



# City of Sacramento City Council

12

915 I Street, Sacramento, CA, 95814  
[www.CityofSacramento.org](http://www.CityofSacramento.org)

**Meeting Date:** 9/27/2011

**Report Type:** Public Hearing

**Title:** Public Hearing: City of Sacramento Property Assessed Clean Energy Program (Noticed on 9-12-11 and 9-19-11)

**Report ID:** 2011-00565

**Location:** Citywide

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution: 1) approving the establishment of an Assembly Bill (AB) 811 commercial Property Assessed Clean Energy (PACE) district; and 2) confirming the program report.

**Contact:** Yvette Rincon, Sustainability Program Manager, (916) 808-5827, General Services Department

**Presenter:** Yvette Rincon, Sustainability Program Manager, (916) 808-5827, General Services Department

**Department:** General Services Dept

**Division:** Office of the Director

**Dept ID:** 13001021

## **Attachments:**

---

- 1-Description/Analysis
- 2-Background
- 3-Resolution
- 4-Exhibit A Map
- 5-Exhibit B Program Report

---

### **City Attorney Review**

Approved as to Form  
Joseph Cerullo  
9/27/11 3:19:23 PM

### **City Treasurer Review**

Reviewed for Impact on Cash and Debt  
Russell Fehr  
9/8/2011 1:58:07 PM

### **Approvals/Acknowledgements**

Department Director or Designee: Craig Lymus:  
9/27/11 3:12:23 PM



## Description/Analysis

**Issue:** Staff is requesting that the City Council hold a public hearing and, at the close of the hearing, confirm the program report for the Property Assessed Clean Energy (“**PACE**”) program. The program report (Exhibit B) outlines the requirements for participation in the PACE program, identifies the eligible improvements, and describes the financing model. Consistent with chapter 29 (beginning with section 5898.10) in part 3 of division 7 of the California Streets and Highways Code (“**Chapter 29**”), the PACE program will make voluntary contractual assessment financing available citywide to owners of commercial or industrial property who wish to install distributed-generation renewable-energy sources or energy-efficiency or water-conservation improvements.

**Policy Considerations:** The recommendations in this report are consistent with the City Council’s economic and sustainability priorities for the City. Participation in the PACE program will be entirely voluntary and will enable owners of commercial and industrial property to finance renewable-energy, energy-efficiency, or water-conservation improvements using investor funds repaid through assessments added to their property-tax bills. These projects will reduce operating costs for business owners, create jobs, and reduce greenhouse-gas emissions.

### Environmental Considerations:

**California Environmental Quality Act (CEQA):** Adoption of a resolution declaring the City Council’s intent to establish the commercial PACE program is not a “project” subject to CEQA because (a) it has no potential to cause a significant effect on the environment and (b) it pertains to creation of a government-funding mechanism not involving a commitment to a specific project that may result in a potentially significant physical impact on the environment. (Cal. Code Regs. title. 14, §§ 15061(b)(3) & 15378(b)(4).)

**Sustainability:** Creating a commercial PACE program is one of the implementation actions identified in the 2011 Sustainability Plan and a voluntary implementation item in the City’s Climate Action Plan.

**Commission/Committee Action:** None

**Rationale for Recommendation:** Under Chapter 29, the PACE program is established when the City Council confirms the program report, which outlines the requirements for participation, identifies the eligible improvements, and describes the financing model for the program.

The proposed PACE program will benefit the environment as well as the local economy. A study commissioned by the City, and completed by the Center for Strategic Economic Research, calculates that this program has the potential to annually create \$30 million in economic output, 232 jobs, \$13 million in salaries, and \$1.6 million in state and local tax revenue.

**Financial Considerations:** There is no financial impact to the City as a result of confirming the program report. The PACE program itself will be administered and funded by the City’s program administrator, Ygrene Energy Fund California, LLC (“**Ygrene**”), at no cost to the City, except as follows: the City will make available to Ygrene, from an Energy Efficiency Conservation Block Grant<sub>2 of 45</sub>

up to \$321,000 in grant funds for the specific purposes of developing administrative software for the PACE Program, conducting marketing and outreach for the PACE Program, and conducting energy audits to confirm actual energy savings associated with the various energy-efficiency projects financed by the PACE Program. Sufficient funding exists to provide these grant funds to Ygrene within the program (G13000050, Fund 2702, Operating Grants).

The City Council, in a separate agenda item, is being asked to authorize Ygrene as the PACE program administrator.

**Emerging Small Business Development (ESBD):** None

### Background

The City of Sacramento is and has been a leader in sustainability and continually seeks opportunities to enhance that status. The City's goal is to reduce greenhouse-gas ("GHG") emissions communitywide to 1990 levels by 2020. In the City, GHG emissions from commercial and industrial buildings are second only to transportation related GHG emissions — exceeding even residential GHG emissions. Reaching the communitywide GHG-emission-reduction goal will require a number of programs and policies. The commercial PACE program is one important program that the City will pursue, not only to reduce GHG but also to create jobs and reduce operating costs for commercial and industrial buildings in the City.

This program will address two major financial hurdles to these capital-intensive projects: the high up-front cost and the potential that those costs will not be recovered upon sale of the property. Under the proposed program, there is little or no up-front cost to the property owner, and if the property is sold before the investors are repaid the new owner simply assumes responsibility for the remaining assessments as part of the property's annual tax bill.

The commercial PACE program will enable owners of commercial or industrial property to obtain investor funding for renewable-energy, energy-efficiency (e.g., solar thermal, solar electric), and water-conservation improvements and repay the investors over a multi-year period (not to exceed 20 years) through annual assessments on their property-tax bills. The program is completely voluntary: no property will be subject to an assessment unless the owner volunteers to participate in the program and enters into a contract for the assessment. Moreover, each participating owner will pay only for the cost of qualifying improvements to that owner's property (including principal, interest, reserves, and administrative costs) plus application fees.

## RESOLUTION NO. 2011-XXXX

Adopted by the Sacramento City Council

September 27, 2011

### CONFIRMING THE PROGRAM REPORT ESTABLISHING A CITY- SPONSORED PROPERTY ASSESSED CLEAN ENERGY PROGRAM UNDER WHICH THE CITY WILL MAKE VOLUNTARY CONTRACTUAL ASSESSMENT FINANCING AVAILABLE TO OWNERS OF COMMERCIAL OR INDUSTRIAL PROPERTY WITHIN THE CITY

#### BACKGROUND

- A. On September 13, 2001, the City Council adopted a resolution declaring its intent to establish a Commercial Property Assessed Clean Energy Program (the “**PACE Program**”) in accordance with Chapter 29 (beginning with section 5898.10) in part 3 of division 7 of the California Streets and Highways Code (“**Chapter 29**”). Under Chapter 29, the City may make voluntary contractual-assessment financing available to owners of property within the City who wish to install certain “eligible improvements” on their property.
- B. The resolution adopted on September 13, 2011, also set September 27, 2011, at 6:00 p.m. as the date and time the City Council would hold a public hearing on the PACE Program, and it directed that the City Clerk publish notice of the hearing in accordance with Chapter 29. In addition, it directed the Director, Department of General Services, to prepare and submit to the City Clerk a report on the PACE Program in accordance with sections 5898.22 and 5898.23 of Chapter 29 (the “**Program Report**”) and to enter into consultations with the Sacramento County Auditor-Controller’s Office in order to reach agreement on what additional fees, if any, will be charged to the City for incorporating the proposed voluntary contractual assessments into the assessments of the City’s general taxes on real property.
- C. Notice of the hearing was duly published as directed. In addition, the City gave written notice of the proposed PACE Program to the water and electric providers within the City (SMUD and PG&E), who waived the time limits in Chapter 29.
- D. On September 27, 2011, at 6:00 p.m. in the City Council’s Chambers in New City Hall (915 I Street, Sacramento), the City Council held a public hearing at which the Program Report was summarized. Although the resolution adopted on September 13, 2011, contemplated that the PACE Program would apply only to commercial property, the Program Report submitted to the City Clerk and summarized at the hearing extends the PACE Program not just to commercial property (defined to include multi-family residences with four or more units) but also to industrial property. All persons who were present at the hearing were given the opportunity to comment upon, object to, or present evidence with regard to, the following: the

