



City of Sacramento City Council

915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: 6/19/2012

Report Type: Public Hearing

Title: (Pass for Publication) Community Facilities District for the Clean Energy Sacramento Program and Authorization of Validation Action (Noticed on 5-15-12 and 6-7-12)

Report ID: 2012-00418

Location: Citywide

Recommendation: Conduct a public hearing on establishing Community Facilities District No. 2012-01 (Clean Energy) and upon conclusion 1) pass a Resolution that establishes the district, provides for the levy of a voluntary special tax, and authorizes a validation action; 2) pass a Resolution rescinding Resolution No. 2010-023; and 3) review an Ordinance levying a special tax within Community Facilities District No. 2012-01 (Clean Energy) and pass the ordinance title for publication as required by Sacramento City Charter section 32(c), to be adopted June 26, 2012.

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-Attachment 1 - Background Information
- 3-Attachment 2 - Final Hearing Report
- 4-Resolution Establishing CFD
- 5-Resolution Rescinding Res. NO. 2010-023

City Attorney Review

Approved as to Form
Joseph Cerullo
6/14/2012 12:00:56 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
5/31/2012 4:48:34 PM

Approvals/Acknowledgements

Department Director or Designee: Reina Schwartz - 6/13/2012 5:12:06 PM



Description/Analysis

Issue: This report recommends that City Council hold a public hearing and then take the following actions at the close of the hearing:

- Adopt a resolution that establishes Community Facilities District No. 2012-01 (Clean Energy) (the “**CFD**”), through which the City will implement the Clean Energy Sacramento (“**CES**”) program; the resolution also authorizes the filing of a lawsuit to validate the CES program. Establishing the CFD enables the City to offer low-cost financing to property owners for the acquisition, installation, and improvement of energy-efficiency, water-conservation, and renewable-energy improvements permanently affixed to their property.
- Adopt a resolution rescinding Resolution No. 2010-023, adopted by City Council on January 12, 2010, by which the City agreed to join the CaliforniaFirst Property Assessed Clean Energy (“**PACE**”) program. The CES program replaces the PACE program.
- Review an ordinance levying a special tax within Community Facilities District No. 2012-01 (Clean Energy) and pass the ordinance title for publication as required by Sacramento City Charter section 32(c), to be adopted June 26, 2012.

On September 26, 2011, City Council directed staff to research the possibility of a pilot residential program limited to property owners who did not have a loan on their home that was owned by the Federal Home Loan Mortgage Corporation (“**Freddie Mac**”) or the Federal National Mortgage Association (“**Fannie Mae**”). Initially, staff thought this might be a good way to define a pilot program; however, after further consideration staff came to the conclusion that this might be problematic. Staff’s reasoning is that even if the property did not currently have a loan owned by Freddie Mac or Fannie Mae, there is no reason to believe they could not easily acquire such a loan in the future for the property.

Therefore, after further consideration, staff believes that a better approach for a pilot residential program would be to rely on the conservative program underwriting requirements to serve as the determining factor for participation in the residential program along with exceptionally clear disclosures to the property owner on potential impacts of any future actions by the agency that regulates Freddie Mac and Fannie Mae, the Federal Housing Finance Agency (“**FHFA**”). Staff believes that the conservative underwriting requirements will serve as an effective pilot program. In addition, staff will commit to reporting back to City Council after a year on the progress of the overall program and any additional program changes that may be needed to address any further concerns raised by FHFA. The current program underwriting requirements are the most conservative in the state and include 15 percent equity in the property, a restriction on the annual tax based on the term of the financing, no more than 10 percent of the value of the property allowed to be financed for the project, and the owner must be current on all obligations secured by the property and cannot have any delinquencies or foreclosures over the past three years.

While FHFA has issued letters of concern, and Freddie Mac and Fannie Mae have outlined actions they may take in the future, the only action they have taken to date concerns Sonoma County’s PACE program: they currently require PACE program participants who refinance or sell their home to pay off the PACE assessment. In the meantime, Sonoma County continues to run the most successful residential PACE program in the nation with over \$40 million in residential projects funded. Recently, the Western Riverside Council of Governments (WRCOG) initiated its

own commercial and residential PACE program, which to date has approved approximately \$10 million in residential applications.

Policy Considerations: The recommendations in this report are consistent with the City Council’s economic and sustainability priorities for the City. Participation in the Clean Energy Sacramento program will be entirely voluntary and will enable owners of commercial, industrial, and residential property to finance renewable-energy, energy-efficiency, and water-conservation improvements using investor funds repaid through a special tax on their property-tax bills. These projects will reduce energy costs for property 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 Clean Energy Sacramento 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: Implementation of the CES 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 the Mello-Roos Community Facilities Act of 1982, as amended last year (Statutes 2011, chapter 493 (S.B. 555)), the CFD is established when the City Council adopts the Resolution of Formation. The hearing report outlines the requirements for participation, identifies the eligible improvements, and describes the financing model for the program.

The proposed CES program will benefit the environment as well as the local economy. Two studies have been commissioned by the City, and completed by the Center for Strategic Economic Research (“**CSER**”), to analyze the potential impact of a residential and commercial program. CSER determined that the commercial component of the 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. On the residential component of the program, for every 1percent of participation, 700 jobs could be created and \$170 million in economic output could be realized.

Financial Considerations: There is no financial impact to the City as a result of establishing the CFD. The CFD and the CES program will be administered and funded by the City’s program administrator, Ygrene Energy Fund California, LLC (“**Ygrene**”). Ygrene will administer and finance the CES program at no cost to the City. Ygrene’s sole source of compensation for performing these services will be derived from the interest rate spread between the cost of funds and the interest rate to property owners who obtain financing from Ygrene through the program. In addition, the City will make available to Ygrene up to \$321,000 in funds from an Energy Efficiency Conservation Block Grant (“**EECBG**”) for use by Ygrene in (1) developing administrative software for the CES program, (2) conducting CES program marketing and outreach, and (3) conducting energy audits to confirm

actual energy savings associated with the various improvements. The City Council previously accepted these grant funds on May 22, 2009, through the adoption of Resolution No. 2009-320, which authorized the acceptance of \$4.7 million in EECBG funds through the American Recovery and Reinvestment Act of 2009. A total of \$630,812 of this grant has been programmed in the City's Federal Energy Efficiency Grant Project (G13000050, Fund 2702, Operating Grants) for establishment of a regional assessment-financing program.

Emerging Small Business Development (ESBD): No goods or services are being purchased as a result of this report.

Background

The City 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, industrial, and residential property are second only to transportation related GHG emissions. Reaching the communitywide GHG-emission-reduction goal will require a number of programs and policies. The Clean Energy Sacramento ("**CES**") program is one important program that the City will pursue, not only to reduce GHG but also to create jobs and reduce energy costs for commercial, industrial, and residential property 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 special-tax obligation as part of the property's annual tax bill.

The CES program will enable owners of commercial, industrial, and residential property to obtain investor funding for renewable-energy, energy-efficiency (e.g., solar thermal, solar electric), and water-conservation improvements and to repay the investors over a multi-year period (not to exceed 20 years) through annual special tax on their property-tax bills. The program is completely voluntary: no property will be subject to a special tax unless the owner votes to participate in the program and enters into a contract for the special tax. 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.

Background on the Federal Housing Finance Agency ("**FHFA**")

In 2010, the FHFA issued letters raising concerns about Property Assessed Clean Energy ("**PACE**") residential programs, which essentially caused almost all residential PACE programs to cease with the exception of the Sonoma County program. On July 6, 2010, FHFA released a statement directing Freddie Mac and Fannie Mae to issue additional lender requirements to address the risks of PACE programs. In response to the July 6, 2010, FHFA statement, Fannie Mae and Freddie Mac on August 31, 2010, issued lender requirements which stipulated Fannie Mae or Freddie Mac would not purchase mortgage loans secured by properties with an outstanding PACE obligation originated subsequent to July 6, 2010. Additionally, Fannie Mae and Freddie Mac may consider further limitations as necessary to address safety and soundness concerns posed by PACE programs. These restrictions may include tightening borrower debt-to-income ratios or loan-to-value ratios in jurisdictions offering such programs. As a result of the statements issued by Fannie Mae and Freddie Mac, PACE assessments would

have to be paid off if and when a participating property owner either sells their home or refinances and a Fannie Mae or Freddie Mac loan is involved.

Unlike PACE programs, the CES program relies on special taxes rather than on special assessments. Even so, the concerns that FHFA, Fannie Mae, and Freddie Mac have expressed about PACE programs probably extend to special-tax-based programs like CES. So property owners whose home loans are owned by Freddie Mac and Fannie Mae will be required, as a condition for participating in the CES program, to notify Freddie Mac and Fannie Mae about their participation and to sign a CES document that includes the following disclaimer:

Many banks that make home loans desire to preserve the option to sell those loans to U.S. government-sponsored enterprises (called “**GSEs**”) that are regulated by the Federal Housing Finance Agency (“**FHFA**”). The FHFA appears to have instructed its GSEs not to purchase home loans where there is a superior lien for clean-energy improvements, such as the special-tax lien. Thus, in order to refinance your home loan, or for a prospective purchaser of your property to obtain a loan secured by the property, you may need to remove the special-tax lien by prepaying the special-tax obligation in full. You thus should consider the likelihood and timing of a possible refinancing or sale of your property, and the costs to prepay the special-tax obligation, in deciding whether to annex your property to the district.



City of Sacramento

Community Facilities District No. 2012-01

(Clean Energy)

City of Sacramento

County of Sacramento

State of California

Hearing Report

June 19, 2012

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1. Introduction

Senate Bill 555 (Statutes of 2011, chapter 493) amended the Mello-Roos Community Facilities Act of 1982 (Government Code sections 53311 and following) (the “**Act**”) to enable public agencies in California to establish voluntary special-tax 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, which authorize local governments to finance the installation of such improvements that are permanently affixed to real property. The City of Sacramento (the “**City**”) intends to use this financing authority to establish Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California (the “**District**”). The City will use the District to implement its Clean Energy Sacramento Program (the “**City Program**”), which promotes retrofits to residential property, commercial property (including multi-family residential property with five 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. In this report, eligible energy-efficiency and renewable-energy improvements and water-conservation measures are collectively referred to as “**Authorized Improvements.**”

The City Program is voluntary and requires the full consent of all of the owners of any property seeking to finance the installation of Authorized Improvements using voluntary special taxes. As with other types of land-secured public-financing programs (such as sewer-assessment districts), property owners will repay the cost of the Authorized Improvements advanced through the City Program, and the costs of the City Program, by means of an annual special tax levied against their properties. This special tax is payable in semi-annual installments and appears as a separate line item on the property-tax bills of the participating parcels.

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 water conservation, while also fostering economic vitality and community wellbeing, is a hallmark of a successful climate-policy strategy. The City Program will help owners of improved real property make principled investments in the long-term health of the local, state, and national economies, as well as in the global environment, by providing a voluntary long-term financing mechanism for Authorized Improvements. At the same time, the City Program will enable other jurisdictions within the boundaries of the City 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. The economic-development benefits of the City Program are multifaceted. By enabling property owners to take responsible energy- and water-conservation actions, the City Program promotes reduced

utility usage, which translates into direct consumer savings and an increase in discretionary income. The multiplier effect attributable to such savings will benefit 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: the study estimates that up to 60 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 very restrictive, the ability to obtain alternative sources of capital is extremely important. Accordingly, the City Program provides a safe, no-money-down means of financing Authorized Improvements, with a fixed interest 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 Authorized 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 and credits attributable to energy improvements financed by the City Program may be available. In this case, unless the improvements qualify for an incentive program that requires transfer of credits to the program provider, the offsets and credits would be owned by the City and could generate revenue that would be used in coordination with participants to promote the City Program's sustainability.

Program Administration

The City has contracted with Ygrene Energy Fund California, LLC (the **"Program Administrator"**) to administer and fund the City Program. The City Manager or his designee will be authorized to enter into "Unanimous Approval Agreements" on behalf of the City. The Program Administrator will oversee professionals associated with implementation of the City Program, including staff, contractors, and any other organizations assisting in the implementation.

