



TO THE HONORABLE MAYOR AND COUNCIL:

DATE: July 28, 2015

SUBJECT: ADDING OPEN PACE AND YGRENE PACE TO THE EXISTING CALIFORNIA HERO AND FIGTREE PACE PROGRAMS TO PROVIDE ENERGY EFFICIENCY FINANCING OPTIONS TO RESIDENTS AND BUSINESSES OF CONCORD

Report in Brief

On July 22, 2014, the City Council adopted resolutions to allow the City of Concord to become a member of the California Enterprise Development Authority (CEDA), and then to allow CEDA to operate two Property Assessed Clean Energy (PACE) providers within the City. The two PACE providers operating in the City of Concord are the Figtree Financing program and California HERO program.

Several new Property Assessed Clean Energy (PACE) providers have contacted the City of Concord to request the City's participation to offer additional PACE financing programs, thereby expanding the pool of providers available in Concord. The Open PACE program includes both the CaliforniaFIRST PACE and AllianceNRG. If the City of Concord opts into Open PACE, residents will have access to both providers. Ygrene is a separate PACE program that offers special tax assessment financing.

In a July 2nd meeting, the Mayor and several staff members met with representatives from the three PACE providers at a publicly noticed meeting to hear presentations about the programs. The Mayor expressed support for adding these two new providers, and expressed intent to share the information with Council.

Staff recommends that the City Council authorize the City of Concord to opt into both the Open PACE program and the Ygrene program, adding three new PACE vendors to choose from in Concord. Each program offers different types of benefits to customers, so allowing more options will increase the likelihood that energy efficiency improvements will occur.

Background and Discussion

The City of Concord currently has two PACE providers: the California Hero PACE program, which finances residential properties and the Figtree PACE program, which finances commercial properties improvements, including energy efficiency upgrades at the Concord Hilton. The new PACE providers that have requested to operate within the City are described below:

Open PACE Program

Open PACE is a platform that includes multiple providers. The California Statewide Communities Development Authority (CSCDA) was created in 1988, under California's Joint Exercise of Powers Act, to provide California's local governments with an effective tool for the financing public benefits. CSCDA launched the platform in January 2015 in anticipation of the rapid growth of PACE programs in the State. Last summer, CSCDA interviewed approximately 7 providers and selected AllianceNRG and CaliforniaFIRST based on their business practices, qualifications, experience and commitment to PACE. CSCDA's goal was to minimize the burden on cities by creating a marketplace that cities could opt into with a single resolution and Joint Powers Agreement (JPA). CSCDA may add a third provider to the platform in the future using the same competitive process without the need for further City Council action.

The advantage of opting into Open PACE as opposed to opting into only CaliforniaFIRST is that Open PACE would provide the City with access to both the CaliforniaFIRST and the AllianceNRG programs. Those two programs are described below; each offers a slightly different product.

CaliforniaFIRST Program

California Communities is a joint powers authority sponsored by the League of California Cities and the California State Association of Counties. The CaliforniaFIRST program was established by California Communities to allow owners of property in participating cities and counties to finance a variety of improvements including renewable energy, energy efficiency and water efficiency improvements and seismic strengthening improvements. If a property owner chooses to participate, the improvements will be financed by the issuance of bonds by California Communities. The benefits to the property owner include:

- Property owners who choose to participate in the program will have assessments imposed on their property to finance improvements.
- Most private loans are due on sale of the benefited property, which makes it difficult for property owners to match the life of the repayment obligation with the useful life of the financed improvements. Under California law, the assessment obligation from PACE financing transfers with the property upon sale.
- The property owner can choose to pay off the assessments at any time, subject to applicable prepayment penalties.

AllianceNRG

- AllianceNRG operates similarly to CaliforniaFIRST but provides two benefits that other PACE programs do not currently offer:

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- AllianceNRG is currently the only program that is financing seismic/structural improvements. This program is the sole capital provider for the San Francisco Soft Story Mandatory Program and was also recently approved in the City of Berkeley to provide financing for its soft story program.
- AllianceNRG is able to finance smaller scale commercial projects (those under \$100,000). Many small commercial and industrial property owners have difficulty financing their projects through existing PACE Programs. AllianceNRG's capital provider is Deutsche Bank, a leader in commercial real estate lending that has developed a streamlined process to finance smaller projects.

Ygrene Program

Ygrene ("why green") is a program that is not currently in Open PACE, but offers different benefits to its customers. California Home Finance Authority, now Golden State Finance Authority (Golden State) located in Sacramento, is a joint exercise of powers authority. Golden State has established Ygrene Energy as a PACE financing program for residential, commercial, industrial and agricultural properties. Golden State contracts with Ygrene Energy Fund CA LLC (Ygrene) to serve as the program administrator.

