

**DATE:** July 7, 2015

**TO:** Mayor and City Council

**FROM:** Director of Utilities & Environmental Services

**SUBJECT:** Property Assessed Clean Energy (PACE) – Authorization of New Programs

### **RECOMMENDATION**

That Council approves the attached resolutions to join the Home Energy Renovation Opportunity (HERO), Ygrene, and Open PACE Programs.

### **SUMMARY**

Access to financing for property owners to complete energy upgrades is a critical component of Hayward’s Climate Action Plan. The City Council has previously authorized two PACE programs to operate in Hayward – CaliforniaFIRST in 2010 and Figtree Commercial PACE in 2014. Staff has been monitoring the PACE market as it has grown over the past year. The purpose of this report is to present three additional PACE programs for Council to consider for authorization: HERO PACE; Ygrene PACE; and Open PACE.

This report discusses the following developments in the PACE market:

- Recent State legislation and programs are paving the way for PACE expansion.
- PACE is increasingly being used to finance water efficiency improvements in light of the drought.
- Cities like San Francisco and Berkeley are partnering with PACE providers to provide financing for their seismic retrofit programs.
- The PACE Loss Reserve has taken the role of setting consumer protection standards for PACE programs statewide.
- PACE programs continue to experience low default rates. In addition, HERO, Ygrene, and Open PACE have not initiated a single foreclosure since they began operations.

In light of the developments above, staff feels that it is in the City’s interest to approve these three PACE programs. The Council Sustainability Committee received a report on this topic at its June 18, 2015 meeting. The Committee recommended that Council authorize all three PACE programs to operate in Hayward.

## BACKGROUND

*General Plan Policies* – Hayward’s General Plan/Climate Action Plan, adopted on July 1, 2014, includes the following policies and implementation programs that support PACE financing:

**Natural Resources Element, Program 9: Financing Program for Residential Energy Efficiency Retrofits** – The City shall work with regional agencies and organizations to develop a residential energy efficiency retrofit financing program for single-family and multi-family homes.

**Natural Resources Element, Program 10: Financing Program for Commercial Energy Efficiency Retrofits** – The City shall work with regional agencies and organizations to develop a commercial energy efficiency retrofit financing program for commercial and industrial properties.

Property Assessed Clean Energy (PACE) programs allow property owners to finance energy and water efficiency improvements and pay off the debt through annual installments on their property tax bill. The intent of PACE programs is to provide an additional means of financing to make environmentally sustainable property improvements more affordable and accessible to property owners. In recent years, some PACE programs have also included seismic upgrades as an eligible improvement. The potential benefits of PACE financing over other financing options include 100% financing for eligible improvements, a longer repayment period of up to twenty years, and the reliability of pre-approved contractors.

PACE financing is a relatively new model. There are two pieces of legislation that enable PACE programs in California and several additional laws that clarify and expand this legislation.

California AB 811 (July 21, 2008) amended the Improvement Act of 1911, part of the Streets and Highways Code, to include renewable energy sources and energy efficiency upgrades in the list of public improvements that can be financed through an assessment district. California AB 474 (January 1, 2010) and California SB 1340 (September 30, 2010) expanded AB 811 to include water-efficiency improvements and the installation of charging stations for electric vehicles.

California SB 555 (October 5, 2011) amended the Mello-Roos Community Facilities Act of 1982 to include renewable energy sources, energy efficiency upgrades, and water efficiency upgrades in the list of public improvements that can be financed through a Mello-Roos Community Facility District. Proponents feel that SB 555 is a better law in concept, in part because it explicitly includes publicly owned properties. However in practice, SB 555 serves the same purpose as AB 811.

On September 26, 2013, Governor Brown signed SB 96, which created a \$10 million PACE Loss Reserve to keep mortgage lenders whole during a foreclosure or a forced sale of a property with a PACE assessment. This reserve fund was established in response to Federal Housing Finance Agency’s (FHFA) concerns that residential PACE financing could pose a risk for Fannie Mae and Freddie Mac, because PACE assessments are first-priority liens and are paid first in the case of foreclosure. In August 2010, Fannie Mae and Freddie Mac announced they would not purchase mortgages for homes with first lien priority PACE obligations. As a result, homeowners may need

to pay off their PACE assessment before they can sell their homes. This announcement put a significant halt on the expansion of the PACE market for several years. The FHFA has not changed its position to date, but the California PACE market has regained its momentum over the past two years, partially due to the PACE Loss Reserve.

On September 26, 2014, the State passed AB 1883 and AB 2597. These two bills pave the way for further expansion of the PACE financing model in California. AB 1883 allows governments to issue bonds for up to three years' worth of PACE deals, rather than for each individual project. This will reduce the administrative fees incurred and passed on to consumers. AB 2597 modifies the PACE Loss Reserve legislation to increase the maximum allowed amount of a PACE assessment from 10% to 15% of the value of the property.

The City Council has authorized two PACE programs to operate in Hayward. The first program is CaliforniaFIRST, which the City Council approved on January 5, 2010<sup>1</sup>. CaliforniaFIRST is sponsored by the California Statewide Communities Development Authority JPA. It launched its non-residential program in September 2012. It re-launched its residential program in August 2014, which had been on hold due to concerns from the Federal Housing Finance Agency. Because the City Council previously authorized CaliforniaFIRST to operate in Hayward, the residential program is now available to Hayward homeowners.

The City Council voted to join the Figtree PACE program on October 28, 2014<sup>2</sup>. Figtree Financing is sponsored by the California Enterprise Development Authority JPA. Figtree is a San Diego-based clean energy financing company that was founded in 2011. It currently only serves commercial properties. As recommended by the Council Sustainability Committee, the City Council limited Figtree's operating authority to commercial properties since Figtree has not yet set the terms for a potential residential program and there were concerns about consumer risks.

## DISCUSSION

### *The Growing Trend towards an Open Market for PACE*

As the market for PACE has grown and the fears of increased defaults have not been realized, more cities are considering offering multiple PACE programs to their property owners. The benefits include increased access to financing and expertise in different types of properties and improvements.

When the country's first PACE program launched in Berkeley in 2008, it was a new and untested financing mechanism. At that time, a handful of municipalities launched self-funded PACE programs. For example, Sonoma County created and continues to administer the Sonoma County Energy Independence Program (SCEIP).

Since then, over 30 states have passed PACE-enabling legislation and private financing companies have entered the market by partnering with joint powers authorities (JPA) to establish and finance PACE programs. Most jurisdictions in California, including Hayward, have chosen to join such

---

<sup>1</sup> <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/rp/2010/rp010510-07.pdf>

<sup>2</sup> <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2014/CCA14PDF/cca102814full.pdf>

JPAAs instead of administering their own programs. JPA sponsored PACE programs offer little risk to local jurisdictions because the JPA assumes the legal liability. Any bonds issued to finance projects are issued by the JPA, so the City has no obligation to the bonds.

When these JPA partnerships with private financing companies first became available several years ago, local jurisdictions were rightfully cautious and careful to vet each program to make sure it met their needs, and did not create excessive risk for their property owners. Some jurisdictions felt it was safest and easiest to authorize only one PACE program to operate in their boundaries.

Since then, the idea of an “open market” for PACE providers has become widely accepted as the route forward. Advocacy groups like PACENow have supported an open PACE market for years, claiming that having multiple programs operating in the same jurisdiction helps build a stronger industry landscape and provides property owners more choices. Following suit, most PACE providers now allow or actively encourage jurisdictions to authorize multiple programs.

For example, as mentioned above, Sonoma County chose to create its own PACE program, SCEIP, in 2009. Several months ago, Sonoma County authorized CaliforniaFIRST and HERO to operate alongside SCEIP under an initiative it is calling the PACE Financing Marketplace. In addition, cities throughout Sonoma County have authorized Figtree and Ygrene. A primary benefit of having multiple PACE programs is the increased access to financing for property owners. SCEIP has financed more than \$60 million in projects, but it only has \$17 million available for future improvements. The County has estimated it needs \$2 billion in home improvements to meet its greenhouse gas reduction target<sup>3</sup>.

#### *Different Programs, Different Expertise*

Each PACE program has developed specific expertise and enhanced customer support. Giving property owners the option of all programs allows the property owner to use the program that best meets their needs.

For example, Ygrene is the first and only PACE program to have completed multifamily housing projects. Earlier this year, California Governor Jerry Brown established a multifamily PACE pilot in partnership with the MacArthur Foundation and the U.S. Department of Housing and Urban Development. The Pilot will enable PACE financing for certain affordable multifamily properties that have received funding from HUD and the California Housing Finance Agency. Because Ygrene has experience with financing multifamily projects, it is well poised to provide financing for this pilot program.

In addition to helping meet greenhouse gas reduction goals, there is a growing interest in how PACE programs can help Californians respond to the drought. HERO has launched a marketing and outreach program specifically targeting water efficiency improvements to homeowners. Approximately 4% of HERO’s projects are now water-related, including outdoor landscaping options, weather based irrigation systems, rainwater catchment systems, and high-efficiency devices.

---

<sup>3</sup> <http://www.pressdemocrat.com/business/3939909-181/homeowners-face-dizzying-new-choices>

There is also growing interest in how PACE programs can help California prepare for an earthquake. Open PACE includes the provider Alliance NRG, which has expertise in using PACE for seismic upgrades and is the only PACE program to set aside funding specifically for this purpose. San Francisco and Berkeley recently partnered with Alliance NRG to be the finance provider for their Mandatory Retrofit Programs. Ygrene will also finance seismic retrofits.

Hayward's Development Services Department is in the preliminary stages of establishing a voluntary seismic retrofit program for single-family homes. The program will use a pre-approved set of seismic retrofitting plans that were created by the Association of Bay Area Government's Resilience Program<sup>4</sup>. The plan set saves the homeowner the cost of hiring an engineer and can be used for older homes that meet certain criteria. There are 16,000 homes in Hayward that were built before 1973 and would be potential candidates for such a retrofit. The cost of this type of retrofit is between two and ten thousand dollars. Access to 100% financing options like PACE will likely increase the uptake of this voluntary program.