The Program Administrator's duties include the following:

- Setting up the City Program and coordinating with City staff
- Selecting the site of an outreach center and operating the center
- Providing a source of financing for the City Program
- Developing marketing plans and programs
- Providing an interactive website for the City Program
- Reaching out to the community and marketing the City Program
- Processing and validating applications

- Certifying contractors
- Coordinating administration of the City Program
- Managing City Program data
- Acting as a liaison between the City, the property owners, and the contractors hired by property owners to install the Authorized Improvements

2. Program Requirements & Parameters

Hearing Report

The Sacramento City Council stated its intention to establish the City Program on May 15, 2012, by adopting its Resolution No. 2012-115 (the “**Resolution of Intention**”), which directed preparation of this report. This Hearing Report explains how the City Program will function (the “**Hearing Report**”). This Hearing Report includes the following:

- A map showing the boundaries of the territory proposed for annexation to the District in the future and within which voluntary special taxes may be implemented (attached as Appendix A). This territory is exactly the entire jurisdictional limits of the City.
- Policies concerning participation in the District (see this Section 2), including a list of the Authorized Improvements (attached as Appendix B); identification of the City official authorized to enter into Unanimous Approval Agreements on behalf of the City (see the paragraph titled “Unanimous Approval Agreement” in Appendix C, which summarizes the City Program’s financing process); and the maximum aggregate dollar amount of Authorized Improvements that may be financed under the City Program (see “Maximum Size” below in this Section 2).
- Information on the City’s incidental, financing, and administrative costs and the cost of placing special taxes on the tax roll (see Appendix D).
- A plan for funding the City Program (see Section 5).
- A draft Unanimous Approval Agreement (the “**Unanimous Approval Agreement**”) between a property owner and the City (attached as Appendix E).
- A draft Notice to Lender of Proposed Special Tax (the “**Lender Notification Letter**”) to be sent to all secured lenders on a property at the time its owners apply to participate in the City Program (attached as Appendix F).
- A draft Assignment Agreement (attached as Appendix G).
- A draft Property Owner’s Acknowledgment of Sole Responsibility to Deal with Lenders (attached as Appendix H).
- A draft Notice of Special Tax Lien (attached as Appendix I)

Boundaries of Program Area

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

Eligible Property Owners and Eligible Properties

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

- The property is located within the City.
- Property taxes and other special taxes on the tax bill are current and have not been delinquent for the preceding three years or the entire term of ownership of the current owner, whichever is shorter.
- There are no involuntary liens on the property, including construction liens.
- No notices of default or other evidence of debt delinquency have been recorded during the preceding three years or the entire term of ownership of the current owner, whichever is shorter.
- Payments on all mortgage debt secured by the property are current.
- The total of all existing secured indebtedness on the property does not exceed 85% of the value of the property (determined using assessed or appraised value or an estimate of value based upon data supplied by CoStar Group, Inc.).
- The proposed principal amount to be financed does not exceed 10% of the value of the property (determined using assessed or appraised value or an estimate of value based upon data supplied by CoStar Group, Inc.) unless the City approves a higher percentage.
- Each holder of a fee-simple interest in the property has signed the Unanimous Approval Agreement and any other documents required by the City Program.
- The total annual property taxes and assessments on the property (including the City Program special taxes) will not exceed the following percentages of the property’s market value (determined using assessed or appraised value or an estimate of value based upon data supplied by CoStar Group, Inc.):

Residential Property			
Financing Term	Maximum Program Special Tax	Maximum for Other Taxes & Assessments	Total Annual Aggregate
20 years	1.1%	2.0%	3.1%
10 years	1.5%	2.0%	3.5%
5 years	2.5%	2.0%	4.5%

Commercial, Industrial, and Other Property (including Public)			
All terms	3.0%	2.0%	5.0%

- Each lender with a lien on the property has been sent a Lender Notification Letter.

Authorized Improvements

The City Program enables owners of qualified property within the City to finance a wide range of Authorized 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 residential construction if the property will be occupied by the owner.
- The City Program provides financing only for Authorized Improvements that are permanently affixed to real property.
- The City Program provides financing for Authorized Improvements specified in Appendix B (which the City may change from time to time). Appendix B groups the improvements into four categories:
 - Energy-efficiency improvements
 - Renewable-energy improvements
 - Water-conservation improvements
 - Custom measures
- City Program financing is also available for projects that combine Authorized 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.
- City Program participants will be required to obtain and submit necessary building permits and inspections before receiving financing.
- The Program Administrator will certify the contractors who are eligible to install Authorized Improvements financed through the City 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 program requirements.

Eligible Project Costs and Administrative Costs

Project Costs. Eligible costs of the Authorized Improvements include the costs of equipment, materials, supplies, and installation. Installation costs may include the costs of energy and water-survey consultations and audits; labor, design, drafting, and engineering costs; 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 amount that may be disbursed through the City Program. Property owners may select any Certified Contractor for installation of their Authorized 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 a portion of the cost expended for Authorized Improvements. Repairs do not qualify for City Program financing except to the extent that the construction is required for a specific Authorized Improvement.

Administrative Costs. The intent of the City 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 charges in accordance with the schedule attached as Appendix D. Any annual charges will be included in the annual special tax. All other fees will be added into the amount to be financed by the property owner or may be paid directly when incurred. The Program

Administrator may also elect to cover all or a portion of its administrative costs through the “spread” between its cost of funds that it will advance to finance the Authorized Improvements and the City Program financing interest rate offered to the property owner.

Minimum Energy Financing Amount

The minimum size for an amount to be financed under the City Program is \$2,500. Unless progress disbursements are authorized, City Program financing will be disbursed directly to the property owner or to the property owner’s designee after Authorized Improvements are completed and final inspection and other documentation is submitted to the Program Administrator.

Duration of Special Tax

Unanimous Approval Agreements 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 special taxes will be tied to the useful life of financed Authorized Improvements but cannot exceed 20 years.

City Program 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 that will help to determine the maximum special-tax rate at the time the City and a property owner enter into a Unanimous Approval Agreement. 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 financial markets.

If available, the spread between the Program Administrator’s cost of funds 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 Special Tax Lien

All property owners must sign a Unanimous Approval Agreement and have their signatures notarized. Execution of the Unanimous Approval Agreement will authorize a lien on the property that secures the payment of the special taxes levied in accordance with the agreement.

Delinquent Special Tax Collections

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

First Levy of Special Tax

If funds are disbursed to property owners before June 30 of any year, then the first year’s special taxes will appear on the next tax bill. For disbursements made on or after July 1 of any year, the first

levy of the special tax will not appear on the tax bill until the following tax year. Interest on deferred installments will be capitalized and added to the amount to be financed under the Unanimous Approval Agreement.

Reserve Fund

The amount to be financed under the Unanimous Approval Agreement may include an amount to fund a reserve from which payments can be made if the property owner fails to pay the annual special tax. The amount of the reserve will be specified in the Unanimous Approval Agreement and may not exceed the amount of one year's special tax. The reserve will be replenished if delinquent special taxes are paid from the reserve. If a sufficient amount is available, the reserve will be used to pay the last year's special tax, and no special tax will appear on the property-tax bill for that year.

3. Authorized Improvements

There are four categories of Authorized Improvements that may be financed through the City Program. A complete list of Authorized Improvements is set out in Appendix B.

Energy Efficiency Improvements

Energy-efficiency improvements comprise 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 Improvements

Renewable-energy improvements primarily include 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 are wind-generation, solar-thermal, geothermal, and hydroelectric installations, as well as emerging technologies for renewable-energy generation.

Water Conservation Improvements

Water-conservation improvements comprise a wide range of water-conservation improvements designed to reduce demand. Included are recirculation systems, gray-water systems, low-flow fixtures, waterless urinals, deionization equipment, and filter upgrades.

Custom Improvements

The City Program encourages the development of innovative technologies that will diversify and expand the City's energy sources. Applicants who seek program financing for custom improvements should consult with the Program Administrator to determine eligibility and obtain directions for submitting engineering plans and specifications. The Program Administrator, in consultation with the City, will approve custom improvements 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

Property owners who participate in the City Program are investing in the community's future by helping to reduce energy usage and associated GHG emissions or by conserving water. The same owners are making financial investments in their properties, and careful consideration of the costs and benefits of Authorized 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 (\$2,500 to \$249,999), audits will be performed at modest cost to the property owner by contractors or local utility companies. Large projects (\$250,000 to \$499,999) and very large projects (\$500,000 or more) will require more formal audit procedures. The cost of audits may be subsidized by the City Program or may be financed through the annual special tax. Water-conservation improvements do not require an audit.

5. The Financial Strategy

The annual special taxes will be authorized in accordance with the Act and the Unanimous Approval Agreements. The annual special taxes will be collected through the property-tax system of Sacramento County. The City will assign the special-tax revenues to the Program Administrator. The Program Administrator has entered into agreements with Barclays Capital and other funding sources to provide both interim and long-term financing for the City Program. The Program Administrator has also represented to the City that through these means it will be able to purchase, hold, repackage, and remarket (or any combination thereof) the revenue stream of special-tax payments in such a way as to provide all necessary resources to fund the Authorized Improvements contemplated by the City Program. The Program Administrator will manage the City Program, establish the program budget, and be responsible for funding program operations. The Program Administrator will indemnify and hold harmless the City for and against any claims to the special-tax revenues associated with the Unanimous Approval Agreements. 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. The Program Administrator will reimburse the City's cost of any audit performed.

6. Consumer Protection

The Program Administrator will disclose relevant financing information to property owners and give them the opportunity to cancel their Unanimous Approval Agreements without penalty during the

three-day period following execution. Each property owner will be required to sign an acknowledgment that includes the substance of the following disclosure:

Many banks that make home loans desire to preserve the option to sell those loans to U.S. government-sponsored enterprises (called “GSEs”) that are regulated by the Federal Housing Finance Agency (“FHFA”). The FHFA appears to have instructed its GSEs not to purchase home loans where there is a superior lien for clean-energy improvements, such as the special-tax lien. Thus, in order to refinance your home loan, or for a prospective purchaser of your property to obtain a loan secured by the property, you may need to remove the special-tax lien by prepaying the special-tax obligation in full. You thus should consider the likelihood and timing of a possible refinancing or sale of your property, and the costs to prepay the special-tax obligation, in deciding whether to annex your property to the district.

The Program Administrator, on behalf of the City, will comply with all applicable state and federal laws, including but not limited to consumer protection and lending laws in connection with the operation of the City Program.

7. Changes to Report

The City Manager or his designee may make changes to this Hearing Report that the Program Administrator reasonably determines are necessary to clarify its provisions or to effectuate the purposes of the City Program. Changes to this Hearing Report that materially modify the City Program will require approval by the City Council. Whether approved by the City Manager or his designee or approved by the City Council, changes may not affect the special taxes payable under then-existing Unanimous Approval Agreements between property owners and the City.

Appendix A – Map of City Program Area

The City Program is available to owners of residential, commercial, or industrial property within the City, the boundaries of which are depicted below.

**PROPOSED BOUNDARY MAP
CITY OF SACRAMENTO
COMMUNITY FACILITIES DISTRICT NO. 2012-01
(CLEAN ENERGY)
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 _____, 2012.

CITY CLERK _____
CITY OF SACRAMENTO, CALIFORNIA

CLERK'S MAP CERTIFICATE.
I HEREBY CERTIFY THAT THE MAP SHOWING THE BOUNDARIES OF CITY OF SACRAMENTO COMMUNITY FACILITIES DISTRICT NO. 2012-01 (CLEAN ENERGY), STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO AT A MEETING HEREOF, HELD ON THE ____ DAY OF _____, 2012, BY ITS RESOLUTION NO. _____.

CITY CLERK _____
CITY OF SACRAMENTO, CALIFORNIA

COUNTY RECORDER'S FILING STATEMENT.
FILED THIS ____ DAY OF _____, 2012 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. _____

NORTH
1" = 100'

6-2-5
City of Sacramento
Department of Finance
City Engineer / Director of ITD

Appendix B – Authorized Improvements

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

Energy-Efficiency Improvements

- 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 Improvements

- 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

Renewable-Energy Improvements (Photovoltaic and Solar-Thermal Equipment)

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

Water-Conservation Improvements

- Faucet aerators
- Core-plumbing systems
- Gray-water systems
- Instantaneous hot-water heaters
- Recirculation hot-water systems
- Demand initiated hot-water systems
- Hot-water pipe insulation
- Irrigation-control systems
- Irrigation systems
- Rainwater cisterns
- Low-flow showerheads
- High-efficiency toilets
- Demand water softeners
- Whole-house water-manifold systems

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

- Cooling-condensate reuse
- Cooling-tower conductivity controllers
- Deionization equipment
- Filter upgrades
- Foundation drain water
- Industrial-process water-use reduction
- Pre-rinse spray valves

- Recycled water sources
- Urinals
- Waterless urinals

Custom Improvements

The Program Administrator can evaluate and approve financing for Authorized Improvements that are not “off the shelf” (“**Custom Improvements**”). Custom Improvements 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. Custom Improvements that will be considered for City Program funding include the following:

- 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 systems
- Natural gas
- Hydrogen fuel
- Other fuel sources (emerging technologies)
- Co-generation (heat and energy)

Appendix C – Summary of Financing Process

The City Program provides financing for the installation of Authorized Improvements on qualifying residential, commercial, and industrial property within the City. A participating property owner will repay the financing through the payment of special taxes levied against the owner's property that are 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, if self installing, determines the cost of the Authorized Improvements.

Application Process

The application process can be completed on-line or by 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 applications. The Program Administrator will resolve all questions, concerns, and disputes except as provided below.

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 will collect a \$50 application fee at the time of submittal, though the application fee may be waived in some circumstances, if allowed by law.

