

City of Calistoga

Staff Report

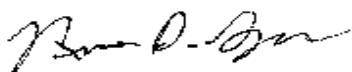
TO: Honorable Mayor and City Council

FROM: Erik V. Lundquist, Senior Planner

DATE: September 18, 2012

SUBJECT: CALIFORNIAFIRST PACE FINANCING PROGRAM

APPROVAL FOR FORWARDING:



Richard D. Spitler, City Manager

1
2 **ISSUE:** Discussion regarding the City's participation in the CaliforniaFIRST Program.

3
4 **RECOMMENDATION:** Discuss and provide direction to staff.

5
6 **BACKGROUND:**

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8 California Communities is a joint powers authority sponsored by the League of
9 California Cities and the California State Association of Counties. The member agencies
10 of California Communities include all 58 counties and more than 400 other local
11 agencies throughout California, including the City of Calistoga (the "City").

12
13 The CaliforniaFIRST Program is being instituted by California Communities to allow
14 owners of property in participating cities and counties to finance renewable energy,
15 energy efficiency and water efficiency improvements on their property. If a property
16 owner chooses to participate, the improvements will be financed by the issuance of
17 bonds by California Communities. California Communities will levy "contractual
18 assessments" on the owner's property to repay the portion of the bonds issued to

19 finance the improvements on that property. California Communities has selected
20 Renewable Funding LLC to provide administration and coordinate financing for the
21 program.

22
23 The CaliforniaFIRST Program is a property assessed clean energy (“PACE”) program.
24 Because of negative guidance regarding PACE provided in 2010 by the Federal
25 Housing Finance Authority (“FHFA”), the federal agency that oversees Fannie Mae and
26 Freddie Mac, the CaliforniaFIRST Program will launch initially providing only financing
27 for non-residential properties. Should the residential regulatory environment improve,
28 the CaliforniaFIRST program would expand to include residential financings. “Non-
29 residential” includes properties such as commercial, multi-family with 5 or more units,
30 industrial, and agricultural.

31
32 The CaliforniaFIRST Program “contractual assessment” proceedings will be undertaken
33 by California Communities pursuant to Chapter 29 of Division 7 of the Streets &
34 Highways Code, which was amended in 2008 by Assembly Bill 811 and further
35 amended in 2009 by Assembly Bill 474, to allow the financing of renewable energy,
36 energy efficiency and water efficiency improvements on private property. Pursuant to
37 Chapter 29, assessments may be levied to finance renewable energy, energy efficiency
38 and water efficiency improvements only with the free and willing consent of the owner of
39 each lot or parcel on which an assessment is levied at the time the assessment is
40 levied, and property owners evidence their consent to the assessments by executing a
41 contract with California Communities. Since the contractual assessment will have
42 priority over pre-existing private liens, such as mortgages, notice to, and particularly
43 with non-residential properties, written consent/acknowledgement from all mortgage
44 holders of the property will be required.

45
46 The benefits to the property owner include:

- 47
- 48 • Only property owners who choose to participate in the program will have
49 assessments imposed on their property.
 - 50
 - 51 • In today’s economic environment, there may not be attractive private enterprise
52 alternatives for property owners to finance renewable energy/energy
53 efficiency/water efficiency improvements.
 - 54
 - 55 • Even if there were private enterprise alternatives, most private loans are due on
56 sale of the benefited property, which makes it difficult for property owners to
57 match the life of the repayment obligation with the useful life of the financed

58 improvements. Under the CaliforniaFIRST Program, the assessment obligation
59 will transfer with the property upon sale.

60

61 • The property owner can choose to pay off the assessments at any time, subject
62 to applicable prepayment penalties.

63

64 • Regional aggregation provided by the CaliforniaFIRST Program, provides the
65 program scale and the investment sizing that attracts private capital providers.

66

67 The benefits to the City include:

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69 • As in conventional assessment financing, the City is not obligated to repay the
70 bonds issued by California Communities or to pay the assessments levied on the
71 participating properties.

