

Memorandum
Office of Jenine Windeshausen
Treasurer-Tax Collector



To: The Board of Supervisors

From: Jenine Windeshausen, Treasurer-Tax Collector

Date: July 9, 2013

Subject: mPOWER Commercial Program Changes

Action Requested:

1. Approve an amendment to the Program Report and Guidelines authorizing implementation of the Streamlined Project Application Review and Certification System (SPARCS) Commercial program elements.
2. Approve the form of the SPARCS Agreement and Authorize the Treasurer to execute partnership agreements with financial institutions participating in the SPARCS program.
3. Adopt a resolution authorizing an amendment to the mPOWER Loan Agreement, the Assessment Contracts and other documents to change the interest rate terms from fixed to step-up structure going forward for the assessments put in place under the prior interest rate structure.
4. Receive information on contractor survey and delinquency rates in other programs.

Background:

Over the past seven months, the Treasurer along with staff and a program consultant, Rockwood Consulting, conducted a number of focus groups with various stakeholders including local financial institutions, contractors and commercial building managers to discuss opportunities to increase the uptake of the commercial program. Based on these conversations, a new pathway was identified to increase commercial program participation and to create a new market for the sale of future bonds secured by the assessments.

The first focus group discussions resulted in the development of specific program elements for more efficient processing of commercial applications and to increase participation in the commercial program. Representatives from mPOWER and Rockwood Consulting then met again with the focus group participants to review the new program elements called Streamlined Project Application Review and Certification System or SPARCS. For commercial applications consent is required from any lender on the property before an assessment can be added on

the property. The new program elements will streamline and standardize the information sent to lenders facilitating easier review by lenders. The new program elements will also require certification by specified professionals regarding savings generated by the financed improvements, ensuring greater financial certainty for lenders.

The efforts to create a new market for the sale of future bonds secured by the assessments would involve partnering with local financial institutions. Those financial institutions partnering with the program under SPARCS will be offered first right of refusal to purchase bonds backed by SPARCS assessments. These financial institutions view mPOWER as an additional product/tool they can offer their customers without obligating their own financial resources. They are interested in the assessment bonds as an investment due to the financial strength and competitive earnings the bonds will provide in their portfolios. Those financial institutions participating in the SPARCS program will execute an agreement detailing the SPARCS program elements and the provisions for purchasing the related assessment bonds. The form of the SPARCS Agreement is attached in Exhibit B. The final agreement is subject to review and approval by County Counsel.

The addition of the SPARCS program requires the Program Report and Guidelines to be amended. A red-line version of the pages of the Program Report and Guidelines containing the SPARCS amends are attached in Exhibit A. The full Program Report and Guidelines is on file with the Clerk.

Your Board is asked to approve an amendment to the Program Report and Guidelines adding the SPARCS program elements and to approve the form of the SPARCS Agreement and authorize the Treasurer to execute SPARCS Financial Institution Partnership Agreements with participating financial institutions, subject to the review and approval of County Counsel.

Lender Notification: mPOWER has included a requirement that lenders on residential properties be notified of the intent to file a voluntary lien to secure the mPOWER financing. Residential property lenders had 30 days in which to object to the lien. The mPOWER financing then proceeded if there was written lender consent or if the 30 days lapsed without response from the lender, non-response was deemed consent. Based on feedback when the residential program was previously operating and from feedback given during the recent contractor's survey the 30 day waiting period is viewed as time consuming and bureaucratic. This is especially true of HVAC installations which are often in need of more immediate replacement. As a result, the property owner disclosures have been revised to more broadly reflect the responsibilities of and risks to the property owner related to residential lenders. The revised consent allows for the financing to proceed without specific notice to the lender and without the 30 day waiting period. Attached is the necessary Program Report Amendment to eliminate the specific lender notification and the associated 30 day waiting period.

Your Board is asked to approve an amendment to the Program Report and Guidelines to eliminate the lender notice on residential applications and 30 day waiting period for lender response.

Change from Fixed to Step-up Rate Structure: On January 26, 2010, your Board passed resolutions approving the financing arrangement between the County, the Placer County Public Financing Authority and the Treasurer. The initial interest rate for the life of the assessments was set at 7.25%, with 3.5% accruing to the bond purchased for the Treasurer's Investment Portfolio and 3.75% accruing to the County for program administrative cost reimbursement.

Interest rates have continued to remain relatively low since the interest rate charged to property owners was initially set. On July 12, 2011, your Board took action to approve a change in the assessment contract interest rate from 7.25% to 6.0% and to change in the bond interest rate from 3% fixed to a step-up structure escalating from 1.25% to 5.0%. These changes were implemented for all new assessment contracts.

The existing assessment contracts remained at the prior rates as the levy for the 2012/13 fiscal year had already been prepared. Soon the levy for the 2013/14 fiscal year will be prepared. With two sets of interest rates, we must prepare a levy based on two different rates, one for the assessments based on the prior interest rates, and one for the assessments on the new interest rate. To avoid this and to allow the assessments set at the prior rates to benefit from the rate changes going forward a resolution is required to amend various documents that were based on the prior interest rate.

