# Municipal Webinar 3: Sonoma County's Commercial PACE Program
## Questions and Answers

**General PACE Questions**

**Q: How many assessments have made through the Sonoma County PACE program? What is the total dollar amount of all assessments combined? How many defaults were there?**

**A:** SCEIP has funded 51 commercial projects and 1628 residential projects, representing $10 million in commercial projects and nearly $46 million in residential projects. Over the course of three years there have been four commercial delinquencies (late or non-payments) and 39 delinquent residential payments. Some of these represent multiple delinquencies on the same property.

**Q: How is PACE different from energy efficient mortgage?**

**A:** PACE is a different financing mechanism for several reasons. The most important distinction is that it is a contractual assessment paid back to the County on the property tax bill, not a conventional loan. The assessment attaches to the property rather than the property owner and California law provides that the assessment is transferred to a new owner with the transfer of the property (for residential properties, the Federal Housing Finance Agency (FHFA) has instructed lenders to disallow this assessment transfer and is requiring that assessments be paid off, a situation that is being addressed through litigation and legislation). Also, various underwriting and eligibility criteria (which may differ from state to state depending on the PACE-authorizing legislation) are different.

**Q: Is there specific underwriting guidance contained within the House legislation [HR 2599]?**

**A:** Yes, guidelines are provided. The text of the bill may be downloaded by clicking on this link: HR 2599

**Q: Why is PACE off-balance sheet? Does that apply to accounting rules?**

**A:** While a definitive accounting determination is forthcoming, PACE can be considered off balance sheet because property taxes are not accelerated in the event of delinquency/default, and are not treated as debt for accounting purposes. Furthermore, most leases account for property taxes as operating expenses, not as capital expenses / debt / financing.

**Q: Will PACE pay for energy management software?**

**A:** SCEIP will finance a permanently installed whole building energy management system but not energy modeling software.

**Q: Is there a limit to the number of individual projects? Meaning, if you identify some areas and do a project but then come up with others can you add in a given year or does it have to wait until the next tax year?**

**A:** Funding limits of SCEIP are set by the appraised or assessed property value, whichever is higher. SCEIP will fund up to 10% of the property value (up to 50% on a case-by case basis if there is no mortgage). Also, the annual combined property tax plus SCEIP assessment amount cannot exceed 5% of the property value. Therefore, if additional projects are desired after the contract is signed, the applicant can submit another application or, if the first project has not been disbursed, can amend the contract provided the underwriting criteria are met (which also includes provision of updated documentation that property taxes and mortgages are not delinquent).

**Q: Liz, you mentioned political will helped Sonoma overcome the Freddie Mac and Fannie Mae suspension. Could you elaborate on how you were able to continue the PACE program in light of this restriction?**

**A:** The commercial PACE program was never suspended, as the FHFA instructions apply only to residential PACE. Although SCEIP closed its residential PACE program for a week, the Sonoma County Board of Supervisors re-opened the program based on strong feedback from the community, particularly the contractor community regarding SCEIP's positive economic impact. SCEIP sent notification to all participants in the program of the potential implication of the FHFA instructions, and created a disclosure statement, currently the first page of the SCEIP application, which all owners on record for residential applications are required to sign. This disclosure contains links to all of the FHFA, Fannie Mae and Freddie Mac letters and instructions to facilitate customer due diligence. Concurrently with re-opening the program SCEIP filed a lawsuit against the FHFA.

**Q: Has this program been combined with lease type financing for solar where the funder retains the tax benefits?**

**A:** SCEIP finances solar PV installations performed under a Power Purchase Agreement (PPA), provided that the lease agreement contains certain language (SCEIP's PPA template will be available next month for download from the "Resources for Municipalities" web page) required by California law (Streets and Highways Code section 5899.2). Any tax benefits are the concern of the customer and contractor; SCEIP does not act in a tax advisory role nor do we retain any tax benefits for any funded projects.

**Q: Do your utility companies financially support this program, through buying or enhancing the PACE bonds?**

**A:** Utility companies are not involved with the direct financing of SCEIP. They do offer several rebate programs that subsidize the cost to applicants for SCEIP-financed improvements. For example, PG&E currently provides up to $4,000 to a homeowner who makes certain improvements and can document a certain percentage of energy savings as a result of these improvements with a test in/test-out energy analysis.

**Regarding Energy Analysis**

**Q: Do you use energy audits to examine paybacks?**

**A:** SCEIP does not require post-project reporting by the applicant. However, SCEIP does look at three years' worth of utility data – one year prior to project disbursement and two years after- in order to quantify the energy and GHG savings attributable to our financing.