72

73 • California Communities handles all assessment administration, bond issuance
74 and bond administration functions. A participating city can provide financing of
75 renewable energy, energy efficiency and water efficiency improvements to
76 property owners through the CaliforniaFIRST Program – thereby meeting its
77 political and environmental goals -- while committing virtually no staff time to
78 administer the program. At the same time, the program is flexible enough to be
79 able to incorporate City resources such as enhanced marketing and outreach as
80 determined by the City.

81

82 The City Council may adopt a Resolution authorizing California Communities to accept
83 applications from owners of property within our jurisdiction for municipal financing of
84 renewable energy, energy efficiency and water efficiency improvements through the
85 CaliforniaFIRST Program. It may also authorize California Communities to conduct
86 assessment proceedings and levy assessments against the property of participating
87 owners within our boundaries. It also may authorize miscellaneous related actions and
88 makes certain findings and determinations required by law. California Communities
89 would undertake a judicial validation proceeding as part of its initiation of the
90 CaliforniaFIRST Program.

91

92 Any jurisdiction can withdraw from the CaliforniaFIRST Program at any time by passing
93 a resolution rescinding the authorization. Participating jurisdictions are also free to
94 develop and operate other financing programs, including alternative PACE programs,
95 independently of but concurrent to CaliforniaFIRST.

96

97 **FISCAL IMPACT:**

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99 There are no fiscal impacts to the City associated with authorizing the California PACE
100 Program or with the subsequent issuance of bonds, notes or other forms of
101 indebtedness issued by the California PACE Programs.

102
103 **NEXT STEPS:**

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105 In the event that the City Council finds this is a great opportunity to support efficiency
106 improvements within the City, the City Council should direct staff to prepare a
107 Resolution for their consideration authorizing the City of Calistoga to join the
108 CaliforniaFIRST program and authorizing the California Statewide Communities
109 Development Authority to accept applications from property owners, conduct contractual
110 assessment proceedings and levy contractual assessments within the City of Calistoga.

111
112 **ATTACHMENTS:**

- 113
114 1. CaliforniaFIRST Program Summary
115 2. CaliforniaFIRST – A Property Assessed Clean Energy (PACE) Program

CaliforniaFIRST Program Summary

Financing for Energy Efficiency, Renewable Energy & Water Conservation Improvements

Overview

CaliforniaFIRST is a multi-jurisdiction Property Assessed Clean Energy (PACE) program that provides the size and standardization to catalyze an active, secure energy retrofit marketplace. The first phase of the program currently includes 14 counties and over 120 cities representing a population of over 10.5M and is aligned with the best practices of the nation's foremost PACE programs. The Program operates on very similar terms to PACE programs in Los Angeles and San Francisco, providing a common set of rules for contractors, mortgage lenders and private capital providers.

Program Description

CaliforniaFIRST is offered by the California Statewide Communities Development Authority (CSCDA). CSCDA is the state's largest joint powers authority and sponsored by the California Association of Counties and California League of Cities. Although originally designed to provide both residential and commercial financing, CaliforniaFIRST has been adapted to focus solely on commercial properties, avoiding many of the regulatory issues and legal risks surrounding residential PACE programs. Commercial properties include multi-family buildings with 5 or more units, industrial, retail, agricultural and commercial properties. When the regulatory environment improves, the Program plans to expand to include residential financing.

Nature of Financing

Under CaliforniaFIRST, qualifying commercial properties within participating jurisdictions may choose to enter into an assessment contract with CSCDA to finance the installation of eligible renewable energy, energy efficiency, or water conservation projects. Pursuant to the assessment contract, participating properties agree to repay the cost of the improvements through a line item on their property tax bill. If a participating property owner sells the property, the assessment obligation remains with the property unless otherwise negotiated with the property buyer.

The contractual assessments are secured by a property tax assessment that has priority over private liens. This security makes investment in PACE projects particularly attractive to project lenders. Consequently, CaliforniaFIRST participants may be able to secure more affordable financing than would otherwise be available to them.