Lender Notification

Concurrently with submitting the application to the Program Administrator, the applicant must send a Lender Notification Letter to each secured lender on the property (Appendix F). The applicant must also sign a Property Owner's Acknowledgment of Sole Responsibility to Deal with Lenders (Appendix H).

Application Review

Within three business days of receipt of an application, the Program Administrator will review the application; determine whether it is incomplete, approved, denied, or requires additional approval; and notify the applicant in writing of that determination.

1. *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.
2. *Approved.* An application will be approved if the Program Administrator has verified that the application is complete and meets all applicable eligibility and underwriting criteria. Once an application is approved, the property owner will be required to execute a Unanimous Approval Agreement authorizing the City to record a Notice of Special Tax Lien (Appendix I) on the subject property. Once the Notice of Special Tax Lien is recorded, the Program Administrator will issue a Notice to Proceed to the property owner. Upon receipt of this notice, the property owner may sign installation contracts and authorize commencement of the project. If installation begins prior to receipt of a Notice to Proceed, then the property owner bears the risk of not receiving financing under the City Program.
3. *Denied.* An application will be denied if the Program Administrator cannot verify that it meets all of the requirements for approval. 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 decisions to the City.
4. *Additional Approvals.* With respect to an application to finance Custom Improvements, the Program Administrator reserves the right to require appropriate engineering documentation and energy studies verifying the energy savings and 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 but will discuss any such fee with the property owner before proceeding.

Permits

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

Time Limit

Except for very large projects (\$500,000 or more), installation of the Authorized Improvements must be completed within 180 days after the date of recording of the Notice of Special Tax Lien on the affected property. If the property owner fails to meet this deadline, then the ability to receive funding through the City Program may expire. Prior to expiration of the 180-day period, property owners may request an extension for good cause. Schedules for very large projects must be determined and agreed upon before issuance of a Notice to Proceed.

A property owner may cancel a funding reservation during the 180-day period. The property owner will thereafter be ineligible for funding under that application but may reapply.

Unanimous Approval Agreement

All property owners of record must sign the Unanimous Approval Agreement, the current form of which is attached as Appendix E, and have their signatures notarized. The City Manager or his designee will sign the Unanimous Approval Agreement on behalf of the City.

Special Tax Lien

Upon execution of the Unanimous Approval Agreement, the Program Administrator will record a Notice of Special Tax against the subject property. If funds are disbursed to property owners before the first business day in July, then the first special-tax levy will appear on the next tax bill. For disbursements after that date, the first year's interest on the amount financed will be capitalized, and the special-tax levies will not begin until the following year. The lien will secure each annual special-tax levy. The Unanimous Approval Agreement uses a principal amount to be financed, an interest rate on that principal amount, and an ongoing administrative amount, to arrive at the maximum annual special tax as illustrated below:

1. *Principal Amount to be Financed.* The principal amount to be financed may include the following:
 - a. *Eligible Costs.* The City Program may finance the costs of installing Authorized Improvements and conducting energy and water-survey consultations. All federal, state, and local incentives and rebates must be deducted from the principal amount to be financed before approval. The amount of any federal income-tax credit that the property owner may be eligible to receive does not need to be deducted from the principal amount to be financed.
 - b. *Capitalized Interest on the Principal Amount to be Financed.* Because the Sacramento County Tax Collector has established a deadline for placing special taxes on the County property-tax bill, the principal amount to be financed may also include necessary capitalized interest thereon 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 Notice of Special Tax Lien in the real property records, (ii) financing origination costs, and (iii) financing closing costs.
2. *Interest Rate.* The rate of interest paid by the property owner on the principal amount to be financed will be a fixed rate. The rate offered to property owners will vary from time to time depending on the Program Administrator's cost of funds. The interest rate in the Unanimous Approval Agreement will be fixed for the term of the tax levy.
3. *Ongoing Administrative Costs.* Ongoing administrative costs, including any costs charged by Sacramento County for the collection of the special taxes on the County property-tax bill, will be included in the administrative-expense component of the annual special tax.

Assignment of Special Tax Revenues

After each Unanimous Approval Agreement is fully subscribed, the City will assign to the Program Administrator the City's rights to receive the resulting special-tax revenues. The current form of the assignment agreement is attached as Appendix G.

Installation of Improvements

Property owners enter into contractual arrangements directly with Certified Contractors for the installation of the Authorized Improvements, unless the property owner is doing the work. All work is subject to City Community Development Department (Building Division) permits and inspections and all other applicable federal, state, and local laws and regulations.

Final Inspections & Disbursement of City Program Financing

Contractors installing improvements must be Certified Contractors registered through the Program Administrator for the City Program, must comply with all state and local licensing laws, and must obtain building permits and arrange all required inspections. After Authorized Improvements are completed, the Certified Contractor must contact the City Community Development Department (Building Division) for compliance with any final-inspection and permit-completion requirements. The Certified Contractor or the property owner then notifies the Program Administrator that all work has been completed and submits final documentation, including verification of permit completion, invoices reflecting all costs less rebates and incentives, and any applicable survey documentation.

Disbursement of the City Program financing will be in accordance with the disbursement procedures set forth in the Unanimous Approval Agreement.

If financing is canceled for any reason after recordation of the Notice of Special Tax Lien has been recorded – whether at the property owner's request or because the project is not completed – then all expenses incurred by the Program Administrator and the City for recording and removing the Special Tax Lien 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 Special Tax Lien upon receipt of payment from the property owner for these expenses.

Payment Terms

Payment of the City Program annual special taxes 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 Authorized Improvements. Depending on market conditions, a prepayment penalty, clearly identified in the Unanimous Approval Agreement and included in all disclosures and truth-in-lending notifications to property owners, may apply.

Appendix D – City Program Charges

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

Description	Amount	Collected
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*

* These charges may be included in the principal amount to be financed.

Consultation with County Auditor-Controller

The Sacramento County Auditor-Controller has indicated that the County’s normal fees for placing direct levies on the property-tax roll will apply. These are contained in Attachment H to the county’s direct-levy instructions, available at the Auditor-Controller’s website:

<http://www.finance.saccounty.net/auditor/PDF/directlevyinstructions1112.pdf>

The Auditor-Controller has indicated that no charges additional to those listed on Attachment H will apply.

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Appendix E – Form of Unanimous Approval Agreement

Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California

Unanimous Approval Agreement

This Unanimous Approval Agreement, dated _____, 20__, for purposes of identification only, is between the City of Sacramento, a California municipal corporation (the “City”), and all of the persons or entities identified on the signature page below as owners of the real property identified in Background paragraph E (collectively, the “Owner”).

Background

- A. In connection with its Clean Energy Sacramento Program (the “Program”), the City has established its *Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California* (the “CFD”) for the purpose of levying special taxes against certain developed properties in the City. The tax revenues will be used to finance, refinance, or lease the acquisition and installation on those properties of qualifying renewable-energy systems and energy- and water-efficiency improvements.
- B. The CFD was formed by the City under the Mello-Roos Community Facilities Act of 1982, set forth in sections 53311 through 53368.3 of the California Government Code (the “Act”), and particularly under sections 53313.5(l) and 53328.1, which the California Legislature added to the Act in 2011 to promote energy- and water-efficiency improvements needed to address global climate change (see Statutes 2011, chapter 493 (Senate Bill No. 555)). As the Legislature declared in the Act, “a public purpose will be served by providing the legislative body of a local agency with the authority to use special taxes pursuant to the Mello-Roos Community Facilities Act of 1982 to finance the installation of energy efficiency and renewable energy improvements that are affixed, as specified in section 660 of the Civil Code, to residential, commercial, industrial, or other property.” The purpose and method of administration of the special taxes under the CFD are further described in the CFD Hearing Report submitted to the City Clerk in conjunction with the public hearing concerning the formation of the CFD held by the Sacramento City Council on June 19, 2012, as it may be amended from time to time (the “Report”).
- C. The City has contracted with Ygrene Energy Fund California, LLC (the “Program Administrator”) to administer the Program and to fund the acquisition and installation of

qualifying renewable-energy systems and energy- and water-efficiency improvements through the CFD through at least September 2018.

- D. To participate in the Program, a property must annex to the CFD. The Act permits annexation to the CFD only with the unanimous approval of all of the property's owners. One purpose of this Unanimous Approval Agreement is to memorialize the unanimous approval required by the Act, but this agreement also specifies the terms under which the Property (as defined in paragraph E below) will participate in the Program.
- E. Owner holds title to the real property described in Exhibit A to this agreement (the "**Property**") and has submitted an application to participate in the Program, dated _____, 20__, a copy of which is attached to this agreement as Exhibit B (the "**Application**"). Among other things, the Application includes a list of the renewable-energy systems, water-efficiency improvements, and energy-efficiency improvements authorized to be financed through the Program, and Owner will select from the list the systems and improvements to be installed on the Property. The selected systems and improvements, together with their acquisition and installation on the Property, are referred to as the "**Improvements.**"
- F. The Owner wishes to participate in the Program by entering into this agreement with the City and using the moneys advanced by the Program Administrator to finance, refinance, or lease the Improvements.

With these background facts in mind, the City and the Owner agree as follows:

- 1. **Contract Documents.** This agreement and the documents attached to it as exhibits are collectively referred to as the "**Contract Documents.**" All of the Owner's declarations and warranties in the Application are incorporated into this agreement.
- 2. **Term.** The term of this agreement begins on the date, after the City and the Owner have signed this agreement, when the Notice of Special Tax Lien substantially in the form attached to this agreement as Exhibit C (the "**Notice of Special Tax Lien**") is recorded against the Property (the "**Effective Date**") in the records of the Sacramento County Clerk/Recorder. The term of this agreement ends when the entire special- tax obligation (as described in section 7(a), below), plus any applicable penalties, costs, fees, and other charges, has been paid in full.
- 3. **Special Tax and Lien.**
 - (a) As of the Effective Date, the Property will be annexed to the CFD for all purposes and will be subject to the annual special tax that will be levied against the Property in accordance with the terms of the CFD, this agreement, the Act, and any other applicable law and will be secured by the special-tax lien imposed by the recorded Notice of Special Tax Lien (the "**Special Tax**"). The Owner hereby consents to the

levy of the Special Tax on, and to the recordation of the Notice of Special Tax Lien against, the Property.

- (b) Failure to pay any installment of the Special Tax, like failure to pay any property taxes on the Property, will result in penalties and interest accruing on the amounts due. In addition, the City or a trustee acting in the City's name may foreclose on the lien of any delinquent Special Tax plus penalties, interest, and costs, as set forth in section 7(d) below. In that regard, the City and the Owner hereby agree that the obligation to pay the Special Tax is for the purpose of repaying funds advanced under the Program to the Owner or on the Owner's behalf; that this agreement constitutes the Owner's binding obligation to pay or repay a sum of money through the payment of the Special Tax; and that this agreement thus memorializes a "debt" for purposes of sections 53317(d) and 53356.1 of the Act.

4. Disbursement Amount. The City shall authorize disbursement of moneys to the Owner or on the Owner's behalf based on the amount of the actual cost of the Improvements (the "**Disbursement Amount**"), subject to this limit: the Disbursement Amount may not exceed \$_____ (the "**Maximum Disbursement**"). The Program Administrator will determine the Disbursement Amount based on invoices and other relevant documents submitted by the Owner. The Owner's use of the Disbursement Amount is limited as described in section 8, below. If the actual cost of the Improvements exceeds the Maximum Disbursement, then the Owner will be solely responsible for the payment of all improvement-completion costs that exceed the Maximum Disbursement and shall complete the Improvements and fund all costs that exceed the Maximum Disbursement.

5. Authorization of Special Tax, Indebtedness, and Appropriations Limit. The Owner acknowledges that this agreement constitutes the Owner's election to annex the Property to the CFD, to authorize the Special Tax and the debt described in section 3(b) above, and to establish the contribution of the Property towards the appropriations limit for the CFD (as defined by section 8(h) of Article XIII B of the California Constitution). The Owner hereby waives any notice, protest, and hearing procedures and provisions of any law other than the Act with respect to the annexation of the Property, the levy and collection of the Special Tax, the authorization of debt, or the establishment of the appropriations limit. The Owner further acknowledges that the annexation, the Special Tax, the debt, and the appropriations limit are being authorized on the Property at the Owner's request, and the Owner waives any right to contest the annexation, the authorization of the Special Tax or the debt, the establishment of the appropriations limit, or the imposition of the Special Tax in accordance with this agreement.

6. Commencement and Completion of Improvements.

- (a) *Consent and Authorization.* This agreement constitutes consent and authorization for the Owner to purchase directly the related equipment and materials for the

Improvements and to contract directly for the installation of the Improvements on the Property.

- (b) *Date of completion of the Improvements.* Subject to section 17(g) below, the Owner shall complete installation of the Improvements no later than 180 days after the Effective Date unless the Improvements cost \$500,000 or more and the Owner and the Program Administrator have agreed on a later completion date. The Owner and the Program Administrator may agree to an extension of the completion date for good cause shown.

