

**Memorandum
Office of Jenine Windeshausen
Treasurer-Tax Collector**



To: The Board of Supervisors
From: Jenine Windeshausen, Treasurer-Tax Collector
Date: September 24, 2013
Subject: Expansion of mPOWER PACE Program

Action Requested:

- 1) Authorize the Treasurer-Tax Collector to take the actions necessary to establish and administer PACE Programs in jurisdictions outside of Placer County boundaries.
- 2) Approve as to form the Memorandum of Understanding (MOU) to be executed by the County and outside jurisdictions for mPOWER to establish and administer PACE programs in other jurisdictions, and authorize the Treasurer-Tax Collector to execute the MOU pending review and approval by County Counsel for each jurisdiction.
- 3) Authorize a budget revision in the amount of \$100,192 to provide for additional expenses related to program expansion into other jurisdictions, such as legal services and additional administrative costs, graphic design, printing and media purchase related to mPOWER Placer.
- 4) Authorize the Treasurer Tax Collector to execute an agreement with Jones Hall for legal services related to establishment and administration of PACE programs in jurisdictions outside of the boundaries of Placer County in an amount not to exceed \$43,000.

Background:

In the fall of 2009 the Board took the first of a number of actions to establish mPOWER Placer. The mPOWER Placer program, which provides financing for property owners to make energy efficiency and renewable generation improvements to their property and to repay the financing on their property tax bill, was launched in the spring of 2010. During the first presentation to the Board on October 6, 2009, the potential to establish and administer PACE programs in other jurisdictions was identified and discussed. The Board has expressed interest in providing PACE related services to other jurisdictions.

Several local governments have approached mPOWER Placer staff regarding the establishment and administration of a PACE program in their jurisdiction and have asked that the County provide a proposal to their governing body for consideration of the establishment and administration of a PACE program provided by Placer County. There are a number of considerations related to the establishment and administration of PACE programs in other jurisdictions including: 1) program set-up, 2) costs and cost recovery, 3) staffing.

New programs established and administered by Placer would be under SB 555 Mello Roos structure. Through the mPOWER program established by the Board, the

Treasurer Tax Collector would be responsible for delivery of services for the establishment and administration of PACE programs for other jurisdictions. Program set-up would consist of mPOWER Placer staff working with outside counsel and the jurisdiction's staff to provide a program presentation to the governing body, assist with the preparation of staff reports, and assisting with formation proceedings. mPOWER Placer staff would also work with bond counsel to develop program disclosures, contracts and forms. The cost for program set-up for another jurisdiction is estimated to be \$75,000. Program administration would include mainly application processing, levy preparation bond administration and reporting.

The attached MOU is a template indicating the responsibilities and expectations for the County to establish and administer PACE programs in other jurisdictions. The responsibilities of the County include assistance with the formation proceedings required to establish a PACE district and the administrative duties related to administration of programs including the processing of applications, public outreach and reporting. The MOU also includes the provision for the Treasurer to purchase municipal bonds issued by outside jurisdictions to finance those PACE programs.

To aid in the delivery of these services, the County will need to engage the services of a special tax consultant and special counsel. The special tax consultant calculates and prepares the required Truth in Lending disclosures. There is a current special tax consultant contract in place which can be used to provide services to outside jurisdictions. The special counsel is needed to prepare the documents and provide legal guidance on the formation proceedings of the jurisdiction and to prepare the documents and provide guidance on the issuance of municipal bonds which will be purchased by the Placer County Treasurer to finance the programs. Attached is the contract for special counsel services in an amount not to exceed \$43,000.

The attached budget revision in the amount of \$100,192 includes the following expenditures: \$20,892 for advertising related expenses such as printing and purchase of add space, \$77,500 for professional services (\$43,000 for legal services and \$34,500 for technical support for graphic design, web/internet and other technical program support) and \$1,800 for travel and transportation.

mPOWER Placer will achieve cost recovery for establishing and administering PACE programs in other jurisdictions through fees charged on assessments and through capture of a portion of the interest rate on the special taxes paid by the property owner on their property tax bill. The Treasurer would provide the financing for the outside jurisdictions by purchasing bonds issued by the jurisdiction which are repaid from the special taxes collected on the property tax roll. Prior to cost recovery, expenses will be financed by the outstanding Tax and Revenue Anticipation Note (TRAN) that the Board approved in the amount of \$2.1 million on June 18, 2013. The TRAN is repaid from the fees and interest collected from property owners for processing applications and from the interest collected on assessments. The increased budget appropriation in the attached budget revision will be offset by increasing the amount of the outstanding TRAN.

