



County of Sonoma

State of California

Date: July 23, 2019

Item Number: _____
Resolution Number: _____

☐ 4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California,
Authorizing The Expansion Of The Sonoma County Energy Independence Program To Finance
Seismic Strengthening Improvements and Wildfire Safety Improvements Through The Use Of
Contractual Assessments Pursuant To Sections 5899 and 5899.4 Of The California Streets And
Highways Code, Confirming the Program Report, And Taking Certain Other Actions**

Whereas, by Resolution No. 09-0184, adopted on March 3, 2009, the Board of Supervisors ("Board") declared its intention to establish the Sonoma County Energy Independence Program ("SCEIP") to finance the acquisition and construction or installation of distributed generation renewable energy sources and energy efficiency improvements, which include water efficiency improvements (the "Improvements"), on or in properties in the County through contractual assessments pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code, commencing with Section 5898.10 ("Chapter 29"), directed the Sonoma County Auditor-Controller-Treasurer-Tax Collector ("Program Administrator") to prepare and file a report ("Original SCEIP Report") with the Board containing all the information described in Section 5898.22 of California Streets and Highways Code, and provided that bonds may be issued pursuant to the provisions of Chapter 29 or, in cooperation with the Sonoma County Public Financing Authority (the "Authority"), pursuant to the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the California Government Code, as amended (the "JPA Act"), including the provisions of the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 of the JPA Act, as it may be amended from time to time; and

Whereas, following notice duly given in accordance with law, on March 24, 2009, the Board held a public hearing regarding SCEIP as described in the Original SCEIP Report; and

Whereas, by Resolution No. 09-0271, adopted on March 25, 2009, the Board established SCEIP and authorized contractual assessments to be levied against properties in the County within the parameters of the Original SCEIP Report; and

Whereas, the actions taken by the Board to establish SCEIP were validated in

accordance with California Code of Civil Procedure Section 860, *et seq.* by the Superior Court of California County of Sonoma by a judgment issued on September 23, 2009 in Case No. SCV 245162; and

Whereas, pursuant to SCEIP, the County may enter into contractual assessment agreements (each, an “Assessment Contract”) with property owners whereby the County will extend financing to such property owners for the construction or installation of Improvements on or in the owners’ properties; and

Whereas, pursuant to the Assessment Contracts, the property owners who are parties to such agreements agree to repay the amounts disbursed to the owners under the Assessment Contracts through the levy of assessments by the County against the property owners’ properties pursuant to Section 5898.30 of Chapter 29 (each, an “Assessment”); and

Whereas, the Governing Board of the Authority (the “Authority Board”) pursuant to its Resolution 09-0359 (the “Initial Resolution of Issuance”) authorized and issued contractual assessment revenue bonds under and pursuant to the JPA Act for the purpose of providing funds to make separate loans (a separate loan with respect to each series of bonds) to the County to make disbursements pursuant to the Assessment Contracts to property owners for the cost of Improvements; and

Whereas, the Initial Resolution of Issuance anticipated that the need may arise in the future, for the purpose of providing financing for SCEIP, for the Authority Board to adopt additional resolutions providing for the issuance and sale of additional series of contractual assessment revenue bonds under and pursuant to the JPA Act and approving as to form and authorizing the execution and delivery of loan agreements and bond purchase agreements in connection therewith (each, an “Additional Resolution of Issuance”); and

Whereas, following the establishment of SCEIP in 2009, the State Legislature adopted the Seismic Safety Finance Act, codified as Section 5899 of the California Streets and Highways Code, effective January 1, 2012, which authorizes contractual assessment programs adopted under Chapter 29, like SCEIP, to finance the installation of seismic strengthening improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property (“Seismic Strengthening Improvements”); and

Whereas, following the establishment of SCEIP in 2009, the State Legislature also adopted the Wildfire Safety Finance Act, codified as Section 5899.4 of the California Streets and Highways Code, effective January 1, 2019 and repealed January 1, 2029, which authorizes public agencies that have accepted the designation of a Very High Fire Hazard Severity Zone to designate an area within which contractual assessment programs adopted under Chapter 29, like SCEIP, may finance the installation of wildfire

safety improvements that are permanently fixed to existing residential, commercial, industrial, agricultural, or other real property ("Wildfire Safety Improvements"); and

Whereas, this Board has accepted the Department of Forestry and Fire Protection's designation of a Very High Fire Hazard Severity Zone through the Sonoma County Fire Safety Ordinance, codified in relevant part as Section 13-63 of the County Code, and by incorporating such designation into the County's Hazard Mitigation Plan approved by Resolution No. 17-0168 on April 25, 2017, and the County's Public Safety Element of the General Plan approved by Resolution No. 14-0355 on September 9, 2014; and

WHEREAS, on April 30, 2019, this Board adopted Resolution No. 19-0167 (the "Resolution of Intention for Seismic Strengthening Improvements") pursuant to Section 5899 of the California Streets and Highways Code, declaring its intention to expand SCEIP to finance the installation of Seismic Strengthening Improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property located within the County; and

WHEREAS, on April 30, 2019, this Board also adopted Resolution No. 19-0166 (the "Resolution of Intention for Wildfire Safety Improvements") pursuant to Section 5899.4 of the California Streets and Highways Code, declaring its intention to expand SCEIP to finance the installation of Wildfire Safety Improvements that are permanently fixed to existing residential, commercial, industrial, agricultural, or other real property located within Very High Fire Hazard Severity Zones within the County; and

WHEREAS, the Resolution of Intention for Seismic Strengthening Improvements declared that a public purpose will be served by promoting the strengthening of real property in the County because the County is prone to seismic events, being located on multiple fault lines, including the San Andreas, Rodgers Creek, Maacama and Healdsburg Faults, and also includes areas with high risk of liquefaction, and the Seismic Strengthening Improvements financed through SCEIP will aid in reducing the scale of destruction which could result from a major seismic event, making the County more seismically resilient and promoting public health and safety; and

