



**Contra
Costa
County**

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: December 15, 2020

Subject: FortiFi Financial (formerly Energy Efficient Equity) Property Assessed Clean Energy (PACE) Financing Program

RECOMMENDATION(S):

1. ADOPT Resolution No. 2020/336 authorizing California Statewide Communities Development Authority (CSCDA) Open PACE Program to implement the FortiFi Financial program within the County's jurisdiction;
2. AUTHORIZE the Conservation and Development Director, or designee, to execute the Operating Agreement with the California Statewide Communities Development Authority (CSCDA) to operate the Open PACE Program administered by FortiFi Financial in the unincorporated area of Contra Costa County;
3. AUTHORIZE the Conservation and Development Director, or designee, to execute the Indemnification and Insurance Agreement with FortiFi Financial Group, LLC to provide indemnification and insurance protection to the County related to the Open PACE Program; and
4. AUTHORIZE the Conservation and Development Director, or designee, to terminate the Operating Agreement with the California Municipal Finance Authority to end the operation of the Energy Efficient Equity Program in the unincorporated area of Contra Costa County.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **12/15/2020** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, 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: December 15, 2020

David Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Demian Hardman,
(925) 674-7826

By: June McHuen, Deputy

cc:

FISCAL IMPACT:

There is no fiscal impact to the County associated with this item.

BACKGROUND:

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 choose to enter into a voluntary agreement and borrow funds from the district to finance eligible improvements on their property. The assessment is then repaid in installments on the property tax bill.

The California Statewide Communities Development Authority (CSCDA) is a joint powers authority with the legal authority to establish PACE financing districts. Contra Costa County is a member agency of CSCDA. CSCDA contracts with various other entities, including FortiFi Financial Group, LLC, to administer day-to-day operations of PACE funding programs.

On June 16, 2015, the Board of Supervisors approved the recommendation of the Internal Operations Committee to direct the Department of Conservation and Development (DCD) to establish an application process and accept applications from PACE providers to operate within the unincorporated area of the County. The Board also approved the form of an Operating Agreement the County would require PACE providers to enter into with the County as a condition of operations. The purpose of the Operating Agreement is to protect the County and general public from the potential costs and risks of PACE programs. The Operating Agreement requires PACE providers to participate in the State PACE Loss Reserve Program, disclose financial costs and risks to participating property owners, and indemnify the County from legal claims arising from the operation of PACE programs.

On March 12, 2019, the Board of Supervisors authorized the California Municipal Finance Authority (CMFA) to implement the Energy Efficient Equity program within the County jurisdiction. In early 2020, Energy Efficient Equity changed their name to FortiFi Financial Group, LLC, and has submitted an application to the County to operate the FortiFi program under CSCDA within the unincorporated areas of the County. Staff has reviewed this application and recommends the Board authorize the FortiFi program operate within the County's jurisdiction. Since the FortiFi program changed their name and is requesting to operate under a different joint powers authority, CSCDA, staff also recommends that the Board terminate the Operating Agreement between the County and CMFA to end the operation of the Energy Efficient Equity Program in the unincorporated areas of the County.

The Board of Supervisors has previously authorized five (5) other PACE programs to operate within the County's jurisdiction. If the Board approves the recommended

actions, the County would continue to have five (5) PACE programs authorized to operate within the unincorporated area of the County.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board of Supervisors does not approve the recommended actions, the FortiFi program will not be able to provide property owners in the unincorporated area of the County with financing for energy and water efficiency improvement to their property.

ATTACHMENTS

Resolution 2020/336

CSCDA Operating Agreement

Indemnification and Insurance Agreement