7. Collection of Special Tax on Property Tax Bill; Other Remedies.

- (a) Annual installments of the Special Tax will be collected through the property-tax bill for the Property. The Special Tax will be payable and become delinquent and will bear the same penalties and interest after delinquency, at the same times and in the same manner, and in the same installments, as general taxes on real property within the City are payable. The amount of the Special Tax that will be placed on the tax roll each year is set forth in Exhibit D to this agreement. In accordance with California Law, delinquent Special Taxes bear late charges and interest at the same rates that apply to delinquent ad valorem taxes.
- (b) The Special Tax lien will be coequal to, and independent of, the lien for general taxes and, except as provided in California Government Code section 53936, will not be subject to extinguishment by the sale of the Property on account of the nonpayment of any taxes. The Special Tax lien will be prior and superior to all liens, claims, and encumbrances on or against the Property except (1) the lien for general taxes or ad valorem assessments in the nature of taxes that are levied and collected by the State of California or by any county, city, special district, or other local agency; (2) the lien of any special assessment or assessments; (3) easements constituting servitudes upon or burdens to the Property; (4) water rights, the record title to which is held separately from the title to the Property; and (5) restrictions of record.
- (c) The Special Tax may include an amount to pay costs that are incurred by Sacramento County, the City, or the Program Administrator in connection with the following: administration and collection of the Special Tax; administration of the CFD; administration of the debt or financing arrangement, as described in the Report; or administration of any reserve fund and other related funds.
- (d) As a cumulative remedy, if any installment of the Special Tax or any related interest, penalties, costs (including reasonable attorneys' fees), or other charges accruing under applicable taxation provisions are not paid when due, then the City or the Program Administrator on behalf of the City may order that the same be collected by an action brought by the City or by the Program Administrator in the name of

the City in the Superior Court of Sacramento County to foreclose the lien of the Special Tax to the extent permitted by, and in the manner provided by, applicable law.

- (e) If Sacramento County agrees, then the City intends to have all Special Tax revenues the County collects (including any interest, late charges, delinquent interest, and other charges allowed by law) remitted directly to a trustee who will receive and hold the revenues for the benefit of the Program Administrator and disburse the revenues in accordance with the Program Administrator's instructions.

8. Use of Proceeds. The Owner shall use the Disbursement Amount in compliance with all requirements of the Contract Documents and for the sole purpose of paying the reasonable costs and expenses of the Improvements, including the costs of energy audits, architectural and engineering fees, insurance costs, prepaid or amortized interest, Program costs, and other costs as may be approved by the City and the Program Administrator.

9. Disbursement Procedures.

- (a) Notwithstanding anything to the contrary elsewhere in this agreement, no funds will be disbursed to the Owner or on the Owner's behalf unless and until the Program Administrator determines that each of the following conditions has been satisfied, except that the Program Administrator may, with the City's approval, expressly waive one or more of these conditions in writing on the City's behalf:
 - (1) The Program Administrator has received a written request to disburse the Disbursement Amount.
 - (2) The Program Administrator (A) has received written confirmation from the City's Community Development Department (Building Division) that the Improvements have been properly installed and completed in accordance with the building permit; or (B) has established, with the City's approval, criteria for processing progress disbursements, and those criteria have been satisfied.
 - (3) If requested, the Program Administrator has received from the Owner and, if applicable, from the contractor or contractors that installed the Improvements, a document certifying that installation is complete and setting forth the actual cost of the Improvements. The certification must be acceptable to the Program Administrator in form and substance.
 - (4) The Program Administrator has received such other documents as the Program Administrator may require, including, if applicable, documents

required by consumer-protection laws, the sworn statements of contractors, and releases or waivers of liens, all in compliance with applicable law.

- (5) The Owner has, as appropriate, signed and delivered to the Program Administrator the Contract Documents and such other documents pertaining to the Disbursement Amount or the Improvements as the Program Administrator may reasonably require.
 - (6) The Program Administrator has determined that, as of the date of disbursement, the Owner's representations in the Contract Documents are true and that no Default (defined in section 17 below) has occurred and is continuing.
 - (7) As of the date of the disbursement, no stop payment or mechanic's lien notice pertaining to the Improvements has been filed and remains in effect, except such as will be removed through a close of an escrow that includes the payment of some or all of the Disbursement Amount.
 - (8) If required, the Program Administrator has received a title policy with regard to the funds to be disbursed to the Owner.
- (b) The Program Administrator will notify the City when all of the conditions described in section 9(a) above have been satisfied or waived, and the City will have three business days after receipt to review the notice. The Program Administrator will disburse the funds as soon as practicable following the end of the three-day review period unless the City has objected to one or more of the determinations or waivers set out in the notice.

10. Prepayment of Special Tax Obligation. The Owner may prepay the entire Special Tax obligation by paying the present value of the future scheduled installments of the Special Tax using a discount rate of ___% plus reasonable administrative costs and a prepayment premium that may not exceed 3% of the calculated present value. Interest on the calculated present value may accrue until the next available redemption date for any debt issued pursuant to a financing relationship contemplated by the Report. The redemption date may not exceed 240 days from the date of prepayment. The Owner shall notify the Program Administrator in writing of the Owner's determination to prepay the Special Tax obligation at least 10 business days before the date the Owner intends to make prepayment. The Special Tax obligation may only be prepaid in full.

11. The Owner's Representations and Warranties. Based on the Owner's actual knowledge after a reasonable investigation, the Owner represents and warrants that each of the statements set forth in sections 11(a) through 11(f) below is true and complete as of the Effective Date. By accepting the Disbursement Amount, the Owner is deemed to have reaffirmed, as of the date of disbursement, the truth and completeness of the statements

in sections 11(a) through 11(f) and of each declaration the Owner makes in the Application. If the Owner is one or more trustees of a trust, then the following statements also pertain to the trustor or trustors of the trust.

- (a) *Formation; Authority.* Each person who signs this agreement (other than the City's signatory) represents the following:
- (1) The signature page of this agreement identifies all persons and entities holding title to the Property.
 - (2) The Contract Documents are binding upon, and enforceable against, the Owner in accordance with their terms.
 - (3) No consent or approval of any third party is required for the Owner's execution of the Contract Documents or the Owner's performance of its obligations under the Contract Documents except for the consents and approvals, if any, that the Owner has already obtained.
 - (4) If the person is signing for himself or herself, then he or she is authorized and able to perform the Owner's obligations under the Contract Documents and under all other documents the Owner delivers to the City or the Program Administrator in connection with the Contract Documents.
 - (5) If the person is signing on behalf of a corporation, partnership, limited-liability company, or other entity that is not a natural person, then (A) he or she is authorized to sign and deliver this agreement on that entity's behalf; (B) the entity for which he or she signs is authorized and able to perform the Owner's obligations under the Contract Documents and under all other documents the Owner delivers to the City or the Program Administrator in connection with the Contract Documents; and (C) the entity has complied with all laws and regulations concerning its organization and existence and the transaction of its business and is in good standing in each state in which it conducts its business.
- (b) *Compliance with Law.* Neither the 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) *Other Information.* All documents, information, and forms of evidence that have been delivered to the Program Administrator in connection with the Owner's application for Program funding are accurate and sufficiently complete to provide accurate and complete knowledge of their subject matter.

- (d) *Lawsuits.* There are no lawsuits, tax claims, actions, proceedings, investigations, or other disputes pending or threatened against the Owner or the Property that may impair the Owner's ability to perform its obligations under this agreement or may impair the City's ability to levy and collect the Special Tax or any other amounts owing under the Program.
- (e) *No Event of Default.* There is no event that is, or with notice or lapse of time or both would be, a Default (defined in section 17 below) under this agreement.
- (f) *Accuracy of Declarations.* The Owner's declarations in the Application are true and complete.

12. The Owner's Covenants.

- (a) *Installation and Maintenance of Improvements.* The Improvements must be installed by contractors on the Program Administrator's list of Certified Contractors unless the Program Administrator, in writing and with the City's approval, authorizes the Owner to install the Improvements. The Owner shall cause its contractor or contractors to do the following: promptly obtain all required building permits; thereafter promptly begin installation the Improvements and diligently continue the work to completion, in a good and workmanlike manner and in accordance with sound installation practices. The same standard applies if the Owner installs the Improvements. The Owner shall maintain the Improvements in good condition and repair.
- (b) *Compliance with Law.* The 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, and standards. The Owner shall comply with and keep in effect all permits, licenses, and approvals required to install and operate the Improvements.
- (c) *Site Visits.* The Owner hereby grants to the City's and the Program Administrator's agents and representatives the right to enter and visit the Property at any reasonable time, after giving reasonable notice to the Owner, for the purpose of observing the Improvements. The agents and representatives will make reasonable efforts, during any site visit, to avoid interfering with Owner's use of the Property. The Owner shall also allow the City's and the Program Administrator's agents and representatives to examine and copy the Owner's records and other documents that relate to the Improvements. Any site visit, observation, or examination under this section 12(c) will be solely for the purposes of protecting the City's rights under the Contract Documents.
- (d) *Protection Against Lien Claims.* The 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. The Owner may contest in good faith any claim or lien but must do so diligently and without delay in completing the Improvements.

- (e) *Notice to Successors in Interest.* The Owner shall provide any subsequent purchaser of the Property with written notice that the Property is subject to the Special Tax lien.
- (f) *Insurance.* If the Maximum Disbursement exceeds \$60,000, then the Owner shall provide, maintain, and keep in force at all times, until the Improvements are completed, a policy of builder's "all risk" property-damage insurance on the Property, with a policy limit equal to the amount of the Maximum Disbursement. Alternatively, the Owner may require that each Certified Contractor installing the Improvements provides, maintains, and keeps such insurance in force. Upon request, the Owner shall provide the Program Administrator with documents (e.g., a certificate of insurance) confirming compliance with this section 12(f).
- (g) *Notices.* Owner shall promptly notify Program Administrator in writing of any Default (defined in section 17 below) under this agreement and of any event that, with notice or lapse of time or both, would constitute a Default.

13. Mechanic's Lien and Stop Notices. If a stop notice or a mechanic's lien related to the Improvements is filed or recorded in accordance with California law, then the Program Administrator may summarily refuse to disburse any funds to the Owner. In addition, if the Owner fails to furnish the Program Administrator with a bond causing such notice or lien to be released within ten days of notice from the Program Administrator to do so, then that failure will constitute a Default under this agreement (see section 17 below). The Owner shall promptly deliver to the Program Administrator copies of all such notices or liens.

14. Owner Responsibility; Indemnification.

- (a) The Owner acknowledges that the City has established the Program solely for the purpose of assisting the owners of property in the City with financing for the acquisition and installation of qualifying renewable-energy systems and energy- and water-efficiency improvements. The Program is a financing program only. The City; the City's officers, employees, or agents; and the Program Administrator are not responsible for the selection of the Improvements or for the installation, performance, or maintenance of the Improvements. Any issues related to installation, performance, or maintenance of the Improvements should be discussed with the Owner's contractors and with the manufacturers or distributors of the Improvements.

- (b) To the maximum extent permitted by law, the Owner shall indemnify, defend, protect, and hold harmless the City and the City’s officers, employees, and agents (collectively, the “**City Parties**”), as well as the Program Administrator, from and against all liabilities, claims, demands, damages (including consequential damages), and costs (including all reasonable out-of-pocket litigation costs and reasonable attorneys’ fees through final resolution on appeal) that are related directly or indirectly to, or arise in any way out of, or in connection with, any fact, circumstance, or event related to the approval of the Disbursement Amount or the payment to the Owner of the Disbursement Amount, including any of the following: the Contract Documents; the Owner’s performance of (or failure to perform) its obligations under the Contract Documents; the Owner’s breach or Default (see section 17 below) under the Contract Documents; disbursement of the Disbursement Amount; the selection, acquisition, installation, operation, or maintenance of the Improvements; the levy and collection of the Special Tax; and the imposition of the Special Tax lien. The Owner’s obligations under this section 14(b) apply whether they accrue or are discovered before or after the disbursement of the Disbursement Amount to the Owner or the Owner’s designee.
- (c) The indemnity obligations described in this section 14 will survive the disbursement of the Disbursement Amount to the Owner or the Owner’s designee, the payment of the Special Tax obligation in full, the transfer or sale of the Property by Owner, and the termination of this agreement.