Ygrene is a multi-state PACE Administrator and is currently operating in California, Florida, and Georgia. Since 2011, Ygrene has partnered with over 70 communities including 30 in California. Since February 2015, nearly 50 cities and counties have opted into the program with another 100 in the process of doing so.

Ygrene operates under California SB555, under which individual properties can be annexed into a community facilities district and be subject to the special tax that is imposed to repay project financing. Only property owners who voluntarily choose to participate in the program will be subject to the special taxes. Because program financing can be readily transferred upon sale, even owners who are planning to sell have the ability to make responsible and beneficial improvements to their property.

The key differences between Ygrene and all other PACE Programs are the following:

- Unlike other programs, those formed under SB555 are special taxes that are true property taxes because, by signing up, property owners effectively vote to annex their property to the district, and the resulting taxes are technically involuntary.
- There is no bulk assessment recorded against the property, nor separate principal and interest components, so the annual tax is fully deductible (rather than only the interest component as with other PACE programs.) In later years this makes a great difference and in fact, with shorter terms can result in effective negative interest.

In a July 2nd meeting, the Mayor and several staff members met with representatives from the three PACE providers in a publicly noticed meeting and heard presentations about the programs. Each representative described the particular benefits and structure of their program. The representative from Ygrene spoke about the growth of the PACE mechanism across California. Alliance NRG's representative described the formation of the Open PACE system, including its potential to include a third PACE provider in the future. California FIRST's representative noted the need for increased competition in the PACE market, mentioning the effect the existing competition had already had in

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bringing decreased interest rates to homeowners. The Mayor responded positively to this information from the providers' representatives, and expressed his intent to share a positive recommendation with Council.

Fiscal Impact

There is no direct cost to the City associated with the program. However, it is worth noting the initial opting in process and community outreach for the various PACE program will cost the City through the use of staff time. Contra Costa County has recently implemented a one-time fee to PACE providers in order to cover this cost.

Public Contact

Posting of the City Council Agenda.

Recommendation for Action

Staff recommends that the Council review and approve the attached resolutions and joint exercise of powers agreement. With these new additions to the PACE vendors in Concord, staff is recommending that no further vendors be added for a two-year period, at which time staff can evaluate the performance of the existing providers.

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- Attachment 1: Resolution No. 15-54 (Open PACE)
- Attachment 2: Resolution No. 15-55 under Mello-Roos Act
- Attachment 3: Resolution No. 15-56 under Division 7
- Attachment 4: Joint Powers Agreement

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Consenting to the Inclusion of
Properties within the Territory of the City in the
California Statewide Communities Development
Authority Open PACE Programs; Authorizing the
California Statewide Communities Development
Authority to Accept Applications from Property
Owners, Conduct Contractual Assessment
Proceedings and Levy Contractual Assessments
within the Territory of the City; and Authorizing
Related Actions**

Resolution No. 15-54

WHEREAS, the California Statewide Communities Development Authority (the “Authority”) is a joint exercise of powers authority, the members of which include numerous cities and counties in the State of California, including the City of Concord (the “City”); and

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

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

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

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

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

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

9 **WHEREAS**, the City will not be responsible for the conduct of any assessment proceedings;
10 the levy of assessments; any required remedial action in the case of delinquencies in such assessment
11 payments; or the issuance, sale or administration of any bonds issued in connection with the
12 Programs.

13 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES**
14 **RESOLVE AS FOLLOWS:**

15 **Section 1.** This City Council hereby finds and declares that properties in the territory of the
16 City will benefit from the availability of the Programs within the territory of the City of Concord and,
17 pursuant thereto, the conduct of special assessment proceedings by the Authority pursuant to Chapter
18 29 and the issuance of bonds to finance or refinance Improvements.

19 **Section 2.** In connection with the Programs, the City hereby consents to the conduct of special
20 assessment proceedings by the Authority pursuant to Chapter 29 on any property within the territory
21 of the City and the issuance of bonds to finance or refinance Improvements; provided, that

- 22 (1) The Participating Property Owners, who shall be the legal owners of such property,
23 execute a contract pursuant to Chapter 29 and comply with other applicable provisions
24 of California law in order to accomplish the valid levy of assessments; and
- 25 (2) The City will not be responsible for the conduct of any assessment proceedings; the
26 levy of assessments; any required remedial action in the case of delinquencies in such
27 assessment payments; or the issuance, sale or administration of any bonds issued in
28 connection with the Programs.