As of September 16th, over 60 applications totaling over \$2 million have been received. On June 18th, 2013, the Board received an update and report on mPOWER. In that report it was stated that as of that date there were \$777,684 in unrecovered program costs due to the suspension of the residential program. It was noted that approximately \$1.5 million in new assessments are needed to cover the 2013/14 budget of \$418,261, and additionally that approximately \$3 million in new assessments are needed to recover the \$777,684 in recovered costs. With new applications to date totaling over \$2 million, mPOWER is on its way to recovering about 45% of the unrecovered costs to date after only 10 weeks of operation.

To begin providing jurisdictions outside of Placer County services related to the establishment and administration of PACE programs, your Board is asked to make the authorizations and approvals stated at the beginning of this staff report.

Fiscal Impact:

There is no net cost to the General Fund. The mPOWER budget is an enterprise fund and expenses are financed through proceeds from a TRAN issued by the County. As costs are recovered from the interest paid by property owners, the TRAN balance will decline, however the TRAN balance is currently increasing at a greater rate than the cost recovery. As stated above, the increase in the amount financed will contribute to cost recovery and will eventually be sufficient to decrease and then pay off the TRAN. This may take as many as three years to achieve. If in the interim, the mPOWER program were to be terminated, the County would need to identify a source of funding to offset any unrecovered costs at that time. The budget revision requested in here does not require an increase in the \$2.1 million not to exceed amount authorized by the Board. The amount of the outstanding TRAN may need to be increased at some point in the later part of the fiscal year due to the additional expenditures in the budget revision.

Expenses related to the establishment and administration of PACE Programs for other jurisdictions is also recovered over time from interest collected on special taxes and application processing fees. If an outside jurisdiction's program is terminated the County could be exposed to the loss of funds spent prior to recovery. The attached MOU provides for termination fees to be paid to the County to avoid any loss from early termination of the MOU.

Attachments: Form of MOU for other jurisdictions
Budget Revision
Jones Hall contract for legal services

**Memorandum of Understanding
For the Establishment and Operation of a PACE Program**

**Between
The County of Placer
and
[Jurisdiction]**

This Memorandum of Understanding (the “MOU”) for the Establishment and Operation of a PACE Program using the Mello-Roos Community Facilities Act of 1982, as amended is made and entered into as of this ____ day of _____, 20__, by and between the County of Placer (“Placer County”) and [Jurisdiction Name] (the “[City/County]”).

WHEREAS, Placer County is a county duly formed under the laws of the State of California. Placer County is a political subdivision of the State, and has full legal right, power and authority to enter into this MOU and related documents and to take the actions contemplated to be taken by Placer County by this MOU.

WHEREAS, the [City/County] is a [City/County] duly formed under the laws of the State of California. The [City/County] is a political subdivision of the State, and has full legal right, power and authority to enter into this MOU and related documents and to take the actions contemplated to be taken by the [City/County] by this MOU.

WHEREAS, Placer County has established the mPOWER Program (the “mPOWER Program”) to allow the financing for the installation of distributed generation renewable energy sources and energy efficiency improvements and, water efficiency improvements that are permanently fixed to real property, and operates the mPOWER Placer program in its boundaries.

WHEREAS, the [City/County] recognizes that some of the benefits realized by Placer County from implementing the mPOWER Program are job creation, local economic gain, reduction in green house gas emissions and assistance in meeting certain regulatory requirements applicable to Placer County and property owners in Placer County.