The fixed rate structure for the bonds was changed to a step-up structure escalating from 1.25% to 5.0%. The reimbursement rate has an inverse relationship to the bond rate and starts at 4.75% and drop to 1.0% over the 20- year life of the financing. This structure is detailed below.

Year	Assessment Rate	Interest Bond	Interest to Program
1-3	6.0%	1.25%	4.75%
4-5	6.0%	2.00%	4.00%
6-7	6.0%	2.75%	3.25%
8-10	6.0%	3.50%	2.50%
11-20	6.0%	5.00%	1.00%

The new rate structure accelerates the program administrative cost recovery in the earlier years bringing the revenues more into alignment with the timing of program expenditures which are more significant at the initial stage of the assessment contract than they are in subsequent years.

The benefits of these rate changes are: 1) property owners will benefit from reduced interest costs, 2) the County will benefit from accelerated program administrative cost recovery, and 3) the Treasury depositors or other bond holders will benefit from increased interest earnings over the life of the bonds.

To change the assessments made under the prior rates, the attached resolution provides for the amendment of the existing bonds, approval of the Loan Agreement Amendment, and the Assessment Contract Amendments and authorizes officers of the County to take the actions necessary to execute and deliver the related documents. These documents are on file with the Clerk of the Board.

Your Board is requested to adopt the resolution authorizing the Treasurer and other County Officers to execute documents and to take other actions as necessary to implement the interest rate changes approved by your Board on July 12, 2011 going forward for assessments made under the prior interest rate structure

Responses to Board Questions: At the June 18th Board meeting, the Board requested additional information. The requests included information on assessment default statistics from the Sonoma County and Western Riverside Council of Governments programs, the average amount of expected assessment and that a survey be conducted of contractors to determine program pertinence and interest given changes in the energy market and decreases in solar installation costs since the residential program was suspended. Staff has contacted the Sonoma and Western Riverside programs and has conducted a survey of contractors and will provide the findings related to these two Board requests during the presentation to the Board.

Fiscal Impact:

SPARCS Program Implementation: The cost to include the SPARCS program elements in the Program Report and Guidelines and to implement the SPARCS program elements is nominal. The implementation of the SPARCS program should increase uptake of commercial applications which will increase cost recovery. It is difficult to estimate the actual increase in the number or dollar amount of commercial applications and therefore the resulting overall increase in Program cost recovery.

Interest Rate Change Amendment: The interest rate change will result in accelerated cost recovery from the prior assessments by increasing the amount recovered in the earlier years of the financing. The cost recovery amount collected on existing assessments is 3.75% of the annual assessment. The new

rate will start at 4.75% and diminish to 1% by year 10, and remain in effect until the maturity at year 20.

Attachments:

Resolution Authorizing Amendments to the Loan Agreement, the Bond and other documents

Exhibit A: Amendment to Program Report and Guidelines (red-line sections only)

Exhibit B: Form of SPARCS Agreement

**Before the Board of Supervisors
County of Placer, State of California**

In the matter of:

Resol. No: _____

Authorizing the execution and delivery of an amendment of a Limited Obligation Loan Agreement, amendments to certain Assessment Contracts and other actions related to the financing of the installation of distributed generation renewable energy, energy efficiency and water efficiency improvements that are permanently fixed to real property, and providing other matters properly relating thereto

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held on July 9, 2013 .

by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chairman, Board of Supervisors

Attest:
Clerk of said Board

WHEREAS, the Placer County Public Financing Authority is a joint powers authority duly organized and existing under that certain Joint Exercise of Powers Agreement, dated May 9, 2006, by and between the County of Placer (the "County") and

the former Placer County Redevelopment Agency, and under the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), and is authorized pursuant to Article 4 of the Act (the "Bond Law") to issue bonds for the purpose of making loans to local agencies, to the extent those local agencies are authorized by law to borrow moneys, when the loan proceeds will be used by the local agencies to pay for public capital improvements; and

WHEREAS, the County is authorized to borrow money under Sections 5898.22 and 5898.28 of Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (the "Chapter 29") to finance the installation of distributed generation renewable energy, energy efficiency and water efficiency improvements that are permanently fixed to real property (the "Authorized Improvements"), and the Authorized Improvements constitute "public capital improvements" pursuant to the Bond Law; and

WHEREAS, on December 8, 2009, the Board of Supervisors of the County (the "Board of Supervisors") adopted Resolution No. 2009-343 (the "Resolution of Intention"), to initiate proceedings under Chapter 29 to establish the "Placer money for Property Owner Water & Energy Efficiency Retrofitting Program" (the "Program"), pursuant to which the Board of Supervisors stated its intent for the County to enter into contractual assessments to finance the installation of Authorized Improvements as described in the Resolution of Intention; and

WHEREAS, by the Resolution of Intention, the Board of Supervisors provided that one or more series of bonds or other financing instruments or relationships would be issued under the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California (the "1915 Act"); and