15. Waiver of Claims.

- (a) Acting for itself; for its successors-in-interest to the Property; and for anyone claiming by, through, or under the Owner, the Owner hereby waives the right to recover from, and fully and irrevocably releases the City Parties and the Program Administrator from, all claims, obligations, liabilities, causes of action, or damages, including attorneys’ fees and court costs, that the Owner may now have or later acquire against any of the City Parties or the Program Administrator, and accruing from, or related to, any of the following:
 - (1) the Contract Documents;
 - (2) the advance of or failure to advance the Disbursement Amount;
 - (3) the levy and collection of the Special Tax;
 - (4) the imposition of the Special Tax lien;
 - (5) the issuance and sale of any bonds or other evidences of indebtedness, or other financial arrangements entered into by the City or the Program Administrator pursuant to the Program;

- (6) the performance of the Improvements;
 - (7) the Improvements;
 - (8) any damage to or diminution in value of the Property that may result from installation or operation of the Improvements;
 - (9) any personal injury or death that may result from installation or operation of the Improvements;
 - (10) the selection of manufacturers, dealers, suppliers, contractors, or installers, or their action or inaction with respect to the Improvements;
 - (11) the merchantability and fitness of the Improvements for any particular purpose, use, or application;
 - (12) the amount of energy or water savings resulting from the Improvements;
 - (13) the workmanship of any third parties; and
 - (14) any other matter with respect to the Program.
- (b) This release includes claims, obligations, liabilities, causes of action, and damages of which the Owner is not currently aware or which the Owner does not suspect to exist, and which, if known by the Owner, would materially affect the Owner's release of the City Parties or the Program Administrator or both.
- (c) **The Owner hereby acknowledges that it has read and is familiar with 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, the 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: _____

- (d) The Owner's waivers and releases in this section 15 will survive the disbursement of the Disbursement Amount, the payment of the Special Tax obligation in full, the

Owner's transfer or sale of the Property, and the termination of this agreement. The Owner's waivers and releases in this section 15 apply to the Owner's successors-in-interest to the Property and to anyone claiming by, through, or under the Owner.

- 16. Further Assurances.** The Owner shall execute any additional documents that are consistent with this agreement, including documents in recordable form, as the City or the Program Administrator may from time to time find necessary or appropriate to effectuate its purposes in entering into this agreement and disbursing funds to the Owner.
- 17. Events of Default.**
- (a) Remedies with respect to the nonpayment of the Special Tax or any other amounts payable by the Owner under this agreement are governed by section 3 above and California law, including the Act.
 - (b) The failure of any of the Owner's representations or warranties to be correct in all material respects, or the Owner's failure to perform or delay in performing any of its obligations under the Contract Documents (other than failures or delays with respect to payment of the Special Tax or any other amount payable by the Owner), will each constitute a non-monetary default (each, a **"Default"**). Upon receiving a notice of Default given under section 17(c) below, the Owner shall immediately start to cure the Default and shall complete the cure with reasonable diligence, but in any event no later than the time set forth in section 17(c).
 - (c) If a Default occurs, then before exercising any rights or remedies under the Contract Documents or California law, including the Act, the Program Administrator, on the City's behalf, must give the Owner a written notice of Default. If the Default is reasonably capable of being cured within 30 days, then the Owner will have 30 days after receiving the notice to effect a cure before the City may exercise any rights or remedies. If the Default is reasonably capable of being cured, but not within 30 days, and if the Owner begins corrective action within 30 days after receiving the notice and diligently, continually, and in good faith works to complete the cure as soon as is practicable, then the Owner will have such additional time as is reasonably necessary to cure the Default before the City may exercise any rights or remedies. In no event, however, will the City be precluded from exercising any rights or remedies if its security becomes or is about to become materially jeopardized by the Owner's failure to cure a Default or if the Default is not cured within 120 days after the first notice of Default is given.
 - (d) If a Default occurs, then, subject to section 17(c) above, the City may exercise any or all of the rights and remedies available to it under applicable law, at equity, or as otherwise provided in this agreement. If, at the time of the Default, there has been

no disbursement of the Disbursement Amount, then the City may elect to terminate this agreement, and, except as otherwise expressly provided in this agreement, upon such termination the parties will have no further obligations or rights under this agreement.

- (e) All costs and expenses the City or the Program Administrator incurs in pursuing its remedies under this agreement will be additional indebtedness of the Owner.
- (f) Except as otherwise expressly stated in this agreement or as otherwise provided by applicable law, the City's rights and remedies are cumulative, and the exercise of one or more of those rights or remedies will not preclude the exercise, at the same time or different times, of any other rights or remedies for the same Default or any other Default. The City's failure or delay in asserting any of its rights and remedies as to any Default will not operate as a waiver of any Default or of any such rights or remedies and will not deprive the City of its rights to institute and maintain any actions or proceedings it may consider necessary to protect, assert, or enforce its rights or remedies.
- (g) With respect to the installation of the Improvements only, the performance of the Owner's covenants under this agreement and the compliance of conditions imposed upon the Owner by this agreement will be excused while and to the extent that the Owner, through no fault or negligence of its own, is prevented from performing or complying by war, riots, strikes, lockouts, action of the elements, accidents, or acts of nature beyond the Owner's reasonable control. But the excused covenants or conditions will be restored to full force as soon as the cause or event preventing compliance is removed or ceases to exist, and the Owner shall immediately resume installation of the Improvements.

18. Severability. Each provision of this agreement is a separate and independent covenant and agreement. If any non-material provision of this agreement or the application of that provision is held to be invalid or unenforceable in whole or part, then the remainder of this agreement, or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will remain valid and fully enforceable.

19. Notices. Any notice or demand under this agreement must be in writing and will be considered properly given and effective only when mailed or delivered in the manner provided by this section 19 to the persons identified below. A mailed notice or demand will be effective or will be considered to have been given on the second business day after it is deposited in the United States Mail, as certified mail, addressed as set forth below and with postage prepaid. A notice or demand sent in any other manner will be effective or will be considered properly given when actually delivered. A party may change its address for these purposes by giving written notice of the change to the other party in the manner provided in this section 19. Notwithstanding anything set forth in this

section, after disbursement of funds to the Owner, all notices regarding the Special Tax must be sent as provided by California law.

To City:

To Owner:

- 20. No Waiver.** A disbursement of the Disbursement Amount based upon inadequate or incorrect information will not constitute a waiver of the City’s right to receive a refund of the Disbursement Amount from the Owner.
- 21. Interpretation.** This agreement is to be interpreted and applied in accordance with California law. Exhibits A, B, C, and D are part of this agreement. “Include” and its variants are terms of enlargement rather than of limitation. For example, “includes” means “includes but not limited to,” and “including” means “including but not limited to.”
- 22. Venue.** Any legal action brought under this agreement must be instituted in the Superior Court of the County of Sacramento, State of California.
- 23. Assignment by City.** The City, at its option, may do either or both of the following without obtaining the Owner’s consent:
- (a) Assign any or all of its rights and obligations under this agreement, including the right to file and prosecute any foreclosure action regarding delinquent Special Taxes or any other amounts payable by the Owner under this agreement.
 - (b) Pledge and assign its right to receive the Special Tax collections and any other amounts payable by the Owner under this agreement.
- 24. Owner Assignment Prohibited.** The Owner shall not assign or transfer any portion of this agreement or of the Owner’s rights or obligations under the agreement without the City’s prior express written consent, which the City may withhold, grant, or condition in its sole and absolute discretion. The sale, transfer, or rental of the Property is not an assignment or transfer of this agreement.
- 25. Carbon Credits.** Any carbon credits, renewable-energy credits, solar-renewable-energy credits, offsets, or other tradable environmental certificate or permit attributable to the Improvements will be owned by the City except as follows: if installation of the Improvements qualifies for a monetary incentive or rebate program that requires transfer of carbon credits to the provider of the monetary incentive or rebate, then the City shall provide for the transfer of the appropriate carbon credits in conjunction with the provision of the monetary incentive or rebate to the Owner.

- 26. Entire Agreement; Counterparts; Amendment.** This agreement contains the parties' entire understanding regarding the matters addressed and is intended to be their final, complete, and exclusive expression of those matters. It supersedes all prior or contemporaneous agreements, representations, and negotiations, whether written, oral, express, or implied. Any amendment to this agreement must be in writing and signed by both parties. If the Owner consists of more than one person or entity, then all such persons and entities will be jointly and severally obligated by this agreement. This agreement may be executed in several counterparts, each of which will be considered an original, but all of which together will constitute the same agreement.
- 27. Special Termination.** Notwithstanding anything to the contrary above, this agreement will terminate and be of no further force if, on or before the date and time described in the Notice of Right to Cancel delivered to the Owner when the Owner signed this agreement, the Owner submits to the Program Administrator a notice of the Owner's decision to cancel this agreement.

(Signature page follows)

Owner

Print Name of Owner No. 1

Print Name of Owner No. 2

Print Street Address of Owner No. 1

Print Street Address of Owner No. 2

Print City, State, and ZIP Code of Owner No. 1

Print City, State, and ZIP Code of Owner No. 2

By: _____
Signature of Authorized Person

By: _____
Signature of Authorized Person

Print Name and Title of Authorized Person

Print Name and Title of Authorized Person

Date: _____, 20__

Date: _____, 20__

Print Name of Owner No. 3

Print Name of Owner No. 4

Print Street Address or P.O Box of Owner No. 3

Print Street Address of Owner No. 4

Print City, State, and ZIP Code of Owner No. 3

Print City, State, and ZIP Code of Owner No. 4

By: _____
Signature of Authorized Person

By: _____
Signature of Authorized Person

Print Name and Title of Authorized Person

Print Name and Title of Authorized Person

Date: _____, 20__

Date: _____, 20__

City of Sacramento

By: _____
Signature of Authorized Person

Print Name and Title of Authorized Person

Date: _____, 20__

Appendix F – Form of Notice to Lender of Proposed Special Tax

Lender Address:

Notice Date: _____

Property Address:

Loan Number: _____

APN: _____

To Whom It May Concern:

The undersigned (the “**Property Owner**”) owns the property located at the above-referenced address (the “**Property**”). You are the lender (the “**Lender**”) with respect to a loan secured by a private lien on the Property (the “**Loan**”).

Background. In connection with its Clean Energy Sacramento Program (the “**Program**”), the City of Sacramento has established its “Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California” (the “**District**”) to assist property owners with financing the installation of renewable-energy, energy-efficiency, and water-efficiency improvements that are permanently affixed to their properties (the “**Authorized Improvements**”). The District was formed under California’s Mello-Roos Community Facilities Act of 1982, set forth in sections 53311 through 53368.3 of the California Government Code (the “**Act**”). See in particular sections 53313.5(l) and 53328.1.

Under the Act, but only if the owners unanimously consent, the Property will be annexed to the District and an annual special tax will be levied to finance the installation of Authorized Improvements on the Property. Section 53340(e) of the Act provides that the special tax will be collected on the property-tax bill in the same manner as, and subject to the same penalties, remedies, and lien priorities as, ad valorem real-property taxes. Underwriting requirements for participation in the Program include a written application signed by all owners of the Property and verification of the following:

- The Property is located within the City.
- Property taxes and other special taxes on the tax bill are current and have not been delinquent for the preceding three years or the entire term of ownership of the current owners, whichever is shorter.
- There are no involuntary liens on the Property, including construction liens.
- No notices of default or other evidence of debt delinquency have been recorded during the preceding three years or the entire term of ownership of the current owners, whichever is shorter.
- Payments on all mortgage debt secured by the Property are current.

- The total of all existing secured indebtedness on the Property does not exceed 85% of the value of the Property (determined using assessed or appraised value or an estimate of value based upon data supplied by CoStar Group, Inc.).
- The principal amount to be financed does not exceed 10% of the value of the Property.
- Each holder of a fee-simple interest in the Property has signed a Unanimous Approval Agreement (see below) and any other documents required by the Program.
- The total annual aggregate amount of property taxes and special assessments on the Property, including the special tax imposed through the Program, will not exceed specified percentages of the value of the Property that depend on the term of the special tax and on whether the Property is residential, commercial, or industrial. These percentages are all less than 5% and are available from the City.
- Each lender with a lien on the Property has been sent this notice.

Participation of the Property Owner in the District. The Property Owner has applied to annex the Property to the District and intends to enter into a Unanimous Approval Agreement with the City, under which the City will levy a special tax on the Property to finance the installation of Authorized Improvements. The maximum annual special tax to be levied, which includes an amount to pay the costs of administering the Program and the District, will be as shown on the attached Exhibit A.

Estimated Benefits of the Authorized Improvements. The Property Owner believes it will realize savings from the Authorized Improvements greater than their cost over their useful life.

Purpose of this Notice. The Property Owner is sending this Notice of Proposed Special Tax to the Lender to (1) provide notice of the Property's proposed annexation to the District; (2) provide notice that the annual special taxes will be collected on the property-tax bill in the same manner as, and subject to the same penalties, remedies, and lien priorities as, general ad valorem real-property taxes; and (3) declare the Property Owner's agreement to pay on a timely basis both the existing obligations secured by the Property (including the Loan) and the proposed special tax.