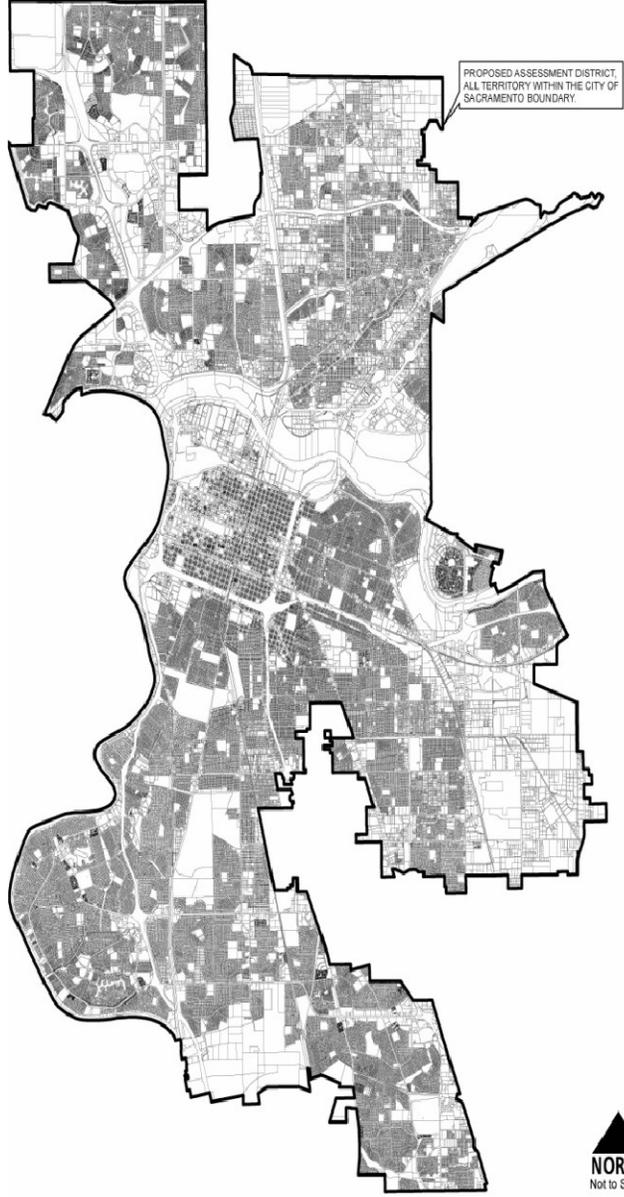
PACE Program, the extent of the area proposed to be included within the PACE Program, the terms and conditions of the draft assessment contract attached as Exhibit E to the Program Report, and the proposed financing provisions.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1.** The City Council hereby confirms the Program Report as submitted to the City Clerk and summarized at the public hearing (attached as Exhibit A), including its modification by the addition of industrial property to the PACE Program.
- Section 2.** The City Council hereby (a) designates the Office of the City Treasurer (the “**City Treasurer**”) as the office responsible for annually preparing the current roll of assessment obligations by assessor’s parcel number on property subject to a voluntary contractual assessment; and (b) directs the City Treasurer to establish procedures for promptly responding to inquiries concerning current and future estimated liability for a voluntary contractual assessment.
- Section 3.** Exhibit A is part of this resolution.



Back to Table of Contents



PROPOSED BOUNDARY MAP  
AB 811 CONTRACTUAL ASSESSMENT DISTRICT  
CITY OF SACRAMENTO  
COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

SHEET 1 OF 1

CLERK'S MAP FILING STATEMENT:

FILED IN THE OFFICE OF THE CLERK OF CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011.

\_\_\_\_\_  
CITY CLERK,  
CITY OF SACRAMENTO, CALIFORNIA

CLERK'S MAP CERTIFICATE:

I HEREBY CERTIFY THAT THE MAP SHOWING THE BOUNDARIES OF AB 811 CONTRACTUAL ASSESSMENT DISTRICT, CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO AT A MEETING THEREOF, HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011, BY ITS RESOLUTION NO. \_\_\_\_\_

\_\_\_\_\_  
CITY CLERK,  
CITY OF SACRAMENTO, CALIFORNIA

COUNTY RECORDER'S FILING STATEMENT:

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011 AT THE HOUR OF \_\_\_\_\_ O'CLOCK \_\_\_\_ M., IN BOOK \_\_\_\_\_ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE \_\_\_\_\_, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SACRAMENTO, STATE OF CALIFORNIA,

\_\_\_\_\_  
COUNTY RECORDER  
OF THE COUNTY OF SACRAMENTO, CALIFORNIA

BY: \_\_\_\_\_  
DEPUTY DOCUMENT NO. \_\_\_\_\_

— Boundary Line  
ASSESSOR PARCELS WITHIN BOUNDARY.  
FOR PARTICULARS OF LINES AND DIMENSIONS OF PARCELS, REFER TO SACRAMENTO COUNTY ASSESSOR PARCEL MAP BOOKS SHOWING ALL PARCELS WITHIN THE CITY OF SACRAMENTO.



Boundary Map of Area Within Which Voluntary Contractual Assessments Are Available

Exhibit A

[Back to Table  
of Contents](#)

**Exhibit B**



**City of Sacramento**

# **City of Sacramento PACE Program**

**Program Report**

**[September 27, 2011]**

# Contents

1. Introduction
2. Program Requirements & Parameters
3. Tracks for Participation
4. Surveys, Site Checks, and Documentation of Energy Savings
5. The Financial Strategy
6. Consumer Protection
7. Changes to the Report

**Appendix A – Map of the Area**

**Appendix B – Eligible Improvements**

**Appendix C – Program Fees**

**Appendix D – Summary of Financing Process**

**Appendix E – Form of Assessment Contract**

# 1. Introduction

Assembly Bill 811 (Statutes of 2008) amended California law to enable cities and counties in California to establish voluntary contractual assessment programs to reduce the upfront costs associated with energy-efficiency, renewable-energy, and water-conservation projects that are affixed to real property and proposed by property owners. The California Legislature declared that a public purpose would be served by such programs, giving local governments the authority to finance the installation of energy- and water-conservation improvements that are permanently affixed to real property. The City of Sacramento (the “**City**”) intends to use this financing authority to establish City of Sacramento PACE Program (the “**City Program**”). This program promotes widespread retrofits to commercial property (including multi-family residential property with four or more units) and industrial property throughout the City, thereby reducing greenhouse gas (“**GHG**”) emissions, promoting energy security, and improving water conservation while stimulating economic opportunities – all fundamental principles in the City of Sacramento Sustainability Master Plan Principles. In this report, eligible energy and renewable energy improvements are collectively referred to as “**Improvements.**”

The City Program is voluntary and requires the full consent of property owners seeking to finance the installation of eligible Improvements using contractual assessments. As would be the case with other types of land-secured public-financing programs (such as sewer-assessment districts), property owners will repay City Program financing through an assessment levied against their property. This assessment is payable in semi-annual installments on property-tax bills.

## Goals

As articulated in the City of Sacramento Sustainability Master Plan and other policy documents, the provision of incentives to promote GHG emission reductions and improve property water conservation, while also fostering economic vitality and community wellbeing, is a hallmark of a successful climate-policy strategy. As a voluntary program, the City Program will help owners of improved real property make principled investments in the long-term health of the local, state, and national economy, as well as the global environment, by providing a long-term financing mechanism for Improvements. At the same time, the City Program will enable jurisdictions within the boundaries of the City of Sacramento to make substantial strides towards implementing existing energy savings and water-conservation plans.

## Program Benefits

The City Program is a strategic investment opportunity that can assist the region in achieving significant benefits, primarily in two categories: (1) economic development and (2) quality of life. Economic-development benefits of the City Program are multifaceted. By enabling property owners to take responsible energy- and water-conservation actions, the program promotes reduced utility and insurance, translating into direct consumer savings and an

increase in discretionary income. The multiplier effect attributable to such savings will impact businesses and households throughout the region, encouraging job growth and bolstering local government revenues. In addition, extrapolations from the most recent ECONorthwest study have shown that investment in energy efficiency leads to direct job growth; estimating that up to sixty new jobs are created for every \$4 million invested in energy efficiency improvements. Moreover, the City Program provides an innovative form of financing for property owners. Particularly in economic cycles where credit and lending standards are prohibitive, the ability to obtain alternative sources of capital is extremely important. Accordingly, the City Program provides a safe, no-money-down means of financing Improvements, with a fixed-rate and terms that may not readily be available through equity loans and other traditional means.

The City Program catalyzes broader impacts to the regional quality of life through speeding investments into smarter energy- and water-conservation practices. For example, the City Program financing complements the myriad of other incentives including utility rebates, federal credits, and state programs aimed at lowering the upfront costs of Improvements. This leveraging of resources will accelerate a reduction in communitywide energy and water use, translating directly into reduced GHG emissions and helping to secure our collective energy and water future. This enables the region to address climate change, while also ensuring that scarce resources remain available for future generations. On a very tangible level, improvements to the building stock enabled through the City Program will increase building comfort and safety, thereby promoting public health, employee productivity, and overall wellbeing. Additionally, the possibility remains that carbon offsets attributable to energy improvements financed by the City Program may be available. In this case, such offsets could generate revenue that would be held by the City on behalf of the City Program, and used in coordination with participants to promote the program's sustainability.

## **Program Administration**

The City will contract with Ygrene Energy Fund California, LLC (the **“Program Administrator”**) to administer and fund the City Program. The City Manager or his designee is authorized to enter into contractual assessments on behalf of the City. The Program Administrator will oversee professionals associated with program implementation including staff, contractors, and any other organizations assisting in the administration of the City Program.

