

CITY COUNCIL/REDEVELOPMENT AGENCY

TUESDAY, MARCH 2, 2010
AGENDA ITEM No.14A

PUBLIC HEARING
&
RESOLUTION

CaliforniaFIRST Program

Authorization for East Palo Alto to join the CaliforniaFIRST
Energy Retrofit Financing Program - *(Wilbert Lee,
Director- Housing Services Department)*



City of East Palo Alto
HOUSING SERVICES DEPARTMENT

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East Palo Alto, CA 94303

Telephone: (650)853-3109 Fax: (650)853-5928

DATE: March 2, 2010

TO: Mayor David Woods and Members of the City Council

VIA: Alvin D. James, City Manager

FROM: Wilbert Lee, Housing Services Director

SUBJECT: Authorization for East Palo Alto to join the CaliforniaFIRST Energy Retrofit Financing Program

Recommendation:

It is recommended that the City Council:

1. Receive a brief staff presentation and PowerPoint presentation by Mr. Douglas Alfara, REAP Program Coordinator, San Mateo County Manager's Office, regarding participation in the CaliforniaFIRST Program (the "CaliforniaFIRST Program" which is sponsored by the California Statewide Communities Development Authority ("California Communities");
2. Hold a Public Hearing to take testimony on the CaliforniaFIRST Program and bonds to be issued by California Communities; and
3. Adopt a resolution making certain findings and authorizing certain matters necessary to participate in the CaliforniaFIRST Program.

Background:

California Communities is a joint powers authority sponsored by the League of California Cities and the California State Association of Counties. The member agencies of California Communities constitutes all 58 counties (including San Mateo) and more than 400 other local agencies throughout California, including the City of East Palo Alto.

The CaliforniaFIRST Program is being instituted by California Communities to allow owners of property in participating cities and counties to finance renewable energy, energy efficiency and water efficiency improvements on their property. If a property owner chooses to participate, the improvements will be financed by the issuance of bonds by California Communities. California Communities will levy "contractual assessments" on the owner's property to repay the portion of the bonds issued to finance the improvements on that property. California Communities has selected Renewable Funding LLC and RBC Capital Markets to provide administration and financing for the program.

The "contractual assessment" proceedings will be undertaken by California Communities pursuant to Chapter 29 of Division 7 of the Streets & Highways Code, which was amended in 2008 by Assembly Bill 811 and further amended in 2009 by Assembly Bill 474, to allow the financing of renewable energy, energy efficiency and water efficiency improvements on private property. Pursuant to Chapter 29,

assessments may be levied to finance renewable energy, energy efficiency and water efficiency improvements only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied, and property owners evidence their consent to the assessments by executing a contract with California Communities.

The benefits to the property owner include:

- Only property owners who choose to participate in the program will have assessments imposed on their property.
- In today's economic environment, there may not be attractive private enterprise alternatives for property owners to finance renewable energy/energy efficiency/water efficiency improvements.
- Even if there were private enterprise alternatives, most private loans are due on sale of the benefited property, which makes it difficult for property owners to match the life of the repayment obligation with the useful life of the financed improvements. Under the CaliforniaFIRST Program, the assessment obligation will transfer with the property upon sale.
- The property owner can choose to pay off the assessments at any time, subject to applicable prepayment penalties.
- By virtue of regional aggregation provided by the CaliforniaFIRST Program, small projects, both residential and commercial, can have access to the municipal bond market, which may produce a lower borrowing cost.

The benefits to the [City/County] include:

- As in conventional assessment financing, the [City/County] is not obligated to repay the bonds issued by California Communities or to pay the assessments levied on the participating properties.
- California Communities handles all assessment administration, bond issuance and bond administration functions. A participating [city/county] can provide financing of renewable energy, energy efficiency and water efficiency improvements to property owners through the CaliforniaFIRST Program – thereby meeting its political and environmental goals -- while committing virtually no staff time to administer the program.