Execution and Return of Consent. Although the Lender's consent not a requirement for the Property's annexation to the District, the Property Owner would appreciate your signing this notice below and then returning it to the Property Owner within 30 days after the date of notice date above. If you do not respond within 30 days, then the Property Owner will rely on your non-response as indicating that you do not object to the Property's annexation to the District or the levying of the special tax. For further information, please call (916-444-9700) or email (john@ygrene-energy.com) John Kaufman of Ygrene Energy Fund California LLC, the Program administrator.

Very truly yours,

Signature of Property Owner

Print Name of Property Owner

Mailing Address: _____
If Different from _____
Property Address _____

LENDER CONSENT TO PROPOSED SPECIAL TAX

The above-referenced Lender consents to the foregoing.

Dated: _____

By:

Signature of Lender Official

Print Name of Lender Official

Print Title of Lender Official

Appendix G – Form of Assignment Agreement

MASTER ASSIGNMENT AGREEMENT

This Master Assignment Agreement, dated June ___, 2012, for reference (the “**Master Agreement**”), is between the CITY OF SACRAMENTO, a California municipal corporation (the “**City**”); and YGRENE ENERGY FUND CALIFORNIA, LLC, a California limited-liability company (“**Ygrene**”).

Background

- A. In connection with its Clean Energy Sacramento Program (the “**Program**”), the City has established its Community Facilities District No. 2012-01 (Clean Energy) (the “**CFD**”) in accordance with the Mello-Roos Community Facilities Act of 1982 (California Government Code sections 53311 through 53368.3) (the “**Act**”), and particularly under sections 53313.5(l) and 53328.1. The CFD authorizes the City to levy, secure, and collect special taxes on any parcel for up to 20 years when all the owners of the parcel sign an agreement consenting to have the parcel annexed to the CFD (a “**Unanimous Approval Agreement**”). In this Master Agreement, “**Special Tax**” means the special tax described in, and authorized by, a Unanimous Approval Agreement.
- B. A Unanimous Approval Agreement has been entered into for each of the parcels described in supplemental assignment agreements substantially in the form attached to this Master Agreement as Exhibit A (each a “**Supplemental Agreement**”). In this Master Agreement, the “**Property**” refers to the parcel described in a Unanimous Approval Agreement and the related Supplemental Agreement.
- C. Under the Act, the Special Tax authorized by a Unanimous Approval Agreement is to be levied and collected as a separate line item on the County of Sacramento’s secured property-tax bill for the Property; and, in accordance with law and the normal course of the administration of the County property-tax system, the County Tax Collector is to remit the Special Tax collected for the Property (the “**Special Tax Revenues**”) to the City in much the same manner as the Tax Collector remits the City’s share of the general property-tax revenues.
- D. In exchange for Ygrene’s providing funding through the Program for energy-efficiency, water-conservation, and renewable-energy improvements on the Property (the “**Improvements**”), the City desires to assign to Ygrene, without recourse, the City’s right to receive the Special Tax Revenues collected for each Property.
- E. The City desires to provide a secure source of repayment to Ygrene of the funds Ygrene advances through the Program.
- F. Ygrene desires to receive the assignment of the City’s right to receive the Special Tax Revenues collected for each Property.

- G. The City is willing to sell and assign, and Ygrene is willing to purchase and accept the assignment of, the City's right to receive, Special Tax Revenues upon the terms set forth in this Master Agreement.

With these background facts in mind, the City and Ygrene agree as follows:

1. **Agreement to Sell and Purchase.** The City shall sell and assign to Ygrene, and Ygrene shall purchase and accept, the City's right to receive the Special Tax Revenues collected for each Property. The consideration for each assignment is Ygrene's funding the Improvements through the Program.
2. **Ygrene's Representations and Warranties.** Ygrene hereby represents and warrants to the City that the following statements are true as of the effective date of this Master Agreement and, with respect to the right to receive Special Tax Revenues conveyed by a Supplemental Agreement, as of the effective date of the Supplemental Agreement:
 - (a) Ygrene is duly organized, validly existing, and in good standing in the State of California.
 - (b) Ygrene has full power and authority to enter into, and to perform its obligations under, this Master Agreement and each Supplemental Agreement.
 - (c) Ygrene's execution and delivery of, and performance under, this Master Agreement and any Supplemental Agreement does not conflict with, or cause a breach or default by it under, any of its organizational documents; any law, rule, regulation, judgment, order, or decree to which it is subject; or any agreement or instrument to which it is a party.
 - (d) Ygrene has duly authorized the terms, execution, delivery, and performance of this Master Agreement and each Supplemental Agreement, and Ygrene has duly executed and delivered this Master Agreement and each Supplemental Agreement.
 - (e) This Master Agreement and each Supplemental Agreement each constitute a legal, valid, and binding obligation of Ygrene, enforceable against Ygrene in accordance with its terms, subject to laws relating to or affecting creditors' rights generally (including laws pertaining to bankruptcy, insolvency, reorganization, moratorium, and fraudulent conveyance) and to the application of equitable principles in any proceeding, whether at law or in equity.
3. **The City's Representations and Warranties.** The City hereby represents and warrants to Ygrene that the following statements are true as of the effective date of this Master Agreement and, with respect to the right to receive Special Tax Revenues conveyed by a Supplemental Agreement, as of the effective date of the Supplemental Agreement:
 - (a) The City validly exists as a chartered municipal corporation under California law.

- (b) The City has duly authorized the execution, delivery, and performance of this Master Agreement and of each Supplemental Agreement.
- (c) The City has duly executed and delivered this Master Agreement and each Supplemental Agreement. Assuming that Ygrene duly authorizes, executes, and delivers this Master Agreement and each Supplemental Agreement, the City believes that each constitutes a legal, valid, and binding obligation of the City, enforceable against the City in accordance with its terms, subject to laws relating to or affecting creditors' rights generally (including laws pertaining to bankruptcy, insolvency, reorganization, moratorium, and fraudulent conveyance); to the application of equitable principles in any proceeding, whether at law or in equity; and to the limitations on remedies against cities in California.
- (d) No consent, approval, authorization, order, registration, or qualification by, of, or with any court, regulatory body, administrative agency, or other governmental instrumentality having jurisdiction over the City is required for the City's consummation of the transactions contemplated by this Master Agreement or any Supplemental Agreement, except for those that have been obtained and are in full effect.
- (e) The City's consummation of the transactions contemplated by this Master Agreement and each Supplemental Agreement, and the fulfillment of the terms of those agreements, do not—
 - (1) in any material way conflict with, or result in the City's material breach of, any of the material terms and provisions of any agreement to which the City is a party or by which it is bound; or
 - (2) constitute a material default by the City (with or without notice or lapse of time) under any agreement to which the City is a party or by which it is bound.
- (f) The City believes that the consummation of the transactions contemplated by this Master Agreement and each Supplemental Agreement will not violate any law, order, rule, or regulation of any court, regulatory body, administrative agency, or other governmental instrumentality having jurisdiction over the City.
- (g) The City has not been served with process in, and has not been overtly threatened with, any material proceedings or investigations before any governmental instrumentality having jurisdiction over the City (including courts, regulatory bodies, and administrative agencies) that—
 - (1) asserts the invalidity of this Master Agreement, any Supplemental Agreement, or any aspect of the CFD;

- (2) seeks to prevent the consummation of any of the transactions contemplated by this Master Agreement, any Supplemental Agreement, or the CFD; or
 - (3) seeks any determination or ruling that would materially and adversely affect the validity or enforceability of this Master Agreement, any Supplemental Agreement, or the authority conferred upon the City by the CFD.
- (h) No initiatives are pending that would affect the City's assignment and sale of the right to receive any Special Tax Revenues or would affect the Program.
- (i) With respect to each Supplemental Agreement, when the City assigns to Ygrene the right to receive Special Tax Revenues collected for the Property, the City will have the sole right to levy the related Special Tax on the Property and to collect and receive the Special Tax Revenues, as provided in the Act. From and after the City's assignment to Ygrene of the right to receive those Special Tax Revenues, the City will retain and shall exercise the right to levy the related Special Taxes but will have no interest in the Special Tax Revenues or the right to receive them.
- (j) With respect to each Supplemental Agreement—
 - (1) when the City assigns to Ygrene the right to receive any Special Tax Revenues collected for the Property, the City will hold title to that right free and clear of all liens, pledges, charges, security interests, or other impediments of any nature; and
 - (2) except as set forth in this Master Agreement, the City has not sold and will not have sold, transferred, assigned, set over, or otherwise conveyed any right, title, or interest of any kind in all or any portion of the right to receive the Special Tax Revenues, and has not created and will not have created or to its knowledge permitted the creation of any lien on that right or any portion of it.
- (k) The City's principal place of business and chief executive office is located at City Hall, 915 "I" Street, Sacramento, California 95814.
- (l) The City shall treat each sale and assignment of the right to receive Special Tax Revenues as a sale for purposes of tax reporting and accounting, and title to the right to receive Special Tax Revenues will not be a part of the debtor's estate if the City files a bankruptcy petition or has such a petition filed against it under any bankruptcy law.
- (m) The City has received reasonably equivalent value for each right to receive Special Tax Revenues assigned to Ygrene under this Master Agreement and a Supplemental Agreement.

4. **The City's Covenants.**

- (a) The City shall not take any actions or omit to take any actions that adversely affect Ygrene's rights to receive Special Tax Revenues that have been conveyed to Ygrene by the Supplemental Agreements (such as failing to timely levy each Special Tax and to timely provide necessary information to the Sacramento County Auditor-Controller so the Auditor-Controller can place each Special Tax on the County's secured property-tax bill for each Property). The City shall not take any action or omit to take any action that adversely affects the ability of Ygrene or any assignee of Ygrene to receive the Special Tax Revenues conveyed to Ygrene by the Supplemental Agreements.
- (b) The City shall not take any action or omit to take any action, and shall use reasonable efforts to prevent any action by others, that would release the lien that secures payment of the Special Tax on a Property until the Special Tax has been paid in full. Without the prior written consent of Ygrene or the Further Assigns (defined in section 9 below), the City shall not do any of the following if the effect would be materially adverse to Ygrene or the Further Assigns: amend, modify, terminate, waive, or surrender a Unanimous Approval Agreement; agree to any amendment, modification, termination, waiver, or surrender of any provision in a Unanimous Approval Agreement; or waive timely performance or observance of any provision in a Unanimous Approval Agreement.
- (c) Upon request of Ygrene or the Further Assigns, the City shall execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes and intent of this Master Agreement. The City shall take all actions necessary to preserve, maintain, and protect Ygrene's title to the Special Tax Revenues.

5. **Payment of Special Tax Revenues.** The City will endeavor to secure the agreement of the County of Sacramento to pay the Special Tax Revenues directly to Ygrene or upon Ygrene's order, so that the Special Tax Revenues will not come, even temporarily, into the City's possession. If any Special Tax Revenues come into the City's possession, then the City shall immediately pay such Special Tax Revenues to Ygrene or upon Ygrene's order.

6. **Notices of Breach.** If the City or Ygrene discovers that the City has breached any of its covenants or that any of the City's representations or warranties is materially false or misleading, and if the breach or false or misleading representation or warranty materially and adversely affects the value of the rights to receive Special Tax Revenues that have been conveyed to Ygrene by the Supplemental Agreements, then the discovering party shall promptly notify the other party in writing.

7. **Liability of City; Indemnification.** The City shall indemnify, defend, and hold harmless Ygrene and Ygrene's officers, directors, employees, and agents from and against all liabilities, claims, demands, damages, and costs to the extent they arise out of the City's

breach of any of its covenants in this Master Agreement or out of any representation or warranty of the City in section 3 that is materially false or misleading.

8. **Limitation on Liability.** Regarding any matter arising under this Master Agreement, the City and the City's elected officials, officers, employees and agents may rely in good faith on the advice of counsel and on any document that reasonably appears to be properly authorized and signed. The City's elected officials, officers, and employees of the City are not personally liable for the City's representations, warranties, covenants, agreements, or other obligations under this Master Agreement or for any certificates, notices, or agreements delivered under this Master Agreement.
9. **Assignment.**
 - (a) Ygrene is entitled to assign and grant its rights under this Master Agreement and its rights under each Supplemental Agreement, and Ygrene's assignees (the "**Future Assigns**") may do the same. Without limiting the previous sentence, Ygrene and the Future Assigns are entitled—
 - (1) to assign and grant the rights to receive Special Tax Revenues; and
 - (2) to assign and grant the interests in the Special Tax Revenues to investors or to a trustee on behalf of investors.
 - (b) Except as provided in section 9(a), Ygrene may not assign or transfer any of its rights or obligations under this Master Agreement or any Supplemental Agreement without the City's prior written consent.
 - (c) The City may not assign or transfer any of its rights or obligations under this Master Agreement without Ygrene's prior written consent.
 - (d) This Master Agreement binds and inures to the benefit of the City and its assigns and Ygrene and the Future Assigns.
10. **Reliance on the City's Representations, Warranties, and Covenants; Survival.** The City agrees and acknowledges that Ygrene and the Further Assigns have relied on, will continue to rely on, and are entitled to rely on the City's representations and warranties in section 3 and the City's covenants in section 4. The City's representations and warranties in section 3 and its covenants in section 4—
 - (a) will survive any assignment of this Master Agreement to Ygrene or the Further Assigns and any grant to Ygrene or the Further Assigns of a security interest in this Master Agreement or in the rights to receive Special Tax Revenues;
 - (b) will continue in full force notwithstanding the termination of this Master Agreement or any change in the authority conferred upon the City by the CFD; and

(c) will inure to the benefit of the Further Assigns.

