

# County Of Sonoma Agenda Item Summary Report

**Clerk of the Board Use Only**  
**Meeting Date**                      **Held Until**  
 /   /                                      /   /  
**Agenda Item No:**                      **Agenda Item No:**  
 \_\_\_\_\_                                      \_\_\_\_\_

**Department:** General Services/A.C.T.T.C./S.C.W.A.

**4/5 Vote Not Required**

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**Board Date:**  
 10/27/2009

**Deadline for Board Action:**  
 10/27/2009

**AGENDA SHORT TITLE:** Sonoma County Energy Independence Program Update and Bond Authorization.

**REQUESTED BOARD ACTION:**

Adopt the following resolutions:

1. Resolution of the Governing Board of the Sonoma County Public Financing Authority, providing for the issuance and sale of contractual assessment revenue bonds in an aggregate principal amount not to exceed forty-five million dollars (\$45,000,000), approving as to form and authorizing the execution and delivery of loan agreements and bond purchase agreements in connection therewith, and authorizing certain other matters relating thereto;
2. Resolution of the County of Sonoma approving and ratifying modifications to the Sonoma County Energy Independence Program Report, authorizing the Sonoma County Treasury Pooled Investment Fund's investment in and purchase of the Sonoma County Public Financing Authority's Sonoma County Energy Independence Program, Contractual Assessment Revenue Bonds (Taxable), approving as to form and authorizing the execution and delivery of Bond Purchase Agreements in connection therewith, and authorizing certain other matters relating thereto;
3. Resolution of the County of Sonoma, approving as to form and authorizing the execution and delivery of loan agreements in connection with the sale and issuance by the Sonoma County Energy Independence Program, contractual assessment revenue bonds (taxable), and authorizing certain other matters relating thereto;

Authorize County Counsel and S.C.W.A. General Manager and Chief Engineer to execute amendment to legal services agreement with bond counsel Richards Watson and Gershon, raising authorized limit of services to \$250,000 in order to provide ongoing legal advice as needed to the Sonoma County Energy Independence Program.

**CURRENT FISCAL YEAR FINANCIAL IMPACT**

**EXPENDITURES:**

**ADDITIONAL FUNDS REQUIRING BOARD APPROVAL:**

<b>Estimated Cost</b>	<b>\$150,000</b>	<b>Contingencies (Fund Name:)</b>	<b>\$0</b>
<b>Amount Budgeted</b>	<b>\$150,000</b>	<b>Unanticipated Revenue (Source:)</b>	<b>\$0</b>
<b>Other Available Appropriations (Explain Below)</b>	<b>\$0</b>	<b>Other Transfers (Source:)</b>	<b>\$0</b>
<b>Additional Requested</b>	<b>\$0</b>	<b>Additional Funds Requested</b>	<b>\$0</b>

**Explanation (if required):** Bond Counsel amendment adjustment from \$100,000 to 250,000.

**Prior Board Action:** 7/8/2008 - Establishment of the Regional Climate Protection Coordination Plan; 9/16/2008 - Direction to explore a potential A.B. 811 program; 2/3/2009 – A.B. 811 Feasibility Workshop; 3/3/2009 - Adoption of the AB 811 Resolution of Intention; 3/24/09 – A.B 811 Public Hearing; 3/25/2009 - Adoption of the Sonoma County Energy Independence Program; 4/21/2009 - Initial authorization of the Sonoma County Energy Independence Program financing structure; 5/12/09 - Resolution No. 09-0465, authorizing filing a judicial validation proceeding related to the issuance and sale of contractual assessment revenue bonds; 6/23/2009 - amendment to signature authorization for Program.

**Alternatives – Results of Non-Approval:** The County would be unable to fund assessment applications currently in progress, severely limiting the effectiveness of the Program.