The proposed resolution authorizes California Communities to accept applications from owners of property within our jurisdiction for municipal financing of renewable energy, energy efficiency and water efficiency improvements through the CaliforniaFIRST Program. It also authorizes California Communities to conduct assessment proceedings and levy assessments against the property of participating owners within our boundaries. It also authorizes miscellaneous related actions and makes

certain findings and determinations required by law. California Communities will undertake a judicial validation proceeding as part of its initiation of the CaliforniaFIRST Program.

The resolution also authorizes payment of a set-up fee to cover legal, procedural, and technology costs associated with the CaliforniaFIRST Program. Those fees are set forth in Exhibit A to this staff report.

Any jurisdiction can withdraw from the CaliforniaFIRST Program at any time by passing a resolution rescinding the authorization.

Attached to the resolution, as Exhibit A, is a "Form of Resolution of Intention to be Adopted by California Communities". This is for informational purposes and does not require action by the City Council of East Palo Alto.

Fiscal Impact:

The CaliforniaFIRST Program will have no impact on the City's General Fund. The cost to join CaliforniaFIRST will be covered by the grant award to the City of East Palo Alto.

Recommendation:

After discussion and questions by the City Council of East Palo Alto, open the public hearing and invite any interested members of the public to provide testimony regarding the CaliforniaFIRST Program and the proposed action. After closing the public hearing, if the City Council of East Palo Alto wishes to become a participating member agency in this program, it should adopt the proposed resolution. The resolution requires only a simple majority vote.

EXHIBIT A

CaliforniaFIRST Program Fees

| Per City or County Population | Level 1 under 20K | Level 2 21 K - 75 K | Level 3 75 K - 200 K | Level 4 201 K to 500 K | Level 5 over 500K |
|--|------------------------------|--------------------------------|---------------------------------|-----------------------------------|------------------------------|
| Legal & Validation Process | \$7,500 | \$7,500 | \$7,500 | \$7,500 | \$7,500 |
| Technology Set-Up | \$2,500 | \$5,000 | \$7,500 | \$12,500 | \$17,500 |
| Total | \$10,000 | \$12,500 | \$15,000 | \$20,000 | \$25,000 |

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE CITY OF EAST PALO ALTO TO JOIN THE CALIFORNIAFIRST PROGRAM; AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN SAN MATEO COUNTY; AND AUTHORIZING RELATED ACTIONS

WHEREAS, the California Statewide Communities Development Authority (“California Communities”) is a joint exercise of powers authority the members of which include numerous cities and counties in the State of California, including the City of East Palo Alto/County of San Mateo; and

WHEREAS, California Communities has established the CaliforniaFIRST program (the “CaliforniaFIRST Program”) to allow the financing of certain renewable energy, energy efficiency and water efficiency improvements (the “Improvements”) through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code (“Chapter 29”) and the issuance of improvement bonds (the “Bonds”) under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 and following) (the “1915 Act”) upon the security of the unpaid contractual assessments; and

WHEREAS, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

WHEREAS, the City of East Palo desires to allow the owners of property within its jurisdiction (“Participating Property Owners”) to participate in the CaliforniaFIRST Program and to allow California Communities to conduct assessment proceedings under Chapter 29 and to issue Bonds under the 1915 Act to finance the Improvements; and

WHEREAS, California Communities will conduct assessment proceedings under Chapter 29 and issue Bonds under the 1915 Act to finance Improvements;

WHEREAS, there has been presented to this City Council meeting a proposed form of Resolution of Intention to be adopted by California Communities in connection with such assessment proceedings (the “ROI”), a copy of which is attached hereto as Exhibit A, and the territory within which assessments may be levied for the CaliforniaFIRST Program shall [*if a County*: be coterminous with the San Mateo County’s official boundaries of record at the time of adoption of the ROI] [*if a City*: include all of the territory within the City of East Palo Alto’s official boundaries of record; and

