



SF Environment
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A Department of the City and County of San Francisco

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Mayor

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Director

June 8, 2017

To: Honorable Board of Supervisors, Budget and Finance committee
From: Richard Chien, Department of the Environment, 415-355-3761
Subject: Department Staff Report Pertaining to Property Assessed Clean Energy (PACE) Programs
File numbers 170481, 170485, 170484, 170482, 170483, 170486
CC: Supervisor Mark Farrell, Mark Blake, Nadia Sesay, Mawuli Tugbenyoh

RECOMMENDATION

1. **Regional Collaborative Services Agreement (RCSA) *File No. 170481***

Authorize the Director of the Department of the Environment to approve and sign the Association of Bay Area Governments (ABAG) member acknowledgement addendums of the Regional Collaborative Services Agreement (RCSA), designed to improve PACE program implementation and consumer protections, as executed between ABAG and the following Residential PACE Providers (RPP's):

1. AllianceNRG Program
2. California HERO Program
3. E3 PACE Program
4. Figtree PACE Program
5. PACE Funding Program
6. YgreneWorks PACE Program

2. **Membership in additional PACE Programs**

Board of Supervisors to adopt resolutions authorizing execution of agreements consenting to opt-in to the three additional PACE programs listed below:

1. E3 PACE Program *File No. 170485*
2. Figtree PACE Program *File No. 170484*
3. YgreneWorks PACE Program (requires 3 Resolutions, see below) *File No. 170482, 170483, 170486*

3. **Clarification regarding CSCDA 'Open PACE' Program, and adding Program Administrators *File No. 170480***

Adopt one Resolution clarifying that as CSCDA Open PACE adds new PACE program administrators in the future, they are automatically authorized for San Francisco.

SUMMARY

This staff report recommends three distinct but related actions. The first recommendation is for the City to sign-on to the ABAG Regional Collaborative Services Agreement (RCSA), which establishes consumer protection standards and other best practices for residential PACE program administrators.

The second staff recommendation is to authorize three new PACE programs that have already signed on to the RCSA to operate in the City and County of San Francisco.

The third is to clarify that the CSCDA 'Open PACE' program (which was authorized by the Board through prior resolutions for our (3) existing PACE providers), has added and may add additional PACE program providers in the future, and that these would automatically be authorized for San Francisco without additional Board of Supervisors approval or action.

FISCAL IMPACTS OF RECOMMENDATIONS

The department has determined the adoption of the resolutions and actions contained herein would not result in any additional costs to the City. All costs of marketing, financing, and program administration are borne by the program administrators; normal administrative costs to the City for recording assessments on property records and for collecting PACE assessment payments are recoverable through the financing origination and repayment process (detailed in the various resolutions).

1. Regional Collaborative Services Agreement (RCSA)

ABAG developed the RCSA in 2016 to make it easier for cities to vet and approve residential PACE providers (RPP's), especially in light of the rapid expansion of residential PACE in the region. It requires consistent application of consumer protections and data sharing policies for each RPP. Of the three PACE programs currently operating in San Francisco (Alliance NRG, CaliforniaFIRST, and HERO), two have signed the RCSA while ABAG is currently working with the third to complete the Agreement. As new RPP's enter into the Agreement with ABAG, local governments can have confidence that the RPP is following best practices; however the RCSA does not replace the need for the City to pass required resolutions to authorize RPP's in the future, should it choose to do so. The RCSA covers residential PACE programs only; commercial PACE programs were not included in the RCSA because they tend to be highly customized, have built-in protections (e.g. lender consent), and the transactions do not lend themselves to standardization.

While the RCSA is an agreement between ABAG and RPP's, it also states that it applies to RPP's operating in local jurisdictions that execute the "acknowledgement addendum."

Features of the RCSA include:

- Designates ABAG as the liaison to the RPP's locally regarding implementation of the Agreement
- Requires all RPP's to have clearly visible disclosures regarding the Federal Housing Finance Authority's (FHFA) policies on residential PACE programs¹
- Requires all RPP's to participate in the state's PACE Loss Reserve program, which mitigates 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 foreclosure or forced sale.
- Limits claims that RPP's (or their designated contractors) can make to property owners regarding tax treatment of PACE assessments
- Requires data sharing between the RPP's and local governments to monitor program performance locally and improve reporting
- Clarifies that RPP's are responsible for negligence in administering PACE programs

¹ In July 2010, the Federal Housing Finance Agency (FHFA) which oversees home mortgage securities entities Fannie Mae and Freddie Mac, objected to the priority lien status of residential PACE financing and announced they would not purchase mortgages for homes with PACE obligations, due to concerns that PACE loans will be paid first in the case of foreclosure. This announcement slowed the residential PACE market for several years. In response, in 2013 Governor Brown signed SB 96, which created a \$10 million PACE Loan Loss Reserve to make mortgage lenders whole during a foreclosure or a forced sale of a property with a PACE assessment. While the FHFA has not officially changed its position to date, the California PACE market has rapidly grown with the assurance of the state reserve.

2. Membership in additional PACE Programs

The City and County of San Francisco has, through resolutions passed by the Board in 2014, already authorized three PACE programs:

- California HERO Program <https://www.heroprogram.com/ca/sanfrancisco>
- AllianceNRG <https://www.allianceng.com/retail/>
- CaliforniaFIRST <https://californiafirst.org/>

Adding new PACE providers that have signed the RCSA will increase financing options and contractor resources for homeowners, and support private sector innovation and investment all while backed by robust consumer protections. Note: authorizing these providers now will not limit the Board's ability to rescind membership, or consider additional providers, at any later date. The Board's approval of the any PACE program is limited to making the PACE financing option available to individual property owners who voluntarily decide to use it.