**Background:**

On March 3, 2009, the Board of Supervisors adopted a Resolution of Intention to establish an energy independence financing (A.B. 811) program to assist the citizens of Sonoma County in their efforts to install energy and water efficient improvements in their homes and businesses. On March 24, 2009, the Board of Supervisors commenced a Public Hearing which concluded on March 25, 2009, and thereafter, approved implementation of the Sonoma County Energy Independence Program (“S.C.E.I.P.” or “Program”). All nine cities within the County are participating in the program and all qualified property owners are able to participate in the program under the same set of requirements. This report is intended to accomplish the following objectives:

1. Provide a status update on the Program.
2. Update on program activity by Supervisorial District.
3. Amend bond counsel agreement.
4. Authorize Program bond issuance for the next 180 days.
5. Report on successful completion of the validation action.
6. Make technical changes recommended by bond counsel to the Program Report and Assessment Contract
7. Seek direction on Program policy issues.

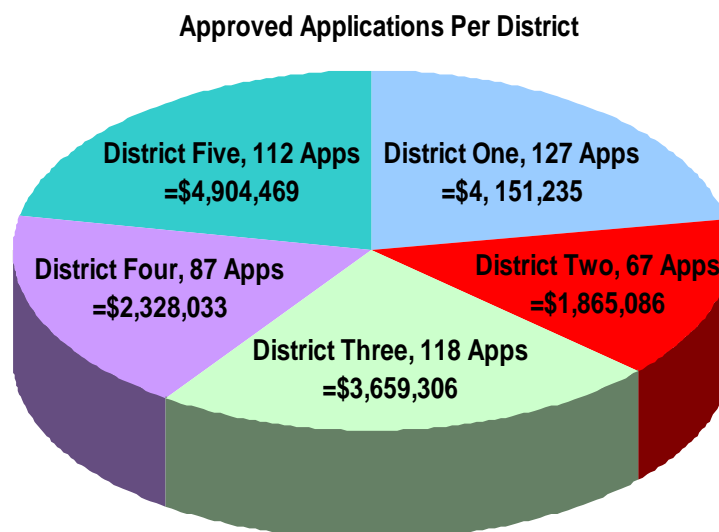
**Sonoma County Energy Independence Program Status Update:**

Since inception, the S.C.E.I.P. storefront has been actively accepting and processing applications from interested property owners for energy and water efficient improvement projects. As of 10/2/09, storefront staff has fielded over 4,100 phone calls, 1,050 e-mails, and 1,000 walk-in customers. In addition, the program has accepted 707 applications for approximately \$25,457,274 worth of projects. Of the 707 applications received, 511 applications have been approved and 244 of them have been funded for nearly \$8.9 million in energy and water efficiency improvements completed to date. Solar has been the predominant improvement type, with energy efficient window replacements, insulation, cool roofs, and other improvements rounding out the types of projects being implemented.

The success of the program thus far is due to the teamwork and collaboration of multiple County departments, private sector contractors, and other stakeholders on an unprecedented scale. This effort is enhanced by a robust marketing plan designed and implemented by the Sonoma County Water Agency. The marketing program includes billboards, print media ads, radio ads, local fair appearances, speaking engagements, presentations and other efforts to position the program in the public consciousness. Thus far, the combination of these elements has served to create a remarkably successful program.

**Update on the results by Supervisorial District:**

The following chart depicts the number of approved applications by district and their funded value:



**Amendment to Bond Counsel Agreement for \$250,000:**

Bond Counsel, Richards Watson Gershon, has assisted the County throughout the establishment of the Program, in the validation action and in setting up and administering the monthly bond issuance program. Because of the complex and novel legal issues that have arisen related to establishing and continuing the Sonoma County Energy Independence

Program and the need to pursue a judicial validation action in order to clear the way to issue bonds in the future, legal fees have exceeded original projections. County Counsel works closely with Sonoma County Energy Independence Program staff and with bond counsel to assure that services are rendered in an efficient manner; however, the County has a continuing need for bond counsel services to assist in on-going monthly bond issuance and in modification of Program documents as required by changes in the Program or changes in law. Therefore, we are recommending that the cap on bond counsel services be raised to \$250,000 from \$100,000, with the expectation that as the Program becomes more established the need for services will decrease accordingly.

