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2018 APR 12 PM 3:48

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Jason Mitchell
Director, Public Works

SUBJECT: Property Assessed Clean Energy (PACE) Provider Authorizations
DATE: April 2, 2018

City Administrator Approval

Date:

4/12/18

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing: 1) The California Municipal Finance Authority (CMFA) Open PACE Program To Operate In Oakland; 2) PACE Providers Within The CMFA PACE Program To Accept Applications From Property Owners, Conduct Contractual Assessment Proceedings And Levy Contractual Assessments Within The City, And Perform Related Actions; And 3) The City Administrator Or Designee Thereof, To Execute All Documents And Take Any Actions Necessary And Appropriate To Carry Out The Intent Of This Resolution.

EXECUTIVE SUMMARY

Property Assessed Clean Energy (PACE) is a type of financing used to fund property improvements associated with energy and water conservation in homes and businesses. Typical improvements financed through PACE include installation of energy efficient appliances and lighting, renewable energy systems, insulation, and water efficient plumbing fixtures. PACE differs from traditional lending by basing loan criteria on the equity in the building rather than the creditworthiness of the building owner. This allows the financing to be used by property owners who do not qualify for conventional credit, and creates market options for property owners to finance home or business improvement projects. Through authorizations by the City of Oakland in 2009 and 2015, 11 providers of PACE financing are currently eligible to offer services in Oakland.

The City may, at its sole discretion, approve additional PACE programs to foster competition and provide additional alternatives for property owners seeking financing for improvements. PACE programs must receive approval from the City Council in order for their provider(s) to operate within the City. In 2017, staff reached out to known PACE providers in California who were not yet approved to operate in Oakland, in an effort to gauge interest in becoming authorized providers in the City. Each of the interested companies is part of the CMFA Open PACE Program, which currently includes six PACE providers:

- Energy Efficient Equity
- BluePACE

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- Structured Finance Associates
- OnPACE Energy
- PetrosPACE
- Twain

Approval of this Resolution would authorize the six PACE providers currently operating under the CMFA Open PACE Program and any PACE providers that are added to the CMFA Open PACE Program to operate in Oakland.

Authorization of a PACE program requires the City of Oakland to become part of the agency administering the program. Since the CMFA Open PACE is a public agency, this takes the form of a Joint Powers Agreement (JPA). In 2004, the City of Oakland joined a JPA with CMFA as part of a private activity bond program. It is not necessary to amend the existing JPA or to join the JPA anew. Additional actions necessary to approve the program include allowing PACE providers to serve any property within the city limits and granting authority to levy assessments on participating properties for the repayment of loans. The Resolution attached to this report provides for the relevant and necessary elements specific to the CMFA Open PACE, along with protections to ensure that the City assumes no additional risk or liability associated with the JPA or its programs.

Staff requests that the City Council approve the Resolution authorizing the City Administrator, or designee thereof, to authorize the CMFA Open PACE Program and its providers to operate in the City of Oakland to provide financing for clean energy and energy efficiency improvements for Oakland residents and business owners.

BACKGROUND/LEGISLATIVE HISTORY

California Assembly Bill AB 811 (July 21, 2008) authorized cities and counties to designate PACE providers to finance energy and water conservation improvements in homes and businesses in a jurisdiction. Under PACE, property owners may enter into voluntary contractual assessments for the purpose of financing the installation of renewable energy sources such as solar panels, energy efficiency improvements, and/or water conservation improvements that are permanently affixed to real property. Some PACE providers also offer seismic strengthening improvements. This bill utilizes the existing ability provided by two finance laws to provide specific services relative to energy projects. The Improvement Act of 1911 authorizes public agencies to allow property owners to enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources, energy, or water efficiency improvements. The Improvement Bond Act of 1915 allows local governments to finance property improvements across the boundaries of a special assessment district. PACE providers use either the 1911 or 1915 Act as the basis for providing financing, depending on whether they are acting as a public or private agency.

As authorized by Resolution No. 82445 C.M.S., CaliforniaFIRST has been operating and providing energy efficiency financing through the PACE program in Oakland since 2012. On September 8, 2015, City Council approved several more PACE programs through Resolution Nos. 85761, 85762, 85763, 85764, and 85765 C.M.S., authorizing the City to join Western Riverside Council of Governments (WRCOG) PACE Programs, California Enterprise Development Authority (CEDA), California Home Finance (CHF), and California Statewide Communities Development Authority (CSCDA) Open PACE, respectively. These six PACE programs collectively administer a total of 11 PACE providers: Alliance NRG, PACE Funding, Spruce Financial, Counterpointe SRE, CaliforniaFIRST, CleanFund Commercial, HERO Residential Program, Samas Commercial, Greenworks Commercial, Ygrene Works, and Figtree PACE.