Among other duties, the Program Administrator will be responsible for:

- Setting up the program and coordinating with City staff
- Site selection and operation
- Providing a source of financing for the program
- Developing marketing plans and programs
- Providing an interactive website for the program
- Community outreach and marketing
- Application processing and validation

- Contractor management and liaison
- Administrative coordination
- Program data management
- Liaison between the City, property owners, and contractors hired for the Improvements

**(Remainder of Page Intentionally Left Blank)**

## 2. Program Requirements & Parameters

### Program Report

To establish the City Program, the City Council must confirm this report, establishing how the program will function (the “**Program Report**”). This Program Report is the guiding document for the City Program and fulfills certain statutory requirements by including the following:

- A map showing the boundaries of the territory within which contractual assessments are proposed;
- A draft assessment contract (the “**Assessment Contract**”) between a property owner and the City;
- Program policies concerning contractual assessments, including a list of eligible Improvements; identification of the City official authorized to enter into contractual assessments on behalf of the City; maximum aggregate dollar amount of contractual assessments; and a method for setting priority for applications if requests appear likely to exceed the authorization amount;
- A plan for funding the City Program; and
- Information on the City’s costs for placing assessments on the tax roll.

### Boundaries of Program Area

The City Program is available throughout the City. A map showing the City boundaries is provided as Appendix A.

### Eligible Property Owners and Eligible Properties

Property owners may be individuals, associations, business entities, cooperatives, and others. Certain eligibility or underwriting criteria must be satisfied, and financing may be approved if the following criteria are met:

- Property is located within the City.
- Property is designated as commercial (including multi-family residential with 4 or more units) or industrial.
- Property title is vested in the applicant/property owner.
- Property taxes and other assessments on the tax bill are current and have not been delinquent for the preceding three years – or term of ownership of the current owner.
- That there are no involuntary liens on the property, including construction liens.
- That no notices of default or other evidence of debt delinquency have been recorded during the preceding three years – or term of ownership of the current owner.
- That the property owner is current on all mortgage debt secured by the property.
- That the total of all existing secured indebtedness on the property does not exceed 85% of the value of the property
- That the proposed contractual assessment does not exceed 10 percent of the value of the property.
- That each holder of a fee-simple interest in the property has signed the program documents.

- That the property owner has provided each lender with a lien on the property (each, a **“Lender”**) with a Lender Notification of Senior Assessment Lien.

## Eligible Improvements

The City Program enables owners of qualified property within the City to finance a wide range of energy-savings and water-conservation measures (**“Eligible Improvements”**), consistent with the following provisions:

- City Program financing is intended principally for retrofit activities to replace outdated, inefficient equipment and to install new equipment that reduces energy consumption, produces renewable energy, or increases water conservation. However, City Program financing is also available for improvements on new business construction following receipt of a certificate of occupancy following that construction.
- The City Program provides financing only for Improvements that are permanently affixed to real property.
- The City Program provides financing for Improvements specified in Appendix B (this Appendix is subject to change from time to time by the City). Broadly, these include three tracks:
  - Energy-efficiency and renewable-energy Improvements
  - Water-conservation Improvements
  - Custom-measures.
- The City Program financing is also available for projects that combine eligible improvements, or bundle energy efficiency, water conservation and renewable energy improvements. For instance, a property owner may choose to install weather stripping, replace an aging and inefficient furnace, install low-flow toilets, and install a solar photovoltaic system.
- Program participants will be required to obtain and submit necessary building permits and inspections prior to receiving financing.
- Program Administrator will certify contractors participating in the program (each, a **“Certified Contractor”**), require that they have proper bonding and appropriate licensing, ensure that they complete applicable training and require that they meet other requirements established by the Program Administrator.

## Eligible Project Costs and Program Fees

*Project Costs.* Eligible costs of the Improvements include the cost of equipment, materials, supplies, and installation. Installation costs may include but are not limited to energy and water-survey consultations and audits, labor, design, drafting, engineering, permit fees, and inspection charges. The value of expected rebates, but not the value of tax credits (unless requested by the property owner), will be deducted from the City Program financing. Property owners may select any Certified Contractor for installation of their Eligible

Improvements. Eligible costs do not include labor costs for property owners that elect to do the work themselves. Property owners who elect to engage in broader projects such as general remodeling may only receive City Program financing for that portion of the cost of retrofitting existing structures with eligible Improvements. Repairs and/or new construction do not qualify for the City Program financing except to the extent that the construction is required for the specific eligible Improvement. Rehabilitation of existing infrastructure such as utility feeds is considered a repair and is not eligible.

*Program Fees.* The intent of the program is to minimize upfront costs associated with the application process to the extent feasible, while also supporting program sustainability. Accordingly, the City Program may impose fees in accordance with the fee schedule attached as Appendix C. The annual assessment fee will be included in the contractual assessment installments. All other fees will be added into the amount to be financed by the property owner or may be paid directly at the time they are incurred.

## **Administrative Costs**

The Program Administrator may elect to cover all or a portion of its administrative costs through the “spread” between its interim-funding-source interest rate and the City Program financing interest rate offered to the property owner. Similarly, it may elect to recover City Program costs through a spread between bond rates and assessment rates, or the spread between interest rates of any financial vehicle and the assessment rate.

## **Minimum Energy Financing Amount; Priority**

The minimum size for a contractual assessment is \$2,500. City Program financing will be disbursed directly to the property owner or to the property owner’s designee after Improvements are completed and final documentation is submitted to the Program Administrator. All applications for financing will receive a time stamp, and will be considered on a first-come, first-served basis.

## **Duration of Assessment**

City Program Assessment Contracts are available for up to 20-year terms to accommodate a wide range of energy-efficiency, water-conservation, and renewable-energy investments. The duration of assessments will be tied to the useful life of financed Improvements. For example, some Improvements may only have a useful life of 10 years, after which replacements would be required. In these cases, 10-year assessment durations would apply.

## **Maximum Size & Diversity**

The Program Administrator has identified sustainable sources of funding so that the City Program is able to accommodate available demand. The maximum aggregate dollar amount of the principal component of contractual assessments to be levied under the City Program is

\$500,000,000; however, this maximum is subject to increase by the City. The Program Administrator, in coordination with the Sacramento County Auditor-Controller, will periodically report on City Program progress, providing the City with the information necessary to adjust program parameters.

### **Assessment Interest Rate**

The Program Administrator will provide oversight, such that the interest rate offered to City Program participants is responsive to market conditions and supports program sustainability. The Program Administrator will set the interest rate for a contractual assessment at the time the City of Sacramento and a property owner enter into an Assessment Contract. The interest rate will be fixed at that point and will not go up. The Program Administrator will make periodic changes to the City Program interest rate in response to conditions in the bond markets.

If available, the spread between the interim-financing-source interest rate and the interest rate charged to property owners participating in the City Program will be used to cover the administrative and other costs of delivering the program to the public.

### **Property Assessment Lien**

All property owners must sign and notarize an Assessment Contract. Execution of the Assessment Contract will authorize a lien on the property that secures the contractual assessment in the full amount necessary to finance the installation of Improvements and pay the property's share of the costs of administering the City Program. If funds are disbursed to property owners before June 30 of any year, the first year's contractual-assessment installments will appear on the next tax bill. For disbursements made after July 1 of any year, the first year's contractual-assessment installments will not appear on the tax bill until the following tax year. Any deferred installments will be capitalized and added to the assessment.

### **Delinquent Assessment Collections**

Delinquent assessments will be collected using the laws and powers authorized under California law for collecting property taxes and assessments.

## **3. Tracks for Participation**

There are three categories of technologies under which property owners may participate in the City Program. A complete list of Eligible Improvements is set out in Appendix B.

### **Energy Improvements**

This track covers a wide range of energy-efficiency fixtures from windows and doors, to attic insulation and HVAC equipment. Such measures will help facilitate achievement of City targets, including a reduction in building energy use through energy-efficiency measures.

### **Renewable Energy Installations**

The renewable-energy track includes primarily solar photovoltaic installations designed to replace utility-generated electrical power with renewable solar power for all or a major portion of a property's energy needs. Also included in this track are wind generation, solar thermal, geothermal, hydroelectric, and emerging generation technologies for renewable-energy generation.

### **Water conservation Improvements**

The water-conservation track allows a wide range of water-conservation improvements designed to reduce demand. Included are recirculation systems, gray-water systems, low-flow fixtures, waterless urinals, deionization, filter upgrades.

### **Custom**

The City Program encourages the development of technologies that will diversify and expand the City's energy sources. Under the custom measure track the City Program evaluates and provides funding for innovative projects. Applicants for the custom measure track may consult with the Program Administrator to determine eligibility and for directions for submitting engineering plans and specifications. The Program Administrator, in consultation with the City, will approve custom measure track applications on a case-by-case basis. While applicants would be expected to bear the up-front cost of outside consultations, reimbursement through City Program would be discussed with applicants before projects are reviewed.