**Authorize Program bond issuance for the next 180 days:**

The S.C.E.I.P. funds energy improvements on the first business day of each month through bonds issued by the Sonoma County Public Financing Authority (P.F.A.), a joint powers agency that was formed to assist the County in financing capital improvements. Bonds were authorized and issued from May thru October 2009, and were initially purchased by the Sonoma County Pooled Investment Fund (the "Treasury"). Due to the fact that some of the bonds carry a final maturity in excess of 5 years, Government Code section 53601 requires the Board's approval to allow the Treasurer to make these dedicated investments; therefore, we have drafted a resolution for your approval. Once the Bonds are issued, the P.F.A. loans the proceeds from the sale of the bonds to the S.C.E.I.P. to fund the assessments for property owners. Initially, we requested approval for bonds to be issued by the P.F.A., and purchased (invested) by the Treasury, in an amount not to exceed \$45 million during the months of May thru October. Now, we are requesting approval of a resolution authorizing the P.F.A. to issue new bonds for the months of November 2009-April 2010, and authorizing the Treasury to invest in the new bonds. The \$45 million limit reflects the total commitment of funding from the Treasury to invest in these assessment bonds, and as future bonds are issued the amount of the requested authorization will decrease by the amount of the outstanding bonds already issued.

**Report on successful completion of the Validation action:**

On May 12, 2009, Resolution No. 09-0465, your Board authorized filing a judicial validation proceeding related to the issuance and sale of contractual assessment revenue bonds. The successful completion of the action prevents future challenges to those bonds and the proceedings before this Board establishing the Program and will assist the County when the County attempts to enter the bond market to refund the existing bonds held by the County Treasury. With the assistance of Bond Counsel, the County filed with the court its complaint and a record of all of the proceedings before this Board, published appropriate notice, briefed the legal issues, and has successfully obtained a judgment validating the establishment of the Sonoma County Energy Independence Program and the bond proceedings.

**Technical changes to the Program Report and Assessment Contract:**

With the approach of the new tax year, staff identified an issue regarding bond interest payments that may be due before assessments are collected. Bond counsel recommend adding explanatory language to the Program Report and the Assessment Contract so that this accrued interest could be spread throughout the term of the assessment, instead of being "spiked" in the first year payment.

**Program Policy Issues:**

As the program evolves, the need for new administrative changes and modifications are identified and implemented in order to make the Program as flexible and accessible as possible. The S.C.E.I.P. steering committee meets weekly on these issues in order to be responsive and to implement approved changes quickly. Occasionally, topics arise that require Board input or support before implementation. One issue that is being evaluated is whether a non-profit organization should be allowed to participate in the Program. One of the conditions of participation in the Program is that the property receiving the improvements must receive a County property tax bill. Typically, non-profits do not receive a tax bill and thus are exempt from participation by policy. However, it is administratively possible to generate a tax bill if an entity was interested in participating in the Program. Recently, the Program has received interest from the non-profit sector and the Program Administrator is evaluating this element of the program and intends to bring back a recommendation to the Board in our March 2010 status report. Program staff will work with the Assessor's office in developing a recommendation. Any action to amend the program guidelines and include non-profit eligibility is a policy decision for the Board.

A second policy issue that the Program Administrator and steering committee continue to evaluate is whether to mandate energy assessments, and if they are required, to what standard and level. The Program mandates a PG&E energy evaluation for all commercial projects, which the utility provides at no cost to the property owner. However, while assessments are strongly recommended, they are not mandatory for residential applications. The Program does strongly recommend that residential customers utilize either a PG&E online self-assessment or a home energy assessment through an external program or resource. Assessments are recommended to ensure that customers have the

best information available for their projects relative to the potential impacts and/or in deciding the priority or scope of improvements they wish to pursue. Additionally, an energy assessment examination enables the customer to validate and maximize the greenhouse gas emissions and energy consumption reductions available for each individual project. Energy assessments, other than self-assessments, are an additional project expense for customers. This expense varies by the type and size of property being evaluated and ranges from \$200 to \$400 for a basic assessment and up to \$700 for a full assessment. The cost of an assessment can be financed through the Program if a project is requested and approved.