WHEREAS, on January 26, 2010, after holding a duly noticed public hearing at which interested persons were allowed to object to or inquire about the proposed Program or any of its particulars, the Board of Supervisors adopted Resolution No. 2010-22 (the "Resolution Confirming Program Report"), pursuant to which the Board of Supervisors, among other things, (i) confirmed and approved a report (as subsequently amended, the "Program Report") addressing all of the matters set forth in Section 5898.22 of Chapter 29, (ii) established the Program, and (iii) authorized execution of agreements ("Assessment Contracts") with the owners of property in the County (the "Program Area") to provide for the levy of contractual assessments to finance installation of Authorized Improvements; and

WHEREAS, for the purpose of providing moneys to fund a loan to the County (the "Loan"), the proceeds of which Loan the County would use to finance the installation of Authorized Improvements on property in the County (the "Participating Parcels"), the Authority approved the issuance of its Placer County Public Financing Authority Revenue Bonds, Series A (Placer mPOWER Program) (the "Bonds"), pursuant to Resolution No. 2010-25 adopted by the Governing Board of the Authority on February 9, 2010 (the "Authority Bond Resolution"); and

WHEREAS, pursuant to Resolution No. 2010-26 adopted by the Board of Supervisors on February 9, 2010 (the "County Bond Resolution"), the Board of Supervisors approved the issuance of the Bonds by the Authority, the execution and delivery of a Limited Obligation Loan Agreement (the "Original Loan Agreement") with the Authority and the sale of the Bonds to the Placer County Treasurer-Tax Collector; and

WHEREAS, the Authority has issued Bonds under an Indenture of Trust, dated as of June 1, 2010 (the "Indenture") in the aggregate initial principal amount of \$1,132,779 (collectively, the "Existing Bonds"), which Existing Bonds bear interest at a rate of 3.50%; and

WHEREAS, the Authority loaned proceeds of the Existing Bonds to the County under the Original Loan Agreement in a corresponding initial principal amount, which Loan bears interest at the same rate of interest as the interest rate on the Existing Bonds; and

WHEREAS, the Authority and the Placer County Treasurer-Tax Collector, the latter of which owns the Existing Bonds, wish to amend the terms of the Existing Bonds, and the Authority and the County wish to amend the terms of the Loan, to provide for interest on the unpaid principal amount to accrue at the following rates: (i) Years 1-3: 1.25%, (ii) Years 4-5: 2.00%, (iii) Years 6-7: 2.75%, (iv) Years 8-10: 3.50% and (v) Years 11-20: 5.0%; and

WHEREAS, the County would concurrently enter into amendments of some of the existing Assessment Contracts (the "Existing Assessment Contracts") to reduce the interest rate paid by the Participating Parcels to 6.0%, the form of which First Amendment to Agreement to Pay Assessment and Finance Improvements (the "Assessment Contract Amendment") is on file with the Clerk; and

WHEREAS, the amendment of the terms of the Loan would be reflected in an amendment of the Original Loan Agreement, and the form of an Amendment No. 1 to Limited Obligation Loan Agreement is on file with the Clerk (the "Loan Agreement Amendment"); and

WHEREAS, as a result of the amendment of the Original Loan Agreement and the Loan, the Authority would deliver amended Existing Bonds to the Placer County Treasurer-Tax Collector;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Placer takes the following actions:

Section 1. The Board of Supervisors hereby finds and declares that the above recitals are true and correct.

Section 2. The Board of Supervisors hereby approves the amendment of the Existing Bonds by the Authority and acceptance of the amended Existing Bonds by the Placer County Treasurer-Tax Collector.

Section 3. The Board of Supervisors hereby approves the execution and delivery of the Loan Agreement Amendment substantially in the form on file with the Clerk, together with any changes therein or additions thereto approved by the County Executive Officer or the Treasurer-Tax Collector (the "Designated Officers"), the execution of which shall be conclusive evidence of such approval.

The Designated Officers, each acting alone, are hereby authorized and directed for and in the name and on behalf of the County to execute, the final form of the Loan Agreement Amendment for and in the name of the County.

Section 4. The Board of Supervisors hereby approves the execution and delivery of one or more Assessment Contract Amendments substantially in the form on file with the Clerk, together with any changes therein or additions thereto approved by a Designated Officer, the execution of which shall be conclusive evidence of such approval.

The Designated Officers, each acting alone, are hereby authorized and directed for and in the name and on behalf of the County to execute, the Assessment Contract Amendments for and in the name of the County.

Section 5. The interest rate structure reflected in the Loan Agreement Amendment, the amendment of the Existing Bonds and the Assessment Contract Amendment is hereby approved for the Loan, for all Bonds issued in the future by the Authority and for all assessment contracts executed in the future by the County under the authority of the County Bond Resolution.

