

File No. 170486

Committee Item No. 18
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee Date July 20, 2017

Board of Supervisors Meeting Date _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
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- Introduction Form
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- Grant Budget
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- Award Letter
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OTHER (Use back side if additional space is needed)

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Completed by: Linda Wong Date July 13, 2017
Completed by: Linda Wong Date _____

1 [Authorizing Agreement for Collection of Special Taxes and Contractual Assessments - San
2 Francisco Property-Assessed Clean Energy Program]

3 **Resolution approving and authorizing execution of an agreement for collection of**
4 **special taxes and contractual assessments between the City and County of San**
5 **Francisco and the Golden State Finance Authority for residential, commercial,**
6 **industrial and agricultural properties to address high up-front costs for property**
7 **owners who wish to improve their properties through installation of measures that will**
8 **generate renewable energy or reduce their energy and water use through a Property-**
9 **Assessed Clean Energy ("PACE") Program; and authorizing related actions, as defined**
10 **herein.**

11
12 WHEREAS, The Golden State Finance Authority ("Authority") (formerly known as the
13 California Home Finance Authority) is a joint exercise of powers authority established
14 pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California
15 (Section 6500 and following) (the "Act") and the Joint Power Agreement entered into on July
16 1, 1993, as amended from time to time (the "Authority JPA"); and

17 WHEREAS, The Authority has established a property-assessed clean energy financing
18 program (the "Authority PACE Program") for residential, commercial, industrial and
19 agricultural properties to address high up-front costs for property owners who wish to improve
20 their properties through installation of measures that will generate renewable energy or
21 reduce their energy and water use; and

22 WHEREAS, Government Code, Section 29142 provides that when taxes or
23 assessments are collected by a county for any special district, or zone, or improvement district
24 thereof, excluding a school district, the Board of Supervisors may provide for a collection fee
25 for such services; and

1 WHEREAS, Government Code, Section 29304 provides that whenever any special
2 assessment or special assessment taxes are levied upon land or real property by any city,
3 county, district or other public corporation, and the same are to be collected by a county, there
4 shall be added to the amount of the special assessment or special assessment tax an amount
5 fixed by agreement between the county and city, district, public corporation, officer, or body
6 for each special assessment or special assessment tax to be collected; and

7 WHEREAS, Special assessments are not taxes under the State Constitution but are
8 levies upon the real property (land or land and improvements) in a district for the purpose of
9 paying for improvements or special services, the amount of the levy being based upon the
10 benefits accruing to the property as a result of the improvements or services; and whether a
11 particular charge is a tax or a special assessment is not governed by the designation thereof
12 in the statute providing therefor but is governed by the nature of the imposition; and

13 WHEREAS, The Authority has requested, and it is in the public interest, that the City
14 and County of San Francisco (the "City") collect on the tax rolls the special taxes, fees, and
15 assessments for the Authority; and

16 WHEREAS, The Authority and City desire to enter into an agreement whereby the
17 special taxes and assessments for the Authority will be collected by the City at the same time
18 and in the same manner as City taxes are collected and the Authority will pay to the City the
19 fees for such collection; now, therefore, be it

20 RESOLVED, That this Board finds and declares that the foregoing recitals are true and
21 correct; and, be it

22 FURTHER RESOLVED, That this Board hereby approves the Agreement for Collection
23 of Special Taxes and Contractual Assessments ("Agreement"), between the City and the
24 Authority, in substantially the form on file with the Clerk of the Board of Supervisors in File
25 No 170486; and incorporated herein by reference; and, be it

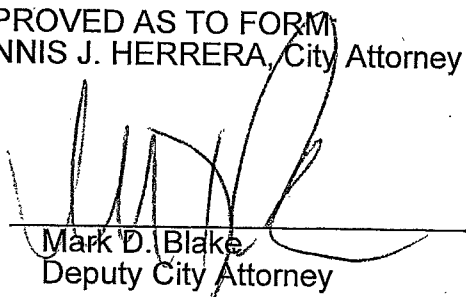
1 FURTHER RESOLVED, That this Board hereby authorizes and directs the Controller,
2 the Director of the Department of the Environment, the Treasurer Tax-Collector and the
3 Director of the Office of Public Finance, or their respective designees , in cooperation with the
4 Authority, to prepare and execute the Agreement, subject to any conforming or clarifying
5 changes as may be approved by Controller, the Director of the Department of the
6 Environment, the Treasurer Tax-Collector and the Director of the Office of Public Finance, or
7 their respective designees, in consultation with the City Attorney; and, be it