#### *Balancing the Benefits of an Open PACE Market with Consumer Protection*

As with most financing mechanisms, PACE programs can present risks to consumers. As the governing body responsible for authorizing PACE programs, the City of Hayward must weigh these potential risks against the benefits of greater consumer choice and increased access to financing. Because of this, staff has reviewed the program terms for HERO, YGreene and Open PACE. A summary of each program is provided below and a comparison table is provided in Attachment IV.

With enough information, savvy property owners should be able to assess if PACE financing is a wise long-term investment for their particular circumstance. However, as we saw with the 2008 mortgage crisis, property owners don't always have the knowledge needed to make well-informed financing decisions and can fall prey to aggressive marketing tactics. Therefore, it is important that PACE programs include consumer protections and operates ethically.

PACE financing presents further complications for homeowners that have Fannie Mae or Freddie Mac mortgages or may want to sell in the future to a buyer that has a Fannie or Freddie mortgage. It's not prohibited for these homeowners to participate in the program, but they may be required to pay off the assessment first if they want to sell their home or refinance their mortgage. It is important that PACE programs fully inform homeowners of this potential risk before they enter into a PACE assessment.

Staff has been following the PACE market and has identified several trends that staff feels should mitigate consumer risk. First is the fact that the State of California and the Governor's Office are actively supporting the expansion of the PACE market as a tool to meet the State's climate goals. Governor Brown has tried on several occasions to convince the FHFA to change its position. While he has not succeeded, the FHFA has also chosen not to take enforcement action against participating jurisdictions or property owners as originally feared.

As mentioned above, the Governor signed legislation in 2013 to establish a PACE Loss Reserve to provide assurance to mortgage lenders. CaliforniaFIRST, Ygrene, Figtree and HERO are all

---

<sup>4</sup> <http://resilience.abag.ca.gov/residents/planset/>

participating in the Loss Reserve. PACE programs assert that the rate of foreclosure for their properties is lower than the national average. After a year of operation, the Loss Reserve has not yet received any claims, which supports this assertion.

The PACE Loss Reserve has also served the purpose of setting consumer protection standards for PACE programs statewide. In order to receive the benefits of the PACE Loss Reserve, PACE programs must first apply with the State and meet certain requirements. These requirements are included as Attachment V.

PACE Programs have learned from their experience over the past five years and have further refined their consumer protection mechanisms. For example, HERO now proactively identifies when one of their properties is going up for sale and offers training to the real estate agent on the assessment and the PACE improvements so potential buyers will be aware.

In light of these developments, staff feels that there are measures in place to mitigate consumer risks in the PACE market and that it is in the City's interest to pursue an open market model for PACE programs in Hayward. The City can further mitigate risks by providing consumer information on its website and offering financing workshops to interested property owners.

#### Home Energy Renovation Opportunity (HERO)

HERO launched in December 2011 for residential properties and December 2012 for commercial properties. Approximately 320 jurisdictions, covering 75% of the total households in California, have authorized HERO. It is sponsored by the Western Riverside Council of Governments. HERO has funded more than \$668 million in projects and has a list of one million eligible products for its contractors to offer.

#### Ygrene Energy Fund

Ygrene launched in 2010 for residential, commercial, industrial, and agricultural properties. It operates under SB 555. Approximately 50 jurisdictions have authorized the program, which is sponsored by the Golden State Finance Authority (GSFA). Ygrene was launched by SCEIP cofounder Dennis Hunter, who realized the need for a more efficient administrative and financial PACE model. Ygrene claims that its financing is 100% tax deductible because it operates under SB 555 rather than AB 811. However, there is potential consumer liability involved with this deduction because there is no IRS code pertaining to PACE financing under SB 555.

#### Open PACE

Open PACE launched in 2015 and operates under AB 811. Approximately 20 jurisdictions have authorized the program since its recent launch. It is sponsored by the California Statewide Communities Development Authority (CSCDA). CSCDA founded Open PACE with the goal of creating a platform to vet and pre-qualify PACE providers so that local governments only need to pass a single resolution to authorize multiple programs. Currently, Open PACE has only pre-qualified two PACE programs – California FIRST and AllianceNRG.

#### In Case of Default

PACE assessments are collected in the same manner as general property taxes and are subject to the same penalties and remedies in the event of delinquency and default. These remedies include fines

and fees as well as judicial foreclosure. Judicial foreclosure is included as a remedy in the Improvement Act of 1911 and the Mello-Roos Community Facilities Act of 1982 to provide security for bondholders.

Judicial foreclosures generally provide more protection for the property owner than non-judicial foreclosures because they require the lender to file a lawsuit and they involve a judge. Most foreclosures in California are non-judicial, also called trustee sales. The process of a trustee sale takes approximately four months<sup>5</sup>. Judicial foreclosures are rare in California. They are typically used when no power of sale is present in the contract, in which case the court declares a foreclosure and the home is auctioned off to pay back the financier. The homeowner has the “right of redemption” under judicial foreclosure, which allows him or her to buy the home back for one year after the sale. Timelines for judicial foreclosures vary because they involve the court system. A judicial foreclosure with redemption may take approximately two and a half years.

Although PACE programs have the authority to institute judicial foreclosure proceedings under PACE legislation, some programs have the internal policy not to use this remedy when others are available. For example, Alliance NRG defers to the relevant County’s tax delinquency policies, which tend to provide more opportunities for tax redemption. HERO, Ygrene and Open PACE programs listed above have not initiated a single foreclosure since they began operations.

## **ECONOMIC IMPACT**

The HERO, YGreene, and Open PACE programs have similar potential benefits to property owners as CaliforniaFIRST and Figtree PACE. They provide an alternative method for owners to finance improvements and to realize the energy and water cost savings related to them. If Hayward experiences high participation in PACE programs, local green jobs may be created to complete these energy, water, and seismic improvements.

The primary benefit of allowing an open PACE market in Hayward is to increase the total amount of financing available to Hayward property owners for improvements. However, it is unclear how much demand there is from Hayward property owners for additional financing. So far, there have only been two PACE projects in Hayward. Both were commercial projects financed by CaliforniaFIRST.

As mentioned above, there are also potential economic risks to property owners if they are unable to pay their PACE assessment, including foreclosure. However, this has not been the experience of PACE programs up to this point and staff feels that the risk is low. On the contrary, most PACE programs claim that the default rates of their property owners are lower than nationwide averages.

## **FISCAL IMPACT**

Participation in PACE programs does not impact the General Fund or any City funds. PACE programs use private sector capital to provide property owners with funding. Joining the HERO, Ygrene and Open PACE programs will not expose the City to financial or other liability.

---

<sup>5</sup> <http://www.car.org/legal/foreclosure-short-sale-folder/foreclosure-timeline-pdf-1/>

## NEXT STEPS

To join the HERO PACE program, Council needs to adopt a resolution to include properties within Hayward in the California HERO Program and to authorize the City Manager to execute an agreement to join the Western Riverside Council of Governments. The resolution is Attachment I and the agreement is Attachment Ia.

To join the Ygrene PACE program, Council needs to adopt a resolution to include properties within Hayward in the California Home Finance Authority (CHFA) PACE program and to authorize the City Manager to execute an agreement to join CHFA. The resolution is Attachment II and the agreement is Attachment IIa.

To join Open PACE, Council needs to adopt a resolution to include properties within Hayward in the California Statewide Communities Development Authority (CSCDA) Open PACE Programs. Hayward is already a member of CSCDA. The resolution is Attachment III.

Upon Council's adoption of the attached resolutions, staff will execute the agreements and work with each PACE provider to ensure that the three programs are available to Hayward property owners. In addition, staff will devote time in the coming year to providing further information on the City's website about the terms of each PACE program and to hosting a financing workshop for property owners interested in PACE financing.

*Prepared by:* Mary Thomas, Administrative Analyst

*Recommended by:* Alex Ameri, Director of Utilities & Environmental Services

*Approved by:*



---

Fran David, City Manager

### Attachments:

Attachment I	Resolution to join the HERO PACE Program
Attachment Ia	Agreement to join the Western Riverside Council of Governments
Attachment II	Resolution to join the Ygrene PACE Program
Attachment IIa	Agreement to join California Home Finance Authority
Attachment III	Resolution to join the Open PACE Programs
Attachment IV	PACE Program Comparison Table
Attachment V	Requirements to Participate in the PACE Loss Reserve Program



RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD, CALIFORNIA, CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE CITY’S JURISDICTION IN THE CALIFORNIA HERO PROGRAM TO FINANCE DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES, ENERGY AND WATER EFFICIENCY IMPROVEMENTS AND ELECTRIC VEHICLE CHARGING INFRASTRUCTURE AND APPROVING THE AMENDMENT TO A CERTAIN JOINT POWERS AGREEMENT RELATED THERETO

WHEREAS, the Western Riverside Council of Governments (“Authority”) is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the “Act”) and the Joint Power Agreement entered into on April 1, 1991, as amended from time to time (the “Authority JPA”); and

WHEREAS, Authority intends to establish the California HERO Program to provide for the financing of renewable energy distributed generation sources, energy and water efficiency improvements and electric vehicle charging infrastructure (the “Improvements”) pursuant to Chapter 29 of the Improvement Bond Act of 1911, being 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, City of Hayward (the “City”) is committed to development of renewable energy sources and energy efficiency improvements, reduction of greenhouse gases, protection of our environment, and reversal of climate change; and

WHEREAS, in 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, installation of such Improvements by property owners within the jurisdictional boundaries of the counties and cities that are participating in the California HERO Program would promote the purposes cited above; and

WHEREAS, the City wishes to provide innovative solutions to its property owners to achieve energy and water efficiency and independence, and in doing so cooperate with Authority in order to efficiently and economically assist property owners the City in financing such Improvements; and

WHEREAS, Authority has authority to establish the California HERO Program, which will be such a voluntary contractual assessment program, as permitted by the Act, the Authority JPA, originally made and entered into April 1, 1991, as amended to date, and the Amendment to Joint Powers Agreement Adding the City of Hayward as an Associate Member of the Western Riverside Council of Governments to Permit the Provision of Property Assessed Clean Energy (PACE) Program Services within the City (the “JPA Amendment”), by and between Authority and the City, a copy of which is attached as Exhibit “A” hereto, to assist property owners within the incorporated area of the City in financing the cost of installing Improvements; and

WHEREAS, the City 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 California HERO Program.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. This City Council finds and declares that properties in the City’s incorporated area will be benefited by the availability of the California HERO Program to finance the installation of Improvements.