Section 6. All actions heretofore taken by the officers and agents of the County with respect to the preparation of the Official Statement, the sale and issuance of the Bonds, the amendment of the Existing Bonds, the execution and delivery of the Original Loan Agreement, the amendment of the Original Loan Agreement, the execution and delivery of the Existing Assessment Contracts and the amendment of the Existing Assessment Contracts are hereby approved, confirmed and ratified, and the proper officers of the County, including the Designated Officers, are hereby authorized and directed, for and in the name and on behalf of the County, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements (including the Indenture and the bond purchase agreement with the Authority, if necessary) and other documents which they, or any of them, may deem necessary or advisable in order to consummate the transactions contemplated by this Resolution.

Section 7. This Resolution shall take effect from and after the date of approval and adoption thereof.

Exhibit A

Amendments to the Program Report and Guidelines

Section II.D is added as follows:

D. SPARCS Program Elements (Streamlined Project Application Review and Certification System)

SPARCS program elements are designed as an alternative for non-residential applications which are subject to lender consent. The SPARCS program elements are designed to provide lenders with a standardized review format that incorporates professional review of technical specifications with the goal of facilitating lender consent. Application under the SPARCS program elements is subject to agreement between the program applicant and the mPOWER Program Administrator. SPARCS applications are subject to the following requirements in addition to the requirements outlined above in Section II.c:

- Estimate of first year avoided costs from energy, repairs and maintenance must be equal to or exceed 125% of the expected annual assessment installment
- Investment Grade Energy Audit: ASHRAE Level II or Level III or other recognized energy use analysis method
- Calibrated energy modeling software shall be IRS §179(d) compliant
- Verification of energy audit results by a licensed Engineer of Record with Current license and Errors & Omissions insurance that applies to energy work or, by an energy or water utility as applicable

Section 2. C, 7th Bullet Point is amended to read:

The contractual assessments levied to finance Energy and Water Conservation Improvements will constitute a lien on the subject property. Depending upon the underlying loan documentation, if any, creation of the assessment lien could result in a default under existing loan documents or give lenders the right to take certain remedial action. For residential property, the property owner will be provided legal disclosure as to the risks and responsibilities related to any lien on the property in conjunction with execution of the mPOWER Assessment Contract and the resulting assessment lien. The mPOWER Program must receive a written acknowledgement of the disclosure from the property owner before an Assessment contract can be executed. either (i) lender has given consent to mPOWER Placer Financing or (ii) borrower has given written notice to lender, and lender has not objected to participation in mPOWER Placer Financing. For non-residential property,^[1] lender has signed an acknowledgement letter which states that the assessment contract will not constitute a default under its Deed of Trust.

^[1] For mPOWER, "residential property" is defined as single-family properties with 1-to-4 residential units; "non-residential property" is all other property.

Exhibit B: Form of SPARCS Agreement

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**AN AGREEMENT BETWEEN
THE COUNTY OF PLACER WITH RESPECT TO ITS MPOWER PLACER PROGRAM
AND _____, A CALIFORNIA STATE CHARTERED FINANCIAL INSTITUTION
TO IMPLEMENT
STREAMLINED PROJECT APPLICATION, REVIEW AND CERTIFICATION SYSTEM
(SPARCS)**

This SPARCS Processing Agreement (the "Agreement") is by and between the County of Placer ("County") and _____ (the "Lender").

WHEREAS, County previously established its mPOWER Placer program ("mPOWER") under Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (the "Chapter 29") to finance the installation of distributed generation renewable energy, energy efficiency and water efficiency improvements that are permanently fixed to real property (the "Authorized Improvements").

WHEREAS, County established mPOWER to achieve a number of important public purposes, including job creation, providing an economic catalyst for the local economy, decreasing property owner utility costs and reducing green house gas emissions and fossil fuel pollution.

WHEREAS, under mPOWER, County provides financing for the installation of Authorized Improvements on certain parcels of property ("Participating Parcels") in the County, and the source of County's funds for this purpose are the proceeds of a loan made by the Placer County Public Financing Authority (the "Authority") to the County (the "Loan"), and the Authority issues bonds (the "Bonds") to fund the Loan.

WHEREAS, County expects the Placer County Treasurer-Tax Collector to purchase the Bonds, when issued.

WHEREAS, the County repays the Loan with installments of contractual assessments ("Contractual Assessments") paid by the owners of Participating Parcels pursuant to agreements ("Assessment Contracts") with County.

WHEREAS, the Authority pays debt service on the Bonds with moneys it receives from County in repayment of the Loan.

WHEREAS, County has informed Lender that there may be two tranches of Bonds and the Loan: (i) a tranche that is payable from Contractual Assessments that comply

with the requirements of the SPARCS program (“SPARCS Loan”; “SPARCS Bonds”) and (ii) a tranche that is payable, at least in part, from Contractual Assessments that do not comply with the requirements of the SPARCS program.

WHEREAS, mPOWER financing also has the potential to improve the cash flow and to increase the property value for the commercial enterprises utilizing mPOWER financing.

WHEREAS, the purpose of this Agreement is to establish the responsibilities and obligations of County and Lender related to SPARCS processing of mPOWER financing applications when Lender is the beneficiary of a loan and deed of trust on a Participating Parcel.