WHEREAS, the Resolution of Intention for Wildfire Safety Improvements declared that a public purpose will be served by promoting improvements to make real property located within Very High Fire Hazard Severity Zones within the County resistant to fire because most of California's largest wildfires have occurred within the past 30 years, changing climate patterns have made California more vulnerable to wildfire, which poses a significant risk to the public's health, safety and welfare throughout the County, and Wildfire Safety Improvements will aid in preventing the start of wildfires and reducing the speed and scale in which wildfires spread, thereby making the County more resilient to destructive wildfires like those that occurred in October 2017; and

WHEREAS, solely for the purposes of SCEIP, the entire County should be treated as a

Very High Fire Hazard Severity Zone to promote Wildfire Safety Improvements throughout the County, thereby making the County more resilient to destructive wildfires; and

WHEREAS, the Resolution of Intention for Seismic Strengthening Improvements and the Resolution of Intention for Wildfire Safety Improvements directed the Program Administrator to amend the Original SCEIP Report and file with the Clerk of the Board such amended report (the "SCEIP Report"), in compliance with Section 5898.22 of the California Streets and Highways Code, and the Program Administrator has filed the SCEIP Report with the Clerk; and

WHEREAS, the Resolution of Intention for Seismic Strengthening Improvements and the Resolution of Intention for Wildfire Safety Improvements set the time and place for a hearing on the proposed expansion of SCEIP as described in the SCEIP Report; and

WHEREAS, on July 23, 2019, following notice duly given in accordance with law, this Board held a full and fair public hearing, at which interested persons were afforded the opportunity to object to, inquire about or provide evidence with regard to the proposed expansion of SCEIP and the SCEIP Report; and

WHEREAS, the SCEIP Report contains (a) a map showing the boundaries of the territory within which the Seismic Strengthening Improvements and the Wildfire Safety Improvements are proposed to be offered, (b) a draft assessment contract specifying the terms and conditions that would be agreed to by a property owner and the County for participation in SCEIP, (c) a statement of county policies concerning contractual assessments including: (1) identification of types of Seismic Strengthening Improvements and Wildfire Safety Improvements that may be financed through the use of contractual assessments, (2) identification of a County official authorized to enter into contractual assessments on behalf of the County, (3) a maximum aggregate dollar amount of contractual assessments, (4) a method for setting requests from property owners for financing through contractual assessments in priority order in the event that requests appear likely to exceed the authorization amount, and (5) a brief description of criteria for determining the underwriting requirements, and safeguards that will be used to ensure that the total annual property tax and assessments on the property will not exceed 5 percent of the property's market value, as determined at the time of approval for the owner's contractual assessment, (d) a plan for raising a capital amount required to pay for work performed pursuant to contractual assessments, which includes (1) a statement of or method for determining the interest rate and time period during which contracting property owners would pay any assessment, (2) the establishment of any reserve fund or funds, and (3) the apportionment of all or any portion of the costs incidental to financing, administration, and collection of the contractual assessment program among the consenting property owners and the County, and (e) a report on the Auditor-Controller-Treasurer-Tax-Collector's costs for posting the assessment to the property tax roll; and

WHEREAS, this Board, having considered all oral and written testimony, desires to confirm the SCEIP Report and authorize expansion of SCEIP to include Seismic Strengthening Improvements and Wildfire Safety Improvements.

Now, Therefore, Be It Resolved that the Board finds and declares all of the following:

1. The above recitals are all true and correct.
2. The SCEIP Report on file with the Board is confirmed.
3. The Board hereby expands SCEIP to include Seismic Strengthening Improvements and Wildfire Safety Improvements, and directs that the financing of Seismic Strengthening Improvements and Wildfire Safety Improvements be implemented as provided in the SCEIP Report and in accordance with state law. This expansion shall take effect after a final judgment is entered by the Superior Court of California County of Sonoma finding that the actions taken by this Board through this Resolution are valid and not subject to legal challenge pursuant to the provisions of California Code of Civil Procedure Section 860, *et seq.*, and the time for any appeal has run.
4. The Board hereby confirms the contractual assessments to be levied within the parameters of the SCEIP Report.
5. Pursuant to the California Environmental Quality Act ("CEQA") Guidelines, 14 California Code of Regulations Section 15378(b)(4), expansion of SCEIP to include Seismic Strengthening Improvements and Wildfire Safety Improvements is not a "project" subject to the requirements of CEQA, because it is the expansion of an existing government funding mechanism which does not involve any commitment to any specific project.
6. The Program Administrator is hereby authorized and directed to seek approval of the governing bodies of incorporated cities and towns to allow for SCEIP financing of Seismic Strengthening Improvements and Wildfire Safety Improvements on properties located within those jurisdictions.
7. The Program Administrator is hereby authorized and directed to do all other acts and things which may be required of him by this Resolution, or which may be necessary or desirable in carrying out SCEIP as described in the SCEIP Report, and all matters incidental thereto, after consulting with County Counsel, including without limitation, making clarifying changes to the SCEIP Report, revising the assessment contract and other program materials, and modifying the list of improvements eligible for financing through SCEIP.

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8. The Program Administrator and County Counsel are hereby authorized and directed to commence and prosecute a legal action to obtain a judgment validating the expansion of SCEIP from the Superior Court of California County of Sonoma in accordance with California Code of Civil Procedure Section 860, *et seq.*

Supervisors:

Gorin:

Zane:

Gore:

Hopkins:

Rabbitt:

Ayes:

Noes:

Absent:

Abstain:

So Ordered.