

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2009 NOV 18 PM 5:57

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Public Works Agency
DATE: December 1, 2009

RE: Resolution Authorizing The City Of Oakland To:

- 1. Join The CaliforniaFIRST Program; And**
- 2. Authorize The California Statewide Communities Development Authority To Accept Applications From Property Owners Who Wish To Participate In Property Assessments For The Program; And**
- 3. Authorize The California Statewide Communities Development Authority To Conduct Contractual Assessment Proceedings And Levy Contractual Assessments On Behalf Of The City Within The Territory Of The City Of Oakland; And**
- 4. Authorize The City Administrator To Pay The California Statewide Communities Development Authority Fees Up To Twenty Thousand Dollars (\$20,000.00) For Oakland's Program Setup Fees**

SUMMARY

At the Public Works Committee meeting on May 12, 2009, staff presented an opportunity to join the CaliforniaFIRST pilot program of the California Statewide Communities Development Authority (California Communities). At that time, the enabling language had not been provided by California Communities to join the CaliforniaFIRST program. The Committee directed staff to return when language was available.

The attached resolution authorizes the City to join the CaliforniaFIRST program, authorizes California Communities to accept applications from property owners who wish to participate in property assessments for the program, authorizes California Communities to conduct contractual assessment proceedings and levy contractual assessments on behalf of the City within the territory of the City of Oakland, and authorizes the City Administrator to pay up to \$20,000 for program setup fees.

The program will begin with a pilot phase in June of 2010. The CaliforniaFIRST pilot program will be a sustainable energy financing program that uses voluntary tax assessments to finance energy efficiency and solar power projects. The program will allow property owners to finance the relatively high initial expense of cost-effective, energy-related building improvements.

Item: _____
Public Works Committee
December 1, 2009

The CaliforniaFIRST program is also the focus of a proposal being submitted to the California Energy Commission's (CEC) stimulus-funded State Energy Program (SEP). Sacramento County is submitting an SEP application on behalf of Oakland and other participating jurisdictions. If the proposal is successful, the SEP funds would cover program setup fees, marketing and an interest rate buy-down on the financing for participating property owners.

California Communities has selected Renewable Funding, LLC (headquartered in Oakland) as the CaliforniaFIRST statewide program operator.

FISCAL IMPACT

The fiscal impact for joining CaliforniaFIRST will be up to \$20,000 to cover legal validation as well as marketing and technology program setup fees. These fees are based on a fee structure determined by California Communities, which will be imposed on each jurisdiction joining the CaliforniaFIRST program. Fees may be reduced or eliminated if an SEP grant is awarded.

Up to \$20,000 for program setup fees may be paid from City Facilities Energy Conservation Fund (4450), Energy Group Organization (30689), Solar Solicitation Project (C256517).

BACKGROUND

The state legislature passed urgency measure AB 811 in July 2008, which modified Division 7, Chapter 29 of the California Streets and Highways Code to authorize contract assessment districts in charter and general law cities. The passage of AB 811 authorized county, regional, and statewide agencies to develop large-scale sustainable energy financing programs. A county, regional, or statewide program would theoretically spread overhead and financing costs over a much larger market area than a municipal program, making the program more feasible and encouraging more retrofit work. Also, administrative duties would be concentrated in an outside agency, thus minimizing the burden on individual cities.

California Communities, a joint powers authority of which the City is a member, is currently developing a statewide sustainable energy financing pilot program called CaliforniaFIRST under the framework of AB 811. California Communities has already conducted an open solicitation and selected Renewable Funding as the program operator.

Under the CaliforniaFIRST program, California Communities would establish an AB 811 assessment district in Alameda County for participating communities. Oakland property owners could borrow money from the program to install energy efficiency improvements such as lighting efficiency retrofits, heating and air conditioning system efficiency improvements, solar photovoltaic electric systems and possibly weatherization and insulation improvements. Loans would be repaid through a line item charge on the owner's property tax bills over several years.

California Communities is still working out the final details of the program, but expects to launch a CaliforniaFIRST pilot program in June 2010.