8 FURTHER RESOLVED, That the Board of Supervisors further authorizes and directs
9 the Controller, the Director of the Department of the Environment or the Director of the Office
10 of Public Finance, or their respective designees, to take such actions as are necessary to
11 perform the obligations of the City under the Agreement, including without limitation such
12 actions as are necessary for the City to collect the special taxes and special assessments for
13 the Authority at the same time and in the same manner as City taxes are collected; and, be it
14

15 FURTHER RESOLVED, That this Resolution shall take effect immediately upon its
16 adoption.
17

18 APPROVED AS TO FORM
19 DENNIS J. HERRERA, City Attorney

20
21 By:


22 Mark D. Blake
23 Deputy City Attorney

24 n:\legana\as2017\1400080\01185558.docx
25

**AGREEMENT FOR COLLECTION OF TAXES
AND SPECIAL CONTRACTUAL ASSESSMENTS**

THIS AGREEMENT made and entered into this _____ day of _____, by and between the COUNTY OF _____, hereinafter referred to as the "County", and the Golden State Finance Authority (formerly California Home Finance Authority), a joint powers authority, hereinafter referred to as the "Authority."

WHEREAS, the parties desire to enter into an agreement whereby special taxes or special assessments for the Authority will be collected by the County Tax Collector at the same time and in the same manner as County taxes are collected, and the Authority will pay to the County the fees for collection hereinafter set forth; and

WHEREAS, Section 29142 of the Government Code provides that when taxes or assessments are collected by a county for any special district, or zone, or improvement district thereof, excluding a school district, the board of supervisors may provide for a collection fee for such services; and

WHEREAS, it is recognized that special assessments may be levied on a fixed charge or dollar amount basis, determined by applying a special assessment rate to a specific lot or parcel in a prescribed area; and

WHEREAS, the parties to this Agreement desire to provide for the imposition of a collection fee for fixed charge special taxes and assessments and for correction of errors; and

WHEREAS, when requested by the Authority, it is in the public interest that the County Tax Collector collect on the County tax rolls the special taxes, fees, and assessments for the Authority.

NOW THEREFORE, the parties agree as follows:

1. Collection Services. The County Tax Collector will collect for the Authority all Authority special taxes and fixed charge special assessments entered on the County's assessment roll and levied by or on behalf of the Authority, said taxes and assessments to be collected at the same time and in the same manner as County taxes are collected and all laws applicable to the levy, collection and enforcement of County taxes shall be and are hereby made applicable to such taxes and assessments.

2. Collection Fee. Unless otherwise provided by law, the County Tax Collector may impose a collection fee of \$ _____ per parcel for each special tax, fee or assessment that is to be collected for the Authority on the County tax rolls.

3. Transmission of Information. On or before August 10th of each year (unless an earlier date is specified by law) the Authority shall certify and deliver to the County Auditor Controller an assessment roll showing the amount of the special tax or assessment against each parcel of land (which shall be designated by tax-rate area and assessment number, i.e., parcel number

appearing on the County Secured Assessment Roll) to be collected by the County Tax Collector for the Authority. In cases where the Authority levies a fixed charge special tax or assessment that is to be collected in installments over a period of years, the Authority shall compute annually the amount due as to each parcel shown on the County Secured Assessment Roll for the year in which it is to be collected and shall deliver to the County Auditor Controller annually on or before August 10th (unless an earlier date is specified by law) the assessment roll showing the installment against each such parcel of land to be collected by the County Tax Collector for the Authority.

4. Certification to County. The Authority shall certify to the County Auditor Controller the fixed charge special taxes, fees, or assessments in a dollar amount to be applied on each parcel of real property, which parcel shall be designated by the assessment (i.e., parcel) number shown on the County Secured Assessment Roll for the year in which the special tax, fee or assessment is to be collected. The amounts certified shall include the charges payable to the County pursuant to Section 2 of this Agreement.

