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MEMO

MEETING DATE: **MARCH 12, 2018**

TO: City Council

FROM: Marie Jones

AGENDA ITEM TITLE: **Consider CDC's Recommendation to adopt a resolution establishing a Figtree PACE program in Fort Bragg**

Recommendation: The Community Development Committee considered the PACE and recommends that City Council adopt the resolution authorizing Figtree to operate a PACE program in Fort Bragg.

Background: Property Assessed Clean Energy (PACE) programs are authorized for cities and counties by state legislation enacted in 2008 and 2011. The authorizing legislation, Assembly Bill 811 (2008) and Senate Bill 555 (2011), enables cities and counties to form PACE programs to finance permanent installations of renewable energy, efficiency, and conservation improvements and water conservation improvements on residential or commercial property, through creation of PACE financing districts. Participation in the program by property owners is voluntary, and financed improvements are repaid through payment assessment or special taxes on owners' property tax bills over a period of time.

In general the interest rates charged by the PACE loan programs are higher than interest rates charged for a second mortgage.

PACE is a mechanism to finance energy efficiency improvements through a supplemental bi-annual property tax assessment. PACE financing was designed to be bound to the property rather than the individual or business and it was initially designed to be transferred with a change in ownership in the same fashion as a property tax. However, recent determinations by FHA and Fanny Mae and Freddie Mac have eliminated this aspect of the PACE program. Eligibility is based primarily on property value and equity (a minimum of 15 percent is required), rather than credit score. Traditional lending sources (such as banks) also provide competitive interest rates for these activities; however they also rely on personal credit score.

As of January 2016, PACE legislation has been authorized in 33 states and the District of Columbia, and 17 of those have active PACE programs, according to the National Conference of State Legislatures. However, most of these programs are specific to commercial real estate, with residential programs only in Florida and California

In 2009, Fort Bragg City Council was asked to support Mendocino County's application to the California Energy Commission for a Property Assessed Clean Energy (PACE) program in Mendocino County. On December 14, 2009, City Council passed Resolution 3331-2009 in support of the County's application and stated the City's desire to participate with the County in the program if implemented.

In July 2010, the Federal Housing Finance Agency (FHFA) halted virtually all PACE programs in the United States serving the residential market. Residential PACE started back up in California in 2014 after Governor Jerry Brown and the legislature established a residential PACE reserve, which is designed to protect mortgage holders, including Fannie Mae and Freddie Mac, from losses associated with PACE liens. It is unclear if this program is still in operation as the State Legislature recently passed a law that requires PACE program operators to clearly disclose to potential barrowers that the sale or refinancing of a mortgage may result in the requirement to repay the PACE loan.

More than 50,000 California households have signed up for Property Assessed Clean Energy (PACE) financing since state legislators passed a law in 2008 allowing residents to borrow money for such things as solar panels and energy-efficient windows.

On January 21, 2014, the Mendocino County Board of Supervisors established the County of Mendocino Community Facilities District No. 2013-1 (Clean Energy); to implement a PACE program and approved an administrative agreement between the County and Ygrene Energy Fund California LLC.

The City of Fort Bragg has passed resolutions which allow the following PACE "turnkey" partners:

1. Ygrene, California Home Finance Authority, June 22, 2015
2. CaliforniaFIRST, 2015
3. HERO, September 26, 2016

These turnkey operators fund, administer, advertise and operate their programs and are compensated for performing these activities through the interest rate spread between the cost of funds and the interest rate they charge to property owners who obtain financing from the program.

Current utilization of PACE and PPAs in Fort Bragg: Staff contacted all three existing operators to determine how many solarization or other energy efficient projects have been financed since they were authorized to operate in Fort Bragg, and most were not willing to share data. City Staff next contacted the Mendocino County Assessor's office who determined that there are only 10 PACE loans in the entire County and there is currently one PACE loan within the City of Fort Bragg for a small solar system.

There has, however, been a significant increase in the number of solar building permits requested and issued in Fort Bragg, some of which may be funded through PACE loan programs.

