



# Western Riverside Council of Governments Executive Committee

## AGENDA

**Monday, December 2, 2019  
2:00 p.m.**

**County of Riverside  
Administrative Center  
4080 Lemon Street  
1st Floor, Board Chambers  
Riverside, CA 92501**

In compliance with the Americans with Disabilities Act and Government Code Section 54954.2, if special assistance is needed to participate in the Executive Committee meeting, please contact WRCOG at (951) 405-6703. Notification of at least 48 hours prior to meeting time will assist staff in assuring that reasonable arrangements can be made to provide accessibility at the meeting. In compliance with Government Code Section 54957.5, agenda materials distributed within 72 hours prior to the meeting which are public records relating to an open session agenda item will be available for inspection by members of the public prior to the meeting at 3390 University Avenue, Suite 450, Riverside, CA, 92501.

The Executive Committee may take any action on any item listed on the agenda, regardless of the Requested Action.

**1. CALL TO ORDER / ROLL CALL (Bonnie Wright, Chair)**

**2. PLEDGE OF ALLEGIANCE**

**3. PUBLIC COMMENTS**

At this time members of the public can address the Executive Committee regarding any items within the subject matter jurisdiction of the Executive Committee that are not separately listed on this agenda. Members of the public will have an opportunity to speak on agenda items at the time the item is called for discussion. No action may be taken on items not listed on the agenda unless authorized by law. Whenever possible, lengthy testimony should be presented to the Executive Committee in writing and only pertinent points presented orally.

**4. MINUTES**

- A. Summary Minutes from the November 4, 2019, Executive Committee Meeting are Available for Consideration.**

**P. 1**

**Requested Action:** 1. *Approve the Summary Minutes from the November 4, 2019, Executive Committee meeting.*

## 5. CONSENT CALENDAR

All items listed under the Consent Calendar are considered to be routine and may be enacted by one motion. Prior to the motion to consider any action by the Executive Committee, any public comments on any of the Consent Items will be heard. There will be no separate action unless members of the Executive Committee request specific items be removed from the Consent Calendar.

### Action items:

- A. **TUMF Program Activities Update: TUMF Reimbursement Agreement Amendment** **Chris Gray** **P. 13**

**Requested Action:** 1. *Authorize the Executive Director to execute a TUMF Reimbursement Agreement Amendment Number 6 with the City of Moreno Valley for the Moreno Beach Drive / SR-60 Interchange reallocation of funding in the amount of \$400,000.00 from the Engineering Phase to the Design Phase.*

- B. **Approval of General Assembly and Executive Committee 2020 Meeting Schedule** **Rick Bishop** **P. 23**

**Requested Action:** 1. *Approve the Schedule of General Assembly and Executive Committee meetings for 2020.*

- C. **Resolution to Submit Grant Application for the Water Sustain and Manage America's Resources for Tomorrow (SMART) Cooperative Watershed Management Program Phase I Grants** **Christopher Tzeng** **P. 25**

**Requested Action:** 1. *Adopt Resolution Number 33-19; A Resolution of the Executive Committee of the Western Riverside Council of Governments authorizing submittal of an application for the WaterSMART Cooperative Watershed Management Program Phase I Grants from the Department of the Interior Bureau of Reclamation.*

- D. **Western Riverside Energy Partnership Program Activities Update** **Anthony Segura** **P. 31**

**Requested Action:** 1. *Direct the Executive Director to execute the Partnership contract with Southern California Gas Company to jointly deliver the 2020 Energy Partnership Program, including the continuation of the Western Riverside Energy Partnership, substantially as to form.*

### Information items:

- E. **Finance Department Activities Update** **Andrew Ruiz** **P. 77**

**Requested Action:** 1. *Receive and file.*

- F. **WRCOG Committees and Agency Activities Update** **Chris Gray** **P. 87**

**Requested Action:** 1. *Receive and file.*

|    |                                                                 |                                                                   |        |
|----|-----------------------------------------------------------------|-------------------------------------------------------------------|--------|
| G. | Report out of WRCOG Representatives on Various Committees       | <i>Rick Bishop</i>                                                | P. 101 |
|    | <u><b>Requested Action:</b></u> 1. Receive and file.            |                                                                   |        |
| H. | Regional Housing Needs Assessment Methodology Activities Update | <i>Chris Gray</i>                                                 | P. 113 |
|    | <u><b>Requested Action:</b></u> 1. Receive and file.            |                                                                   |        |
| I. | SoCal AltCar Conference, Expo, and Ride & Drive Recap           | <i>Kyle Rodriguez</i>                                             | P. 117 |
|    | <u><b>Requested Action:</b></u> 1. Receive and file.            |                                                                   |        |
| J. | California Clean Air Day Activities Recap                       | <i>Rayza Sison</i>                                                | P. 121 |
|    | <u><b>Requested Action:</b></u> 1. Receive and file.            |                                                                   |        |
| K. | Regional Energy Network Development Activities Update           | <i>Anthony Segura</i>                                             | P. 127 |
|    | <u><b>Requested Action:</b></u> 1. Receive and file.            |                                                                   |        |
| L. | Grant Writing Assistance Program Activities Update              | <i>Chris Gray</i>                                                 | P. 135 |
|    | <u><b>Requested Action:</b></u> 1. Receive and file.            |                                                                   |        |
| M. | Western Community Energy Activities Update                      | <i>Barbara Spoonhour</i>                                          | P. 139 |
|    | <u><b>Requested Action:</b></u> 1. Receive and file.            |                                                                   |        |
| N. | TUMF Nexus Study Principles and Goals                           | <i>Chris Gray</i>                                                 | P. 141 |
|    | <u><b>Requested Action:</b></u> 1. Receive and file.            |                                                                   |        |
| 6. | REPORTS / DISCUSSION                                            |                                                                   |        |
| A. | Report from the League of California Cities                     | <i>Erin Sasse, League of California Cities</i>                    | P. 145 |
|    | <u><b>Requested Action:</b></u> 1. Receive and file.            |                                                                   |        |
| B. | Connect SoCal Development Presentation                          | <i>Kome Ajise, Southern California Association of Governments</i> | P. 147 |
|    | <u><b>Requested Action:</b></u> 1. Receive and file.            |                                                                   |        |

- Requested Action:** 1. Approve the 1st Quarter Draft Agency Budget Amendment for Fiscal Year 2019/2020.

- Requested Action:** 1. Receive and file.

- Requested Actions:**
1. Approve and authorize the Executive Director to execute a HERO Commercial Programs Administration Agreement, as to form.
  2. Adopt Resolution Number 32-19; A Resolution of the Executive Committee of the Western Riverside Council of Governments authorizing Renovate America to administer and finance eligible improvements to be installed on commercial properties and in connection with such authorization, approving amendments to the Program Report for the WRCOG Energy Efficiency and Water Conservation Program for Western Riverside County and the form of a commercial handbook, agreement to pay assessment and finance improvements, indenture authorizing the issuance of bonds pursuant to such indenture and subsequent indentures in similar form secured by assessments levied on commercial properties to finance the installation of authorized improvements on such commercial properties and approving other actions in connection thereto.

Members are invited to announce items / activities which may be of general interest to the Executive Committee.



**12. CLOSED SESSION**

- 1. Conference with Legal Counsel – Existing Litigation pursuant to Section 54956.9(d)(1)**
  - **Case No. RIC1812186**
- 2. Conference with Legal Counsel – Anticipated Litigation pursuant to Section 54956.9(d)(4)**
  - **Number of potential cases: 1**

**13. NEXT MEETING:** The next Executive Committee meeting is scheduled for Monday, January 6, 2020, at 2:00 p.m., at the County of Riverside Administrative Center, 1st Floor Board Chambers.

**14. ADJOURNMENT**

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# Western Riverside Council of Governments

4.A

## Regular Meeting

~ Minutes ~

Monday, November 4, 2019

2:00 PM

County Administrative Center

### 1. CALL TO ORDER

The meeting was called to order by Chair Bonnie Wright at 2:02 p.m. on November 4, 2019, at the Riverside County Administrative Center, 4080 Lemon Street, Riverside.

| Jurisdiction                     | Attendee Name     | Status  | Arrived / Departed |
|----------------------------------|-------------------|---------|--------------------|
| City of Banning                  | Daniela Andrade   | Present | 1:55 PM            |
| City of Beaumont                 | Mike Lara         | Present | 1:55 PM            |
| City of Calimesa                 | Larry Smith       | Present | 1:55 PM            |
| City of Canyon Lake              | Jordan Ehrenkranz | Present | 1:55 PM            |
| City of Corona                   |                   | Absent  |                    |
| City of Eastvale                 | Joseph Tessari    | Present | 1:55 PM            |
| City of Hemet                    | Bonnie Wright     | Present | 1:55 PM            |
| City of Jurupa Valley            | Micheal Goodland  | Present | 1:55 PM            |
| City of Lake Elsinore            | Brian Tisdale     | Present | 1:55 PM            |
| City of Menifee                  | Matt Liesemeyer   | Present | 1:55 PM            |
| City of Moreno Valley            | Victoria Baca     | Present | 1:55 PM            |
| City of Murrieta                 | Kelly Seyarto     | Present | 1:55 PM            |
| City of Norco                    | Kevin Bash        | Present | 1:55 PM            |
| City of Perris                   | Rita Rogers       | Present | 1:55 PM            |
| City of Riverside                | Rusty Bailey      | Present | 1:55 PM            |
| City of San Jacinto              | Crystal Ruiz      | Present | 1:55 PM            |
| City of Temecula                 | James Stewart     | Present | 1:55 PM            |
| City of Wildomar                 | Ben Benoit        | Present | 1:55 PM            |
| District 1                       |                   | Absent  |                    |
| District 2                       | Karen Spiegel     | Present | 1:55 PM / 3:18 PM  |
| District 3                       | Chuck Washington  | Present | 1:55 PM / 2:46 PM  |
| District 5                       | Jeff Hewitt       | Present | 1:55 PM / 3:31 PM  |
| EMWD                             | David Slawson     | Present | 1:55 PM            |
| WMWD                             | Brenda Dennstedt  | Present | 1:55 PM            |
| Morongo Band of Mission Indians  |                   | Absent  |                    |
| Office of Education (ex-officio) | Dr. Judy White    | Present | 1:55 PM            |
| TAC Chair                        | Chris Lopez       | Present | 2:12 PM            |
| Executive Director               | Rick Bishop       | Present | 1:55 PM            |

Note: Times above reflect when the member logged in; they may have arrived at the meeting earlier.

**2. PLEDGE OF ALLEGIANCE**

Technical Advisory Committee Chair Chris Lopez led members and guests in the Pledge of Allegiance.

**3. PUBLIC COMMENTS**

Arnold San Miguel, Southern California Association of Governments (SCAG), announced that SCAG will be hosting its 10th Annual Southern California Economic Summit on December 5, 2019. SCAG's economist will provide a briefing on the regional economy. Additional topics include a panel tracking the California housing crisis; the Governor and State Legislators have been working on what local elected officials, governments, and developers must do to produce more housing. The keynote speaker is F. Noel Perry, the venture, capitalist, and philanthropist founder of Next 10, a non-profit which works on the nexus of the economy, environment, and quality of life. Another panel will speak on strengthening the region through Connect SoCal, which is a long-range regional plan. The Summit is free for local elected officials, City Managers, and County CEOs.

Thursday, November 7, 2019, SCAG's Regional Council, pending review and discussion by the joint policy committees, will consider approving the release of a draft Connect SoCal and the Program Environmental Impact Report. The Regional Council will also consider submitting the draft Regional Housing Needs Assessment to the California Department of Housing and Community Development for a 60-day review period.

**4. MINUTES**

|                  |                                                                                                                                                                                                                          |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>RESULT:</b>   | <b>APPROVED AS RECOMMENDED</b>                                                                                                                                                                                           |
| <b>MOVER:</b>    | Moreno Valley                                                                                                                                                                                                            |
| <b>SECONDER:</b> | Murrieta                                                                                                                                                                                                                 |
| <b>AYES:</b>     | Banning, Beaumont, Calimesa, Canyon Lake, Eastvale, Hemet, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar, District 2, District 5, EMWD, WMWD |
| <b>ABSTAIN:</b>  | District 3                                                                                                                                                                                                               |
| <b>ABSENT:</b>   | Corona, District 1, Morongo Band of Mission Indians                                                                                                                                                                      |

**A. Summary Minutes from the October 7, 2019, Executive Committee Meeting are Available for Consideration**

**Action:**        1.        *Approved the Summary Minutes from the October 7, 2019, Executive Committee meeting.*

**5. CONSENT CALENDAR**

|                  |                                                                                                                                                                                                                                      |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>RESULT:</b>   | <b>APPROVED AS RECOMMENDED</b>                                                                                                                                                                                                       |
| <b>MOVER:</b>    | San Jacinto                                                                                                                                                                                                                          |
| <b>SECONDER:</b> | Wildomar                                                                                                                                                                                                                             |
| <b>AYES:</b>     | Banning, Beaumont, Calimesa, Canyon Lake, Eastvale, Hemet, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar, District 2, District 3, District 5, EMWD, WMWD |
| <b>ABSENT:</b>   | Corona, District 1, Morongo Band of Mission Indians                                                                                                                                                                                  |

**A. TUMF Program Activities Update: TUMF Reimbursement Agreement**

**Action:** 1. *Authorized the Executive Director to execute a TUMF Reimbursement Agreement with the County of Riverside for the Planning and Engineering Phases of the Temescal Canyon Road Widening Project in an amount not to exceed \$3,000,000.*

**B. Finance Department Activities Update**

**Action:** 1. *Received and filed.*

**C. WRCOG Committees and Agency Activities Update**

**Action:** 1. *Received and filed.*

**D. Regional Streetlight Program Activities Update**

**Action:** 1. *Received and filed.*

**E. Environmental Department Programs Activities Update**

**Action:** 1. *Received and filed.*

**F. Report out of WRCOG Representatives on Various Committees**

**Action:** 1. *Received and filed.*

**G. Earth Day 2020**

**Action:** 1. *Received and filed.*

**H. Single Signature Authority Report**

**Action:** 1. *Received and filed.*

**I. Experience Subregional Innovation Center Activities Update**

**Action:** 1. *Received and filed.*

**J. Alternative Compliance Program Activities Update**

**Action:** 1. *Received and filed.*

**K. Resilient IE Activities Update**

**Action:** 1. *Received and filed.*

**6. REPORTS / DISCUSSION****A. Report from the League of California Cities**

Erin Sasse, League of California Cities representative, reported that the League is holding a webinar on November 14, 2019, on bills signed and vetoed by the Governor. The next Division

meeting will be held on November 18, 2019, in the City of Corona. There are two days remaining to nominate someone for the League's Outstanding Servant Award.

The Governor vetoed SB 212 (Allen) which would have provided local voting methods and allow general law cities the ability to adopt two majority-winner voting methods for local elections – the top-two primary and ranked choice voting. The League supported this bill.

The Governor vetoed SB 531 (Glazer) which would have prohibited future sales tax agreements between local agencies and retailers with a warehouse, sales office, or fulfillment centers that would result in a shift of sales taxes from other jurisdictions. The League supported this bill.

The Governor vetoed AB 344 (Calderon) which would have created a grant program for up to 50 cities with matching funds to expand continuum of care or employment programs for the homeless. The League supported this bill.

The Governor vetoed SB 5 (Beall, McGuire, Portantino) which would have established a new type of redevelopment. Senator Beall is determined to bring this bill back next year, his last year. The League supported this bill.

The Governor chaptered AB 1637 (Smith) which would allow cities to obtain unclaimed property without having to file for it. The League supported this bill.

The Governor chaptered SB 230 (Caballero) which would standardize policies and creates a statewide use of deadly force policy through internet postings. The League supported this bill.

The Governor chaptered AB 485 (Medina) which would create a list of requirements to incentivize ware houses within cities; this would burdensome because a lot of information has to be posted to the internet and provided to the public. The League opposed this bill.

The Governor vetoed AB 1184 (Gloria) which would require all public agencies to store electronic emails. The League opposed this bill.

The Governor chaptered AB 68 (Ting), AB 881 (Bloom), and SB 13 (Wieckowski) which would require local governments to approve accessory dwelling units without enforcing parking requirements. It would also eliminate owner-occupancy requirements.

The Governor chaptered AB 1762 (Chiu) which would expand the existing Density Bonus Law to require a city or county to award significantly more density, additional concessions and incentives, and greater allowable height if 100% of the units in a development is restricted to lower income households. The League opposed this bill.

The Governor chaptered AB 1483 (Grayson) which would require all local jurisdictions to provide public information regarding zoning ordinances, development standards, fees, exactions, and affordability requirements. The League opposed this bill.

The Governor chaptered SB 330 (Skinner); the League opposed this bill given its concern with the project-specific fees. This bill would put a five-year moratorium on development-related fees. The bill was amended significantly; however, jurisdictions still cannot charge project-specific fees.

The League is holding a webinar on November 14, 2019, to review these bills in greater detail and discuss the political issues behind them. There were a lot of housing bills this year. A big reason the League is opposed to Accessory Dwelling Units is due to the frequency of laws

being changed and jurisdictions not being provided any time to react and comply before they are changed again.

**Action:**        1.        None.

**B.        Presentation by the Riverside County Superintendent of Schools**

Dr. Judy White, Riverside County Superintendent of Schools, reported that Riverside County serves 428,992 students. Of that number, 66% are socio-economically disadvantaged. Decisions of the Superintendent's Office are data driven, observation-driven, and experience driven.

The Superintendent's Pledge is that every student in Riverside County will graduate from high school academically and socially prepared for college, the workforce, and civic responsibility.

Successful Pilot Programs throughout the County include Advancement Via Individual Determination (AVID), Preliminary Scholastic Aptitude Test (PSAT), the Riverside County Education Collaborative (RCEC), Free Application for Federal Student Aid (FAFSA), and College Kickoff. Once Pilot Programs are deemed successful, individual school districts are encouraged to replicate them.

The Project Moving Forward Initiative helped students learn vocabulary and literary skills in order to be successful in school. Research shows that kindergarten students who participated in the Initiative transitioned into English at a higher level, and special education students who participated were able to be mainstreamed at a greater level. Chronic Absenteeism was the second Initiative, which reduced chronic absenteeism by 67%.

