continue refining and improving other loss mitigation and foreclosure prevention strategies. In 2014, Enterprise activities in this area included expanding the Streamlined Modification program, which addresses documentation challenges associated with traditional modifications, to include deeply delinquent loans. Moving forward, FHFA will continue to review loss mitigation options to help families stay in their homes, stabilize communities, and meet our conservatorship and EESA obligations.

Multifamily

For individuals and families who rent rather than buy, continuing to support affordable rental housing is also an ongoing priority for FHFA and the Enterprises. Fannie Mae and Freddie Mac have historically played a key role in providing financing to the multifamily housing finance market throughout all market cycles and their multifamily portfolios demonstrated strong performance even through the financial crisis.

FHFA's 2015 Conservatorship Scorecard requires each Enterprise to continue multifamily purchases, but not to exceed a volume cap of \$30 billion each for these purchases. This continues the approach taken in the 2014 Conservatorship Scorecard. FHFA has also continued to emphasize the Enterprises' critical role in the affordable rental housing market by allowing the Enterprises to provide financing for affordable multifamily properties beyond the volume cap. Through this approach, the focus is to support the financing of affordable housing and the housing needs of people in rural and other underserved areas, including areas that rely heavily on manufactured housing.

On multifamily purchases, we are also requiring the companies to continue to share risk with the private sector, which Freddie Mac does through a capital markets structure and Fannie Mae does through a risk sharing model. Both approaches transfer significant risk in the multifamily business to the private market.

B. REDUCE taxpayer risk through increasing the role of private capital in the mortgage market

FHFA's second strategic goal, REDUCE, is focused on ways to bring additional private capital into the system in order to reduce taxpayer risk. This strategic goal, and the related expectations in the 2015 Conservatorship Scorecard, requires the Enterprises to reduce Fannie Mae and Freddie Mac's overall risk exposure. FHFA's

objectives include ongoing requirements for the Enterprises to conduct single-family credit risk transfers, reduce each Enterprises' retained portfolio, and update private mortgage insurance eligibility requirements.

Credit Risk Transfers

FHFA and the Enterprises remain focused on increasing the amount of credit risk transferred from the Enterprises. FHFA increased the targeted levels of single-family credit risk transfers in 2014 and 2015. FHFA increased the 2014 Conservatorship Scorecard target to achieve a meaningful credit risk transfer of \$90 billion in unpaid principal balance (UPB), up from \$30 billion in 2013. In the 2015 Conservatorship Scorecard, FHFA increased these targets to \$150 billion of UPB for Fannie Mae and \$120 billion of UPB for Freddie Mac, subject to market conditions. In meeting these thresholds, FHFA will continue to expect each Enterprise to execute a minimum of two different types of credit risk transfer transactions, which includes securities-based transactions and insurance transactions. Additionally, FHFA expects all activities undertaken in fulfillment of these objectives to be conducted in a manner consistent with safety and soundness.

During 2014, the Enterprises executed credit risk transfers on single-family mortgages with a combined unpaid principal balance of over \$300 billion. In each transaction, the Enterprises retained a small first-loss position in the underlying loans, sold a significant portion of the risk beyond the initial loss and then retained the catastrophic risk in the event losses exceeded the private capital support. As a result, private capital is absorbing significant credit risk on much of Fannie Mae and Freddie Mac's new purchases, thereby substantially reducing risk to taxpayers from these purchases. Both Enterprises will also continue to utilize and test different risk transfer structures.

Retained Portfolio Reductions

Both Enterprises continue to reduce the size of their retained mortgage portfolios consistent with the terms of the PSPAs, which require them to reduce their portfolios to no more than \$250 billion each by 2018. Both Fannie Mae and Freddie Mac have developed plans to meet this target even under adverse market conditions. As their portfolios continue to decline, they are transferring interest rate risk, credit risk on securities and liquidity risk from these portfolios to the private sector. As of September 30, 2014, Freddie Mac's portfolio stood at \$414 billion, and Fannie Mae's at \$438 billion.

Under the 2015 Conservatorship Scorecard, FHFA is requiring the Enterprises to implement their approved retained portfolio reduction plans in order to meet the PSPA requirements. FHFA's guidelines require the Enterprises to implement these plans even under adverse market conditions while taking into consideration the impacts to the market, borrowers, and neighborhood stability.

Private Mortgage Insurer Eligibility Requirements

FHFA has continued to advance efforts to strengthen Fannie Mae and Freddie Mac's counterparty requirements for private mortgage insurers. When a borrower makes a down payment of less than 20 percent, these mortgages are required by statute to have a credit enhancement – private capital standing behind the loan – in order to qualify for purchase by the Enterprises. Private mortgage insurance has always played an important role in meeting this requirement and it is critical to make sure that private mortgage insurers are able to cover claims both in good times and in bad times. To this end, in 2014 FHFA released a Request for Input on draft Private Mortgage Insurer Eligibility Requirements. Our objective is to have the Enterprises strengthen their risk management by enhancing the financial, business, and operational requirements in place for their private mortgage insurer counterparties, thereby enhancing mortgage insurers' ability to pay claims over the long-term.

FHFA is in the process of reviewing and considering the public input we received as part of our comprehensive evaluation of this issue. Consistent with our statutory mandates, our assessments and policy decisions will take into account both safety and soundness considerations and potential impacts on access to credit and housing finance market liquidity.

C. BUILD a new single-family securitization infrastructure for use by the Enterprises and adaptable for use by other participants in the secondary market in the future

FHFA's final strategic goal is to BUILD a new infrastructure for the Enterprises' securitization functions. This includes ongoing work to develop the Common Securitization Platform (CSP) infrastructure and to improve the liquidity of Enterprise securities. FHFA has established that FHFA's first objective for the CSP is to make sure that it works for the benefit of Fannie Mae and Freddie Mac. We are also requiring that the CSP leverage the systems, software and standards used in the private sector wherever possible, which will ensure that the CSP will be adaptable for use by other secondary market actors – including private-label securities issuers – in the future. In addition, FHFA has worked with the Enterprises to leverage the CSP in order to develop a Single Security, which we believe will improve liquidity in the housing finance markets. FHFA and the Enterprises have made significant progress on both the CSP and the Single Security in the past year, and we expect the Enterprises to continue moving aggressively on these multiyear initiatives in 2015.

Common Securitization Platform

The Enterprises made important progress during 2014 in establishing the organizational infrastructure for the CSP. This includes the announcement of a Chief Executive Officer for Common Securitization Solutions (CSS) – the entity that we expect to house and operate the CSP.

In addition, FHFA and the Enterprises made considerable progress on the design-and-build phase of the CSP. Each Enterprise has designated staff to work on the project at the CSS location, and this team has been developing the technology and infrastructure of the CSP platform during the last year. This includes work to incorporate the Single Security into the development of the CSP. Furthermore, Fannie Mae and Freddie Mac have reorganized their staffs with business operations and information technology experts to develop the systems and processes needed to integrate with the CSP. As this work continues, Fannie Mae and Freddie Mac staff will engage in continuous testing and will develop operating policies and procedures to ensure a smooth transition to the CSP. FHFA, Fannie Mae, and Freddie Mac are committed to achieving a seamless CSP launch, and the actions taken so far are moving us in the right direction toward this multiyear goal.

Single Security

FHFA's top priority in pursuing the Single Security is to deepen and strengthen liquidity in the housing finance markets. In today's market, the mortgage-backed securities issued by Fannie Mae and Freddie Mac trade in separate "to-be-announced" (TBA) markets. The forward-trading that takes place in TBA securities allows borrowers to lock in a mortgage rate. The TBA market also adds efficiencies to the process, which reduce transaction costs and result in lower mortgage rates for borrowers. In today's TBA market, there is a price disparity between Fannie Mae and Freddie Mac securities largely due to greater trading volumes of Fannie Mae securities. This price disparity imposes an additional cost on Freddie Mac – and therefore on taxpayers. We believe that a Single Security can further strengthen market liquidity by reducing the trading disparities between Fannie Mae and Freddie Mac securities.

FHFA issued a Request for Input on FHFA's proposed Single Security structure last year as the first step in a multiyear process. FHFA is working with the Enterprises to process the feedback we received and will move forward in a deliberative and transparent manner. FHFA will release a Progress Report on this initiative in the coming months. As part of the 2015 Conservatorship Scorecard, FHFA established the expectation that the Enterprises would finalize the Single Security structure during 2015 and would begin the process of developing a plan to implement the Single Security in the market. This remains a multiyear process, but we made significant progress during 2014.

IV. Additional Matters and Initiatives Impacting Fannie Mae and Freddie Mac

In addition to the activities outlined above, FHFA continues to work on a number of other matters and initiatives that impact Fannie Mae and Freddie Mac, several of which are highlighted below.

Guarantee Fees

One of the first decisions I made as Director of FHFA was to suspend increases in guarantee fees that had been announced by FHFA in December of 2013. Given the impact of these fees on the Enterprises, the housing finance markets, and on borrowers, I believed that it was critical to do further evaluation and to get feedback from stakeholders. After additional assessment at FHFA, we issued a Request for Input that provided further details on how the Enterprises set these fees and posed a number of questions to prompt substantive feedback about how guarantee fee levels affect various aspects of the mortgage market.

FHFA is now reviewing and considering the input we received as part of our comprehensive evaluation of this issue. Consistent with our statutory mandates, our assessments and policy decisions will take into account both safety and soundness and possible impacts on access to credit and housing finance market liquidity.

Fannie Mae and Freddie Mac Housing Goals

On August 29, 2014, FHFA issued a proposed rule to set the Enterprises' housing goals for 2015 through 2017 for both single-family and multifamily loan purchases. FHFA's proposed rule raised questions for public comment about how best to set Fannie Mae and Freddie Mac's housing goals to encourage responsible lending that is done in a safe and sound manner and that also serves the single-family and rental housing needs of lower-income families as required in HERA. FHFA is in the process of evaluating comments submitted to the agency and finalizing the rule.

Housing Trust Fund and Capital Magnet Fund

Last month, FHFA directed Fannie Mae and Freddie Mac to begin setting aside funds to be allocated to the Housing Trust Fund and the Capital Magnet Fund pursuant to HERA. The statute authorized FHFA to temporarily suspend these allocations, and FHFA informed Fannie Mae and Freddie Mac of a temporary suspension on November 13, 2008. In letters sent to the Enterprises on December 11, 2014, FHFA notified Fannie Mae and Freddie Mac of the agency's decision to reverse the temporary suspension. These letters, copies of which were provided to Members of Congress who had communicated views to FHFA about whether or not the temporary suspension should continue, established prudent safeguards in the event of adverse changes in the Enterprises' financial condition or draws under the PSPAs.

Certain Super Priority Lien Programs and Risk to the Enterprises

During 2014, FHFA has continued to monitor and assess two areas of state-level actions that threaten the legal priority of single-family loans owned or guaranteed by Fannie Mae and Freddie Mac: 1) through certain energy retrofit financing programs structured as tax assessments and 2) through granting priority rights in foreclosure proceedings for homeowner associations.

While FHFA is not opposed to energy retrofit financing programs that allow homeowners to improve energy efficiency, these programs must be structured to ensure protection of the core financing for the home and, therefore, cannot undermine the first-lien status of Fannie Mae and Freddie Mac mortgages. Concerning certain energy retrofit financing programs, such as first-lien Property Assessed Clean Energy (PACE) programs, FHFA has reiterated that Fannie Mae and Freddie Mac's policies prohibit the purchase of a mortgage on property that has a first-lien PACE loan attached to it. This restriction has two potential implications for borrowers. First, a homeowner with a first-lien PACE loan cannot refinance their existing mortgage with a Fannie Mae or Freddie Mac mortgage. Second, anyone wanting to buy a home that already has a first-lien PACE loan cannot use a Fannie Mae or Freddie Mac loan for the purchase. In addition to aggressive enforcement of these existing policies, FHFA is continuing to evaluate or explore other possible remedies and legal actions to protect the Enterprises' lien position.

Additionally, FHFA has taken legal action in some instances in which unpaid homeowners association dues may be deemed under the laws of a state to be senior to preexisting mortgage liens owned or guaranteed by Fannie Mae or Freddie Mac on a homeowner's property. As conservator, FHFA has an obligation to protect Fannie Mae's and Freddie Mac's rights, and will aggressively do so.

FHFA's Actions as Regulator of the Federal Home Loan Banks

The FHLBanks continue to play an important role in housing finance by providing a reliable funding source and other services to member institutions, including smaller institutions that would otherwise have limited access to these services. In addition, the FHLBanks have specific statutory requirements related to affordable housing and, as a result, the FHLBanks annually contribute substantially toward the development of affordable housing.

I. Financial Performance and Condition of the Federal Home Loan Banks

The financial performance and condition of the FHLBank System remain strong. Led by growth in advances, the aggregate balance sheet of the FHLBanks has increased over the past two years, but remains considerably smaller than in peak years. Advances totaled \$545 billion as the end of the third quarter of 2014, up from \$499 billion at year-end 2013, but down approximately 50 percent from a peak of \$1.01 trillion in the third quarter of 2008. The overall decline in advance volume from the peak is a result of increased market liquidity from deposits and sluggish economic growth.

Following are highlights of the financial performance of the FHLBanks:

- The FHLBanks, in aggregate, reported net income of \$1.7 billion for the first three quarters of 2014 after earning \$1.8 billion in the first three quarters of 2013. All twelve FHLBanks were profitable during these quarters.
- The FHLBanks saw substantial asset growth during the first nine months of 2014, driven by advances to members. As of the end of the third quarter of 2014, aggregate FHLBank assets totaled \$883 billion and \$545 billion in advances – up from \$835 billion and \$499 billion at the end of 2013. Advances constituted 62

percent of assets at the FHLBanks in aggregate at the end of the third quarter of 2014, up from 60 percent at the end of 2013.