WHEREAS, the [City/County] wishes to establish a Property Assessed Clean Energy program (the “[City/County] Program”) in the territory of the [City/County], pursuant to which the [City/County], subject to certain conditions set forth below, would establish a community facilities district (the “CFD”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”) for the purpose of financing and refinancing the acquisition, installation and improvement of energy efficiency, water conservation and renewable energy improvements that are affixed to or on real property and in buildings, whether such real property or buildings are privately or publicly owned (the “PACE Improvements”).

WHEREAS, because of Placer County’s experience with operating the mPOWER Program, the [City/County] would like Placer County to administer the [City/County] Program.

1. Responsibilities of the [City/County]

The [City/County] will adopt such resolutions and ordinances and undertake such other proceedings necessary to establish the CFD and authorize the issuance of bonds for the CFD for the purpose of financing and refinancing PACE Improvements. The CFD will be established under the alternate procedures established by Section 53328.1 of the Act, pursuant to which a community facilities district may initially consist solely of territory proposed for annexation to the community facilities district in the future, with the condition that a parcel or parcels within that territory may be annexed and subjected to the special tax only with the unanimous approval of the owner or owners of the parcel or parcels at the time of annexation (a “Unanimous Approval”) or in compliance with other procedures established by the Act.

The boundaries of the CFD will be co-terminous with the boundaries of the [City/County]. [If a county: The CFD will have the authority to provide financing and refinancing for PACE Improvements in the unincorporated territory of the County and in the incorporated territory of any city within the County that authorizes the County to provide such financing and refinancing.]

As necessary to accomplish the purposes of the [City/County] Program, the [City/County] will issue bonds or incur other debt (as defined in the Act) to finance and refinance PACE Improvements. The bonds will be limited obligations of the [City/County], payable only from special taxes on taxable property in the CFD.

In connection with the issuance of such bonds and the incurrence of other debt payable from special taxes, the [City/County] will obligate itself, through a covenant with the owners of the bonds or other debt, to undertake judicial foreclosure with respect to delinquent special tax installments under specified circumstances.

The [City/County] will ensure that the [City Attorney/County Counsel] and [City Clerk/Clerk of the Board of Supervisors] provides such assistance as is reasonably required by Placer County. The [City/County] will cooperate with and engage a public finance attorney identified by Placer County with expertise in the establishment and operation of similar financing districts for the purpose of financing PACE Improvements that is reasonably acceptable to [City/County] (the “Bond Attorney”); provided, however, that the compensation of such Bond Attorney related to formation of the CFD and establishment of the [City/County] Program shall be paid by Placer County and the compensation of such Bond Attorney related to the issuance of bonds and the incurrence of debt shall be paid from the proceeds of any such bonds or debt.

The [City/County] has reviewed the Program Report prepared by Placer County for the [City/County] Program that outlines the policies, initial list of eligible improvements, criteria for financing/refinancing eligibility, administration and financing of the [City/County] Program and has had the opportunity to provide comments and suggestions to Placer County.

The [City/County] will determine the eligible PACE Improvements in consultation with Placer County, the Bond Attorney, utility company representatives and other pertinent parties.

If at any time the [City/County] wishes to modify the list of PACE Improvements, the [City/County] will so notify Placer County in writing of the requested modifications. The County will respond to such request for modification within 60 days by indicating the steps and conditions necessary if any to implement such modifications. Placer County will accommodate all reasonable requests, and subject to agreement by Placer County and the [City/County] on the payment of related costs.

The [City/County] hereby authorizes Placer County to provide the scope of services described in "Responsibilities of Placer County" below.

The [City/County] agrees to review permits for PACE Improvements by owners of property within its boundaries that wish to participate in the [City/County] Program on the same terms that it reviews permits for properties that are not participating in the [City/County] Program and shall charge its usual and customary fees for such permits. The [City/County] understands that Placer County intends to rely upon issuance of a final permit or other documentation provided by the [City/County] as evidence that the improvements have been installed according to local building code requirements by the property owner.

The [City/County] agrees to make information about the [City/County] Program available at various locations of the [City/County]'s offices or other facilities. The [City/County] agrees to work with Placer County to market the [City/County] Program by including [City/County] Program information in utility bills and other property owner direct mail communications, through the [City/County]'s newsletters or other such communications and by providing links to the [City/County] Program web site.

