



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: HCD
Department No.: 055
For Agenda Of: 7/13/10
Placement: Administrative
Estimated Tme: 5 Minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department David Matson, Director, Housing and Community Development
Director(s)
Contact Info: David Matson (568-2068)
SUBJECT: Addressing the Concerns of the Federal Housing Finance Agency Relating to emPowerSBC Financing for Residential Properties

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

- a. Receive an update on federal issues related to Property Assessed Clean Energy programs like emPowerSBC.
- b. Consider the adoption of a Resolution Addressing the Concerns of the Federal Housing Finance Agency Relating to emPowerSBC Financing for Residential Properties. (Attachment A)

Summary Text:

As a result of a statement released by the Federal Housing Finance Agency (FHFA) on July 6, 2010 related to Property Assessed Clean Energy (PACE) programs, staff recommends that the Board adopt a resolution (Attachment A) in order to avoid the potential for unintended impacts on residential property owners as a result of emPowerSBC. If adopted, emPowerSBC staff will not accept applications from residential property owners or provide financing until the concerns expressed by the FHFA are fully resolved. Consistent with the Board's previous direction to implement emPowerSBC, staff will continue to monitor the Federal PACE policy discussions and remain active in supporting the advancement of national, state and local PACE programming.

Background

Over the last 10 days, a great deal of activity has occurred at the national level regarding Property Assessed Clean Energy (PACE) programs such as Santa Barbara County's new emPowerSBC. On July

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6, 2010, the FHFA released communication to banks across the nation outlining concerns regarding PACE programs (Attachment A, Exhibit A). The policy implications of these statements are still being assessed by the PACE community across the nation, and by local and statewide leaders in the 23 states that have adopted PACE legislation. The overarching concern is that action by these federal regulators could impact the ability of property owners to apply for and refinance traditional mortgages and commercial property loans in jurisdictions with PACE programs.

Surprisingly, these regulatory statements are in direct opposition to actions by the US Department of Energy (DOE) and the directives of the Obama Administration and Congress. To date, the federal government has provided over \$150 million in economic stimulus funds to support PACE programs across the nation. Santa Barbara County was recently recognized as a PACE leader and awarded a \$2.4 million grant from DOE to implement emPowerSBC. This is in addition to the \$773,000 grant from the California Energy Commission previously awarded to support emPowerSBC.

Support for PACE programs remains quite strong, even after the FHFA announcement. Governor Schwarzenegger expressed strong support for PACE, stating that actions by federal regulators could threaten “one of California’s most promising new engines of job creation in this struggling economy.” According to the Governor, the actions by federal regulators “threaten thousands of new sustainable jobs in California, while denying homeowners the opportunity to reduce monthly energy costs.” The Governor’s full statement is provided in Attachment B. In addition, several other State and federal officials have released statements in support of PACE, including Senator Boxer (Attachment C) and Congressional Representatives Waxman and Frank (Attachment D), which encourage expedient clarification of the uncertainty created by the FHFA statement.

The PACE community opines that recent federal regulatory concern is largely unwarranted, because PACE programs are not loans. Instead, these programs use the long-standing authority of local governments to implement assessments. California’s right to use assessments is well established, and has been successfully used for countless public improvements including new sewer systems, streets, utility undergrounding, and parks.

In Santa Barbara County, emPowerSBC has been designed using federal and State guidelines to ensure responsible management and to minimize risk to program participants. In fact, clean energy improvements are likely to leave homeowners in a more financially secure position. Going forward, emPowerSBC staff continues to prepare for the eventual launch of the program following the judicial validation process and resolution of the federal regulatory issues. However, the Board of Supervisors and staff will continue to assess and understand the full impacts of the actions by federal regulators prior to approving emPowerSBC financing for property owners.

As illustrated by the attached communications from both state and federal leaders, the momentum behind PACE programming remains strong. Smart energy policy remains a priority and PACE programs offer a unique opportunity to stimulate the economy, support local businesses and help the environment. Local officials in Santa Barbara County will continue working with state and federal representatives to seek fair resolution of the matter and find a solution that will enable emPowerSBC to support regional demand for energy efficiency and renewable retrofits. However, for the time being, in order to avoid any adverse impact on residential property owners in the County as a result of the emPowerSBC Program, staff recommends that the County will not accept applications for the

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emPowerSBC Program from residential properties or provide financing through the emPowerSBC Program to residential property owners in the County as long as the FHFA Statement is in effect.

Further briefings will be provided to apprise the Board of Supervisors on further developments to this ongoing federal policy debate.

Fiscal and Facilities Impacts:

Budgeted: No

Fiscal Analysis:

NA

Staffing Impacts:

Legal Positions:

NA

FTEs:

NA

Special Instructions:

Clerk to provide 2 copies of the signed Resolution and the minute order to HCD

Attachments:

- A. Resolution of the Board of Supervisors of the County of Santa Barbara Addressing the Concerns of the Federal Housing Finance Agency Relating to emPowerSBC Financing for Residential Properties
 - Exhibit A: Federal Housing Finance Agency Statement
- B. Statement by California Governor Schwarzenegger to FHFA
- C. Statement by California Senator Boxer to FHFA
- D. Statement by Congressional Representatives Waxman and Frank to FHFA, the Secretary of Treasury and the Secretary of Energy

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