

REPORT FROM

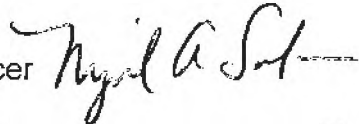
OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: September 4, 2015

CAO File No. 0220-04985-0000
Council File No. 14-1697-S2; 14-0812
Council District: ALL

To: The Council

From: Miguel A. Santana, City Administrative Officer



Reference: Seismic Retrofit Program; Property Assessed Clean Energy (PACE)

Subject: **APPROVAL OF PACE PROVIDERS**

SUMMARY

The City Administrative Officer ("Office") was instructed by the Mayor and Council to report back on supplemental documentation needed to add Ygrene Energy Fund ("Ygrene") and others to the PACE program, along with recommendations on any other financier that may be interested in participating in the PACE Program (C.F. 14-1697-S2). In addition to Ygrene, Energy Efficient Equity ("E3") has also expressed an interest in having the City opt-in to their PACE program. This report provides recommendations regarding actions necessary to opt-in to the PACE programs administered by both Ygrene and E3 and provides information regarding a process for other PACE providers interested in providing services within the City. The PACE administrators approved by previous action, and those recommended in this report, will be able to offer financing for all PACE-eligible projects, including sustainability and seismic retrofit projects.

BACKGROUND

This Office released a report dated June 4, 2015 regarding financing options in response to the Mayor's Proposed Seismic Retrofit Program as identified in the "Resilience by Design" report commissioned by Mayor Garcetti (C.F. 14-1697-S2). The Mayor and Council adopted the Resolutions and various actions necessary to opt-in to the PACE programs administered by California Statewide Communities Development Authority ("CSCDA") and California Enterprise Development Authority ("CEDA"). CSCDA has contracted with AllianceNRG and Renewable Funding LLC ("CaliforniaFIRST") to administer their Open PACE program which includes seismic retrofits as eligible projects. CEDA has contracted with Figtree Company Inc. ("Figtree") to administer its PACE program which also includes seismic retrofits as eligible projects.

In November 2014, the Mayor and Council took action to support the establishment of a residential PACE program by the County of Los Angeles ("County") that would be inclusive of the City (C.F. 14-0812). The Department of Water and Power ("DWP") is coordinating efforts with the County with respect to PACE programs available to City property owners. In May 2015, the County launched its residential PACE program administered by Renovate America, Inc. ("HERO")

and Renewable Funding LLC ("CaliforniaFIRST"). The City already participates in the County's commercial PACE program which has been in place since 2011. The County undertook a rigorous competitive process for its residential PACE program to ensure consumer-friendly contract terms that offer protection to property owners, such as minimum underwriting criteria and certain fixed fees.

There are several, separate efforts underway to make PACE financing available to City property owners. It would be very beneficial for all stakeholders to have participating City departments coordinate efforts and develop a single point of access for property owners.

ADDITIONAL PACE ADMINISTRATORS

Ygrene Energy Fund

Ygrene Energy Fund ("Ygrene") is the PACE administrator for the California Home Finance Authority ("CHFA"), a Joint Powers Authority ("JPA") established in 1993. The City is currently not a member of this JPA and would need to execute a member agreement in addition to adopting the Resolution to opt-in to their PACE program. In addition, Ygrene, has a separate indemnification resolution which would also need to be executed.

Ygrene has established its PACE program using two legal structures. The Improvement Act of 1911 as amended by AB 811 provides the statutory framework for PACE and is the traditional legal structure under which most PACE administrators have established their programs. Ygrene also established a parallel PACE program under the Mello-Roos Act as amended by SB 555. Both structures provide for the assessment of the improvements on the property to be included with the property tax bill. There are several significant differences between the two legal structures, notably, seismic retrofit improvements are not eligible under the SB 555 structure. Ygrene and prospective applicants will need to determine the appropriate PACE program based on the proposed projects on a case by case basis.

Ygrene program documents for both structures, AB 811 and SB 555, including the program handbooks for commercial and residential, assessment contracts, and program reports were reviewed to ensure appropriate disclosures regarding the Federal Housing Finance Agency ("FHFA") first lien issue, potential risks with respect to existing mortgages, and indemnification protection for the City. Ygrene requires lender notification for all projects. Lender acknowledgement or consent are handled on a case by case basis depending on existing loan covenants. Regular reporting on projects will be provided to the JPA and will be available to the City. The City's Risk Manager reviewed and approved the Indemnification and Insurance Agreement.