## 4. Surveys, Site Checks, and Documentation of Energy Savings

By participating in the City Program, property owners are investing in the community's future by helping to reduce energy usage and associated GHG emissions and/or by conserving water. The same owners are making financial investments in their properties, and careful consideration of the impacts of eligible improvements is important to ensure cost-effectiveness and satisfactory outcomes. Objective analysis can be a useful tool and City Program participants are encouraged to take advantage of standards such as those promulgated by the Building Performance Institute (BPI).

An energy audit is required under the City Program. For small projects, audits will be performed at modest cost to the property owner by contractors and/or local utility companies. Larger projects will require more formal audit procedures. The cost of audits may be subsidized by the City Program and/or may be financed through the assessment. Water-conservation improvements do not require an audit.

**(Remainder of Page Intentionally Left Blank)**

## 5. The Financial Strategy

The Program Administrator has established the City Program funding source for the purpose of providing resources to fund assessments that will finance the energy and water conservation improvements contemplated by the City Program. Repayments will be made pursuant to Assessment Contracts between the property owners and the City. Contractual-assessment installments will be collected through the property-assessment mechanism of the City property-tax system. The Program Administrator will manage the City Program, will establish the budget, and will be responsible for funding operations. The Program Administrator will indemnify the City for and against the collection risk associated with the bonds by which the assessment contracts are secured. City staff designated by the City Manager will have audit authority over the accounting structure developed by the Program Administrator to run the City Program.

**(Remainder of Page Intentionally Left Blank)**

## **6. Consumer Protection**

The City Program is subject to certain state and federal laws designed to protect consumers. Among other things, these laws require the Program Administrator to disclose information to property owners and, during the three-day period following execution of the Assessment Contract, to guarantee a property owner the right to rescind the Assessment Contract without penalty. The Program Administrator, on behalf of the City, will comply with all applicable state and federal laws in connection with the operation of the City Program.

**(Remainder of Page Intentionally Left Blank)**

## **7. Changes to Report**

The City Manager or his designee may make changes to this Program Report that the Program Administrator reasonably determines are necessary to clarify its provisions or to effectuate the purposes of the program. Any changes to this Program Report that materially modify the City Program will require approval by the City Council. No changes will affect the assessments payable under existing Assessment Contracts between property owners and the City.

**(Remainder of Page Intentionally Left Blank)**

# Appendix A – Map of CITY Program Area

The City Program is available to property owners within the City, the boundaries of which are depicted in Attachment 1 to Appendix A.

**PROPOSED BOUNDARY MAP**  
**AB 811 CONTRACTUAL ASSESSMENT DISTRICT**  
**CITY OF SACRAMENTO**  
**COUNTY OF SACRAMENTO, STATE OF CALIFORNIA**

**SHEET 1 OF 1**

CLERK'S MAP FILING STATEMENT:  
FILED IN THE OFFICE OF THE CLERK OF CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2011.

CITY CLERK \_\_\_\_\_  
CITY OF SACRAMENTO, CALIFORNIA

CLERK'S MAP CERTIFICATE:  
I HEREBY CERTIFY THAT THE MAP SHOWING THE BOUNDARIES OF AB 811 CONTRACTUAL ASSESSMENT DISTRICT, CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO AT A MEETING THEREOF, HELD ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2011, BY ITS RESOLUTION NO. \_\_\_\_\_

CITY CLERK \_\_\_\_\_  
CITY OF SACRAMENTO, CALIFORNIA

COUNTY RECORDER'S FILING STATEMENT:  
FILED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2011 AT THE HOUR OF \_\_\_\_ O'CLOCK \_\_\_\_ M., IN BOOK \_\_\_\_ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE \_\_\_\_ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SACRAMENTO, STATE OF CALIFORNIA.

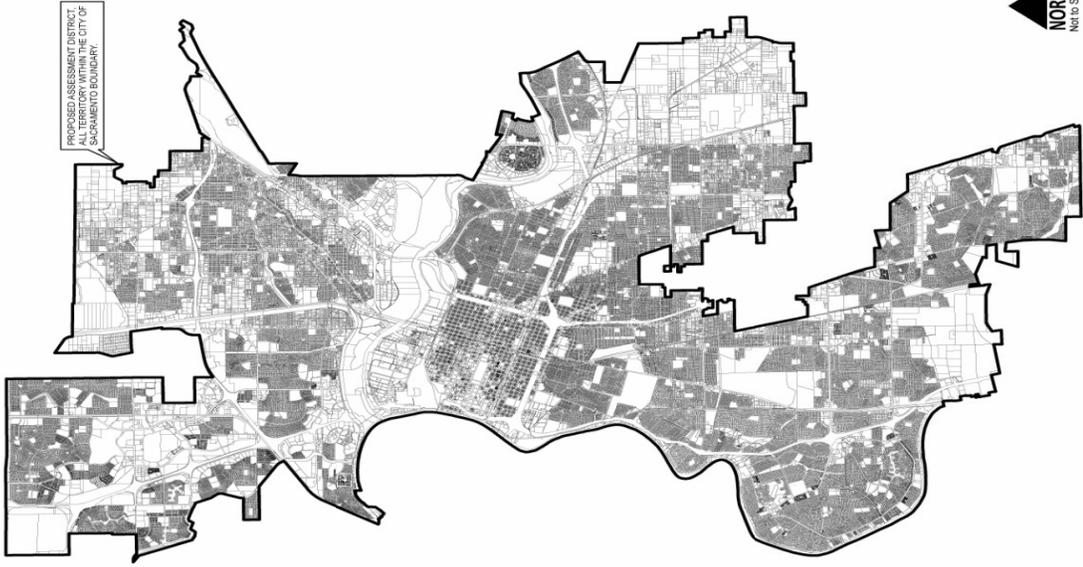
COUNTY RECORDER \_\_\_\_\_  
OF THE COUNTY OF SACRAMENTO, CALIFORNIA

BY: DEPUTY \_\_\_\_\_ DOCUMENT NO. \_\_\_\_\_



6 I.S.  
CITY OF SACRAMENTO  
Department of Finance  
AB 811 Boundary Map Area - Districts E001

---





**NORTH**  
Not to Scale

# Appendix B – Eligible Improvements

The City Program offers funds for a variety of energy-efficiency measures, water-conservation measures, solar systems, and distributed-generation renewable-energy systems. In each case, if a rebate is available to the property owner that is applied to the purchase price, that amount must be deducted from the amount of financing requested.

## **Energy-Efficiency Measures.**

- Air sealing and ventilation
- Air filtration
- Building envelope
- Duct leakage and sealing
- Bathroom, ceiling, attic, and whole-house fans
- Insulation
- Defect correction
- Attic, floor, walls, roof, ducts
- Weather-stripping
- Sealing
- Geothermal exchange heat pumps
- HVAC systems
- Evaporative coolers (coolers must have a separate ducting system from ducting for air-conditioning systems and heating systems)
- Natural-gas-storage water heater
- Tank-less water heater
- Solar-water-heater system
- Reflective insulation or radiant barriers
- Cool roof
- Windows and glass doors (U value of 0.40 or less and solar-heat-gain coefficient of 0.40 or less)
- Window filming
- Skylights
- Solar tubes
- Additional building openings to provide addition natural light
- Lighting (fixture retrofits only)
- Pool equipment (circulating pumps, etc.)

## **Other Non-residential Building Measures.**

- Occupancy-sensor lighting fixtures
- SMART parking-lot bi-level fixture
- SMART parking-garage bi-level fixtures

- SMART pathway lighting
- SMART wall-pack fixtures
- Task ambient office lighting
- Classroom lighting
- Refrigerator case LED lighting with occupancy sensors
- Wireless daylight-lighting controls
- Kitchen exhaust variable air-volume controls
- Wireless HVAC controls & fault detection

**Photovoltaic and Solar-Thermal Equipment.**

- Solar thermal hot water systems
- Solar thermal systems for pool heating
- Photovoltaic systems (electricity)
- Emerging technologies

**Water-Conservation Measures.**

- Faucet aerators
- Core-plumbing system
- Gray-water system
- Instantaneous hot-water heater
- Recirculation hot-water system
- Demand initiated hot-water system
- Hot-water pipe insulation
- Irrigation-control system
- Irrigation system
- Rainwater cistern
- Low-flow showerhead
- High-efficiency toilets
- Demand water softener
- Whole-house water-manifold system

The following water-conservation measures are approved for non-residential applications:

- Cooling-condensate reuse
- Cooling-tower conductivity controllers
- Deionization
- Filter upgrades
- Foundation drain water
- Industrial-process water-use reduction

- Pre-rinse spray valves
- Recycled water source
- Urinals
- Waterless urinals

- d. **Custom Projects.** The custom-projects track is a process by which CONTRACTOR can evaluate and approve funding for projects that are not “off the shelf” Eligible Improvements (“**Custom Projects**”). Custom Projects may involve large-scale industrial or commercial energy-efficiency improvements; processing or industrial mechanical systems; and renewable energy-generation from sources such as geothermal and fuel cells. The measures in Sections 5(a) and 5(b) below are examples of Custom Projects that will be considered for Program funding:

- Building energy-management controls
- HVAC duct zoning-control systems
- Irrigation pumps and controls
- Lighting controls
- Industrial- and process-equipment motors and controls
- Fuel cells
- Wind-turbine power system
- Natural gas
- Hydrogen fuel
- Other fuel sources (emerging technologies)
- Co-generation (heat and energy)

## Appendix C – City Program Fees

The following fees will apply to the City Program. Program Administrator, with the consent of the City, may change the fees from time to time in response to increases or decreases in the cost of providing City Program services.