WHEREAS, Lender has concluded that improved cash flow and increased property value to Lender’s borrowers and Lender’s underlying collateral is beneficial to Lender.

WHEREAS, Lender has concluded that its ability to purchase one or more Bonds may be a beneficial investment for Lender.

WHEREAS, County has established standardized qualifying criteria for mPOWER applications.

WHEREAS, County requires that mPOWER applicants obtain certain acknowledgements from all lenders having a secured interest in Participating Parcel.

WHEREAS, mPOWER can be offered as a tool and a product by the Lender to its customers,

NOW, THEREFORE, in consideration of the foregoing and of the mutual premises hereinafter expressed, the parties hereto do mutually agree as follows:

Application, Acknowledgement and Approval

a. Obligations and Rights of County.

(i) County will make mPOWER applications available on the mPOWER web site at mpowerplacer.org or will provide them to persons that request one by contacting the mPOWER office.

(ii) Applications will generally be submitted directly to County. County will perform the initial application review for compliance with mPOWER requirements, which shall be substantially consistent with those set forth in Exhibit A, and SPARCS requirements (see Exhibit B). County will forward complete applications, including supporting documentation evidencing compliance with mPOWER requirements and SPARCS requirements, to Lender along with the Lender Acknowledgment of Owner Participation in the mPOWER Placer Program (the

“Acknowledgement”), which Acknowledgement shall be in substantially the form and substance of Exhibit C.

(iii) If an mPOWER applicant submits the application directly to Lender, County will provide any additional documentation as may be needed to provide Lender with a complete application.

(iv) Upon receipt of the Acknowledgement from Lender and final approval by County, County will notify the property owner of the approval and proceed with processing the application including Truth in Lending Good Faith Estimate and other disclosures, to the extent required by applicable law.

(v) County will be responsible for responding to questions regarding program eligibility, policy or mPOWER approval or denial.

b. Obligations and Rights of Lender.

(i) Lender agrees to review and give due consideration to all mPOWER applications whether submitted directly by the applicant or forwarded by County.

(ii) Upon receiving a complete application, Lender will take one of three actions within 15 days of receiving the application: (A) send to County an executed Acknowledgement, (B) deny the application in writing or (C) inform County that additional time is needed to reach a decision, the general circumstances of the delay and the anticipated time for taking one of the two actions listed in clauses (A) and (B) of this sentence. In the event Lender denies an application, Lender will explain its decision in writing provided to County and the applicant.

(iii) Lender's approval or denial of the application will be based upon its own independent review. Lender will have the final determination as to which applicants will or will not receive an Acknowledgement executed by the Lender based on Lender's own requirements

(iv) Lender will designate in writing to County the officials authorized by Lender to execute the Acknowledgements. The officials that are initially authorized to execute the Acknowledgements are _____.

(v) Lender may collect a fee from the applicant for processing the approval/denial and Acknowledgement. The amount of any such fee may be financed by mPOWER provided the total contractual assessment amount does not exceed the mPOWER limits.

(vi) In no event shall a denial prevent the applicant from providing additional information that addresses the cause for denial. In no event shall a denial be cause for refusal to allow future participation in mPOWER as long as all requirements of mPOWER and Lender, to the extent applicable, are met.

(vii) Lender will responsible for responding to property owner questions regarding approval or denial of Lender Acknowledgment.

Financing Process; Administration of the Contractual Assessments; Delinquency

Upon execution of an Assessment Contract by County and a property owner, County will record the Notice of Assessment and Payment of Contractual Assessment Required and the applicant may proceed with acquisition, construction and installation of the Authorized Improvements consistent with the Assessment Contract.

When a property owner submits a request for payment to County, County will use SPARCS Loan proceeds to pay the authorized amounts, but only after verifying installment, commissioning, documentation of costs and the release of any contractor lien(s). County will secure and record any release of lien(s) from contractor(s) related to any contractor's lien that may have been filed.

The Placer County Tax Collector (the "Tax Collector") will be solely responsible for administering the Contractual Assessments and for collecting the annual Contractual Assessment installments.

Contractual assessments become delinquent if not paid by December 10 and April 10 of each year for the first and second installments respectively. If a delinquent installment remains unpaid as of July 1, following the fiscal year in which the delinquency occurred, the assessment is then in default. County will notify Lender within 30 days of delinquency or default. The Tax Collector will work with the property owner and Lender to seek a speedy remedy to any default and to protect the interest of any bond or security holder backed by the assessment. Lender recognizes that accelerated judicial foreclosure of delinquent installments may be a remedy to default.

Bond or Security Participation by Lender

Each executed and funded Contractual Assessment that complies with the SPARCS requirements will be designated by County for the participating lender that provides the Acknowledgement related to the Participating Parcel.

County will provide each participating lender with periodic reports indicating the total number of SPARCS-compliant Contractual Assessments that have been executed, recorded and funded. The reports will include details of each SPARCS-compliant Assessment Contract, including the date of origin, its original principal amount, the unpaid principal amount, and information on any Contractual Assessments paid in full.