2. This City Council consents to inclusion in the California HERO Program of all of the properties in the incorporated area within the City and to the Improvements, upon the request by and voluntary agreement of owners of such properties, in compliance with the laws, rules and regulations applicable to such program; and to the assumption of jurisdiction thereover by Authority for the purposes thereof.

3. The consent of this City Council constitutes assent to the assumption of jurisdiction by Authority for all purposes of the California HERO Program and authorizes Authority, upon satisfaction of the conditions imposed in this resolution, to take each and every step required for or suitable for financing the Improvements, including the levying, collecting and enforcement of the contractual assessments to finance the Improvements and the issuance and enforcement of bonds to represent and be secured by such contractual assessments.

4. This City Council hereby approves the JPA Amendment and authorizes the execution thereof by appropriate City officials.

5. City staff is authorized and directed to coordinate with Authority staff to facilitate operation of the California HERO Program within the City, and report back periodically to this City Council on the success of such program.

6. This Resolution shall take effect immediately upon its adoption. The City Clerk is directed to send a certified copy of this resolution to the Secretary of the Authority Executive Committee.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2010

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

**AMENDMENT TO THE JOINT POWERS AGREEMENT  
ADDING CITY OF HAYWARD AS  
AS AN ASSOCIATE MEMBER OF THE  
WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS  
TO PERMIT THE PROVISION OF PROPERTY ASSESSED CLEAN  
ENERGY (PACE) PROGRAM SERVICES WITH SUCH CITY**

This Amendment to the Joint Powers Agreement (“JPA Amendment”) is made and entered into on the \_\_\_ day of \_\_\_\_\_, 2015, by City of Hayward (“City”) and the Western Riverside Council of Governments (“Authority”) (collectively the “Parties”).

RECITALS

WHEREAS, Authority is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the “Joint Exercise of Powers Act”) and the Joint Power Agreement entered into on April 1, 1991, as amended from time to time (the “Authority JPA”); and

WHEREAS, as of October 1, 2012, Authority had 18 member entities (the “Regular Members”).

WHEREAS, Chapter 29 of the Improvement Act of 1911, being Division 7 of the California Streets and Highways Code (“Chapter 29”) authorizes cities, counties, and cities and counties to establish voluntary contractual assessment programs, commonly referred to as a Property Assessed Clean Energy (“PACE”) program, to fund certain renewable energy sources, energy and water efficiency improvements, and electric vehicle charging infrastructure (the “Improvements”) that are permanently fixed to residential, commercial, industrial, agricultural or other real property; and

WHEREAS, Authority intends to establish a PACE program to be known as the “California HERO Program” pursuant to Chapter 29 as now enacted or as such legislation may be amended hereafter, which will authorize the implementation of a PACE financing program for cities and county throughout the state; and

WHEREAS, City desires to allow owners of property within its jurisdiction to participate in the California HERO Program and to allow Authority to conduct proceedings under Chapter 29 to finance Improvements to be installed on such properties; and

WHEREAS, this JPA Amendment will permit City to become an Associate Member of Authority and to participate in California HERO Program for the purpose of facilitating the implementation of such program within the jurisdiction of City; and

WHEREAS, pursuant to the Joint Exercise of Powers Act, the Parties are approving this JPA Agreement to allow for the provision of PACE services, including the operation of a PACE financing program, within the incorporated territory of City; and

WHEREAS, the JPA Amendment sets forth the rights, obligations and duties of City and Authority with respect to the implementation of the California HERO Program within the incorporated territory of City.

**MUTUAL UNDERSTANDINGS**

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions hereinafter stated, the Parties hereto agree as follows:

**A. JPA Amendment.**

1. The Authority JPA. City agrees to the terms and conditions of the Authority JPA, attached.
2. Associate Membership. By adoption of this JPA Amendment, City shall become an Associate Member of Authority on the terms and conditions set forth herein and the Authority JPA and consistent with the requirements of the Joint Exercise of Powers Act. The rights and obligations of City as an Associate Member are limited solely to those terms and conditions expressly set forth in this JPA Amendment for the purposes of implementing the California HERO Program within the incorporated territory of City. Except as expressly provided

for by the this JPA Amendment, City shall not have any rights otherwise granted to Authority's Regular Members by the Authority JPA, including but not limited to the right to vote on matters before the Executive Committee or the General Assembly, the right to amend or vote on amendments to the Authority JPA, and the right to sit on committees or boards established under the Authority JPA or by action of the Executive Committee or the General Assembly, including, without limitation, the General Assembly and the Executive Committee. City shall not be considered a member for purposes of Section 9.1 of the Authority JPA.

3. Rights of Authority. This JPA Amendment shall not be interpreted as limiting or restricting the rights of Authority under the Authority JPA. Nothing in this JPA Amendment is intended to alter or modify Authority Transportation Uniform Mitigation Fee (TUMF) Program, the PACE Program administered by Authority within the jurisdictions of its Regular Members, or any other programs administered now or in the future by Authority, all as currently structured or subsequently amended.

#### **B. Implementation of California HERO Program within City Jurisdiction.**

1. Boundaries of the California HERO Program within City Jurisdiction. City shall determine and notify Authority of the boundaries of the incorporated territory within City's jurisdiction within which contractual assessments may be entered into under the California HERO Program (the "Program Boundaries"), which boundaries may include the entire incorporated territory of City or a lesser portion thereof.

2. Determination of Eligible Improvements. Authority shall determine the types of distributed generation renewable energy sources, energy efficiency or water conservation improvements, electric vehicle charging infrastructure or such other improvements as may be authorized pursuant to Chapter 29 (the "Eligible Improvements") that will be eligible to be financed under the California HERO Program.

3. Establishment of California HERO Program. Authority will undertake such proceedings pursuant to Chapter 29 as shall be legally necessary to enable Authority to make contractual financing of Eligible Improvements available to eligible property owners within the Program Boundaries.

4. Financing the Installation of Eligible Improvements. Authority shall develop and implement a plan for the financing of the purchase and installation of the Eligible Improvements under the California HERO Program.

5. Ongoing Administration. Authority shall be responsible for the ongoing administration of the California HERO Program, including but not limited to producing education plans to raise public awareness of the California HERO Program, soliciting, reviewing and approving applications from residential and commercial property owners participating in the California HERO Program, establishing contracts for residential, commercial and other property owners participating in such program, establishing and collecting assessments due under the California HERO Program, adopting and implementing any rules or regulations for the California HERO Program, and providing reports as required by Chapter 29.

City will not be responsible for the conduct of any proceedings required to be taken under Chapter 29; 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 any bonds issued in connection with the California HERO Program.

6. Phased Implementation. The Parties recognize and agree that implementation of the California HERO Program as a whole can and may be phased as additional other cities and counties execute similar agreements. City entering into this JPA Amendment will obtain the benefits of and incur the obligations imposed by this JPA Amendment in its jurisdictional area, irrespective of whether cities or counties enter into similar agreements.

#### **C. Miscellaneous Provisions.**

1. Withdrawal. City or Authority may withdraw from this JPA Amendment upon six (6) months written notice to the other party; provided, however, there is no outstanding indebtedness of Authority within City. The provisions of Section 6.2 of the Authority JPA shall not apply to City under this JPA Amendment. City may

withdraw approval for conduct of the HERO Program within the jurisdictional limits of City upon thirty (30) written notice to WRCOG without liability to the Authority or any affiliated entity. City withdrawal shall not affect the validity of any voluntary assessment contracts (a) entered prior to the date of such withdrawal or (b) entered into after the date of such withdrawal so long as the applications for such voluntary assessment contracts were submitted to and approved by WRCOG prior to the date of City's notice of withdrawal.

2. Mutual Indemnification and Liability. Authority and City shall mutually defend, indemnify and hold the other party and its directors, officials, officers, employees and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of the willful misconduct or negligent acts, errors or omissions of the indemnifying party or its directors, officials, officers, employees and agents in connection with the California HERO Program administered under this JPA Amendment, including without limitation the payment of expert witness fees and attorney's fees and other related costs and expenses, but excluding payment of consequential damages. Without limiting the foregoing, Section 5.2 of the Authority JPA shall not apply to this JPA Amendment. In no event shall any of Authority's Regular Members or their officials, officers or employees be held directly liable for any damages or liability resulting out of this JPA Amendment.

3. Environmental Review. Authority shall be the lead agency under the California Environmental Quality Act for any environmental review that may require in implementing or administering the California HERO Program under this JPA Amendment.

4. Cooperative Effort. City shall cooperate with Authority by providing information and other assistance in order for Authority to meet its obligations hereunder. City recognizes that one of its responsibilities related to the California HERO Program will include any permitting or inspection requirements as established by City.