Program Financing Structure

CaliforniaFIRST provides a mechanism for the delivery of private capital to finance the installation of energy/water improvements on a single property. CaliforniaFIRST will primarily rely upon the *open market* PACE financing mechanism, in which an individual property owner will work with a project lender to structure individual financing terms like interest rate and repayment. Once the financing terms are agreed upon and submitted to the program for verification, the tax assessment will be placed on the property. The repayments will be paid through the property tax bill and then remitted to the project lender. Similar

PACE programs in San Francisco and Los Angeles are utilizing this open market approach, and there are a number of financing entities already engaged to provide capital. The Program also can employ a pooled bond structure where aggregating contractual assessment obligations from multiple properties offers the best market execution.

Eligible Measures

The Program offers an extensive list of common energy efficiency, renewable energy, and water conservation measures that are eligible for financing. Property owners will also be permitted to install custom measures, which will be reviewed and approved by CSCDA on a case-by-case basis.

Customer Service and Marketing

A robust customer service system assists property owners. CaliforniaFIRST provides a website that provides timely information, program materials and application functionality. The website also serves as the main interface to provide and track customer service. Information specific to property owners, contractors, project lenders, and mortgage lenders will be available. A telephone number and email access to trained staff will be available where greater customer service is needed.

How Property Owners Participate

In order to receive financing through CaliforniaFIRST, property owners must submit an application and their properties must satisfy certain underwriting criteria established by CSCDA. In addition, the project lender may choose to use additional underwriting criteria. Participants must obtain written acknowledgement of the CaliforniaFIRST lien from the existing mortgage holder.

How Local Governments Can Participate

Initially, CaliforniaFIRST will only be offered to jurisdictions that passed a resolution to opt into Phase 1 of the CaliforniaFIRST program. No further action is required of the Phase 1 participants in order for properties within their boundaries to participate in CaliforniaFIRST. Public agencies with questions or wishing to withdraw from CaliforniaFIRST, should notify the CaliforniaFIRST team at simon@renewfund.com.

No Cost for Public Agency Participation

CSCDA will not charge a set-up or participation fee to cities and counties. Counties will also be able to recover any costs related to the collection of the AB 811 contractual assessment payments.

Roles & Responsibilities

CSCDA will be responsible for operation of CaliforniaFIRST, including the issuance of revenue bonds. A program team led by Renewable Funding will assist CSCDA. Participating cities and counties will not be obligated to take any further action with respect to CaliforniaFIRST. CSCDA will recover its expenses from participating property owners.

Court Validation & Legal Liability

Court validation provides the program an additional layer of security given that AB 811 is a relatively new law. During the validation process, a judge will review key program terms such as the enforceability of the senior lien and the property district annexation process.

Once the review is complete, the judge will issue a validity ruling. If uncontested, the validation process is expected to take 3-4 months. The anticipated benefits of court validation include greater Program access to private capital and lower interest rates for property owners.

As issuer of the PACE bonds, CSCDA has ultimate legal and financial liability for the program. The CaliforniaFIRST AB 811 contractual assessment districts are established, maintained and operated by CSCDA, thereby insulating the local public agency.

Timeline

The timing of the launch of CaliforniaFIRST depends on a number of factors, but is expected Summer 2012.

March 2012	Submit the program to the court for validation Begin educational webinar series for Phase 1 communities Launch CaliforniaFIRST website landing page
April 2012	Begin priming project pipeline; outreach to contractors and lenders
May 2012	Finalize program terms based on Phase 1 communities' input
June 2012	Conclude court validation Identify initial projects Launch CaliforniaFIRST website functionality
July 2012	Program launches and begins taking applications

Compatibility with Other Financing Program

CaliforniaFIRST is fully compatible with other financing programs, including other PACE programs. CaliforniaFIRST does not require public agencies to sign a contract or an exclusivity agreement. The Program Administrator, Renewable Funding, is a nationally recognized clean energy finance consultant and can advise communities how CaliforniaFIRST fits into overall clean energy strategies.

Additional Information

For additional information, contact Simón Bryce at Renewable Funding at 510.451.7906 or simon@renewfund.com. Please visit www.californiafirst.org for more information.

CaliforniaFIRST

A Property Assessed Clean Energy (PACE) Program



CaliforniaFIRST: Overview



- Establishes voluntary assessment program under AB 811
- Provides complete admin and application processing
- Issues bond that funds project

\$\$ Upfront

\$\$ Repaid
on tax bill



- Voluntarily enters the AB 811 program and agrees to pay the assessment
- Assessment secures upfront funding for project
- Assessment is paid back as part of the property tax

CaliforniaFIRST Property Owner Benefits

1. Lower interest rates – financing is very secure with assessment in senior position (equal to a tax)
2. Longer payback term – up to 20 years
3. Property secured; *not* credit-based
4. Repayment obligation stays with property if property is sold or transferred

CaliforniaFIRST Community Benefits

1. New financing approach that many property owners find more attractive
2. Increase in clean energy retrofits (AB 32)
3. Increase in construction jobs
4. Increase in construction permit revenue
5. No program cost; program established and operated by CSCDA (see next page)

CaliforniaFIRST Administration

❁ CaliforniaFIRST offered by the California Statewide Communities Development Authority (CSCDA)

- A trusted, well established partner
- Statewide Joint Powers Authority with 501 local government members
- Sponsored by the League of California Cities and the California State Association of Counties

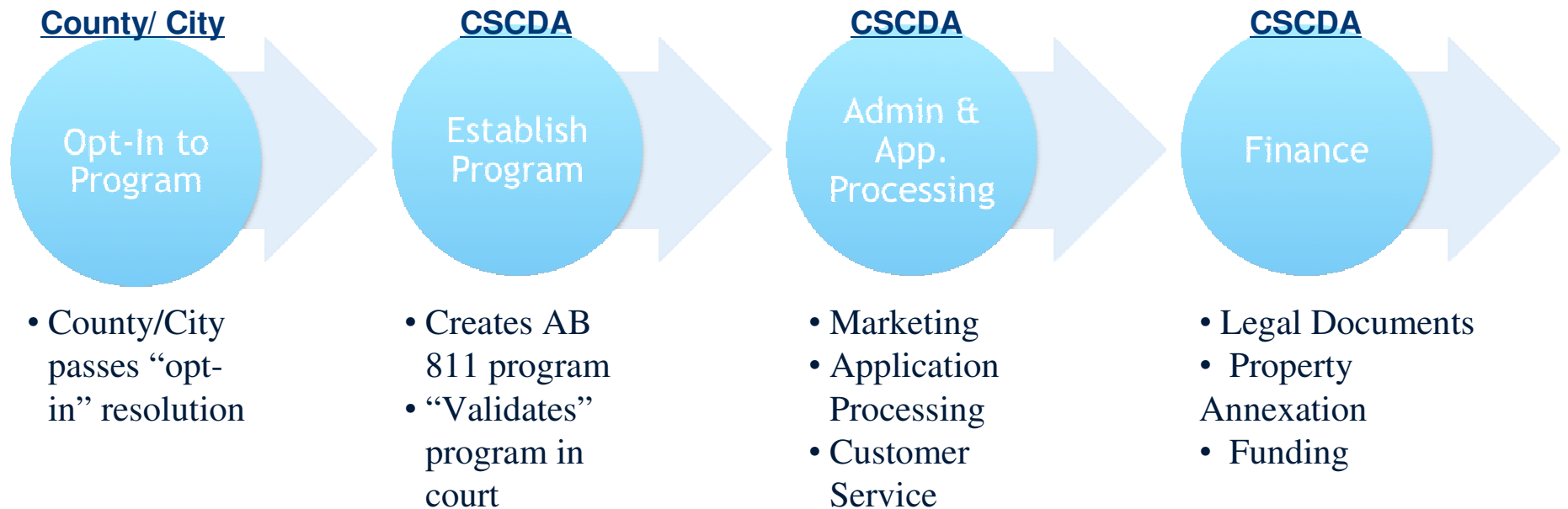
❁ Program Team includes

- Renewable Funding (Administration)
- Wildan (Special Tax Administration)
- kW Engineering (Technical Review)

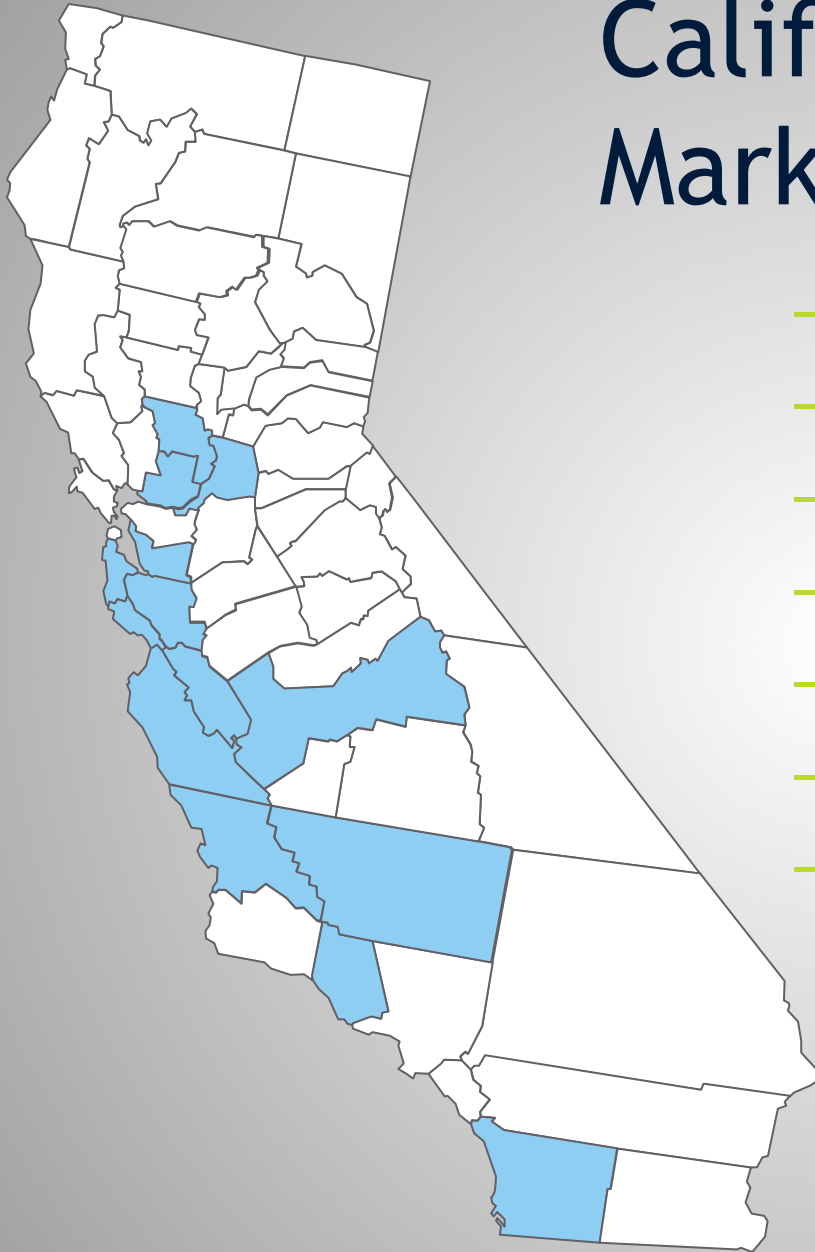
CaliforniaFIRST Administration

CSCDA provides full administration, application processing, and financing

City/county simply “opts-in”



CaliforniaFIRST Marketplace (Phase 1)



- Alameda
- Fresno
- Kern
- Monterey
- Sacramento
- San Benito
- San Diego
- San Luis Obispo
- San Mateo
- Santa Clara
- Santa Cruz
- Solano
- Ventura
- Yolo

* Standardized program
rules benefit contractors

Program Basics

❁ Properties

- Commercial, Industrial, Agricultural, Multi-Family (5 or more units)

❁ Eligible Clean Energy Improvements

- Energy Efficiency, Renewable Energy, Water Conservation

❁ Main Property Eligibility Criteria

- All property owners on title must apply
- *No* loading order
- Generally, financing capped by equity in property
- Mortgage lender consent/affirmative acknowledgement

❁ Contractor Requirements

- Must be licensed and bonded

More Information

CaliforniaFIRST.org

info@californiafirst.org

(510) 652-9995