- Retained earnings have grown significantly in recent years and totaled \$13.0 billion, or 1.5 percent of assets, as of the third quarter of 2014.
- Also at the end of the third quarter of 2014, the FHLBanks had an aggregate regulatory capital ratio of 5.6 percent – comfortably above the statutory minimum of 4.0 percent.
- All FHLBanks had net asset values (equity values) in excess of the par value of their members' stock holdings. The market value of the FHLBanks was 142 percent of the par value of capital stock as of the third quarter of 2014, the highest ratio since FHFA started tracking this metric in 2002.

II. FHFA's Supervisory and Regulatory Activities Related to the FHLBanks

FHFA conducts annual safety and soundness and affordable housing program examinations of all 12 FHLBanks and the Office of Finance based on well-defined supervisory strategies. Similar to the approach utilized in supervision of the Enterprises, FHFA uses a risk-based approach to conducting supervisory examinations of the FHLBanks, which prioritizes examination activities based on the risks given practices pose to a regulated entity's safe and sound operations or to its compliance with applicable laws and regulations. FHFA's FHLBank supervision also utilizes the CAMELSO ratings system and incorporates these ratings into each FHLBanks' Report of Examination. Information from the Reports of Examination is included in FHFA's annual Report to Congress.

Over the last few years, FHFA's supervisory work has included assessments of FHLBank mortgage purchase programs, the substantial increase in advances to a few very large member institutions, the FHLBanks' changing capital composition in light of their increasing retained earnings and reduced activity stock requirements, and their management of unsecured credit. We are also currently conducting reviews of FHLBank enterprise risk management structures and approaches to vendor management.

FHFA also provides the FHLBanks supervisory guidance in the form of Advisory Bulletins that outline the agency's regulatory expectations. In 2014, FHFA issued Advisory Bulletins 2014-02, *Operational Risk Management*, and 2014-05, *Cyber Risk Management*. Other Advisory Bulletins applicable to the FHLBanks covered areas such as model risk management, collateral valuation and management, and the classification of risky assets.

FHFA's supervision of the FHLBanks' expanding mortgage programs involves oversight of the operational issues raised by two new products – Mortgage Partner Finance (MPF) Direct and MPF Government MBS. The FHLBank of Chicago expects to begin offering these new products in early 2015, although this could change. Under MPF Direct, participating members may sell non-conforming and conforming, single-family, fixed-rate mortgage loans to the Chicago FHLBank, which would concurrently sell the loans to a third-party private investor that would accumulate the loans for securitization. The Chicago FHLBank expects, at least initially, that loans sold would be "jumbo conforming" loans capped at \$729,750 for a single unit in the contiguous United States.

Under the MPF Government MBS program, the Chicago FHLBank would purchase government guaranteed or insured loans, accumulate the loans on its balance sheet as held for sale, and pool the loans in securities guaranteed by the Government National Mortgage Association (Ginnie Mae). The Chicago FHLBank would then sell the securities to other FHLBanks, members approved to participate in the mortgage programs, and external investors.

The mission focus of the FHLBank System is an important component of FHFA's regulatory activities. FHFA has

undertaken three recent efforts related to the housing finance mission of the FHLBanks. First, in September 2014, FHFA released a proposed rulemaking involving membership requirements for the FHLBanks. Congress established the FHLBank System in 1932 as a government sponsored enterprise with a focus on housing finance. Over time, Congress has expanded the membership base, expanded the types of assets that are eligible collateral for advances, and made other incremental changes to the System. However, over eighty years later, the FHLBanks are still grounded in supporting housing finance.

Under the current membership rule, institutions may gain access to the benefits of FHLBank membership by meeting a one-time test showing the minimum required housing finance assets at the time of application. FHFA has proposed eliminating this one-time test and, instead, requiring that FHLBank members maintain a minimum amount of housing finance assets on an ongoing basis. In addition, FHFA has proposed defining an insurance company in such a way that captive insurers would no longer be eligible for FHLBank membership. A captive insurance company provides benefits only for its parent company, which itself is often not eligible for FHLBank membership. While captive insurers may in some cases be involved in housing finance, allowing them to have access to the FHLBank System raises a number of policy issues that are discussed in the proposed rule.

The comment period for this proposed rule ended on January 12, 2015, and we received approximately 1,300 comments. FHFA is in the process of reviewing and considering these comments. As I have consistently emphasized since becoming Director of FHFA, getting input and feedback from stakeholders is a crucial part of FHFA's policymaking process, and we will carefully consider comments made by members of this Committee as well as the public in determining our final rule.

Second, FHFA has been in continued dialogue with the FHLBanks about "core mission assets." This also relates to the fundamental issue of how the FHLBanks use the benefits of their government-sponsored status to support their housing finance and community investment mission. In partnership with the FHLBanks, I believe we are making progress in developing a framework to describe the fundamental characteristics of what a FHLBank's balance sheet should look like in order to demonstrate a satisfactory mission commitment.

FHFA's third ongoing effort related to the mission of FHLBanks is a review of FHFA's Affordable Housing Program (AHP) regulation. The AHP program provides funding for both single-family and rental affordable housing – including housing affordable to very low-income individuals and families. In 2013, the FHLBanks allocated \$297 million to their AHPs for the purchase, construction, or rehabilitation of over 37,800 housing units. FHFA is committed to working with the FHLBanks to make this program more efficient by reviewing, and possibly updating, our AHP regulation.

A new area of FHFA's recent regulatory work has involved the merger of the FHLBanks of Des Moines and Seattle, which would be the first merger ever of two FHLBanks. There has been considerable change in our nation's financial system, in the membership base of the FHLBanks, and in market conditions across the various FHLBank districts since the FHLBank System was established in 1932. As a result, the FHLBanks have seen changes in advance demand and membership composition which, in turn, has affected the fundamental franchise values of some of the FHLBanks.

These changes, in part, have led the Boards of Directors of the FHLBank of Des Moines and the FHLBank of Seattle to determine that a combined entity would better serve the needs of their members. The Boards of both FHLBanks

voted to approve their merger on September 25, 2014. FHFA reviewed and evaluated the merger application submitted by the FHLBanks of Des Moines and Seattle to ensure that the merger would be accomplished in a safe and sound manner and would result in a financially strong FHLBank that supports the interests of all its members. FHFA issued an approval of the merger application on December 22, 2014, contingent upon the members of both FHLBanks ratifying the merger and meeting other specified conditions. If ratified, the merger could be finalized as early as the second quarter of 2015.

Conclusion

While I have not focused in my statement on administrative matters at FHFA, I would be remiss if I did not point out that none of the activities or initiatives described in this statement would be possible without the dedication of the staff at the Federal Housing Finance Agency. Since I became Director at FHFA last year, it has been a pleasure getting to know the very qualified staff at FHFA and working with them to reevaluate and pursue FHFA's priorities. I thank them for their service. I also want to recognize the hard work of the boards, management and staffs of Fannie Mae, Freddie Mac and the FHLBanks, who continue to restore and provide critical contributions to our nation's housing finance system.

In the coming year, FHFA will continue to work to meet the agency's statutory mandates to ensure the safe and sound operations of our regulated entities and to ensure that they provide liquidity in the national housing finance market. In addition, FHFA will continue to advance its Office of Minority and Women Inclusion responsibilities, which include furthering diversity in management, employment and business activities at FHFA, as well as at our regulated entities.

Thank you again for having me here this morning, and I look forward to answering your questions.

Contacts:

Corinne Russell (202) 649-3032 / Stefanie Johnson (202) 649-3030

© 2014 Federal Housing Finance Agency



Statement

Statement of the Federal Housing Finance Agency on Certain Super Priority Liens

FOR IMMEDIATE RELEASE

12/22/2014

Today, the Federal Housing Finance Agency (FHFA) is alerting homeowners, financial institutions, and state authorities of the agency's concerns with state-level actions that threaten the first-lien status of single-family loans owned or guaranteed by Fannie Mae and Freddie Mac. In particular, FHFA is concerned about state actions to create super-priority liens in two instances: 1) through certain energy retrofit financing programs structured as tax assessments and 2) through granting priority rights in foreclosure proceedings for homeowner associations. In issuing this statement, FHFA is acting in furtherance of its statutory obligations as regulator and conservator of Fannie Mae and Freddie Mac.

The existence of these super-priority liens increases the risk of losses to taxpayers. Fannie Mae and Freddie Mac, while operating in conservatorship, currently support the housing finance market by purchasing, guaranteeing, and securitizing single-family mortgages. One of the bedrock principles in this process is that the mortgages supported by Fannie Mae and Freddie Mac must remain in first-lien position, meaning that they have first priority in receiving the proceeds from selling a house in foreclosure. As a result, any lien from a loan added after origination should not be able to jump in line ahead of a Fannie Mae or Freddie Mac mortgage to collect the proceeds of the sale of a foreclosed property. However, as is detailed below, FHFA is concerned by some liens being advanced to "super-priority" status over Fannie Mae and Freddie Mac first-lien mortgages.

Energy Retrofit Financing Programs Structured as Tax Assessments

While FHFA fully supports energy retrofit financing programs to allow homeowners to improve energy efficiency, these programs must be structured to ensure protection of the core financing for the home and, therefore, cannot undermine the first-lien status of Fannie Mae and Freddie Mac mortgages. Some entities and localities are advancing the argument that single-family energy retrofit financing programs that are structured to make loans through the homeowner's property tax assessment and require that borrowers repay their loans as part of their property tax bill should have priority over all other loans, including pre-existing Fannie Mae and Freddie Mac mortgages.¹ One such program is known as the Property Assessed Clean Energy (PACE) program, which often

provides loans as first-liens and is offered in California and in some other states. Localities offering these PACE loans threaten to move existing Fannie Mae and Freddie Mac mortgages to a second lien position and increase the risk of loss to the Enterprises and, by extension, to taxpayers.

In issuing this statement, FHFA wants to make clear to homeowners, lenders, other financial institutions, state officials, and the public that Fannie Mae and Freddie Mac's policies prohibit the purchase of a mortgage where the property has a first-lien PACE loan attached to it. This restriction has two potential implications for borrowers. First, a homeowner with a first-lien PACE loan cannot refinance their existing mortgage with a Fannie Mae or Freddie Mac mortgage. Second, anyone wanting to buy a home that already has a first-lien PACE loan cannot use a Fannie Mae or Freddie Mac loan for the purchase. These restrictions may reduce the marketability of the house or require the homeowner to pay off the PACE loan before selling the house.

FHFA believes it is important for states and municipalities to understand these restrictions before continuing to offer the programs. Additionally, FHFA believes that borrowers should fully understand these restrictions prior to taking out a first-lien PACE loan.

In addition to aggressive enforcement of these existing policies, FHFA is continuing to explore other possible remedies and legal actions to protect the Enterprises' lien position in response to first-lien PACE programs.

Homeowner Association Priority Status

FHFA is aware that, in certain jurisdictions, liens for unpaid homeowner association ("HOA") dues may be deemed to be senior to preexisting mortgage liens on a homeowner's property. As a result, on December 5, 2014, FHFA and Fannie Mae filed an action in federal court in Nevada, seeking a determination that a HOA's foreclosure sale is invalid and contrary to federal law to the extent that it purports to extinguish Fannie Mae's property rights. *Federal National Mortgage Association v. SFR Investments Pool 1, LLC*, No. 2:14-cv-02046 (D. Nev. December 5, 2014). FHFA has also intervened in *Saticoy Bay, LLC Series 1702 Empire Mine v. Federal National Mortgage Assoc.*, No. 2:14-cv-01975 (D. Nev.), seeking a declaration that a prior HOA foreclosure sale is invalid to the extent that it purports to extinguish Fannie Mae's property interests.

These FHFA actions are based on federal law which precludes involuntary extinguishment of liens held by Fannie Mae or Freddie Mac while they are operating in conservatorships and bars holders of other liens, including HOAs, from taking any action that would extinguish a Fannie Mae or Freddie Mac lien, security interest or other property interest. Specifically, Title 12 USC Section 4617(j)(3) states that "[no] property of the Agency shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Agency, nor shall any involuntary lien attach to the property of the Agency." FHFA is authorized, as conservator, to bring this suit because Enterprise lien interests in collateral constitute property protected by this provision.

FHFA has an obligation to protect Fannie Mae's and Freddie Mac's rights, and will aggressively do so by bringing actions to void foreclosures that purport to extinguish Enterprise property interests in a manner that contravenes federal law.

1 PACE financing programs can be structured as secondary liens that stand behind the original mortgage and do not threaten the priority status of Enterprise loans.

###

The Federal Housing Finance Agency regulates Fannie Mae, Freddie Mac and the 12 Federal Home Loan Banks. These government-sponsored enterprises provide more than \$5.6 trillion in funding for the U.S. mortgage markets and financial institutions.

Contacts:

Stefanie Johnson (202) 649-3030 / Corinne Russell (202) 649-3032

© 2014 Federal Housing Finance Agency



FEDERAL HOUSING FINANCE AGENCY
Office of the Director

May 1, 2014

The Honorable Edmund G. Brown Jr.
Governor, State of California
State Capitol
Sacramento, CA 95814

RE: California Property Assessed Clean Energy Program

Dear Governor Brown:

Thank you for your letter of April 28, 2014 about California's Property Assessed Clean Energy (PACE) program. The Federal Housing Finance Agency's (FHFA) General Counsel has been in touch with your staff, and I appreciate the time and materials they have provided concerning California's PACE program and intentions in creating the Reserve Fund.