The [City/County] will provide space and related technical assistance in the [City/County]'s offices in which Placer County staff, acting on behalf of the [City/County] Program, will provide presentations to interested property owners and meet with contractors and applicants.

2. Responsibilities of Placer County

Placer County shall make the [City/County] Program available to [City/County] property owners subject to the terms and conditions described in the Program Report, including but not limited to the following:

(i) Placer County will develop all [City/County] Program documentation, including marketing material and application documents.

(ii) Placer County will provide [City/County] with a summary of the required procedures for the [City/County] to establish the CFD and authorize the issuance of bonds and with final drafts of all related resolutions, ordinances and other proceedings, including but not limited to the local goals and policies concerning the use of the Act required by Section 53312.7 of the Act.

(iii) Placer County will review and process on behalf of the [City/County] all applications by property owners to finance or refinance PACE Improvements and will only approve those applications that comply with the criteria identified in the Program Report, unless the [City/County] has otherwise agreed.

(iv) Placer County will propose a process by which Placer County will notify the [City/County] of an approved application and the need for financing.

(v) Placer County will provide the [City/County] with all required documentation related to bonds to be issued and other debt to be incurred by the [City/County] with respect to the [City/County Program], and will supervise on behalf of [City/County] such consultant services as may be necessary, including the services of the Bond Attorney and a special tax consultant identified by Placer County.

(vi) Placer County will prepare and submit on behalf of the [City/County] the annual levy of special taxes related to the [City/County] Program to the County of _____. The special taxes shall be collected in the same manner and at the same time as the general taxes of the [City/County] on the real property tax bills issued by the County of _____ on real property and are payable and shall be subject to the same penalties, remedies and lien priorities in the event of delinquency and default, except as otherwise permitted by the Act.

(vii) Placer County shall administer on behalf of the [City/County] any collection actions required to be taken by the [City/County] related to the [City/County Program] and will be responsible for supervising any attorney required to prosecute a judicial foreclosure of delinquent special tax installments. Placer County will retain all penalties and interest received as a result of the collection of delinquent special tax installments, unless the [City/County] has pledged such amounts in related financing documentation. Unless otherwise agreed by the parties, Placer County shall pursue collection actions on behalf of the [City/County] in a manner consistent with relevant covenants by the [City/County] under financing documentation for the [City/County] Program.

(viii) Placer County will provide periodic reports to the [City/County] regarding the number of applications received, the financing amount requested in such applications, and the number and type of improvements financed.

3. Compensation. For its services under this MOU, Placer County will receive:

(i) **Financing Structure.** The parties will agree on the compensation to be paid to Placer County once the parties have defined the financing structure. The parties agree that the compensation will include, but not be limited to:

- (A) An interest rate on any bonds purchased by Bond Purchaser that is set by the Placer County Treasurer based on current market conditions after consultation with the [City/County].

(B) Payment to Placer County of an administrative fee that is agreed upon by Placer County and the [City/County]. The administrative fee will compensate Placer County for the services it provides each year to administer the [City/County Program] and for the advance by Placer County of the costs of establishing the [City/County Program], and is expected to include an annual component paid with special taxes and an up-front component payable from [City/County] Program financing proceeds and bonds proceeds.

(ii) Environmental Credits and Benefits. The parties hereby agree that any credits or other environmental benefits attributable to the PACE Improvements financed by the [City/County] Program shall will be allocated as follows: 75% to the [City/County] and 25% to Placer County.

(iii) Compensation in the Event of Termination or Other Events. The Parties have agreed to specific compensation for Placer County in the event of a termination of this MOU by [City/County] without cause or if the [City/County] takes other actions that adversely impact Placer County's compensation, as set forth in Section 10.

4. Recitals.

The above recitals are true and correct.