5. Verification by Authority. It shall be the obligation of the Authority prior to the time of delivery to the County Auditor Controller of the fixed charge special tax or assessment roll to check the County Secured Assessment Roll after it is filed by the County Assessor with the County Auditor Controller (July 1; Revenue and Taxation Code, Section 617) to verify that the parcel numbers on the assessment roll for fixed charge special taxes or assessments certified by the Authority correspond with the assessment (i.e., parcel) numbers shown on the County Secured Assessment Roll. Any changes in special tax or assessment data previously certified to the County Auditor Controller by the Authority, which changes occur as a result of such verification, shall be certified by the Authority to the County Auditor Controller no later than August 10.

6. Submission of Data in Machine Readable Form. The performance by the County Tax Collector of the collection function for a charge as provided for in paragraph 2 above is conditioned upon the delivery by the Authority to the County Auditor Controller of the required data and information for the collection of fixed charge special taxes or assessments in such "machine readable form" as may be acceptable to the County Auditor Controller for use in the County's electronic data processing equipment. In the event the information is not submitted in such machine-readable form, the County Auditor Controller may reject the data and notify the Authority to submit in the acceptable machine-readable form. Annually, prior to July 1, the County Auditor Controller will furnish the Authority with the format of the machine readable information necessary to process the special tax and/or assessment.

7. Incorrect Information. The County Auditor Controller will not be obligated to enter on the County's assessment roll, nor with the County Tax Collector be obligated to collect, fixed charge special taxes or assessments where the Authority has furnished incorrect assessment numbers, i.e., assessment or parcel numbers that do not correspond with assessment or parcel numbers shown on the County Secured Assessment Roll to which such assessments are to be added, or where the Authority has not furnished the information at the time or in the form specified. In such cases the County Auditor Controller may return the assessment to the Authority. If the Authority determines that the assessment is to be placed on the County Secured

Assessment Roll for an ensuing year, the Authority may certify the information to the County Auditor Controller between July 1st and August 10th of the ensuing year.

8. Charge for Correction of Errors. After the roll has been delivered by the County Auditor to the County Tax Collector (on or before the fourth Monday in September; Revenue and Taxation Code, Section 2601) a charge will be made by the County Auditor Controller to the Authority for each fixed charge special assessment corrected or deleted. Said charge shall be _____ for each account (assessment or parcel number) on the County Secured Assessment Roll for which there is a deletion or correction resulting from errors in information or data furnished by the Authority, such as the furnishing by the Authority to the County Auditor Controller of incorrect amounts or incorrect parcel numbers. The amount of the charges for such corrections will be deducted by the County Auditor Controller from the total special taxes or assessments collected by the County Tax Collector for the Authority or the Authority may pay such charges directly to the County.

9. Charge for Sale and Deed to Authority. The Authority will pay to the County any expense incurred by the County in the event the County Tax Collector is required to sell property for nonpayment of special taxes or assessments, along with other taxes and/or assessments.

10. Modification of Collection Fees and Charges. The County Auditor Controller reserves the right to increase or decrease any charges herein provided in proportion to any changes in costs incurred by the County Auditor Controller and/or the County Tax Collector in providing the services described herein, provided that written notice of any increase or decrease in charges shall be given by the County Auditor Controller to the Authority on or before May 15 of any year during the term of the Agreement.

11. Term of Agreement. This Agreement shall continue from year to year and shall be subject to cancellation by either party by giving written notice to the other party of cancellation on or before July 1 of any year during the term of this Agreement.

12. Indemnification. The Authority agrees to defend and indemnify the County, its agents, officers and employees (the "County Parties") from any demands, liability, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (collectively, Claims) arising from the County's performance under this Agreement. However, the Authority shall have no obligation to defend or indemnify the County from any claims if it is determined by a court of competent jurisdiction that such claim was caused by the gross negligence or willful misconduct of the County or its agents or employees.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the first day above written.