I am writing to inform you that FHFA is not prepared to change its position on California's first-lien PACE program and will continue to prohibit the Enterprises from purchasing or refinancing mortgages that are encumbered with first-lien PACE loans. California's PACE program would allow local governments to finance energy-related home improvement projects by placing an assessment on a homeowner's property in a first lien position, resulting in the subordination of an existing Enterprise-backed mortgage to a second lien position. The effect of this is to increase the risks and possibility of losses to the Enterprises. Additionally, because these loans run with the land, the ongoing monthly assessments for PACE loans are passed on to any subsequent property owners – including after a foreclosure or other distressed sale – unless fully paid off beforehand.

In making this determination, FHFA has carefully reviewed the Reserve Fund created by the State of California and, while I appreciate that it is intended to mitigate these increased losses, it fails to offer full loss protection to the Enterprises. The Reserve Fund is not an adequate substitute for Enterprise mortgages maintaining a first lien position and FHFA also has concerns about the Reserve Fund's ongoing sustainability.

Should you wish to discuss this matter further, I would be happy to discuss alternatives to first-lien PACE programs with you.

Sincerely,

Melvin L. Watt

xc: The Honorable Barbara Boxer
The Honorable Zoe Lofgren



Federal Housing Finance Agency

Constitution Center

400 7th Street, S.W.

Washington, D.C. 20024

Telephone: (202) 649-3800

Facsimile: (202) 649-1071

www.fhfa.gov

May 1, 2014

VIA ELECTRONIC MAIL

Ken Alex
Senior Policy Advisor
Office of Governor Edmund G. Brown Jr.
State Capitol
Sacramento, CA 95814

RE: California Property Assessed Clean Energy Lending— Loss Reserve Plan

Dear Ken:

Thank you for the review and materials you and the team from the Treasurer's office and the Department of Energy provided to FHFA related to the \$10 million reserve fund ("Reserve Fund") proposed for use when defaults lead to losses on mortgages encumbered by PACE loans.

The information you provided has been reviewed at FHFA's request by Fannie Mae and Freddie Mac ("the Enterprises") and evaluated carefully by FHFA. Following our review, I am authorized on behalf of FHFA to advise you that the Reserve Fund does not sufficiently address the risks to the Enterprises that we have previously described and that FHFA will continue our policy of not authorizing the Enterprises to purchase or refinance mortgages that are encumbered by PACE loans in a first lien position.

Thank you for your time on this matter and please contact me at 202 649 3050 if I can answer any questions.

With all best wishes, I am

Sincerely,

A handwritten signature in black ink, which appears to read "Alfred M. Pollard", is positioned above the printed name and title.

Alfred M. Pollard
General Counsel

Julie Enea

From: Proser, Noah <Noah.Proser@treasurer.ca.gov>
Sent: Thursday, January 22, 2015 12:35 PM
To: Bob Campbell
Cc: Bonnett, Ashley
Subject: RE: PACE Loan Loss Reserve

Hi Bob,

I have cc'd my colleague, Ashley Bonnett, who is taking over as lead analyst for the PACE Loss Reserve program. Please include her on any follow-up questions you might have.

Regarding your question, the PACE Loss Reserve is only intended to cover losses to the first mortgage lender of a property with a PACE lien. The scenario you describe would most likely not be eligible for reimbursement, but I think we would need a little more information. Here's the relevant section from the Program [regulations](#):

§10083. Claims Against the Loss Reserve Pool.

Any PACE Program may make claim for payment from the loss reserve pool for the following losses incurred by first mortgage lenders and limited to losses on the Financings described in Section 10082 directly attributable to the existence of a PACE Program lien on a specified property. Losses include:

(a) Losses resulting from the first mortgage lender's payment of any PACE assessment paid while in possession of the property subject to the PACE assessment. Losses may also include penalties and interest where they have accrued through no fault of the first mortgage lender.

(b) In any forced sale for unpaid taxes or special assessments, losses incurred by the first mortgage lender resulting from PACE assessments being paid before the outstanding balance.

If your intent with the scenario you described was that the sale of the property didn't cover the outstanding property taxes, penalties, etc. before even considering the mortgage debt then the county's losses would not be eligible for reimbursement from the reserve, but the mortgage lender's losses would be eligible for reimbursement (up to the amount of outstanding PACE assessments and the related proportion of penalties, etc.). On the other hand, if the county had allowed proceeds from the sale to go to the mortgage lender before covering the PACE-related amount of taxes, then the county could claim those costs from the reserve.

I know there's a lot to unpack there, so if it's helpful we could set up a time to talk on the phone. Let me know.

Best,

Noah

Noah Proser

*California Alternative Energy
and Advanced Transportation
Financing Authority (CAEATFA)
(916) 653-3032*

From: Bob Campbell [<mailto:Bob.Campbell@ac.cccounty.us>]
Sent: Thursday, January 22, 2015 10:36 AM
To: Proser, Noah
Subject: PACE Loan Loss Reserve

I think we talked last month regarding the PACE Loan Loss Reserve and if a county would be eligible if they incurred a loss through a tax auction.

Below is the general scenario that may occur.

A PACE assessment is put on the tax bill for collection under the alternate method of tax apportionment (Teeter Plan). The parcel goes delinquent for 5 + years and is sold at auction for a net loss.

Can the county claim that portion of loss associated from the PACE assessment, (assessment, penalty, interest, and fees), from the state loan loss reserve?

Bob Campbell
Auditor-Controller
Contra Costa County
(925) 646-2184

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	RESPONDENT	CONTACT	1) Has your county established one or more PACE financing districts and, if so, under which CA law: “The Improvement Act of 1911 as amended by AB 811” or “The Mello-Roos Community Facilities Districts Act of 1982 as amended by SB 555”?	2a) If “no” to Question 1, had your county considered a PACE district and decided against it and, if so, why?
Butte	Jennifer McCarthy	JMacarthy@buttecounty.net	Butte County has two non-residential PACE programs. Figtree PACE is based on AB811 and Ygrene is based on SB555	N/A
Mono	Jim Leddy	jleddy@mono.ca.gov	Yes, AB811	N/A
Monterey	Ron Holly	HollyR@co.monterey.ca.us	Yes. Opted into CAFirst under AB 811 and also joined the Western Riverside Council of Governments (WRCOG) as an associate member to be able to offer the HERO program out of San Diego. They too established the districts under AB811. In addition, CSCDA is currently conducting the validation hearings for “Open Pace” which will initially consist of CaliforniaFIRST, a consortium of advisors – administration – and funding from Deutsche Bank, as well as possibly the HERO program. The idea behind open pace is to allow multiple providers under a single validation hearing, all utilizing the same documents. We at Monterey County, as well as CSCDA, believe that competition is KING in keeping costs down and eventually lowering the interest rates on PACE programs, which are currently in the 7+% range.	N/A

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	RESPONDENT	CONTACT	1) Has your county established one or more PACE financing districts and, if so, under which CA law: “The Improvement Act of 1911 as amended by AB 811” or “The Mello-Roos Community Facilities Districts Act of 1982 as amended by SB 555”?	2a) If “no” to Question 1, had your county considered a PACE district and decided against it and, if so, why?
Napa	Steve Lederer	Steven.Lederer@countyofnapa.org	Napa County has joined 2 existing PACE programs, California First and HERO. To the best of my knowledge both of these were established per AB 811.	N/A
Placer	Jenine Windeshausen	jwindesh@placer.ca.gov	Yes. We implemented our own PACE program in Spring of 2010 under the AB811 platform. The program serves the unincorporated area and the six cities within the County. We also administer a program for the City of Folsom which is in an adjacent county. We developed the Folsom program under the Mello-Roos platform. (She attached a statistical report.)	N/A
San Bernardino	Duane Baker	DBaker@sanbag.ca.gov	A PACE District has been formed in San Bernardino County with the local Council of Governments, San Bernardino Associated Governments, serving as the lead and issuer of debt. The PACE District was formed pursuant to The Improvement Act of 1911.	N/A

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	RESPONDENT	CONTACT	1) Has your county established one or more PACE financing districts and, if so, under which CA law: “The Improvement Act of 1911 as amended by AB 811” or “The Mello-Roos Community Facilities Districts Act of 1982 as amended by SB 555”?	2a) If “no” to Question 1, had your county considered a PACE district and decided against it and, if so, why?
San Luis Obispo	Leslie Brown	labrown@co.slo.ca.us	On December 8, 2009 the Board passed a resolution to join the CaliforniaFirst PACE program. The County held off with residential PACE when FHFA had concerns with the loans. When CaliforniaFirst launched their commercial PACE program in January 2012, this adopted resolution authorized CaliforniaFirst to implement their commercial program in our jurisdiction. However, staff has indicated to CaliforniaFirst that before they operate their newly launched residential PACE program in our jurisdiction, we would request that our Board consider a new resolution reflecting the current implementation arrangement.	At this time staff has advised our Board to delay consideration of any resolutions to participate in a residential PACE program until further progress has been made by the Governor’s Office to alleviate or reduce the Federal Housing Finance Agency’s concerns related to first lien PACE obligations. Ideally the FHFA will end its ban on the purchase of mortgages by Fannie May and Freddie Mac that are encumbered with a first lien PACE loan.
Ventura	Susan Hughes	Susan.Hughes@ventura.org	Yes. The Improvement Act of 1911 as amended by AB 811.	N/A
Yolo	Patrick Blacklock	Patrick.Blacklock@yolocounty.org	Yes, Yolo County has established two PACE districts. One under SB 555 (Ygrene) and one under AB 811 (CaliforniaFIRST).	N/A

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	RESPONDENT	CONTACT	1) Has your county established one or more PACE financing districts and, if so, under which CA law: “The Improvement Act of 1911 as amended by AB 811” or “The Mello-Roos Community Facilities Districts Act of 1982 as amended by SB 555”?	2a) If “no” to Question 1, had your county considered a PACE district and decided against it and, if so, why?
COUNTIES THAT HAVE NOT FORMED PACE FINANCING DISTRICTS:				
Amador	Chuck Iley	ciley@amadorgov.org	No	No
Calaveres	Shirley Ryan	sryan@co.calaveras.ca.us	No	A Board member has asked staff to research and make recommendations.
Kings	Larry Spikes	Larry.Spikes@co.kings.ca.us	We here in Kings County have done nothing with PACE, although, personally, I’m interested in looking into it further. When you’ve compiled your results, could I get a copy? Thanks.	No response
Nevada	Rick Haffey	Rick.Haffey@co.nevada.ca.us	No	We're seriously considering it and will be deciding on an approach in January
San Diego	Donald Steuer	Donald.Steuer@sdcounty.ca.gov	San Diego has not established its own district. San Diego participates in statewide programs of CaliforniaFIRST, HERO and FigTree.	San Diego had considered establishing its own program, however, after all of the analysis had been done it decided not to opt into the statewide program models for the following reasons: 1) the needs of the citizen can be met through the statewide programs; 2) no additional benefit was gained by establishing a local program; 3) economies of scale and 4) shifting of
Stanislaus	Stan Risen	risens@stancounty.com	No	Brief consideration; have not pursued further because while I recognize the merits of energy efficiency improvements, I feel that allowing the property tax bill to be the vehicle for repayment of construction financing arrangements is short sighted and adds to the perception of high tax burdens imposed by government. In addition, there have been Fannie Mae challenges associated with this program.
Sutter	James Arkens	JArkens@co.sutter.ca.us	No	We're looking into it.

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	RESPONDENT	CONTACT	1) Has your county established one or more PACE financing districts and, if so, under which CA law: “The Improvement Act of 1911 as amended by AB 811” or “The Mello-Roos Community Facilities Districts Act of 1982 as amended by SB 555”?	2a) If “no” to Question 1, had your county considered a PACE district and decided against it and, if so, why?
Tuolumne	Craig Pedro	cpedro@co.tuolomne.ca.us	No.	N/A

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	2b) If “no” to Question 1 and 2a, has your county never considered it?	c) Does your county offer any alternative home energy project financing incentives?	3) If “yes” to Question 1, a) Has the program made both residential and commercial loans?	3) If “yes” to Question 1, b) Is the program administered by a county department or a JPA or other independent agency.
Butte	N/A	N/A	Non-residential only	Both programs are third-party administrators. For the program run by Figtree, the County's interaction is minimal. Figtree does all of the marketing (although we also have it on our website, and we provide information to local businesses that we are working with). We request quarterly reports on the status of the program to stay up-to-date. The Ygrene program was just launched in November. Our role will be less hands-off with Ygrene. Staff will need to review and sign-off on all applications. We have not had any applications to date.
Mono	N/A	N/A	Have not funded any loans to date.	Administered by a JPA (Western Riverside COG).
Monterey	N/A	N/A	So far in Monterey County, no loans, either commercial or residential have been funded. The program kicked off in September.	Independent program administrators run the programs.