5. Communication; Designated Representatives.

The persons identified below as the Designated Representative shall, upon execution of this MOU, have authority to grant discretionary approvals identified in this MOU. Except as otherwise specifically provided in this MOU, any notice, submittal, or communication required or permitted to be served on a party, may be served by personal delivery to the person or the office of the person identified below. Service may also be made by mail, by placing first-class postage, and addressed as indicated below, and depositing in the United States mail to:

County

Program Administrator: Jenine Windeshausen
Phone: (530) 889-4140
Fax: (530) 889-4100
Email: energyinfo@placer.ca.gov
Designated Representative: Eric Waidmann

[City/Town]

Project Manager: _____
Phone: _____
Fax: _____
Email: _____
Designated Representative: _____

6. Additional Requirements.

(i) Authority to Amend MOU: Changes to the MOU may be authorized only by written amendment to this MOU, signed by the Designated Representative of each party or such other representative as is authorized by the governing body of each party.

(ii) No Waiver of Breach: The waiver by any party of any breach of any term or promise contained in this MOU shall not be deemed to be a waiver of such term or promise or any later breach of the same or any other term or promise contained in this MOU.

(iii) Construction: To the fullest extent allowed by law, the provisions of this MOU shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. Placer County and the [City/County] covenant and agree that in the event that any provision of this MOU 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.

(iv) Making of MOU: Placer County and the [City/County] acknowledge that they have each contributed to the making of this MOU and that, in the event of a dispute over the interpretation of this MOU; the language of the MOU will not be construed against one party in favor of the other. Placer County and the [City/County] acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this MOU.

(v) No Third-Party Beneficiaries: Nothing contained in this MOU shall be construed to create and the parties do not intend to create any rights in third parties.

(vi) Applicable Law and Forum: This MOU shall be construed and interpreted according to the substantive law of California excluding the law of conflicts. Any action to enforce the terms of this MOU or for the breach thereof shall be brought and tried in the County of Placer.

(vii) Captions: The captions in this MOU are solely for convenience of reference. They are not a part of this MOU and shall have no effect on its construction or interpretation.

(viii) Merger: This writing is intended both as the final expression of the MOU between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the MOU, pursuant to Code of Civil Procedure Section 1856. This MOU is the entire agreement between the Parties. No modification of this MOU shall be effective unless and until such modification is evidenced by a writing signed by all parties.

(ix) Time of Essence: Time is and shall be of the essence of this MOU and every provision hereof.

7. **Effective Date.**

This MOU shall become effective on the date first written above.

8. **Steering Committee.** The [City/County] and Placer County will establish and staff a Steering Committee as agreed by the parties.

9. **Termination.**

Either Placer County or the [City/County] may terminate its participation in this MOU by giving one hundred eighty (180) days advance written notice to all other parties of its intent to terminate its participation in this MOU. Termination shall not affect the validity of any financing previously provided by the [City/County].

10. **Compensation in the Event of Termination and Other Events.**

In the event the [City/County] terminates this MOU without cause prior to the fifth anniversary of the effective date, or if the [City/County] takes any other action that Placer County reasonably concludes will adversely impact Placer County's ability to recover the moneys advanced by Placer County to establish the [City/County Program], Placer County shall be entitled to the following:

<u>Period</u>	<u>Amount</u>
Between the effective date and the 1st anniversary date.	\$
From the day following the 1st anniversary date through the 2nd anniversary date	
From the day following the 2nd anniversary date through the 3rd anniversary date	
From the day following the 3rd anniversary date through the 4th anniversary date	
From the day following the 4th anniversary date through the 5th anniversary date	

10. **Counterpart Signatures.**

This MOU may be executed in counterpart and each of these executed counterparts shall have the same force and effect as an original instrument and as if all of the parties to the aggregate counterparts had signed the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this MOU as set forth below.

[CITY/COUNTY]

COUNTY OF PLACER

By: _____
Mayor

By: _____
Jenine Windeshausen
Treasurer-Tax Collector
Program Administrator,
Placer mPOWER

Authorized by Resolution
No: _____

Date: _____

Attest: _____
[City Clerk/Clerk of the Board of
Supervisors]

Approved as to form:

Approved as to form:

[City Attorney/County Counsel]

County Counsel

PAS DOCUMENT NO.