Energy Efficient Equity

Energy Efficient Equity ("E3") is the PACE administrator for the California Municipal Finance Authority ("CMFA"), a JPA established in 2004. The City is a member and would only need to adopt a Resolution to opt-in to their PACE program.

E3 established its PACE program under AB 811 and completed the validation process for water, energy and seismic improvements in April 2015. E3 program documents were reviewed to ensure appropriate disclosures regarding the FHFA first lien issue, potential risks with respect to existing mortgages, and indemnification protection for the City. E3 documents include comprehensive disclosure regarding potential risks associated with existing mortgages. Lender acknowledgement is required for projects \$200,000 and greater. For commercial properties, lender notification is required and most property owners typically obtain lender consent. Residential property owners are not required to provide notice or obtain consent. Regular reporting on projects will be provided to the JPA and will be available to the City. The indemnification provisions in the financing documents are comparable to those previously approved by the City's Risk Manager.

Future PACE Administrators

In the event that additional PACE administrators desire to be able to offer services within the City of Los Angeles, this Office proposes that those interested parties contact this Office by sending a written request including sample financing documents and supporting documentation. The CAO will complete the vetting process to ensure program administrators are acceptable and submit recommendations to the Mayor and Council by staff report.

Summary of Recommendations

The City has previously taken action to opt-in to PACE programs offered by CSCDA and CEDA. By adopting the resolutions and approving the documents recommended in this report, the City will opt-in to the PACE programs offered by CHFA and CMFA. Including the County program, this will increase the pool of PACE administrators available to City property owners to a total of six administrators: AllianceNRG, CaliforniaFirst, Figtree, Ygrene, E3 and HERO.

This Office recommends the adoption of the resolutions and actions necessary to join CHFA and opt in to the PACE programs offered by CHFA and CMFA for the purpose of providing financing options for PACE-eligible improvements, including seismic retrofits. In addition, it is recommended that the City execute the member agreement with CHFA and the Indemnification Agreement proposed by Ygrene.

These recommendations are in compliance with the City's Financial Policies.

RECOMMENDATIONS

That the City Council, subject to approval of the Mayor:

1. ADOPT the attached Resolution of the City of Los Angeles Consenting to the Inclusion of Properties within the Jurisdiction of the City of Los Angeles in the California Home Finance Authority PACE Program; Authorizing the Authority to Levy Assessments, Impose Contractual Assessment Liens and Finance Eligible Improvements on Those Properties; Approving Membership in the California Home Finance Authority; Authorizing the Mayor to Execute the Indemnification and Insurance Agreement;

2. ADOPT the attached Resolution of the City of Los Angeles Consenting to the Inclusion of Properties within the Jurisdiction of the City of Los Angeles in the California Home Finance Authority Community Facilities District No. 2014-1 (Clean Energy);
3. ADOPT the attached Resolution of the City of Los Angeles Consenting to the Inclusion of Properties within the Territory of the City in the California Municipal Finance Authority to Accept Applications from Property Owners, Conduct Contractual Assessment Proceedings and Levy Contractual Assessments within the Territory of the City; and Authorizing Related Actions;
4. EXECUTE the Associate Membership Agreement with the California Home Finance Authority;
5. EXECUTE the Indemnification and Insurance Agreement by and Between the City of Los Angeles and Ygrene Energy Fund CA, LLC; and
6. AUTHORIZE the City Administrative Officer to make technical adjustments as necessary to implement the intent of the Mayor and Council actions.

FISCAL IMPACT STATEMENT

There is no fiscal impact to the City from the recommendations contained in this report. The financing costs for seismic retrofits contemplated by this program will be borne by the property owners and not the City.

DEBT IMPACT STATEMENT

There is no debt impact to the City from the recommendations contained in this report. The financing costs for seismic retrofits contemplated by this program will be borne by the property owner and not the City.

MAS:BC:SMB:09160035

Attachments:

- Attachment A – Resolution for CHFA – PACE
- Attachment B – Resolution for CHFA – PACE CFD
- Attachment C – Resolution for CMFA
- Attachment D – Membership Agreement for CHFA
- Attachment E – Indemnification and Insurance Agreement with Ygrene