5. Notice. Any and all communications and/or notices in connection with this JPA Amendment shall be either hand-delivered or sent by United States first class mail, postage prepaid, and addressed as follows:

Authority:

Western Riverside Council of Governments  
4080 Lemon Street, 3rd Floor. MS1032  
Riverside, CA 92501-3609  
Attn: Executive Director

City:

City of Hayward  
777 B Street  
Hayward, CA 94541  
Attn: Environmental Services Manager

6. Entire Agreement. This JPA Amendment, together with the Authority JPA, constitutes the entire agreement among the Parties pertaining to the subject matter hereof. This JPA Amendment supersedes any and all other agreements, either oral or in writing, among the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by the other Party or anyone acting on behalf of the other Party that is not embodied herein.

7. Successors and Assigns. This JPA Amendment and each of its covenants and conditions shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns. A Party may only assign or transfer its rights and obligations under this JPA Amendment with prior written approval of the other Party, which approval shall not be unreasonably withheld.

8. Attorney's Fees. If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, each Party to the litigation shall bear its own attorney's fees and costs.

9. Governing Law. This JPA Amendment shall be governed by and construed in accordance with the laws of the State of California, as applicable.

10. No Third Party Beneficiaries. This JPA Amendment shall not create any right or interest in the public, or any member thereof, as a third party beneficiary hereof, nor shall it authorize anyone not a Party to this JPA Amendment to maintain a suit for personal injuries or property damages under the provisions of this JPA Amendment. The duties, obligations, and responsibilities of the Parties to this JPA Amendment with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

11. Severability. In the event one or more of the provisions contained in this JPA Amendment is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this JPA Amendment and the remaining parts of this JPA Amendment shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this JPA Amendment.

12. Headings. The paragraph headings used in this JPA Amendment are for the convenience of the Parties and are not intended to be used as an aid to interpretation.

13. Amendment. This JPA Amendment may be modified or amended by the Parties at any time. Such modifications or amendments must be mutually agreed upon and executed in writing by both Parties. Verbal modifications or amendments to this JPA Amendment shall be of no effect.

14. Effective Date. This JPA Amendment shall become effective upon the execution thereof by the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this JPA Amendment to be executed and attested by their officers thereunto duly authorized as of the date first above written.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

By: \_\_\_\_\_  
Executive Committee Chair  
Western Riverside Council of Governments

Date: \_\_\_\_\_

CITY OF HAYWARD

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

Date: \_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD, CALIFORNIA, CONSENTING TO INCLUSION OF PROPERTIES WITHIN THE CITY’S JURISDICTION IN THE CALIFORNIA HOME FINANCE AUTHORITY, PROGRAM TO FINANCE RENEWABLE ENERGY GENERATION, ENERGY AND WATER EFFICIENCY IMPROVEMENTS AND ELECTRIC VEHICLE CHARGING INFRASTRUCTURE AND APPROVING ASSOCIATE MEMBERSHIP IN THE JOINT EXERCISE OF POWERS AUTHORITY RELATED THERETO

WHEREAS, the California Home Finance Authority (“Authority”) is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the “Act”) and the Joint Power Agreement entered into on July 1, 1993, as amended from time to time (the “Authority JPA”); and

WHEREAS, the Authority is in the process of amending the Authority JPA to formally change its name to the Golden State Finance Authority; and

WHEREAS, Authority has established a property-assessed clean energy (“PACE”) Program (the “Authority PACE Program”) to provide for the financing of renewable energy generation, energy and water efficiency improvements and electric vehicle charging infrastructure (the “Improvements”) pursuant to Chapter 29 of the Improvement Bond Act of 1911, being 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, City of Hayward (the “City”) is committed to development of renewable energy generation and energy and water efficiency improvements, reduction of greenhouse gases, and protection of the environment; and

WHEREAS, in 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, installation of such Improvements by property owners within the jurisdictional boundaries of the counties and cities that are participating in the Authority PACE Program would promote the purposes cited above; and

WHEREAS, the City wishes to provide innovative solutions to its property owners to achieve energy and water efficiency, and in doing so cooperate with Authority in order to efficiently and economically assist property owners within the City in financing such Improvements; and

WHEREAS, Authority has established the Authority PACE Program, which is such a voluntary contractual assessment program, as permitted by the Act, the Authority JPA, originally made and entered into July 1, 1993, as amended to date, and the City, desires to become an Associate Member of the JPA by execution of the JPA Agreement, a copy of which is attached

as Exhibit "A" hereto, to participate in the programs of the JPA and to assist property owners within the jurisdiction of the City in financing the cost of installing Improvements; and

WHEREAS, the City 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 Authority PACE Program.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. This City Council finds and declares that properties in the City's incorporated area will be benefited by the availability of the Authority PACE Program to finance the installation of the Improvements.

2. This City Council consents to inclusion in the Authority PACE Program of all of the properties in the jurisdictional boundaries of the City and to the Improvements, upon the request by and voluntary agreement of owners of such properties, in compliance with the laws, rules and regulations applicable to such program; and to the assumption of jurisdiction thereover by Authority for the purposes thereof.

3. The consent of this City Council constitutes assent to the assumption of jurisdiction by Authority for all purposes of the Authority PACE Program and authorizes Authority, upon satisfaction of the conditions imposed in this resolution, to take each and every step required for or suitable for financing the Improvements, including the levying, collecting and enforcement of the contractual assessments to finance the Improvements and the issuance and enforcement of bonds to represent such contractual assessments.

4. This City Council hereby approves joining the JPA as an Associate Member and authorizes the execution by appropriate City officials of any necessary documents to effectuate such membership.

5. City staff is authorized and directed to coordinate with Authority staff to facilitate operation of the Authority PACE Program within the City, and report back periodically to this City Council on the success of such program.

6. This Resolution shall take effect immediately upon its adoption. The City Clerk is directed to send a certified copy of this resolution to the Secretary of the Authority.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2010

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:



ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

**CALIFORNIA HOME FINANCE AUTHORITY**

**AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT**

(Original date July 1, 1993 and as last amended and restated December 10, 2014)

THIS AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT ("Agreement") is entered into by and among the counties listed on Attachment 1 hereof and incorporated herein by reference. All such counties are referred to herein as "Members" with the respective powers, privileges and restrictions provided herein.

**RECITALS**

A. WHEREAS, the California Rural Home Mortgage Finance Authority ("CRHMFA") was created by a Joint Exercise of Powers Agreement dated July 1, 1993 pursuant to the Joint Exercise of Powers Act (commencing with Article 1 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"). By Resolution 2003-02, adopted on January 15, 2003, the name of the authority was changed to CRHMFA Homebuyers Fund. The most recent amendment to the Joint Exercise of Powers Agreement was on January 28, 2004.

B. WHEREAS, the Members of CRHMFA Homebuyers Fund desire to update, reaffirm, clarify and revise certain provisions of the joint powers agreement, including the renaming of the joint powers authority, as set forth herein.

C. WHEREAS, the Members are each empowered by law to finance the construction, acquisition, improvement and rehabilitation of real property.

D. WHEREAS, by this Agreement, the Members desire to create and establish a joint powers authority to exercise their respective powers for the purpose of financing the construction, acquisition, improvement and rehabilitation of real property within the jurisdiction of the Authority as authorized by the Act.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Members individually and collectively agree as follows:

1. Definitions

Unless the context otherwise requires, the following terms shall for purposes of this Agreement have the meanings specified below:

"Act" means the Joint Exercise of Powers Act, commencing with Article 1 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, including the Marks-Roos Local Bond Pooling Act of 1985, as amended.

"Agreement" means this Joint Exercise of Powers Agreement, as the same now exists or as it may from time to time be amended as provided herein.

**"Associate Member"** means a county, city or other public agency which is not a voting member of the Rural County Representatives of California, a California nonprofit corporation ("RCRC"), with legal power and authority similar to that of the Members, admitted pursuant to paragraph 4.d. below to associate membership herein by vote of the Board.

**"Audit Committee"** means a committee made up of the nine-member Executive Committee.

**"Authority"** means California Home Finance Authority ("CHF"), formerly known as CRHMFA Homebuyers Fund or California Rural Home Mortgage Finance Authority.

**"Board"** means the governing board of the Authority as described in Section 7 below.

**"Bonds"** means bonds, notes, warrants, leases, certificates of participation, installment purchase agreements, loan agreements and other securities or obligations issued by the Authority, or financing agreements entered into by the Authority pursuant to the Act and any other obligation within the meaning of the term "Bonds" under the Act.

**"Delegate"** means the Supervisor designated by the governing board of each Member to serve on the Board of the Authority.

**"Executive Committee"** means the nine-member Executive Committee of the Board established pursuant to Section 10 hereof.

**"Member"** means any county which is a member of RCRC, has executed this Agreement and has become a member of the Authority.

**"Obligations"** means bonds, notes, warrants, leases, certificates of participation, installment purchase agreements, loan agreements and other securities or obligations issued by the Authority, or financing agreements entered into by the Authority pursuant to the Act and any other financial or legal obligation of the Authority under the Act.

**"Program" or "Project"** means any work, improvement, program, project or service undertaken by the Authority.

**"Rural County Representatives of California" or "RCRC"** means the nonprofit entity incorporated under that name in the State of California.

**"Supervisor"** means an elected County Supervisor from an RCRC member county.

## 2. Purpose

The purpose of the Authority is to provide financing for the acquisition, construction, , improvement and rehabilitation of real property in accordance with applicable provisions of law for the benefit of residents and communities. In pursuit of this purpose, this Agreement provides for the joint exercise of powers common to any of its Members and Associate Members as provided herein, or otherwise authorized by the Act and other applicable laws, including assisting

in financing as authorized herein, jointly exercised in the manner set forth herein.

### **3. Principal Place of Business**

The principal office of the Authority shall be 1215 K Street, Suite 1650, Sacramento, California 95814.