1 **Section 3.** The appropriate officials and staff of the City are hereby authorized and directed to
2 make applications for the Programs available to all property owners who wish to finance or refinance
3 Improvements; provided, that the Authority shall be responsible for providing such applications and
4 related materials at its own expense. The following staff persons, together with any other staff persons
5 chosen by the City Manager of the City from time to time, are hereby designated as the contact
6 persons for the Authority in connection with the Programs: Planning Manager.

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

10 **Section 5.** The City Council hereby finds that adoption of this Resolution is not a “project”
11 under the California Environmental Quality Act, because the Resolution does not involve any
12 commitment to a specific project which may result in a potentially significant physical impact on the
13 environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4).

14 **Section 6.** This Resolution shall take effect immediately upon its adoption. The City Clerk is
15 hereby authorized and directed to transmit a certified copy of this resolution to the Secretary of the
16 Authority at: Secretary of the Board, California Statewide Communities Development Authority, 1400
17 K Street, Sacramento, CA 95814

18 **PASSED AND ADOPTED** by the City Council of the City of Concord on July 28, 2015, by
19 the following vote:

20 **AYES:** Councilmembers -

21 **NOES:** Councilmembers -

22 **ABSTAIN:** Councilmembers -

23 **ABSENT:** Councilmembers –

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**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Consenting to Inclusion of Properties
within the City’s Jurisdiction in the California Home
Finance Authority Community Facilities District No.
2014-1 (Clean Energy) to Finance Renewable Energy
Improvements, Energy Efficiency and Water
Conservation Improvements and Electric Vehicle
Charging Infrastructure and Approving Associate
Membership in the Joint Exercise of Powers
Authority Related Thereto**

Resolution No. 15-55

WHEREAS, the California Home Finance Authority, a California Joint Powers Authority, (the “Authority”) has established the Community Facilities District No. 2014-1(Clean Energy) in accordance with the Mello-Roos Community Facilities Act, 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”); and

WHEREAS, the purpose of the District is to finance or refinance (including the payment of interest) the acquisition, installation, and improvement of energy efficiency, water conservation, renewable energy and electric vehicle charging infrastructure improvements permanently affixed to private or publicly-owned real property (the “Authorized Improvements”); and

WHEREAS, the Authority is in the process of amending the Authority Joint Powers Agreement (the “Authority JPA”) to formally change its name to the Golden State Finance Authority; and

WHEREAS, the City of Concord is committed to development of renewable energy generation and energy efficiency improvements, reduction of greenhouse gases, and protection of the environment; and

WHEREAS, in the Act, the Legislature has authorized a parcel within the territory of the District to annex to the District and be subject to the special tax levy of the District only (i) if the city or county within which the parcel is located has consented, by the adoption of a resolution by the applicable city council or county board of supervisors, to the inclusion of parcels within its boundaries in the District and (ii) with the unanimous written approval of the owner or owners of the parcel when

1 it is annexed (the “Unanimous Approval Agreement”), which, as provided in section 53329.6 of the
2 Act, shall constitute the election required by the California Constitution; and

3 **WHEREAS**, the City wishes to provide innovative solutions to its property owners to achieve
4 energy efficiency and water conservation and in doing so cooperate with Authority in order to
5 efficiently and economically assist property owners the City in financing such Authorized
6 Improvements; and

7 **WHEREAS**, the Authority has established the District, as permitted by the Act, the Authority
8 JPA, originally made and entered into July 1, 1993, as amended to date, and the City, desires to
9 become an Associate Member of the JPA by execution of the JPA Agreement, a copy of which is
10 attached as Exhibit “A” hereto, to participate in the programs of the JPA and, to assist property
11 owners within the incorporated area of the City in financing the cost of installing Authorized
12 Improvements; and

13 **WHEREAS**, the City will not be responsible for the conduct of any special tax proceedings;
14 the levy and collection of special taxes or any required remedial action in the case of delinquencies in
15 the payment of any special taxes in connection with the District.

16 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES**
17 **RESOLVE AS FOLLOWS:**

18 **Section 1.** This City Council finds and declares that properties in the City’s incorporated area
19 will be benefited by the availability of the Authority CFD No. 2014-1 (Clean Energy) to finance the
20 installation of the Authorized Improvements.

21 **Section 2.** This City Council consents to inclusion in the Authority CFD No. 2014-1 (Clean
22 Energy) of all of the properties in the incorporated area within the City and to the Authorized
23 Improvements, upon the request of and execution of the Unanimous Approval Agreement by the
24 owners of such properties when such properties are annexed, in compliance with the laws, rules and
25 regulations applicable to such program; and to the assumption of jurisdiction thereover by Authority
26 for the purposes thereof.

27 **Section 3.** The consent of this City Council constitutes assent to the assumption of jurisdiction
28 by Authority for all purposes of the Authority CFD No. 2014-1 (Clean Energy) and authorizes

1 Authority, upon satisfaction of the conditions imposed in this resolution, to take each and every step
2 required for or suitable for financing the Authorized Improvements.