COUNTY OF _____

By: _____

By: _____

Attest:

Approved as to Form

County Counsel

Clerk of the Board of Supervisors

GOLDEN STATE FINANCE AUTHORITY
(formerly California Home Finance Authority)

By: _____

Wong, Linda (BOS)

From: Chien, Richard (ENV)
Sent: Tuesday, June 06, 2017 1:37 PM
To: Cohen, Malia (BOS); Yee, Norman (BOS); Tang, Katy (BOS); Kim, Jane (BOS); Sheehy, Jeff (BOS)
Cc: Farrell, Mark (BOS); Montejano, Jess (BOS); Sesay, Nadia (CON); Blake, Mark (CAT); Rodriguez, Guillermo (ENV); Wong, Linda (BOS)
Subject: June 8th Budget & Finance Committee Agenda Items 4, 5, 6, 7, 8, 9 and 10
Attachments: 6-8-17 PACE staff report_final.pdf; Open PACE FAQ for realtors.pdf

Dear members of Budget & Finance Committee (Supervisors Cohen, Yee, Tang, Kim and Sheehy):

I am writing in advance of this Thursday's Budget and Finance Committee hearing (where several PACE resolutions will be presented), to share some information related to recent press regarding residential PACE programs and provide you with additional background.

BACKGROUND

Since the Board voted in 2014 to reauthorize residential PACE programs in San Francisco, approximately \$8 million of private capital has been invested by the programs to help qualified homeowners install a range of energy efficiency, solar, and water conservation improvements on their properties, which will reduce energy consumption by nearly 25,000 MWh and save homeowners approximately \$6 million on their energy bills over the lifetime of the improvements.

PACE overcomes the main barrier to property owners making these types of investments into their buildings, which is the high upfront cost. Through its novel property-based structure, PACE expands property owner access to clean energy. PACE combines local government participation, private capital, and business innovation to deliver positive, mutually beneficial outcomes.

By supporting adoption of the new resolutions to allow three new PACE providers to be able to work in San Francisco, we will be stimulating private competition, expanding access to homeowners, and introducing a small commercial option (currently a gap for the nonresidential sector), while ensuring the highest levels of consumer protections and transparency.

CONSUMER PROTECTION AND TRANSPARENCY

Here are examples of how PACE stakeholders and policy makers are working together to strengthen and enhance consumer protections and increase transparency:

1. ABAG Regional Collaborative Services Agreement (included in your package)

- This agreement between ABAG and residential PACE Providers mandates clear guidance on enhanced consumer protections, data sharing for program performance monitoring, and promoting coordination with existing ratepayer-supported energy program incentives for programs active in the 9 county region.

2. AB 2693 – Bill went into effect on January 1, 2017 and mandates minimum disclosures for all PACE programs similar to the Mortgage Industry’s “Know Before You Owe” Form including:

- 3-DAY RIGHT to CANCEL
- Clear Financing Statement w/ APR and total financing obligation
- 64+ year old additional call backs to confirm terms
- The bill was originally sponsored by the California Association of Realtors and supported by the PACE industry.
- The CSCDA Open PACE program already provided for the requirements in AB 2693 under its consumer protection policies adopted in December, 2015. The additional legislation simply codifies in statute what had

3. SB 242 – This bill currently in the State legislature, incorporates additional consumer protections and other best practices recommended by PACE Nation (national non-profit) and the U.S. Department of Energy, including provisions that require:

- PACE contractors are properly licensed
- Consumers are evaluated for the ability to pay back the assessment
- Payment relief and protection is provided if the borrower faces temporary financial hardship
- Requires the California Energy Commission (CEC) to establish and maintain list of eligible energy measures

4. CSCDA “Open PACE” and WRCOG’s consumer protections standards (adopted by the two major sponsor JPA’s in 2016)

- The baseline consumer protection policies of the two major sponsoring JPA’s overseeing the largest PACE program operators in California (CaliforniaFIRST and HERO) cover the following areas: (1) Eligibility and Risk, (2) Disclosures and Documentation, (3) Financing Terms, (4) Operations, (5) Post Funding Property Owner Support, (6) Data Security, (7) Privacy, (8) Marketing and Communications, (9) Protected Classes, (10) Participating Contractor Requirements, (11) Eligible Measures, (12) Maximum Cost per Measure, (13) Reporting, (14) Closing & Funding and (15) Oversight.

5. U.S. Department of Energy Best Practices Guidelines – incorporated wide range of stakeholder input to develop and issue “best practices for residential PACE,” including consumer protections issues.