The Association of Bay Area Governments (ABAG) has also been exploring the idea of developing a separate energy financing program. However, ABAG does not appear to be moving forward with development and implementation of such a program at this time.

KEY ISSUES AND IMPACTS

California Communities plans to consider a resolution in January 2010 enabling the CaliforniaFIRST pilot program to begin its sustainable energy financing operations. A draft of the resolution enabling the pilot program is attached as *Exhibit 1*. The CaliforniaFIRST Program Report, attached as *Exhibit 2*, describes how the program would operate, including:

- Authorized Improvements (page 4)
- Property Eligibility Criteria (page 6)
- Financing Process (page 9)
- Financing details (page 10)

California Communities requires cities that want to participate in its program to adopt a resolution joining CaliforniaFIRST by January 18, 2010. The resolution must:

- Authorize the interested city to join the program
- Consent to special assessment proceedings on any property within the city boundaries
- Authorize the program to accept applications from interested property owners
- Authorize financing of distributed generation renewable energy (typically solar electricity generation systems on individual rooftops distributed throughout a city), energy efficiency and water efficiency projects as detailed in *Exhibit 2*
- Commit the City to making program materials available
- Commit the City taking reasonable action to facilitate the program operation described in *Exhibit 2*, although no specific services are anticipated at this time
- Authorize California Communities to act on behalf of the City when operating the program according to applicable law
- Authorize payment of one-time fees to California Communities for the costs of implementing the CaliforniaFIRST Program in the city (up to \$20,000 for Oakland). The fees cover legal validation, marketing and technology costs associated with the program.

As the program administrator, California Communities would establish an assessment district and finance the associated costs, including legal, financial, tax, and bond related expenses. California Communities and Renewable Funding would also provide capital for the initial loans,

thus assuming all financial risk. The sustainable energy-financing program is an opt-in program and will not place an additional tax burden on non-participants.

CaliforniaFIRST offers the best option for the City to extend sustainable energy financing to local property owners in the near term. Furthermore, CaliforniaFIRST is an opt-in program that is not exclusive. Therefore, the City could choose to opt-out of the program, or join another program in the future without penalty.

Program setup fees of up to \$20,000 may be reduced or eliminated if a grant proposal to the CEC's stimulus-funded SEP is awarded. These one-time fees are the only direct costs to the City to participate in this ongoing program.

PROGRAM DESCRIPTION

By adopting the attached resolution, the City Council would authorize the City to join the CaliforniaFIRST program, authorize the California Communities to operate the program in Oakland, authorize the City Administrator to participate in the program on behalf of the City, and authorize payment of up to \$20,000 for program setup fees, if necessary.

After California Communities and Renewable Funding have completed legal, process, and administrative steps, they will distribute detailed program information to participating cities. By June 2010, California Communities plans to create an AB 811 Assessment District made up of all cities and counties that have passed authorizing resolutions. Renewable Funding will launch a website for each participating city or county to initiate property owner education. Property owners will voluntarily sign up, install approved sustainable energy projects (including energy efficiency and solar energy improvements), and receive funding.

Property owners will apply for funds through a program website created and maintained by Renewable Funding. Renewable Funding will collect documentation from the property owners to determine eligibility. Eligibility is typically determined by verifying (1) legal ownership of the property, (2) current payment of all mortgages, taxes, and other obligations secured by the property, and (3) the absence of significant involuntary liens or defaults.

After the improvement has been installed and a building inspection is completed, the applicant sends copies of the invoice, inspection notice, and rebate documents to Renewable Funding, which conducts a final verification. Applicants will also sign (1) the program terms and disclosures, (2) a release authorizing sharing information with CSI and PG&E, and (3) a unanimous consent and liability release. The information is then passed on to California Communities, which places a lien on the property, while Renewable Funding provides the property owner with a check.

The overall interest rates are expected to be competitive with rates that are commonly available from financial institutions. The program has been designed such that utility bill savings from energy efficiency and solar power improvements will typically be greater than repayment obligations. Property owners can expect a net savings.