<b>Fee Description</b>	<b>Amount</b>	<b>Collected</b>
Application	Not to exceed \$50	Upon application submittal
Processing & underwriting	Not to exceed \$250	At disbursement
City Program cost recovery	Not to exceed \$100	At disbursement
Recording & disbursement	Not to exceed \$250	At disbursement
Escrow	\$100 - \$700 based on project size	At disbursement
Title insurance	\$400 - \$5,000 based on project size	At disbursement

(Remainder of Page Intentionally Left Blank)

# Appendix D – Summary of Financing Process

The City Program provides financing for the installation of Eligible Improvements on qualifying commercial property (including multi-family residential with four or more units) and industrial property within the City. Property owners will repay the financing through an assessment levied against their property that is payable in semi-annual installments on property-tax bills.

## **Project Scoping**

Property owners work directly with Certified Contractors to determine the scope of their projects. As a project is defined, the property owner obtains a Certified Contractor's bid, or determines the cost of the equipment if self-installing.

## **Application Process**

The application process can be completed on-line or via a paper application. It is a two-step process to (1) reserve funding and then, after installation, (2) request the release of funds. All approved or denied applicants will receive written confirmation of the status of their application. The Program Administrator will resolve questions, concerns, and disputes.

**Initial Application.** Property owners considering the City Program must submit an application, either through the Program Administrator's on-line system or by submission of the written application form. The following information must be provided at the time an application is submitted:

1. Property owner(s) name(s).
2. Property address.
3. Assessor's parcel number.

**Application Fee.** The Program Administrator may collect a \$50 application fee at the time of submittal, though the application fee may be waived in some circumstances, if allowed by law.

## **Application Review.**

1. During the application -rview process the Program Administrator verifies that:
  - a. The application is complete and accurate.
  - b. The property and property owner comply with all applicable eligibility and underwriting criteria.
  - c. The property is within the City.
  - d. The proposed Improvements and costs are eligible for financing under the City Program.
  - e. All required documents have been submitted.
  - f. The requested financing is for at least \$2,500.

2. Within 3 business days of receipt of an application, the Program Administrator will notify the property owner of the status of the application and whether it is incomplete, approved, or denied or requires additional approval.

- a. Incomplete. An application will be deemed incomplete if it is missing any required information or attachments. Incomplete applications may be resubmitted. The Program Administrator will process resubmitted applications on a first-come, first-served basis following re-submittal.
- b. Approved. An application will be approved if the Program Administrator has verified all of the items in steps (a) through (f) in Paragraph 1 above. Approved applicants will be provided with a Notice to Proceed.
- c. Denied. An application will be denied if the Program Administrator cannot verify all of the items in steps (a) through (f) in Paragraph 1 above. In the event of denial, the Program Administrator will provide a written denial notice, outlining the reasons for the action. Property owners may re-submit denied applications and may appeal denial decision to the Program Administrator.
- d. Requires Additional Approval. Applications that include large financing requests require approval of the Program Administrator. In such circumstances, applicants will be notified that their application is complete and has been forwarded to the Program Administrator for approval review.

3. With respect to an application to finance Custom Measures, the Program Administrator reserves the right to require appropriate engineering documentation and energy studies verifying the energy savings and/or energy generation capabilities of the proposed project. If allowed by law, the Program Administrator may also charge an additional administrative fee to review technical reports, and will discuss any such fee with the property owner before proceeding.

#### **Permits.**

After receiving notice of Application approval and Notice to Proceed, and before commencing construction, the property owner (or Certified Contractor) must obtain a building permit from the City Building Department. Final inspection by a City building official will be required to ensure that the Improvements were completed and a valid, signed-off building permit is required before the Program Administrator will approve release of financing.

#### **Funding Reservation.**

Following application approval, a Notice to Proceed will be provided to property owners, after which funds will be reserved for a maximum 180 days for that project.

The property owner must have a Certified Contractor complete installation of the Eligible Improvements on the subject property, and submit a proper funding request, within the applicable reservation period. If the property owner fails to meet these deadlines, the funding reservation may expire. Prior to expiration of the 180-day reservation period, property owners may request an extension for an additional 90 days. Following expiration of the reservation, property owners must reapply.

A property owner may cancel a funding reservation during the reservation period, but will thereafter be ineligible for funding under that reservation. The property owner may reapply.

### **Assessment Contract.**

All property owners of record must sign the Assessment Contract and have their signature(s) notarized. The City Manager or his designee will sign the Assessment Contract on behalf of the City.

### **Assessment Lien.**

Upon execution of the Assessment Contract, the Program Administrator will record an assessment lien against the property. If funds are disbursed to property owners before the first business day in July, the first year's contractual-assessment installments will appear on the next tax bill. For disbursements after that date, the first years' contractual-assessment installments will be capitalized and installments will not begin until the following year. The lien will be for the full amount of the contractual assessment. The contractual assessment includes a principal amount, an interest rate on that principal amount, and an ongoing administrative amount, as illustrated below:

1. The principal amount of the contractual assessment may include the following:
  - a. **Eligible Costs.** The City Program may finance the costs of installing Eligible Improvements and audit costs. All local, state and federal incentives and rebates must be deducted from the financed amount prior to approval. The amount of any federal Income Tax Credit (ITC) that the property owner may be eligible to receive does not need to be deducted from the financed amount.
  - b. **Capitalized Interest.** Because the tax collector has established a deadline for placing assessments on the county property tax bill, the principal component of the contractual assessment may also include the first tax year's installments if the deadline is missed in any year.
  - c. **Initial administrative costs and costs of issuance.** Initial administrative costs may include: (i) The fee charged by the county to record the statutory notices in the real property records, (ii) the costs of issuing any bonds, (iii) financing origination costs, and/or (iv) financing closing costs.
2. **Interest Rate.** The rate of interest paid by the property owner on the amount of funding received will be a fixed interest rate. The rate offered to property owners will vary from time to time depending on the cost of funds. A fixed interest rate in the Assessment Contract will not vary during the term of the assessment.
3. **Ongoing Administrative Costs.** On-going administrative fees – including the fee charged by Sacramento County for the collection of the contractual assessment installments on the county property-tax bill – will be included in the administrative-expense component of the contractual assessment.

### **Installation of Improvements.**

Property owners enter into contractual arrangements directly with Certified Contractors for the installation of improvements, unless the property owner is doing the work. All work is subject to City Building Department permits and inspections and all other applicable federal, state, and local laws and regulations. All work must be completed, including the final inspection, within 180 days of execution of the Notice to Proceed. The property owner and the Program Administrator may agree to an extension of this completion date for large projects and/or good cause.

### **Final Inspections & Disbursement of City Program Financing.**

Contractors installing improvements must be Certified Contractors registered through the Program Administrator for the City Program, comply with all state and local licensing laws, obtain building permits, and arrange all required inspections. After Improvements are completed, the Certified Contractor must contact the local permitting agency for compliance with any final-inspection and/or permit-completion requirements. The Certified Contractor and/or the property owner then notifies the Program Administrator that all work has been completed and submits final documentation, including but not necessarily limited to verification of permit completion, invoices reflecting all costs less rebates and incentives, and any applicable survey documentation.

After submittal of the documentation to confirm the completion of the project, the Program Administrator will prepare the associated Final Program Forms, including all documentation required by federal and state consumer protection laws, and deliver them to the property owner. Within 7 calendar days thereafter, the property owner must review, sign, and submit the following to the Program Administrator:

1. If it has not already done so, an executed and notarized Assessment Contract. (The property owner has 3 days from the date of signing to rescind the Assessment Contract.)
2. An executed Information Verification form
3. An executed Right to Rescind form
4. An executed Truth-in-Lending form
5. An executed Authorization to Release Information to Program Administrator
6. A Payment Assignment Form, if the payment is to be assigned to the contractor
7. An executed wire request, if applicable

Unless directed otherwise by the property owner, the Program Administrator will normally mail checks to the property owner (or Certified Contractor if so designated by the property owner) within five days of receipt of all required documentation. The amount disbursed will be the lesser of (i) the maximum assessment amount provided in the Assessment Contract or (ii) the actual costs and fees incurred. Interest will generally accrue as of the date of disbursement.

In the event financing is canceled by the property owner after a request for funding is submitted to the Program Administrator, all expenses incurred by the Program Administrator and the City for recording assessment liens, preparing bond documents and removing assessment liens will be the responsibility of the property owner. The Program Administrator

will arrange for removal of the lien evidenced by recordation of the Notice of Assessment upon receipt of reimbursement from the property owner for these expenses.