The City has processed Building Permits for the following solar installations in 2017 & 2018:

- 2018 - Rock Mountain Electric, 22 permits; Mendocino Solar Service, 1 permit

- 2017 - Rock Mountain Electric, 17 permits; Smart Energy Solar, 5; Grid Alternatives, 4 permits; Solicus, 2; PIO Solar, 2; Rebecca Ostler, 1; Lori Leaf, 1; Jeroge Ocorio, 1; Hilario Garcia, 1; Dana Pfaffle, 1; Complete Solar Solutions, 1; Mindy Eddings, 1; Rebecca Ellis, 1; Alexander Fraser, 1; Angie Leist, 1; Martinez, 1

Staff contacted Rock Mountain Electric to determine why an Oceanside based contractor would install solar panels in Fort Bragg. The operator let me know that most customers in Fort Bragg are financed through Spruce Solar PPA (Power Purchase Agreements). The Spruce Solar PPA program works as follows: Spruce retains ownership of the solar system and the homeowners pay Spruce a fixed price per kilowatt hour (kWh) for the energy it produces. System production may fluctuate based on factors such as weather and season, so payments to Spruce vary from month to month. Spruce manages the service – including insurance, maintenance and monitoring – for the life of the agreement. Spruce sells any excess power produced to PG&E or Sonoma Clean Power.

Overview of Figtree: Figtree approached the City of Fort Bragg to become a PACE loan provider in Fort Bragg because a commercial business in town is interested in using Figtree PACE to finance solar panels on their business. Figtree is offered through its JPA partner the California Enterprise Development Agency (CEDA), which currently operates in over 200 municipalities in California as a turn-key ready PACE solution. If a property owner chooses to participate, the installed improvements will be financed by the issuance of bonds by CEDA. The bonds are secured by a voluntary contractual assessment levied on such owner's property, with no recourse to the local government or other participating jurisdictions. In the event of a default, borrowers could be required to repay PACE lenders prior to repaying their original mortgage lenders. In order to ensure good investments, Figtree incorporates the following measures and requirements into its residential PACE program:

- Maintains a 15 Percent Equity Requirement: Maintaining minimum equity requirements for participating property owners limits the risk lenders by ensuring there is sufficient equity in the property from which a PACE assessment can be paid in the event of default. This equity cushion ensures both lenders and PACE programs will be able to recover their investments.
- Limits Assessments to 10 Percent of Property Value: Limiting the assessment amount is another way to limit the risk to lenders. Combined with equity requirements, the 10% limitation provides a great deal of protection to lenders.
- Evaluates Past Payment History: Looking at a property owners past property tax payment history screens out many of the property owners who are likely to default on their property tax payments in the future. This screening also reduces the risk exposure to both PACE bondholders and mortgage lenders.
- Checks Borrower Credit Histories for Bankruptcies: Again, this type of screening eliminates from eligibility property owners who are likely to default on their property tax payments in the future.
- Participate in California's Loan Loss Reserve Program: The State's Loan Loss Reserve Program will provide additional protection to mortgage lenders for any lost cash outflows as a result of PACE assessment payments. Figtree also suggests the County's PACE program join this reserve program.

Benefits of PACE

1. There are potential public benefits of this financing mechanism such as a reduction of our reliance on fossil fuels and a reduction in the production of greenhouse gasses that contribute to Climate Change.
2. Homeowners can likely be trusted to evaluate their options and make the decisions that are in their best interests.
3. To date the City has not received information to support the allegation that PACE programs are using predatory lending practices in Fort Bragg.

Challenges of Pace

1. In general the interest rates charged by the PACE loan programs are higher than interest rates charged for a second mortgage.
2. A property assessment (PACE) automatically becomes the first lien for any property, which means in the case of default or foreclosure, all missed payments on that property assessment must be paid before the mortgage can be paid back. Prior to guidance from the Federal Housing Administration in July, repayment of entire PACE loans took priority over paying back the property's mortgage, which resulted in a greater risk of foreclosure.
3. FHA will not insure PACE mortgages, because FHA wants to repossess a foreclosed property free and clear of all liens. PACE loans erode the value of a repossessed property due to the priority PACE lien, which is the reason that FHA, Fannie Mae and Freddie Mac won't back mortgages with existing PACE assessments unless first-lien status is given to the FHA loan. The decision of FHA's Freddie Mac and Fannie Mae not to insure mortgages with PACE, makes it more difficult for a property owner with PACE to sell the home, as the new buyer would inherit the PACE loan with the property and thus would not quality for mortgage insurance through these entities. It would also make it more difficult for the property owner to refinance a home. So properties with a PACE lien will be more difficult to sell and refinance, which will likely reduce the value of the home, as lenders will be less likely to provide a mortgage for such a home. Property owners could get out of this predicament by paying off the PACE lien as part of the escrow process.
4. A home equity line of credit is one recommended alternative to PACE financing as it generally has a similar or lower interest rate and is well-suited for home improvements that add value to the property.