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	2b) If “no” to Question 1 and 2a, has your county never considered it?	c) Does your county offer any alternative home energy project financing incentives?	3) If “yes” to Question 1, a) Has the program made both residential and commercial loans?	3) If “yes” to Question 1, b) Is the program administered by a county department or a JPA or other independent agency.
Napa	N/A	N/A	HERO offers both residential and commercial loans. CaliforniaFirst has always done commercial, but only recently added residential.	In both cases the programs are run by an independent party. CalFirst is an outgrowth of CSCDA and HERO is an outgrowth of Western Riverside COG.
Placer	N/A	N/A	The program provides both residential and non-residential financing. After launching the program in the Spring of 2010, we suspended the residential program from July 2010 until July of 2013 when we lifted the residential program suspension. The non-residential program has been in continuous operation since the Spring of 2010.	The program was implemented and is administered by the Treasurer-Tax Collector Office.
San Bernardino	N/A	N/A	The program has made both residential and commercial loans.	The program is administered by the local Council of Governments which is a JPA

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	2b) If “no” to Question 1 and 2a, has your county never considered it?	c) Does your county offer any alternative home energy project financing incentives?	3) If “yes” to Question 1, a) Has the program made both residential and commercial loans?	3) If “yes” to Question 1, b) Is the program administered by a county department or a JPA or other independent agency.
San Luis Obispo	N/A	Yes, we are implementing the emPower program in our County. This is a tri county program effort with Santa Barbara and Ventura counties.	Only open to commercial PACE at this time. To our knowledge, no commercial loans have been issued at this time.	CA First administers this program. Our County is not involved.
Ventura	N/A	N/A	There is currently one program operating in Ventura County – CaliforniaFIRST – and they operate both a residential and commercial program. There are two other entities – Figtree and HERO – requesting the County sign on to their programs.	The program is administered by CaliforniaFIRST.
Yolo	N/A	N/A	Yes	The programs are administered by Ygrene and CalFIRST. County Administrator Office (CAO) staff monitor and coordinate with Ygrene and CalFIRST. In addition, CAO staff administer the contract with Ygrene and execute loan contract documents with Ygrene.

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	2b) If “no” to Question 1 and 2a, has your county never considered it?	c) Does your county offer any alternative home energy project financing incentives?	3) If “yes” to Question 1, a) Has the program made both residential and commercial loans?	3) If “yes” to Question 1, b) Is the program administered by a county department or a JPA or other independent agency.
COUNTIES THAT HAVE				
Amador	Amador County has never considered a PACE District	Amador County does not offer any such incentives	N/A	N/A
Calaveres	N/A	No	N/A	N/A
Kings	N/A	No response	N/A	N/A
Nevada	N/A	No	N/A	N/A
San Diego	N/A	No	N/A	N/A
Stanislaus	N/A	Some HOME program opportunities.	N/A	N/A
Sutter	N/A	No	N/A	N/A

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	2b) If “no” to Question 1 and 2a, has your county never considered it?	c) Does your county offer any alternative home energy project financing incentives?	3) If “yes” to Question 1, a) Has the program made both residential and commercial loans?	3) If “yes” to Question 1, b) Is the program administered by a county department or a JPA or other independent agency.
Tuolumne	We have never considered it.	No but funding for home energy saving projects for low income persons is offered through a local non-profit.		

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	3) If “yes” to Question 1, c) Has your county incurred staff or other county costs?	3) If “yes” to Question 1, d) Have any of the loans defaulted?	3) If “yes” to Question 1, e) Have the program participants been required to pay off their PACE loans in order to sell their properties or	3) If “yes” to Question 1 ,f) What is the current interest rate being offered for your district loans?
Butte	The formation process with Figtree was easy, although there was some staff time involved which was not recouped. The Ygrene process was much more cumbersome. They reimbursed the County for our staff time costs. Both programs will pay for the	No	The County would not make that requirement, since the assessment goes with the property as opposed to the owner. That being said, it is my understanding that a bank has the right to request such a pay-off. There are only 2 PACE loans on the book at this point, so we have not run into this issue.	The rate is controlled by the third-party administrator. Figtree rates are roughly 7+%, and Ygrene is around 6.5%
Mono	No	N/A	N/A	Residential: 5.95% - 8.95% for 5-20 year terms. Commercial: 7.0%-7.75% for 5-20 year terms.
Monterey	The County incurs absolutely no staff or other costs. Placement of liens on the parcels is reimbursed at the statutory rate of 0.25% of sums collected. The program administrators do all the rest.	N/A	N/A	7+% range

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	3) If “yes” to Question 1, c) Has your county incurred staff or other county costs?	3) If “yes” to Question 1, d) Have any of the loans defaulted?	3) If “yes” to Question 1, e) Have the program participants been required to pay off their PACE loans in order to sell their properties or	3) If “yes” to Question 1 ,f) What is the current interest rate being offered for your district loans?
Napa	Relatively minor during the process of joining the programs (analyst, county counsel, agenda items with the Board). We did not quantify it, but I doubt if it	None that we are aware of.	There are rumors to that affect statewide, but we have no knowledge of it actually occurring in Napa. That possibility is fully disclosed to buyers during the loan process.	I believe it is about 6%, but it is set by the program.
Placer	The PACE program has been set up as an enterprise fund. Yes, we have incurred start-up and ongoing administrative costs. However, we also receive revenues from processing fees and interest on assessments that result in revenues exceeding costs	No.	Some lenders require payoff, while others do not. Property owners are provided with disclosures during the application process indicating that the lien may need to be paid off in the event of a sale or refinance. Out of about 700 assessments, only 6 have paid off.	For your reference, I have attached our November month-end statistical report. Please do not hesitate to contact me if you would like more detailed information about our program or our experience.
San Bernardino	The county has not incurred any direct or staff costs.	No loans have defaulted.	Some property owners have been required to pay off the PACE loan prior to a sale or refinance.	5 yrs. – 5.95%, 10 yrs. – 7.95%; 15 yrs. – 8.75%; 20 yrs. – 8.95%

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	3) If “yes” to Question 1, c) Has your county incurred staff or other county costs?	3) If “yes” to Question 1, d) Have any of the loans defaulted?	3) If “yes” to Question 1, e) Have the program participants been required to pay off their PACE loans in order to sell their properties or	3) If “yes” to Question 1 ,f) What is the current interest rate being offered for your district loans?
San Luis Obispo	No	N/A	N/A	CaliforniaFirst commercial PACE program interest rate is 6-8.75%. emPower residential program interest rates start at 5.9% and depend on FICO score.
Ventura	Yes, there are costs associated with setting up the assessment; although there is fee associated with those costs.	There are only two loans. The program has only been operating in Ventura County since September.	It is too soon to know.	As we understand it, 6.75 percent to 8.75 percent for the residential program.
Yolo	Yes. Staff costs for monitoring and coordination with Ygrene and CalFIRST and regional coordination with participating cities.	No	No, however, Yolo’s programs are still relatively new so you can’t glean too much from our experience. I would recommend you contact the HERO program for more reliable statistics	Commercial - 20 year fixed 6.5 to 7% / Residential @ 8.25%

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	3) If “yes” to Question 1, c) Has your county incurred staff or other county costs?	3) If “yes” to Question 1, d) Have any of the loans defaulted?	3) If “yes” to Question 1, e) Have the program participants been required to pay off their PACE loans in order to sell their properties or	3) If “yes” to Question 1 ,f) What is the current interest rate being offered for your district loans?
COUNTIES THAT HAVE				
Amador	N/A	N/A	N/A	N/A
Calaveres	N/A	N/A	N/A	N/A
Kings	N/A	N/A	N/A	N/A
Nevada	N/A	N/A	N/A	N/A
San Diego	N/A	N/A	N/A	N/A
Stanislaus	N/A	N/A	N/A	N/A
Sutter	N/A	N/A	N/A	N/A

SURVEY OF CALIFORNIA COUNTIES ON PACE FINANCING DISTRICT IMPLEMENTATION
DECEMBER 2014

COUNTY	3) If “yes” to Question 1, c) Has your county incurred staff or other county costs?	3) If “yes” to Question 1, d) Have any of the loans defaulted?	3) If “yes” to Question 1, e) Have the program participants been required to pay off their PACE loans in order to sell their properties or	3) If “yes” to Question 1 ,f) What is the current interest rate being offered for your district loans?
Tuolumne				

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS
TUESDAY, APRIL 15, 2014**

MINUTE ORDER NO. 23

**SUBJECT: UPDATE AND EXPANSION ON RESIDENTIAL PROPERTY ASSESSED
CLEAN ENERGY (PACE) PROGRAM (DISTRICTS: ALL)**

OVERVIEW:

On August 6, 2013 (15) your Board of Supervisors took the necessary action to adopt into two Commercial PACE Programs, California HERO and Figtree PACE Program, in addition to the County's existing participation in CaliforniaFIRST. Staff has been monitoring recent developments made at the State level in hopes of mitigating concerns from the Federal Housing Finance Authority (FHFA). Governor Jerry Brown included a proposal in the Enacted FY 2013-14 State Budget authorizing the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) to establish a PACE Loss Reserve Program through Senate Bill 96. This program was specifically designed to address FHFA's concerns through the use of a reserve fund that would reimburse residential PACE programs for costs associated with keeping mortgage interests whole in the event of a foreclosure or forced sale. The Loss Reserve Program will compensate mortgage lenders for losses resulting from the existence of a PACE lien in a foreclosure or forced sale. Claims will be paid from the reserve to the PACE program and may be used as a reimbursement to that program. PACE programs will pay a small administrative fee based on loan volume to help sustain this program. Governor Brown has allocated \$10 million for the implementation of this program in the 2013-14 State budget. The PACE Loss Reserve Program was officially launched in March and is currently accepting applications.

Today's recommendation is to take the necessary actions to expand the County's existing PACE program participation to include residential properties; contingent on the PACE Program being enrolled in the PACE Loss Reserve Program. The PACE Program will also provide disclosures to participants of the possibility of acceleration of existing obligations or prepayment of assessments to ensure property owners are aware of the potential risks.

FISCAL IMPACT:

There are no fiscal impacts associated with today's action.

BUSINESS IMPACT STATEMENT:

N/A

RECOMMENDATION:

CHIEF ADMINISTRATIVE OFFICER

Adopt the resolutions entitled:

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN
DIEGO AUTHORIZING THE WESTERN RIVERSIDE COUNCIL OF
GOVERNMENTS TO EXPAND PROGRAM PARTICIPATION IN THE HERO

PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS;

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY TO EXPAND PROGRAM PARTICIPATION IN THE FIGTREE PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS; and

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO EXPAND PROGRAM PARTICIPATION IN THE CALIFORNIAFIRST PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS.

ACTION:

ON MOTION of Supervisor D. Roberts, seconded by Supervisor R. Roberts, the Board took action as recommended, adopting the following:

Resolution No. 14-039, entitled: A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS TO EXPAND PROGRAM PARTICIPATION IN THE HERO PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS;

Resolution No. 14-040, entitled: A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY TO EXPAND PROGRAM PARTICIPATION IN THE FIGTREE PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS; and

Resolution No. 14-041, entitled: A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO EXPAND PROGRAM PARTICIPATION IN THE CALIFORNIAFIRST PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS.

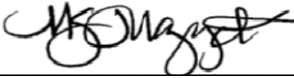
AYES: Cox, Jacob, D. Roberts, R. Roberts, Horn

- - -

State of California)
County of San Diego) §

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

By 
Marvice E. Mazyck, Chief Deputy





COUNTY OF SAN DIEGO

AGENDA ITEM

BOARD OF SUPERVISORS

GREG COX
First District

DIANNE JACOB
Second District

DAVE ROBERTS
Third District

RON ROBERTS
Fourth District

BILL HORN
Fifth District

DATE: April 15, 2014

23

TO: Board of Supervisors

SUBJECT: UPDATE AND EXPANSION ON RESIDENTIAL PROPERTY ASSESSED
CLEAN ENERGY (PACE) PROGRAM (DISTRICTS: ALL)

Overview

On August 6, 2013 (15) your Board of Supervisors took the necessary action to adopt into two Commercial PACE Programs, California HERO and Figtree PACE Program, in addition to the County's existing participation in CaliforniaFIRST. Staff has been monitoring recent developments made at the State level in hopes of mitigating concerns from the Federal Housing Finance Authority (FHFA). Governor Jerry Brown included a proposal in the Enacted FY 2013-14 State Budget authorizing the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) to establish a PACE Loss Reserve Program through Senate Bill 96. This program was specifically designed to address FHFA's concerns through the use of a reserve fund that would reimburse residential PACE programs for costs associated with keeping mortgage interests whole in the event of a foreclosure or forced sale. The Loss Reserve Program will compensate mortgage lenders for losses resulting from the existence of a PACE lien in a foreclosure or forced sale. Claims will be paid from the reserve to the PACE program and may be used as a reimbursement to that program. PACE programs will pay a small administrative fee based on loan volume to help sustain this program. Governor Brown has allocated \$10 million for the implementation of this program in the 2013-14 State budget. The PACE Loss Reserve Program was officially launched in March and is currently accepting applications.

Today's recommendation is to take the necessary actions to expand the County's existing PACE program participation to include residential properties; contingent on the PACE Program being enrolled in the PACE Loss Reserve Program. The PACE Program will also provide disclosures to participants of the possibility of acceleration of existing obligations or prepayment of assessments to ensure property owners are aware of the potential risks.

Recommendation(s)

CHIEF ADMINISTRATIVE OFFICER

Adopt the resolutions entitled:

**SUBJECT: UPDATE AND EXPANSION ON RESIDENTIAL PROPERTY ASSESSED
CLEAN ENERGY (PACE) PROGRAM (DISTRICTS: ALL)**

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS TO EXPAND PROGRAM PARTICIPATION IN THE HERO PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY TO EXPAND PROGRAM PARTICIPATION IN THE FIGTREE PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO EXPAND PROGRAM PARTICIPATION IN THE CALIFORNIAFIRST PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS

Fiscal Impact

There are no fiscal impacts associated with today's action.

Business Impact Statement

N/A

Advisory Board Statement

N/A

Background

In 2008, AB 811 was enacted in California with the hope of stimulating the increased energy efficiency and use of alternative energy sources by home, business and industrial property owners. AB 811 established parameters for financing alternative energy sources or greater energy efficiencies for property owners by enabling the County to facilitate loans to property owners for making energy efficient property improvements ("Improvements") with pay-back through an assessment attached to the annual property tax bills. It is important to note that AB 811 did not provide for any funding, nor did it offer specifics as to how local jurisdictions could fund or administer such programs. Since that time additional State legislation has been enacted to expand the scope of AB 811 programs to include water efficiency improvements in efforts to help stimulate AB 811-type programs.

