



RESOLUTION No. 17-339

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION AUTHORIZING THE AUDITOR-CONTROLLER TO EXECUTE THE STANDARD AGREEMENTS FOR THE PLACEMENT AND COLLECTION OF PROPERTY ASSESSED CLEAN ENERGY (PACE) ASSESSMENTS

WHEREAS, the governing bodies of the County and of the incorporated jurisdictions within the County of Nevada have executed agreements with PACE providers to allow residential and commercial property owners within their jurisdictional boundaries to participate in a PACE program; and

WHEREAS, the parties desire to enter into an agreement whereby special taxes or special assessments for the approved programs will be placed on the tax roll by the Auditor-Controller and collected by the County Tax Collector at the same time and in the same manner as County taxes are collected.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Nevada, State of California, authorize the Auditor-Controller to hereby execute, on behalf of the County of Nevada, the Services Contract, substantially in form, and attached hereto as Exhibit A, between said County and approved PACE providers pertaining to the placement, collection and distribution of PACE assessments on the annual property tax roll.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 27th day of June, 2017, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Hank Weston and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: _____

Julie Patterson Hunter

Hank Weston

Hank Weston, Chair

Exhibit A

AGREEMENT FOR COLLECTION OF PROPERTY
ASSESSED CLEAN ENERGY (PACE) ASSESSMENTS

THIS AGREEMENT is made and entered into this _____ day of _____, 2017, by and between the COUNTY OF NEVADA, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and the AUTHORITY, a joint powers authority

RECITALS

WHEREAS, AUTHORITY is a statewide joint powers authority sponsored by _____, whose mission is to provide local governments access to low-cost financing for projects that provide a tangible public benefit, contribute to social and economic growth, and improve the overall quality of life in local communities; and

WHEREAS, AUTHORITY offers the PROGRAM within participating communities throughout the State of California to encourage property owners to invest in renewable energy sources and energy and water efficiency improvements; and

WHEREAS, the City or County has authorized AUTHORITY to undertake the PROGRAM within its boundaries pursuant to City or County Resolution No. ; and

WHEREAS, AGENCY acts as agent for the AUTHORITY in administering the PROGRAM; and

WHEREAS, the Program is funded by assessments made pursuant to the provisions of Public Resources Code section 26054 et seq., which provide for the collection of a Property Assessed Clean Energy ("PACE") assessment to provide funding for programs that offer financing for the installation of renewable energy sources or energy or water efficiency improvements; and

WHEREAS, the parties desire to enter into an agreement whereby special taxes or special assessments for the AUTHORITY program will be collected by the County Tax Collector at the same time and in the same manner as COUNTY taxes are collected, and AUTHORITY agrees to and, when applicable, will pay to the COUNTY the fees for collection hereinafter set forth; and

WHEREAS, Government Code section 29304 authorizes the COUNTY to add to any special assessment authorized to be collected by COUNTY on behalf of the AUTHORITY or AGENCY, acting on behalf of AUTHORITY, an amount, fixed by agreement, to each parcel for the collection and disposition of taxes; and

WHEREAS, COUNTY will collect the PACE assessments levied on behalf of AUTHORITY for the AUTHORITY PROGRAM pursuant to Public Resources Code section 26054 et seq. on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED by and between the parties as follows:

1. Collection Services. The County Tax Collector will collect for AUTHORITY all of the PACE assessments entered on the COUNTY's assessment roll and levied by or on behalf of AUTHORITY, said assessments to be collected at the same time and in the same manner as COUNTY taxes are collected. All laws applicable to the levy, collection and enforcement of COUNTY taxes shall be applicable to such taxes and assessments to the extent allowed by law. AUTHORITY herein acknowledges and designates AGENCY as agent for the purpose of administering the PACE assessments for the PROGRAM, as herein set forth.

2. Collection Fee. The fees for furnishing services under this Contract shall be based on the then-current Resolution of the Nevada County Board of Supervisors establishing the fees for said services, as may be amended from time

to time. In addition, the County has established an initial set up fee of \$350.00 for PACE assessments. The fees for all services due under this Contract will be deducted by the County Auditor-Controller from the total PACE assessments collected by the County Tax Collector for AUTHORITY, prior to remitting any funds due to the AUTHORITY.

