



OFFICE OF THE CITY MANAGER

SUSTAINABILITY DIVISION

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MEMO

Sustainability Commission Meeting: December 15, 2016

Subject

Update and continue discussion of allowing additional Property Assessed Clean Energy (PACE) providers to serve Cupertino.

Recommendation: Staff recommends that the Sustainability Commission move forward with a recommendation to City Council on which additional PACE providers can serve Cupertino.

Description

The subject of PACE has been discussed twice by the Sustainability Commission this year on May 19, and June 16, 2016. To help the Commissioners to get back up to speed, all previous staff reports are attached to this staff report with background on PACE, and how it relates to the City's CAP. Additionally, attached is an updated PACE comparison matrix, compiled by ABAG staff.

The PACE providers under consideration are the ones that have signed onto the Association of Bay Area Governments (ABAG) Regional Collaborative Services Agreement, which include; HERO, Ygrene, Open PACE (Alliance NRG & PACE Funding Group), and Figtree. The City has allowed California First to operate since 2010.

Since the June meeting, there have been a few updates to PACE on a federal level, including an on July 19, 2016, the Federal Housing Administration (FHA) announced guidance on PACE. The FHA is now willing to insure mortgages for properties with PACE, provided the following key conditions are met:

- PACE lien must be collected in the same manner as other taxes and assessments.
- Only the delinquent regularly scheduled PACE assessment payment takes priority over the mortgage
- The full amount of the outstanding PACE obligation cannot accelerate
- The PACE obligation must freely transfer between property owners
- The PACE obligation is fully disclosed to all parties at time of sale
- The Appraisal must include analysis of the impact of the improvement of the value of the property

The Veteran Administration will also allow properties with PACE assessments to be purchased and financed with Veterans Affairs loans, and issued similar guidance. The exact language and Mortgagee Letter 2016-11, which was released by FHA is attached to this report.

Best Practices and Consumer Protections

As a refresher, the Association of Bay Area Governments (ABAG) has entered into a Regional Collaborative Services Agreement (RCSA) with PACE providers active in the Bay Area. In order to safeguard consumer interests and promote program success, ABAG developed RCSA which establishes the terms, conditions and roles each residential PACE provider will follow when operating in ABAG territory, which would include the City of Cupertino.

Features of the RCSA include:

- Designates ABAG as the liaison to the signatory PACE providers locally
- Requires all signatory PACE providers to have clearly visible disclosures regarding the Federal Housing Finance Agency's policies on residential PACE programs
- Requires all signatory PACE providers to participate in the state's California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) PACE Loss Reserve program
- Limits claims that signatory PACE providers (or their designated contractors) can make to applicants regarding the tax deductibility of PACE assessments
- Requires data sharing between the signatory PACE providers and cities to monitor program performance locally and report out to local stakeholders
- Requires signatory PACE providers to accept responsibility for negligence in administering PACE programs.

A copy of the agreement is attached. As a local jurisdiction, Cupertino could sign onto this agreement, but would still need to pass required resolution(s) to join a residential PACE program for our community at the City Council. With the RCSA, Cupertino can have confidence that PACE providers will adhere to high program standards; provide relevant data for local program performance tracking; and are minimizing risk for community members and the local agency.

ATTACHMENTS:

1. Updated PACE Vendor Comparison Matrix
2. Staff Report from May 19, 2016 Commission meeting
3. Staff Report from June 16, 2016 Commission meeting
4. Answers to Questions from PACE vendors
5. ABAG Regional Collaborative Services Agreements
6. HUD Guidance Press Release and Mortgagee Letter 2016-11