The California Department of Education awarded Riverside County a grant for Early Literacy Partnership. Superintendents across the County decided this year to focus on literacy.

The Adopt-a-School Initiative now consists of 410 partners and 264 schools. The goal is for every school in Riverside County to be adopted by a business, faith-based organization, or a social organization.

The Teacher Village Initiative still underway. The Lake Elsinore Unified School District is piloting a program in which a school is being converted into a Teacher Village. This Teacher Village will provide two-bedroom modular homes for first-year teachers.

Community Outreach Ambassadors were hired to cover the numerous outreach programs across the county. The Million Deliberate Acts of Kindness Initiative is still underway with just over 35,000 deliberate acts of kindness logged. The Student Internship Program placed 1,000 high school students and college students in paid and unpaid internships in 2019.

The Math Pilot Initiative experienced a 26% increased on standardized test results. The Civic Engagement Initiative led to the return of a Visual Performing Arts Program.

The School of Career Education includes nine programs, 13 instructors, and serves approximately 300 students. Some of the Programs offered include Administrative Office Professional, Registered Dental Assistant, Nursing Services and Support Occupations, and Phlebotomy, to name a few. There is also a Career Technical Education Program that serves approximately 17,500 students in over 15 districts and includes 15 industry sectors with over 100 courses leading to multiple programs of study.

Leadership, Innovation, and Outreach Services, and the School of Education, Office of Equity

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and Access, are two newly established units. The School of Education is currently serving more than 2,000 candidates. Another new unit is the Equity and Access Unit. This Unit is a high priority initiative and collaborates with the National Center for Urban School Transformation.

Dr. White encouraged WRCOG and its Executive Committee members to embrace acts of kindness by modeling it, promote the Adopt-a-School Program, mentor a student, provide regular student and parent recognitions at council meetings, participate on district committees, and attend a local school's sporting events.

Committee member James Stewart asked if there are programs for kids who are dyslexic.

Dr. White responded that there is a special education department consisting of experts in that area.

Committee member Karen Spiegel indicated that the 88% graduation rate is higher than she thought it was.

Dr. White responded that that number is actually higher than the state average. Of the large counties throughout the state, Riverside County is in second place in graduation rates, just .3% behind Orange County.

Action:            1.        *Received and filed.*

**C.        Southern California Edison Public Safety Power Shutoff Program**

Jeremy Goldman, Government Relations Manager, Southern California Edison (SCE), reported that wildfires has been this issue dominating the state over the last few weeks. Last year, the State adopted Senate Bill (SB) 901 which required all electric utilities to file their wildfire mitigation plans. The plans are comprehensive strategies to prevent, combat, and respond to wildfires.

SCE is in the process of installing weather stations in all of the higher fire circuits throughout its service territory. High tech fire monitoring cameras are being installed. A team of meteorologists monitor the weather 24/7. SCE is also in the process of inspecting every piece of overhead equipment in high fire areas, often times via helicopters.

Vegetation management is important. SCE inspects over one million trees per year. In certain areas SCE has installed a rubberized covered conductor to decrease the chance of spark should a tree fall on the lines and break them.

Closers are being added to poles which allow automatic and remote access to turn off power lines in the event of an emergency. Undergrounding is very costly and have potential environmental impacts; however, SCE is in the process of determining where undergrounding can occur. Over 500 trained staff serve on call 24/7 for SCE's Emergency Operations Center.

The Public Safety Power Shutoff Program (PSPS) limits the number of impacted residents in the event of power shutoff; power is shutoff by circuit, not by grid. Some areas are also capable of a partial shutoff. This Program is initiated as a last resort.

Customers must register for PSPS and can be notified of potential shutoff via email, text, and/or phone calls.

If a line is de-energized, it must be physically inspected prior to re-energizing it.

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SCE holds a number of community meetings, provides direct mailings, and attends council meetings in order to provide information events and programs.

Committee member Karen Spiegel asked if there were more underground, would there be fewer power shutoffs.

Mr. Goldman responded that there are many variables and factors to determine pros of undergrounding.

Committee member Chuck Washington asked what the plan is when power shutoff affects individuals who rely on equipment requiring power.

Mr. Goldman responded that medical baseline customers fall under a different set of plans – notifications are distributed and if the customer does not respond, SCE sends someone to the home. The Governor recently signed Senate Bill 167 which will provide battery backup systems for these customers. Customers do need to sign up for this program.

Committee member Larry Smith asked if high-risk area assessments are available for public review.

Mr. Goldman responded that the information is mostly for internal purposes only. If a customer lives in a high-risk area, SCE notifies them of that. Customers can also visit [www.sce.com/outage](http://www.sce.com/outage) to report outages or downed trees; they can also call (800) 611-1911.

Committee member Kelly Seyarto indicated that just because lines can be laid underground does not remove the risk of wildfires, as underground vaults can explode and start fires. In areas of environmentally impacted areas that do not clear brush due to environmental regulations, this is especially dangerous.

Committee member Crystal Ruiz asked about safety precautions in place in the event unauthorized people access the grid.

Mr. Goldman responded that SCE is in the process of hiring cyber security analysts for this matter.

**Action:**           1.       *Received and filed.*

**D.     **PACE Programs Activities Update: Request to Amend the WRCOG HERO and California HERO Program Administration Agreement, and Update of Progress Towards Meeting Requirements of Renovate America's Stipulated Judgment****

Casey Dailey, WRCOG Director of Energy & Environmental Programs, reported that as part of the current Administrative Agreement with Renovate America, WRCOG is required to authorize in writing the ability for Renovate America to work with another bond issuer outside of the California HERO Program.

Territory previously exclusive to other PACE providers under a different bond issuer, CSCDA, became available. There are 23 CSCDA jurisdictions which are not part of the California HERO Program. Renovate America would like authorization to work in those 23 jurisdictions. WRCOG would receive a nominal fee from Renovate America for any new projects which originate in in those 23 jurisdictions, and, over time, WRCOG would become the primary bond issuer; this would also open up that area for the Commercial PACE Program.

There are approximately 46 requirements under the stipulated judgment against Renovate America; the requirements were categorized into three requirements and six themes. Mr. Dailey shared the progress being made for each theme.

Committee member Kelly Seyarto indicated that he sits on the PACE Ad Hoc Committee and has experienced cooperation from Renovate America

Committee member Kevin Bash and Chair Bonnie Wright commended staff of the progress made to date.

- Actions:**
1. *Approved and authorized the Executive Director to execute a First Amendment to the WRCOG HERO Program and California HERO Program Administration Agreement.*
  2. *Approved and authorized the Executive Director to execute Addendum Number 2 to the WRCOG HERO Program and California HERO Program Administration Agreement.*

**RESULT: APPROVED AS RECOMMENDED**

**MOVER:** Banning

**SECONDER:** Moreno Valley

**AYES:** Banning, Beaumont, Calimesa, Canyon Lake, Eastvale, Hemet, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar, District 2, District 5, EMWD, WMWD

**ABSENT:** Corona, District 1, District 3, Morongo Band of Mission Indians

**E. Consideration of 2019 TUMF Construction Cost Index Adjustment**

Chris Gray, WRCOG Director of Transportation & Planning, reported that there have been a number of Nexus Study updates since the inception of the TUMF Program. In between Nexus Study updates, staff provides updates on the Construction Cost Index (CCI). The TUMF Administration Plan dictates that staff discuss the CCI with this Committee every year.

Construction costs are higher now than when the last Nexus Study was completed. Projects and labor cost more.

Two key factors are taken into consideration when reviewing CCI: the Engineering News-Record National CCI and local data on home sales and land values. The two are then averaged.

There has been more industrial development in the past year than in the several years before. Single-family and multi-family has a high level of activity in both public and private sectors; this is one of the reasons labor, materials, and costs are increasing.

The Public Works, Technical Advisory, and Administration & Finance Committees have all directed staff to implement a CCI increase as calculated / presented, with a phase-in of the single-family residential, mirroring what was in the Nexus Study, and keeping the retail fee at its current level.

If the proposed CCI adjustment is implemented, it will generate an additional \$2 million to \$3 million per year at current collection levels. All of the current projects would be able to access additional funding.

This will increase the cost of projects and development by a very small amount. Total fee burden of each project will be increased by approximately 1%. Total development impact increases will be less than 1/10 of 1%.

In staff's opinion, these costs are not a significant burden on housing. They do not significantly raise the cost of development. They would provide a significant benefit to the TUMF Program. By deferring the single-family fee for two years and then phasing it in, it is estimated that the Program has lost approximately \$5 million.

Damian Fussel, Building Industry Association, Riverside (BIA), spoke on the current housing crisis and how any fee increase can be horrible for any type of development. If developers do not build, the Program does not collect fees.

Clint Lorimore, BIA, Riverside, spoke on the collective cost of fees across various agencies and how it affects development.

Committee member Karen Spiegel indicated that there is a struggle in balancing the cost of housing and poor infrastructure. Not just houses need to be built, but affordable housing needs to be built.

Committee member Jeff Hewitt asked if there is a fee for Accessory Dwelling Units (ADU) being built on existing home properties and indicated that there will be additional impacts with the development of ADUs and/or second and potentially third units onto existing home property.

Mr. Gray responded that there is no fee for ADUs. Anything designated by the state as low income or affordable housing is 100% exempt from TUMF.

Committee member Mike Lara asked where the money will come from if ADUs and second or third units are exempt.

Mr. Gray responded that the vast majority of permits are single-family and multi-family, so this matter has not been an issue to date.

Committee member Rusty Bailey suggested a reporting mechanism of when housing units reach a certain level this matter would return to possibly adjust the CCI.

Mr. Gray responded that the TUMF Administrative Plan dictates that staff present this matter every year.

- Actions:**
1. *Approved the implementation of the adjusted TUMF CCI as of July 1, 2020, with the following fee amounts:*
    - a. *Single-Family: \$9,478 per dwelling unit*
    - b. *Multi-Family: \$6,389 per dwelling unit*
    - c. *Retail: \$7.50 per square foot*
    - d. *Service: \$4.75 per square foot*
    - e. *Industrial: \$1.81 per square foot*
  2. *Approved the implementation of the adjusted TUMF CCI as of January 1, 2021, with the following fee amounts:*
    - a. *Single-Family: \$9,810 per dwelling unit*
    - b. *Multi-Family: \$6,389 per dwelling unit*
    - c. *Retail: \$7.50 per square foot*
    - d. *Service: \$4.75 per square foot*
    - e. *Industrial: \$1.81 per square foot*

|                  |                                                                                                                                    |
|------------------|------------------------------------------------------------------------------------------------------------------------------------|
| <b>RESULT:</b>   | <b>APPROVED AS RECOMMENDED</b>                                                                                                     |
| <b>MOVER:</b>    | Banning                                                                                                                            |
| <b>SECONDER:</b> | Murrieta                                                                                                                           |
| <b>AYES:</b>     | Banning, Beaumont, Canyon Lake, Hemet, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar |
| <b>NAYS:</b>     | Calimesa, Eastvale, Jurupa Valley, Lake Elsinore, District 5                                                                       |
| <b>ABSENT:</b>   | Corona, District 1, District 2, District 3, Morongo Band of Mission Indians                                                        |
|                  | The water districts do not vote on TUMF matters.                                                                                   |

## 7. REPORT FROM THE TECHNICAL ADVISORY COMMITTEE CHAIR

Chris Lopez reported that the Technical Advisory Committee October meeting was cancelled and the next meeting is scheduled for November 21, 2019.

## 8. REPORT FROM COMMITTEE REPRESENTATIVES

Ben Benoit, South Coast Air Quality Management District (AQMD) representative for cities in Riverside County, reported that leadership was recently elected; Chairman Burke was re-elected as Chair, and Committee member Benoit was re-elected as Vice-Chair.

Crystal Ruiz, San Diego Association of Governments' (SANDAG) Borders Committee representative, reported that ongoing fires in Mexico are devastating and the Red Cross is asking for donations. 111 million people travel across the U.S. / Mexico border from the south to the north each year. Mexico ranks number two in exports from the U.S. SANDAG is interested in working with Riverside County on transportation.

## 9. REPORT FROM THE EXECUTIVE DIRECTOR

Rick Bishop thanked Committee members who serve as WRCOG appointed officials on other Committees. Mr. Bishop also thanked Committee member Rusty Bailey for spearheading another methodology allocation regarding the Regional Housing Needs Assessment.

## 10. ITEMS FOR FUTURE AGENDAS

Committee member Matt Liesemeyer asked for a future conversation perhaps with WRCOG's Public Works Committee on examining Caltrans-related project costs to determine if there are ways to keep unanticipated costs down.

## 11. GENERAL ANNOUNCEMENTS

Committee member Micheal Goodland announced that the Healthy Jurupa Valley Veteran's Recognition Celebration is scheduled for the morning of Tuesday, November 4, 2019, followed by a small business expo later that afternoon. The City's new City Manager should be in place by the first of the year, if not sooner.

Chair Bonnie Wright indicated that the City of Hemet is holding its annual State of the City on Thursday, November 7, 2019, and a Veteran's Day event on November 11, 2019.

Committee member Kevin Bash announced that on December 7, 2019, the City of Norco is holding an event and is looking for Pearl Harbor survivors, or family member of those survivors.

**12. NEXT MEETING**

The next Executive Committee meeting is scheduled for Monday, December 2, 2019, at 2:00 p.m., at the County of Riverside Administrative Center, 1st Floor Board Chambers, Riverside.

**13. ADJOURNMENT**

The meeting was adjourned at 3:45 p.m.

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# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** TUMF Program Activities Update: TUMF Reimbursement Agreement Amendment

**Contact:** Chris Gray, Director of Transportation & Planning, [cgray@wrcog.us](mailto:cgray@wrcog.us), (951) 405-6710

**Date:** December 2, 2019

*The purpose of this item is to request approval a Transportation Uniform Mitigation Fee (TUMF) Reimbursement Agreement Amendment with the City of Moreno Valley.*

### **Requested Action:**

1. Authorize the Executive Director to execute a TUMF Reimbursement Agreement Amendment Number 6 with the City of Moreno Valley for the Moreno Beach Drive / SR-60 Interchange reallocation of funding in the amount of \$400,000.00 from the Engineering Phase to the Design Phase.

*WRCOG's TUMF Program is a regional fee program designed to provide transportation and transit infrastructure that mitigates the impact of new growth in Western Riverside County.*

### **TUMF Reimbursement Agreement**

One Reimbursement Agreement Amendment for a TUMF Project is summarized below.

#### **City of Moreno Valley (one amendment):**

1. The Funding Amount contained in Section 2 of the Agreement as amended by Amendment Nos. 1, 2, 3, 4, and 5 for the Engineering (PS&E) Phase is hereby decreased by \$400,000 to an amount not to exceed \$3,232,480. Funding is hereby reallocated to the Planning (PA&ED) Phase in the amount \$400,000 to an amount not exceed \$900,000. The Total Funding amount of \$20,758,480 remains the same.

### **Prior Action:**

None.

### **Fiscal Impact:**

Transportation Department activities are included in the Agency's adopted Fiscal Year 2019/2020 Budget under the Transportation Department.

### **Attachment:**

1. TUMF Reimbursement Agreement Amendment No. 6 with the City of Moreno Valley for the Moreno Beach Drive / SR 60 Interchange Project.

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# Item 5.A

TUMF Program Activities Update:  
TUMF Reimbursement Agreement  
Amendment

## Attachment 1

TUMF Reimbursement Agreement  
Amendment No. 6 with the City of  
Moreno Valley for the Moreno Beach  
Drive / SR 60 Interchange Project

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**AMENDMENT NO. 6 TO TRANSPORTATION UNIFORM MITIGATION FEE  
PROGRAM AGREEMENT**

**MORENO BEACH/SR-60 INTERCHANGE**

This Amendment No. 6 to Transportation Uniform Mitigation Fee Program Agreement (“Amendment No. 6”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS (“WRCOG”) and **CITY OF MORENO VALLEY** (“AGENCY”). WRCOG and the AGENCY are sometimes referred to individually as “Party” and collectively as “Parties.”

**RECITALS**

A. WRCOG and AGENCY have entered into an agreement titled “Transportation Uniform Mitigation Fee Program Agreement” that is dated **MARCH 14, 2006** (“Agreement”). The Agreement provides the terms and conditions, scope of work, schedule and funding amount for the construction of the **MORENO BEACH/SR-60 INTERCHANGE** (hereinafter the “Project”).

B. WRCOG and AGENCY have entered into an amendment to the Agreement titled “Amendment No. 1 to Transportation Uniform Mitigation Fee Program Agreement” that is dated **JULY 24, 2008** (“Amendment No. 1”).

C. WRCOG and AGENCY have entered into an amendment to the Agreement titled “Second Amendment to Transportation Uniform Mitigation Fee Program Reimbursement Agreement” that is dated **AUGUST 18, 2010** (“Amendment No. 2”).

D. WRCOG and AGENCY have entered into an amendment to the Agreement titled

“Amendment No. 3 to Transportation Uniform Mitigation Fee Program Agreement” that is dated **AUGUST 5, 2013** (“Amendment No. 3”).

E. WRCOG and AGENCY have entered into an amendment to the Agreement titled “Amendment No. 4 to Transportation Uniform Mitigation Fee Program Agreement” that is dated **JULY 26, 2017** (“Amendment No. 4”).

F. WRCOG and AGENCY have entered into an amendment to the Agreement titled “Amendment No. 5 to Transportation Uniform Mitigation Fee Program Agreement” that is dated **SEPTEMBER 9, 2019** (“Amendment No. 5”).

G. The Parties desire to amend the Agreement, as amended by Amendment Nos. 1, 2, 3, 4, and 5 by decreasing the funding amount in the Plans, Specifications, & Engineer’s Estimate (PS&E) Phase and increasing the funding amount in the Project Approval & Environmental Documentation (PA&ED) Phase by the same amount as set forth in Exhibit “A-1” of this Amendment.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants and subject to the conditions contained herein, the Parties hereby agree as follows:

1. The Funding Amount contained in Section 2 of the Agreement as amended by Amendment Nos. 1, 2, 3, 4, and 5 for the PS&E Phase is hereby decreased by Four Hundred Thousand Dollars (\$400,000) to an amount not to exceed Three Million Two Hundred Thirty Two Thousand Four Hundred Eighty Dollars (\$3,232,480). Funding is hereby reallocated to the PA&ED Phase in the amount of Four Hundred Thousand Dollars (\$400,000) to an amount not to

exceed Nine Hundred Thousand Dollars (\$900,000). The Total Funding amount of Twenty Million Seven Hundred Fifty Eight Thousand Four Hundred Eighty Dollars (\$20,758,480) remains the same.