3. Transmission of Information. On or before August 10th of each year (unless an earlier date is specified by law) AGENCY shall certify and deliver to the County Auditor-Controller an error-free assessment roll showing the amount of the PACE assessment against each parcel of land (which shall be designated by tax rate area and assessment number, i.e., parcel number appearing on the County Secured Assessment Roll) to be placed on the roll by the County Auditor-Controller and collected by the County Tax Collector for AUTHORITY.

4. Certification to County. Agent shall certify to the County Auditor-Controller the PACE assessments in, a dollar amount to be applied on each parcel of real property, which parcel shall be designated by the assessment (i.e., parcel number shown on the County Secured Assessment Roll for the year in which the PACE assessment is to be collected. Said certification shall state that it is true and correct to the best of the Agent's knowledge and be signed under penalty of perjury.

5. Verification by Agent. AUTHORITY acknowledges that AGENCY will be responsible for the validity and accuracy of the amount of the PACE assessment, as well as the assessor parcel number to which it is being charged, regardless of whether such data is submitted by AUTHORITY, AGENCY, or by another third-party consultant or contractor on AUTHORITY's behalf. It shall be the obligation of AUTHORITY, prior to submission of the PACE assessments to the County Auditor-Controller, to verify (or cause to be verified by AGENCY) that the parcel numbers for PACE assessments certified by AGENCY correspond with the

assessment (i.e., parcel) numbers shown on the County Secured Assessment Roll after it is filed by the County Assessor with the County Auditor-Controller (July 1; Rev. & Taxation Code § 617). Any changes that occur in PACE assessment data previously certified to the County Auditor- Controller by AGENCY as a result of such verification, shall be certified by AGENCY to the County Auditor Controller no later than August 10 of each year.

6. Cooperation by AUTHORITY and AGENCY. In order to promote and maintain efficient property tax administration, AUTHORITY will ensure that AGENCY will:

a) Respond to taxpayers' inquiries in a timely manner and not refer taxpayers to COUNTY regarding the removal or correction of PACE assessments.

b) Follow all administrative procedures as established by COUNTY, including, submitting all documents and data in the required formats to COUNTY by established deadlines, and providing all requests for removal or correction of PACE assessments in writing.

7. Submission of Data. The performance by the County Tax Collector of the collection function for a charge as provided for in Paragraph 1 above is conditioned upon the timely delivery by AGENCY to the County Auditor- Controller of the required data and information for the PACE assessments in a format as may be acceptable to the County Auditor-Controller for use in COUNTY's computer system. In the event the information is not submitted timely or in such format, the County Auditor- Controller may reject the data and notify AGENCY to resubmit in the correct form. Annually, on or before June 1 of each year, the County Auditor-Controller will furnish AGENCY with the data format necessary to process the special tax or assessment.

8. Incorrect Information. The County Auditor-Controller will not be obligated to enter on COUNTY's assessment roll, nor will the County Tax Collector

be obligated to collect, PACE assessments where AGENCY has furnished untimely or incorrect assessment numbers, i.e., assessment or parcel numbers that do not correspond with assessment or parcel numbers shown on the County Secured Assessment Roll to which such assessments are to be added, or where AGENCY has not furnished the information at the time or in the form specified. In such cases, the County Auditor- Controller may return the assessment to AGENCY. If AGENCY determines that the assessment is to be placed on the County Secured Assessment Roll for an ensuing year, AGENCY may certify the information to the County Auditor-Controller between July 1st and August 10th of the ensuing year.

9. Charge for Correction of Errors. After August 10th, a charge will be made by the County Auditor-Controller to AGENCY for each PACE assessment corrected or deleted. Said charge shall be a Twenty-five dollars (\$25.00) for each account (assessment or parcel number) on the County Secured Assessment Roll for which there is a deletion or correction resulting from errors in information or data furnished by AGENCY, such as the furnishing by AGENCY to the County Auditor-Controller of incorrect amounts or incorrect parcel numbers. The amount of the charges for such corrections will be deducted by the County Auditor-Controller from the total PACE assessments collected by the County Tax Collector for AUTHORITY.

10. Removal of PACE Assessment from Defaulted Tax Roll. If a tax bill with a PACE assessment becomes tax defaulted at the end of the fiscal year and is subsequently merged to the delinquent tax roll, the PACE assessment and its share of delinquent penalties and interest will be removed immediately from the defaulted tax roll and, thereafter, AUTHORITY will be responsible for pursuing any further collection efforts of the PACE assessment.