In the event that a project is not completed, but a lien has already been placed on the property, all expenses incurred by Program Administrator and/or the City for recording and removing the assessment liens will be the responsibility of the property owner, and may be included in the contractual assessment.

**Payment Terms .**

Payment of the City Program contractual assessment is made through the addition of a line item on the property tax bill. Payment terms range from 5 to 20 years, depending on the expected life of the installed Eligible Improvements. Depending on market conditions, a prepayment penalty, clearly identified in the Assessment Contract and included in all disclosures and truth-in-lending notifications to property owners, may apply.

**(Remainder of Page Intentionally Left Blank)**



# Appendix E – Form of Assessment Contract

## CITY OF SACRAMENTO PACE PROGRAM ASSESSMENT CONTRACT

This assessment contract is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, by and between the City of Sacramento, California, (the “City”) and \_\_\_\_\_ (the “Owner”).

### RECITALS

- A. The City has established the City of Sacramento PACE Program (“Program”) pursuant to which City may levy assessments against developed properties in the City, with the consent of the owners of the properties, to finance the acquisition and construction on and/or installation in the assessed properties of certain qualifying renewable-energy systems, energy-efficiency improvements, and water-efficiency improvements. The purpose and method of administration of the assessments under the Program are described in the City of Sacramento PACE Program Report confirmed by the City Council of the City (“City Council”) on September 27, 2011, as it may be amended from time to time (the “Report”).
- B. The Program is authorized by chapter 29 of part 3 of division 7 of the California Streets and Highways Code (the “Act”).
- C. Owner has submitted an application to participate in the Program, dated \_\_\_\_\_, 20 \_\_\_\_, copy attached as Exhibit A and incorporated by this reference (the “Application”). City has approved the Application as provided in the Report. The Application describes, among other things, the renewable-energy system(s) and/or water-efficiency improvements and/or energy-efficiency improvements to be financed, and constructed on and/or installed in the property of Owner described in Exhibit B attached and incorporated by this reference (the “Property”). In this contract, the improvements, together with their acquisition, construction and/or installation on the Property, are referred to as the “Improvements.”
- D. Owner wishes to participate in the Program by executing this contract with the City and using the moneys advanced by the City to finance the Improvements.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and other valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

## CONTRACT

### 1. Contract Documents.

This contract, together with the Application, and the documents and instruments attached to or referenced in this contract, and the Application are collectively referred to herein as the **“Contract Documents.”** All of the declarations and warranties of Owner made in the Application are incorporated in this contract as if fully set forth herein.

### 2. Contract Term.

The term of this contract shall be until the Assessment described herein and all accrued interest thereon, together with any applicable penalties, costs, fees, and other charges, have been paid in full.

### 3. Assessment and Lien.

(a) Owner agrees that upon the execution of this contract by the parties, the Property is subject to an assessment levied against the Property pursuant to this contract, the Act and applicable law (the **“Assessment”**) together with interest, and consents to levy of the Assessment on and recordation of a lien against the Property. Upon execution of this contract, City will execute and cause to be recorded in the office of the Clerk-Recorder of the County of Sacramento (**“County Recorder”**) a notice of assessment substantially in the form in Exhibit C, attached and incorporated by this reference (the **“Notice of Assessment”**).

(b) The execution of this contract by the parties constitutes the levy of the Assessment and the Annual Administrative Assessment, as defined in paragraph 7(c) below, by the City Council against the Property without any further action required by the parties.

(c) Upon recordation of the Notice of Assessment in the office of the County Recorder, the Assessment and each installment, together with any interest and penalties that become due on the Assessment, shall constitute a lien upon the Property until paid. Initially, as reflected in the Notice of Assessment, upon recordation of the Notice of Assessment, the Assessment shall equal the Maximum Disbursement Amount, as defined in Section 4 below. Following City’s disbursement of the Disbursement Amount pursuant to paragraph 4 below, the Assessment shall equal the Disbursement Amount.

(d) Failure to pay any installment of the Assessment or any interest thereon, like failure to pay any property taxes pertaining to the Property, will result in penalties and interest accruing on the amounts due. In addition, under those circumstances, the City has the right to foreclose the lien of the Assessment, as set forth in paragraph 7(d) below.

### 4. Disbursement Amount.

(a) City agrees to disburse moneys to Owner in the amount of the actual cost of the Improvements (the **“Disbursement Amount”**); provided the Disbursement Amount shall not exceed \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) (the **“Maximum**

**Disbursement”**). The Program Administrator (the **“Program Administrator”**) shall determine the Disbursement Amount on the basis of the best available written evidence of the actual cost of the Improvements and in the exercise of the Program Administrator’s reasonable judgment. The Program Administrator shall determine the Disbursement Amount following submission of required documentation by Owner that the Improvements have been completed according to the requirements of this contract. In the event the actual cost of the Improvements exceeds the Maximum Disbursement Amount, Owner shall be solely responsible for the payment of all costs to complete the Improvements described in the Application which exceed the Maximum Disbursement Amount, and Owner agrees in any event to complete the Improvements and to fund all additional costs over the amount of the Maximum Disbursement.

(b) Interest shall accrue on the unpaid Assessment from the date the Disbursement Amount is disbursed to Owner at the simple interest rate of \_\_\_\_\_ percent (\_\_\_\_%) per annum and shall be payable in installments as set forth on Exhibit D attached and incorporated by this reference. Interest shall be computed on the basis of a three hundred sixty (360) day year. If a court of competent jurisdiction determines the interest or other charges provided for herein in connection with the Assessment or the Annual Administrative Assessment (described in paragraph 7(c) below) exceed the limits permitted by applicable law, then: (i) any such interest or charge shall be reduced by the amount necessary to reduce the interest or charge to the permitted limit; and (ii) any sums already collected which exceed permitted limits will be refunded by City. The Program Administrator may make the refund by making a direct payment to Owner or by crediting the refund amount against the next installment or installments of the Assessment.

#### **5. Special Benefit to Property.**

(a) Owner expressly acknowledges that the Improvements confer a special benefit to the Property in an amount at least equal to the Assessment.

(b) Owner expressly waives the notice, protest and hearing procedures and provisions of any applicable law other than the Act with respect to the levy and collection of the Assessment and Annual Administrative Assessment, described in paragraph 7(c) below.

#### **6. Commencement and Completion of Improvements.**

(a) Consent and Authorization. This contract constitutes consent and authorization pursuant to Section 5898.21 of the Act for Owner to purchase directly the related equipment and materials for the Improvements and to contract directly for the construction on and/or installation in the Property of the Improvements.

(b) Date of completion of the Improvements. Subject to Section 18(g), below, Owner agrees to complete installation of the Improvements no later than 90 days after execution of this contract. Owner and the Program Administrator may agree to an extension of this completion date for good cause shown, but in no event shall the completion date be more than one year from the date of this contract.

**7. Collection of Assessment and Annual Administrative Assessment on Property Tax Bill; Other Remedies.**

(a) Annual installments of the Assessment, together with the annual interest on the Assessment, shall be collected on the property tax bill pertaining to the Property. The annual proportion of the Assessment coming due in any year, together with the annual interest on the Assessment, shall be payable in the same manner and at the same time and in the same installments as the general taxes of the City on real property are payable, and the assessment installments and the annual interest on the Assessment shall be payable and become delinquent at the same times and in the same proportionate amounts and shall bear the same penalties and interest after delinquency, and be subject to the same provisions for redemption and sale, as the general taxes on real property of the City. The amount of each Assessment installment and the interest on the unpaid Assessment that will be placed on the tax roll each year is set forth in Exhibit D attached and incorporated by this reference.

(b) The lien of the Assessment shall be coequal to and independent of the lien for general taxes, and, except as provided in Government Code Section 53936, not subject to extinguishment by the sale of the Property on account of the nonpayment of any taxes, and prior and superior to all liens, claims and encumbrances on or against the Property except (i) the lien for general taxes or ad valorem assessments in the nature of and collected as taxes levied by the State of California or any county, city, special district or other local agency, (ii) the lien of any special assessment or assessments the lien date of which is prior in time to the lien date of the Assessment, (iii) easements constituting servitudes upon or burdens to the Property, (iv) water rights, the record title to which is held separately from the title to the Property, and (v) restrictions of record.

(c) In addition to the Assessment, until the Assessment and the interest thereon is paid in full, Owner agrees that the Property is subject to an annual administrative assessment levied against the Property pursuant to this Contract, the Act and applicable law to pay costs incurred by City which result from the administration and collection of the Assessment and from the administration or registration of any associated bonds or other financing arrangement, as described in the Report, and from the administration of any reserve fund and other related funds (the **“Annual Administrative Assessment”**). The Annual Administrative Assessment shall not exceed \$40 Dollars in the first year of the Assessment, and shall thereafter be adjusted annually for cost of living based on the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for all urban consumers for the Northern California counties. The Program Administrator shall annually determine the amount of the Annual Administrative Assessment, not to exceed the amount determined in accordance with the preceding sentence. The Annual Administrative Assessment shall be collected in the same manner as the Assessment. The Annual Administrative Assessment shall become a lien upon the Property at the same time as the property tax becomes a lien each year upon the Property.