### **4. Creation of Authority; Addition of Members or Associate Members**

a. The Authority is hereby created pursuant to the Act. As provided in the Act, the Authority shall be a public entity separate and distinct from the Members or Associate Members.

b. The Authority will cause a notice of this Agreement or any amendment hereto to be prepared and filed with the office of the Secretary of State of California in a timely fashion in the manner set forth in Section 6503.3 of the Act.

c. A county that is a member of RCRC may petition to become a member of the Authority by submitting to the Board a resolution or evidence of other formal action taken by its governing body adopting this Agreement. The Board shall review the petition for membership and shall vote to approve or disapprove the petition. If the petition is approved by a majority of the Board, such county shall immediately become a Member of the Authority.

d. An Associate Member may be added to the Authority upon the affirmative approval of its respective governing board and pursuant to action by the Authority Board upon such terms and conditions, and with such rights, privileges and responsibilities, as may be established from time to time by the Board. Such terms and conditions, and rights, privileges and responsibilities may vary among the Associate Members. Associate Members shall be entitled to participate in one or more programs of the Authority as determined by the Board, but shall not be voting members of the Board. The Executive Director of the Authority shall enforce the terms and conditions for prospective Associate Members to the Authority as provided by resolution of the Board and as amended from time to time by the Board. Changes in the terms and conditions for Associate Membership by the Board will not constitute an amendment of this Agreement.

### **5. Term and Termination of Powers**

This Agreement shall become effective from the date hereof until the earlier of the time when all Bonds and any interest thereon shall have been paid in full, or provision for such payment shall have been made, or when the Authority shall no longer own or hold any interest in a public capital improvement or program. The Authority shall continue to exercise the powers herein conferred upon it until termination of this Agreement, except that if any Bonds are issued and delivered, in no event shall the exercise of the powers herein granted be terminated until all Bonds so issued and delivered and the interest thereon shall have been paid or provision for such payment shall have been made and any other debt incurred with respect to any other financing program established or administered by the Authority has been repaid in full and is no longer outstanding.

### **6. Powers; Restriction upon Exercise**

a. To effectuate its purpose, the Authority shall have the power to exercise any and all powers of the Members or of a joint powers authority under the Act and other applicable provisions of law, subject, however, to the conditions and restrictions herein contained. Each Member or Associate Member may also separately exercise any and all such powers. The powers of the Authority are limited to those of a general law county.

b. The Authority may adopt, from time to time, such resolutions, guidelines, rules and regulations for the conduct of its meetings and the activities of the Authority as it deems necessary or desirable to accomplish its purpose.

c. The Authority shall have the power to finance the construction, acquisition, improvement and rehabilitation of real property, including the power to purchase, with the amounts received or to be received by it pursuant to a bond purchase agreement, bonds issued by any of its Members or Associate Members and other local agencies at public or negotiated sale, for the purpose set forth herein and in accordance with the Act. All or any part of such bonds so purchased may be held by the Authority or resold to public or private purchasers at public or negotiated sale. The Authority shall set any other terms and conditions of any purchase or sale contemplated herein as it deems necessary or convenient and in furtherance of the Act. The Authority may issue or cause to be issued Bonds or other indebtedness, and pledge any of its property or revenues as security to the extent permitted by resolution of the Board under any applicable provision of law. The Authority may issue Bonds in accordance with the Act in order to raise funds necessary to effectuate its purpose hereunder and may enter into agreements to secure such Bonds. The Authority may issue other forms of indebtedness authorized by the Act, and to secure such debt, to further such purpose. The Authority may utilize other forms of capital, including, but not limited to, the Authority's internal resources, capital markets and other forms of private capital investment authorized by the Act..

d. The Authority is hereby authorized to do all acts necessary for the exercise of its powers, including, but not limited to:

- (1) executing contracts,
- (2) employing agents, consultants and employees,
- (3) acquiring, constructing or providing for maintenance and operation of any building, work or improvement,
- (4) acquiring, holding or disposing of real or personal property wherever located, including property subject to mortgage,
- (5) incurring debts, liabilities or obligations,
- (6) receiving gifts, contributions and donations of property, funds, services and any other forms of assistance from persons, firms, corporations or governmental entities,
- (7) suing and being sued in its own name, and litigating or settling any suits or claims,
- (8) doing any and all things necessary or convenient to the exercise of its specific powers and to accomplishing its purpose
- (9) establishing and/or administering districts to finance and refinance the acquisition, installation and improvement of energy efficiency, water

conservation and renewable energy improvements to or on real property and in buildings. The Authority may enter into one or more agreements, including without limitation, participation agreements and implementation agreements to implement such programs.

e. Subject to the applicable provisions of any indenture or resolution providing for the investment of monies held thereunder, the Authority shall have the power to invest any of its funds as the Board deems advisable, in the same manner and upon the same conditions as local agencies pursuant to Section 53601 of the Government Code of the State of California.

f. All property, equipment, supplies, funds and records of the Authority shall be owned by the Authority, except as may be provided otherwise herein or by resolution of the Board.

g. Pursuant to the provisions of Section 6508.1 of the Act, the debts, liabilities and obligations of the Authority shall not be debts, liabilities and obligations of the Members or Associate Members. Any Bonds, together with any interest and premium thereon, shall not constitute debts, liabilities or obligations of any Member. The Members or Associate Members hereby agree that any such Bonds issued by the Authority shall not constitute general obligations of the Authority but shall be payable solely from the moneys pledged to the repayment of principal or interest on such Bonds under the terms of the resolution, indenture, trust, agreement or other instrument pursuant to which such Bonds are issued. Neither the Members or Associate Members nor the Authority shall be obligated to pay the principal of or premium, if any, or interest on the Bonds, or other costs incidental thereto, except from the revenues and funds pledged therefor, and neither the faith and credit nor the taxing power of the Members or Associate Members or the Authority shall be pledged to the payment of the principal of or premium, if any, or interest on the Bonds, nor shall the Members or Associate Members of the Authority be obligated in any manner to make any appropriation for such payment. No covenant or agreement contained in any Bond shall be deemed to be a covenant or agreement of any Delegate, or any officer, agent or employee of the Authority in an individual capacity, and neither the Board nor any officer thereof executing the Bonds or any document related thereto shall be liable personally on any Bond or be subject to any personal liability or accountability by reason of the issuance of any Bonds.

## **7. Governing Board**

a. The Board shall consist of the number of Delegates equal to one representative from each Member.

b. The governing body of each Member shall appoint one of its Supervisors to serve as a Delegate on the Board. A Member's appointment of its Delegate shall be delivered in writing (which may be by electronic mail) to the Authority and shall be effective until he or she is replaced by such governing body or no longer a Supervisor; any vacancy shall be filled by the governing body of the Member in the same manner provided in this paragraph b..

c. The governing body of each Member of the Board shall appoint a Supervisor as an alternate to serve on the Board in the absence of the Delegate; the alternate may exercise all the

rights and privileges of the Delegate, including the right to be counted in constituting a quorum, to participate in the proceedings of the Board, and to vote upon any and all matters. No alternate may have more than one vote at any meeting of the Board, and any Member's designation of an alternate shall be delivered in writing (which may be by electronic mail) to the Authority and shall be effective until such alternate is replaced by his or her governing body or is no longer a Supervisor, unless otherwise specified in such appointment. Any vacancy shall be filled by the governing body of the Member in the same manner provided in this paragraph c..

d. Any person who is not a member of the governing body of a Member and who attends a meeting on behalf of such Member may not vote or be counted toward a quorum but may, at the discretion of the Chair, participate in open meetings he or she attends.

e. Each Associate Member may designate a non-voting representative to the Board who may not be counted toward a quorum but who may attend open meetings, propose agenda items and otherwise participate in Board Meetings.

f. Delegates shall not receive compensation for serving as Delegates, but may claim and receive reimbursement for expenses actually incurred in connection with such service pursuant to rules approved by the Board and subject to the availability of funds.

g. The Board shall have the power, by resolution, to the extent permitted by the Act or any other applicable law, to exercise any powers of the Authority and to delegate any of its functions to the Executive Committee or one or more Delegates, officers or agents of the Authority, and to cause any authorized Delegate, officer or agent to take any actions and execute any documents for and in the name and on behalf of the Board or the Authority.

h. The Board may establish such committees as it deems necessary for any lawful purpose; such committees are advisory only and may not act or purport to act on behalf of the Board or the Authority.

i. The Board shall develop, or cause to be developed, and review, modify as necessary, and adopt each Program.

## **8. Meetings of the Board**

a. The Board shall meet at least once annually, but may meet more frequently upon call of any officer or as provided by resolution of the Board.

b. Meetings of the Board shall be called, noticed, held and conducted pursuant to the provisions of the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part I of Division 2 of Title 5 of the Government Code of the State of California.

c. The Secretary of the Authority shall cause minutes of all meetings of the Board to be taken and distributed to each Member as soon as possible after each meeting.

d. The lesser of twelve (12) Delegates or a majority of the number of current Delegates shall constitute a quorum for transacting business at any meeting of the Board, except

that less than a quorum may act to adjourn a meeting. Each Delegate shall have one vote.

e. Meetings may be held at any location designated in notice properly given for a meeting and may be conducted by telephonic or similar means in any manner otherwise allowed by law.