**Q: Underwriting is focused all on the owner's credit history. What about energy savings that is calculated for the project?**

**A:** In addition to using utility data as noted above, SCEIP only finances improvements with documented energy savings as listed on our list of Eligible Improvements. If a customer applies for financing for a "custom" improvement that is not on the list, the applicant must supply documentation of proven energy savings, the improvement must meet the criteria of being permanently affixed to the property, and the request is considered on a case-by-case basis by a program Steering Committee.

**Q: Did you require mandatory loading order for commercial projects from the initiation of the program?**

**A:** SCEIP has always required commercial applicants to submit the results of an ASHRAE level 1 – equivalent energy analysis with their SCEIP application, and has advised, but not required, that the energy analysis-recommended improvements be completed prior to financing renewable generation projects.

**Q: Does SCEIP have any metrics on: 1) Energy savings realized v. initial projections? 2) Payback periods on various types of improvements? 3) Impact of program on property cash flows-- are realized energy savings >/= to additional debt service?**

**A:** These important metrics are in the process of being quantified by SCEIP staff and consultants. Until recently, there has not been enough statistically valid before/after utility data to make supportable conclusions. Now that the program has been operating for almost three years with over 1600 participants (primarily residential), there is a sufficient sample size with which to work.

**Q: Is solar installation output data available in real-time? Posted on public internet site? Is sub-metering tracked in real time with home energy monitors?**

**A:** SCEIP does not have access to real-time energy use or output. The applicant is required to provide authorization to retrieve three years' worth of utility data in order for SCEIP to quantify the impact of the program (as discussed above).

**Regarding Lender Acknowledgement and Open Market Financing**

**Q: What are requirements regarding commercial mortgage holders, approval or "notice only?"**

**A:** Commercial applicants are required to furnish a signed and notarized Lender Acknowledgement form (available for review on the SCEIP web site).

**Q: How critical is it for the success of the PACE Commercial program that the PACE financing be "senior" to all other loans?**

**A:** In California, under PACE-enabling legislation Assembly Bill 811, a PACE assessment is a contractual assessment which by law is senior to mortgage liens. .

**Q: In conjunction with lender acknowledgement, does your bond counsel have to provide an opinion to the seniority of the lien position as a security to your investors?**

**A:** No, PACE assessments by law have a "senior" position due to their definition under California law (see above). In Sonoma County, bond purchasers have a two-fold additional security: 1. At the onset of the program, the County filed a Validation Action in which the Superior Court of the State of California independently ruled the validity of the program and the bonds issued to finance SCEIP projects, and 2. The county has adopted the

Alternative Method of Distribution of Tax Levies and Collections and of Tax Sale Proceeds (the "Teeter Plan"), pursuant to Sections 4701 through 4717 of the California Revenue and Taxation Code. The Code allows the county to distribute secured real property and supplemental property taxes on an accrual basis which results in full payment of assessments each year. Any subsequent delinquent payments and related penalties and interest revert to the County.

**Q: Has Sonoma County had to validate bonds used to finance PACE projects? Or has this not been necessary with lender consent?**

**A:** Yes, Sonoma County successfully completed a validation action and requires lender acknowledgement for commercial projects. See answers above.

**Q: What is the function of the treasury pool if the financing source is from "open market" structures?**

**A:** SCEIP has financed only one commercial project using the open market model (refer to the December 14, 2011 webinar located on the SCEIP "Resources for Municipalities" web page). All other financing, both for residential and commercial projects, has been from the Treasury Pool.

**Q: Has Sonoma County had experience with lenders balking at the PACE assessment?**

**A:** None of the commercial applicants who have gone through SCEIP have expressed push-back from their lenders; if that were the case, they most likely would not have gone through the program and therefore we would not have heard. SCEIP staff have worked closely with the banking community to ensure that they fully understand and are comfortable with the nature of the PACE assessment (non-accelerating) and our underwriting criteria.

**Regarding Marketing and Education**

**Q: Is there help available to explain to potential commercial customers how this works or case studies?**

**A:** The San Francisco City and County and LA County PACE program managers are currently leading a project to develop a "tool-kit" resource for other local governments or interested parties to use to educate potential customers and project lenders about the mechanics and benefits of PACE. This should be available this spring. In the meantime, you can refer to the materials from the February 18 webinar "Marketing Commercial PACE," available on the SCEIP "Resources for Municipalities" web page which includes contact information for LA and San Francisco.