WHEREAS, the City of East Palo Alto will not be responsible for the conduct of any assessment proceedings; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Bonds or any other bonds issued in connection with the CaliforniaFIRST Program. The San Mateo County will not be responsible for the conduct of any assessment proceedings; the levy of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Bonds or any other bonds issued in connection with the CaliforniaFIRST Program; and

WHEREAS, pursuant to Government Code Section 6586.5, a notice of public hearing has been published once at least five days prior to the date hereof in a newspaper of general circulation in the City of East Palo Alto and a public hearing has been duly conducted by this City Council concerning the significant public benefits of the CaliforniaFIRST Program and the financing of the Improvements;

NOW, THEREFORE, BE IT RESOLVED by the City Council of East Palo Alto of the County of San Mateo as follows:

Section 1. On the date hereof, the City Council of East Palo Alto held a public hearing and the City Council hereby finds and declares that the issuance of bonds by California Communities in connection with the CaliforniaFIRST Program will provide significant public benefits, including without limitation, savings in effective interest rate, bond preparation, bond underwriting and bond issuance costs and reductions in effective user charges levied by water and electricity providers within the boundaries of the City of East Palo Alto.

Section 2. In connection with the CaliforniaFIRST Program, the City of East Palo Alto hereby consents to the conduct of special assessment proceedings by California Communities pursuant to Chapter 29 on any property within the Proposed Boundaries and the issuance of Bonds under the 1915 Act; 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, 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 City of East Palo Alto will not be responsible for the conduct of any assessment proceedings; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Bonds or any other bonds issued in connection with the CaliforniaFIRST Program. The County of San Mateo will not be responsible for the conduct of any assessment proceedings; the levy of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Bonds or any other bonds issued in connection with the CaliforniaFIRST Program.

(4) The issuance of Bonds will occur following receipt of a final judgment in a validation action filed by California Communities pursuant to Code of Civil Procedure Section 860 that the Bonds are legal obligations of California Communities.

Section 3. Pursuant to the requirements of Chapter 29, California Communities has prepared and will update from time to time the "Program Report" for the CaliforniaFIRST Program (the "Program Report"), and California Communities will undertake assessment proceedings and the financing of Improvements as set forth in the Program Report.

Section 4. The appropriate officials and staff of the City of East Palo Alto are hereby authorized and directed to make applications for the CaliforniaFIRST program available to all property owners who wish to finance Improvements; provided, that California Communities shall be responsible for providing such applications and related materials at its own expense. The following staff persons, together with any other staff persons chosen by the City Manager from time to time, are hereby designated as the contact persons for California Communities in connection with the CaliforniaFIRST Program: Housing Services Director.

Section 5. The appropriate officials and staff of the City of East Palo Alto are hereby authorized and directed to execute and deliver such closing certificates, requisitions, agreements and related documents as are reasonably required by California Communities in accordance with the Program Report to implement the CaliforniaFIRST Program for Participating Property Owners.

Section 6. The appropriate officials and staff of the City of East Palo Alto are hereby authorized and directed to pay California Communities a fee in an amount not to exceed \$12,500, which California Communities will use to pay for the costs of implementing the CaliforniaFIRST Program in the City of East Palo Alto, including the payment of legal costs incurred in connection with judicial validation of the CaliforniaFIRST Program.

Section 7. The City Council of East Palo Alto hereby finds that adoption of this Resolution is not a "project" under the California Environmental Quality Act, because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b) (4).

Section 8. This Resolution shall take effect immediately upon its adoption. The City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to the Secretary of California Communities.

PASSED AND APPROVED this 2nd day of March 2010 by the following votes:

AYES:
NYES:
ABSTAIN:
ABSENT:

SIGNED:

David Woods, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

**FORM OF RESOLUTION DECLARING INTENTION
TO FINANCE INSTALLATION OF
DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES,
ENERGY EFFICIENCY AND WATER EFFICIENCY IMPROVEMENTS**