## 9. Officers; Duties; Official Bonds

a. The Board shall elect a chair and vice chair from among the Delegates at the Board's annual meeting who shall serve a term of one (1) year or until their respective successor is elected. The chair shall conduct the meetings of the Board and perform such other duties as may be specified by resolution of the Board. The vice chair shall perform such duties in the absence or in the event of the unavailability of the chair.

b. The Board shall contract annually with RCRC to administer the Agreement and to provide administrative services to the Authority, and the President and Chief Executive Officer of RCRC shall serve *ex officio* as Executive Director, Secretary, Treasurer, and Auditor of the Authority. As chief executive of the Authority, the Executive Director is authorized to execute contracts and other obligations of the Authority, unless prior Board approval is required by a third party, by law or by Board specification, and to perform other duties specified by the Board. The Executive Director may appoint such other officers as may be required for the orderly conduct of the Authority's business and affairs who shall serve at the pleasure of the Executive Director. Subject to the applicable provisions of any indenture or resolution providing for a trustee or other fiscal agent, the Executive Director, as Treasurer, is designated as the custodian of the Authority's funds, from whatever source, and, as such, shall have the powers, duties and responsibilities specified in Section 6505.5 of the Act. The Executive Director, as Auditor, shall have the powers, duties and responsibilities specified in Section 6505.5 of the Act.

c. The Legislative Advocate for the Authority shall be the Rural County Representatives of California.

d. The Treasurer and Auditor are public officers who have charge of, handle, or have access to all property of the Authority, and a bond for such officer in the amount of at least one hundred thousand dollars (\$100,000.00) shall be obtained at the expense of the Authority and filed with the Executive Director. Such bond may secure the faithful performance of such officer's duties with respect to another public office if such bond in at least the same amount specifically mentions the office of the Authority as required herein. The Treasurer and Auditor shall cause periodic independent audits to be made of the Authority's books by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act.

e. The business of the Authority shall be conducted under the supervision of the Executive Director by RCRC personnel.

## 10. Executive Committee of the Authority

a. Composition



The Authority shall appoint nine (9) members of its Board to serve on an Executive Committee.

b. Powers and Limitations

The Executive Committee shall act in an advisory capacity and make recommendations to the Authority Board. Duties will include, but not be limited to, review of the quarterly and annual budgets, service as the Audit Committee for the Authority, periodically review this Agreement; and complete any other tasks as may be assigned by the Board. The Executive Committee shall be subject to all limitations imposed by this Agreement, other applicable law, and resolutions of the Board.

c. Quorum

A majority of the Executive Committee shall constitute a quorum for transacting business of the Executive Committee.

**11. Disposition of Assets**

Upon termination of this Agreement, all remaining assets and liabilities of the Authority shall be distributed to the respective Members in such manner as shall be determined by the Board and in accordance with the law.

**12. Agreement Not Exclusive; Operation in Jurisdiction of Member**

This Agreement shall not be exclusive, and each Member expressly reserves its rights to carry out other public capital improvements and programs as provided for by law and to issue other obligations for those purposes. This Agreement shall not be deemed to amend or alter the terms of other agreements among the Members or Associate Members.

**13. Conflict of Interest Code**

The Authority shall by resolution adopt a Conflict of Interest Code as required by law.

**14. Contributions and Advances**

Contributions or advances of public funds and of personnel, equipment or property may be made to the Authority by any Member, Associate Member or any other public agency to further the purpose of this Agreement. Payment of public funds may be made to defray the cost of any contribution. Any advance may be made subject to repayment, and in that case shall be repaid in the manner agreed upon by the advancing Member, Associate Member or other public agency and the Authority at the time of making the advance.

**15. Fiscal Year; Accounts; Reports; Annual Budget; Administrative Expenses**

a. The fiscal year of the Authority shall be the period from January 1 of each year to and including the following December 31, except for any partial fiscal year resulting from a change

in accounting based on a different fiscal year previously.

b. Prior to the beginning of each fiscal year, the Board shall adopt a budget for the succeeding fiscal year.

c. The Authority shall establish and maintain such funds and accounts as may be required by generally accepted accounting principles. The books and records of the Authority are public records and shall be open to inspection at all reasonable times by each Member and its representatives.

d. The Auditor shall either make, or contract with a certified public accountant or public accountant to make, an annual audit of the accounts and records of the Authority. The minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California, and shall conform to generally accepted auditing standards. When an audit of accounts and records is made by a certified public accountant or public accountant, a report thereof shall be filed as a public record with each Member (and also with the auditor of Sacramento County as the county in which the Authority's office is located) within 12 months after the end of the fiscal year.

e. In any year in which the annual budget of the Authority does not exceed five thousand dollars (\$5,000.00), the Board may, upon unanimous approval of the Board, replace the annual audit with an ensuing one-year period, but in no event for a period longer than two fiscal years.

## **16. Duties of Members or Associate Members; Breach**

If any Member or Associate Member shall default in performing any covenant contained herein, such default shall not excuse that Member or Associate Member from fulfilling its other obligations hereunder, and such defaulting Member or Associate Member shall remain liable for the performance of all covenants hereof. Each Member or Associate Member hereby declares that this Agreement is entered into for the benefit of the Authority created hereby, and each Member or Associate Member hereby grants to the Authority the right to enforce, by whatever lawful means the Authority deems appropriate, all of the obligations of each of the parties hereunder. Each and all of the remedies given to the Authority hereunder or by any law now or hereafter enacted are cumulative, and the exercise of one right or remedy shall not impair the right of the Authority to any or all other remedies.

## **17. Indemnification**

To the full extent permitted by law, the Board may authorize indemnification by the Authority of any person who is or was a Board Delegate, alternate, officer, consultant, employee or other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a Delegate, alternate, officer, consultant, employee or other agent of the Authority. Such indemnification may be made against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Authority and, in the case of a criminal

proceeding, had no reasonable cause to believe his or her conduct was unlawful and, in the case of an action by or in the right of the Authority, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

## **18. Immunities**

All of the privileges and immunities from liabilities, exemptions from law, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activity of officers, agents or employees of any of the Members or Associate Members when performing their respective functions, shall apply to them to the same degree and extent while engaged as Delegates or otherwise as an officer, agent or other representative of the Authority or while engaged in the performance of any of their functions or duties under the provisions of this Agreement.

## **19. Amendment**

This Agreement may be amended by the adoption of the amendment by the governing bodies of a majority of the Members. The amendment shall become effective on the first day of the month following the last required member agency approval. An amendment may be initiated by the Board, upon approval by a majority of the Board. Any proposed amendment, including the text of the proposed change, shall be given by the Board to each Member's Delegate for presentation and action by each Member's board within 60 days, which time may be extended by the Board.

The list of Members, Attachment 1, may be updated to reflect new and/or withdrawn Members without requiring formal amendment of the Agreement by the Authority Board of Directors.

## **20. Withdrawal of Member or Associate Member**

If a Member withdraws as member of RCRC, its membership in the Authority shall automatically terminate. A Member or Associate Member may withdraw from this Agreement upon written notice to the Board; provided however, that no such withdrawal shall result in the dissolution of the Authority as long as any Bonds or other obligations of the Authority remain outstanding. Any such withdrawal shall become effective thirty (30) days after a resolution adopted by the Member's governing body which authorizes withdrawal is received by the Authority. Notwithstanding the foregoing, any termination of membership or withdrawal from the Authority shall not operate to relieve any terminated or withdrawing Member or Associate Member from Obligations incurred by such terminated or withdrawing Member or Associate Member prior to the time of its termination or withdrawal.

## **20. Miscellaneous**

a. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

b. **Construction.** The section headings herein are for convenience only and are not to

be construed as modifying or governing the language in the section referred to.

c. **Approvals.** Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

d. **Jurisdiction; Venue.** This Agreement is made in the State of California, under the Constitution and laws of such State and is to be so construed; any action to enforce or interpret its terms shall be brought in Sacramento County, California.

e. **Integration.** This Agreement is the complete and exclusive statement of the agreement among the parties hereto, and it supersedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between and among the parties relating to the subject matter of this Agreement.

f. **Successors; Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no Member may assign any right or obligation hereunder without the consent of the Board.

g. **Severability.** Should any part, term or provision of this Agreement be decided by the courts to be illegal or in conflict with any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms or provisions hereof shall not be affected thereby.

The parties hereto have caused this Agreement to be executed and attested by their properly authorized officers.

AS ADOPTED BY THE MEMBERS:

Originally dated July 1, 1993  
Amended and restated December 10, 1998  
Amended and restated February 18, 1999  
Amended and restated September 18, 2002  
Amended and restated January 28, 2004  
Amended and restated December 10, 2014

*[SIGNATURES ON FOLLOWING PAGES]*

COUNTY OF \_\_\_\_\_

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

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

Name:

Title:

Attest:

By \_\_\_\_\_

Clerk of the Board of Supervisors

**[PLEASE SEND TO:**

California Home Finance Authority  
1215 K Street, Suite 1650  
Sacramento, CA 95814]

**ATTACHMENT 1  
CALIFORNIA HOME FINANCE AUTHORITY MEMBERS**

**As of December 10, 2014**

Alpine County  
Amador County  
Butte County  
Calaveras County  
Colusa County  
Del Norte County  
El Dorado County  
Glenn County  
Humboldt County  
Imperial County  
Inyo County  
Lake County  
Lassen County  
Madera County  
Mariposa County  
Mendocino County  
Merced County  
Modoc County  
Mono County  
Napa County  
Nevada County  
Placer County  
Plumas County  
San Benito County  
Shasta County  
Sierra County  
Siskiyou County  
Sutter County  
Tehama County  
Trinity County  
Tuolumne County  
Yolo County  
Yuba County

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE TERRITORY OF THE CITY OF HAYWARD IN THE CSCDA OPEN PACE PROGRAMS; AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE CITY; AND AUTHORIZING RELATED ACTIONS

WHEREAS, the California Statewide Communities Development Authority (the “Authority”) 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 Hayward (the “City”); and

WHEREAS, the Authority is implementing Property Assessed Clean Energy (PACE) programs, which it has designated CSCDA Open PACE, consisting of CSCDA Open PACE programs each administered by a separate program administrator (collectively with any successors, assigns, replacements or additions, the “Programs”), to allow the financing or refinancing of renewable energy, energy efficiency, water efficiency and seismic strengthening improvements, electric vehicle charging infrastructure and such other improvements, infrastructure or other work as may be authorized by law from time to time (collectively, the “Improvements”) through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code (“Chapter 29”) within counties and cities throughout the State of California that consent to the inclusion of properties within their respective territories in the Programs and the issuance of bonds from time to time; and

WHEREAS, the program administrators currently active in administering Programs are the AllianceNRG Program (presently consisting of Deutsche Bank Securities Inc., CounterPointe Energy Solutions LLC and Leidos Engineering, LLC) and Renewable Funding LLC, and the Authority will notify the City in advance of any additions or changes; and

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

WHEREAS, the City desires to allow the owners of property (“Participating Property Owners”) within its territory to participate in the Programs and to allow the Authority to conduct assessment proceedings under Chapter 29 within its territory and to issue bonds to finance or refinance Improvements; and

WHEREAS, the territory within which assessments may be levied for the Programs shall include all of the territory within the City’s official boundaries; and

WHEREAS, the Authority will conduct all assessment proceedings under Chapter 29 for the Programs and issue any bonds issued in connection with the Programs; and

WHEREAS, the City 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 Programs;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward as follows:

Section 1. This City Council hereby finds and declares that properties in the territory of the City will benefit from the availability of the Programs within the territory of the City and, pursuant thereto, the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 and the issuance of bonds to finance or refinance Improvements.