11. **Ygrene’s Acknowledgment.** Except as expressly set forth in this Master Agreement, the City is irrevocably transferring, granting, bargaining, selling, assigning, conveying, and delivering to Ygrene the rights to receive Special Tax Revenues without recourse and without any representation or warranty.
12. **Irrevocable, Absolute Sale.** With each Supplemental Agreement, the City is irrevocably transferring, granting, bargaining, selling, assigning, conveying, and delivering to Ygrene, absolutely and not as collateral security, the City’s rights to receive Special Tax Revenues.
13. **Notices.** Any notice or other communication under this Master Agreement must be in writing and will be considered properly given and effective only when mailed or delivered in the manner provided by this section 13 to the persons identified below. A notice or other communication that is mailed will be effective or will be considered to have been given on the third day after it is deposited in the U.S. Mail (certified mail and return receipt requested), addressed as set forth below, with postage prepaid. A notice or other communication sent in any other manner will be effective or will be considered properly given when actually delivered. A party may change its address for these purposes by giving written notice of the change to the other party in the manner provided in this section 13.

If to the City:

City of Sacramento
[Name] Department
915 I Street, [Number] Floor
Sacramento, California 95814
Attention:

[Name]
[Title]

If to Ygrene:

Ygrene Energy Fund California, LLC
P.O. Box 5150
Santa Rosa, CA 95402

or

Ygrene Energy Fund California, LLC
100B Street - SU 210
Santa Rosa, CA 95401

14. **Amendments.** The City and Ygrene may amend this Master Agreement, with the consent of the Further Assigns, if any, to cure any ambiguity; to correct or supplement any provisions in this Master Agreement; to correct or amplify the description of the Special Tax Revenues; to add additional covenants for the benefit of Ygrene; or for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions in this agreement that do not, as evidenced by a Certificate of Ygrene delivered to the Further Assigns, adversely affect in any material respect the Further Assigns rights to receive Special Tax Revenues or the payment of the Special Tax Revenues to the Further Assigns.
15. **Third Party Rights.** Each of the Further Assigns, if any, is a third-party beneficiary under this Master Agreement. This Master Agreement does not give any person or entity other

than the City, Ygrene, and the Further Assigns any benefit or legal or equitable right, remedy, or claim.

16. **Severability.** If any court with jurisdiction rules that any nonmaterial part of this Master Agreement is invalid, unenforceable, or contrary to law or public policy, then the rest of this Master Agreement remains valid and fully enforceable.
17. **Interpretation.** This Master Agreement is to be interpreted and applied in accordance with California law, except that that the rule of interpretation in California Civil Code section 1654 will not apply. Exhibit A is part of this Master Agreement.
18. **Effective Date.** This Master Agreement is effective on the date both parties have signed it, as indicated by the dates in the signature blocks below.
19. **Counterparts.** The parties may sign this Master Agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement.
20. **Entire Agreement.** This Master Agreement sets forth the parties' entire understanding regarding the matters set forth above and is intended to be their final, complete, and exclusive expression of those matters. It may be modified only by another written agreement signed by both parties.

(Signature page follows)

City of Sacramento

Ygrene Energy Fund California, LLC

By: _____
[Name]
[Title]
Date: _____, 20__

By: _____
[Name]
[Title]
Date: _____, 20__

Approved as to Form
Sacramento City Attorney

Approved as to Form
Name

By: _____
Joseph P. Cerullo
Senior Deputy City Attorney

By: _____
[Name]
Attorneys for Ygrene Energy Fund
California LLC

EXHIBIT A
FORM OF SUPPLEMENTAL ASSIGNMENT AGREEMENT

SUPPLEMENTAL ASSIGNMENT AGREEMENT

This Supplemental Assignment Agreement, dated _____, 2012, for reference, is between the CITY OF SACRAMENTO, a California municipal corporation (the “**City**”); and YGRENE ENERGY FUND CALIFORNIA, LLC, a California limited-liability company (“**Ygrene**”).

1. The City and Ygrene have entered into a Master Assignment Agreement dated _____, 2012, and designated as City Agreement No. 2012-____ (the “**Master Agreement**”) pertaining to the City’s Community Facilities District No. 2012-01 (the “**CFD**”).
2. This agreement is a “Supplemental Agreement” as that term is defined in the Master Agreement, and all of the terms of the Master Agreement are incorporated into and govern this agreement.
3. This agreement applies to the following real property within the City of Sacramento, California:

Street Address: _____

Assessor’s Parcel Number: _____
4. In consideration of the payment and delivery by Ygrene to or upon the order of the owners of the Property described in section 3 above to fund the Improvements in accordance with the procedures and authority of the CFD and the provisions of the Approval Agreement, and subject to the terms of the Master Agreement, the City does hereby—
 - (a) transfer, grant, bargain, sell, assign, convey, set over and deliver to Ygrene, absolutely and not as collateral security, without recourse except as expressly provided herein, and Ygrene does hereby purchase, accept and receive, all of the City’s rights to receive the Special Tax Revenues with respect to such Property; and
 - (b) assign to Ygrene, as trustee for itself and any Further Assigns, to the extent permitted by law (as to which no representation is made), all present or future rights, if any, of the City to enforce or cause the enforcement of the payment of any delinquent Special Tax with respect to such Property through judicial foreclosure in the name of the City.
5. This agreement is effective on the date both parties have signed it, as indicated by the dates in the signature blocks below.

(Signature page follows)

City of Sacramento

Ygrene Energy Fund California, LLC

By: _____

[Name]

[Title]

Date: _____, 20__

By: _____

[Name]

[Title]

Date: _____, 20__

Approved as to Form
Sacramento City Attorney

Approved as to Form
Name

By: _____

Joseph P. Cerullo
Senior Deputy City Attorney

By: _____

[Name]
Attorneys for Ygrene Energy Fund
California LLC

Appendix H – Property Owner’s Acknowledgment of Sole Responsibility to Deal with Lenders

Community Facilities District No. 2012-1 (Clean Energy)
City of Sacramento

Property Address: _____

Assessor’s Parcel Number: _____

You have been provided with a *Notice to Lender of Proposed Special Tax* you must send to each mortgage lender that holds a note or alternative debt instrument secured by a lien on your property (the “**Notice**”). It will notify the lenders that you intend to authorize the recordation of a special-tax lien against your property.

Please note the following:

1. When you annex your property to Community Facilities District No. 2012-1 (Clean Energy) and enter into a Unanimous Approval Agreement with the City of Sacramento, a special-tax lien will be imposed on your property.
2. By law, the special-tax lien will be co-equal with the lien for general property taxes. It thus will be superior to the lien of any existing deed of trust you may have previously executed in favor of a mortgage lender.
3. Your existing mortgage lenders may contend that your entering into the Unanimous Approval Agreement violates your loan agreements or deeds of trust.
4. The Notice asks your mortgage lenders to confirm that they do not object to your participation in Community Facilities District No. 2012-1 (Clean Energy). The Notice also states that if the lenders do not respond to the Notice within 30 days, then you will rely on their silence as indicating that they have no objection.
5. If the lenders do not sign the Notice and return it, then the fact that you sent the Notice will not preclude the lenders from later alleging that you have violated your loan agreements with them, and there is a risk that the lenders may prevail in any litigation over the alleged violation.
6. Neither the City nor the administrator of the Clean Energy Sacramento Program can advise you about your loan agreements with your lenders. Your contractual relations with your

lenders are **your** sole responsibility. Please understand that your use of the Notice does **not** mean—

- (a) that any issue regarding your obligations under your private loan documents has been resolved;
- (b) that your lenders cannot take action against you if they believe that you have violated your loan agreements; or
- (c) that the City or the administrator of the Clean Energy Sacramento Program will assist you in any way if your lenders take such action.

7. Many banks that make home loans desire to preserve the option to sell those loans to U.S. government-sponsored enterprises (called “**GSEs**”) that are regulated by the Federal Housing Finance Agency (“**FHFA**”). The FHFA appears to have instructed its GSEs not to purchase home loans where there is a superior lien for clean-energy improvements, such as the special-tax lien. Thus, in order to refinance your home loan, or for a prospective purchaser of your property to obtain a loan secured by the property, you may need to remove the special-tax lien by prepaying the special-tax obligation in full. You thus should consider the likelihood and timing of a possible refinancing or sale of your property, and the costs to prepay the special-tax obligation, in deciding whether to annex your property to the district.

I have read and understand the foregoing (all owners must sign this acknowledgment):

Signature

Signature

Print Name

Print Name

Date: _____

Date: _____

Signature

Signature

Print Name

Print Name

Date: _____

Date: _____

Signature

Signature

Print Name

Print Name

Date: _____

Date: _____

Signature

Print Name _____

Date: _____

Signature

Print Name _____

Date: _____

Appendix I – Notice of Special Tax Lien

COMMUNITY FACILITIES DISTRICT NO. 2012-01
(CLEAN ENERGY)
CITY OF SACRAMENTO
COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

Pursuant to sections 53328.1(a)(4) and 53328.3 of the California Government Code, which are part of the “Mello-Roos Community Facilities Act of 1982” (chapter 2.5, part 1, division 2, title 5 of the California Government Code) (the “**Act**”), and to section 3114.5 of the California Streets and Highways Code, the undersigned, as the City Clerk of the City of Sacramento, hereby gives notice that a lien to secure payment of a special tax is hereby imposed by the City Council of the City of Sacramento, County of Sacramento, State of California, upon the parcel listed on Attachment A to this notice (the “**Property**”). The special tax secured by this lien is authorized to be levied for the purpose of paying the cost to acquire and install qualifying renewable-energy systems and energy- and water-efficiency improvements, including paying principal and interest on debt (as that term is defined in the Act), the proceeds of which are used to finance all or a portion of the cost of the systems and improvements.

The special tax is authorized to be levied within Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California, to which the Property has been annexed with the unanimous consent of all of its owners by means of a Unanimous Approval Agreement (to which reference is made for further particulars and which, under section 53329.6 of the Act, constitutes the vote of the qualified electors required by the California Constitution). The lien of the special tax is a continuing lien that secures each annual levy of the special tax and continues in effect until the special-tax obligation is prepaid, permanently satisfied, or canceled in accordance with law.

The maximum annual amounts of the special tax are shown on Attachment B to this notice. The conditions under which the obligation to pay the special tax may be prepaid and permanently satisfied and the lien of the special tax canceled, and the procedures for calculating the amount required for prepayment of the special tax, are set forth in the Unanimous Approval Agreement.

Notice is further given that upon the recording of this notice in the office of the Sacramento County Clerk/Recorder, the obligation to pay the special-tax levy will become a lien upon the Property in accordance with section 3115.5 of the California Streets and Highways Code.

The names of the owners and the assessor’s parcel number of the Property are shown on Attachment A to this notice.

For further information concerning the current and estimated future special-tax liability of owners or purchasers of the Property subject to this special-tax lien, interested persons should

contact the City's Sustainability Program Manager, 5730 24th Street, Building 1, Sacramento, California 95822, telephone (916) 808-5827.

DATED: _____, 20__

Shirley Concolino, MMC
City Clerk, City of Sacramento

ORDINANCE NO. 2012-_____

Adopted by the Sacramento City Council

LEVYING A SPECIAL TAX FOR FISCAL YEAR 2012-2013 AND FOLLOWING FISCAL YEARS SOLELY WITHIN AND RELATING TO COMMUNITY FACILITIES DISTRICT NO. 2012-01 (CLEAN ENERGY) CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Pursuant to California Government Code section 53328.1(b) and Council Resolution No. 2012-_____ (the "**Resolution of Formation**"), adopted June 19, 2012, and relating to "Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California" (the "**District**"), a special tax is hereby levied on each taxable parcel within the District for the 2012-2013 fiscal year and for each subsequent fiscal year, in each case in the amount of the special tax specified for the fiscal year in the Unanimous Approval Agreement (the "**Agreement**") pertaining to the parcel.

SECTION 2. The City's Sustainability Program Manager, 5730 24th Street, Building 1, Sacramento, California 95822, telephone (916) 808-5827, is authorized and directed, with the aid of the appropriate officers and agents of the City, to do the following:

- (a) determine each year, without further action of the Council, the appropriate amount of special tax to be levied on each parcel in the District;
- (b) prepare the annual special-tax roll for the parcels in the District in accordance with the Resolution of Formation and this ordinance; and
- (c) provide all necessary and appropriate information to the Sacramento County Auditor-Controller Division, in proper form and in proper time, to effect the correct and timely billing and collection of the special tax on the secured property-tax roll of the County, except that, as stated in the Resolution of Formation and in California Government Code section 53340(e), the Council hereby reserves the right to enforce the collection of delinquent special taxes through judicial foreclosure, including the City's assigning to a trustee the ability to pursue judicial foreclosure in the City's name for the benefit of the holders of any debt (as defined in the Act) secured in whole or in part by the special tax revenues.