(d) Owner acknowledges that as a cumulative remedy, if any installment of the Assessment, or any interest thereon, together with any penalties, costs, fees, and other charges accruing under applicable taxation provisions are not paid when due, the City Council of City may order that the same be collected by an action brought in a court of

competent jurisdiction to foreclose the lien of the Assessment to the extent permitted, and in the manner provided by, applicable law.

#### **8. Use of Proceeds.**

Owner shall use the Disbursement Amount for the sole purpose of paying for the reasonable costs and expenses of the Improvements on the Property, and in connection therewith Owner shall comply with all requirements set forth in the Contract Documents.

#### **9. Disbursement Procedures.**

(a) Notwithstanding anything to the contrary contained herein, City shall have no obligation to disburse funds to Owner unless and until each of the following conditions is satisfied, or any such condition is expressly waived by the Program Administrator:

- i. The receipt by the Program Administrator of a written request to disburse the Disbursement Amount.
- ii. Receipt by the Program Administrator of a copy of a finalized permit issued by the building inspection department of the City.
- iii. If requested, the receipt by the Program Administrator of a written certification from Owner, and the contractor(s), if any, that installed or constructed the Improvements, stating that installation or construction is complete, and the actual cost of the Improvements. Such certification shall be in form and substance acceptable to the Program Administrator.
- iv. The receipt by the Program Administrator of such other documents and instruments as the Program Administrator may require, including but not limited to, if applicable, the sworn statements of contractor(s) and releases or waivers of lien, all in compliance with the requirements of applicable law.
- v. Owner has, as appropriate, executed and delivered to the Program Administrator the Contract Documents and such other documents or instruments pertaining to the Disbursement Amount or the Improvements as the Program Administrator may require.
- vi. As of the date of disbursement of the Disbursement Amount, the Program Administrator shall have determined that the representations of Owner contained in the Contract Documents are true and correct, and no Default (as defined in Section 13 below) shall have occurred and be continuing.
- vii. No stop payment or mechanic's lien notice pertaining to the Improvements has been filed and remains in effect as of the date of disbursement of the Disbursement Amount.
- viii. If requested, Program Administrator shall have received a title policy with regard to the moneys advanced to Owner.
- ix. Owner will, within fifteen (15) days of presentation by the Program Administrator, execute any and all documents or instruments required by the Contract Documents in connection with the disbursement of funds to Owner.

(b) Upon satisfaction or waiver of the conditions described in paragraph (a), above, City will disburse funds to Owner within ten (10) days of the date by which all of the foregoing conditions were satisfied or waived.

#### **10. Prepayment of Assessment.**

Owner may prepay the Assessment by paying the principal amount owing on the Assessment, plus any applicable prepayment premium, and accrued interest determined by the Program Administrator in accordance with the Report. The prepayment premium will not exceed three percent (3) of the amount of the Assessment to be prepaid. Interest on the Assessment may accrue until the next available redemption date for any bonds issued pursuant to a financing relationship contemplated by the Report. Such redemption date shall not exceed 60 days from the date of prepayment of the Assessment. Owner shall notify the Program Administrator in writing of Owner's determination to prepay the Assessment at least ten (10) business days prior to the date Owner intends to prepay the Assessment. Assessments may only be prepaid in full.

#### **11. Representations and Warranties of Owner.**

Owner promises that each representation and warranty set forth below is true, accurate and complete as of the date of this contract. By accepting the Disbursement, Owner shall be deemed to have reaffirmed each and every representation and warranty made by Owner in this Contract and in the Application, as of the date of disbursement. If Owner is comprised of the trustees of a trust, the following representations shall also pertain to the trustor(s) of the trust.

(a) Formation; Authority. If Owner is anything other than a natural person, it has complied with all laws and regulations concerning its organization, existence and the transaction of its business, and is in good standing in each state in which it conducts its business. Owner is the owner of the Property and is authorized to execute, deliver and perform its obligations under the Contract Documents, and all other documents and instruments delivered by Owner to City in connection therewith. The Contract Documents have been duly executed and delivered by Owner and are valid and binding upon and enforceable against Owner in accordance with their terms, and no consent or approval of any third party, which has not been previously obtained by Owner, is required for Owner's execution thereof or the performance of its obligations contained therein.

(b) Compliance with Law. Neither Owner nor the Property is in violation of, and the terms and provisions of the Contract Documents do not conflict with, any regulation or ordinance, any order of any court or governmental entity, or any building restrictions or governmental requirements affecting the Property.

(c) No Violation. The terms and provisions of the Contract Documents, the execution and delivery of the Contract Documents by Owner, and the performance by Owner of its obligations contained in this contract, will not and do not conflict with or result in a breach of or a default under any of the terms or provisions of any other agreement, contract, covenant or security instrument by which Owner or the Property is bound.

(d) Other Information. All reports, documents, instruments, information and forms of evidence which have been delivered to City related to Owner's application for Program funding are accurate, correct and sufficiently complete to give City true and accurate knowledge of their subject matter.

(e) Lawsuits. There are no lawsuits, tax claims, actions, proceedings, investigations or other disputes pending or threatened against Owner or the Property that may impair Owner's ability to perform its obligations hereunder, or that may impair City's ability to levy and collect the Assessment and Annual Administrative Assessment.

(f) No Event of Default. There is no event that is, or with notice or lapse of time or both would be, a Default under this contract.

(g) Accuracy of Declarations. The declarations of Owner contained in the Application are accurate, complete and true.

## **12. Owner's Covenants.**

Owner promises:

(a) Installation and Maintenance of Improvements. Owner shall, or shall cause its contractor(s) to, promptly commence the Improvements, and diligently continue to completion, in a good and workmanlike manner and in accordance with sound construction and installation practices. Owner shall maintain the Improvements in good condition and repair.

(b) Compliance with Law and Agreements. Owner shall complete all Improvements, or cause the Improvements to be completed, in conformity with all applicable laws, including all applicable federal, state, and local occupation, safety and health laws, rules, regulations, standards, and recorded instruments, covenants or agreements affecting the Property. Owner shall comply with and keep in effect all permits, licenses, and approvals required to complete installation of the Improvements.

(c) Site Visits. Owner grants City, Program Administrator, its agents and representatives the right to enter and visit the Property at any reasonable time, after giving reasonable notice to Owner, for the purposes of observing the Improvements. Program Administrator will make reasonable efforts during any site visit to avoid interfering with Owner's use of the Property. Owner shall also allow Program Administrator to examine and copy records and other documents of Owner that relate to the Improvements. Any site visit, observation or examination by Program Administrator shall be solely for the purposes of protecting City's rights under the Contract Documents.

(d) Protection Against Lien Claims. Owner shall promptly pay or otherwise discharge any claims and liens for labor done and materials and services furnished to the Property in connection with the Improvements. Owner shall have the right to contest in good faith any claim or lien, provided that it does so diligently and without delay in completing the Improvements.

(e) Notice to Successors in Interest. Owner agrees to provide written notice to any subsequent purchaser of the Property that the Property is subject to a Program assessment lien, and to provide any subsequent purchaser a copy of this contract.

(f) Insurance. If the Maximum Disbursement amount exceeds \$60,000, Owner shall provide, maintain and keep in force at all times until the Improvements are completed, builder's all risk property damage insurance on the Property, with a policy limit equal to the amount of the Maximum Disbursement.

(g) Notices. Owner shall promptly notify Program Administrator in writing of any Default under this contract, or any event which, with notice or lapse of time or both, would constitute a Default hereunder.

### **13. Mechanic's Lien and Stop Notices.**

In the event of the filing of a stop notice or the recording of a mechanic's lien pursuant to applicable law of the State of California and relating to the Improvements, the Program Administrator may summarily refuse to disburse any funds to Owner, and in the event Owner fails to furnish the Program Administrator a bond causing such notice or lien to be released within ten (10) days of notice from the Program Administrator to do so, such failure shall at the option of City constitute a Default under the terms of this Contract. Owner shall promptly deliver to the Program Administrator copies of all such notices or liens.

### **14. Owner Responsibility; Indemnification.**

(a) Owner acknowledges that the City has established the Program solely for the purpose of assisting the owners of property in the City with the financing of the acquisition, construction, and installation of qualifying renewable energy systems and energy efficiency improvements which include water efficiency improvements. Program is a financing program only. Neither the City, nor its officials, agents, employees, attorneys and representatives, nor the Program Administrator is responsible for selection, management or supervision of the Improvements or of the Improvements' performance. Any issues related to performance of the Improvements should be discussed with Owner's contractors or installers, and the manufacturers or distributors of the Improvements.