2. Exhibits “A” and “A-1” of the Agreement as amended by Amendments Nos. 1, 2, 3, 4, and 5 are hereby replaced in their entirety by Exhibits “A” and “A-1” of this Amendment No. 6, which are attached hereto and incorporated by reference.

3. The foregoing reallocation of the Funding Amount is within the Maximum TUMF Share.

4. The above-stated Recitals are hereby fully incorporated into this Amendment No. 6.

5. Except to the extent specifically modified or amended hereunder, all of the terms, covenants and conditions of the Agreement shall remain in full force and effect between the Parties hereto.

IN WITNESS WHEREOF, the Parties have caused this Amendment No. 6 to be executed by their duly authorized representatives to be effective on the day and year first written above.

WESTERN RIVERSIDE COUNCIL  
OF GOVERNMENTS

CITY OF MORENO VALLEY

By: \_\_\_\_\_  
Rick Bishop, Executive Director

By: \_\_\_\_\_  
Michael L. Wolfe, P.E.  
Public Works Director/City Engineer

Approved to Form:

Approved to Form:

By: \_\_\_\_\_  
Steven C. DeBaun  
General Counsel

By: \_\_\_\_\_  
Martin D. Koczanowicz  
City Attoney

Attest:

By: \_\_\_\_\_  
Pat Jacquez-Nares  
City Clerk

## Exhibit A

## SCOPE OF SERVICES

The Project scope consists of design, environmental revalidation, right-of-way and utility confirmation, and construction phase services for Moreno Beach Phase 2/SR-60 Interchange.

The purpose of the overall project is to alleviate congestion, enhance freeway access, and increase vertical clearance for the SR-60/Moreno Beach Drive Interchange. The purpose of the project will be achieved, in general, by realigning the SR-60/Moreno Beach Drive ramps, adding auxiliary lanes, and replacing the overcrossing structure at SR-60/Moreno Beach Drive.

The scope of work for Phase 2 consists of the following: 1) reconstruction and realignment of the SR-60/Moreno Beach Drive westbound freeway ramps including addition of a westbound loop on-ramp; 2) construction of a westbound auxiliary lane, 3) installation of signalization at the intersection of the westbound ramp and Moreno Beach Drive, 4) provision for California Highway Patrol (CHP) enforcement areas, 5) addition of ramp metering, 6) replacement of the SR-60/Moreno Beach Drive overcrossing structure including raising the roadway profile and adjusting the eastbound ramps, traffic signals, and Moreno Beach Drive to grade, 7) utility relocations, 8) provision for highway planting and irrigation, and/or hardscape for the entire interchange, 9) accommodation of off-site drainage including Line K-1 along Ironwood Avenue (non-TUMF funded), 10) addition of bike lanes and sidewalks on Moreno Beach Drive, and 11) related work as required. Utility coordination is included to bring design plans up to date.

The project's Phase 1 was completed in 2013, constituting the eastbound ramps, eastbound auxiliary lane, Eucalyptus extension improvements, and related utility relocations. Phase 2 constitutes all remaining work. All work will be performed in accordance with the requirements of the California Department of Transportation (Department), City of Moreno Valley, and/or other agencies as required.

**EXHIBIT “A-1”**

**ESTIMATE OF COST**

| <b>Phase</b>                    | <b>TUMF</b>  |
|---------------------------------|--------------|
| <b>PA&amp;ED*</b>               | \$900,000    |
| <b>PS&amp;E*</b>                | \$3,232,480  |
| <b>RIGHT OF WAY</b>             | \$5,626,000  |
| <b>CONSTRUCTION<br/>Phase 1</b> | \$3,500,000  |
| <b>CONSTRUCTION<br/>Phase 2</b> | \$7,500,000  |
| <b>TOTAL</b>                    | \$20,758,480 |

\* PS&E Phase \$3,632,480 was decreased by \$400,000 and reallocated to PA&ED Phase of this agreement.





# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** Approval of General Assembly and Executive Committee Meeting Schedule for 2020

**Contact:** Rick Bishop, Executive Director, [rbishop@wrcog.us](mailto:rbishop@wrcog.us), (951) 405-6701

**Date:** December 2, 2019

*The purpose of this item is to provide and obtain approval of a meeting schedule for 2020.*

### **Requested Action:**

1. Approve the Schedule of General Assembly and Executive Committee meetings for 2020.

Below are the proposed meeting dates for the General Assembly and Executive Committee meetings for 2020. All Executive Committee meeting dates are proposed for the first Monday of the month and are scheduled to begin at 2:00 p.m. at the County of Riverside, Administrative Center, Board Chambers, 4080 Lemon St., Riverside.

|                     | Day       | Time      | JAN | FEB | MAR | APR | MAY | JUNE    | JULY | AUG | SEPT | OCT | NOV | DEC |
|---------------------|-----------|-----------|-----|-----|-----|-----|-----|---------|------|-----|------|-----|-----|-----|
| General Assembly    | 3rd Thur. | 6:30 p.m. | -   | -   | -   | -   | -   | 18      | -    | -   | -    | -   | -   | -   |
| Executive Committee | 1st Mon.  | 2:00 p.m. | 6   | 3   | 2   | 6   | 4   | 1 & 19* | 6    | 3   | 14   | 5   | 2   | 7   |

\*June 19 Executive Committee meeting will be held at 10:00 a.m. at the Pechanga Resort Casino.

### **Prior Action:**

None.

### **Fiscal Impact:**

This item is for informational purposes only; therefore, there is no fiscal impact.

### **Attachment:**

None.

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# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** Resolution to Submit Grant Application for the Water Sustain and Manage America's Resources for Tomorrow (SMART) Cooperative Watershed Management Program Phase I Grants

**Contact:** Christopher Tzeng, Program Manager, [ctzeng@wrcog.us](mailto:ctzeng@wrcog.us), (951) 405-6711

**Date:** December 2, 2019

*The purpose of this item is to adopt a Resolution to submit a grant application for the Water Sustain and Manage America's Resources for Tomorrow (SMART) Cooperative Watershed Management Program Phase I Grants from the Department of the Interior Bureau of Reclamation.*

### **Requested Action:**

1. Adopt WRCOG Resolution Number 33-19; A Resolution of the Executive Committee of the Western Riverside Council of Governments authorizing submittal of an application for the WaterSMART Cooperative Watershed Management Program Phase I Grants from the Department of the Interior Bureau of Reclamation.

*The WaterSMART Program Phase I Grants invites states, Indian tribes, irrigation districts, water districts, local governmental entities, non-profit organizations, existing Watershed Groups, and local and special districts (e.g., irrigation and water districts and county soil conservation districts) to submit proposals for Phase I activities to develop a watershed group, complete watershed restoration planning activities, and design watershed management projects. WRCOG is submitting a grant application to form a watershed council to help guide regional planning efforts for the Santa Margarita Watershed.*

### **About the WaterSMART Program Phase I Grants Eligibility**

Applicants eligible to receive an award include states, Indian tribes, local and special districts (e.g., irrigation and water districts), local governmental entities, interstate organizations, and non-profit organizations. To be eligible, applicants must meet all the following requirements:

- Significantly affect or be affected by the quality or quantity of water in a watershed
- Be capable of promoting the sustainable use of water resources
- Be located in one of the following states or territories: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands

### **WRCOG Proposed Project**

WRCOG intends to convene and support a new Watershed Council for the Santa Margarita River Watershed (SMRW). The SMRW, a fast-developing area of southwest Riverside County, faces threats to water quality, supply, and ecosystem function from an unusually broad range of legacy and current stressors. To coordinate across community, agriculture, land use, engineering and regulatory interests, and ensure a holistic framework

for coordinated action, WRCOG proposes to use funds from this funding opportunity to engage contracted facilitation assistance to form a SMRW Council (“the Council”). The Council will develop (1) a formal collaborative process for stakeholder interaction and engagement around opportunities to protect and restore the SMRW; (2) a central, collaborative information base including a collective Opportunities Map where problems and potential projects can be catalogued; and (3) an implementation framework that guides and coordinates policies, investments, regulations and actions on issues. This project will contribute to the goal of the Grant Program of encouraging diverse stakeholders who can identify and participate in the full range of watershed solutions, from education and neighborhood-scale efforts, to inter-municipal capital projects, to regional policy and permitting structures. WRCOG anticipates engaging farmers, wineries, water utilities, businesses, homeowners’ associations, government agencies, and environmental organizations. Forming a Watershed Council will enable the concerted effort that is needed to elevate the watershed to the level of attention and coordinated care among stakeholders, and to enhance both this beautiful, unique river system and the community alike.

**Prior Action:**

November 13, 2019: The Administration & Finance Committee authorized staff to submit a grant to the Bureau of Reclamation WaterSMART Cooperative Watershed Management Program Grant.

**Fiscal Impact:**

Activities for these activities are under the Alternative Compliance Program and are included in the Agency’s adopted Fiscal Year 2019/2020 Budget under the Transportation Department.

**Attachment:**

1. Resolution Number 33-19; A Resolution of the Executive Committee of the Western Riverside Council of Governments authorizing submittal of an application for the WaterSMART Cooperative Watershed Management Program Phase I Grants.

# Item 5.C

Resolution to Submit Grant Application for  
the Water Sustain and Manage America's  
Resources for Tomorrow (SMART)  
Cooperative Watershed Management  
Program Phase I Grants

## Attachment 1

Resolution Number 33-19; A  
Resolution of the Executive  
Committee of the Western Riverside  
Council of Governments authorizing  
submittal of an application for the  
WaterSMART Cooperative  
Watershed Management Program  
Phase I Grants

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## **RESOLUTION NUMBER 33-19**

### **A RESOLUTION OF THE EXECUTIVE COMMITTEE OF THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS AUTHORIZING SUBMITTAL OF AN APPLICATION FOR THE WATERSMART COOPERATIVE WATERSHED MANAGEMENT PROGRAM PHASE I GRANTS FROM THE DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION**

**WHEREAS**, the Department of the Interior conserves and manages the Nation's natural resources and cultural heritage for the benefit and enjoyment of the American people, provides scientific and other information about natural resources and natural hazards to address societal challenges and create opportunities for the American people, and honors the Nation's trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated island communities to help them prosper; and

**WHEREAS**, the mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public; and

**WHEREAS**, the WaterSMART (Sustain and Manage America's Resources for Tomorrow) Program Phase I Grants invite states, Indian tribes, irrigation districts, water districts, local governmental entities, non-profit organizations, Existing Watershed Groups, and local and special districts (e.g., irrigation and water districts and county soil conservation districts) to submit proposals for Phase I activities to develop a watershed group, complete watershed restoration planning activities, and design watershed management projects.

**NOW, THEREFORE, BE IT RESOLVED** that the Executive Committee authorizes the Western Riverside Council of Governments (WRCOG) to submit an application to the WaterSMART Program Phase I Grants; and

**BE IT FURTHER RESOLVED** that the Executive Director, or his/her designee, is hereby authorized and empowered to execute on behalf of WRCOG all grant-related documents, including but not limited to, applications, payment requests, agreements, and amendments necessary to secure grant funds and to implement the approved grant project; and

**BE IT FURTHER RESOLVED** that these authorizations are effective for five years from the date of adoption of this resolution.

**PASSED AND ADOPTED** by the Executive Committee of the Western Riverside Council of Governments on December 2, 2019.

---

Bonnie Wright, Chair  
WRCOG Executive Committee

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Rick Bishop, Secretary  
WRCOG Executive Committee

Approved as to form:

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Steven DeBaun  
WRCOG Legal Counsel

AYES: \_\_\_\_\_ NAYS: \_\_\_\_\_ ABSENT: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_





# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** Western Riverside Energy Partnership Program Activities Update

**Contact:** Anthony Segura, Senior Analyst, [asegura@wrcog.us](mailto:asegura@wrcog.us), (951) 405-6733

**Date:** December 2, 2019

*The purpose of this item is to provide information on the upcoming LED Holiday Light exchanges & Energy Efficiency Kit Giveaway and the draft 2020 contract with SoCal Gas for the upcoming Partnership year.*

### **Requested Action:**

1. Direct the Executive Director to execute the Partnership contract with Southern California Gas Company to jointly deliver the 2020 Energy Partnership Program, including the continuation of the Western Riverside Energy Partnership, substantially as to form.

*The Western Riverside Energy Partnership (WREP) responds to Executive Committee direction for WRCOG, Southern California Edison (SCE), and Southern California Gas Company (SoCal Gas) to seek ways to improve marketing and outreach to the WRCOG subregion regarding energy efficiency. WREP is designed to help local governments set an example for their communities to increase energy efficiency, reduce greenhouse gas emissions, increase renewable energy usage, and improve air quality.*

### **2020 SoCal Gas Partnership Contract**

In 2013, WRCOG entered into an agreement with SoCal Gas to partner with both SCE and WRCOG to be the lead agencies in the WREP Program. Through this agreement, SoCal Gas joined the Partnership and provided a budget to provide programmatic services to enrolled members to assist with energy efficiency projects, strategic planning, and educating the community on sustainability / utility customer programs.

The draft 2020 SoCal Gas contract (Attachment 1) establishes the budget for the 2020 calendar year and will be used to assist the members enrolled in the Program with its goals for energy efficiency. The allocated draft budget for 2020 is a not to exceed amount of \$108,400. This budget will be used to assist WREP members with project identification / project support, community outreach, and other gas-related initiatives such as facility analyses.

### **2019 LED Holiday Light Exchange and Energy Efficiency Kit Giveaway**

WRCOG will be hosting its 6th Annual LED Holiday Light Exchange and Energy Efficiency Starter Kit (Attachment 2) at five upcoming holiday themed events. This Program is in coordination with WREP partners, SCE, and SoCal Gas. For the 2019 Program year, the Partnership team will be attending events within the Cities of Calimesa, Eastvale, Hemet, Murrieta, and Wildomar.

The Program, originated in 2014, allows residents within SCE territory to exchange their old, incandescent holiday lights for new, energy efficient LED lights. SoCal Gas joined the Program in 2016 to promote its energy efficiency kits to customers. To date, staff has attended 25 holiday community events, exchanged over 2,000

strings of holiday lights, and provided 150 energy efficiency starter kits. This equates to benefits provided to over 1,000 households within Western Riverside County.

The 2019 list of holiday events that WREP will be participating in for this years' light exchange & energy kit giveaway is as follows:

| 2019 WREP Holiday Events |                                     |                                                                                                    |                        |
|--------------------------|-------------------------------------|----------------------------------------------------------------------------------------------------|------------------------|
| Date                     | Event                               | Location                                                                                           | Time                   |
| Monday,<br>November 18   | Christmas Tree<br>Lighting Ceremony | <b>City of Calimesa</b><br>City Hall, 908 Park Ave.<br>Calimesa, CA 92320                          | 5:00 p.m. - 6:30 p.m.  |
| Saturday,<br>December 7  | Festival of Trees                   | <b>City of Murrieta</b><br>Town Square Park<br>Murrieta, CA 92562                                  | 5:00 p.m. - 7:00 p.m.  |
| Saturday,<br>December 7  | Christmas in the<br>Park            | <b>City of Hemet</b><br>Gibbel Park, 2500 W Florida Ave.<br>Hemet, CA 92545                        | 8:00 a.m. - 12:00 p.m. |
| Saturday,<br>December 7  | Winter Wonderland                   | <b>City of Eastvale</b><br>Eastvale Community Center<br>13820 Schleisman Rd.<br>Eastvale, CA 92880 | 3:00 p.m. - 9:00 p.m.  |
| Saturday,<br>December 14 | Breakfast with Santa                | <b>City of Wildomar</b><br>Fire Station 61<br>32627 Gruwell Street<br>Wildomar, CA 92595           | 8:00 a.m. - 11:00 a.m. |



WRCOG staff helping Calimesa residents at Christmas Tree Lighting Ceremony

### **Prior Action:**

November 21, 2019: The Technical Advisory Committee received and filed.

### **Fiscal Impact:**

Activities for the WREP Partnership are included in the Agency's adopted Fiscal Year 2019/2020 Budget in the Energy Department.

### **Attachments:**

1. Draft 2020 WREP Contract with SoCal Gas.
2. Holiday Light Exchange & Energy Efficiency Kit Giveaway Flyer.

# Item 5.D

Western Riverside Energy  
Partnership Program Activities  
Update

## Attachment 1

Draft 2020 WREP Contract with  
SoCal Gas

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**AGREEMENT TO JOINTLY DELIVER THE 2020  
WESTERN RIVERSIDE ENERGY EFFICIENCY PARTNERSHIP PROGRAM**

**BY AND AMONG**

**SOUTHERN CALIFORNIA GAS COMPANY**

**AND**

**WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS**

**DATED: 10/28/2019**

This program is funded by California utility ratepayers and administered by SoCalGas under the auspices of the California Public Utilities Commission.

THIS AGREEMENT TO JOINTLY DELIVER THE 2020 WESTERN RIVERSIDE ENERGY EFFICENCY PARTNERSHIP PROGRAM (the “Agreement”) is effective as of January 1, 2020 (“Effective Date”) by and among SOUTHERN CALIFORNIA GAS COMPANY (“SoCalGas”) (SoCalGas may be referred to herein individually as the “Utility”) and WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS (“WRCOG”) . The Utility and WRCOG may be referred to herein individually as a “Party” and collectively as the “Parties.”