SECTION 3. The appropriate officers and agents of the City are authorized, if needed to match the special-tax levy with the assessor's parcel numbers the County uses in sending out property-tax bills, to make adjustments to the special-tax roll before the final posting of the special taxes to the tax roll each fiscal year.

SECTION 4. When the special tax is collected on the secured property-tax roll of the County, the County may, before remitting the special-tax collections to the City, deduct from the amounts collected its reasonable and agreed charges for collecting the special tax.

SECTION 5. If a court with jurisdiction finds, for any reason, that any portion of this ordinance is invalid or that the special tax does not apply to any particular parcel, the balance of this ordinance, and the application of the special tax to all other parcels, will not be affected.

SECTION 6. Upon completion of the payment of the entire special-tax obligation for a parcel within the District, as specified in the Agreement pertaining to that parcel, the appropriate officers of the City are authorized and directed, with the aid of the appropriate agents of the City and without further action of this Council, to record a Notice of Cessation of Special Tax for such parcel in accordance with California Government Code section 53330.5.

SECTION 7. In accordance with section 32(c) of the Sacramento City Charter, after the Council passes this ordinance for publication the City Clerk shall have the title of this ordinance, and only the title, published at least once in a newspaper of general circulation that is published in the City and designated by the Council as the official newspaper of the City, with the publication to occur at least three days before the Council adopts this ordinance. The Council hereby finds that the title of this ordinance was published in the *Metropolitan News*, a newspaper of general circulation published in the City of Sacramento, on June ____, 2012.



RESOLUTION NO. 2012-xxxx

Adopted by the Sacramento City Council

June 19, 2012

RESOLUTION OF FORMATION ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2012-01 (CLEAN ENERGY), CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, AND PROVIDING FOR THE LEVY OF A SPECIAL TAX THEREIN TO FINANCE THE ACQUISITION, INSTALLATION, AND IMPROVEMENT OF ENERGY-EFFICIENCY, WATER-CONSERVATION, AND RENEWABLE-ENERGY IMPROVEMENTS PERMANENTLY AFFIXED TO REAL PROPERTY; AND AUTHORIZING VALIDATION ACTION

BACKGROUND

- A. On May 15, 2012, the City Council duly adopted Resolution No. 2012-115 (the “**Resolution of Intention**”) declaring its intent to establish a community facilities district within the City’s jurisdictional boundaries in accordance with the Mello-Roos Community Facilities Act of 1982, set forth in sections 53311 through 53368.3 of the California Government Code (the “**Act**”), and particularly in accordance with sections 53313.5(l) and 53328.1(a) (the “**District**”). The District is to be named “Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California,” and its purpose is to finance or refinance (including the payment of interest) the acquisition, installation, and improvement of energy-efficiency, water-conservation, and renewable-energy improvements permanently affixed to privately or publicly owned real property (the “**Authorized Improvements**”). Reference is made to the Resolution of Intention for further particulars and for additional defined terms.
- B. In the Resolution of Intention, the City Council approved the boundary map showing the territory proposed for annexation to the District in the future (the “**Territory**”), in accordance with section 53328.1(a) of the Act and California Streets and Highways Code section 3110 (the “**Boundary Map**”). Entitled “Proposed Boundaries of Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California,” the Boundary Map is attached to the Resolution of Intention as Exhibit A and was recorded on _____, 2012, in the Book of Maps of Assessment and Community Facilities Districts maintained by the Sacramento County Clerk/Recorder in Book ____ at Page _____.
- C. The Resolution of Intention fixed the following time and place for the City Council to hold a public hearing to consider the establishment of the District, the specification of Authorized Improvements, the extent of the Territory, the establishment of the appropriations limit for the District, and all other matters set forth in the Resolution of Intention: Tuesday, June 19, 2012, at 6:00 p.m., in the Council Chambers at New City Hall at 915 “I” Street, Sacramento, California (the “**Public Hearing**”).
- D. The City’s Sustainability Program Manager has submitted a report to the City Clerk describing the following as directed by the Resolution of Intention: the Authorized Improvements; the incidental, financing, and administrative costs of the District; the form of the proposed

Unanimous Approval Agreement; recommendations for appropriate procedures and criteria for processing and evaluating applications for participation and inclusion in the District from the owners of property within the Territory; and an estimate of the related incidental expenses (the “**Hearing Report**”). The Hearing Report is incorporated herein by this reference and made a part of the record of the Public Hearing.

- E. At or shortly after the time set by the Resolution of Intention, the City Council conducted the Public Hearing. All persons interested, including all taxpayers, property owners, and registered voters within the Territory, were given an opportunity to appear and to be heard, and the City Council heard and considered the testimony for and against the matters set forth in the Resolution of Intention, including the establishment of the District, the levy of the special tax, the extent of the Territory, the financing of any of the Authorized Improvements, and the establishment of the appropriations limit for the District.
- F. All registered voters residing within the boundaries of the Territory, and all owners of land within the boundaries of the Territory, were allowed to submit written protests to any matter set forth in the Resolution of Intention and were permitted to withdraw their protests before the close of the Public Hearing.
- G. There is on file with the City Clerk a proof of publication of the Notice of Public Hearing in the *DAILY RECORDER*.
- H. The City Council also desires to authorize the City Attorney, acting through Orrick, Herrington & Sutcliffe LLP, to file a validation action on behalf of the City to seek a judgment of the Sacramento County Superior Court that the special taxes authorized by the District, the procedures employed to establish the District, and the documents and agreements associated with the contemplated financings are lawful, valid, and binding.
- I. The City Council is fully advised in this matter.

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

- Section 1. The Council finds that the above recitals are true.
- Section 2. Except to the extent it is inconsistent with this resolution, the Resolution of Intention is reaffirmed, and its provisions and findings are incorporated herein by this reference.
- Section 3. The City Council accepts the proof of publication of the Notice of Public Hearing and finds, based thereon, that proper notice of the Public Hearing has been given in accordance with the Act and that the Public Hearing was conducted with proper and legal notice in all respects.
- Section 4. The City Council finds and determines that, at the close of the Public Hearing, the written protests, if any, to any of the matters set forth in the Resolution of Intention—including the establishment of the District; the levy of the special tax; the extent of the Territory; the acquisition, construction, or installation of any of the Authorized Improvements; and the establishment of the appropriations limit for the District—were submitted by less than 50 percent of the registered voters residing within the Territory and by the owners of less than one-half of the area of land in the Territory. Thus, the City Council finds that it is not precluded by the Act from proceeding further in this

matter, and it determines and orders that all protests to the matters set forth in the Resolution of Intention are hereby overruled.

- Section 5. The City Council hereby establishes the District in accordance with the Act and particularly in accordance with sections 53313.5(l) and 53328.1(a).
- Section 6. The City Council orders (a) that a parcel within the Territory may be annexed to the District and subjected to the special tax only with the unanimous written approval of the owner or owners of the parcel when it is annexed (the “**Unanimous Approval Agreement**”), which, as provided in section 53329.6 of the Act, will constitute the election required by the California Constitution; (b) that the rate of special tax for each parcel will be established in an amount required to finance or refinance (including the payment of interest) the Authorized Improvements approved for the parcel and to pay the parcel’s appropriate share of the District’s incidental, financing, and administrative expenses; (c) that the maximum annual rate, method of apportionment, and manner of collection of the special tax must be specified in the Unanimous Approval Agreement for each parcel; and (d) that the special-tax revenues may also be used to repay the appropriate portion of any funds the City advances for the District and to repay under any agreement (which will not constitute a City debt or liability) any advances of funds or reimbursement for the lesser of the value or cost of work in-kind provided by any person for the purposes of the District.
- Section 7. Once a Unanimous Approval Agreement for one or more parcels has been signed by all of the parcel owners and by the City, City staff are authorized and directed to record a Notice of Special Tax Lien against the parcels with the Sacramento County Clerk/Recorder in accordance with section 3114.5 of the Streets and Highways Code. Upon recordation of the Notice of Special Tax lien, a continuing lien to secure each levy of the special tax will attach to the affected parcels. The lien will continue in force until the special-tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until levy and collection of the tax ceases.
- Section 8. The special tax is to be collected in the same manner as ordinary ad valorem property taxes are collected and is to be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as are provided for ad valorem taxes collected on the secured property-tax roll of the County of Sacramento, except that that the City Council hereby reserves the right to enforce the collection of delinquent special taxes through judicial foreclosure, including the City’s assigning to a trustee the ability to pursue judicial foreclosure in the City’s name for the benefit of the holders of any debt (as defined in the Act) secured in whole or in part by the special-tax revenues.
- Section 9. The City’s Treasurer’s Office, 915 I Street, Sacramento, California 95814 (Phone: 916-808-5168), is designated to prepare annually the current roll of special-tax levy obligations for each parcel within the District that is subject to the special tax and to estimate future special-tax levies.
- Section 10. The City Council hereby approves the form of Unanimous Approval Agreement contained in the Hearing Report and directs its use with such changes as the City’s Sustainability Program Manager may approve with the consent of the City Attorney. Section 11. In accordance with sections 53325.7 and 52238.1(a)(2) of the Act, the City Council hereby establishes the appropriations limit (as defined by section 8(h) of article XIII B of the California Constitution) for the District for the 2012-2013 fiscal year.

and for subsequent fiscal years as the sum of the amounts stated as the appropriations limit in each approved Unanimous Approval Agreement. The amount contributing toward the appropriations limit of the District in each Unanimous Approval Agreement will be subject to adjustment following the fiscal year in which the Unanimous Approval Agreement is fully subscribed, as provided in section 53325.7 of the Act.

- Section 12. The authorization to finance or refinance the acquisition, construction, and installation of Authorized Improvements covers all costs incidental to the acquisition, construction, and installation, including the costs of planning and design, the costs of any environmental evaluations, all costs associated with establishing the District and financing the Authorized Improvements, the costs of determining the amount of special taxes, the costs of collecting or paying the special taxes, and costs otherwise incurred to carry out the authorized purposes of the District.
- Section 13. The City Council finds and determines that all proceedings it has conducted and approved with respect to the establishment of the District, up to and including the adoption of this resolution, are valid and in conformity with the Act. As provided in the Act, this determination is final and conclusive for all purposes and is binding upon all persons.
- Section 14. The City's special counsel, Orrick, Herrington & Sutcliffe LLP, working with the City Attorney's Office, is hereby authorized and directed to file and prosecute on the City's behalf, against all persons interested in the matter, a civil validation action under California Government Code sections 53511 and 53328.1(c) and California Code of Civil Procedure section 860 and following, seeking a declaration of the Sacramento County Superior Court that the special tax, contracts, obligations, or evidences of indebtedness arising out of the establishment and implementation of the District, and all matters, agreements, and procedures related thereto, are in all respects legal, valid, and binding.
- Section 15. This resolution takes effect immediately upon its adoption.

RESOLUTION NO. 2012-xxxx

Adopted by the Sacramento City Council

June 19, 2012

**RESCINDING RESOLUTION NO. 2010-023 RELATING TO THE
CaliforniaFIRST PROPERTY ASSESSED CLEAN ENERGY
PROGRAM**

BACKGROUND

- A. On January 12, 2010, the City Council adopted Resolution No. 2010-023, thereby authorizing the City to join the CaliforniaFIRST Program. Established by the California Statewide Communities Development Authority (“**CSCDA**”), the CaliforniaFIRST Program offers the financing of certain renewable energy, energy-efficiency, and water-efficiency improvements through the levy of voluntary contractual assessments under chapter 29 in division 7 of the Streets and Highways Code.
- B. CSCDA subsequently suspended the CaliforniaFIRST Program so that issues raised by the Federal Housing Finance Agency, the Federal Home Loan Mortgage Corporation (also known as Freddie Mac), and the Federal National Mortgage Association (also known as Fannie Mae) could be resolved. Because of the suspension, the City opted to consider alternatives to CaliforniaFIRST and solicited proposals from private companies interested in administering a similar program for the City. The firm selected through that competitive process was Ygrene Energy Fund California, LLC (“**Ygrene**”). Ygrene will administer the City’s Clean Energy Sacramento program, which will use a community facilities district to provide special-tax financing to property owners who desire to install renewable energy, energy-efficiency, and water-efficiency improvements on their real property within the City. Accordingly, the City’s participation in CaliforniaFIRST is no longer needed.

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

- Section 1.** The City Council finds that the statements in the background are true.
- Section 2.** Resolution No. 2010-023 is hereby rescinded.