On December 9, 2008 (37), your Board approved exploring the feasibility of forming an AB 811 program, now known as a PACE program, in the County of San Diego, with the restriction that the County would seek to recover the cost of forming a PACE program through property assessments. Staff subsequently determined estimated costs associated with the County forming and administering a local PACE district were significant, and further determined that the recovery of these costs and the timing of their recovery were uncertain. On September 23, 2009 (15), your Board directed staff to explore the cost, benefits, and feasibility of County participation in CaliforniaFIRST, a statewide PACE program. On December 8, 2009 (30) your

**SUBJECT: UPDATE AND EXPANSION ON RESIDENTIAL PROPERTY ASSESSED
CLEAN ENERGY (PACE) PROGRAM (DISTRICTS: ALL)**

Board approved the County's participation in CaliforniaFIRST, a statewide AB 811 Property Assessed Clean Energy (PACE) program offered through California Statewide Communities Development Authority (CSCDA). The CaliforniaFIRST PACE program initially stalled due to issues brought forth by the Federal Housing Finance Authority (FHFA) on the residential side of the program. CaliforniaFIRST initiated their commercial program in September 2012, in which the County of San Diego is a participant by virtue of opting into the original program.

On February 26, 2013 (26) your Board of Supervisors directed the Chief Administrative Officer to review and analyze all commercial and residential PACE programs that currently exist and operate throughout the State of California and to report back to the Board of Supervisors within 120 days.

On May 14, 2013 (13) your Board received the staff report. On June 18, 2013 (26), your Board directed the Chief Administrative Officer to return to the Board of Supervisors within 60 days with the necessary actions to expand the County's commercial PACE program. The action also requested a report back on the expansion of residential PACE with vendors under both the AB 811 and SB 555 models with specific conditions: 100% indemnification to the County of San Diego; full cost recovery for the County of San Diego; a Letter of Credit in case of default with no risk to the County of San Diego; limit residential PACE to non-Federal Housing Finance Agency loans and homes without a loan; borrowers in San Diego County will not have their loan-to-value ratios adjusted as a result of expanding the PACE program. Separate action from the Board of Supervisors directed the Chief Administrative Officer to seek clarification from the FHFA on whether or not the loan-to-value ratios would be adjusted in a jurisdiction with a non-FHFA PACE program; provide options for both a Consent and a Notification PACE program with the pros and cons of each option; draft a letter for the Chair's signature to the President of the United States encouraging modification of existing PACE policies; and to draft a letter to Gary Gallegos, Executive Director of SANDAG, asking that the SANDAG Board consider evaluating the various PACE options and explore whether there are any regional benefits to having SANDAG establish a PACE district.

In response to the Board's direction, staff sent all applicable letters pertaining to the FHFA issue. Staff also sent a letter to SANDAG asking the SANDAG Board of Directors to consider evaluating PACE options from their regional perspective. Additionally, Purchasing & Contracting issued a Request For Information (RFI) at the end of June for program vendors to provide information on their respective PACE program, both commercial and residential.

On August 6, 2013 (15) your Board received a staff report and recommendations to join the two Joint Powers Agreements for commercial PACE programs that the County was not a participant in. Your Board approved the County's participation in the Commercial California HERO Property Assessed Clean Energy Program and the Commercial Figtree PACE Program, joining the CaliforniaFIRST PACE Program that your Board had previously opted to join. At this time your Board also directed the Chief Administrative Officer to look at legislative options that would legally allow a PACE lien to be subordinated and to include this action in the County's Legislative Program. The County's Office of Strategy and Intergovernmental Affairs included this in the 2014 Legislative Program's Sponsorship Proposals approved by your Board on December 3, 2013.

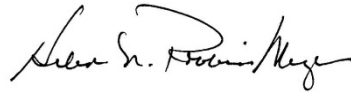
**SUBJECT: UPDATE AND EXPANSION ON RESIDENTIAL PROPERTY ASSESSED
CLEAN ENERGY (PACE) PROGRAM (DISTRICTS: ALL)**

In an effort to specifically address the concerns posed by FHFA, Governor Jerry Brown included a proposal in the Enacted FY 2013-14 State Budget authorizing the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) to establish a PACE Loss Reserve program through Senate Bill 96. This program seeks to address FHFA's concerns through the use of a reserve fund that would reimburse residential PACE programs for costs associated with keeping mortgage interests whole in the event of a foreclosure or forced sale. The Loss Reserve Program will compensate mortgage lenders for losses resulting from the existence of a PACE lien in a foreclosure or forced sale. Claims will be paid from the reserve to the PACE program and may be used as a reimbursement to that program. PACE programs will pay a small administrative fee based on loan volume to help sustain this program. Governor Brown has allocated \$10 million for the implementation of this program in the 2013-14 State budget. Although FHFA has not yet commented on the Governor's action, the PACE Loss Reserve Program was officially launched in March and is currently accepting applications.

Linkage to the County of San Diego Strategic Plan

Today's proposed recommendation supports the Sustainable Environments Strategic Initiative in the County of San Diego's 2014-2019 Strategic Plan by expanding on the County's existing Residential Property Assessed Clean Energy (PACE) program.

Respectfully submitted,



HELEN N. ROBBINS-MEYER
Chief Administrative Officer

ATTACHMENT(S)

- 1- County Resolution- California HERO
- 2- County Resolution- Figtree
- 3- County Resolution- CaliforniaFIRST

SUBJECT: UPDATE AND EXPANSION ON RESIDENTIAL PROPERTY ASSESSED
CLEAN ENERGY (PACE) PROGRAM (DISTRICTS: ALL)

AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: ☐ Yes ☒ No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED
☐ Yes ☒ No

PREVIOUS RELEVANT BOARD ACTIONS:

August 6, 2014 (15) EXPANSION OF COMMERCIAL PROPERTY ASSESSED CLEAN
ENERGY (PACE) PROGRAM AND UPDATE ON RESIDENTIAL PACE PROGRAM
(DISTRICTS: ALL)

June 18, 2013 (26) RESPONSE TO EVALUATION OF PROPERTY ASSESSED CLEAN
ENERGY (PACE) PROGRAMS (DISTRICTS: ALL)

May 14, 2013 (13) RESPONSE TO EVALUATION OF PROPERTY ASSESSED CLEAN
ENERGY (PACE) PROGRAMS (DISTRICTS: ALL)

February 26, 2013 (2) EVALUATING PACE PROGRAMS (DISTRICTS: ALL)

BOARD POLICIES APPLICABLE:

N/A

BOARD POLICY STATEMENTS:

N/A

MANDATORY COMPLIANCE:

N/A

**ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION
NUMBER(S):**

N/A

ORIGINATING DEPARTMENT: Chief Administrative Office

OTHER CONCURRENCES(S): County Counsel

CONTACT PERSON(S):

Rachel H. Witt

Name

(619) 531-6205

Phone

Rachel.Witt@sdcounty.ca.gov

E-mail

Donald F. Steuer

Name

(619) 531-4940

Phone

Donald.Steuer@sdcounty.ca.gov

E-mail



COUNTY OF SAN DIEGO

AGENDA ITEM

BOARD OF SUPERVISORS

GREG COX
First District

DIANNE JACOB
Second District

DAVE ROBERTS
Third District

RON ROBERTS
Fourth District

BILL HORN
Fifth District

DATE: April 15, 2014

23

TO: Board of Supervisors

SUBJECT: UPDATE AND EXPANSION ON RESIDENTIAL PROPERTY ASSESSED
CLEAN ENERGY (PACE) PROGRAM (DISTRICTS: ALL)

Overview

On August 6, 2013 (15) your Board of Supervisors took the necessary action to adopt into two Commercial PACE Programs, California HERO and Figtree PACE Program, in addition to the County's existing participation in CaliforniaFIRST. Staff has been monitoring recent developments made at the State level in hopes of mitigating concerns from the Federal Housing Finance Authority (FHFA). Governor Jerry Brown included a proposal in the Enacted FY 2013-14 State Budget authorizing the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) to establish a PACE Loss Reserve Program through Senate Bill 96. This program was specifically designed to address FHFA's concerns through the use of a reserve fund that would reimburse residential PACE programs for costs associated with keeping mortgage interests whole in the event of a foreclosure or forced sale. The Loss Reserve Program will compensate mortgage lenders for losses resulting from the existence of a PACE lien in a foreclosure or forced sale. Claims will be paid from the reserve to the PACE program and may be used as a reimbursement to that program. PACE programs will pay a small administrative fee based on loan volume to help sustain this program. Governor Brown has allocated \$10 million for the implementation of this program in the 2013-14 State budget. The PACE Loss Reserve Program was officially launched in March and is currently accepting applications.

Today's recommendation is to take the necessary actions to expand the County's existing PACE program participation to include residential properties; contingent on the PACE Program being enrolled in the PACE Loss Reserve Program. The PACE Program will also provide disclosures to participants of the possibility of acceleration of existing obligations or prepayment of assessments to ensure property owners are aware of the potential risks.

Recommendation(s)

CHIEF ADMINISTRATIVE OFFICER

Adopt the resolutions entitled:

**SUBJECT: UPDATE AND EXPANSION ON RESIDENTIAL PROPERTY ASSESSED
CLEAN ENERGY (PACE) PROGRAM (DISTRICTS: ALL)**

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS TO EXPAND PROGRAM PARTICIPATION IN THE HERO PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY TO EXPAND PROGRAM PARTICIPATION IN THE FIGTREE PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO EXPAND PROGRAM PARTICIPATION IN THE CALIFORNIAFIRST PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS

Fiscal Impact

There are no fiscal impacts associated with today's action.

Business Impact Statement

N/A

Advisory Board Statement

N/A

Background

In 2008, AB 811 was enacted in California with the hope of stimulating the increased energy efficiency and use of alternative energy sources by home, business and industrial property owners. AB 811 established parameters for financing alternative energy sources or greater energy efficiencies for property owners by enabling the County to facilitate loans to property owners for making energy efficient property improvements ("Improvements") with pay-back through an assessment attached to the annual property tax bills. It is important to note that AB 811 did not provide for any funding, nor did it offer specifics as to how local jurisdictions could fund or administer such programs. Since that time additional State legislation has been enacted to expand the scope of AB 811 programs to include water efficiency improvements in efforts to help stimulate AB 811-type programs.

On December 9, 2008 (37), your Board approved exploring the feasibility of forming an AB 811 program, now known as a PACE program, in the County of San Diego, with the restriction that the County would seek to recover the cost of forming a PACE program through property assessments. Staff subsequently determined estimated costs associated with the County forming and administering a local PACE district were significant, and further determined that the recovery of these costs and the timing of their recovery were uncertain. On September 23, 2009 (15), your Board directed staff to explore the cost, benefits, and feasibility of County participation in CaliforniaFIRST, a statewide PACE program. On December 8, 2009 (30) your

**SUBJECT: UPDATE AND EXPANSION ON RESIDENTIAL PROPERTY ASSESSED
CLEAN ENERGY (PACE) PROGRAM (DISTRICTS: ALL)**

Board approved the County's participation in CaliforniaFIRST, a statewide AB 811 Property Assessed Clean Energy (PACE) program offered through California Statewide Communities Development Authority (CSCDA). The CaliforniaFIRST PACE program initially stalled due to issues brought forth by the Federal Housing Finance Authority (FHFA) on the residential side of the program. CaliforniaFIRST initiated their commercial program in September 2012, in which the County of San Diego is a participant by virtue of opting into the original program.

On February 26, 2013 (26) your Board of Supervisors directed the Chief Administrative Officer to review and analyze all commercial and residential PACE programs that currently exist and operate throughout the State of California and to report back to the Board of Supervisors within 120 days.

On May 14, 2013 (13) your Board received the staff report. On June 18, 2013 (26), your Board directed the Chief Administrative Officer to return to the Board of Supervisors within 60 days with the necessary actions to expand the County's commercial PACE program. The action also requested a report back on the expansion of residential PACE with vendors under both the AB 811 and SB 555 models with specific conditions: 100% indemnification to the County of San Diego; full cost recovery for the County of San Diego; a Letter of Credit in case of default with no risk to the County of San Diego; limit residential PACE to non-Federal Housing Finance Agency loans and homes without a loan; borrowers in San Diego County will not have their loan-to-value ratios adjusted as a result of expanding the PACE program. Separate action from the Board of Supervisors directed the Chief Administrative Officer to seek clarification from the FHFA on whether or not the loan-to-value ratios would be adjusted in a jurisdiction with a non-FHFA PACE program; provide options for both a Consent and a Notification PACE program with the pros and cons of each option; draft a letter for the Chair's signature to the President of the United States encouraging modification of existing PACE policies; and to draft a letter to Gary Gallegos, Executive Director of SANDAG, asking that the SANDAG Board consider evaluating the various PACE options and explore whether there are any regional benefits to having SANDAG establish a PACE district.

In response to the Board's direction, staff sent all applicable letters pertaining to the FHFA issue. Staff also sent a letter to SANDAG asking the SANDAG Board of Directors to consider evaluating PACE options from their regional perspective. Additionally, Purchasing & Contracting issued a Request For Information (RFI) at the end of June for program vendors to provide information on their respective PACE program, both commercial and residential.