**Q: What were the specific methods for marketing the SCEIP commercial program that were most effective? I know word of mouth/trade groups are important, but did you track how folks heard about PACE?**

**A:** As part of internal reporting and program analysis, SCEIP captures and tracks how applicants hear about the program. Thus staff have discerned that word of mouth through the contractor community has been the most effective means of advertising SCEIP's commercial program. For the residential program, staff have noted a direct correlation between increases in program inquiries with banner advertisements on the home page of the local newspaper that allow the interested party to directly click on the ad and connect to the program website.

## The Westlake Development Group Multi-Family Project

**Q: How did you hear about PACE originally, and what made it the most attractive option for the Sonoma buildings?**

**A:** The Westlake Development Group heard about the SCEIP from other contractors, so word of mouth. It is attractive primarily because the assessment is on the property and has a long repayment period [20 years], so if we sell the property, the assessment will be shared with the new owner and we will not have to bear the entire cost of a capital improvement that we would have to do anyway.

**Q: Who was your lender, and could you describe the process for securing lender approval?**

**A:** The lender was First Republic Bank, and the process was as simple as submitting the SCEIP Lender Acknowledgement information formto the lender and receiving it, signed and notarized, a few days later (Note: For reference, this form is available on the SCEIP website). The lender had no reservations about the PACE assessment.

**Q: Did your existing mortgage contain language that prohibited you from getting another loan?**

**A:** No.

**Q: What would the interest rate have been for Westlake had they used conventional financing?**

**A:** 5.5% - 6%

**Q: Why did the owner choose to go with the project that had a higher interest rate?**

**A:** The ability to transfer the assessment to a new property owner, the long payback period, the relative simplicity of attaining the funding, the preservation of liquidity for other capital expenditures.

**Q: Are these affordable or conventional apartments?**

A: Conventional

**Q: Are these units centrally metered or individually metered?**

**A:** Individually metered

**Q: Have tenants in completed buildings reported lower utility bills?**

**A:** Two of seven buildings have been completed; not enough time has elapsed to determine energy savings.

**Q: How difficult was it to gather all the utility data for each unit, and what was the message to each unit to get the utility data? How many years or months did you go back historically to get a solid baseline?**

**A:** Gathering utility data has not begun for this project. SCEIP requires authorization from property owners for a three year period (one year before project completion, two years after) but in the case of a multi-family project, SCEIP only requires the applicant to furnish what authorizations they can obtain from their tenants. Because this was the first multi-family project for SCEIP, this requirement has not been adequately vetted to discuss conclusively here.

**Q: Did Westlake earn a development fee for this work?  What was the incentive, if tenants get the energy cost savings?**

**A:** No development fee was earned. For the Westlake Development Group, the incentive was that because the PACE assessment is attached to the property, if it transferred to a new owner, the costs of this needed capital improvement would be transferred also. The project is also providing a more comfortable indoor environment for our tenants.

**Q: Does Westlake own the properties?**

**A:** Yes.

**Q: Could you bundle the different projects together in one transaction? Was the work all exterior?**

**A:** Yes, the Westlake project consists of two improvements, both exterior: insulated exterior siding, which includes replacing some of the underlying structure in addition to replacing the siding, and windows installation. (Note: the SCEIP is financing only the energy efficiency improvement portion of the siding project which is the installation of the siding itself. By law, additional work performed in conjunction with the siding project (for example, repair of dry rot) cannot be financed with PACE funding).

**Q: What was the R-Value of the exterior insulation and what is the annual savings?**

**A:** At project completion the R-value will be 44. Energy savings for this project are not known at this time.

**Q:  What were the anticipated savings on basis of energy audit/engineering assessment?  Can a payback period be estimated (loan amount divided by estimated savings)?**

**A:** Energy savings for this project are not known at this time.

**Q: What caused the delay from application to construction beginning [Application process began in July; Notice to Proceed was issued by SCEIP in November]?**

**A:** The application approval process was not lengthy; approximately 45 days. The primary delay was due to internal operations, such as the contractor bidding process and establishing protocol for project administration and accounting.

**Q: How has projected been received by tenants? Has it affected rental rates?**

**A:** The project, partially completed, has not yet affected tenant turnover rates or rent. We are not projecting an increase in rental rates to absorb the cost of the PACE assessment. The project has been well-received, with one renter commenting that for the first time since she has lived there (15 years), there is no draft when the wind blows.