



COUNTY OF HUMBOLDT

For the meeting of: August 9, 2016

Date: July 26, 2015  
To: Board of Supervisors  
From: Amy S. Nilsen, County Administrative Officer *AN*  
Subject: Amendments to Property Assessed Clean Energy (PACE) Financing Resolutions

RECOMMENDATION(S):

That the Board of Supervisors:

1. Adopt the attached resolution amending resolution 15-38, approving and authorizing execution of an Agreement for Collection of Special Taxes and Contractual Assessments related to the California Statewide Communities Development Authority (CSCDA) Open PACE program within the unincorporated area of Humboldt County; and
2. Adopt the attached resolution amending resolution 15-103, approving and authorizing execution of an Agreement for Collection of Special Taxes and Contractual Assessments related to the California Enterprise Development Authority (CEDA) Figtree PACE program within the unincorporated area of Humboldt County.

SOURCE OF FUNDING: Not applicable

DISCUSSION:

Property Assessed Clean Energy (PACE) is a financing program structure that was created by Assembly Bill (AB) 811 in 2008, and AB 474 which in 2010 amended the California Streets and Highways Code.

Prepared by Cheryl Dillingham

CAO Approval *Elishia Hes*

REVIEW:

Auditor *MSM* County Counsel *Sm* Human Resources \_\_\_\_\_ Other \_\_\_\_\_

TYPE OF ITEM:  
 Consent  
 Departmental  
 Public Hearing  
 Other \_\_\_\_\_

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT  
Upon motion of Supervisor \_\_\_\_\_ Seconded by Supervisor \_\_\_\_\_

Ayes  
Nays  
Abstain  
Absent

PREVIOUS ACTION/REFERRAL:

Board Order No. H-2, C-7, D-4

Meeting of: 4/7/2015, 6/9/2015, 9/22/15

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Kathy Hayes, Clerk of the Board

This legislation authorizes a city or county to designate an area within which willing property owners may enter into voluntary contractual assessments to finance the installation of renewable energy, energy efficiency and water conservation improvements that are permanently affixed to real property. The programs are completely voluntary and property owners repay the funding by agreeing to an assessment levied against their property, which is payable on their property tax bill.

On April 7, 2015, your Board approved participating in the "Open PACE" program and adopted Resolution 15-38. On September 22, 2015, your Board approved participating in the "Figtree PACE" program and adopted Resolution 15-103. These two resolutions, among other things, authorized the inclusion of properties within the unincorporated areas of Humboldt County in the Open PACE and Figtree PACE programs. At that time it was not known that an Agreement for Collection of Taxes and Special Assessments was required for participation in the two programs. The requested action amends the original two PACE program resolutions to include an Agreement for Collection of Taxes and Special Taxes and Contractual Assessments. The resolution for the Open PACE program authorizes the Board Chair to execute the agreement and the resolution for Figtree PACE program authorizes the County Administrative Officer to execute the agreement, both require approval by County Counsel.

FINANCIAL IMPACT:

The recommended action has no significant financial impact. Adoption of the proposed resolutions will allow for execution of agreements for collection of taxes and special assessments and allow the county to charge fees for the collection. Implementation of the Open PACE and Figtree PACE financing options should have no monetary impact to the county budget and require the use of minimal staff time.

This action supports your Board's Strategic Framework, Priorities for New Initiatives, by supporting self-reliance of citizens.

OTHER AGENCY INVOLVEMENT:

Humboldt County Treasurer-Tax Collector, Auditor-Controller and Assessor  
Redwood County Energy Authority (RCEA)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to approve the attached resolutions amending Resolutions 15-38 and 15-103. This option is not recommended because without authorization of an Agreement for Collection of Taxes and Special Assessments the Open PACE and Figtree PACE programs cannot be implemented.