At such time as the Placer County Treasurer-Tax Collector owns a principal amount of SPARCS Bonds of at least \$ _____, County will cause the Treasurer-Tax Collector to remarket such SPARCS Bonds to Lender and other participating lenders, with each lender entitled to purchase a pro rata share of the SPARCS Bonds. Each lender's pro rata share will be calculated by multiplying (A) the outstanding principal amount of the SPARCS Bonds to be remarketed by (B) a fraction, where the denominator is the unpaid principal amount of all the Contractual Assessments that were financed with proceeds of the SPARCS Bonds to be remarketed and the numerator is the unpaid principal amount of the Contractual Assessments that were financed with proceeds of the SPARCS Bonds to be remarketed that were designated as relating to such lender pursuant to the second preceding paragraph. Any SPARCS Bonds remarketed to a lender will be in a minimum denomination of \$100,000.

At such time as the Treasurer-Tax Collector wishes to remarket SPARCS Bonds, County shall provide Lender with a Notice of Intent to Sell Bonds or to Securitize Liens and Right of First Refusal (the "Notice") . The Notice shall indicate the total principal amount of the SPARCS Bonds to be remarketed, the principal amount of the SPARCS Bonds to be remarketed that is designated to Lender, and the time frame (not less than 15 days) for responding to the Notice.

Following receipt of the Notice, if Lender wishes to purchase a portion of the SPARCS Bonds to be remarketed, it shall submit to County a Letter of Intent (in the form attached to the Notice) within the time specified in the Notice. Lender is under no obligation to purchase any or all of the SPARCS Bonds. Any SPARCS Bonds that Lender is eligible to purchase but does not purchase may be offered by County to other participating lenders on a pro-rata basis. Lender shall also specify the maximum principal amount of the SPARCS Bonds to be remarketed that Lender is willing to purchase, which will allow the County to re-allocate SPARCS Bonds if one or more participating lenders do not elect to purchase their pro rata share of the SPARCS Bonds to be remarketed.

Upon receiving executed Letters of Intent from all of the participating lenders eligible to purchase SPARCS Bonds or by the date specified in the Notice, whichever is earlier, County will notify Lender and each of the other participating lenders of the principal amount of the SPARCS Bonds to be remarketed, the principal amount of the SPARCS Bonds to be purchased by each participating lender, the remarketing date and closing instructions. County will proceed with the remarketing in a commercially reasonable fashion. Each participating lender will be required to execute an investor letter in the form attached as Exhibit D.

In the event a Contractual Assessment underlying the bonds or securities becomes defaulted, the loss will be deducted from the next debt service payment and borne by the bond or securities holders on the same pro-rata basis of the participation in the original purchase. Upon collection of the default, the collected amount plus accrued penalties (1.5% per month) shall be added to the next debt service payment on the same pro-rata basis as allocation of the original loss.

No Partnership

Nothing herein contained shall be construed to imply a joint venture, partnership or principal-agent relationship between County and Lender. Neither party shall have the right, power or authority to obligate or bind the other in any manner whatsoever, except as otherwise agreed to in writing. The parties do not contemplate a sharing of profits relating to any transactions related to this agreement under Section 761 of the Internal Revenue Code of 1986, as amended, nor co-ownership of a business or property so as to create a separate partnership under the law of any jurisdiction. Revenues and expenses relating to the obligations of this agreement and any additional services shall be reported separately by the parties for tax purposes.

During the performance of any obligations under this agreement any federal, state or local laws or regulations including, but not limited to, laws or regulations covering unemployment insurance, old age benefits, worker's compensation, industrial accident, labor or taxes of any kind shall be borne by the employer of record and should not be construed to mean that Lender personnel who perform the review and acknowledgement or any additional services to be provided by Lender hereunder are under the employment of Placer County. The employment and ultimate control, management and supervision of Lender personnel who are to perform the review and

Acknowledgement to be provided by Lender hereunder shall be under the employment, and ultimate control, management and supervision of Lender.

TRADEMARKS, TRADE NAMES and COPYRIGHTS

Except as expressly provided herein, this Agreement does not give either party any ownership rights or interest in the other party's trade name, trademarks or copyrights. However, County and Lender may agree from time to time to co-brand or authorize the use of trademarks, trade names or copyrights on certain promotional or information materials for certain events or other collaborative effort. Authorization to use trademarks, trade names and copyrights shall be made in writing.

INDEMNIFICATION

Both County and Lender, at their own expense, shall indemnify defend and hold the other, its partners, shareholders, directors, officers, employees, and agents harmless from and against any and all third-party suits, actions, investigations and proceedings, and the indemnifying party's negligence or willful misconduct. Neither County nor Lender shall be required hereunder to defend, indemnify or hold harmless the other and /or its partners, shareholders, directors, officers, directors, employees and agents, or any of them from any liability resulting from the negligence or wrongful acts of the party seeking indemnification or of any third-party. County and Lender agree to give the other prompt written notice of any claim or other matter as to which it believes this indemnification provisions is applicable. The indemnifying party shall have the right to defend against any such claim with counsel of its own choosing and to settle and/or compromise such claim as it deems appropriate. Each party further agrees to cooperate with the other in the defense of any such claim or other matter.