BUDGET REVISION

POST DATE:

- Cash Transfer Required
- Reserve Cancellation Required
- Establish Reserve Required

- Auditor-Controller
- County Executive
- Board of Supervisors

DEPT NO.	DOC TYPE	Total \$ Amount	TOTAL LINES
BR		596,893.00	25

ESTIMATED REVENUE ADJUSTMENT										APPROPRIATION ADJUSTMENT											
DEPT NO.	T/C	Rev	Fund	Sub Fund	OCA	PCA	OBJ 3	PROJ.	PROJ. DTL	AMOUNT	DEPT NO.	T/C	Rev	Fund	Sub Fund	OCA	PCA	OBJ 3	PROJ.	PROJ. DTL	AMOUNT
22	006		235	100	992310	92310	8953			100,192.00	22	014		235	100	992310	92310	2511			3,500.00
											22	014		235	100	992310	92310	2439			500.00
											22	014		235	100	992310	92310	2555			77,000.00
											22	014		235	100	992310	92310	2701			17,392.00
											22	014		235	100	992310	92310	2932			500.00
											22	014		235	100	992310	92310	2941			1,300.00
TOTAL										100,192.00	TOTAL										100,192.00

REASON FOR REVISION: Budget revision to expand mPOWER Placer to additional jurisdictions.

Prepared by Kimberly Hawley Ext 4146

Department Head Jenine Windeshausen

Date: 9/13/13

Board of Supervisors _____

Page: 1 of 2

Budget Revision # _____ FOR INDIVIDUAL DEPT USE

116

AGREEMENT FOR LEGAL SERVICES

BETWEEN THE COUNTY OF PLACER AND JONES HALL, A PROFESSIONAL LAW CORPORATION, FOR SERVICES IN CONNECTION WITH FORMATION OF PACE PROGRAMS

This AGREEMENT FOR LEGAL SERVICES is entered into this ___ day of ____, 2013, between the COUNTY OF PLACER (the "Client") and JONES HALL, A PROFESSIONAL LAW CORPORATION, San Francisco, California ("Attorneys").

BACKGROUND:

1. The Placer County Treasurer-Tax Collector plans to provide assistance to cities and counties in the greater Sacramento area that wish to establish and operate a Property Assessed Clean Energy Program (a "PACE Program") using the Mello-Roos Community Facilities Act of 1982, as amended (the "Mello-Roos Act").
2. The Client requires the services of nationally recognized bond counsel with PACE expertise to provide the services described in this Agreement for Legal Services.

AGREEMENT:

In consideration of the foregoing and the mutual covenants contained in this Agreement, the Client and Attorneys agree as follows:

Section 1. Attorney-Client Relationship. Upon execution of this Agreement, the Client will be Attorney's client and an attorney-client relationship will exist between Client and Attorneys. Attorneys assume that, except as described in this Agreement, all other parties will retain such counsel, as they deem necessary and appropriate to represent their interests in this transaction. Attorneys further assume that, except as described in this Agreement, all other parties understand that in this transaction Attorneys represent only the Client, Attorneys are not counsel to any other party, and Attorneys are not acting as an intermediary among the parties. Attorneys' services are limited to those contracted for in this Agreement; the Client's execution of this Agreement will constitute an acknowledgment of those limitations.

Section 2. Scope of Engagement. Attorneys shall perform all of the following services as bond counsel in connection with the issuance and sale of the Bonds for the purpose of providing financing for the Project:

- a. Provide counsel to the Treasurer-Tax Collector with respect to establishing the PACE Programs.
- b. Review and confirm that the cities and counties' local goals and policies are compliant with the requirements of the Mello-Roos Act (Government Code Section 53312.7) and, if not, provide assistance with updating the policies and preparing an approving resolution.
- c. Prepare a set of formation proceedings that could be used by the cities and counties, including boundary map instructions, resolution of intention, resolution of formation, ordinance levying special tax, form of Unanimous Approval and form of Notice of Special Tax Lien.