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

6 **Section 5.** City staff is authorized and directed to coordinate with Authority staff to facilitate
7 operation of the Authority CFD No. 2014-1 (Clean Energy) within the City, and report back
8 periodically to this City Council on the success of such program.

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

11 **PASSED AND ADOPTED** by the City Council of the City of Concord on July 28, 2015, by
12 the following vote:

13 **AYES:** Councilmembers -

14 **NOES:** Councilmembers -

15 **ABSTAIN:** Councilmembers -

16 **ABSENT:** Councilmembers -

17 **I HEREBY CERTIFY** that the foregoing Resolution No. 15-55 was duly and regularly
18 adopted at a regular meeting of the City Council of the City of Concord on July 28, 2015.

21 _____
22 Joelle Fockler, CMC
City Clerk

23 **APPROVED AS TO FORM:**

24 _____
25 Mark S. Coon
City Attorney

26 Attachment - Exhibit A

27 cc: Secretary of the Authority

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Consenting to Inclusion of Properties
Within the City’s Jurisdiction in the California Home
Finance Authority, Program to Finance Renewable
Energy Generation, Energy and Water Efficiency
Improvements and Electric Vehicle Charging
Infrastructure and Approving Associate Membership
in the Joint Exercise of Powers Authority Related
Thereto**

Resolution No. 15-56

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

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

WHEREAS, Authority has established a property-assessed clean energy (“PACE”) Program (the “Authority PACE Program”) to provide for the financing of renewable energy generation, energy and water efficiency improvements and electric vehicle charging infrastructure (the “Improvements”) pursuant to Chapter 29 of the Improvement Bond Act of 1911, being Division 7 of the California Streets and Highways Code (“Chapter 29”) within counties and cities throughout the State of California that elect to participate; and

WHEREAS, City of Concord (the “City”) is committed to development of renewable energy generation and energy and water efficiency improvements, reduction of greenhouse gases, and protection of the environment; and

WHEREAS, in Chapter 29, the Legislature has authorized cities and counties to assist property owners in financing the cost of installing Improvements through a voluntary contractual assessment program; and

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

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

4 **WHEREAS**, Authority has established the Authority PACE Program, which is such a
5 voluntary contractual assessment program, as permitted by the Act, the Authority JPA, originally
6 made and entered into July 1, 1993, as amended to date, and the City, desires to become an Associate
7 Member of the JPA by execution of the JPA Agreement, a copy of which is attached as Exhibit “A”
8 hereto, to participate in the programs of the JPA and to assist property owners within the jurisdiction
9 of the City in financing the cost of installing Improvements; and

10 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES**
11 **RESOLVE AS FOLLOWS:**

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

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

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

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

CALIFORNIA HOME FINANCE AUTHORITY**AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT**

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

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

RECITALS

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

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

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

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

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

1. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Purpose

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

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

3. Principal Place of Business

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

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

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

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

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

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

5. Term and Termination of Powers

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

6. Powers; Restriction upon Exercise

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

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

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

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

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

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

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

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

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

7. Governing Board

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

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

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

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

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

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

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

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

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

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

8. Meetings of the Board

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

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

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

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

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

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

9. Officers; Duties; Official Bonds

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

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

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

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

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

10. Executive Committee of the Authority

a. Composition

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

b. Powers and Limitations

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

c. Quorum

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

11. Disposition of Assets

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

12. Agreement Not Exclusive; Operation in Jurisdiction of Member

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

13. Conflict of Interest Code

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

14. Contributions and Advances

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

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

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

in accounting based on a different fiscal year previously.

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

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

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

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

16. Duties of Members or Associate Members; Breach

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

17. Indemnification

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

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

18. Immunities

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

19. Amendment

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

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

20. Withdrawal of Member or Associate Member

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

20. Miscellaneous

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

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

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

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

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

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

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

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

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

AS ADOPTED BY THE MEMBERS:

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

[SIGNATURES ON FOLLOWING PAGES]

SIGNATURE PAGE FOR NEW ASSOCIATE MEMBERS

NAME OF COUNTY OR CITY:

Dated: _____

By: _____

Name: _____

Title: _____

Attest:

By _____
[Clerk of the Board Supervisors or City Clerk]

AFTER EXECUTION, PLEASE SEND TO:

Golden State Finance Authority
(formerly California Home Finance Authority)
1215 K Street, Suite 1650
Sacramento, CA 95814

**ATTACHMENT 1
CALIFORNIA HOME FINANCE AUTHORITY MEMBERS**

As of December 10, 2014

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