ATTACHMENTS:

Attachment 1 – Resolution of the Board of Supervisors of the County of Humboldt Amending Resolution 15-38; Approving and Authorizing Execution of an Agreement for Collection of Special Taxes and Contractual Assessments Related to the California Statewide Communities Development Authority Open PACE Program

Attachment 2 – Resolution of the Board of Supervisors of the County of Humboldt Amending Resolution 15-103; Approving and Authorizing Execution of an Agreement for Collection of Special Taxes and Contractual Assessments Related to the California Enterprise Development Authority Figtree PACE Program

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**

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RESOLUTION NO. 16-90

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT AMENDING RESOLUTION NO. 15-38 AND APPROVING AND AUTHORIZING EXECUTION OF AN AGREEMENT FOR COLLECTION OF SPECIAL TAXES AND CONTRACTUAL ASSESSMENTS RELATED TO THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY OPEN PACE PROGRAM**

**WHEREAS**, the California Statewide Communities Development Authority ("Authority") is a joint exercise of powers authority, the members of which include numerous cities and counties in the State of California, including the County of Humboldt ("County"); and

**WHEREAS**, Authority has established the Open PACE Program to provide for the financing of renewable energy distributed generation sources, energy and water efficiency improvements and electric vehicle charging infrastructure ("Improvements") pursuant to Chapter 29 of Division 7 of the California Streets and Highways Code ("Chapter 29") within counties and cities throughout the State of California that elect to participate in such program; and

**WHEREAS**, through Chapter 29, the Legislature has authorized cities and counties to assist property owners in financing the cost of installing Improvements through a voluntary contractual assessment program; and

**WHEREAS**, on April 7, 2015, the Humboldt County Board of Supervisors ("Board") adopted Resolution No. 15-38 which, among other things, authorized the inclusion of properties within the unincorporated areas of Humboldt County in the Open PACE Program; and

**WHEREAS**, the County desires to remain a member of the California Statewide Communities Development Authority, and continue its participation in the Open PACE Program, in order to provide property owners within the unincorporated areas of Humboldt County with innovative opportunities for financing the cost of installing Improvements; and

**WHEREAS**, the Authority has requested, and it is in the public interest, that the Humboldt County Treasurer-Tax Collector's Office collect on the County tax rolls the special taxes, fees and assessments for the Authority; and

**WHEREAS**, the Board desires to amend Resolution No. 15-38 in order to allow the County to assist in the levying, collection and enforcement of the contractual assessments to finance the Improvements; and

**WHEREAS**, Section 29142 of the California Government Code provides that when taxes or assessments are collected by a county for any special district or improvement district thereof, excluding a school district, the board of supervisors may provide for a collection fee for such services; and

**WHEREAS**, Section 29304 of the California Government Code provides that whenever any special assessment or special assessment taxes are levied upon land or real property by any city, county, district or other public corporation, and the same are to be collected by a county, there shall be added to the amount of the special assessment or special assessment tax an amount fixed by agreement between the county and city, district, public corporation, officer or body for each special assessment or special assessment tax to be collected; and

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**WHEREAS**, special assessments are not taxes under the California State Constitution but are levies upon the real property (land or land and improvements) in a district for the purpose of paying for improvements or special services, the amount of the levy being based upon the benefits accruing to the property as a result of the improvements or services; and whether a particular charge is a tax or a special assessment is not governed by the designation thereof in the statute providing therefor but is governed by the nature of the imposition; and

**WHEREAS**, the Authority and County desire to enter into an agreement whereby the special taxes and assessments for the Authority will be collected by the County at the same time and in the same manner as County taxes are collected and the Authority will pay to the County the fees for such collection; and

**WHEREAS**, except as agreed to by separate agreement, the County will not be responsible for the conduct of any assessment proceedings; the levy and collection of assessments or any required remedial action in the case of delinquencies in the payment of any assessments or the issuance, sale or administration of any bonds issued in connection with the Open PACE Program.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of the County of Humboldt as follows:

1. Section 2 of Resolution 15-38 is hereby amended to read as follows:

Section 2. In connection with the Open PACE Program, the County hereby consents to the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 on any property within the unincorporated territory of the County and the issuance of bonds to finance or refinance Improvements; provided that:

- (1) The Participating Property Owners, who shall be the legal owners of such property, execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and
  - (2) The County will not be responsible for the conduct of any assessment proceedings; the levy of assessments; any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with the Open PACE Program; provided, however, that the County shall assist in the levying, collection and enforcement of the contractual assessments to finance the Improvements as agreed to by separate agreement.
2. Except as modified herein. Resolution No. 15-38 shall remain in full force and effect.
  3. The Board of Supervisors hereby approves the Agreement for Collection of Special Taxes and Contractual Assessments ("Agreement"), between the County and the Authority, which is attached hereto and incorporated herein by reference.
  4. The Board of Supervisors hereby authorizes and directs the Board Chair to execute the Agreement.

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5. The Board of Supervisors further authorizes and directs the County Administrative Officer, or designee thereof, to take such actions as are necessary to perform the obligations of the County under the Agreement, including, without limitation, such actions as are necessary for the County to collect the special taxes and special assessments for the Authority at the same time and in the same manner as County taxes are collected.
6. This Resolution shall take effect immediately upon its adoption. The Clerk of the Board of Supervisors is directed to send a certified copy of this resolution to the California Statewide Communities Development Authority, 1400 K Street, Sacramento, California 95814.

Dated: August 9, 2016

  
MARK LOVELACE, Chair  
Humboldt County Board of Supervisors


Adopted on motion by Supervisor Fennell, seconded by Supervisor Sundberg, and the following vote:

AYES:	Supervisors	Sundberg, Fennell, Lovelace, Bohn, Bass
NAYS:	Supervisors	--
ABSENT:	Supervisors	--
ABSTAIN:	Supervisors	--

STATE OF CALIFORNIA    )  
County of Humboldt     )

I, KATHY HAYES, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be an original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.

  
By ANA HARTWELL  
Deputy Clerk of the Board of Supervisors of the  
County of Humboldt, State of California

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**  
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RESOLUTION NO. 16-91

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT  
AMENDING RESOLUTION NO. 15-103 AND APPROVING AND AUTHORIZING  
EXECUTION OF AN AGREEMENT FOR COLLECTION OF SPECIAL TAXES AND  
CONTRACTUAL ASSESSMENTS RELATED TO THE CALIFORNIA ENTERPRISE  
DEVELOPMENT FIGTREE PACE PROGRAM**

**WHEREAS**, the California Enterprise Development Authority ("CEDA") is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title I of the California Government Code and the Joint Powers Agreement entered into June 1, 2006, as amended from time to time; and

**WHEREAS**, CEDA has established the Figtree PACE Program to provide for the financing of renewable energy distributed generation sources, energy and water efficiency improvements and electric vehicle charging infrastructure ("Improvements") pursuant to Chapter 29 of Division 7 of the California Streets and Highways Code ("Chapter 29") within counties and cities throughout the State of California that elect to participate in such program; and

**WHEREAS**, through Chapter 29, the Legislature has authorized cities and counties to assist property owners in financing the cost of installing Improvements through a voluntary contractual assessment program; and

**WHEREAS**, on September 22, 2015, the Humboldt County Board of Supervisors ("Board") adopted Resolution No. 15-103 which, among other things, authorized the inclusion of properties within the unincorporated areas of Humboldt County in the Figtree PACE program and approved the execution of an Associate Membership Agreement which added the County of Humboldt ("County") as an associate member of CEDA for the purpose of participating in the Figtree PACE Program; and

**WHEREAS**, the County desires to remain a member of CEDA, and continue its participation in the Figtree PACE Program, in order to provide property owners within the unincorporated areas of Humboldt County with innovative opportunities for financing the cost of installing Improvements; and

**WHEREAS**, CEDA has requested, and it is in the public interest, that the Humboldt County Treasurer-Tax Collector's Office collect on the County tax rolls the special taxes, fees and assessments for CEDA; and

**WHEREAS**, the Board desires to amend Resolution No. 15-103 in order to allow the County to assist in the levying, collection and enforcement of the contractual assessments to finance the Improvements; and