Notice, Regulatory Oversight Cooperation, Conduct

All notices, approvals, denials, reports or other correspondence contemplated by this Agreement must be in writing and served personally, by facsimile, e-mail or first class mail or commercial delivery service. If given by personal service or email, the notice shall be effective on the date of delivery; if given by any other means, the notice shall be effective upon receipt. Either party may change its mailing address by giving notice of such change.

Lender shall promptly notify County of any regulatory actions involving Lender. County shall promptly notify the Lender of any regulatory actions involving County. County and Lender agree to cooperate in any regulatory circumstance of the other.

Lender's officers, employees or agents or County officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from loan applicants or potential applicants, or parties applying for mPOWER financing.

Termination

Either party may terminate this agreement for convenience or cause in whole or in part at any time. In either case the terminating party will provide 30 days written notice to the other party.

This agreement is entered into this _____ day of _____ 20____, by the County of Placer and _____.

By: County of Placer

_____ Name

_____ Title

By: Lender

_____ Name

_____ Title

_____ Lender

Exhibit A
mPOWER Application Review and Approval Requirements

Generally, mPOWER financing approval is subject to the following:

- Applicants must be the legal owner of the property
- Property must be developed and located in Placer County (new construction is not eligible)
- Property owner must be current on property tax payments and has not been in default for the past three years
- Property owner must be current on mortgages with no notice of default for the last five years
- Property owner must not have a record of bankruptcy for at least seven years prior to application
- Property cannot be subject to bankruptcy
- Property cannot have any involuntary liens
- Lender Acknowledgement of the proposed assessment lien is required (program staff will work with you and your lender to obtain the necessary form)
- Financed amount cannot exceed 10% of property value plus improvements, unless approved by Lender and cannot exceed the property equity.
- Property owner must attend a program seminar
- Contractor/Subcontractor Requirements
- Valid CA Contractor License
- Insurance Coverage: Liability, Worker's Compensation, Automobile
- Attend a Program training class

Terms:

- The minimum amount that can be financed is \$2,500
- The financing can be repaid over 5, 10, 15, or 20 years or less and is based on the useful life of the improvement(s). Multiple improvements may have varied payback periods – blended/step-down payback periods
- Current interest rate is 6%, simple interest, subject to change
- A prepayment premium during the first 5 years applies.
- Lien stays with property after sale to any subsequent owner

Costs Covered by MPOWER Placer financing:

- Energy audit
- Program related costs
- Design, drafting and engineering
- Permit and inspection fees
- Labor
- Material

Note: Terms and conditions are subject to change without notice. Rates and prepayment premiums will not increase after application has been accepted.

Exhibit B
SPARCS Application Review and Approval Requirements

- Estimate of first year avoided costs from energy, repairs and maintenance must be equal to or exceed 125% of the expected annual assessment installment
- Investment Grade Energy Audit: ASHRAE Level II or Level III or other recognized energy use analysis method
- Calibrated energy modeling software shall be IRS §179(d) compliant
- Verification of energy audit results by a licensed Engineer of Record with Current license and Errors & Omissions insurance that applies to energy work or, by an energy or water utility as applicable

DRAFT

Exhibit C

Lender Acknowledgment of Owner Participation in mPOWER Placer Program

RETURN TO:

Program Administrator
mPOWER Placer
2976 Richardson Drive
Auburn, CA 95603

Property Address: _____

A.P.N.: _____

mPOWER Placer File No _____

**LENDER ACKNOWLEDGEMENT OF OWNER PARTICIPATION IN
MPOWER PLACER PROGRAM**

THIS LENDER ACKNOWLEDGEMENT OF OWNER PARTICIPATION IN
mPOWER PLACER PROGRAM ("Acknowledgement") is executed this _____ day
of _____, 20____, by _____, a
_____ ("Lender"), and for the benefit of _____ ("Owner"), and the
COUNTY OF PLACER, a subdivision of the State of California ("County"), acting on
behalf of the MPOWER Placer Program.

RECITALS

A. The County has established the mPOWER Placer Program to assist property owners with financing the installation of renewable energy, energy efficiency and water efficiency improvements that are permanently fixed to their properties ("Authorized Improvements") under Chapter 29 of Part 3 of Division 7 of the Streets & Highways Code of the State of California ("Chapter 29").

B. Owner has applied to the Program to finance the installation of Authorized Improvements on Owner's real property in the County (the "Property"). The Authorized Improvements to be financed by Owner are described on Exhibit A attached hereto. The Property is described in Exhibit B attached hereto ("Property").

C. Owner will execute an Agreement to Pay Assessment and Finance Improvements with County ("Assessment Contract"). Under the Assessment Contract, Owner will agree to the levy of a statutory assessment in the amount of \$ _ (the

"Assessment"), payable over a period of _____ years, with interest, upon terms and conditions described in the Assessment Contract.¹

D. Owner has previously executed a deed of trust dated _____ to secure a promissory note payable to Lender in the sum of \$ _____. The deed of trust was recorded on _____, _____ as Instrument No _____ in the Official Records of Placer County ("Deed of Trust").