### RECITALS

WHEREAS, the Parties previously executed various Agreements and Amendments during 2013-2019 to jointly deliver the Western Riverside Energy Efficiency Partnership Program;

WHEREAS, on January 17, 2017, SoCalGas submitted its Business Plan Application (“Application”) for Approval of its 2018-2025 Energy Efficiency Rolling Portfolio Program to the California Public Utilities Commission (the “Commission”) to be delivered to California utility customers for the years 2018 through 2025, which included the SoCalGas’ Public Sector and SoCalGas Local Government Partnership Programs involving the delivery of energy efficiency Programs to cities, counties, other public agencies and organizations and their communities within SoCalGas’ service territory;

WHEREAS, on June 5, 2018, the Commission in D. 18-05-041 approved SoCalGas’ Application, with modifications, and authorized certain energy efficiency programs and budgets to be delivered to California utility customers for the years 2018 through 2025; including the 2018-2025 Public Sector Program (the “Program”);

WHEREAS, SoCalGas, WRCOG and each of the Member Agencies (as hereinafter defined) have expressed a commitment to participate jointly in the Programs through the Partnership in 2020;

WHEREAS, the Parties desire to enter into an agreement that supersedes any and all previous agreements, and sets forth the terms and conditions under which the Programs shall be implemented with respect to the Parties; and

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

#### 1. DEFINITIONS:

All terms used in the singular will be deemed to include the plural, and vice versa. The words “herein,” “hereto,” and “hereunder” and words of similar import refer to this Agreement as a whole, including all exhibits or other attachments to this Agreement, as the same may from time to time be amended or supplemented, and not to any particular subdivision contained in this

Agreement, except as the context clearly requires otherwise. “Includes” or “including” when used herein is not intended to be exclusive, or to limit the generality of the preceding words, and means “including without limitation.” The word “or” is not exclusive.

1.1. Agreement: This document and all exhibits attached hereto, and as amended from time to time.

1.2. Authorized Partnership Budget: The Commission approved maximum budget for funding the performance of Authorized Work by all Parties of the Program, as set forth in the Implementation Plan attached hereto as Exhibit B.

1.3. Authorized Work: The work authorized by the Commission for the Program as set forth in this Agreement and as more fully described in the Implementation Plans attached hereto as Exhibit B and as agreed between the Parties to be performed.

1.4. Business Day: The measurement period of time for purposes of this Agreement, from one midnight to the following midnight, excluding Saturdays, Sundays, and holidays.

1.5. Calendar Day: The measurement period of time for purposes of this Agreement, from one midnight to the following midnight, including Saturdays, Sundays, and holidays. Unless otherwise specified, all days in this Agreement are Calendar Days.

1.6. Contractor: An entity contracting directly or indirectly with a Party, or any subcontractor thereof subcontracting with such Contractor, to furnish services or materials as part of or directly related to such Party’s Authorized Work obligations.

1.7. Customers or Eligible Customers: Customers eligible for 2020 Program services, which are SoCalGas customers located within the jurisdiction of a Member Agency, and may include the Member Agency itself.

1.8. EM&V: Evaluation, Measurement and Verification of the Program pursuant to Commission requirements.

1.9. Energy Efficiency Measure (or Measure): As used in the Commission’s Energy Efficiency Policy Manual, Version 5, July 2013, as may be supplemented or updated from time to time.

1.10. Gas Surcharge: The funds collected from gas utility ratepayers pursuant to Section 890 et al. of the California Public Utility Code for public purposes programs, including energy efficiency programs approved by the Commission.

1.11. Incentive: As used in the Commission’s Energy Efficiency Policy Manual, Version 5, July 2013, as may be supplemented or updated from time to time.

1.12. Member Agencies: Those agencies that: (i) are located in Utility's service territory; (ii) are either identified as participants in this Program through the Implementation Plan or are mutually selected by Utility and WRCOG to participate in this Program; and (iii) have committed to this Program as described in Section 6.2.2 of this Agreement.

1.13. Energy Champion: A Member Agency's representative who is a point of contact for the Program and who can represent such Member Agency on a daily basis for all Program activities and energy efficiency projects pertaining to such Member Agency.

1.14. Program Expenditures: Actual (i.e., no mark-up for profit, administrative or other indirect costs), reasonable expenditures of WRCOG that are pre-approved, directly identifiable to, and required for the Authorized Work in accordance with Section 10.2.

1.15. Implementation Plan (IP): The implementation plan specific to this Partnership, SoCalGas Local Government Master IP, which include the anticipated scope of the Program in SoCalGas's service territory, as approved by the Commission and attached hereto as Exhibit B.

1.16. WRCOG Budget: That portion of the Authorized Partnership Budget, which excludes Utility's costs, and represents the maximum budget and maximum allocation by Utility and by period for funding the performance of the Program by WRCOG and as set forth in Exhibits A, subject to amendment by SoCalGas consistent with the terms of this Agreement.

1.17. Planning Document: A Program document that describes Program implementation and/or management processes, procedures and strategies, as may be supplemented or updated from time to time.

1.18. Implementer – The entity, named as the contract party to this Agreement, that is responsible to carry out the Authorized Work consistent with this Agreement and the IP.

## 2. PURPOSE

The 2020 Program is funded by California utility ratepayers and is administered by the Utility under the auspices of the Commission. The purpose of this Agreement is to set forth the terms and conditions under which the Parties will jointly implement the 2020 Program. The work authorized pursuant to this Agreement is not to be performed for profit.

This Agreement which incorporates the Recital and referenced Exhibits constitutes the complete and exclusive statement of understanding amongst the Parties and supersedes any previous agreements, written or oral, and all communications amongst the Parties relating to the subject matter herein. And further this Agreement is not intended to and does not form any "partnership" within the meaning of the California Uniform Partnership Act of 1994 or otherwise.



### 3. PROGRAM DESCRIPTION

3.1. Overview. The 2020 WRCOG Energy Efficiency Partnership Program is designed to provide integrated technical and financial assistance for Public Sector members of the Partnership, and to help local governments effectively lead their communities to increase energy efficiency, reduce greenhouse gas emissions, increase renewable energy usage, protect air quality and ensure that their communities are more livable and sustainable. The Program provides access to all SoCalGas core programs and incentives for Member Agencies to increase energy efficiency in local government facilities and their communities through energy saving actions, including retrofitting municipal facilities as well as providing opportunities for constituents to take action in their homes and businesses. By implementing measures in their own facilities, Member Agencies will build their local capacity for sustainability and lead by example as they work with WRCOG and SoCalGas together to increase community awareness of energy efficiency and position each Member Agency as a leader in energy efficiency and sustainable practices. The Program will provide marketing, outreach, education, training and community sweeps to connect the community with opportunities to save energy, money and help the environment. The Partners will leverage the strengths of each other and the Member Agencies to help efficiently deliver energy and demand savings as well as support for elements of California Long Term Energy Strategic Plan (the “Strategic Plan”). Delivering sustainable energy savings, promoting energy efficiency lifestyles, and achieving an enduring leadership role for the Member Agencies through this Program design is rooted in an effective relationship among the Member Agencies, their constituents, WRCOG, and SoCalGas.

### 4. AUTHORIZED WORK

4.1. Scope. The Authorized Work is set forth broadly in the IP (Exhibit B) and shall be performed pursuant to the terms of this Agreement. The Parties shall collaborate and mutually agree upon specific Program implementation consistent with the IP, and the Parties shall document such details in a “Planning Document” which is intended to evolve throughout the term of the Program.

4.2. Objectives. The Program is designed to meet the specific goals and milestones set forth in Exhibit A of this Agreement, while implementing the Program strategies and meeting the general objectives and goals set forth in the IP, attached hereto as Exhibit B.

### 5. LIMITATION ON SERVICE TERRITORY – The Parties agree that Authorized Work shall only be performed in SoCalGas’s service territory, with energy savings and demand reduction claims applicable solely to SoCalGas’ utility system. No Authorized Work shall be performed for any customers that do not directly receive gas service from SoCalGas. Nothing in this Section 5 is intended to preclude Program coordination with other municipal utilities.

## 6. OBLIGATIONS OF THE PARTIES

### 6.1. Obligations of the Utility and WRCOG

- 6.1.1. Each Party will be responsible for the overall progress of its Authorized Work, to ensure that the Program remains on target (including but not limited to achieving the Program's specific energy savings and demand reduction goals as set forth in Exhibit A).
- 6.1.2. The Parties acknowledge that engineering and/or technical services may be needed on a contract basis to assist Member Agencies in identifying and evaluating potential energy efficiency projects. The Parties (through their designated representatives) will work together, using their respective expertise, to evaluate the contract needs and to solicit, assess and select such contractors (which may include individuals or business entities). WRCOG shall contract for such work directly and be responsible for payment to the contractor(s) from the direct implementation category of the Partner's Budget. Contract work may include engineering and technical assistance with energy efficiency projects, performing energy saving calculations using Utility's tools, reporting on project status at the Partnership meetings, helping ensure that the Program meets its goals. All contracts entered into pursuant to this Section must be terminable by WRCOG without payment penalty upon thirty (30) days notice and shall not contain front-end loading payment provisions.
- 6.1.3. The Parties shall jointly coordinate and prepare all Program-related documents, including all required reporting pursuant to Section 9, and any such other reporting as may be reasonably requested by the Utility.
- 6.1.4. To the extent practical and with coordination by the Utility, the Parties shall use the Program as a portal for all energy program offerings of SoCalGas, including but not limited to programs targeting low-income customers, demand response, self-generation, solar, and other programs as described in the IPs, and in support of the Strategic Plan adopted by the Commission and investor-owned utilities. This coordinated effort supports the goal to enhance consistency in rebates and other Program details, minimize duplicative administrative costs, and enhance the possibility that programs can be marketed together to avoid duplicative marketing expenditures.
- 6.1.5. Consistent with those contained in Section 4.2, SoCalGas and WRCOG may work together to identify, develop, and accomplish additional mutually agreeable goals in accordance with Section 7.

- 6.1.6. Each Party shall communicate regularly with the other Parties, and shall advise each other Party immediately of any problems or delays associated with its Authorized Work obligations.

6.2. Obligations of WRCOG.

- 6.2.1. WRCOG will appoint a Partnership representative (“WRCOG Energy Efficiency Representative”) who will be the primary contact between the Utility and WRCOG, and who will be authorized to act on behalf of WRCOG in carrying out its obligations under this Agreement. Such appointment shall be communicated in writing to SoCalGas within 10 Business Days following execution of this Agreement.
- 6.2.2. As soon as practicable, WRCOG shall secure from each prospective Member Agency a letter of commitment supporting and endorsing the Program, approving such Member Agency as a Program participant and authorizing WRCOG to act on its behalf as necessary to further the Partnership’s goals and objectives. Each such letter shall commit the Member Agency to participation in the Program and shall designate an “Energy Champion” who will be the Member Agency’s primary contact for both WRCOG and the Utility, and who will act on behalf of such Member Agency in carrying out the Program. WRCOG shall use its best efforts to obtain all Member Agency letters by [February 28], 2020 and to deliver a copy of each Member Agency’s letter to the Utility within ten (10) Business Days following its adoption. This letter shall be required for participation in the Program by a prospective Member Agency.
- 6.2.3. WRCOG will manage the day-to-day activities and comprehensive implementation of the Program on behalf of the Parties in accordance with the IPs. This will include intensive interaction with the Member Agencies, Program marketing, education, outreach, technical assistance, and assistance with direct implementation. This includes notifying Customers of the availability of Program services and enrolling Customers in the Program.
- 6.2.4. WRCOG shall be responsible for achieving the goals and objectives set forth in Section 4.2 hereof.
- 6.2.5. Through execution of this Agreement, WRCOG acknowledge Commission policy recognizing the importance of collaboration between investor-owned utilities and local governments in order to take advantage of the unique and collective strengths that these parties offer in delivering cost-effective energy efficiency services. As a representative for the Member Agencies, WRCOG agrees to work jointly with SoCalGas in

both fostering new relationships and strengthening the Utility's existing relationships with Member Agencies in order to promote sustainable energy savings and fulfill both the short-term and long-term goals and objectives approved by the Commission and described herein. To this end, WRCOG shall facilitate joint participation with the Utility and the Member Agencies in meetings, activities and decisions.

- 6.2.6. WRCOG shall coordinate the semi-annual Energy Champion Meetings described in Section 7.5 of this Agreement.
- 6.2.7. WRCOG shall perform its Authorized Work obligations within the WRCOG Budget and in conformance with the schedule associated with such Authorized Work as set forth in this Agreement, and shall furnish the required labor, equipment and material with the degree of skill, care and professionalism that is required by current professional standards.
- 6.2.8. WRCOG shall be primarily responsible for coordinating the preparation of all 2020 program-related documents pertaining to WRCOG's portion of Authorized Work as set forth in this Agreement, including all required reporting of WRCOG pursuant to Section 9, and any such other reporting as may be requested by each Utility.
- 6.2.9. SoCalGas, from time to time, provide WRCOG with Utility Program documents or other energy efficiency program documents or materials, including but not limited to forms and applications, for WRCOG's use in connection with the Program. WRCOG shall obtain the approval of SoCalGas prior to modifying the content of any such documents or materials in any manner; provided, however, that WRCOG may add a Utility-approved Partnership and/or WRCOG logo to such documents as appropriate, unless otherwise directed by the Utility.
- 6.2.10. WRCOG shall work together with and obtain the approval of SoCalGas when developing Program marketing materials prior to distribution, publication, circulation, or dissemination in any way to the public. In addition, all advertising, marketing or otherwise printed or reproduced material used to implement, refer to or is in anyway related to the Program must contain the respective name and logo of each Utility and, at a minimum, the following language: *"This Program is funded by California utility ratepayers and administered by Southern California Gas Company under the auspices of the California Public Utilities Commission."*
- 6.2.11. Upon reasonable request, WRCOG shall submit to SoCalGas all contracts, agreements or other requested documents with WRCOG's Contractors (including subcontractors) performing work for the Program.

6.3. Obligations of SoCalGas.

- 6.3.1. SoCalGas will appoint a Partnership representative (“SoCalGas Energy Efficiency Representative”) who will be the primary contact for WRCOG, and who will be authorized to act on behalf of SoCalGas in carrying out SoCalGas’s obligations under this Agreement. Such appointment shall be communicated in writing to WRCOG within 10 Business Days following execution of this Agreement.
- 6.3.2. SoCalGas will be actively involved in all aspects of the 2020 Program. SoCalGas will use its best efforts to add value to the 2020 Program by (a) dedicating human resources necessary to implement the 2020 Program successfully and providing and maintaining a Partnership presence in the WRCOG region, (b) providing support for the 2020 Program’s marketing and outreach activities, and (c) working to enhance communications with WRCOG to address consumer needs and provide SoCalGas information and services.
- 6.3.3. SoCalGas shall provide informational and educational materials on SoCalGas’s core programs to WRCOG to enable WRCOG to implement the 2020 Program’s outreach and education element.
- 6.3.4. SoCalGas shall be responsible for coordinating and ensuring compliance with all SoCalGas reporting and other SoCalGas filing requirements.
- 6.3.5. SGC shall be responsible for tracking performance of WRCOG in accordance with Section 10.1.2.2, and for verifying all natural gas savings claims of WRCOG.
- 6.3.6. Administering the PGC and Gas Surcharge funds authorized by the Commission for the 2020 Program and reimbursing Parties for Program Expenditures in accordance with Section 10 below.
- 6.3.7. EM&V. Once the Commission has approved and issued an evaluation, measurement and verification (“EM&V”) plan for the 2020 Program, such EM&V plan shall be attached to this Agreement as Exhibit C and shall be incorporated herein by this reference. Any subsequent changes or modifications to such EM&V plan by the Commission shall be automatically incorporated into Exhibit C. WRCOG shall provide and comply with all Commission requests regarding activities related to EM&V. WRCOG and its Contractors shall cooperate fully with Utility Representative and will provide all requested information, if any, to

assure the timely completion of all EM&V Plan tasks requiring WRCOG's involvement or cooperation.

## 7. ADMINISTRATION OF PROGRAM

### 7.1. Decision-making and Approval.

7.1.1. Except as specifically provided in this Agreement, the following actions and tasks require consent of all Parties:

- a. Any material modification to the Authorized Work in connection with the Program.
- b. Any action that materially impacts the agreed-upon schedule for implementing the 2020 Program.
- c. Selection of any Contractor not previously approved by SoCalGas.

7.2. Document Retention. Unless otherwise specified in this Agreement, the Parties shall document all material Program decisions, including, without limitation, all actions specified in Section 7.1.1 above, in meeting minutes or if taken outside a meeting, through written communication, which shall be maintained in hard copy form on file by the Parties for a period of no less than five (5) years after the expiration or termination of this Agreement.

7.3. Regular Meetings. During the term of this Agreement, the Parties shall meet monthly or bi-monthly at a location reasonably agreed upon by the Parties. In addition to any other agenda items requested by either Party, the agenda shall include a review the status of 2020 Program performance, deliverables, schedules and budget, toward achievement of the goals set forth in Exhibit A, and the Partnership's progress towards meeting overall Partnership goals set forth in Exhibit B. Any decision-making shall be reached and documented in accordance with the requirements of Section 7.1 above.

7.4. Regular Communication. Regular communication among Partnership representatives is critical for the long-term success of the Partnership and achievement of Partnership goals and objectives. Notwithstanding Section 7.3, above, the Partnership representatives identified in writing by each Partner pursuant to Sections 6.2.1, including other Program participants, shall communicate regularly with each other to review the status of the Program's goals, deliverables, schedules and budgets, and plan for upcoming Program implementation activities, and to advise the other Party of any problems associated with successful implementation of the Program. Any decision-making during this communication process shall be reached and documented in accordance with the requirements of Section 7.1 above.

7.5. Semi-Annual Joint Meetings. In furtherance of the Commission objectives of strengthening relationships between California utilities, local government and consumers, WRCOG shall coordinate semi-annual meetings among the Energy Champions for all of

the Member Agencies to review 2020 Program progress and otherwise seek input from the Member Agencies on Program related issues as appropriate and necessary. Meeting minutes shall be recorded, retained by WRCOG and provided to SoCalGas upon request. As a Partner, SoCalGas shall be provided notice and opportunity to attend and participate in the Semi-Annual Joint Meetings.

7.6. Communication with Member Agencies. SoCalGas will be notified of, and will have the right to participate in any meeting that pertains to energy savings project discussion between WRCOG and one or more Member Agencies. Any failure by SoCalGas to attend such meetings shall not waive any future rights of SoCalGas with respect to such meetings. Nothing in this Agreement shall be construed to preclude SoCalGas from working or communicating directly with a Member Agency at any time. SoCalGas will use its best efforts to keep WRCOG informed of energy efficiency projects evolved as a result of such Utility's direct working with a Member Agency to avoid duplication of efforts.