- d. If requested, prepare a resolution of intention to incur bonded indebtedness and other debt and a resolution declaring necessity to incur bonded indebtedness and other debt.
- e. Review and comment on a Method of Apportionment of Special Tax and a Rate Supplement prepared by a special tax consultant.
- f. Review and comment on a boundary map prepared for a program.
- g. If requested, assist with formation proceedings for one or more cities and counties.
- h. If requested, act as bond counsel to one or more cities and counties, in which case Attorneys will execute a separate legal services agreement with such cities and counties for services such as drafting bond documents, providing required legal opinions and documenting the issuance of bonds.

The maximum amount payable to Attorneys under this Agreement is \$43,000.

Section 3. Excluded Services. Our duties in this engagement are limited to those expressly set forth above in Section 2, except as expressly set forth in a written amendment to this Agreement.

Section 4. Conflicts; Prospective Consent. Attorneys represent many political subdivisions, investment banking firms and financial advisory firms. It is possible that during the time that Attorneys are representing the Client, one or more of Attorneys present or future clients will have transactions with the Client. As described in Section 2(h), Attorneys may be engaged to act as bond counsel to one or more of the cities and counties establishing a PACE Program. It is also possible that Attorneys may be asked to represent, in an unrelated matter, one or more of the entities involved in a PACE Program. Attorneys do not believe such representation, if it occurs, will adversely affect Attorneys' ability to represent Client as provided in this Agreement, either because such matters will be sufficiently different from the engagement contemplated by this Agreement so as to make such representations not adverse to our representation of you, or because the potential for such adversity is remote or minor and outweighed by the consideration that it is unlikely that advice given to the other client will be relevant to any aspect of this engagement. Execution of this Agreement will signify the Client's consent to Attorneys' representation of others consistent with the circumstances described in this paragraph.

Section 5. Compensation. The Client will pay Attorneys the following compensation:

- a fixed fee of \$5,000 for drafting a set of proceedings for a city or county (items 2(c) and (d) above)
- an hourly rate of \$400 (Chris Lynch) and \$250 (Josh Anzel) for other services set forth in Section 2, except items 2(c), 2(d) and 2(h)
- with respect to item 2(h), a fee to be agreed upon in connection with the issuance of bonds for a city or county's PACE Program, the payment of which will be entirely contingent on the sale of such bonds, and which fee will be negotiable and not set by law.

In addition, the Client shall pay to Attorneys all direct out-of-pocket expenses for travel outside the State of California (if any), messenger and delivery service, photocopying, closing costs, legal publication expenses and other costs and expenses incurred by Attorneys in connection with their services under this Agreement.

Section 6. Responsibilities of the Client.

(a) General. During the course of this engagement, Attorneys will rely on Client to provide Attorneys with complete and timely information on all developments pertaining to any aspect of the Bonds and their security.

(b) Legal Challenges to District Formation. Client acknowledges that Attorneys duties under this agreement do not include participation to any material extent in defending any litigation or legal challenges to the formation of any PACE Program or a related community facilities district or the issuance of any bonds. Client may engage the services of Attorneys in connection with the defense of such litigation or legal challenge on such terms and compensation upon which Client and Attorneys may agree.

Section 7. Independent Contractor. Attorneys will act as an independent contractor in performing the services required under this Agreement, and under no circumstances shall Attorneys be considered an agent, partner, or employee of the Client.

Section 8. Assignment. Attorneys may not assign their rights or delegate their obligations under this Agreement, in whole or in part, except with the prior written consent of the Client.

Section 9. Termination of Agreement.

(a) Termination by Client. This Agreement may be terminated at any time by the Client with or without cause upon written notice to Attorneys.

(b) Termination by Attorneys. This Agreement may be terminated by Attorneys upon 15 days' written notice to Client if Client fails to follow written legal advice given by Attorneys.

(c) Termination Upon Issuance of Bonds. This Agreement shall terminate upon the issuance of the Bonds.

(d) Consequences of Termination. In the event of termination, all finished and unfinished documents shall at the option of the Client become its property and shall be delivered to the Client by Attorneys.

IN WITNESS WHEREOF, the Client and Attorneys have executed this Agreement as of the date first above written.

COUNTY OF PLACER

Treasurer-Tax Collector

JONES HALL, A PROFESSIONAL LAW CORPORATION

Christopher K. Lynch