E. Notice of the Assessment will be recorded against the Property in the Official Records of the County. The Assessment, together with interest and any penalties, will constitute a lien against the Property. The Assessment will be collected in installments on the property tax bill in the same manner as and subject to the same penalties, remedies and lien priorities as real property taxes.

ACKNOWLEDGEMENT

Lender acknowledges that it has been informed of Owner's participation in the Program, and agrees that Owner's execution of the Assessment Contract will not constitute a default under Lender's Deed of Trust.

LENDER: Lender Officer to sign:

By:

Signature

Name

Title

Date

¹ A form of the Assessment Contract can be viewed on-line at www.mpowerplacer.org, or will be provided to Lender upon request.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of _____ }

On _____, before me, _____,
Notary Public, Date Name and Title of Officer

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
This area for official notary seal.

**EXHIBIT A
LIST OF FINANCED AUTHORIZED IMPROVEMENTS**

DRAFT

**EXHIBIT B
PROPERTY DESCRIPTION**

REAL PROPERTY IN THE COUNTY OF PLACER, STATE OF CALIFORNIA,
DESCRIBED AS FOLLOWS:

A.P.N.:

LEGAL DESCRIPTION:

DRAFT

**Exhibit D
Investor Letter**

Placer County Public Financing Authority
County of Placer
175 Fulweiler Avenue
Auburn, CA 95603

cc. Trustee

Re: Placer County Public Financing Authority Revenue Bonds (mPOWER Placer Program)

Ladies and Gentlemen:

The Placer County Public Financing Authority (the "Issuer") has issued the above-referenced bonds (the "Bonds"). Capitalized terms used in this letter but not defined have the meaning given them in the Indenture of Trust relating to the Bonds.

In connection with our purchase on the date hereof of \$_____ principal amount of the Bonds, the undersigned (the "Bond Purchaser") hereby represents, warrants and agrees as follows:

(a) The Bond Purchaser is an "accredited investor" as such term is defined in Rule 501(a) of Regulation D promulgated under the United States Securities Act of 1933, as amended.

(b) The Bond Purchaser has sufficient knowledge and experience in financial and business matters, including the purchase and ownership of municipal bonds and other tax-exempt obligations similar to the Bonds, to be capable of evaluating the merits and risks of an investment in the Bonds, and the Bond Purchaser is able to bear the economic risks of such an investment.

(c) The Bond Purchaser is purchasing the Bonds for not more than one account for investment purposes and not with a view to distributing the Purchased Bonds;

(d) The Bond Purchaser recognizes that an investment in the Bonds involves significant risks, that there is no established market for the Bonds and that none is likely to develop and, accordingly, that the Bond Purchaser must bear the economic risk of an investment in the Bonds for an indefinite period of time.

(e) The Bond Purchaser understands and acknowledges that, subject to satisfaction of certain conditions set forth in the Indenture of Trust, the Issuer may issue subsequent series of bonds secured by Revenues on a parity with the Bonds.

(f) The Bond Purchaser (i) has conducted its own independent inquiry, examination and analysis with respect to the Bonds, (ii) has had an opportunity to ask questions of and receive answers from the Issuer regarding the Bonds (including the security therefor) and the matters, transactions and documents relating to the foregoing, (iii) has been provided by the Issuer with all documents and information regarding the Bonds (including the security therefor) and the matters, transactions and documents relating to the foregoing that it has requested, and (iv) the Bond Purchaser has been provided with information sufficient to allow the Bond Purchaser to make an informed decision to purchase the Bonds.

(g) The Bond Purchaser (i) is not relying upon the Issuer, or any of its affiliates, officers, employees or agents, for advice as to the merits and risks of investment in the Bonds, and (ii) has sought such accounting, legal and tax advice as it has considered necessary to make an informed investment decision.

(h) The Bond Purchaser understands and acknowledges (i) that the offering of the Bonds is not subject to the requirements of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, and (ii) that the Issuer has not prepared or caused to be prepared, and is not delivering, a deemed final official statement with respect to the Bonds and has not undertaken to provide to or for the benefit of holders of the Bonds financial or operating data or any other information with respect to the Bonds on an ongoing basis.

(i) The Bond Purchaser is able to bear the economic risk of the investment represented by its purchase of the Bonds.

(j) In the event that the Bond Purchaser wishes to sell the Bonds in the future, the Bond Purchaser agrees and acknowledges that the Bonds cannot be sold without complying with transfer restrictions set forth in the Indenture, including but not limited to providing for execution and delivery by the proposed transferee of a letter in substantially the form of this letter, and the Bond Purchaser hereby agrees to assume the responsibility for disclosure of all material information that may be necessary to comply with all federal and related state securities laws.

[BOND PURCHASER SIGNATURE BLOCK]