Section 2. In connection with the Programs, the City hereby consents to the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 on any property within the territory of the City 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 City 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 Programs.

Section 3. The appropriate officials and staff of the City are hereby authorized and directed to make applications for the Programs available to all property owners who wish to finance or refinance Improvements; provided, that the Authority 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 of the City from time to time, are hereby designated as the contact persons for the Authority in connection with the Programs: Erik Pearson, Environmental Services Manager.

Section 4. The appropriate officials and staff of the City are hereby authorized and directed to execute and deliver such certificates, requisitions, agreements and related documents as are reasonably required by the Authority to implement the Programs.

Section 5. The City Council 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 6. 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 the Authority at: Secretary of the Board, California Statewide Communities Development Authority, 1400 K Street, Sacramento, CA 95814.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2010

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

**PACE Program Comparison Table**

Information provided by each PACE administrator for their own program, collected by StopWaste, Last Updated: 6/3/15

Attachment IV

HERO		Ygrene Works		OpenPACE		Alliance NRG		Figtree	
Financing Organization	Renovate America (private equity)	Ygrene Energy Fund (private capital)	California FIRSt	Deutsche Bank	California Enterprise Development Authority	California Enterprise Development Authority (CSCDA)	California Enterprise Development Authority (CSCDA)	California Enterprise Development Authority (CSCDA)	California Enterprise Development Authority (CSCDA)
Administrator	Western Riverside Council of Governments / Public Financial Management	Ygrene Energy Fund	Renewable Funding	CounterPointe Energy Solutions	California Statewide Communities Development Authority (CSCDA)	California Statewide Communities Development Authority (CSCDA)	California Statewide Communities Development Authority (CSCDA)	California Statewide Communities Development Authority (CSCDA)	California Enterprise Development Authority
JPA	Western Riverside Council of Governments	Golden State Finance Authority (formerly known as CA Home Finance Authority)	California Statewide Communities Development Authority (CSCDA)	California Statewide Communities Development Authority (CSCDA)	California Statewide Communities Development Authority (CSCDA)	California Statewide Communities Development Authority (CSCDA)	California Statewide Communities Development Authority (CSCDA)	California Statewide Communities Development Authority (CSCDA)	California Enterprise Development Authority
Governance Structure (e.g. who makes up the board?)	17 Member Cities and County that make up WRCOG JPA	Executive Team includes CEO, Founding Board Member, and senior staff	CSCDA was created by and for local governments in California, and is sponsored by the California State Association of Counties (CSAC) and the League of California Cities ("the League"). Currently, more than 500 cities, counties and special districts have become Program Participants to CSCDA. CSCDA is governed by a seven-member commission that are	CSCDA was created by and for local governments in California, and is sponsored by the California State Association of Counties (CSAC) and the League of California Cities ("the League"). Currently, more than 500 cities, counties and special districts have become Program Participants to CSCDA. CSCDA is governed by a seven-member commission that are	CSCDA was created by and for local governments in California, and is sponsored by the California State Association of Counties (CSAC) and the League of California Cities ("the League"). Currently, more than 500 cities, counties and special districts have become Program Participants to CSCDA. CSCDA is governed by a seven-member commission that are	CSCDA was created by and for local governments in California, and is sponsored by the California State Association of Counties (CSAC) and the League of California Cities ("the League"). Currently, more than 500 cities, counties and special districts have become Program Participants to CSCDA. CSCDA is governed by a seven-member commission that are	CSCDA was created by and for local governments in California, and is sponsored by the California State Association of Counties (CSAC) and the League of California Cities ("the League"). Currently, more than 500 cities, counties and special districts have become Program Participants to CSCDA. CSCDA is governed by a seven-member commission that are	CSCDA was created by and for local governments in California, and is sponsored by the California State Association of Counties (CSAC) and the League of California Cities ("the League"). Currently, more than 500 cities, counties and special districts have become Program Participants to CSCDA. CSCDA is governed by a seven-member commission that are	California Association for Local Development (CALED)
Legislative Origin	AB 811	SB 555 and AB 811	AB 811	AB 811	AB 811	AB 811	AB 811	AB 811	AB 811
Residential	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Commercial	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Interest Rates	Residential: 5yr - 6.75%, 10 yr - 7.69%, 15yr - 8.15%, 20 yr - 8.35% Commercial: 5yr - 5.75%, 10 yr - 6%, 15yr - 6.25%, 20 yr - 6.5%	Fixed 5.99%-7.75%	Residential: 6.75%-8.39% Commercial: depends on capital source, 6.0% or less fixed for 20 is prevailing	Residential: 5yr - 5.95%, 10yr - 6.75%, 15yr 7.88%, 20yr - 8.13%, 25yr 8.25%, 30yr - 8.50% Commercial: 5yr - 5.5%-5.75%, 10yr - 6.25%-6.5%, 15yr - 6.5%-6.75%, 20yr - 6.75%-7.0%, 25yr - 7.0%-7.25%, 30yr - 7.25%-7.5%	Residential: 4.63%-6.99% Commercial: 4.94%-6.1%	Residential: 4.63%-6.99% Commercial: 4.94%-6.1%	Residential: 4.63%-6.99% Commercial: 4.94%-6.1%	Residential: 4.63%-6.99% Commercial: 4.94%-6.1%	Residential: 4.63%-6.99% Commercial: 4.94%-6.1%
More detail on range, what are the factors	Rate is determined by length of term. Maximum term available is determined by project's useful life. A property owner may choose a shorter term.	Rates are based upon term of financing only. Rates do not differ per project type.		There are several factors that determine the current rates offered to participants including: market rates, credit spreads, PACE is a new asset class and a relatively immature market, FHFA perceived risk	Life of loan determines rate. 5, 10, 15, 20, 25 year options available for residential and commercial	Life of loan determines rate. 5, 10, 15, 20, 25 year options available for residential and commercial	Life of loan determines rate. 5, 10, 15, 20, 25 year options available for residential and commercial	Life of loan determines rate. 5, 10, 15, 20, 25 year options available for residential and commercial	Life of loan determines rate. 5, 10, 15, 20, 25 year options available for residential and commercial
Energy Audit	Residential: recommended, not required Commercial: Recommended, not required	Residential: recommended, not required Commercial: Recommended, not required, required if over \$250k	Residential: recommended, not required Commercial: Required	Residential: recommended, not required Commercial: Required	Residential: recommended, not required Commercial: Recommended, not required	Residential: recommended, not required Commercial: Recommended, not required	Residential: recommended, not required Commercial: Recommended, not required	Residential: recommended, not required Commercial: Recommended, not required	Residential: recommended, not required Commercial: Recommended, not required
Annual Admin Fee	\$35 Annual County Collection Fee	\$40 on average, varies per jurisdiction. This fee covers costs to jurisdiction / tax collector to put fee on annual tax role	Annual County Collection Fee (~\$30 for residential)	Annual County Collection Fee (~\$30 for residential)	\$35 Annual County Collection Fee	\$35 Annual County Collection Fee	\$35 Annual County Collection Fee	\$35 Annual County Collection Fee	\$35 Annual County Collection Fee
Program Admin/Underwriting	Residential: closing fee 4.99% of principle Commercial: not exceed greater of \$250 or 1% of financing amount, closing fee of 5%	Residential: \$700 per complicated project Commercial: fees start at \$700 and depend on site	Residential: closing fee not to exceed 6.4% Commercial: Closing fee depends on source of capital, ranges 2.5%-4%, capped at 3% for projects >\$500k	Residential: closing fee not to exceed 6.4% Commercial: Closing fee depends on source of capital, ranges 2.5%-4%, capped at 3% for projects >\$500k	Residential: Closing fee of 6.5% of assessment Commercial: Closing fee of 5% of assessment	Residential: Closing fee of 6.5% of assessment Commercial: Closing fee of 5% of assessment	Residential: Closing fee of 6.5% of assessment Commercial: Closing fee of 5% of assessment	Residential: Closing fee of 6.5% of assessment Commercial: Closing fee of 5% of assessment	Residential: Closing fee of 6.5% of assessment Commercial: Closing fee of 5% of assessment
Recording/Title Fee	Residential \$95	n/a	Residential \$100	Residential \$100	\$95 for Residential and Commercial	\$95 for Residential and Commercial	\$95 for Residential and Commercial	\$95 for Residential and Commercial	Residential: 5.95% of principal Commercial: 4% of principal
Application Fee	None	\$50 (already included in program admin/underwriting fee)	None	None	None	None	None	None	Residential: none Commercial: \$695
Contractor Fee	None	n/a	No	No	None	None	None	None	N/A
Total Initial Fees:	None	\$700	no upfront fees required to be paid	no upfront fees required to be paid	No upfront fees	No upfront fees	No upfront fees	No upfront fees	Not Upfront Fees
Reserve Deposit	None	\$50 application fee	Unknown	Unknown	No Deposit	No Deposit	No Deposit	No Deposit	No Deposit
Loan Term	5, 10, 15, 20 years; 25 available for commercial	5, 10, 15, 20 years; some eligible for 30	5, 10, 15, 20, 25 years	5, 10, 15, 20, 25 years	5, 10, 15, 20, 25 or 30 years	5, 10, 15, 20, 25 or 30 years	5, 10, 15, 20, 25 or 30 years	5, 10, 15, 20, 25 or 30 years	5, 10, 15, 20 years; 25 available for residential
Financing Min/Max Amounts	\$5000 min up to 10% property value	\$2,500.00	minimum: \$5,000 // maximum: 15% of estimated home value or \$200K, whichever is smaller	minimum: \$5,000 // maximum: 15% of estimated home value or \$200K, whichever is smaller	Residential: minimum of \$2,500 and maximum of 15% of appraised value Commercial: minimum of \$50,000 and maximum of 15% of appraised value	Residential: minimum of \$2,500 and maximum of 15% of appraised value Commercial: minimum of \$50,000 and maximum of 15% of appraised value	Residential: minimum of \$2,500 and maximum of 15% of appraised value Commercial: minimum of \$50,000 and maximum of 15% of appraised value	Residential: minimum of \$2,500 and maximum of 15% of appraised value Commercial: minimum of \$50,000 and maximum of 15% of appraised value	Residential: \$2,500 Min. Up to 20% of Property Value. Commercial: \$5: Min up to 20% Property Value