7.7. Non-Responsibility for Other Party. Notwithstanding anything contained in this Agreement in the contrary, a Party shall not be responsible for the performance or non-performance hereunder of the other Party, nor be obligated to remedy any other Party's defaults or defective performance.

## 8. DOUBLE DIPPING PROHIBITED

In performing its respective Authorized Work obligations, WRCOG shall implement the following mechanism and shall take other practicable steps to minimize double-dipping:

8.1. Prior to providing incentives or services to an Eligible Customer, WRCOG and its Contractors shall obtain a signed form from such Eligible Customer stating that:

8.1.1. Such Eligible Customer has not received incentives or services for the same measure from any other SoCalGas program or from another utility, state, or local program; and

8.1.2. Such Eligible Customer agrees not to apply for or receive incentives or services for the same measure from any other SoCalGas program or from another utility, state, or local program.

8.1.3. Nothing in this Agreement should be construed to preclude the leveraging of incentives or services from another utility, or local program that are not funded from the same Gas Surcharge Funds.

Each Party shall keep its Customer-signed forms for at least five (5) years after the expiration or termination of this Agreement.

8.2. No Party shall knowingly provide an incentive to an Eligible Customer, or make payment to a Contractor, who is receiving compensation for the same product or

service either through another ratepayer funded program, or through any other funding source.

8.3. WRCOG represents and warrants that it has not received (and that its Contractor(s) has not received), and will not apply for or accept Incentives or services for any measure provided for herein or offered pursuant to this Agreement or the Program from any other Utility program or from any other Utility, state or local program.

8.4. The Parties shall take reasonable steps to avoid the provision of incentives or services for the same measures provided under the Program from another program or other funding source (“double-dipping”).

## 9. REPORTING

The Parties shall implement those reporting requirements set forth in Exhibit D attached hereto, as the same may be amended from time to time, or until the Commission otherwise requires or issues different or updated reporting requirements for the 2020 Program, in which case and at which time such Commission-approved reporting requirements shall replace the requirements set forth in Exhibit D in their entirety.

## 10. PAYMENTS

### 10.1. WRCOG Budget

10.1.1. Maximum Budget: The WRCOG Budget is set forth in Exhibit A to this Agreement and represents WRCOG’s maximum share of the Program’s 2020 Authorized Partnership Budget. Additionally, Exhibit A set forth the maximum non-incentive budget by SoCalGas on a periodic basis during the Program. WRCOG shall not be entitled to compensation in excess of the WRCOG Budget allocated by SoCalGas in Exhibit A (either on a periodic basis or in total), without written authorization by SoCalGas and receipt of a revised Exhibit A. Consistent with Commission directives to maximize cost-effectiveness and energy savings, the WRCOG Budget set forth in Exhibit A may be reallocated or adjusted by SoCalGas, based upon SoCalGas’s reasonable evaluation of WRCOG’s commitment to, and progress toward achieving the energy savings goals set forth herein as evidenced by the objective tracking data specified in Section 10.1.2 and such other information as may be available to the parties to help substantiate commitment and progress towards such goals and objectives.

10.1.2 Tracking. SoCalGas will track WRCOG’s performance against the SoCalGas goals and objectives set forth in Section 4.2 hereof, including tracking (or estimating) achievement towards the specific energy savings goals set forth in Exhibit A and will provide such tracking information to WRCOG on a regular basis,. The tracking will enable SoCalGas, to (i) report SoCalGas Program status and achievement of respective goals and objectives, (ii) confirm or amend SoCalGas portion of the Budget, set forth in Exhibit A hereto, based on the



WRCOG's performance of the SoCalGas goals and objectives set forth in this Agreement;

10.1.3. WRCOG Budget Adjustment: The Parties acknowledge that this Program is offered in furtherance of the Commission's strategic energy efficiency goals for California and is based on WRCOG's agreement to help achieve such goals for the Partnership. To this end, in the event that SoCalGas determines in its reasonable discretion based on the objective tracking mechanisms set forth in 10.1.2 and 10.1.3 above, that WRCOG is not performing in accordance with the goals and objectives set forth in Section 4.2 hereof and SoCalGas reasonably determines that WRCOG is not demonstrating the commitment and progress necessary to achieve such goals and objectives in a timely manner, then SoCalGas shall consult and review the performance issues with WRCOG. In the event the parties are unable to reach a mutual resolution, then SoCalGas shall have the unilateral right to reduce, eliminate, or otherwise adjust the WRCOG Budget for the remaining Program year (other than for Program Expenditures previously committed by WRCOG and approved by SoCalGas) by amending the applicable Exhibit A and providing the amended Exhibit A to WRCOG. Pursuant to this Section, any such amended Exhibit A shall automatically be incorporated into this Agreement and take effect immediately upon delivery from SoCalGas to WRCOG. WRCOG Budget adjustments, if any, shall not take place more frequently than every six months.

10.1.4. WRCOG Budget Categories

10.1.5.1 Non-Incentive Budget: The WRCOG Budget is comprised of a non-incentive portion which includes separate categories for Marketing, Education & Outreach and Direct Implementation, all of which are more fully described in the Implementation Plan.

10.1.5.2. Incentive Budget: SoCalGas Incentive Budget: SoCalGas Incentive in this Program is a part of Incentive Budget from its core programs. The Incentive level is up to \$1.50 per therm for the calculated measures. Other Incentives for deemed measures are in accordance with the prescribed Incentives for SoCalGas core programs.

10.1.1. Unless this Agreement is terminated pursuant to Section 25 below, SBCOG shall begin to reconcile actual Program Expenditures against the Reserve Funds by no later than September 1, 2012, at which time WRCOG shall not be entitled to any further reimbursements for Program Expenditures unless and until the Reserve Funds are fully expended. WRCOG shall provide all documentation required under Section 10.4 below evidencing the application of the Reserve Funds.

10.3. Program Expenditures. WRCOG, with SoCalGas prior approval, shall be entitled to spend Gas Surcharge funds, within the limits of the WRCOG Budget on Program Expenditures. WRCOG shall not be entitled to reimbursement of Program Expenditures for any item (i) not specifically identifiable to the Program, (ii) not previously approved by SoCalGas, (iii) not expended within the term of this Agreement, or (iv) not otherwise reimbursable under this Agreement.

10.4. Payment to WRCOG. In order for WRCOG to be entitled to Gas Surcharge funds for Program Expenditures:

10.4.1. WRCOG shall submit monthly activity reports to SoCalGas in a format acceptable to SoCalGas and containing such information as may be required for the reporting requirements set forth in Section 9 above (“Monthly Reports”), by the tenth (10<sup>th</sup>) Calendar Day of the calendar month following performance, setting forth all Program Expenditures.

10.4.2. WRCOG shall submit to SoCalGas, together with any Monthly Report (if required), a monthly invoice for reimbursement of reported Program Expenditures, in a format acceptable to SoCalGas, attaching all documentation reasonably necessary to substantiate the Program Expenditures, including, without limitation, the following:

10.4.2.1. Contractor Costs: Copies of all Contractor invoices. If only a portion of Contractor costs applies to the Program, WRCOG shall clearly indicate the line items or percentage of the invoice amount that should be applied to the Program as provided in Exhibit D.

10.4.2.2. Marketing, Education & Outreach: A copy of each distinct marketing material produced, with quantity of a given marketing material produced and the method of distribution.

10.4.2.3. Other expenditures: As pre-approved by SoCalGas, with sufficient documentation to support the expenditure.

10.4.2.4. Allowable Costs: Only those costs as listed in the Allowable Cost Table contained in the Reporting Requirements attached as Exhibit D can be submitted for payment. All invoices submitted to SoCalGas must report all costs using the allowable cost elements shown on the Allowable Cost Table.

WRCOG understands and acknowledges that all of WRCOG’s non-incentive invoices for the 2020 Program and the Monthly Report shall be submitted to SoCalGas.

10.4.3. SoCalGas reserves the right to reject any WRCOG invoiced amount for any of the following reasons:

10.4.3.1. The invoiced amount, when aggregated with previous Program Expenditures, exceeds the amount budgeted therefore in the WRCOG Budget for such Authorized Work (as set forth in Exhibit A).

10.4.3.2. There is a reasonable basis for concluding that such invoiced amount is unreasonable or is not directly identifiable to or required for the Authorized Work, and/or the 2020 Program.

10.4.3.3. The invoiced amount, in such Utility's sole discretion, contains charges for any item not authorized under this Agreement or by the Commission, or is deemed untimely, unsubstantiated or lacking proper documentation.

10.4.4. WRCOG shall maintain for a period of not less than five (5) years all documentation reasonably necessary to substantiate the Program Expenditures. WRCOG shall promptly provide, upon the reasonable request by SoCalGas, any documentation, records or information in connection with the Program or its Authorized Work.

10.4.5. SoCalGas shall review and either approve, dispute or reject for payment reported Program Expenditures within twenty (20) Calendar Days of receipt of the Monthly Report and corresponding invoice. SoCalGas shall pay all undisputed amounts after the ten (10) Calendar Day period described in Section 10.3, but within thirty (30) Calendar Days of receiving the Monthly Report and corresponding invoice.

10.5. Payment of Incentives. Payment of incentives shall be made in accordance with the applicable SoCalGas program requirements, including terms and conditions, and only after appropriate program documents have been submitted and approved, and the appropriate inspections of each project have been completed to Utility's satisfaction.

10.6. Shifting Funds. SoCalGas may shift funds within the Authorized Partnership Budget among Program participants, and/or may shift funds within the WRCOG Budget among budget categories (Marketing, Education & Outreach, Technical Assistance, Direct Implementation and Incentives), which categories and budget amounts are set forth in Exhibit A. Such shifting may be made by SoCalGas to the maximum extent permitted under, and in accordance with, Commission decisions and rulings to which the Program relates; provided however, that prior to shifting of funds hereunder, the Utility will consult with and review the reasons for such fund shifting with WRCOG.

10.7. Reasonableness of Expenditures. WRCOG shall bear the burden of ensuring that its Program Expenditures are objectively reasonable. The Commission has the authority to review all Program Expenditures for reasonableness. Should the Commission, at any time, issue a finding of unreasonableness as to any Program Expenditure and require a refund or return of the Gas Surcharge funds paid to WRCOG in the reimbursement of such Program Expenditure, then WRCOG shall be solely liable for such refund or return.

## 11. END DATE FOR PROGRAM AND ADMINISTRATIVE ACTIVITIES

Unless this Agreement is terminated pursuant to Section 25 below, or unless otherwise agreed to by the Parties or so ordered by the Commission, the Parties shall complete all Program Administrative activities (as defined in the IPs) and all reporting requirements by no later than March 31, 2021, and all Direct Implementation and Marketing & Outreach activities by no later than December 31, 2020.

## 12. FINAL INVOICES

WRCOG must submit final non-incentive invoices to SoCalGas no later than February 15, 2021.

## 13. INDEMNITY

13.1. Indemnity by WRCOG. WRCOG shall indemnify, defend and hold harmless each other Party, and its respective successors, assigns, affiliates, subsidiaries, current and future parent companies, officers, directors, agents, and employees, from and against any and all expenses, claims, losses, damages, liabilities or actions in respect thereof (including reasonable attorneys' fees) to the extent arising from (a) WRCOG's negligence or willful misconduct in WRCOG's activities under the Program or performance of its obligations hereunder, or (b) WRCOG's breach of this Agreement or of any representation or warranty of WRCOG contained in this Agreement.

13.2. Indemnity by Utility. SoCalGas shall indemnify, defend and hold harmless each other Party, and its respective successors, assigns, affiliates, subsidiaries, current and future parent companies, officers, directors, agents, and employees, from and against any and all expenses, claims, losses, damages, liabilities or actions in respect thereof (including reasonable attorneys' fees) to the extent arising from (a) such Utility's negligence or willful misconduct in such Utility's activities under the Program or performance of its obligations hereunder or (b) such Utility's breach of this Agreement or any representation or warranty of such Utility contained in this Agreement.

13.3. LIMITATION OF LIABILITY. NO PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR STRICT LIABILITY INCLUDING, BUT NOT LIMITED TO, LOSS OF USE OF OR UNDER-UTILIZATION OF LABOR OR FACILITIES, LOSS OF REVENUE OR

ANTICIPATED PROFITS, COST OF REPLACEMENT POWER OR CLAIMS FROM CUSTOMERS, RESULTING FROM A PARTY'S PERFORMANCE OR NONPERFORMANCE OF THE OBLIGATIONS HEREUNDER, OR IN THE EVENT OF SUSPENSION OF THE AUTHORIZED WORK OR TERMINATION OF THIS AGREEMENT.

#### 14. OWNERSHIP OF DEVELOPMENTS

The Parties acknowledge and agree that SoCalGas, on behalf of its Customers, shall own all data, reports, information, manuals, computer programs, works of authorship, designs or improvements of equipment, tools or processes (collectively "Developments") or other written, recorded, photographic or visual materials, or other deliverables produced in the performance of this Agreement; provided, however, that Developments do not include equipment or infrastructure purchased for research, development, education or demonstration related to energy efficiency. Although WRCOG shall retain no ownership, interest, or title in the Developments except as may otherwise be provided in this Agreement, it will have a permanent, royalty free, non-exclusive license to use such Developments.

#### 15. DISPUTE RESOLUTION

15.1. Dispute Resolution. Except as may otherwise be set forth expressly herein, all disputes arising under this Agreement shall be resolved as set forth in this Section 15.

15.2. Negotiation and Mediation. The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between the Parties' authorized representatives. The disputing Party shall give the other Party written notice of any dispute. Within twenty (20) Calendar Days after delivery of such notice, the authorized representatives shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute. If the matter has not been resolved within thirty (30) Calendar Days of the first meeting, any Party may initiate a mediation of the dispute. The mediation shall be facilitated by a mediator that is acceptable to both Parties and shall conclude within sixty (60) Calendar Days of its commencement, unless the Parties agree to extend the mediation process beyond such deadline. Upon agreeing on a mediator, the Parties shall enter into a written agreement for the mediation services with each Party paying a pro rata share of the mediator's fee, if any. The mediation shall be conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association; provided, however, that no consequential damages shall be awarded in any such proceeding and each Party shall bear its own legal fees and expenses.

15.3. Confidentiality. All negotiations and any mediation conducted pursuant to Section 15.2 shall be confidential and shall be treated as compromise and settlement negotiations, to which Section 1152 of the California Evidence Code shall apply, which Section is incorporated in this Agreement by reference.

15.4. Injunctive Relief. Notwithstanding the foregoing provisions, a Party may seek a preliminary injunction or other provisional judicial remedy if in its judgment such action is necessary to avoid irreparable damage or to preserve the status quo.

15.5. Continuing Obligation. Each Party shall continue to perform its obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement.

15.6. Failure of Mediation. If, after good faith efforts to mediate a dispute under the terms of this Agreement as provided in Section 15.2 above, the Parties cannot agree to a resolution of the dispute, any Party may pursue whatever legal remedies may be available to it at law or in equity, before a court of competent jurisdiction and with venue as provided in Section 35.

## 16. REPRESENTATIONS AND WARRANTIES

16.1. Representation of both Parties. Each Party represents and warrants, as of the Effective Date and thereafter during the term of this Agreement, that:

- 16.1.1. The Authorized Work performed by a Party and/or its Contractors shall comply with the applicable requirements of all statutes, acts, ordinances, regulations, codes, and standards of federal, state, local and foreign governments, and all agencies thereof.
- 16.1.2. The Authorized Work performed by a Party and/or its Contractors shall be free of any claim of trade secret, trade mark, trade name, copyright, or patent infringement or other violations of any proprietary rights of any person.
- 16.1.3. Each Party shall conform to the applicable employment practices requirements of (Presidential) Executive Order 11246 of September 24, 1965, as amended and applicable regulations promulgated thereunder.
- 16.1.4. Each Party shall contractually require each Contractor it hires to perform the Authorized Work to indemnify each other Party to the same extent such Party has indemnified each other Party under the terms and conditions of this Agreement.
- 16.1.5. Each Party shall retain, and shall cause its Contractors to retain, all records and documents pertaining to its Authorized Work obligations for a period of not less than five (5) years beyond the termination or expiration of this Agreement.

- 16.1.6. Each Party shall contractually require all of its Contractors to provide the other Parties reasonable access to relevant records and staff of Contractors concerning the Authorized Work.
- 16.1.7. Each Party will maintain, and may require its Contractors to maintain, the following insurance coverage or self insurance coverage, at all times during the term of this Agreement, with companies having an A.M. Best rating of “A-, VII” or better, or equivalent:
  - 16.1.7.1 Workers’ Compensation: statutory minimum.
  - 16.1.7.2. Employer’s Liability coverage: \$1 million minimum.
  - 16.1.7.3. Commercial General Liability: \$2 million minimum per occurrence/\$4 million minimum aggregate.
  - 16.1.7.4. Commercial or Business Auto (if applicable): \$1 million minimum.
  - 16.1.7.5. Professional Liability (if applicable): \$1 million minimum.
- 16.1.8 Each Party shall take all reasonable measures, and shall require its Contractors to take all reasonable measures, to ensure that the Program funds in its possession are used solely for Authorized Work, which measures shall include the highest degree of care that such Party uses to control its own funds, but in no event less than a reasonable degree of care.

## 17. PROOF OF INSURANCE

- 17.1. Evidence of Insurance. Upon request at any time during the term of this Agreement, a Party shall provide evidence that its insurance policies (and the insurance policies of any Contractor, as provided in Section 16.1.7) are in full force and effect, and provide the coverage and limits of insurance that the Party has represented and warranted herein to maintain at all times during the term of this Agreement.
- 17.2. Self-Insurance. If a Party is self-insured, such Party shall upon request forward documentation to the other Party that demonstrates to the other Party’s satisfaction that such Party self-insures as a matter of normal business practice before commencing the Authorized Work. Each Party will accept reasonable proof of self-insurance comparable to the above requirements.
- 17.3. Notice of Claims. Each Party shall immediately report to the other Party, and promptly thereafter confirm in writing, the occurrence of any injury, loss or damage incurred by such Party or its Contractors or such Party’s receipt of notice or knowledge of any claim by a third party of any occurrence that might give rise to such a claim over \$100,000.