We strongly believe that these efforts will only help residential PACE continue to be the most effective clean energy financing program in history. The department will continue to monitor and work with PACE providers and consumer advocates to ensure the program continues to deliver quality services in an open and fair way for all interested.

Attached are my staff report which should be included in your packet for Thursday’s meeting, as well as a general PACE FAQ from CSCDA (the JPA sponsor of the ‘Open PACE’ program, which includes CaliforniaFIRST).

Please contact me with any questions you may have. Thank you.

Rich

Richard Chien

Senior Program Specialist

San Francisco Department of the Environment

1455 Market Street, Suite 1200, San Francisco, CA 94103

richard.chien@sfgov.org (415) 355-3761



SF Environment
Our home. Our city. Our planet.
A Department of the City and County of San Francisco

Edwin M. Lee
Mayor

Deborah O. Raphael
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.

San Francisco Department of the Environment
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Telephone: (415) 355-3700 • Fax: (415) 554-6393
Email: environment@sfgov.org • SFEnvironment.org

Printed on 100% post-consumer recycled paper.

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.alliancenerg.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.

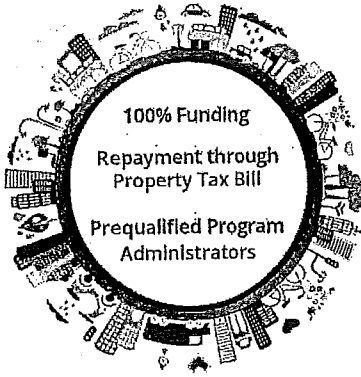
CONTACT PERSON

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 GFSB regarding the collection of PACE assessments and/or special taxes
- Resolution authorizing an agreement regarding the collection of PACE assessments and/or special taxes



CSCDA
OPENPACE
PROPERTY ASSESSED CLEAN ENERGY

The Facts about CSCDA's Open PACE Program

CSCDA has received questions from cities, counties and property owners about its Open PACE program. The following answers those questions that have been raised.

1. *The five administrators under the CSCDA Open PACE program provide disclosures to property owners as required under AB 2693 and beyond.*
 - AB 2693 (2016), which went into effect on January 1, 2017 mandates minimum disclosures for all PACE programs similar to the Mortgage Industry's "Know Before You Owe" Form including:
 - 3-DAY RIGHT to CANCEL
 - Clear Financing Statement w/ APR and total financing obligation
 - 64+ year old additional call backs to confirm terms
 - The bill was originally sponsored by the California Association of Realtors and supported by the PACE industry.
 - The CSCDA Open PACE program already provided for the requirements in AB 2693 under its consumer protection policies adopted in December, 2015. The additional legislation simply codifies in statute what had largely been standard business practice for the Open PACE program.
2. *Homeowners are not required to pay off their PACE lien when they sell or refinance.*
 - PACE liens may stay with the property in almost every scenario during a sale or refinance.
 - Transferability of the PACE lien is typically a point of negotiation between seller, buyer, and lender.

- The Federal Housing Administration and Veterans Administration (FHA and VA Loans) will finance with PACE liens on title and allow the PACE lien to remain.
- FHFA (Fannie Mae & Freddie Mac/Conventional loans) require contractual subordination of the PACE lien.
- Open PACE program administrators have and will subordinate to the satisfaction of the lender.

3. ***Special assessments have been permitted and financed in California for over 100 years.***

- PACE is a voluntary special assessment that was authorized by the California Legislature. It is a variation of existing assessment district and community facility district laws that has been in place in California for over 100 years.
- Over 2,700 special assessment districts exist in the California – which are an essential infrastructure and economic development tool for local governments – and all of the assessments are senior to the first mortgage just as PACE is.

4. ***The Open PACE program has multiple layers of governmental oversight.***

- Underwriting for PACE loans was established and is monitored by the California State Treasurer's Office.
- Disclosures for PACE loans are set by the California Legislature.
- CSCDA adopted stringent consumer protection policies in December 2015.
- Cities and counties have the ability both to opt in and, importantly, to opt out *without cause if they have concerns with a PACE program* providing unfettered local control.