Since 2004, through Resolution No. 78667 C.M.S., the City of Oakland has been a member of a JPA with CMFA as part of a private activity bond program. The CMFA Open PACE does not require any changes to the existing JPA, but it does require that the City of Oakland approve the authorizing resolution in order to conduct projects in Oakland.

ANALYSIS

PACE financing provides capital for renewable energy systems, and a range of energy and water efficiency improvements to buildings. The offering differs from traditional home equity loans or lines of credit in that eligibility is based on the owner's equity within the property under consideration, rather than the credit worthiness of the applicant. The total cost of proposed improvements is compared to the equity in the building, and capital is issued to the building owner to pay for purchase and installation.

PACE also differs from traditional financing in its repayment structure. Debt obligations run with the property rather than the initial building owner participant, since the repayment is designed to come from the utility savings associated with the improvements. Loan repayment, per the conditions of the agreement with the provider, transfers to the subsequent owner when the property is sold. Terms vary by organization, but are generally considered in line with market rate options for similar improvements. As with other forms of private lending, all transactions are voluntary and no property owner is required to participate in PACE financing.

The PACE providers under the CMFA Open PACE JPA share several similar features. Each provider uses private capital to offer financing to property owners for a variety of home improvements related to energy use. This generally includes energy efficiency improvements and/or renewable energy systems. Additional building improvements, such as seismic retrofits and electric vehicle charging stations, are also included, but vary among the different providers. Because the capital for the projects is from private sources and the transactions are between providers and building owners, the City will incur no cost or risk associated with provider activities. The City will give no administrative support or marketing for the companies, which are conducted by their own administrators. Authorization of this resolution by the City Council is

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Benefits of PACE Programs

Since the City started collecting data on PACE providers at the start of 2016, there have been a total of 1,028 PACE projects in Oakland. Those projects have prevented 30,985 metric tons of carbon dioxide emissions (MTCO_{2e}) and created an estimated 678 jobs in Oakland. Data were not requested from PACE Providers that CSCDA and WRCOG added after the first round of approvals, therefore, the estimates of emissions reductions and job creation exclude PACE projects that may have been completed in Oakland by these PACE Providers.

A multitude of potential benefits arise from creating a competitive marketplace with multiple providers. The program offerings of the CMFA Open PACE, which currently includes six individual providers, would create a variety of options for home and business owners to finance improvement projects. Variations in finance terms, conditions of approval, and eligible measures allow for market choice by consumers, and allow future customization of providers to appeal to particular owners of building types or consumer interest in specific technologies.

In addition, approving this resolution ensures that financing will remain available if one or more providers cease to operate in Oakland. Finally, it is anticipated that there will be significant local job development associated with new providers operating in Oakland. PACE projects are typically led by contractors, who serve as the main point of contact with building owners. Allowing more providers to operate in Oakland will allow for more local contractors to become certified under a PACE provider, and new projects generated by the availability of financing will increase demand for a variety of services offered by local businesses, including general and specialty contractors, product manufacturers, and product wholesalers and retailers.

No PACE providers other than the ones addressed in this report have requested action by the City to operate in Oakland. Increasing the number of providers would improve diversity and competition in the local market. As these businesses seek to secure business in Oakland, each will work to train contractors, target underserved neighborhoods or building types, and otherwise increase the opportunity for Oakland residents and business owners to take advantage of this financing tool. Authorizing the CMFA PACE Program and its providers would not limit the ability of the City Council to consider additional programs in the future.

CMFA PACE Program

California Municipal Finance Authority is a California-based JPA that currently offers PACE funding through six different providers. CMFA primarily serves commercial properties, but has incorporated one provider, Energy Efficient Equity (E3), that exclusively serves residential properties. Since the inception of CMFA Open PACE in June 2016, 122 communities, including Berkeley, Fremont, and San Francisco, have joined the program and 1,476 PACE projects have been completed, as of February 2018. All providers under CMFA administer financing for energy and water efficiency, renewable energy, and seismic strengthening improvements. The table on the following page shows which providers serve residential and commercial markets, and which include seismic upgrades as part of eligible improvements.