Information provided by each PACE administrator for their own program, collected by StopWaste, Last Updated: 6/3/15

PACE Program Comparison Table

	HERO None	Ygrene Works Yes / No depending on terms	California FIRST None	Alliance NRG	Figtree
<b>Prepayment Penalty</b>	None	Yes / No depending on terms	None	Residential: None Commercial: Some prepayment penalties may apply	A Prepayment Fee will be charged in the amount being prepaid times the corresponding Prepayment Fee. Years 1-5 at 5%, Years 6-10 at 3%, and Years 11-20 No Fees
<b>Mortgage Lender Consent</b>	Residential: none Commercial: lender consent/acknowledgment required	No	Residential: none Commercial: lender consent/acknowledgment required	Residential: None Commercial: Not required but recommended	Residential: none Commercial: written consent required
<b>Year Started</b>	2011	Jan-13	Jul-05	2015	Year 2010
<b>Number of Assessments (total defaults)</b>	Projects on 31,145 homes, ZERO Defaults	Zero defaults	Zero defaults	Zero defaults	No Defaults
<b>Alameda County Jurisdictions</b>	Albany, Berkeley	None currently, some pending	Whole county	Berkeley, Piedmont; others pending	Uninc. County, Dublin, Hayward
<b>Projects Financed (# and \$)- Residential</b>	32,229, \$626,783,604	2900+ for \$184M		Program has just begun accepting applications for residential projects	Residential Launching this Summer
<b>Projects Financed (# and \$)- Commercial</b>	16 in process or funded for \$2.9 million 37 additional approvals for \$6.5 million	400+ for \$75M		150 applications and approximately \$50 million approved; funding will begin in early June 2015	30 completed projects totaling \$7M
<b>Average time from application to payment</b>	Average time for application approval: 2 minutes Project time cycles vary by project type (HVAC vs Solar vs Roofing, etc.) Average time from job completion to payment is 1/2 to 2 days	10 days	three months - payments are only made once both the homeowner and contractor sign a Certificate of Completion, to confirm that work has been done and to the homeowner's satisfaction.	Residential: Application approval in minutes and payments will be made once both homeowner and contractor sign a Certificate of Completion Commercial: Approximately 60 days for underwriting approval and payments will be made once both property owner and contractor sign a Certificate of Completion	As little as 30 days
<b>Dispute Resolution</b>	Comprehensive Formalized Consumer Protection Policy If you have a dispute with your Contractor about representations that were made concerning the HERO Financing Documents, we will conduct a full investigation and share the results with you. Every inquiry is assigned a number and an investigator to ensure a comprehensive response to your complaint.	Ygrene works closely with contractor on any and all dispute resolutions in order to satisfy the customer	We offer in-house dispute resolution services; if a contractor complies himself/herself outside of our standards of good behavior, then we place the contractor on probation, and can potentially remove the contractor from our approved/certified list of available contractors.	Formal dispute resolution process; contractors may be placed on probation if found to have acted outside of program performance standards; if repeated offenses, contractor will become ineligible	Team to handle customer service
<b>How long is the training to become a participating contractor?</b>	On average, it takes about 6 to 8 hours of on-site training to get a contractor comfortable with our program requirements and the tools we provide. We additionally provide in-home support with the contractor and the customer, to help explain the program, its benefits and requirements.	Regional Account Managers train contractors in 1 day. Ongoing training and support is constant.		A required 12 minute video or 40 minute webinar or in-person 40 minute presentation for groups to provide detailed information on the PACE process; contractors must meet various eligibility criteria	One day of training
<b>Contractor training and support</b>	The HERO program provides a comprehensive training program, designed to get contractors comfortable with all of the financing terms and the property owner approval process. Training includes: • Sales Training • Software Training • Product Eligibility • Document Processing • Completion Certification • Payment Options • Co-Marketing Policies • Brand Usage Guidelines	Yes - very important	we are in frequent contact with contractors - training new contractors (required for a contractor to become certified), retraining, providing training on new features, new web functionality, etc.	Leidos Engineering, with over 24,000 employees and 4,000 engineers nationwide provides contractor training, logistics and support. Support includes one-on-one training, call center with advisors and consultants available to answer any questions.	Yes, provided by Figtree
<b>Provides Reports to Participating Jurisdiction- what data?</b>	No need for Report, Real Time access provided via web or mobile app • Project Types • Active Contractors • New Job Creation • CO2 Reduction • Energy Savings • Economic Impact • Water Savings • Projects Financed • Amounts Financed • Environmental Impact • Jobs Created • Contractor Data • Consumer Protection Inquiries and Resolutions	Total projects financed (# and \$) / Nature of projects		Real-time data on program participants, status and lien amounts available to jurisdictions via a web portal; quarterly reports and meetings as requested	Quarterly status reports of applications, loan approvals and projects completed
<b>Termination Process for Govt.</b>	Opt out with 30 days notice, does not impact completed or in process applications	Pass resolution opting out at any time. Does not impact completed or in-process projects, but future projects will not be processed.	Residential: opt out with 30 days notice; Commercial: Pass resolution to opt out at any time, does not impact completed or in process applications	Execute an Opt-Out Resolution	Pass resolution to opt out at any time, does not impact completed or in process applications
<b>Includes solar electric?</b>	Yes	Yes	Yes	Yes	Yes
<b>Includes solar hot water?</b>	Yes	Yes	Yes	Yes	Yes
<b>Includes seismic?</b>	No	Yes	yes, except for residential 1-3 units	Yes	Yes
<b>Includes water efficiency?</b>	Yes	Yes	Yes	Yes	Yes
<b>Includes landscaping?</b>	Yes	Yes	yes, though plants not financed	Yes	Yes
<b>Includes EV charging?</b>	Yes	Yes	yes	Yes	Yes

## California Code of Regulations

- Title 4. Business Regulations
  - Division 13. California Alternative Energy Source Financing Authority
    - Article 4. Pace Loss Reserve Program
      - § 10081. Application by Pace Program to the Pace Loss Reserve.

A PACE Program seeking to participate in the PACE Loss Reserve Program shall complete an application that shall include the following information:

(a) The formation documents required pursuant to:

- (1) Streets and Highways Code Sections 5898.20-5898.22, and 5898.24; or,
- (2) Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code; or,
- (3) In the case of a charter city, a copy of a resolution or other document adopted by the city's governing board evidencing approval of the PACE Program.

(b) If not included in the documentation required in subdivision (a) above, documents showing that the PACE Program requires that property owners can show all of the following as part of the financing underwriting process:

- (1) All property taxes for the assessed property are current for the previous three years or since the current owner acquired the property, whichever period is shorter.
- (2) The property is not subject to any involuntary lien in excess of \$1,000.
- (3) The property is not subject to any notices of default.
- (4) The property owner is not in bankruptcy proceedings.
- (5) The property owner is current on all mortgage debt.
- (6) The party seeking financing is the holder of record on the property.
- (7) The property is within the geographical boundaries of the PACE Program.
- (8) The Financing is for a residential property of three units or fewer.
- (9) The Financing is for less than fifteen percent (15%) of the value of the property, up to the first seven hundred thousand dollars (\$700,000) of the value of the property, and is for less than ten percent (10%) of the remaining value of the property above seven hundred thousand dollars (\$700,000).
- (10) The total mortgage-related debt and PACE Financing on the underlying property does not exceed the value of the property.

(c) If not included in the documentation required in subdivision (a) above, a detailed description of:

- (1) The transactional activities associated with the Financing issuance, including all transactional costs; and,
- (2) Requirements for quality assurance and consumer protection, as related to achieving efficiency and clean energy production; and,
- (3) Any credit enhancement or insurance associated with the PACE Program.

(d) A summary of the PACE Program's existing residential Financing portfolio certified pursuant to Section 10087 as of the date of application. The summary shall include the following information:

- (1) The total number of Financings in the portfolio.
- (2) The total value of the portfolio.

(e) The PACE Program's agreement to permit an audit of any of its records relating to enrolled Loans, during normal business hours on its premises, by the Authority or its agents, and to supply such other information concerning enrolled Loans as shall be requested by the Executive Director.

(f) Upon receipt of a completed application, the Executive Director will within ten business days review and determine whether the application is complete, or whether additional information is required to enroll the PACE Program. The Executive Director's decision whether an application is complete shall be final.