On August 6, 2013 (15) your Board received a staff report and recommendations to join the two Joint Powers Agreements for commercial PACE programs that the County was not a participant in. Your Board approved the County's participation in the Commercial California HERO Property Assessed Clean Energy Program and the Commercial Figtree PACE Program, joining the CaliforniaFIRST PACE Program that your Board had previously opted to join. At this time your Board also directed the Chief Administrative Officer to look at legislative options that would legally allow a PACE lien to be subordinated and to include this action in the County's Legislative Program. The County's Office of Strategy and Intergovernmental Affairs included this in the 2014 Legislative Program's Sponsorship Proposals approved by your Board on December 3, 2013.

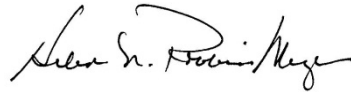
**SUBJECT: UPDATE AND EXPANSION ON RESIDENTIAL PROPERTY ASSESSED
CLEAN ENERGY (PACE) PROGRAM (DISTRICTS: ALL)**

In an effort to specifically address the concerns posed by FHFA, Governor Jerry Brown included a proposal in the Enacted FY 2013-14 State Budget authorizing the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) to establish a PACE Loss Reserve program through Senate Bill 96. This program seeks to address FHFA's concerns through the use of a reserve fund that would reimburse residential PACE programs for costs associated with keeping mortgage interests whole in the event of a foreclosure or forced sale. The Loss Reserve Program will compensate mortgage lenders for losses resulting from the existence of a PACE lien in a foreclosure or forced sale. Claims will be paid from the reserve to the PACE program and may be used as a reimbursement to that program. PACE programs will pay a small administrative fee based on loan volume to help sustain this program. Governor Brown has allocated \$10 million for the implementation of this program in the 2013-14 State budget. Although FHFA has not yet commented on the Governor's action, the PACE Loss Reserve Program was officially launched in March and is currently accepting applications.

Linkage to the County of San Diego Strategic Plan

Today's proposed recommendation supports the Sustainable Environments Strategic Initiative in the County of San Diego's 2014-2019 Strategic Plan by expanding on the County's existing Residential Property Assessed Clean Energy (PACE) program.

Respectfully submitted,



HELEN N. ROBBINS-MEYER
Chief Administrative Officer

ATTACHMENT(S)

- 1- County Resolution- California HERO
- 2- County Resolution- Figtree
- 3- County Resolution- CaliforniaFIRST

SUBJECT: UPDATE AND EXPANSION ON RESIDENTIAL PROPERTY ASSESSED
CLEAN ENERGY (PACE) PROGRAM (DISTRICTS: ALL)

AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: ☐ Yes ☒ No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED
☐ Yes ☒ No

PREVIOUS RELEVANT BOARD ACTIONS:

August 6, 2014 (15) EXPANSION OF COMMERCIAL PROPERTY ASSESSED CLEAN
ENERGY (PACE) PROGRAM AND UPDATE ON RESIDENTIAL PACE PROGRAM
(DISTRICTS: ALL)

June 18, 2013 (26) RESPONSE TO EVALUATION OF PROPERTY ASSESSED CLEAN
ENERGY (PACE) PROGRAMS (DISTRICTS: ALL)

May 14, 2013 (13) RESPONSE TO EVALUATION OF PROPERTY ASSESSED CLEAN
ENERGY (PACE) PROGRAMS (DISTRICTS: ALL)

February 26, 2013 (2) EVALUATING PACE PROGRAMS (DISTRICTS: ALL)

BOARD POLICIES APPLICABLE:

N/A

BOARD POLICY STATEMENTS:

N/A

MANDATORY COMPLIANCE:

N/A

**ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION
NUMBER(S):**

N/A

ORIGINATING DEPARTMENT: Chief Administrative Office

OTHER CONCURRENCES(S): County Counsel

CONTACT PERSON(S):

Rachel H. Witt

Name

(619) 531-6205

Phone

Rachel.Witt@sdcounty.ca.gov

E-mail

Donald F. Steuer

Name

(619) 531-4940

Phone

Donald.Steuer@sdcounty.ca.gov

E-mail

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS TO EXPAND PROGRAM PARTICIPATION IN THE HERO PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS

WHEREAS, on August 6, 2013, the Board of Supervisors adopted Resolution No. 13-105 ("Authorizing Resolution"), which authorized the Western Riverside Council of Governments ("WRCOG") to, among other things, conduct assessment proceedings within the unincorporated area of the County of San Diego ("County") to allow certain eligible property owners to participate in the HERO PACE Program; and

WHEREAS, the HERO PACE Program provides financing for certain renewable energy, energy efficiency and water efficiency improvements (Improvements) through the levy of voluntary contractual assessments under the Bond Improvement Act of 1915; and

WHEREAS, the Authorizing Resolution limited the availability of the HERO PACE Program to commercial properties due to issues raised by the Federal Housing Financing Authority ("FHFA") regarding residential Property Assessed Clean Energy ("PACE") programs; and

WHEREAS, in September 2013, the Governor of the State of California signed Senate Bill 96, a residential PACE Loss Reserve Program ("PACE Loss Reserve Program") specifically designed to address the FHFA's and the California Alternative Energy and Advanced Transportation Financing Authority ("Authority") launched the PACE Loss Reserve Program in March 2014;

WHEREAS, in light of this new development, the County deems it prudent to offer residential PACE options to eligible participants in the unincorporated areas contingent on the HERO PACE Program meeting certain programmatic requirements;

WHEREAS, this resolution authorizes the expansion of the HERO PACE Program to include residential properties within the unincorporated areas of the County; NOW, THEREFORE,

BE IT RESOLVED, by the Board of Supervisors of the County of San Diego that the HERO PACE Program shall be available to all eligible property owners in the unincorporated areas of the County of San Diego, including owners of residential properties

BE IT FURTHER RESOLVED, the County's participation in the HERO PACE Program is contingent on the HERO PACE Program meeting the following

program requirements:

1. The HERO PACE Program is enrolled in the State PACE Loss Reserve Program;
2. The HERO PACE Program provides full disclosures to participants, including, but not limited to the disclosure that participation in the PACE Program may trigger acceleration of existing obligations of an existing mortgage and that the participant may be required to prepay the contractual assessments upon the refinancing or sale of the property.

BE IT FURTHER RESOLVED, this resolution shall take effect immediately upon its adoption and the Clerk of the Board of Supervisors is authorized and directed to transmit a certified copy of this resolution to the Secretary of WRCOG.

APPROVED AS TO FORM AND LEGALITY
THOMAS E. MONTGOMERY, COUNTY COUNSEL

BY: RACHEL H. WITT, SENIOR DEPUTY

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY TO EXPAND PROGRAM PARTICIPATION IN THE FIGTREE PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS

WHEREAS, on August 6, 2013, the Board of Supervisors adopted Resolution No. 13-106 ("Authorizing Resolution"), which authorized the California Enterprise Development Authority ("CEDA") to, among other things, conduct assessment proceedings within the unincorporated area of the County of San Diego ("County") to allow certain eligible property owners to participate in the Figtree PACE Program; and

WHEREAS, the Figtree PACE Program provides financing for certain renewable energy, energy efficiency and water efficiency improvements (Improvements) through the levy of voluntary contractual assessments under the Bond Improvement Act of 1915; and

WHEREAS, the Authorizing Resolution limited the availability of the Figtree PACE Program to commercial properties due to issues raised by the Federal Housing Financing Authority ("FHFA") regarding residential Property Assessed Clean Energy ("PACE") programs; and

WHEREAS, in September 2013, the Governor of the State of California signed Senate Bill 96, a residential PACE Loss Reserve Program ("PACE Loss Reserve Program") specifically designed to address the FHFA's and the California Alternative Energy and Advanced Transportation Financing Authority ("Authority") launched the PACE Loss Reserve Program in March 2014;

WHEREAS, in light of this new development, the County deems it prudent to offer residential PACE options to eligible participants in the unincorporated areas contingent on the Figtree PACE Program meeting certain programmatic requirements;

WHEREAS, this resolution authorizes the expansion of the Figtree PACE Program to include residential properties within the unincorporated areas of the County; NOW, THEREFORE,

BE IT RESOLVED, by the Board of Supervisors of the County of San Diego that the Figtree PACE Program shall be available to all eligible property owners in the unincorporated areas of the County of San Diego, including owners of residential properties

BE IT FURTHER RESOLVED, the County's participation in the Figtree PACE Program is contingent on the Figtree PACE Program meeting the following

program requirements:

1. The Figtree PACE Program is enrolled in the State PACE Loss Reserve Program;
2. The Figtree PACE Program provides full disclosures to participants, including, but not limited to the disclosure that participation in the PACE Program may trigger acceleration of existing obligations of an existing mortgage and that the participant may be required to prepay the contractual assessments upon the refinancing or sale of the property.

BE IT FURTHER RESOLVED, this resolution shall take effect immediately upon its adoption and the Clerk of the Board of Supervisors is authorized and directed to transmit a certified copy of this resolution to the Secretary of CEDA.

APPROVED AS TO FORM AND LEGALITY
THOMAS E. MONTGOMERY, COUNTY COUNSEL

BY: RACHEL H. WITT, SENIOR DEPUTY

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO EXPAND PROGRAM PARTICIPATION IN THE CALIFORNIAFIRST PACE PROGRAM CONTINGENT ON CERTAIN PROGRAM REQUIREMENTS

WHEREAS, on December 8, 2009, the Board of Supervisors adopted Resolution No. 09-245 ("Authorizing Resolution"), which authorized the California Statewide Communities Development Authority ("California Communities") to, among other things, conduct assessment proceedings within the unincorporated area of the County of San Diego ("County") to allow certain eligible property owners to participate in the CaliforniaFIRST PACE Program; and

WHEREAS, the CaliforniaFIRST PACE Program provides financing for certain renewable energy, energy efficiency and water efficiency improvements (Improvements) through the levy of voluntary contractual assessments under the Bond Improvement Act of 1915; and

WHEREAS, on August 4, 2010, California Communities adopted a resolution suspending the residential component of its PACE program due to issues raised by the Federal Housing Financing Authority ("FHFA") regarding residential Property Assessed Clean Energy ("PACE") programs; and

WHEREAS, in September 2013, the Governor of the State of California signed Senate Bill 96, a residential PACE Loss Reserve Program ("PACE Loss Reserve Program") specifically designed to address the FHFA's and the California Alternative Energy and Advanced Transportation Financing Authority ("Authority") launched the PACE Loss Reserve Program in March 2014;

WHEREAS, on March 6, 2014, as a result of the State's creation of the PACE Loss Reserve Program, California Communities adopted a resolution to rescind its prior resolution to suspend residential PACE and take actions to launch the residential component of its PACE program.

WHEREAS, in light of this new development, the County deems it prudent to offer residential PACE options to eligible participants in the unincorporated areas contingent on CaliforniaFIRST PACE Program meeting certain programmatic requirements;

WHEREAS, this resolution authorizes the expansion of the CaliforniaFIRST PACE Program to include residential properties within the unincorporated areas of the County; NOW, THEREFORE,

BE IT RESOLVED, by the Board of Supervisors of the County of San Diego

that the CaliforniaFIRST PACE Program shall be available to all eligible property owners in the unincorporated areas of the County of San Diego, including owners of residential properties

BE IT FURTHER RESOLVED, the County's participation in the CaliforniaFIRST PACE Program is contingent on the CaliforniaFIRST PACE Program meeting the following program requirements:

1. The CaliforniaFIRST PACE Program is enrolled in the State PACE Loss Reserve Program;
2. The CaliforniaFIRST PACE Program provides full disclosures to participants, including, but not limited to the disclosure that participation in the PACE Program may trigger acceleration of existing obligations of an existing mortgage and that the participant may be required to prepay the contractual assessments upon the refinancing or sale of the property.

BE IT FURTHER RESOLVED, that should CaliforniaFIRST fail to meet the program requirements required by this resolution, the County shall opt-out of the CaliforniaFIRST residential PACE Program.

BE IT FURTHER RESOLVED, this resolution shall take effect immediately upon its adoption and the Clerk of the Board of Supervisors is authorized and directed to transmit a certified copy of this resolution to the Secretary of California Communities.

APPROVED AS TO FORM AND LEGALITY
THOMAS E. MONTGOMERY, COUNTY COUNSEL

BY: RACHEL H. WITT, SENIOR DEPUTY



November 9, 2014

Contra Costa County Board of Supervisors
651 Pine Street, Room 106
Martinez, CA 94553

As a certified CaliforniaFIRST contractor based in Contra Costa County, I strongly support the CaliforniaFIRST program, and I request your support to allow the program to move forward in the County's unincorporated areas.

Diablo Solar Services has been located in Contra Costa County since 1984, and we have installed over 21,000 solar systems over the last 30 years. We are Contra Costa's oldest and most experienced solar installer.

The CaliforniaFIRST program will benefit our company by providing an important financing option to our toolkit of financing tools. An additional financing tool means more prospective clients will have a way to pay for our valuable products and services.

Energy- and water-saving projects carry high upfront costs. The CaliforniaFIRST program eliminates this burden by providing an easily accessed, long term financing mechanism repaid through property taxes. The mechanism is called Property Assessed Clean Energy (PACE), and PACE programs have shown to be effective throughout California.

In 2010, the Contra Costa County Board of Supervisors voted to "opt-in" to the CaliforniaFIRST program. I strongly encourage you to re-affirm this 2010 action. By mid-November, a statewide court proceeding will conclude that will allow the homeowners (and commercial building owners) in the County's unincorporated areas to utilize the CaliforniaFIRST program. In order to move forward, the CaliforniaFIRST program seeks your affirmative support through a re-affirmation of your 2010 opt-in action. This re-affirmation can simply come in the form of an email or letter to CaliforniaFIRST (address below) from your County Administrator, or if preferred, through a formal action of your Board.