SUSTAINABLE OPPORTUNITIES

Economic: Local contractors who perform energy efficiency retrofits and install solar power systems are available to be hired by participating property owners. Additionally, the City can benefit from sales taxes associated with the improvements and tax revenues associated with higher property values.

Environmental: The recommended program will help the City achieve greenhouse gas reduction by means of energy efficiency and renewable energy improvements. This will also help achieve the goals set forth in AB 32 – the California Global Warming Solutions Act of 2006.

Social Equity: The recommended program extends the opportunity for sustainable energy improvements to property owners who might not otherwise be able to afford them.

DISABILITY AND SENIOR CITIZEN ACCESS

This report and resolution will not have direct impact on access for persons with disabilities or senior citizens.

RECOMMENDATION AND RATIONALE

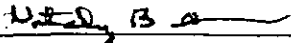
It is recommended that City Council approve the attached resolution authorizing the City of Oakland to join and participate in the CaliforniaFIRST program, and to pay up to \$20,000 for program setup fees, if necessary. CaliforniaFIRST offers the best option for the City to extend sustainable energy financing to local property owners within the foreseeable future.

CaliforniaFIRST is an opt-in program, and the City could choose to opt-out of the program or join another program in the future without penalty. By designating California Communities as the program administrator, the City does not have to take on the development, legislative, bonding, and administrative processes associated with a municipal program.

ACTION REQUESTED OF THE CITY COUNCIL

It is recommended that the City Council approve the attached resolution to join and participate in the CaliforniaFIRST pilot program and direct the City Administrator to pay up to twenty thousand dollars (\$20,000.00) for program setup fees, if necessary.

Respectfully submitted,



Vitally B. Troyan
Interim Director, Public Works Agency

Reviewed by:
Brooke A. Levin, Assistant Director

Reviewed by:
Susan Kattchee, Environmental Services Manager

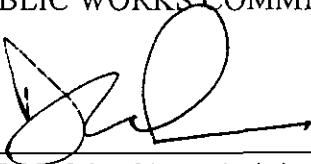
Prepared by:
Scott Wentworth, Energy Engineer
Environmental Services Division

Attachments to the Resolution:

Exhibit 1 - California Communities Resolution

Exhibit 2 - CaliforniaFIRST Program Report, dated November 6, 2009

APPROVED AND FORWARDED TO THE
PUBLIC WORKS COMMITTEE



Office of the City Administrator

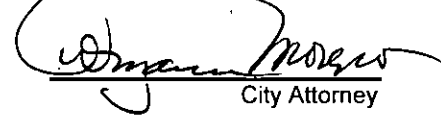
Item: _____
Public Works Committee
December 1, 2009

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 NOV 19 PM 5:09

OAKLAND CITY COUNCIL

Approved as to Form and Legality


City Attorney

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY OF OAKLAND TO:

1. JOIN THE CALIFORNIAFIRST PROGRAM; AND
2. AUTHORIZE THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS WHO WISH TO PARTICIPATE IN PROPERTY ASSESSMENTS FOR THE PROGRAM; AND
3. AUTHORIZE THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS ON BEHALF OF THE CITY WITHIN THE TERRITORY OF THE CITY OF OAKLAND; AND
4. AUTHORIZE THE CITY ADMINISTRATOR TO PAY THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY FEES UP TO TWENTY THOUSAND DOLLARS (\$20,000.00) FOR OAKLAND'S PROGRAM SETUP FEES

WHEREAS, the California Statewide Communities Development Authority ("California Communities") is a joint exercise of powers authority the members of which include numerous cities and counties in the State of California, including the City of Oakland (the "City"); and

WHEREAS, California Communities has established the CaliforniaFIRST program (the "CaliforniaFIRST Program") to allow the financing of certain renewable energy, energy efficiency and water efficiency improvements (the "Improvements") through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code ("Chapter 29") and the issuance of improvement bonds (the "Bonds") under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 and following) (the "1915 Act") upon the security of the unpaid contractual assessments; and