## 18. CUSTOMER CONFIDENTIALITY REQUIREMENTS

- 18.1. Non-Disclosure. WRCOG, its employees, agents and Contractors shall not disclose any Confidential Customer Information (defined below) to any third party during the term of this Agreement or after its completion, without WRCOG having obtained the prior written consent of such Utility, except as provided by law, lawful court order or subpoena and provided WRCOG gives such Utility advance written notice of such order or subpoena.
- 18.2. Confidential Customer Information. “Confidential Customer Information” includes, but is not limited to, a Utility customer’s name, address, telephone number, account number and all billing and usage information, as well as any Utility customer’s information that is marked “confidential”. If WRCOG is uncertain whether any information should be considered Confidential Customer Information, WRCOG shall contact the Utility prior to disclosing the customer information.
- 18.3. Non-Disclosure Agreement. Prior to any approved disclosure of Confidential Customer Information, Utility may require WRCOG to enter into a nondisclosure agreement.
- 18.4. Commission Proceedings. This provision does not prohibit WRCOG from disclosing non-confidential information concerning the Authorized Work to the Commission in any Commission proceeding, or any Commission-sanctioned meeting or proceeding or other public forum.
- 18.5. Return of Confidential Information. Confidential Customer Information (including all copies, backups and abstracts thereof) provided to WRCOG by Utility during the performance of this Agreement and any and all documents and materials containing such Confidential Customer Information, whether provided by Utility or produced by WRCOG based on such Confidential Customer Information, (including all copies, backups and abstracts thereof), shall be returned to Utility or destroyed by WRCOG within ten (10) Business Days of the expiration or termination of this Agreement, with WRCOG to provide written certification to Utility confirming return or destruction of all such information, and at any time otherwise requested in writing by Utility.
- 18.6. Remedies. The Parties acknowledge that Confidential Customer Information is valuable and unique, and that damages would be an inadequate remedy for breach of this Section 18 and the obligations of the Parties are specifically enforceable. Accordingly, the Parties agree that in the event of a breach or threatened breach of this Section 18 by any Party, the Party whose Confidential Customer Information is implicated in such breach shall be entitled to seek and obtain an injunction preventing such breach, without the necessity of proving damages or posting any bond. Any such relief shall be in addition to, and not in lieu of, money damages or any other available legal or equitable remedy.

## 19. TIME IS OF THE ESSENCE

The Parties hereby acknowledge that time is of the essence in performing their obligations under this Agreement. Failure to comply with milestones and goals stated in this Agreement, including



but not limited to those set forth in Exhibit A of this Agreement, may constitute a material breach of this Agreement, resulting in its termination, payments being withheld, WRCOG Budgets being reduced or adjusted, funding redirected by SoCalGas to other programs or partners, or other Program modifications as determined by SoCalGas or as directed by the Commission.

## 20. CUSTOMER COMPLAINT RESOLUTION PROCESS

The Parties shall develop and implement a process for the management and resolution of Customer complaints in an expedited manner including, but not limited to: (a) ensuring adequate levels of professional Customer service staff; (b) direct access of Customer complaints to supervisory and/or management personnel; (c) documenting each Customer complaint upon receipt; and (d) directing any Customer complaint that is not resolved within five (5) Calendar Days of receipt by WRCOG to Utility.

## 21. RESTRICTIONS ON MARKETING

21.1. Use of Commission's Name. No Party may use the name of the Commission on marketing materials for the Program without prior written approval from the Commission staff. In order to obtain this written approval, SoCalGas must send a copy of the planned materials to the Commission requesting approval to use the Commission name and/or logo. Notwithstanding the foregoing, the Parties shall disclose their source of funding for the Program by stating prominently on marketing materials that the Program is "funded by California ratepayers under the auspices of the California Public Utilities Commission."

21.2. Use of Utility's Name. WRCOG must receive prior review and written approval from SoCalGas for the use of such Utility's name or logo on any marketing or other Program materials. WRCOG shall allow five (5) Business Days for such Utility review and approval. If WRCOG has not received a response from Utility within the five (5) Business Day period, then it shall be deemed that SoCalGas has disapproved such use.

21.3. Use of WRCOG's Name. SoCalGas must receive prior review and written approval from WRCOG for the use of WRCOG's name or logo on any marketing or other Program materials. The Utility shall allow five (5) Business Days for WRCOG's review and approval. If the Utility has not received a response from WRCOG within the five (5) Business Day period, then it shall be deemed that WRCOG has disapproved such use.

## 22. RIGHT TO AUDIT

The Parties agree that the other Party, and/or the Commission, or their respective designated representatives, shall have the right to review and to copy any records or supporting documentation pertaining to the performance of this Agreement or the Authorized Work, during normal business hours, and to allow reasonable access in order to interview any staff of WRCOG or the Utility who might reasonably have information related to such records. Further, the Parties agrees to include a similar right of the other Party and/or the Commission to audit records and

interview staff in any subcontract related to performance of the Authorized Work or this Agreement.

## 23. STOP WORK PROCEDURES

SoCalGas may suspend the Authorized Work being performed in their service territory for good cause, including, without limitation, concerns relating to program funding, implementation or management of the Program, safety concerns, fraud or excessive customer complaints, by notifying WRCOG in writing to suspend any Authorized Work being performed in SoCalGas's service territory. Any performance of Authorized Work by WRCOG in SoCalGas's service territory shall stop immediately, and WRCOG may resume its Authorized Work only upon receiving written notice from such Utility that it may resume its Authorized Work.

## 24. MODIFICATIONS

Except as otherwise provided in this Agreement, changes to this Agreement shall be only be valid through a written amendment to this Agreement signed by all Parties.

## 25. TERM AND TERMINATION

25.1. Term. This Agreement shall be effective as of the Effective Date. Subject to Section 37, this Agreement shall continue in effect until December 31, 2020 unless otherwise terminated in accordance with the provisions of Section 25.2 or 30 below.

25.2. Termination for Breach. Any Party may terminate this Agreement in the event of a material breach by the other Party of any of the material terms or conditions of this Agreement, provided such breach is not remedied within sixty (60) days written notice to the breaching Party thereof from the non-breaching Party or otherwise resolved pursuant to the dispute resolution provisions set forth in Section 15 herein.

25.3. Effect of Termination. Any termination by WRCOG or by SoCalGas shall constitute a termination of this Agreement in its entirety (subject, however, to the survival provisions of Section 37).

25.3.1. Subject to the provisions of this Agreement, WRCOG shall be entitled to Gas Surcharge Funds for all Program Expenditures incurred or accrued pursuant to contractual or other legal obligations for Authorized Work up to the effective date of termination of this Agreement, provided that any Monthly Reports or other reports, invoices, documents or information required under this Agreement or by the Commission are submitted in accordance with the terms and conditions of this Agreement. The provisions of this Section 25.3.1 shall be WRCOG's sole compensation resulting from any termination of this Agreement.

25.3.2. In the event of termination of this Agreement in its entirety, WRCOG shall stop any Authorized Work in progress and take action as directed by SoCalGas to bring the Authorized Work to an orderly conclusion, and the Parties

shall work cooperatively to facilitate the termination of operations and of any applicable contracts for Authorized Work.

## 26. WRITTEN NOTICES

Any written notice, demand or request required or authorized in connection with this Agreement, shall be deemed properly given if delivered in person or sent by **email**, nationally recognized overnight courier, or first class mail, postage prepaid, to the address specified below, or to another address specified in writing by a Party as follows:

Notices shall be deemed received (a) if personally or hand-delivered, upon the date of delivery to the address of the person to receive such notice if delivered before 5:00 p.m., or otherwise on the Business Day following personal delivery; (b) if mailed, three (3) Business Days after the date the notice is postmarked; (c) if by overnight courier, on the Business Day following delivery to the overnight courier within the time limits set by that courier for next-day delivery; or (d) if by e-mail, followed by telephone notification of transmission to the other Party by the noticing Party.

### **WRCOG:**

Western Riverside Council of Governments  
Name, Title  
Street  
City, CA zip  
Tel:  
Fax:  
Email:

### **SoCalGas:**

Southern California Gas Company  
Ana Aceves, Program Manager  
555 W. Fifth Street, GT20B4  
Los Angeles, CA 90013  
Tel: (213) 244-2220  
Fax: (213) 244-8252  
Email: aaceves2@socalgas.com

Notices shall be deemed received (a) if personally or hand-delivered, upon the date of delivery to the address of the person to receive such notice if delivered before 5:00 p.m., or otherwise on the Business Day following personal delivery; (b) if mailed, three (3) Business Days after the date the notice is postmarked; (c) if by facsimile, upon electronic confirmation of transmission, followed by telephone notification of transmission by the noticing Party; or (d) if by overnight courier, on the Business Day following delivery to the overnight courier within the time limits set by that courier for next-day delivery; or (e) if by e-mail, with electronic confirmation of transmission, followed by telephone notification of transmission by the noticing Party.

## 27. CONTRACTS

Each Party shall, at all times, be responsible for its Authorized Work obligations, and acts and omissions of Contractors, subcontractors and persons directly or indirectly employed by such Party for services in connection with the Authorized Work. Each Party shall require its Contractors to be bound by terms and conditions which are the same or similar to those contained in this Agreement, as the same may be applicable to Contractors.

## 28. RELATIONSHIP OF THE PARTIES

The Parties shall act in an independent capacity and not as officers or employees or agents of each other. This Agreement is not intended to and does not form any “partnership” within the meaning of the California Uniform Partnership Act of 1994 or otherwise.

## 29. NON-DISCRIMINATION CLAUSE

No Party shall unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Each Party shall ensure that the evaluation and treatment of its employees and applicants for employment are free from such discrimination and harassment, and shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a)-(f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a)-(f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

Each Party represents and warrants that it shall include the substance of the nondiscrimination and compliance provisions of this clause in all subcontracts for its Authorized Work obligations.

## 30. COMMISSION/UTILITY AUTHORITY TO MODIFY OR TERMINATE

This Agreement and the Program shall at all times be subject to the discretion of the Commission, including, but not limited to, review and modifications, excusing a Party's performance hereunder, or termination as the Commission may direct from time to time in the reasonable exercise of its jurisdiction. In addition, in the event that any ruling, decision or other action by the Commission adversely impacts the Program, the Utility shall have the right to terminate this Agreement in accordance with the provisions of Section 25 above by providing at least ten (10) days' prior written notice to WRCOG setting forth the effective date of such termination. Notwithstanding the right to terminate, as partners in the Program, the Parties agree to share in the responsibility and to abide by Commission energy policy supporting this Program. The Parties agree to use all reasonable efforts to minimize the adverse impact to a Party resulting from such Commission actions, including but not limited to modification of the required energy savings goals set forth in Section 4.2 which are fundamental to this Agreement.

In the event that the EM&V plan referred to in Section 6.5, when issued by the Commission, adversely impacts any Party to this Agreement and the issues cannot be resolved through negotiation among the Parties, then any Party shall have the right to terminate this Agreement in accordance with the provisions of Section 25 above by providing at least ten (10) days' prior written notice to the other Parties setting forth the effective date of such termination

#### 31. NON-WAIVER

None of the provisions of this Agreement shall be considered waived by either Party unless such waiver is specifically stated in writing.

#### 32. ASSIGNMENT

No Party shall assign this Agreement or any part or interest thereof, without the prior written consent of the other Party, and any assignment without such consent shall be void and of no effect. Notwithstanding the foregoing, if Utility is requested or required by the Commission to assign its rights and/or delegate its duties hereunder, in whole or in part, such assignment or delegation shall not require WRCOG's consent and such Utility shall be released from all obligations hereunder arising after the effective date of such assignment, both as principal and as surety.

#### 33. FORCE MAJEURE

Failure of a Party to perform its obligations under this Agreement by reason of any of the following shall not constitute an event of default or breach of this Agreement: strikes, picket lines, boycott efforts, earthquakes, fires, floods, war (whether or not declared), revolution, riots, insurrections, acts of God, acts of government (including, without limitation, any agency or department of the United States of America), acts of terrorism, acts of the public enemy, scarcity, or rationing of gasoline or other fuel or vital products, inability to obtain materials or labor, or other causes which are reasonably beyond the control of such Party.

#### 34. SEVERABILITY

In the event that any of the terms, covenants or conditions of this Agreement, or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court, regulatory agency, or other regulatory body having jurisdiction, all other terms, covenants, or conditions of this Agreement and their application shall not be affected thereby, but shall remain in full force and effect, unless a court, regulatory agency, or other regulatory body holds that the provisions are not separable from all other provisions of this Agreement.

#### 35. GOVERNING LAW; VENUE

This Agreement shall be interpreted, governed, and construed under the laws of the State of California as if executed and to be performed wholly within the State of California. Any action brought to enforce or interpret this Agreement shall be filed in Los Angeles County, California.

#### 36. SECTION HEADINGS

Section headings appearing in this Agreement are for convenience only and shall not be construed as interpretations of text.

#### 37. SURVIVAL

Notwithstanding completion or termination of this Agreement, the Parties shall continue to be bound by the provisions of this Agreement which by their nature survive such completion or termination. Such provisions shall include, but are not limited to, Sections 9, 10, 13, 14, 15, 18, 22, 35 and 38 of this Agreement.

#### 38. ATTORNEYS' FEES

Except as otherwise provided herein, in the event of any legal action or other proceeding between the Parties arising out of this Agreement or the transactions contemplated herein, each Party in such legal action or proceeding shall bear its own costs and expenses incurred therein, including reasonable attorneys' fees.

#### 39. COOPERATION

Each Party agrees to cooperate with the other Party in whatever manner is reasonably required to facilitate the successful completion of this Agreement.

#### 40. ENTIRE AGREEMENT

This Agreement (including all of the Exhibits and Attachments hereto which are incorporated into this Agreement by this reference) contains the entire agreement and understanding between the Parties and merges and supersedes all prior agreements, representations and discussions pertaining to the subject matter of this Agreement.

#### 41. COUNTERPARTS.

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall be deemed to be one and the same instrument.

[INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

**WRCOG:**

**FORMAL IMPLEMENTER'S NAME**

---

By: NAME  
Title: Chair of WRCOG  
Date:

**SoCalGas:**

**SOUTHERN CALIFORNIA GAS COMPANY**

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By: Becky Estrella  
Title: Public Sector Manager, Public Sector Programs & Partnerships  
Date:



## **EXHIBIT A**

### **WESTERN RIVERSIDE ENERGY EFFICIENCY PARTNERSHIP and SOUTHERN CALIFORNIA GAS COMPANY**

#### **2020 GOALS & PROGRAM BUDGET**

|                                          |
|------------------------------------------|
| <b>2020 Energy Savings (Gross Therm)</b> |
| <b>6,200</b>                             |

Other non-resource goals are contained in the SoCalGas IP in Exhibit B.

#### **Estimated Allocations for WRCOG Partnership Authorized Budget**

|                       |                  |
|-----------------------|------------------|
|                       | <b>2020</b>      |
| Administration        | \$10,000         |
| Marketing & Outreach  | \$10,400         |
| Direct Implementation | \$88,000         |
| <b>Total Budget</b>   | <b>\$108,400</b> |

- (1) Incentive is a part of SoCalGas Core Program's Incentive Budget. The incentive level is \$1.50 per therm for calculated measures. Incentives for deemed measures are in accordance with the incentive levels for the applicable SoCalGas Core Programs.

**EXHIBIT B**

**SOUTHERN CALIFORNIA GAS COMPANY  
IMPLEMENTATION PLAN**

**EXHIBIT C**

**EM&V PLAN**

## **EXHIBIT D**

### **REPORTING REQUIREMENTS**

#### **1. Reporting**

1.1 WRCOG shall provide SoCalGas with the requisite information, in accordance with the Agreement, on the prior month's activities, accomplishments and expenditures related to its respective Authorized Work or Approved Project obligations, for purposes of preparing the Monthly, Quarterly and Annual Reports.

1.2 Utility shall provide WRCOG in accordance with the provisions of the Agreement, a copy of its filed Monthly Report within five (5) Business Days after filing.

#### **2. Quarterly Report**

##### **2.1 Portfolio Benefit/Cost Metrics (Cumulative to Date)**

- a. Total cost to ratepayers (TRC, administrative cost and incremental cost per the Standard Practice Manual)
- b. Total savings to ratepayers (TRC)
- c. Net benefits to ratepayers (TRC)
- d. TRC Ratio
- e. PAC Ratio
- f. Cost per kWh saved (cents/kWh) (PAC)
- g. Cost per therm savings (\$/therm) (PAC)

**2.2 Measure List** –A spreadsheet table for each program or program element<sup>1</sup> containing each measure installed, service rendered, or measure/service committed during the report month for which the Program intends to claim savings. WRCOG should include any new measures as part of the quarterly report. The list should display each measure as it is tracked and recorded by WRCOG, and should include the following parameters at a minimum:

- a. Name of Measure or Service Rendered
- b. Measure or Service Description
- c. Customer name and applicable Utility account number
- d. Installation site address
- e. Affected square footage
- f. Applicable NAICS code
- g. DEER Measure ID (where applicable)
- h. DEER Run ID (where applicable)
- i. Unit Definition
- j. Unit gross kWh savings
- k. Unit gross Therms savings
- l. Unit gross kW demand reduction
- m. Incremental Measure Cost
- n. Net to Gross Ratio
- o. Effective Useful Life
- p. Detailed end use classification (using classification scheme in section 6)
- q. Quantity Installed during report period

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<sup>1</sup> Identification of distinct programs and program elements may be determined by CPUC staff at a later time.