Staff recommend that the Board authorize local participation by the following three programs, whose administrators have signed the RCSA but which have not yet been approved by the Board to provide PACE services within the City and County of San Francisco:

- California Enterprise Development Authority (CEDA) / Figtree PACE Program (proposed)

The Figtree PACE Program requires membership in the California Enterprise Development Authority (CEDA), of which San Francisco is already a member. The Figtree PACE Program has primarily served commercial, industrial, and multifamily properties, and is planning to launch a single-family residential offering later this year. Since its launch in 2011, 180 cities and counties in California have adopted the program. More than \$16 million in financing has been approved for commercial projects. The program has 75 contractors providing services in the Bay Area.

- Golden State Finance Authority (GSFA) / YgreneWorks PACE Program (proposed)

The Ygrene PACE Program requires Board of Supervisors approval of membership in the Golden State Finance Authority (GSFA) JPA, which sponsors this program that serves residential and commercial projects. In California, over 180 cities and counties have adopted the program since its launch in 2013. To date, the program has approved financing of more than \$1.1 billion and has certified 2,532 contractors in California. Because of the unique nature of the GSFA/YgreneWorks program, two Resolutions are required for authorization. The first Resolution would make all properties in San Francisco eligible to participate in GSFA's Community Facilities District (CFD) for PACE financing as authorized under SB 555 (2011). The second Resolution would make all properties in San Francisco eligible to participate in GSFA's Contractual Assessment program for PACE authorized under AB 811 (2009), which is similar to the other PACE programs presented for council consideration in this item.

- California Municipal Finance Authority (CMFA) "Open PACE" Program (proposed)

The California Municipal Finance Authority (CMFA) JPA, of which San Francisco is a member, sponsors Energy Efficient Equity (E3) which serves residential property owners; CMFA also sponsors three other commercial PACE providers (Blue Flame, Structured PACE, and ON PACE). CMFA's "Open PACE" Program launched in August 2015 and operates under AB 811. CMFA is utilizing the Open PACE structure (similar to CSCDA's) with the goal of creating a platform to vet and pre-qualify multiple PACE providers so that local governments only need to pass a single resolution to authorize multiple programs. Any additional PACE programs that are qualified under CMFA's Open PACE after the adoption of the CMFA Open PACE resolution by the City will automatically be authorized to operate within San Francisco.

3. Clarification regarding CSCDA 'Open PACE' Program, and inclusion of new PACE Administrators

CSCDA's 'Open PACE' program, which the Board of Supervisors approved joining in 2014 (for CaliforniaFIRST and Alliance NRG), adds additional PACE Providers to their program from time to time. Since 2014, CSCDA updated their approach such that in jurisdictions that had previously opted-into Open PACE, any new PACE providers would automatically become authorized for that local jurisdiction without further Board or Council action. This specific approach was not included in our 2014 resolutions, and we recommend adding this language to clarify this process.

ENVIRONMENTAL SUSTAINABILITY

Supporting an expanded PACE marketplace helps the City reach its Climate Action Strategy goals, which calls for a 2.5% decrease in energy consumption across all buildings annually until 2030, and to achieve a 100% renewable energy economy in San Francisco by 2030.

RATIONALE FOR RECOMMENDATION

1. Regional Collaborative Services Agreement (RCSA)

The RCSA was developed by ABAG to improve transparency and reporting standards. While the Agreement is between ABAG and RPP's, the language of the agreement states that it also applies to actions of the RPP in participating cities, such as San Francisco, that chose to authorize PACE programs with RPP's. This information will not only safeguard consumer interests, it will also allow for better tracking of energy efficiency and solar projects for tracking climate action outcomes.

2. Membership in additional PACE Programs

A competitive marketplace provides a variety of options for homeowners to finance improvement projects based on finance terms, conditions of approval, and eligible measures offered by the different programs. Additionally, authorizing multiple providers ensures that financing will remain available if one or more providers cease to operate in San Francisco. Finally, it is anticipated that there will be increased economic activity as a result of each new provider operating locally.

3. Clarification regarding CSCDA 'Open PACE' Program

To become consistent and current with our existing PACE financing partner, CSCDA, and its' PACE program providers.

CONTACT PERSON

Richard Chien, Department of the Environment, 415-355-3761

ATTACHMENTS:

1. Resolution to authorize the Director of the Department of the Environment to approve and sign the Association of Bay Area Governments (ABAG) member acknowledgement addendums of the Regional Collaborative Services Agreement (RCSA).
 - Fully Executed RCSA between PACE providers and ABAG and Membership Acknowledgement Forms
 - AllianceNRG executed RCSA (AllianceNRG – ABAG Member Acknowledgement Form)
 - E3 executed RCSA (E3 - ABAG member Acknowledgement Form)
 - Figtree executed RCSA (Figtree - ABAG member Acknowledgement Form)
 - HERO executed RCSA (HERO - ABAG member Acknowledgement Form)
 - YgreneWorks executed RCSA (YgreneWorks - ABAG member Acknowledgement Form)
2. Resolution to opt-in to E3 PACE Program, sponsored by CMFA
3. Resolution to opt-in to Figtree PACE Program, sponsored by CEDA
4. Resolutions to opt-into GSFA/YgreneWorks Program

- Agreement between CCSF and GFSA regarding the collection of PACE assessments and/or special taxes
- Resolution authorizing an agreement regarding the collection of PACE assessments and/or special taxes