WHEREAS, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

WHEREAS, the City desires to allow the owners of property within its jurisdiction ("Participating Property Owners") to participate in the CaliforniaFIRST Program and to allow California Communities to conduct assessment proceedings under Chapter 29 and to issue Bonds under the 1915 Act to finance the Improvements; and

WHEREAS, California Communities will conduct assessment proceedings under Chapter 29 and issue Bonds under the 1915 Act to finance Improvements; and

WHEREAS, a proposed form of a Resolution Declaring Intention To Finance Installation Of Distributed Generation Renewable Energy Sources, Energy Efficiency And Water Efficiency Improvements to be adopted by California Communities in connection with such assessment proceedings is attached and labeled “Exhibit 1,” and the territory within which assessments may be levied for the CaliforniaFIRST Program shall include all of the territory within the official boundaries of record for the city of Oakland (the “Proposed Boundaries”); and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Bonds or any other bonds issued in connection with the CaliforniaFIRST Program; and

WHEREAS, pursuant to Government Code Section 6586.5, a notice of public hearing has been published once at least five days prior to the date hereof in a newspaper of general circulation in the City and a public hearing has been duly conducted by this City Council concerning the significant public benefits of the CaliforniaFIRST Program and the financing of the Improvements; and

WHEREAS, the CaliforniaFIRST program represents Oakland’s best opportunity to make property-assisted clean energy financing available to Oakland property owners; now, therefore, be it

RESOLVED: That the City Council of the City of Oakland hereby finds and declares that the issuance of bonds by California Communities in connection with the CaliforniaFIRST Program will provide significant public benefits, including without limitation, savings in effective interest rate, bond preparation, bond underwriting and bond issuance costs and reductions in effective user charges levied by water and electricity providers within the boundaries of the city of Oakland; and be it

FURTHER RESOLVED: That in connection with the CaliforniaFIRST Program, the City Council hereby consents to the conduct of special assessment proceedings by California Communities pursuant to Chapter 29 on any property within the Proposed Boundaries and the issuance of Bonds under the 1915 Act; provided, that

- (1) Such proceedings are conducted pursuant to one or more resolutions substantially in the form of the sample resolution in Exhibit 1; and
- (2) The Participating Property Owners, who shall be the legal owners of such property, execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and be it

FURTHER RESOLVED: That pursuant to the requirements of Chapter 29, California Communities has prepared and will update from time to time the “Program Report” attached and labeled “Exhibit 2,” for the CaliforniaFIRST Program (the “Program Report”), and California Communities will undertake assessment proceedings and the financing of Improvements as set forth in the Program Report, and be it

FURTHER RESOLVED: That the City Administrator, or his designee, is authorized to participate in the CaliforniaFIRST Program on behalf of the City and directed to make Program applications available to all property owners who wish to finance Improvements, provided that California Communities shall be responsible for providing such applications and related materials at its own expense; and be it

FURTHER RESOLVED: That the City Administrator is authorized and directed to execute and deliver such closing certificates, requisitions, agreements and related documents as are reasonably required by California Communities in accordance with the program Report to implement the CaliforniaFIRST Program for Participating property Owners and to evidence compliance with the requirements of federal and state law in connection with the issuance by California Communities of the Bonds and any other bonds for the CaliforniaFIRST Program; and be it

FURTHER RESOLVED: That to carry out the aforesaid authorization and direction and pursuant to Treasury Regulations Section 1.150-2, the City Administrator or other staff person acting in the same capacity for the City of Oakland with respect to the CaliforniaFIRST Program is hereby authorized and designated to declare the official intent of the City of Oakland with respect to the Improvements to be paid or reimbursed through participation in the CaliforniaFIRST Program; and be it

FURTHER RESOLVED: That The City Administrator is authorized to pay the California Statewide Communities Development Authority fees up to twenty thousand dollars (\$20,000), from City Facilities Energy Conservation Fund (4450), Energy Group Organization (30689), Solar Solicitation Project (C256517), for the costs of implementing the CaliforniaFIRST Program in the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California