Installing renewable energy and/or retrofitting more and more homes to be more energy and water efficient takes a lot of work, and thus creates a lot of jobs. Retrofit projects also improve property values and help homeowners save money on their electricity, natural gas, and water utility bills. And of course, these projects help homeowners contribute to community-wide efforts to reach climate action plan, sustainability, and water conservation goals.

Thank you for your consideration of this request.

Bryan Raymond
Sales and Marketing Manager
Diablo Solar Services, Inc.
bryan@diablosolar.com
925-683-1008 (cell)



October 30, 2014

Supervisor Mary Piepho
Contra Costa County Board of Supervisors
651 Pine Street, Room 106
Martinez, CA 94553

Chair Supervisor Piepho,

As a certified CaliforniaFIRST contractor based in Contra Costa County, I strongly support the CaliforniaFIRST program, and I request your support to allow the program to move forward in the County's unincorporated areas.

Advanced Home Energy has been located in Contra Costa County since 2009, and we currently have 45 employees.

The CaliforniaFIRST program will benefit our company by providing an important financing option to our toolkit of financing tools. An additional financing tool means more prospective clients will have a way to pay for our valuable products and services.


Energy- and water-saving projects carry high upfront costs. The CaliforniaFIRST program eliminates this burden by providing an easily accessed, long term financing mechanism repaid through property taxes. The mechanism is called Property Assessed Clean Energy (PACE), and PACE programs have shown to be effective throughout California.

In 2010, the Contra Costa County Board of Supervisors voted to "opt-in" to the CaliforniaFIRST program. I strongly encourage you to re-affirm this 2010 action. By mid-November, a statewide court proceeding will conclude that will allow the homeowners (and commercial building owners) in the County's unincorporated areas to utilize the CaliforniaFIRST program. In order to move forward, the CaliforniaFIRST program seeks your affirmative support through a re-affirmation of your 2010 opt-in action. This re-affirmation can simply come in the form of an email or letter to CaliforniaFIRST (address below) from your County Administrator, or if preferred, through a formal action of your Board.

Installing renewable energy and/or retrofitting more and more homes to be more energy and water efficient takes a lot of work, and thus creates a lot of jobs. Retrofit projects also improve property values and help homeowners save money on their electricity, natural gas, and water utility bills. And of course, these projects help homeowners contribute to community-wide efforts to reach climate action plan, sustainability, and water conservation goals.

Thank you for your consideration of this request.

Respectfully,


Ori Skoot
President and Co-Founder
Advanced Home Energy

Name and address for CaliforniaFIRST:
Jonathan Kevles
c/o Renewable Funding
500 12th Street, #300
Oakland, CA 94607
jkevles@renewfund.com
(510) 350-3709



Contra Costa County Board of Supervisors

Subcommittee Report

INTERNAL OPERATIONS COMMITTEE

6.

Meeting Date: 03/09/2015

Subject: Composition of Stakeholder Group for MHSA Plan Monitoring

Submitted For: William Walker, M.D., Health Services Director

Department: Health Services

Referral No.: IOC 15/11

Referral Name: Mental Health Services Act Budget Oversight Process

Presenter: Cynthia Belon, Behavioral Services
Director

Contact: Warren Hayes (925)
957-5201

Referral History:

Welfare and Institutions Code Section 5898 states that each Mental Health Services Act (MHSA) Three Year Program and Expenditure Plan and annual Plan Update is to be developed in partnership with stakeholders to:

1. Identify community issues related to mental illness resulting from lack of community services and supports, including any issues identified during the implementation of the Mental Health Services Act.
2. Analyze the mental health needs in the community.
3. Identify and re-evaluate priorities and strategies to meet those mental health needs.

California Code of Regulations Title 9, Division 1 section 3200.270 defines stakeholders as individuals or entities with an interest in mental health services in the State of California, including but not limited to: individuals with serious mental illness and/or serious emotional disturbance and/or their families; providers of mental health and/or related services such as physical health care and/or social services; educators and/or representatives of education; representatives of law enforcement and any other organization that represents the interests of individuals with serious mental illness and/or serious emotional disturbance and/or their families.

In order to comply with the above statute and regulation, Contra Costa County Behavioral Health Services commissioned in 2009 an ongoing advisory body, entitled the Consolidated Planning Advisory Workgroup (CPAW), to assist and advise the Behavioral Health Services Director in implementing the required community program planning process that is part of development of the MHSA Three Year Program Plan and annual Plan Update. The Membership Committee of CPAW accepts and reviews applications from the public, and makes recommendations to the Behavioral Health Services Director for appointment to CPAW. The Membership Committee also analyzes stakeholder characteristics and affiliations, and assists in recruitment of individuals from stakeholder groups who are underrepresented.

Given the above, the Board of Supervisors' Internal Operations Committee (IOC) has asked for a review of the County's process for recommendation, review, and monitoring of the MHSA budget, the role of the CPAW and the Mental Health Commission in this process, and the protocol for identification and mitigation of any potential financial conflicts of interests by individuals who serve on either body.

Referral Update:

In 2011, Contra Costa Mental Health (now part of Behavioral Health Services) reported to the IOC on: 1) the status of its compliance with statute and regulations pertaining to MHSA stakeholder participation, 2) a plan to ensure broad representation, 3) the necessity of service providers to be involved, and 4) the requirements for CPAW members to declare any potential conflict of interest, and to refrain from being involved in any decision-making or recommendations that might present a conflict of interest to them and/or their agency.

In 2012, the Office of the County Counsel provided a legal opinion for all County Boards, Commissions and their Administrative Officers and Secretaries pertaining to compliance with selected Brown Act and Better Government Ordinance provisions. The Mental Health Commission is subject to the provisions of the Brown Act, while CPAW is not. However, County Counsel stated that County bodies that are not subject to the Brown Act nevertheless must comply with comparable provisions under the Better Government Ordinance. CPAW has been operating under the intent of the Brown Act by holding all meetings open for public attendance and participation, and by publicly advertising and providing advance notice for meetings at fixed times and places.

In 2013, CPAW revisited its governance and membership provisions in order to more closely align its role as an advisory body for ensuring representative stakeholder input regarding priority mental health needs, strategies to meet those needs, and active ongoing participation in the MHSA-prescribed community program planning process. It was clarified that CPAW's role does not include providing funding recommendations to the Behavioral Health Services Director or approval authority for MHSA programs, plan elements, categories, components or the MHSA budget in total. CPAW does not make recommendations on contract awards. A revised working agreement stipulates that any individual, whether a CPAW member or not, must identify to the group any perspective, affiliation or potential conflict of interest in discussions that lead to group positions or recommendations. All current members completed a revised membership application that updated their characteristics and affiliations. Analysis of these applications indicate that over 50% of CPAW members identify as consumers and/or family members, with five of the 22 members employed by a County contract provider, three employed by Contra Costa County, two serving on the NAMI board, and four serving on the Mental Health Commission (including the current chairperson).

In 2014, the MHSA Three Year Program and Expenditure Plan included a new chapter, entitled Evaluating the Plan. In partnership with the Mental Health Commission's MHSA/Finance Committee, staff developed and implemented a comprehensive program and fiscal review process of each MHSA funded program and plan element in order to evaluate the effective use of funds provided by the MHSA. In addition, a monthly Finance Report was developed and generated to depict funds budgeted versus spent for each program and plan element. This enables fiscal transparency and accountability, as well as provides information with which to engage in sound planning. The results of both program reviews and monthly Finance Reports are shared with both CPAW in its planning and evaluation advisory role to the Behavioral Health Services Director, and the Mental Health Commission in its monitoring role to the Board of Supervisors. Neither entity recommends or approves MHSA budgets, as this is the purview of the County and the Board of Supervisors.

Recommendation(s)/Next Step(s):

The IOC review the above information and analysis and request the County to clarify the following respective roles pertaining to the MHSA budget process:

- a. The Board of Supervisors approves the MHSA Three Year Program and Expenditure Plan and yearly Plan Updates.
- b. The County Administrator's Office provides recommendations to the Board of Supervisors regarding the MHSA Three Year Plan and Updates prepared by the Health Services Department.
- c. The Mental Health Commission reviews the adopted MHSA Three Year Plan or Update, and makes recommendations to the Behavioral Health Services Director for any revisions. The Mental Health Commission also monitors the implementation of the MHSA Three Year Plan or Update through Program Review reports and monthly Finance Reports as part of its review and evaluation of the community's mental health needs, services facilities, and special problems, and reports to the Board of Supervisors.
- d. The Consolidated Planning Advisory Workgroup advises the Behavioral Health Services Director regarding prioritized service needs and strategies to meet these needs, and assists the County to implement a comprehensive community program planning process in order to ensure active participation by the community in public mental health planning and evaluation efforts.
- e. All bodies commissioned by the County to support the above efforts are to abide by the letter and/or intent of the Brown Act to identify and mitigate any potential conflict of interest pertaining to recommendations regarding use of public resources, to include MHSA funds.

Fiscal Impact (if any):

None.

Agenda Attachments

Board Order Referral MHSA

Synopsis of CPAW (Consolidated Planning Advisory Workgroup)

Minutes Attachments

Public Comment Submitted at Meeting



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: January 20, 2015

Subject: Referral to Internal Operations Committee

RECOMMENDATION(S):

REFER to the Internal Operations Committee a review of the process used by the Health Services Department for the recommendation, review and monitoring of the Mental Health Services Act budget.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

The California Department of Mental Health mandates that a community program planning process serve as the basis for all Mental Health Services Act (Proposition 63) planning. In Contra Costa County, the Consolidated Planning Advisory Workgroup (CPAW) serves in this capacity, assisting the Mental Health Division with integrated planning, increasing the transparency of MHSA efforts, and advising the Mental Health Division on how to integrate MHSA principles and practices. CPAW gives a variety of members from the mental health community an opportunity to provide input for system growth and change.

Welfare and Institutions Code section 5848 states: "Each plan and plan update shall be developed with *local stakeholders, including adults and seniors with severe mental illness, families of children, adults, and seniors with severe mental illness, providers of mental health services, law enforcement agencies, education, social service agencies, veterans, representatives from veteran's organizations, and other important interests*" (emphasis added).

Additionally, The California Code of Regulations, Title 9, Chapter 14, Section 3200.270 states: "Stakeholders means individuals or entities with an interest in mental health services in the State of California, including but not limited to:



APPROVE



OTHER



RECOMMENDATION OF CNTY



RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **01/20/2015**



APPROVED AS
RECOMMENDED



OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor

Candace Andersen, District II
Supervisor

Mary N. Piepho, District III Supervisor

Karen Mitchoff, District IV Supervisor

Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: January 20, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: Chris Heck, Deputy

Contact: Dorothy Sansoe,
925-335-1009

cc:

individuals with serious mental illness and/or serious emotional disturbance and/or their families; providers of mental health and/or related services such as physical health care and/or social services; educators and/or representatives of education; representatives of law enforcement; and any other organization that represents the interests of individuals with serious mental illness and/or serious emotional disturbance and/or their families".

BACKGROUND: (CONT'D)

It is important to note that CPAW is **not** an advisory board, committee or commission to the Board of Supervisors. It is a workgroup established under State statute to advise County Mental Health staff, not the County Board of Supervisors. It is not required to function under the Brown Act or Better Government Ordinance, although all of its meetings are publicly noticed and the public are invited to attend.

The Mental Health Commission is an advisory body to the Board of Supervisors and is required under Welfare and Institutions Code section 5600. As a legislatively created advisory body the Commission must follow the Ralph M. Brown Act and the County Better Government Ordinance. It has been suggested that the Commission take on the role currently performed by CPAW with regards to making recommendations, reviewing and monitoring the MHSA budget. Many other counties use their local mental health commission to perform the duties under the MHSA that are performed by CPAW in Contra Costa County.

This referral should include a review of potential conflicts of interest for the members of CPAW who are contractors receiving funding through the MHSA budget.

CONSEQUENCE OF NEGATIVE ACTION:

A review of the responsibilities of the Consolidated Planning Advisory Workgroup and the Mental Health Commission will not be undertaken.

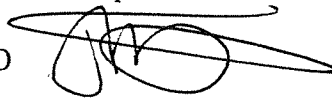
CHILDREN'S IMPACT STATEMENT:

Not applicable.

March 9, 2015

TO: Internal Operations Committee of
Contra Costa County Board of Supervisors

FROM: Janet Marshall Wilson, JD



RE: The Need for Public Comment and Brown Act Issues

As you may know, I retired as Director of Patients' Rights in September of 2013 for medical reasons, but have kept up some with Contra Costa County mental health issues. Your Committee meeting is critical today, and I would like to stress the following three points:

1. The Consolidated Planning Advisory Workgroup [CPAW], this County's body which gives input into Mental Health Services Act [MHSA] planning and expenditures, has not allowed public comment at [at least] its Housing Committee. I refer you to the December 17, 2014 draft meeting minutes and Stan Baraghin's comments, transcribed by me and witnessed by Connie Steers on 1/19/2015 [included]. No meeting which treats consumers as Mr. Baraghin was treated [and he is a Shelter, Inc. County housing client] should be allowed. As a matter of fact, Mr. Baraghin's statement should be appended to the 12/17/2014 minutes. At the 1/21/2015 Housing Committee, Chair Lori Hefner indicated that the draft minutes could be revised. It is important to me that [although Lori Hefner has resigned] the minutes do get revised.
2. I have been personally advised to give community input on issues of major concern; but if there is no place on the agenda for public comment, then why should I take the trouble to get to meetings knowing that there is no way to give input?
3. I hope that your Committee will recommend to the full Board of Supervisors that the Consolidated Planning Advisory Workgroup [as well as any other county policy-setting bodies] be covered under the Brown Act, with agendas posted and public comment agendized. The least among us [the beneficiaries of the Mental Health Services Act] must attend, and be heard.