5. ***The Open PACE program provides significant consumer protections between a property owner and contractor***

Open PACE programs provide more consumer protections than almost all other traditional financing options. Open PACE programs:

- Require contractor licensing,
- Approve only high-efficiency measures, verify work, require permits and provides a dispute resolution process.
- Provides final payment to the contractor only after the homeowners agrees that the work has been done to the homeowner's satisfaction
- Monitor contractors and penalize them for poor performance, including kicking them out of the Open PACE program.

6. ***PACE programs will not cause another housing crisis.***

There are several reasons why PACE will not cause another housing crisis:

1. PACE only finances measures that reduce energy and water bills. This increases a homeowner's ability to repay the mortgage.
2. In the first economic study of homes with PACE upgrades, three different methodologies and three home price indices were examined and all turned up the same results; PACE is good for the resale value of homes, even after taking into account the financing costs.
http://www.iinews.com/site/pdfs/JSF_Winter_2016_PACENation.pdf
3. California State Treasurer's Office regulations prevent a homeowner from encumbering the property with a PACE lien that, combined with the mortgage balance, would exceed 100% of the fair market value of the property.
4. PACE does not accelerate in the event of a default. Only the amount in arrears is due.
5. Property owners with a PACE assessment have higher property tax repayment rates than the state average.

7. ***CSCDA encourages property owners to review all of its options for financing to determine what their best option may be.***

- PACE is a voluntary program. As with any financing decision, property owners should compare terms and features across financing options.

- PACE interest rates are consistent with long-term, fixed interest rate financing, such as Home Equity Loans (HELs)
- Unsecured loans often have much shorter repayment terms; and comparable or higher interest rates, which lead to higher monthly/annual payments for the homeowners, which may be undesirable at best, and unsustainable at worst.
- The lowest cost financing on the market is a variable rate home equity line of credit (HELOC), which can start below 3%. Fewer than 15% of California homeowners have a HELOC in place, and many cannot wait the 30-45 days it takes to secure a HELOC (or HEL) when their A/C needs replacement in the summer.

8. *The Open PACE consumer protection policies do not permit contractors to use aggressive marketing practices that target the poor and elderly.*

- Complaints about aggressive contractors occurred well before PACE was in the market, regardless of the financing programs the contractor was offering.
- Open PACE is one of the only financing options with strong protections against aggressive marketing practices.
- All Open PACE contractors must agree to a code of conduct and are penalized if they use aggressive tactics or misrepresent the program.
- PACE call centers have multi-lingual staff to support non-English speakers.
- 100% of property owners over 64 years old receive a follow up call to ensure they understand the terms of the PACE contract.
- By state law (AB 2693), PACE also includes a three day right of rescission for anyone who changes their mind.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
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MEMORANDUM

TO: Ben Rosenfield, City Controller, Office of the City Controller
Deborah Raphael, Director, Department of the Environment
Nadia Sesay, Director, Controller's Office of Public Finance
Jose Cisneros, Treasurer, Office of the Treasurer and Tax Collector

FROM: Linda Wong, Assistant Clerk, Budget and Finance Sub-Committee

DATE: May 24, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Budget and Finance Sub-Committee has received the following proposed legislation:

File No. 170486

Resolution approving and authorizing execution of an agreement for collection of special taxes and contractual assessments between the City and County of San Francisco and the Golden State Finance Authority for residential, commercial, industrial and agricultural properties to address high up-front costs for property owners who wish to improve their properties through installation of measures that will generate renewable energy or reduce their energy and water use through a Property-Assessed Clean Energy ("PACE") Program; and authorizing related actions, as defined herein.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Todd Rydstrom, Office of the City Controller
Guillermo Rodriguez, Department of the Environment
Amanda Kahn Fried, Office of the Treasurer and Tax Collector

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 APR 25 PM 4:45
Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor inquires"
- 5. City Attorney request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

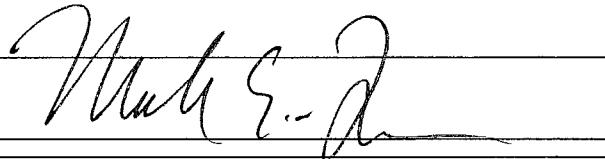
- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Subject:

The text is listed below or attached:

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: