

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: TASHA WRIGHT, SUSTAINABILITY
COORDINATOR, WATER DEPARTMENT
SUBJECT: PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM,
CONSIDERATION OF ADDITIONAL PROGRAM IN SANTA
ROSA

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Transportation and Public Works Department and the Water Department that Council, by three resolutions, 1) consent to the inclusion of properties under both California Senate Bill 555 and Assembly Bill 811 within the City's jurisdiction in the Golden State Financing Authority's Property Assessed Clean Energy (PACE) Program, which is administered by Ygrene Energy Fund California, LLC; 2) approve the Agreement adding the City of Santa Rosa as an Associate Member of the Golden State Finance Authority to Permit the Provision of PACE Program Services within such City; and 3) approve the PACE Program Agreement by and between City of Santa Rosa and Ygrene Energy Fund California, LLC

EXECUTIVE SUMMARY

Assembly Bill (AB) 32, the California Global Warming Solutions Act of 2006, required California to reduce its Green House Gas (GHG) emissions to 1990 levels by 2020. Installation of water and energy efficiency improvements is one of many ways to reduce GHG emissions. State law allows property assessed clean energy (PACE) programs, where local governments authorize residential and commercial property owners to finance installation of water and energy efficiency improvements through assessments on annual property tax bills. In 2009, the City Council authorized the City's participation in the Sonoma County Energy Independence Program (SCEIP), the County's PACE Program. Since SCEIP was initiated, additional financing options have become available. In 2014, Sonoma County created the Sonoma County PACE Financing Marketplace (PACE Marketplace) thereby expanding the financing options available to property owners. On January 6, 2017, the City Council authorized the California HERO PACE Program within City limits. The Golden State Finance Authority (GSFA) and Ygrene Energy Fund California, LLC (Ygrene) present another PACE alternative for the

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City of Santa Rosa. GSFA is a joint powers authority with a PACE Program that is administered by Ygrene. The GSFA/Ygrene PACE Program is already a part of the County's PACE Marketplace with other PACE Program providers.

Staff recommends that the Council allow GSFA/Ygrene to operate within City limits by adopting three resolutions to 1) consent to the inclusion of properties in the City's jurisdiction in the GSFA/Ygrene PACE program under both Senate Bill (SB) 555 and Assembly Bill (AB) 811; 2) approve an Agreement adding the City as an Associate Member to the GSFA Joint Powers Agreement (JPA); and 3) approve an Agreement with Ygrene setting forth the terms and conditions of Ygrene's operation of the PACE Program in Santa Rosa. The GSFA/Ygrene agreements are similar in critical respects to the agreements that the City has executed with its other current PACE Program provider, California HERO. Participation in the PACE programs is completely voluntary for property owners.

Providing access to PACE programs within the City relates to Council Goal 3: Provide Leadership for Environmental Initiatives. PACE programs provide funding options for property owners to install water and energy efficiency improvements that will assist the City in progressing toward its GHG reduction targets.

BACKGROUND

In 2005, the Governor of the State of California issued Executive Order S-3-05 requiring the reduction of GHG emissions to 2000 levels by 2010; the reduction of GHG emissions to 1990 levels by 2020; and the reduction of GHG emissions to 80 percent below 1990 levels by 2050. In 2015, the Governor issued Executive Order B-30-15, requiring the reduction of GHG emissions by 40 percent below 1990 levels by 2030. Installation of water and energy efficiency improvements is one of many ways to reduce GHG emissions.

On April 14, 2009, City Council adopted Resolution No. 27342, which allows property owners within the City's jurisdiction to participate in SCEIP. SCEIP financing allows property owners in the County to acquire and construct or install distributed generation, renewable energy sources and water and energy efficiency improvements through contractual assessments paid back through property taxes.

In November 2014, Sonoma County's Energy Independence Office developed the PACE Marketplace to promote the effectiveness and sustainability of PACE financing in the region by expanding the options available to property owners. The PACE Marketplace makes additional financing options available for water and energy efficiency upgrades and the installation of renewable energy from other providers, including California HERO, CaliforniaFIRST, Figtree, and GSFA/Ygrene in addition to the financing option of SCEIP. Each of the PACE Marketplace members, including Golden State Financing Authority/Ygrene have entered into an agreement with the County to be part of the Marketplace, called the Collaborative Services Agreement. The Collaborative Services Agreement between a PACE provider and the County is

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designed to assure PACE providers participating in the PACE Marketplace compliance with County requirements, including monitoring and reporting.

PRIOR CITY COUNCIL REVIEW

On March 31, 2015, City Council adopted Resolution No. 28623 approving the Seventh Amendment to the cooperative agreement to participate in SCEIP for another ten (10) years.

On January 19, 2016, City and County of Sonoma staff presented an overview of the PACE Financing Marketplace in Study Session.

On June 6, 2017, City Council adopted a resolution allowing an additional PACE Administrator known as the California HERO Program to serve Santa Rosa residential property owners.

On November 11, 2020, City Council adopted a resolution consenting to the inclusion of properties within the incorporated area of the City in the expanded SCEIP for the purpose of financing seismic strengthening improvements and wildfire safety improvements through the use of contractual assessments.

ANALYSIS

Staff recommends that the Council allow GSFA/Ygrene to be a new PACE Program provider within the City, as they already are in the County's PACE Marketplace and operate in unincorporated areas of Sonoma County.

Allowing the GSFA/Ygrene program to operate within Santa Rosa would expand the number of PACE program financing options available to both residential and commercial property owners, potentially increasing the number of energy and water conservation retrofits, renewable generation projects, electric vehicle charging upgrades, and seismic and fire resiliency retrofits. This further supports the City's goals of reducing local GHG emissions and increasing disaster preparedness.

GSFA/Ygrene currently operate using the SB 555 PACE Program Structure. SB 555 amended the Mello-Roos Community Facilities District Act to allow for creation of Community Facilities Districts (CFDs). Under this structure, a maximum tax rate is set, property owners vote one-by-one or by blocs to annex their property into the CFD and a special tax lien is recorded, funding is provided and the financing is repaid via bi-annual special tax levies on the improved property. The PACE Program is completely voluntary for property owners. Current interest rates, as of November of 2020, for Ygrene Energy Fund are as follows:

Residential: 7.99% for 10, 15, 20, 25 and 30-year terms

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Commercial:

<\$500,000 project size:

10 year - 6.99%; 15 year - 7.25; 20 year - 7.25%; 25 year - 7.49%; 30 year - 7.49%

>\$500,000 project size:

6.49%- 6.99%; 10 year - 6.49%; 15 year - 6.75%; 20 year - 6.75%; 25 year - 6.99%; 30 year - 6.99

All of Ygrene Energy's program administrative costs would be included in the property owners' voluntary contractual special tax assessment, which will be collected on the property owners' tax bills.

To allow the GSFA/Ygrene PACE Program in Santa Rosa, staff recommends that Council 1) authorize inclusion of City property in the GSFA/Ygrene PACE Program under AB 811 and SB 555 structures and 2) approve agreements with GSFA and Ygrene related to operation of the PACE Program in Santa Rosa.

Inclusion of City Property in AB 811 and SB 555 PACE Programs: PACE Programs in California operate using structures authorized by AB 811 (2008) or SB 555 (2011). AB 811 authorizes PACE Programs that use a voluntary contractual assessment model to finance water and energy efficiency improvements. As noted above, SB 555 instead allows for the creation of CFDs for the purpose of financing energy and water efficiency improvements. PACE Program providers operating under either structure require a resolution from the City to include parcels in its jurisdiction within the programs. GSFA/Ygrene currently operate under SB 555. Although GSFA is implementing only the SB 555 PACE Program at this time, for maximum flexibility in delivering the PACE Program in the future staff has provided Council with a resolution consenting to inclusion of City properties under SB 555 and a separate resolution consenting to inclusion of City properties under AB 811.

Agreements with GSFA and Ygrene. GSFA's PACE Program is administered by Ygrene. In addition to consenting to the inclusion of City properties under SB 555 and AB 811 in the GSFA/Ygrene PACE Program consistent with PACE Program enabling legislation, staff also recommends that Council approve two related agreements: 1) an Agreement adding the City of Santa Rosa as an Associate Member of the Golden State Finance Authority to permit the provision of PACE Program Services within such city; and 2) a PACE Program Agreement by and between City of Santa Rosa and Ygrene Energy Fund California, LLC.