- r. Quantity Committed during report period
- s. Rebate amount paid
- t. Market Sector classification (using classification scheme in section 6)
- u. Market Segment classification (using classification scheme in section 6)

**2.3 Expenditures** for the program per cost reporting format below (Section 7 below contains list of allowable costs)

- h. Commission Authorized Budget
- i. Operating Budget
- j. Total Expenditures
  - i. Administrative Cost
  - ii. Marketing/Advertising/Outreach Costs
  - iii. Direct Implementation

**2.4 GBI Report** – Progress towards achieving goals of the Green Building Initiative, if applicable (Cumulative results)

- a. Estimate of expenditures on program activities that contribute towards GBI goals (including both public and non-public commercial participants)
- b. Net cumulative achieved kW, kWh and Therm savings contributing towards GBI goals.
- c. Net achieved kW, kWh and Therm savings contributing towards GBI goals for the quarter.
- d. A description of non-resource program activities that support the Green Building Initiative, including marketing and outreach activities.
- e. Estimate of square footage affected by program activities supporting the Green Building Initiative
- f. Items b, c and e above disaggregated by:
  - i. 2-digit NAICS code
  - ii. Aggregated end use classification (using classification scheme in section 5)

**2.5 Program Narratives** – For the program, a description of the program activities occurring during the quarter.

- k. Administrative activities
- l. Marketing activities
- m. Direct Implementation activities
- n. Implementer's assessment of program performance and program status (is the program on target, exceeding expectations, or falling short of expectations, etc.)
- o. For non-resource programs and program elements (programs or program elements that are not claiming direct energy impacts), a discussion of the status of program achievements.
- p. Discussion of changes in program emphasis (new program elements, less or more emphasis on a particular delivery strategy, program elements discontinued, measure discontinued, etc.)
- q. Discussion of near term plans for program over the coming months (e.g., marketing and outreach efforts that are expected to significantly increase program participation, etc.)
- r. Changes to staffing and staff responsibilities, if any
- s. Changes to contacts, if any
- t. Changes to subcontractors and subcontractor responsibilities, if any
- u. Number of customer complaints received
- v. Program Theory and Logic Model if not already provided in the program's implementation plan, or if revisions have been made.

**2.6 Quarterly Reports** – Each Utility shall provide WRCOG a copy of its filed Quarterly Report within five (5) Business Days after filing with the Commission in accordance with the Agreement.

### 3. Annual Reports

The format and content of the annual report is expected to be developed by the CPUC in 2010. WRCOG will be required to fulfill these reporting obligations for their program.

### 4. Reporting Terminology Definitions

**Adopted Program Budget** – The program budget as it is adopted by the Commission. Inclusive of costs (+/-) recovered from other sources.

**Operating Program Budget** – The program budget as it is defined by the program administrators for internal program budgeting and management purposes. Inclusive of costs (+/-) recovered from other sources.

**Direct Implementation Expenditures** – Costs associated with activities that are a direct interface with the customer or program participant or recipient (e.g., contractor receiving training). *(Note: This is still an open issue, the items included in this definition may be changed by the CPUC pending discussion on the application of the State’s Standard Practice Manual.)*

**Report Month** – The month for which a particular monthly report is providing data and information. For example, the report month for a report covering the month of July 2010, but prepared and delivered later than July 2010, would be July 2010.

**Program Strategy** – The method deployed by a program in order to obtain program participation.

**Program Element** – A subsection of a program, or body of program activities within which a single program strategy is employed. (Example: A body of program activities employing both an upstream rebate approach and a direct install approach is not a single program element.)

### 5. Measure Classification

#### Measure End-Use Classification

Each energy efficiency measure reported should be classified into one of the following end-use categories

#### **Residential End Uses**

##### **Detailed End Use**

Clothes Dryer  
Clothes Washer  
Consumer Electronics  
Cooking  
Dishwasher  
Other Appliance  
Building Shell  
Space Cooling  
Space Heating  
Interior Lighting  
Exterior Lighting  
Pool Pump

##### **Aggregated End Use**

Appliances  
Appliances  
Consumer Electronics  
Cooking Appliances  
Appliances  
Appliances  
HVAC  
HVAC  
HVAC  
Lighting  
Lighting  
Pool Pump

|                                              |               |
|----------------------------------------------|---------------|
| Freezers                                     | Refrigeration |
| Refrigeration                                | Refrigeration |
| Water Heating                                | Water Heating |
| Other (User Entered Text String Description) | Other         |

### ***Nonresidential End Uses***

#### ***Detailed End Use***

Building Shell  
Space Cooling  
Space Heating  
Ventilation  
Daylighting  
Interior Lighting  
Exterior Lighting  
Office Equipment  
Compressed Air  
Cooking  
Food Processing  
Motors  
Process Cooling  
Process Heat  
Process Steam  
Pumps  
Refrigeration  
Other (User Entered Text String Description)

#### ***Aggregated End Use***

HVAC  
HVAC  
HVAC  
HVAC  
Lighting  
Lighting  
Lighting  
Office  
Process  
Process  
Process  
Process  
Process  
Process  
Process  
Refrigeration  
Other

### **Measure Market Sector/Market Segment Classification**

Where reports require market sector or market segment classification, the following classification scheme should be used.

#### ***Market Sector***

Residential  
Single Family  
Multi Family  
Mobile Homes  
Nonresidential  
Commercial  
Industrial  
Agricultural  
Unknown

#### ***Market Segment***

NA  
NA  
NA  
NA  
NAICS CODE (greater than 2 digit not required)  
NAICS CODE (greater than 2 digit not required)  
NAICS CODE (greater than 2 digit not required)  
NAICS CODE (greater than 2 digit not required)  
NA

## 6. Allowable Costs

| <b>Allowable Costs Table</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
| The cost items listed on the Allowable Costs sheet are the only costs that can be claimed for ratepayer-funded energy efficiency work. The costs reported should be only for costs actually expended. Any financial commitments are to be categorized as commitments. If the reporting entity does not have a cost as listed on the cost reporting sheet, then no cost is to be reported for that item. These Allowable Cost elements are to be used whenever costs are invoiced or reported to the program administrator. If there is a desire to include additional Allowable Cost elements, the program administrator should be contacted in order for the administrator to seek approval from the CPUC. |                                                                  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>3/30/2006</b>                                                 |
| <b>Cost Categories</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>Allowable Costs</b>                                           |
| <b>Administrative Cost Category</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>Managerial and Clerical Labor</b>                             |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Clerical                                             |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Program Design                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Program Development                                  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Program Planning                                     |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Program/Project Management                           |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Staff Management                                     |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Staff Supervision                                    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Clerical                                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Program Design                             |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Program Development                        |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Program Planning                           |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Program/Project Management                 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Staff Management                           |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Staff Supervision                          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Human Resource Support and Development</b>                    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Human Resources                                      |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Staff Development and Training                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Benefits - Administrative Labor                              |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Benefits - Direct Implementation Labor                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Benefits - Marketing/Advertising/Outreach Labor              |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Payroll Tax - Administrative Labor                           |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Payroll Tax - Administrative Labor                           |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Payroll Tax - Administrative Labor                           |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Pension - Administrative Labor                               |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Pension - Direct Implementation Labor                        |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Pension - Marketing/Advertising/Outreach Labor               |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Human Resources                            |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Staff Development and Training             |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Benefits - Administrative Labor                    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Benefits - Direct Implementation Labor             |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Benefits - Marketing/Advertising/Outreach Labor    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Payroll Tax - Administrative Labor                 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Payroll Tax - Direct Implementation Labor          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Payroll Tax - Marketing/Advertising/Outreach Labor |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Pension - Administrative Labor                     |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Pension - Direct Implementation Labor              |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Pension - Marketing/Advertising/Outreach Labor     |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Travel and Conference Fees</b>                                |

## Allowable Costs Table

The cost items listed on the Allowable Costs sheet are the only costs that can be claimed for ratepayer-funded energy efficiency work. The costs reported should be only for costs actually expended. Any financial commitments are to be categorized as commitments. If the reporting entity does not have a cost as listed on the cost reporting sheet, then no cost is to be reported for that item. These Allowable Cost elements are to be used whenever costs are invoiced or reported to the program administrator. If there is a desire to include additional Allowable Cost elements, the program administrator should be contacted in order for the administrator to seek approval from the CPUC.

3/30/2006

### Cost Categories

### Allowable Costs

IOU Conference Fees

IOU Labor - Conference Attendance

IOU Travel - Airfare

IOU Travel - Lodging

IOU Travel - Meals

IOU Travel - Mileage

IOU Travel - Parking

IOU Travel - Per Diem for Misc. Expenses

Subcontractor - Conference Fees

Subcontractor Labor - Conference Attendance

Subcontractor - Travel - Airfare

Subcontractor - Travel - Lodging

Subcontractor - Travel - Meals

Subcontractor - Travel - Mileage

Subcontractor - Travel - Parking

Subcontractor - Travel - Per Diem for Misc. Expenses

### **Overhead (General and Administrative) - Labor and Materials**

IOU Equipment Communications

IOU Equipment Computing

IOU Equipment Document Reproduction

IOU Equipment General Office

IOU Equipment Transportation

IOU Food Service

IOU Office Supplies

IOU Postage

IOU Labor - Accounting Support

IOU Labor - Accounts Payable

IOU Labor - Accounts Receivable

IOU Labor - Administrative

IOU Labor - Facilities Maintenance

IOU Labor - Materials Management

IOU Labor - Procurement

IOU Labor - Shop Services

IOU Labor - Transportation Services

IOU Labor - Automated Systems

IOU Labor - Communications

IOU Labor - Information Technology

IOU Labor - Telecommunications

Subcontractor Equipment Communications

Subcontractor Equipment Computing

Subcontractor Equipment Document Reproduction

Subcontractor Equipment General Office



**Allowable Costs Table**

The cost items listed on the Allowable Costs sheet are the only costs that can be claimed for ratepayer-funded energy efficiency work. The costs reported should be only for costs actually expended. Any financial commitments are to be categorized as commitments. If the reporting entity does not have a cost as listed on the cost reporting sheet, then no cost is to be reported for that item. These Allowable Cost elements are to be used whenever costs are invoiced or reported to the program administrator. If there is a desire to include additional Allowable Cost elements, the program administrator should be contacted in order for the administrator to seek approval from the CPUC.

**3/30/2006****Cost Categories****Allowable Costs**

|  |                                               |
|--|-----------------------------------------------|
|  | Subcontractor Equipment Transportation        |
|  | Subcontractor Food Service                    |
|  | Subcontractor Office Supplies                 |
|  | Subcontractor Postage                         |
|  | Subcontractor Labor - Accounting Support      |
|  | Subcontractor Labor - Accounts Payable        |
|  | Subcontractor Labor - Accounts Receivable     |
|  | Subcontractor Labor - Facilities Maintenance  |
|  | Subcontractor Labor - Materials Management    |
|  | Subcontractor Labor - Procurement             |
|  | Subcontractor Labor - Shop Services           |
|  | Subcontractor Labor - Administrative          |
|  | Subcontractor Labor - Transportation Services |
|  | Subcontractor Labor - Automated Systems       |
|  | Subcontractor Labor - Communications          |
|  | Subcontractor Labor - Information Technology  |
|  | Subcontractor Labor - Telecommunications      |

**Marketing/Advertising/Outreach Cost Category**

|  |                                         |
|--|-----------------------------------------|
|  | IOU - Advertisements / Media Promotions |
|  | IOU - Bill Inserts                      |
|  | IOU - Brochures                         |
|  | IOU - Door Hangers                      |
|  | IOU - Print Advertisements              |
|  | IOU - Radio Spots                       |
|  | IOU - Television Spots                  |
|  | IOU - Website Development               |
|  | IOU Labor - Marketing                   |
|  | IOU Labor - Media Production            |
|  | IOU Labor - Business Outreach           |
|  | IOU Labor - Customer Outreach           |
|  | IOU Labor - Customer Relations          |
|  | Subcontractor - Bill Inserts            |
|  | Subcontractor - Brochures               |
|  | Subcontractor - Door Hangers            |
|  | Subcontractor - Print Advertisements    |
|  | Subcontractor - Radio Spots             |
|  | Subcontractor - Television Spots        |
|  | Subcontractor - Website Development     |
|  | Subcontractor Labor - Marketing         |
|  | Subcontractor Labor - Media Production  |
|  | Subcontractor Labor - Business Outreach |
|  | Subcontractor Labor - Customer Outreach |

| <b>Allowable Costs Table</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
| The cost items listed on the Allowable Costs sheet are the only costs that can be claimed for ratepayer-funded energy efficiency work. The costs reported should be only for costs actually expended. Any financial commitments are to be categorized as commitments. If the reporting entity does not have a cost as listed on the cost reporting sheet, then no cost is to be reported for that item. These Allowable Cost elements are to be used whenever costs are invoiced or reported to the program administrator. If there is a desire to include additional Allowable Cost elements, the program administrator should be contacted in order for the administrator to seek approval from the CPUC. |                                                                  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>3/30/2006</b>                                                 |
| <b>Cost Categories</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>Allowable Costs</b>                                           |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Customer Relations                         |
| <b>Direct Implementation Cost Category</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Financial Incentives to Customers</b>                         |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Activity - Direct Labor</b>                                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Curriculum Development                               |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Customer Education and Training                      |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Customer Equipment Testing and Diagnostics           |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Facilities Audits                                    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Facilities Audits                          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Curriculum Development                     |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Customer Education and Training            |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Customer Equipment Testing and Diagnostics |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Installation and Service - Labor</b>                          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Customer Equipment Repair and Servicing              |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Measure Installation                                 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Customer Equipment Repair and Servicing    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Customer Equipment Repair and Servicing    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Direct Implementation Hardware and Materials</b>              |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Audit Applications and Forms                                 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Direct Implementation Literature                             |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Education Materials                                          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Energy Measurement Tools                                     |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Installation Hardware                                        |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor - Direct Implementation Literature                 |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor - Education Materials                              |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor - Energy Measurement Tools                         |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor - Installation Hardware                            |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor - Audit Applications and Forms                     |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Rebate Processing and Inspection - Labor and Materials</b>    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Field Verification                                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Site Inspections                                     |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Labor - Rebate Processing                                    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IOU Rebate Applications                                          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Field Verification                         |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor Labor - Rebate Processing                          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Subcontractor - Rebate Applications                              |

# Item 5.D

Western Riverside Energy  
Partnership Program Activities  
Update

## Attachment 2

Holiday Light Exchange & Energy  
Efficiency Kit Giveaway Flyer

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## Western Riverside Energy Partnership 2019 Holiday LED Light Exchange & Energy Efficiency Kit Giveaway

*Celebrate the holidays while saving money and energy!*

Join the Western Riverside Council of Governments (WRCOG) for its 6th Annual LED Holiday Light Exchange & Energy Efficiency Kit Give-away! In partnership with SCE and SoCalGas, the Program provides residents in Western Riverside County the opportunity to exchange old incandescent holiday lights for new energy efficient, LED holiday lights. The Energy Efficiency Kits contain a low-flow showerhead & three faucet aerators that assist with water and gas savings!

This opportunity is available at **NO COST** to all SCE & SoCalGas customers in Western Riverside County!

**Participants must bring:**

1. Old, inefficient incandescent holiday lights. Up to **TWO** strands can be exchanged.
2. A recent copy of SCE / SoCalGas monthly bill (or proof of electronic bill payment).
3. A license or picture identification matching customer name on the bill.

### 2019 Community Holiday Events

| Date                  | Event                            | Location                                                                                  | Time                   |
|-----------------------|----------------------------------|-------------------------------------------------------------------------------------------|------------------------|
| Monday, November 18   | Christmas Tree Lighting Ceremony | City of Calimesa<br>Norton Younglove Senior Center,<br>908 Park Ave. Calimesa, CA 92320   | 5:00 p.m. - 6:30 p.m.  |
| Saturday, December 7  | Festival of Trees                | City of Murrieta<br>Town Square Park,<br>Murrieta, CA 92562                               | 5:00 p.m. - 7:00 p.m.  |
| Saturday, December 7  | Christmas in the Park            | City of Hemet<br>Gibbel Park, 2500 W Florida Ave.<br>Hemet, CA 92545                      | 8:00 a.m. - 12:00 p.m. |
| Saturday, December 7  | Winter Wonderland                | City of Eastvale<br>Eastvale Community Center, 13820<br>Schleisman Rd. Eastvale, CA 92880 | 3:00 p.m. - 9:00 p.m.  |
| Saturday, December 14 | Breakfast with Santa             | City of Wildomar,<br>Fire Station 61, 32627 Gruwell Street<br>Wildomar CA 92595           | 8:00 a.m. - 11:00 a.m. |

For more information, contact Anthony Segura, WRCOG, at (951) 405-6733 or [asegura@wrcog.us](mailto:asegura@wrcog.us)



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# Western Riverside Council of Governments

## Executive Committee

### Staff Report

**Subject:** Finance Department Activities Update

**Contact:** Andrew Ruiz, Chief Financial Officer, [aruiz@wrcog.us](mailto:aruiz@wrcog.us), (951) 405-6741

**Date:** December 2, 2019

*The purpose of this item is to provide an update on the Fiscal Year (FY) 2018/2019 Agency Audit and the Agency Financial Report summary through September 2019.*

#### **Requested Action:**

1. Receive and file.

#### **FY 2018/2019 Agency Audit**

WRCOG's annual Agency Interim Audit was completed on June 12, 2019. WRCOG utilizes the services of the audit firm Rogers, Anderson, Malody, and Scott, LLP (RAMS) to conduct its financial audit. The first visit is known as the "interim" audit, which involves preliminary audit work that is conducted prior to fiscal year end. The interim audit tasks are conducted in order to compress the period needed to complete the final audit after fiscal year end. In late September, RAMS returned to finish its second round, which is known as "fieldwork." The final Comprehensive Annual Financial Report (Report) is expected to be issued by the end of November 2019. The draft Report will be provided to the Finance Directors Committee as soon as it is received so that the Committee members can provide comments. Once comments from the Finance Directors are received, staff will present the Report to the Administration & Finance Committee in January 2020, with the Executive Committee expected to receive the report no later than at its February 2020 meeting.

#### **Financial Report Summary Through September 2019**

The Agency Financial Report summary through September 2019, a monthly overview of WRCOG's financial statements in the form of combined Agency revenues and costs, is provided as Attachment 1.

#### **Investment Summary Through September 2019**

The Agency Financial Investment summary through September 2019, a quarterly overview of WRCOG's investment statement earnings, is provided as Attachment 2.

#### **Prior Action:**

November 13, 2019: The Administration & Finance received and filed.

#### **Fiscal Impact:**

This item is for informational purposes only; therefore, there is no fiscal impact.