11. Modification of Collection Fees and Charges. COUNTY reserves the right to increase or decrease any fee, cost or other charge by the County Auditor-

Controller or the County Tax Collector for providing the services described herein, provided that written notice of any increase or decrease in charges shall be given by the County Auditor-Controller to AGENCY on or before June 1 of any year during the term of this Agreement.

12. Accelerated Judicial Foreclosure. If a PACE assessment is not paid when due and AUTHORITY chooses to exercise its right to accelerated judicial foreclosure pursuant to Streets and Highways Code §8830 et seq., AUTHORITY shall notify the County Auditor-Controller in writing and request to have the delinquent installment, associated penalties and interest removed from the secured property tax roll and pursue any foreclosure action, without involvement or obligation of COUNTY.

13. Non Assignment. AUTHORITY shall not assign or transfer this Agreement or any interest herein and any such assignment or transfer or attempted assignment or transfer of this Agreement or any interest herein by AUTHORITY shall be void and shall immediately and automatically terminate this Agreement. This Agreement shall bind the heirs, successors, assigns and representatives of COUNTY and AUTHORITY in the same manner as if they were expressly named.

14. Term of agreement. This Agreement shall be effective as of the date signed by AUTHORITY and shall continue from year to year and shall be subject to cancellation by either party by giving written notice to the other party of cancellation on or before June 1 of any year during the term of this Agreement.

15. Indemnification. AUTHORITY, for itself, its employees, officers, agents, contractors, subcontractors and assigns hereby agrees to and shall defend, indemnify and save harmless County and, its officers, agents and employees ("indemnified parties,") from any and all claims, demands liabilities, costs and expenses, damages, causes of action, and judgments, including attorneys' fees and costs, in any manner arising out of any of AUTHORITY's or AGENCY's obligations

and commitments arising from or otherwise related to this Agreement, or from other action taken by AUTHORITY establishing a special tax, fee, or assessment and implementing collection of special taxes, fees, or assessment or due to any error whatsoever contained in the assessment roll data provided by AGENCY to the COUNTY, as contemplated in this Agreement.

16. Amendment and Waiver. Except as provided herein, no alteration, amendment, variation, or waiver of the terms of this Agreement shall be valid unless made in writing and signed by both parties. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder. No interpretation of any provision of this Agreement shall be binding upon COUNTY unless agreed in writing by the COUNTY.

17. Force Majeure. Neither AUTHORITY nor COUNTY shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except as otherwise specifically provided herein).

18. Construction And Compliance With Laws. AUTHORITY and COUNTY shall observe and comply with all applicable Federal, State, and County laws, regulations and ordinances.

To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be

invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. The AUTHORITY and the COUNTY acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other.

19. Interpretation. This Agreement shall be deemed to have been prepared equally by both of the parties, and the Agreement and its individual provisions shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

20. Captions. The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

21. Severability. If any term or condition of this Agreement or the application thereof to any person(s) or circumstance is held invalid or unenforceable, such invalidity or unenforceability shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Agreement are declared severable.

22. Prior Agreements. This Agreement constitutes the entire contract between COUNTY and AUTHORITY regarding the subject matter of this Agreement. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this Agreement will be deemed to exist or to bind any of the parties hereto. Any prior agreements, whether oral or written, between COUNTY and AUTHORITY regarding the subject matter of this Agreement are hereby terminated effective immediately upon full execution of this Agreement.

23. Time. Time is and shall be of the essence of this Agreement and every provision hereof.

24. Survival Of Terms. All services performed provided pursuant to this Agreement are subject to all of the terms and conditions set forth herein, notwithstanding the expiration of the initial term of this Agreement or any extension thereof. Further, the terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive.

25. Authority To Execute. Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement for or on behalf of the parties to this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized.

26. Third Party Beneficiaries. There shall be no third party beneficiaries to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

COUNTY OF NEVADA

AUTHORITY

By: _____
Marcia L Salter, Auditor-
Controller

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM
AND LEGAL EFFECT:

Alison Barratt-Green
County Counsel

By: _____
Deputy County Counsel