1. Agreement with GSFA Adding City as Associate Member to JPA: The City must become an Associate Member of the GSFA, which is a joint powers authority that established this PACE Program. The Agreement between the City and Golden State Financing Authority for Associate Membership in the

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JPA includes mutual indemnification and typical intergovernmental insurance provisions.

2. PACE Program Agreement Between City and Ygrene. Staff also recommends that Council approve a PACE Program Agreement with Ygrene. The PACE Program Agreement with Ygrene includes one-way indemnification provisions in favor of the City and requires Ygrene to maintain insurance consistent with standard City requirement. The PACE Program Agreement also requires Ygrene to comply with applicable law and the Collaborative Services Agreement that Ygrene has signed with the County as part of its participation in the County's PACE Marketplace.

PACE Program Standardization, Oversight and Consumer Protection. The City has no role in overseeing or regulating PACE programs. Instead, the framework for rules, oversight and regulation of PACE Programs is provided by: (1) state law requirements and (2) the County's Collaborative Services Agreement, which PACE Program providers sign with the County when they agree to participate in the County's PACE Program Marketplace. GSFA/Ygrene are members of the County's PACE Program Marketplace and have signed a Collaborative Services Agreement. As noted above, the City's agreement with Ygrene requires that Ygrene operate the program consistent with applicable law and in accordance with the County's Collaborative Services Agreement, including any future amendments.

Since the City Council last considered the PACE programs in 2017, there have been a number of additional requirements for PACE programs adopted at the State level to standardize PACE Programs and provide more consumer protection, including:

[AB 2693](#) (2016) enhanced disclosures to homeowners participating in PACE programs and guarantees the right to cancel PACE financing within three business days of execution. AB 2693 also prohibits marketing promises of monetary or percentage representations of increased value to a property owner regarding the effect the financed improvements will have on the market value of the property unless the market value is estimated using one of specified methods.

[SB 242](#) (2017) requires a recorded telephone call to residential consumers to confirm key terms of the agreement in plain language (of their own choice – translation available). This call and contractual documents must be available in one of five enumerated non-English languages as necessary. SB 242 also prohibits kickbacks to contractors for steering consumers into a particular program and any misrepresentation as to tax deductibility of a PACE assessment contract. Lastly, PACE providers are prevented from disclosing to contractors the amount of funds the property is eligible for under a PACE assessment under this law.

[AB 1284](#) (2017) establishes state oversight for the California's PACE program (through the regulator – Department of Financial Protection and Innovation) and

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requires PACE administrators that are not local governments to obtain a license under California Financing Law. They are also held accountable for screening, training, and monitoring the contractors and sales reps enrolled in their programs. Lastly, PACE providers have to determine a consumer's ability to repay, including income verification, before entering into a PACE assessment. Ygrene Energy Fund is licensed by the Department of Financial Protection and Innovation (formerly Department of Business Oversight) ([current PACE Administrator](#) License #60DBO-91942).

[SB 465](#) (2018) allows for fire resiliency measures to be financed under enabling PACE legislation.

FISCAL IMPACT

There is no ongoing material fiscal impact to add the additional PACE administrator, Ygrene Energy. All Ygrene Energy Fund Program administrative costs are included in the property owners' voluntary contractual assessment, which is collected on the property owners' annual property tax bill.

ENVIRONMENTAL IMPACT

The action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable

NOTIFICATION

Not applicable

ATTACHMENTS

- Attachment 1 – GSFA Joint Powers Agreement
- Resolution 1 – Approving agreements in Exhibit A: Agreement Adding the City of Santa Rosa as an Associate Member of the Golden State Financing Authority to Permit the Provision of Property Assessed Clean Energy (PACE) Program Services within Such City; and Exhibit B - PACE Program Agreement by and between City of Santa Rosa and Ygrene Energy Fund California, LLC
- Resolution 2 – Consenting to Inclusion of Properties in City Jurisdiction in GSFA/Ygrene PACE Program under SB 555
- Resolution 3 – Consenting to Inclusion of Properties in City Jurisdiction in GSFA/Ygrene PACE Program under AB 811

CONTACT:

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