Staff is working on developing a recommendation on the mandatory assessment issue. The recommendation will seek to balance the additional expense of an assessments and the potential deterrent it may create to Program participation against the benefits that a complete assessments and resulting list of rank-ordered improvements can provide. Assessments will allow the ranking of cost effective improvements and provide a means to formally identify and validate greenhouse gas emissions reductions. Assessments will ensure that all cost-effective and appropriate measures are considered by each applicant, so that no opportunities are inadvertently missed. As part of developing a recommendation, staff is seeking input from the community and technical resources. Until such time that staff has completed its effort to fully process the issue with impacted stakeholders, staff recommends keeping the status quo and will bring a recommendation for consideration in the March 2010 Program status report. The intent to continue to evaluate the issue is supported by members of the environmental community, who concur that further vetting the issue will coincide with efforts on the adoption of State guidelines for assessments (Home Energy Rating Score - H.E.R.S. 2), and the training of a sufficient number of local auditors who can service Program demand without hampering project implementation.

#### **Next Steps and Future Issues:**

The S.C.E.I.P. continues to grow and evolve. Community Program awareness has grown and has led to a steady increase in project requests and a broadening of project types. As previously noted, Program staff is working towards final resolution of the non-profit eligibility and mandatory assessment issues. Concurrently, staff continues to get engaged with other impacting and linked issues that could impact the success of the Program or facilitate its management. The March 2010 Program update report will provide the opportunity to present your Board with information and recommendations relative to the following issues:

#### **Permanent S.C.E.I.P. Staffing:**

The Program was initially staffed to allow for effective customer service and minimize administrative costs based on assumptions made by the development team. As the Program has matured, a more realistic and accurate assessment of staff resource needs has evolved. Staffing needs are currently being reviewed by the County Human Resources Department and we anticipate requesting Board approval of position allocations based on the recommendations provided by H.R. The goal is to have position classes and compensation structure that provide flexibility in recruiting and retaining technically skilled individuals that also possess the administrative and customer service skills required to meet Program demands.

#### **American Recovery and Reinvestment Act (A.R.R.A.) – State Energy Program (S.E.P.) Grant Fund Opportunities:**

Staff is currently engaged in the pursuit of A.R.R.A. grant funds for a variety of initiatives. Specifically, staff is developing grant initiatives that will address a variety of S.C.E.I.P. needs such as, 1.) The funding of energy assessments for residential projects; 2.) Increased public outreach and marketing; 3.) Software and technology to facilitate Program management and record keeping; and 4.) Development of a comprehensive building retrofit implementation plan that will link energy efficiency improvements to the S.C.E.I.P. Program. Staff is in various points of development for each of these grant opportunities and will be return to your Board as required to get final direction or approval prior to submittal.

#### **Regional, State and Federal PACE Initiatives:**

As has been reported to the your Board in the past, there continues to be a flurry of activity among both private, semi-private, and public entities working towards development of Property Assessed Clean Energy (PACE) Programs, also known as A.B. 811 type programs. Few if any new programs have been implemented and S.C.E.I.P. staff continues to engage all entities and provide them with information. Staff remains committed to improving and strengthening S.C.E.I.P. and remains open to any proposals or ideas that will benefit the Program and the property owners it serves. It is evident however that as the pioneer in the development of S.C.E.I.P., the County is well positioned to take advantage of whatever regional, State, or Federal partnerships best serve our goal of providing a viable and straightforward means for property owners to undertake efficiency and renewable energy improvements. Regionalizing S.C.E.I.P. to multiple counties has been raised by contiguous counties. It is

possible Board members may hear from their peers in contiguous counties regarding this opportunity. Currently, S.C.E.I.P. staff is intrigued with the concept but is not ready to make any recommendation to the Board. However, we do see merit in such a regional approach, such as, joint bond funding, standardized policies and procedures, a more comprehensive solution to Green House Gas reduction, and operational cost savings. Again, we only mention this issue to inform the Board of discussions with other counties.

**Recommended Board Action:**

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Authorize County Counsel and S.C.W.A. General Manager and Chief Engineer to execute amendment to legal services agreement with bond counsel Richards Watson and Gershon, raising authorized limit of services to \$250,000 in order to provide ongoing legal advice as needed to the Sonoma County Energy Independence Program.

**Attachments:**

Resolutions

**On File With Clerk:**

- Draft Form of the Bond Purchase Agreement
- Draft Form of the Loan Agreement
- Proposed Bond Counsel Amendment
- Revised Program Report and Administrative Guidelines
- Assessment Contract
- Application

**CLERK OF THE BOARD USE ONLY**

**Board Action (If other than "Requested")**

**Vote:**