**WHEREAS**, Section 29142 of the California Government Code provides that when taxes or assessments are collected by a county for any special district or improvement district thereof, excluding a school district, the board of supervisors may provide for a collection fee for such services; and

**WHEREAS**, Section 29304 of the California Government Code provides that whenever any special assessment or special assessment taxes are levied upon land or real property by any city, county, district or other public corporation, and the same are to be collected by a county, there shall be added to the amount of the special assessment or special assessment tax an amount fixed by agreement between the county and city, district, public corporation, officer or body for each special assessment or special assessment tax to be collected; and

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**WHEREAS**, special assessments are not taxes under the California State Constitution but are levies upon the real property (land or land and improvements) in a district for the purpose of paying for improvements or special services, the amount of the levy being based upon the benefits accruing to the property as a result of the improvements or services; and whether a particular charge is a tax or a special assessment is not governed by the designation thereof in the statute providing therefor but is governed by the nature of the imposition; and

**WHEREAS**, CEDA and County desire to enter into an agreement whereby the special taxes and assessments for CEDA will be collected by the County at the same time and in the same manner as County taxes are collected and CEDA will pay to the County the fees for such collection; and

**WHEREAS**, except as agreed to by separate agreement, the County will not be responsible for the conduct of any assessment proceedings; the levy and collection of assessments or any required remedial action in the case of delinquencies in the payment of any assessments or the issuance, sale or administration of any bonds issued in connection with the Figtree PACE Program.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of the County of Humboldt as follows:

1. Section 7 - Assessment Proceedings - of Resolution 15-103 is hereby amended to read as follows:

**Section 7. Assessment Proceedings.** In connection with the Figtree PACE Program, the County hereby consents to the special assessment proceedings by CEDA pursuant to Chapter 29 on any property within the unincorporated areas of the County and the issuance of Bonds to finance the Improvements, provided that:

- (1) Such proceedings are conducted pursuant to one or more Resolutions of Intention in substantially the form of the ROI;
  - (2) The Participating Property Owners, who shall be the legal owners of such property, voluntarily execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and
  - (3) The County will not be responsible for the conduct of any assessment proceedings, the levy of assessments, any required remedial action in the case of delinquencies in such assessment payments, or the issuance, sale or administration of the Bonds issued in connection with the Figtree PACE Program; provided, however, that the County shall assist in the levying, collection and enforcement of the contractual assessments to finance the Improvements as agreed to by separate agreement.
2. Except as modified herein. Resolution No. 15-103 shall remain in full force and effect.
  3. The Board of Supervisors hereby approves the Agreement for Collection of Special Taxes and Contractual Assessments ("Agreement"), between the County and CEDA, in substantially the form attached hereto and incorporated herein by reference.

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4. The Board of Supervisors hereby authorizes and directs the County Administrative Officer, in cooperation with CEDA, to prepare and execute the Agreement, subject to any conforming or clarifying changes as may be approved by the County Administrative Officer and the County Counsel.
5. The Board of Supervisors further authorizes and directs the County Administrative Officer, or designee thereof, to take such actions as are necessary to perform the obligations of the County under the Agreement, including, without limitation, such actions as are necessary for the County to collect the special taxes and special assessments for CEDA at the same time and in the same manner as County taxes are collected.
6. This Resolution shall take effect immediately upon its adoption. The Clerk of the Board of Supervisors is directed to send a certified copy of this resolution to Figtree Company, Inc.

Dated: August 9, 2016



MARK LOVELACE, Chair  
Humboldt County Board of Supervisors

Adopted on motion by Supervisor Fennell, seconded by Supervisor Sundberg, and the following vote:

AYES:	Supervisors	Sundberg, Fennell, Lovelace, Bohn, Bass
NAYS:	Supervisors	--
ABSENT:	Supervisors	--
ABSTAIN:	Supervisors	--

STATE OF CALIFORNIA )  
County of Humboldt )

I, KATHY HAYES, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be an original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.



By ANA HARTWELL  
Deputy Clerk of the Board of Supervisors of the  
County of Humboldt, State of California