The City of Oakland became a member of a JPA with CMFA in 2004 to participate in their private activity bond program, but the City is not currently a participant in CMFA Open PACE. CMFA Open PACE requires a City Council resolution authorizing the CMFA Open PACE Program.

Summary of PACE Provider Services

Provider	Property Type Served		Includes Seismic Upgrades
	Residential	Commercial	
Energy Efficient Equity (E3)	X		Yes
BluePACE		X	Yes
Structure Finance Associates		X	Yes
OnPACE Energy		X	Yes
Petros PACE		X	Yes
Twain		X	Yes

PUBLIC OUTREACH/INTEREST

Staff consulted with the CMFA PACE Program and its providers that expressed interest in providing services within the City. In addition, staff worked with the other cities in Alameda County through the Energy Council, a countywide staff association dealing with issues of energy efficiency and renewable energy generation. No public outreach has been conducted relative to the consideration of this resolution.

Upon program launch, PACE providers and contractors will be eligible to market their services to the public through a variety of channels, including print, radio, and television advertising, contractor referrals, and at retail establishments such as home improvement and hardware stores. City staff within the Environmental Services Division will be able to direct public inquiries to contacts for each provider, but the PACE providers are designed to operate independently. Several regional organizations, including the San Francisco Bay Area Regional Energy Network and StopWaste, have also begun providing public websites to guide consumers and local governments in understanding PACE.

COORDINATION

This report was drafted within the Environmental Services Division of Oakland Public Works (OPW), in consultation with the Office of the City Attorney, Budget Bureau, and Risk Management.

COST SUMMARY/IMPLICATIONS

Adoption of the Resolution 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, and with private capital. The liens associated with PACE financing are repaid as part of the property tax collection process; thus, they hold first priority status among debts associated with the property. Mortgages and other debts using property as collateral are secondary to all first priority debts, which include property taxes and special assessments.

The Board of Directors of the California Foundation for Stronger Communities, a California non-profit public benefit corporation (the "Foundation"), acts as the Board of Directors for the CMFA. Through its conduit issuance activities, the CMFA shares 50% of the issuance fees it receives with its member communities. The issuance fee for residential properties is \$160 per home. The issuance fee for commercial properties is .75% of the financed amount one time or 1.0% of the financed amount over 10 years. It is expected that 25% of the issuance fees will be granted by the CMFA to the general fund of the City. Such grants may be used for any lawful purpose of the City. The other 25% will be donated by the CMFA to a non-profit organization in the City, to be selected by the Foundation. Staff is unable to project the annual revenues generated from PACE projects resulting from this action.

SUSTAINABLE OPPORTUNITIES

Economic: PACE financing provides an opportunity for property owners to secure financing for retrofits that increase energy and water efficiency, resulting in both economic activity for contractors and increases in building valuation.

Environmental: PACE projects provide for a range of environmental benefits, including reducing energy and water demand in homes and businesses, reducing greenhouse gas emissions associated with energy and water consumption, and improving indoor air quality in retrofitted buildings.

Social Equity: PACE financing offers a source of funding for home and business improvement projects that relies on property equity rather than credit rating. This potentially provides a financing tool for a greater number of Oakland homeowners and business owners who have equity in buildings but lack good credit. Repayment of the debt through a property lien also offers flexibility for owners, and is designed to be offset by reductions in utility bills.

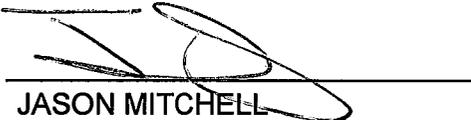
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ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution authorizing: 1) The California Municipal Finance Authority (CMFA) Open PACE Program to operate in Oakland; 2) PACE providers within the CMFA PACE Program to accept applications from property owners, conduct contractual assessment proceedings and levy contractual assessments within the city, and perform related actions; And 3) the City Administrator or Designee thereof, to execute all documents and take any actions necessary and appropriate to carry out the intent of this resolution.

For questions regarding this report, please contact Daniel Hamilton, Sustainability Program Manager, 510-238-6179.