Thank you for considering my input.

Enc: Draft CPAW Housing minutes, 12/17/2014
Stan Baraghin's statement

DRAFT

Consolidated Planning Advisory Workgroup (CPAW) Housing Committee

MHSA CPAW Housing Committee

Meeting Date: January 21, 2014

Time: 9:00am - 10:30am

Location: 1340 Arnold Drive, Suite 200, Conference Room, Martinez, CA



Charge of Committee: (Revised Charge Approved by CPAW on: 4/1/10)

Charge #1: To help the community develop opportunities for advocacy, innovation, and a variety of partnerships for improving, expanding and transforming housing options for persons with mental health needs.

Charge#2: Disseminate information on mental health housing to consumers, family members, and the broader community.

Charge#3: Develop/engage in ongoing dialogue with the BH Department and housing experts related to meeting housing needs for Contra Costa consumers & family members.

A G E N D A

TOPIC	PRESENTER	DESIRED OUTCOMES	TIME (Minutes)
1. Welcome, Introductions, Sign-in, Acknowledge any possible Conflict of Interest.	Lori Hefner, Chair	Call to order	5
2. Amend/approve agenda (Sent out January 11, 2015)	All	Add/remove items	5
3. Correct/approve December 17, 2014 month's meeting minutes.	All	Correct items as needed	5
4. Request from the CPAW Committee: Any re-writes for charge?	All		2
4. Sandy's Report	Sandy Rose	Informational	10
5. Jenny's Report-	Jenny Robbins	Informational	10
6. Special Meeting: Children's Housing Discussion	Vern Wallace Louise Bourassa Jennifer Tuipulotu Stephanie Stovall Kathi McLaughlin & Others	Informational	45
7. Next Steps	All	Informational	7
8. Agenda items for Next Meeting <ul style="list-style-type: none">Please send items to Lori Hefner. Due 2 weeks before each meeting.	All	Informational	1
Next Meeting: Proposed February 19, 2015. New Location			90 minutes

January 19, 2015 Martin Luther King Jr. Day

My name is Stan Baraghan and I cannot read or write. I have been coming to the Housing Committee for about 5 years. Victor Montoya always wanted me to come, and Sandy Rose invited me personally.

With Connie Steers and Janet Marshall Wilson I have reviewed the minutes of the December 17, 2014 Housing Committee meeting. My comments made at the meeting are not in the draft minutes.

I want you to know that:

1-I felt very humiliated at the last Housing Committee meeting, so much that I felt like crying.

2-I felt like I couldn't return to the meetings because I wasn't welcome and don't know how or when I will be able to express my concerns. I know the Chair should have told me when I could speak if she felt I was interrupting a speaker on the agenda, but I had my hand up and Lori Hefner recognized me and I was not interrupting anyone. Where is the place for me to speak on the agenda???

3-I speak for many consumers who can't come and make comments for themselves. I said this at the meeting.

4-Consumers are what MHSA funds are all about and consumers like me, who meet other consumers face to face, need to have a voice. As I said, "These monies are supposed to be for us." I don't know where the money is going but it's not to consumers. I said this at the meeting.

5-What happens to consumers when they aren't prepared for their own place, or don't know how to advocate for themselves affects their ability to stay in their apartments, makes them recycle to the hospital and makes them fail. We need to be keeping consumers from failing. I said this at the meeting. For example, a new tenant just moved in to my building and has no heat in the apartment. Why isn't the non-profit teaching consumers like this one where are the resources. If I've been in a psychiatric hospital about 20 times, do you think I know where to apply for assistance??

The minutes from the December 17th Housing Committee should include every word of what I said.

THIS WAS TRANSCRIBED WITH MY COMPLETE APPROVAL FROM THE MEETING THIS MORNING WITH CONNIE STEERS AND JANET MARSHALL WILSON.

Signed,

witnessed



1-19-2015

Stan Baraghan



**CPAW Housing Committee
December 17, 2014
9:00 – 10:30am
1340 Arnold Dr, Ste 112, Martinez, CA**

Chairs: Lori Hefner

Members attending: Lori Hefner, Tess Paoli, Stan Baraghin, Connie Steers, Annis Pereyra, Richard Collier, Lauren Rettagliata, Fanshen Thompson, Tom Gilbert

Staff attending: Stephanie Stovall, Jane Yoo, Jenny Robbins, Sandy Rose, Chad Pierce

Excused from Meeting:

TOPIC	Information/Conclusions	ACTION/RECOMMENDATION	PARTY RESPONSIBLE
1. Welcome, Introductions, Acknowledge any Possible Conflict of Interest	<ul style="list-style-type: none">• Welcome and introductions made around the table.		
2. Amend/Approve Agenda Sent Out December 10, 2014	<ul style="list-style-type: none">• Approved agenda		Committee Members
3. Correct/Approve November 19, 2014 Meeting Minutes	<ul style="list-style-type: none">• Minutes reviewed.• Minutes approved.		Committee Members
4. Sandy's Report	<ul style="list-style-type: none">• Capital Projects - Apartment buildings built with MHSA funds. Name change Walnut Creek, 3rd Street Ave to Arabella. Pre-application to fill apartments.• Sandy will be attending lease up meetings.• Ohlone Project located in El Cerrito will have 5 units. 60% completed with construction, pre-		Sandy Rose/Jane Yoo

TOPIC	Information/Conclusions	ACTION/RECOMMENDATION	PARTY RESPONSIBLE
	<p>application process begins in February.</p> <ul style="list-style-type: none"> • Tabora Gardens in Antioch, Older Adult housing, applying for funding in July. • Board & Cares Incidents reported to CCL. • Jane – Crestwood has started renovation December 1. Jane will follow up with Travis at Crestwood. • ANKA housing – Opened Juett House in Pittsburg. Currently two residents, third resident chosen but has not moved in as of yet and a fourth opening not filled yet – reviewing applications. • Final offer on third home in Concord on Esperanza Dr • Update on Capital Projects money. 		
<p>5. Jenny's Report Homeless Information Management System (HIMS) Exit Review 1st Report</p>	<ul style="list-style-type: none"> • Exit information implementation agreement with Shelter Inc with intakes and modified short intakes in HIMS with exits. Waiting approval from Vic Montoya to use program with MHSA funding units. MHSA scattered housing. Housing outside Shelter Inc contracts. • ANKA Behavioral Health and Homeless Programs expanding quarterly housing meeting and 		<p>Jenny Robbins</p>

TOPIC	Information/Conclusions	ACTION/RECOMMENDATION	PARTY RESPONSIBLE
	<p>focusing on the problematic side of housing issues..</p> <ul style="list-style-type: none"> • Housing approximately 30 people with MHSA funds in 2014. • CCIH meetings • Interdisciplinary teams -- communication with partners across the table. • Working with Task Force Team with Health Services through CCRMC to look at a pilot project in West County. 		
<p>6. Review 2nd Half of the Housing Issues Tracking Document</p>	<ul style="list-style-type: none"> • Deferred to next meeting 		
<p>7. Question/Answer Period</p>	<ul style="list-style-type: none"> • Below market units within Contra Costa County. Apartments building in Walnut Creek – units available in 2017 are looped out – taxes paid up front, no below market rent or section 8 available. • Families have behavior challenges – destroying property – apartment owners do not want to rent to certain people. • Walnut Creek has below market properties available through the city of Walnut Creek. 		

TOPIC	Information/Conclusions	ACTION/RECOMMENDATION	PARTY RESPONSIBLE
8. Agenda Items for Next Meeting			
9. Next Meeting	Wednesday, January 21, 2014		
10. Adjournment			

Notes from Discussion

Lori Hefner, Chair made a number of comments after chairing this committee for ten months. She asked several questions as to what the Committee called success and what outcomes they wished to see. The members responded by saying: 1) Decent housing, 2) Hearing what others have to say about MHSA housing 3) Improving supports and skills to consumers once moved into housing and 4) Assuring that consumers know how to escalate their issues and concerns to their housing managers and providers.

Lauren advocated that CPAW Housing be present in Sacramento at the MHSAOC meetings. This was discussed at CPAW and we encourage those in appropriate roles to do that. CPAW Committees are not authorized to do that without CPAW coordination.

Lori said we focus on MHSA housing dollars so we can have tangible outcomes. Mental Health Housing is an enormous problem nationally and we ourselves cannot solve national problems. Important but ancillary things like the direction of the national economy and rising rents nationally are outside of the scope of this committee. Much can be discussed but this will result in informational discussions and very few outcomes.

While CPAW use to micro-manage things like “Have the showers at Crestwood started renovation?” We, CPAW, now agree the role of CPAW is not micro-managing these details. The purpose of CPAW is to be advisory to the Director of Behavior Health.

We must keep the duties of the County’s Mental Health Commission for inquiry and investigation separate from CPAW approaches. There appears to be an attempt by some MH Commissioners to bypass their own committee structure in favor of using other committees, such as CPAW committees, to address issues that the Commission has either chosen not to address, or that they have specifically refused to address such as housing “site visits.” We note these are delicate relationships we must positively manage so providers continue to work with us. Sandy and Jenny have these responsibilities along with Community Care Licensing. We are not to interfere. If concerned Vic has advised us to call Community Care Licensing.

We have been directed by BOS to bring MHSA three-year plan in line with revenues. We are not growing programs. MHSA monies will be reduced in year three of the plan. See Three Year plan on the web site cchealth.org/mentalhealth/mhsa/pdf/mhsa-3-yearplan.pdf.

We are currently in a program evaluation stage so accountability, efficiency and effectiveness are to be studied, analyzed and reported on. This stage requires as much creativity and dedication as was required in the early days so our consumers benefit the most from our limited resources.

We value stakeholders. Yet many of our providers are not comfortable speaking in the meetings and feel they need to “stay off the radar.” That hurts everyone because we have much to learn from the providers about how difficult their jobs and pressures are. This also keeps members of this committee ignorant about the complexities of mental health housing.

We recognize that members of this committee want more data, reports, and analysis but we are short on BHA upper management and administrative time. Staff positions were not designed by their managers to give lengthy accounting reports. Again this will require a fine balance. Please “do not let the perfect get in the way of the good.” We must work together successfully building on what each person can bring to the table.

The committee expressed a desire to meet for 2 hours each meeting. The first 90 minutes will be as it has been in the past and the other 30 minutes is for those who wish to stay and discuss matters in a less structured, free flowing way. Lisa C will locate a new meeting room.

Lori thanked everyone for their input and dialogue., and advice.

Consolidated Planning Advisory Workgroup (CPAW) -

The California Department of Mental Health mandates that a community program planning process serve as the basis for all Mental Health Services Act (Proposition 63) planning. In Contra Costa County, the Consolidated Planning Advisory Workgroup (CPAW) serves in this capacity, assisting the Mental Health Division with integrated planning, increasing the transparency of MHSA efforts, and advising the Mental Health Division on how to integrate MHSA principles and practices. CPAW gives a variety of members from the mental health community an opportunity to provide input for system growth and change.

Welfare and Institutions Code section 5848 states: "Each plan and plan update shall be developed with *local stakeholders, including adults and seniors with severe mental illness, families of children, adults, and seniors with severe mental illness, providers of mental health services, law enforcement agencies, education, social service agencies, veterans, representatives from veteran's organizations, and other important interests*" (emphasis added).

Additionally, The California Code of Regulations, Title 9, Chapter 14, Section 3200.270 states: "Stakeholders means individuals or entities with an interest in mental health services in the State of California, including but not limited to: individuals with serious mental illness and/or serious emotional disturbance and/or their families; providers of mental health and/or related services such as physical health care and/or social services; educators and/or representatives of education; representatives of law enforcement; and any other organization that represents the interests of individuals with serious mental illness and/or serious emotional disturbance and/or their families".

It is important to note that CPAW is **not** an advisory board, committee or commission to the Board of Supervisors. It is a workgroup established under State statute to advise County Mental Health staff, not the County Board of Supervisors. It is not required to function under the Brown Act or Better Government Ordinance, although all of its meetings are publicly noticed and the public are invited to attend.

Purpose

CPAW has 35 seats and 22 members currently representing various stakeholder entities as described in the above regulations. They are actively recruiting to fill the vacancies. Individual members can represent several of the disciplines listed. For example, one member represents the following areas: Transitional Age Youth, Planning and Early Intervention for those over 25 years of age, Workforce Education and Training, Information Technology, Consumer, Mental Health Provider, and Central Contra Costa County. The Mental Health Commission has appointed two of its members to represent the Commission on the Workgroup.

CPAW members are appointed by the Mental Health Director, and represent stakeholders who receive or provide services, or who are otherwise involved in public mental health services in Contra Costa County. CPAW 1) assists in the ongoing development and

evaluation of the programs and plan elements that comprise the MHSA Three Year Program and Expenditure Plan, and subsequent yearly Plan Updates, 2) advises on the integration of the values and principles inherent in MHSA into the larger public mental health system, and 3) promotes transparency of effort by sharing information with the stakeholder community

CPAW Committees

CPAW meets to discuss and advise on areas of topical interest, and to receive reports from the following CPAW sponsored sub-committees:

- Steering. Develops the CPAW Committee meeting agenda, and represents CPAW on selected issues.
- Membership. Recommends prospective applicants to the CCMH Director for membership.
- Innovation. Recommends new Innovation Projects and monitors and evaluates existing projects.
- Social Inclusion. Oversees mental health stigma and discrimination reduction initiatives.
- Housing. Plans and advises on new and existing housing and homeless services.
- Age-related Committees. Children's, Transition Age Youth, Adult, and Aging/Older Adult sub-committees advise on planning and evaluation of services and supports specific to the age groups served by CCMH.