(b) To the extent permitted by law, Owner shall indemnify, defend, protect, and hold harmless City, any and all officials, agents, employees, attorneys and representatives of City (collectively, the "**City Parties**") and the Program Administrator, from and against all losses, liabilities, claims, damages (including consequential damages), penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorneys' fees) and any demands of any nature whatsoever related directly or indirectly to, or arising out of or in connection with, (i) the Contract Documents, (ii) disbursement of the Disbursement Amount, (iii) the Improvements, (iv) any breach or Default by Owner under the Contract Documents, (v) the levy and collection of the Assessment and the Annual Administrative Assessment, (vi) the

imposition of the lien of the Assessment, and (vii) any other fact, circumstance or event related to City's extension and payment of the Disbursement Amount to Owner or Owner's performance of its obligations under the Contract Documents (collectively, the "Liabilities"), regardless of whether such Liabilities shall accrue or are discovered before or after the Disbursement.

(c) The indemnity obligations described in this Section shall survive the disbursement of funds to Owner, the payment of the Assessment in full, the transfer or sale of the Property by Owner, and the termination of this contract.

#### **15. Waiver of Claims.**

For and in consideration of City's execution and delivery of this contract, Owner, for itself and for its successors-in-interest to the Property and for any one claiming by, through, or under Owner, hereby waives the right to recover from and fully and irrevocably releases the City Parties and/or the Program Administrator from any and all claims, obligations, liabilities, causes of action, or damages, including attorneys' fees and court costs, that Owner may now have or hereafter acquire against any of the City Parties and/or the Program Administrator, and accruing from or related to (i) the Contract Documents, (ii) the advance of the Disbursement Amount, (iii) the levy and collection of the Assessment and the Annual Administrative Assessment, (iv) the imposition of the lien of the Assessment, (v) the issuance and sale of any bonds or other evidences of indebtedness, or other financial arrangements entered into by City pursuant to the Program, (vi) the performance of the Improvements, (vii) the Improvements, (viii) any damage to or diminution in value of the Property that may result from construction or installation of the Improvements, (ix) any personal injury or death that may result from the construction or installation of the Improvements, (x) the selection of manufacturer(s), dealer(s), supplier(s), contractor(s) and/or installer(s), and their action or inaction with respect to the Improvements, (xi) the merchantability and fitness for any particular purpose, use or application of the Improvements, (xii) the amount of energy savings resulting from the Improvements and the Improvements, (xiii) the workmanship of any third parties, and (xiv) any other matter with respect to the Program. This release includes claims, obligations, liabilities, causes of action, and damages of which Owner is not presently aware or which Owner does not suspect to exist which, if known by Owner, would materially affect Owner's release of the City Parties and/or the Program Administrator.

**OWNER HEREBY ACKNOWLEDGES THAT IT HAS READ AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542 ("SECTION 1542"), WHICH IS SET FORTH BELOW:**

**"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."**

**BY INITIALING BELOW, OWNER HEREBY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE MATTERS THAT ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES.**

**Owner's Initials:** \_\_\_\_\_

The waivers and releases by Owner contained in this Section 16 shall survive the advance of the Disbursement Amount, the payment of the Assessment in full, the transfer or sale of the Property by Owner, and the termination of this contract.

**16. Further Assurances.**

Owner shall execute any further documents or instruments consistent with the terms of this contract, including documents and instruments in recordable form, as City shall from time to time find necessary or appropriate to effectuate its purposes in entering into this contract and disbursing funds to Owner.

**17. Events of Default.**

(a) Remedies with respect to the nonpayment of the Assessment or other amounts payable by Owner hereunder are governed by the provisions of Section 2 hereof and state law.

(b) The failure of any of Owner's representations or warranties to be correct in all material respects, or the failure or delay by Owner to perform any of its obligations under the terms or provisions of the Contract Documents, other than with respect to the payment of the Assessment, the Annual Administrative Assessment, or other amount payable by Owner shall constitute a non monetary default hereunder ("**Default**"). Owner must immediately commence to cure, correct, or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence, but in any event, within the time set forth in Section 18(c) below.

(c) If a Default occurs, prior to exercising any remedies under the Contract Documents or the Act, City shall give Owner notice of such Default. If the Default is reasonably capable of being cured within thirty (30) days, Owner shall have such period to effect a cure prior to exercise of remedies by City under the Contract Documents or the Act. If the Default is such that it is reasonably capable of being cured, but not within such thirty (30) day period, and Owner (i) initiates corrective action within such thirty (30) day period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then Owner shall have such additional time as is reasonably necessary to cure the Default prior to exercise of any remedies by City. However, in no event shall City be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a Default, or if the Default is not cured within one hundred and twenty (120) days after the first notice of Default is given.

(d) Subject to the provisions of paragraph (c), above, if any Default occurs City may exercise any or all of the rights and remedies available to it under applicable law, at

equity, or as otherwise provided herein. Upon the election of City, if there has been no Disbursement, this Contract shall terminate and, except as otherwise expressly provided herein, the parties have no further obligations or rights hereunder.

(e) Except as provided in Section 21, any and all costs and expenses incurred by City and/or Program Administrator in pursuing its remedies hereunder shall be additional indebtedness of Owner to City.

(f) Except as otherwise expressly stated in this Contract or as otherwise provided by applicable law, the rights and remedies of City are cumulative, and the exercise of one or more of such rights or remedies shall not preclude the exercise by City, at the same time or different times, of any other rights or remedies for the same Default or any other Default. No failure or delay by City in asserting any of its rights and remedies as to any Default shall operate as a waiver of any Default or of any such rights or remedies, or deprive City of its rights to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

(g) Performance of the covenants and conditions imposed upon Owner hereunder with respect to the commencement and completion of the Improvements shall be excused while and to the extent that, Owner, through no fault or negligence of its own, is prevented from complying therewith by war, riots, strikes, lockouts, action of the elements, accidents, or acts of God beyond the reasonable control of Owner; provided, however, that as soon as the cause or event preventing compliance is removed or ceases to exist the obligations shall be restored to full force and effect and Owner shall immediately resume installation of the Improvements.

**18. Severability.**

Each and every provision of this contract is, and shall be construed to be, a separate and independent covenant and agreement. If any term or provision of this contract or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this contract, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this contract shall be valid and shall be enforced to the extent permitted by law.

**19. Notices.**

All notices and demands shall be given in writing by first class mail, postage prepaid, or by personal delivery (by recognized courier service or otherwise). Notices shall be considered given upon the earlier of (i) personal delivery or (ii) two (2) business days following deposit in the United States mail, postage prepaid. Notices shall be addressed as provided below for the respective party provided that if any party gives notice in writing of a change of name or address, notices to such party shall thereafter be given as demanded in that notice:

To City:

---

---

---

---

To Owner:

---

---

---

---

Notwithstanding anything set forth above, after disbursement of funds to Owner, all notices regarding the assessment shall be sent only as provided by state law.

**20. Attorneys' Fees and Costs.**

In the event that any action is instituted to enforce payment or performance under this contract, the parties agree that the non-prevailing party shall be responsible for and shall pay all costs and all attorneys' fees incurred by the prevailing party in enforcing this contract.

**21. No Waiver.**

No disbursement of the Disbursement Amount based upon inadequate or incorrect information shall constitute a waiver of the right of City to receive a refund thereof from Owner.

**22. Governing Law.**

This contract shall be governed by the substantive law of the State of California, regardless of any law of conflicts to the contrary in any jurisdiction. Any legal action brought under this contract must be instituted in the Superior Court of the County of Sacramento, State of California.

**23. Assignment by City.**

City, at its option, may (i) assign any or all of its rights and obligations under this contract, and (ii) pledge and assign its right to receive the Assessment and the Annual Administrative Assessment, and any other payments due to City hereunder, without obtaining the consent of Owner.

**24. Owner Assignment Prohibited.**

In no event shall Owner assign or transfer any portion of this contract or Owner's rights or obligations under the contract without the prior express written consent of City, which consent may be granted or withheld in the sole and absolute discretion of the City. Sale, transfer, or rental of the Property is not an assignment or transfer of this contract.

**25. Carbon Credits.**

Owner agrees that any carbon credits attributable to the Improvements shall be owned by the City on behalf of the Program.

**26. Entire Agreement; Counterparts; Amendment.**

This contract, together with the other Contract Documents, is the entire agreement between the parties. Any other agreement related to the Improvements, and any amendment to this contract, must be executed in writing by both parties. If there is more than one "Owner," the obligations hereunder of all Owners shall be joint and several. This contract may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

**27. Special Termination.**

Notwithstanding anything to the contrary contained herein, this contract shall terminate and be of no further force or effect if Owner has submitted to the Program Administrator a notice of its decision to cancel this transaction on or prior to the date and time described in the Notice of Right to Cancel which was delivered to Owner upon its execution of this contract.

**IN WITNESS WHEREOF,** Owner and City have entered into this contract as of the date and year first above written.

**Owner:**

\_\_\_\_\_

By:

Date of Execution by Owner: \_\_\_\_\_, 20\_\_

**City:** City of Sacramento

\_\_\_\_\_

By:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Date of Execution by City: \_\_\_\_\_, 20\_\_