Respectfully submitted,



JASON MITCHELL
Director, Oakland Public Works

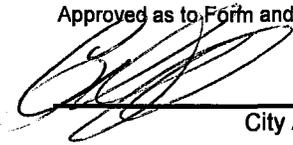
Reviewed by:
David Ferguson, Interim Assistant Director

Reviewed by:
Becky Dowdakin, Environmental Services
Manager

Prepared by:
Daniel Hamilton, Sustainability Program
Manager

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OAKLAND CITY COUNCIL



City Attorney

2018 APR 12 PM 3:48 RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING: 1) THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY (CMFA) OPEN PACE PROGRAM TO OPERATE IN OAKLAND; 2) PACE PROVIDERS WITHIN THE CMFA PACE PROGRAM TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE CITY, AND PERFORM RELATED ACTIONS; AND 3) THE CITY ADMINISTRATOR OR DESIGNEE THEREOF, TO EXECUTE ALL DOCUMENTS AND TAKE ANY ACTIONS NECESSARY AND APPROPRIATE TO CARRY OUT THE INTENT OF THIS RESOLUTION.

WHEREAS, the California Municipal Finance Authority (the “Authority”) 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, the Authority is implementing a Property Assessed Clean Energy (PACE) program, which it has designated as CMFA Open PACE, consisting of CMFA Open PACE programs each administered by a separate program administrator (collectively with any successors, assigns, replacements or additions, the “Providers”), to allow the financing or refinancing of renewable energy, energy efficiency, water efficiency and seismic strengthening improvements, electric vehicle charging infrastructure and such other improvements, infrastructure or other work as may be authorized by law from time to time (collectively, the “Improvements”) through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code (“Chapter 29”) within counties and cities throughout the State of California that consent to the inclusion of properties within their respective territories in the Providers and the issuance of bonds from time to time; and

WHEREAS, the Providers currently active in CMFA Open PACE are: Energy Efficient Equity, Inc.; BlueFlame PACE Services, LLC; OnPACE Energy Solutions, LLC; Petros PACE Administrator, LLC; Structured Finance Associates, LLC; and Twain Financial Partners II, LLC; and the Authority will notify the City in advance of any additions or changes to the list of Providers; and

WHEREAS, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner or owners 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 (“Participating Property Owners”) within its incorporated area to participate in the Providers’ services and to allow the Authority to conduct assessment proceedings under Chapter 29 within its territory and to issue bonds to finance or refinance Improvements; and

WHEREAS, the territory within which assessments may be levied for the Providers shall include all of the incorporated area within the City’s official boundaries; and

WHEREAS, the Authority will conduct all assessment proceedings under Chapter 29 for the Providers and issue any bonds issued in connection with the Providers; and

WHEREAS, properties in the incorporated area of the City will benefit from the availability of the Providers' services within the territory of the City and, pursuant thereto, the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 and the issuance of bonds to finance or refinance Improvements; therefore, be it

RESOLVED, this City Council hereby find and declares that the foregoing recitals are true and correct; and be it

FURTHER RESOLVED, in connection with the Providers, the City hereby consents to the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 on any property within the incorporated area of the City and the issuance of bonds to finance or refinance Improvements; provided, that 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 that the City will not be responsible for the conduct of any assessment proceedings; the levy of assessments; any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale, administration, repayment or guarantee of any bonds issued in connection with the Providers; and be it

FURTHER RESOLVED, the City Administrator or her designee is hereby authorized to make applications for the Providers available to all property owners who wish to finance or refinance Improvements; provided, that the Authority shall be responsible for providing such applications and related materials at its own expense; and be it

FURTHER RESOLVED, the appropriate officials and staff of the City are hereby authorized to execute and deliver such certificates, requisitions, agreements and related documents as are reasonably required by the Authority to implement the Providers' services; and be it

FURTHER RESOLVED, this Resolution does not constitute a project under the California Environmental Quality Act, because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4)); and be it

FURTHER RESOLVED, The City may withdraw from the Providers or any Provider upon six (6) months written notice to the Authority. The City may withdraw its consent and approval for the conduct of special assessment proceedings by any specific program administrator under a Provider within the jurisdictional limits of the City upon thirty (30) days written notice to the Authority without (a) liability to the Authority or any affiliated entity, and (b) withdrawing its consent and approval for the conduct of special assessment proceedings by any other program administrators under the other Providers. The City's withdrawal from any Provider shall not affect the validity of any voluntary assessment contract entered into prior to the date of such withdrawal or entered into after the date of such withdrawal so long as the application for such voluntary assessment contract was submitted to and approved by the Authority prior to the date of the City's notice of withdrawal.

FURTHER RESOLVED, This Resolution shall take effect immediately upon its adoption, and the City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to the Financial Advisor of the Authority at: California Municipal Finance Authority, 2111 Palomar Airport Road, Suite 320, Carlsbad, California, 92011, Attn: Travis Cooper.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

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