**Attachments:**

1. Financial Report summary – September 2019.
2. Investment Summary – Through September 2019.



# Item 5.E

Finance Department Activities  
Update

## Attachment 1

Financial Report summary –  
September 2019

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**Western Riverside Council of Governments**  
**Monthly Budget to Actuals**  
**For the Month Ending September 30, 2019**

**Total Agency**

| <b>Revenues</b>                       | <b>Approved<br/>Budget<br/>6/30/2020</b> | <b>Thru<br/>Actual<br/>9/30/2019</b> | <b>Remaining<br/>Budget<br/>6/30/2020</b> |
|---------------------------------------|------------------------------------------|--------------------------------------|-------------------------------------------|
| Member Dues                           | \$ 311,410                               | 311,410                              | -                                         |
| PACE Residential Revenue              | 212,500                                  | 50,559                               | 161,941                                   |
| Statewide HERO Revenue                | 570,000                                  | 150,837                              | 419,163                                   |
| PACE Residential Recording Rev        | 111,800                                  | 29,985                               | 81,815                                    |
| Statewide HERO Recording fee Rev      | 441,200                                  | 98,197                               | 343,003                                   |
| Regional Streetlights Revenue         | 187,511                                  | 194,512                              | (7,001)                                   |
| NW Clean Cities - Member Dues         | 128,000                                  | 154,600                              | (26,600)                                  |
| Solid Waste                           | 107,313                                  | 112,970                              | (5,657)                                   |
| Statewide Used Oil Grant Revenue      | 377,654                                  | 377,654                              | -                                         |
| CAP Grant Revenue                     | 125,000                                  | 2,686                                | 122,314                                   |
| TUMF Admin Commerical                 | 47,284                                   | 30,947                               | 16,337                                    |
| TUMF Admin Retail                     | 109,687                                  | 22,779                               | 86,908                                    |
| TUMF Admin Industrial                 | 502,285                                  | 78,996                               | 423,289                                   |
| TUMF Admin Single Family              | 1,121,669                                | 148,518                              | 973,151                                   |
| TUMF Admin Multi-Family               | 199,074                                  | 81,893                               | 117,181                                   |
| Commerical/Service                    | 1,134,806                                | 742,728                              | 392,078                                   |
| Retail                                | 2,632,497                                | 546,696                              | 2,085,801                                 |
| Industrial                            | 12,054,852                               | 1,895,904                            | 10,158,948                                |
| Single Family                         | 26,920,065                               | 3,564,432                            | 23,355,633                                |
| Multi-Family                          | 4,777,779                                | 1,965,432                            | 2,812,347                                 |
| <b>Total Revenues &amp; Carryover</b> | <b>55,365,007</b>                        | <b>10,561,735</b>                    | <b>44,803,272</b>                         |
| <b>Overhead Transfer In</b>           | <b>1,996,602</b>                         | <b>473,334</b>                       | <b>1,523,268</b>                          |
| <b>Total Revenues &amp; Overhead</b>  | <b>57,361,609</b>                        | <b>11,035,069</b>                    | <b>46,326,540</b>                         |

| <b>Expenses</b>                | <b>Approved<br/>Budget<br/>6/30/2020</b> | <b>Thru<br/>Actual<br/>9/30/2019</b> | <b>Remaining<br/>Budget<br/>6/30/2020</b> |
|--------------------------------|------------------------------------------|--------------------------------------|-------------------------------------------|
| Salaries & Wages - Fulltime    | \$ 1,956,159                             | 457,815                              | 1,498,344                                 |
| Fringe Benefits                | 628,266                                  | 157,071                              | 471,195                                   |
| CalPERS OPEB Paydown           | 200,000                                  | 184,103                              | 15,897                                    |
| Overhead Allocation            | 1,893,320                                | 473,334                              | 1,419,986                                 |
| General Legal Services         | 387,000                                  | 130,416                              | 256,584                                   |
| Audit Svcs - Professional Fees | 30,500                                   | 700                                  | 29,800                                    |
| Bank Fees                      | 38,512                                   | 7,327                                | 31,185                                    |
| Commissioners Per Diem         | 62,500                                   | 5,150                                | 57,350                                    |
| Office Lease                   | 465,000                                  | 81,542                               | 383,458                                   |
| WRCOG Auto Fuels Expenses      | 1,500                                    | 280                                  | 1,220                                     |
| Parking Validations            | 10,000                                   | 3,555                                | 6,445                                     |
| Coffee and Supplies            | 2,500                                    | 893                                  | 1,607                                     |
| Event Support                  | 182,283                                  | 59,058                               | 123,225                                   |
| Program/Office Supplies        | 22,263                                   | 4,209                                | 18,054                                    |
| Computer Equipment/Supplies    | 4,500                                    | 2,274                                | 2,226                                     |
| Computer Software              | 86,500                                   | 57,092                               | 29,408                                    |
| Rent/Lease Equipment           | 30,000                                   | 4,053                                | 25,947                                    |
| Membership Dues                | 32,500                                   | 2,620                                | 29,880                                    |
| Subscription/Publications      | 2,250                                    | 575                                  | 1,675                                     |

|                                    |                      |                   |                   |
|------------------------------------|----------------------|-------------------|-------------------|
| Meeting Support Services           | 10,698               | 41                | 10,657            |
| Postage                            | 5,600                | 1,254             | 4,346             |
| Other Expenses                     | 1,250                | 150               | 1,100             |
| Storage                            | 10,000               | 3,752             | 6,248             |
| COG HERO Share Expenses            | 10,000               | 1,020             | 8,980             |
| Printing Services                  | 7,500                | 567               | 6,933             |
| Communications - Regular Phone     | 16,000               | 3,811             | 12,189            |
| Communications - Cellular Phones   | 17,500               | 2,924             | 14,576            |
| Communications - Computer Services | 57,500               | 8,465             | 49,035            |
| Communications - Web Site          | 8,000                | 5,650             | 2,350             |
| Equipment Maintenance - General    | 10,000               | 2,904             | 7,096             |
| Insurance - Gen/Busi Liab/Auto     | 92,500               | 87,748            | 4,752             |
| Recording Fee                      | 254,339              | 40,240            | 214,099           |
| Seminars/Conferences               | 11,825               | 360               | 11,465            |
| General Assembly Expenses          | 300,000              | 1,702             | 298,298           |
| Travel - Mileage Reimbursement     | 19,500               | 1,974             | 17,526            |
| Travel - Ground Transportation     | 5,160                | 261               | 4,899             |
| Travel - Airfare                   | 12,250               | 812               | 11,438            |
| Lodging                            | 7,630                | 728               | 6,902             |
| Meals                              | 8,250                | 883               | 7,367             |
| Other Incidentals                  | 6,600                | 382               | 6,218             |
| Training                           | 9,250                | 3,099             | 6,151             |
| Supplies/Materials                 | 21,850               | 74                | 21,776            |
| Advertising Media - Newspaper Ad   | 10,000               | 1,020             | 8,980             |
| Advertisement Radio & TV Ads       | 72,000               | 10,800            | 61,200            |
| Consulting Labor                   | 2,291,999            | 531,584           | 1,760,415         |
| TUMF Project Reimbursement         | 45,000,000           | 10,303,380        | 34,696,620        |
| <b>Total Expenses</b>              | <b>\$ 54,955,554</b> | <b>12,647,652</b> | <b>42,367,902</b> |

# Item 5.E

## Finance Department Activities Update

# Attachment 2

## Investment Summary – Through September 2019

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Western Riverside Council of Governments  
Investment Report  
For July 1, 2019 - Sept. 30, 2019

**TUMF Investments**

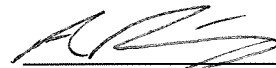
| Description                         | Beginning Balance July<br>1, 2019 | Ending Balance Sept<br>30, 2019 | Total Earning | % of Total |
|-------------------------------------|-----------------------------------|---------------------------------|---------------|------------|
| Local Agency Investment Fund (LAIF) | 821,064                           | 826,310.67                      | 5,246.67      | 1.25%      |
| CAMP                                | 17,772,513.74                     | 17,839,495.26                   | 66,981.52     | 27.04%     |
| PFM                                 | 37,057,191.40                     | 37,192,849.63                   | 135,658.23    | 56.38%     |
| CBB Trust                           | 10,042,404.16                     | 10,110,612.49                   | 68,208.33     | 15.33%     |
| Sub-total                           | 65,693,173.30                     | 65,969,268.05                   | 276,094.75    | 100.00%    |
|                                     |                                   |                                 |               |            |

**General Fund Investments**

| Description          | Beginning Balance July<br>1, 2019 | Ending Balance Sept<br>30, 2019 | Total Earning     | % of Total |
|----------------------|-----------------------------------|---------------------------------|-------------------|------------|
| CAMP                 | 7,823,879.40                      | 7,869,476.66                    | 45,597.26         | 100%       |
| Sub-total            | 7,823,879.40                      | 7,869,476.66                    | 45,597.26         | 100%       |
|                      |                                   |                                 |                   |            |
| <b>Overall Total</b> | <b>73,517,052.70</b>              | <b>73,838,744.71</b>            | <b>321,692.01</b> |            |

I hereby certify that the investment portfolio of the Western Riverside Council of Governments (WRCOG) complies with the California Government Sections pertaining to the investment of agency funds and is in conformity with WRCOG's Investment Policy adopted on December 3, 2018. The investment portfolio provides sufficient cashflow liquidity to meet expenditure requirements for the next six months.

Submitted by:

  
Andrew Ruiz, Chief Financial Officer

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# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** WRCOG Committees and Agency Activities Update

**Contact:** Chris Gray, Director of Transportation & Planning, [cgray@wrcog.us](mailto:cgray@wrcog.us), (951) 405-6710

**Date:** December 2, 2019

---

*The purpose of this item is to provide updates on noteworthy actions and discussions held in recent standing Committee meetings, and to provide general project updates.*

**Requested Action:**

1. Receive and file.
- 

Attached are summary recaps of actions and activities from recent WRCOG standing Committee meetings that occurred during the month of November.

**Prior Action:**

None.

**Fiscal Impact:**

This item is for informational purposes only; therefore, there is no fiscal impact.

**Attachment:**

1. Summary recaps from November Committee meetings.

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# Item 5.F

WRCOG Committees and Agency  
Activities Update

## Attachment 1

Summary recaps from November  
Committee meetings

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**Western Riverside Council of Governments  
Executive Committee  
Meeting Recap  
November 4, 2019**

Following is a summary of key items discussed at the last Executive Committee meeting. To review the full agenda and staff reports for all items, please click [here](#). To review the meetings **PowerPoint presentation**, please click [here](#).

**PACE Programs Update**

- The Executive Committee approved a HERO Program Administration Agreement Amendment and Addendum to the Administration Agreement allowing Renovate America to expand into areas previously unavailable.
- Staff provided an update on the Ad Hoc Committee formed to track the progress of the requirements outlined in the Renovate America stipulated judgment.

**TUMF Reimbursement Agreement Approved**

- The Executive Committee approved a TUMF Reimbursement Agreement with the County of Riverside for the Temescal Canyon Road Widening Project for \$3 million to fund Planning and Engineering studies.

**TUMF CCI Adjustment Approved**

- The Construction Cost Index (CCI) is an administrative element of the TUMF Program that is intended to keep the dollar value of the TUMF Program whole. Each year, staff is required to bring CCI adjustment information to the WRCOG committee structure.
- The Executive Committee implemented the TUMF CCI adjustment with a single-family residential phase-in and no increase to the retail fee based on the following fee schedule.

| Land Use Type             | Units | July 1, 2020 TUMF<br>(with CCI) | January 1, 2021<br>TUMF (with CCI) |
|---------------------------|-------|---------------------------------|------------------------------------|
| Single-Family Residential | DU    | \$ 9,478                        | \$ 9,810                           |
| Multi-Family Residential  | DU    | \$ 6,389                        | \$ 6,389                           |
| Retail                    | SF    | \$ 7.50                         | \$ 7.50                            |
| Service                   | SF    | \$ 4.75                         | \$ 4.75                            |
| Industrial                | SF    | \$ 1.81                         | \$ 1.81                            |

**Presentation by the Riverside County Superintendent of Schools**

- Executive Committee member, Dr. Judy White, Riverside County Superintendent of Schools, provided an update on the variety of initiatives undertaken by the Riverside County Office of Education (RCOE), including but not limited to, programs that promote literacy and encourage acts of kindness and community involvement at local schools.
- Visit [www.rcoe.us/adopt-a-school](http://www.rcoe.us/adopt-a-school) for more information on the Adopt a School Program, and [www.rcoe.us/kindness](http://www.rcoe.us/kindness) to register an act of kindness.
- RCOE serves 428,992 students.

### **Southern California Edison Presents on its Public Safety Power Shutoff Program**

- A representative from Southern California Edison (SCE) presented on the 2019 Wildfire Mitigation Plan which will harden infrastructure, bolster situational awareness capabilities, enhance operational practices, and harness the power of data and technology.
- A report was also presented on the Public Safety Power Shutoffs, which occurs when SCE de-energizes power lines during high fire risk weather conditions to enhance public safety. SCE has committed to provide timely notification to impacted customers.
- Customers can call (800) 611-1911 to learn about or report power outages, down powered lines, items in the power lines, etc. Alternatively, customers can do the same at <https://www.sce.com/outage-center>.

### **Next Meeting**

The next Executive Committee meeting is scheduled for Monday, December 2, 2019, at 2:00 p.m., at the County of Riverside Administrative Center, 1st Floor Board Chambers.



**Western Riverside Council of Governments  
Administration & Finance Committee  
Meeting Recap  
November 13, 2019**

*Following is a summary of key items discussed at the last Administration & Finance Committee meeting. To review the full agenda and staff reports, please click [here](#). To review the meeting PowerPoint presentation, please click [here](#).*

**1st Quarter Draft Budget Amendment Approved**

- Energy Department expenditures increased due to legal costs associated with PACE providers SAMAS Capital and TWAIN Capital.
- Overall Agency Budget remains balanced.

**PACE Commercial Program Administrative Agreement Approved**

- The Administration & Finance Committee recommended that the Executive Committee approve a HERO Commercial Programs Administration Agreement with Renovate America.
- The Administration & Finance Committee recommended that the Executive Committee authorize Renovate America to administer and finance eligible improvements to be installed on commercial properties.

**Alternative Compliance Program Report Update**

- WRCOG has been partnering with Riverside County Flood Control, Riverside County, and the Cities of Temecula, Wildomar, and Murrieta to evaluate the feasibility of establishing a voluntary regional ACP Program.
- Alternative Compliance Programs (ACP) use off-site facilities to address storm water issues for individual development projects; these off-site facilities can include regional detention basins, stream improvements, habitat improvements, and other related items.
- Currently the San Diego Regional Water Quality Control Board (RWQCB) allows for the development of a comprehensive ACP program; WRCOG is focusing its efforts on the area that is covered by the San Diego region.
- Staff from the cities of Murrieta, Temecula, and Wildomar provided feedback and have indicated a regional ACP would be beneficial for their jurisdictions. They have also indicated they would like WRCOG to further pursue developing an ACP and obtain feedback from the San Diego RWQCB.
- The County has provided a comment letter to WRCOG and WRCOG has provided responses. The County requested additional analysis to explore whether an ACP would benefit the County.

**Regional Streetlights Program Update**

- Approximately half of the 55,000 streetlights among the 11 participating jurisdictions/agencies have been retrofitted to date, and staff provided a schedule with estimated timeframes for completion in the remaining jurisdictions.
- Cities of Eastvale, Murrieta, and Wildomar have substantially completed their streetlights retrofits. Cities of Hemet, Lake Elsinore, Moreno Valley, San Jacinto, and the Jurupa Community Services District are currently retrofitting streetlights and/or nearing completion. Cities of Menifee, Perris, and Temecula are anticipated to start retrofitting streetlights in Q4 2019 and Q1 2020.

- 10 of 11 participating jurisdictions are utilizing Siemens for streetlight O&M services as part of a regional program administered by WRCOG.
- 683 O&M work orders were resolved across the region between September 2018 through October 2019. Average resolution time for routine O&M work orders is 4.99 work days, and the average resolution time for extraordinary O&M callouts is 1.84 days. Additionally, 16 pole knockdowns across the region have occurred since September 2018. Siemens responded to and restored public safety at pole knockdown sites in an average 2.56 hours.

### **TUMF Nexus Study Principles and Goals Discussed**

- WRCOG will perform an update to the TUMF Nexus Study after approval of SCAG RTP/SCS document, as the Nexus Study utilizes the same growth forecasts for consistency purposes.
- During the next several months WRCOG will be seeking feedback on key elements of the Nexus Study approach and process. These include issues such as the following:
  - Should TUMF continue to focus on higher value regional projects?
  - Should the TUMF Program provide a higher level of funding for projects?
  - How stringent should the process be to add projects to the TUMF Network?
  - Should we consider whether to use TUMF to mitigate VMT impacts or some other mechanism?
  - Should we implement an automatic Construction Cost Index (CCI)?

### **Next Meeting**

The next Administration & Finance Committee meeting is scheduled for Wednesday, December 11, 2019, at 12:00 p.m. in WRCOG's office, located at 3390 University Avenue, Suite 450, Riverside.





**Western Riverside Council of Governments  
Planning Directors Committee  
Meeting Recap  
November 14, 2019**

*Following is a summary of key items discussed at the last Planning Directors Committee meeting. To review the full agenda and staff reports, please click [here](#). To review the meeting PowerPoint presentation, please click [here](#).*

**RHNA Methodology Update**

- Staff presented information regarding an updated RHNA Calculation methodology. This methodology was approved at the November 7, 2019 SCAG Regional Council Meeting.
- This methodology results in an allocation of 135,000 housing units to jurisdictions in the subregion in the upcoming RHNA cycle
- The methodology is being transmitted to the State Department of Housing and Community Development (HCD) for their review and approval
- WRCOG expects that member agencies will receive their final RHNA allocations in the next 3-6 months

**SB 2 Planning Grant Update**

- Staff presented information regarding the status of SB 2 Planning Grants for the WRCOG Region
- Based on information provided by the PDC, the majority of WRCOG's member agencies have either been awarded their SB 2 Grants or will be submitting applications by the deadline
- The majority of members are using the funds for Housing Elements, permitting software, and other related tasks

**State Housing Legislation Update**

- AB 101/SB 102 provide additional funding for local and regional planning efforts
- Three key bills (SB 13, AB 68, and AB 881) relate to reducing requirements for ADU's
- SB 330 limits new fees and regulations on projects with complete applications
- AB 1763 provides bonuses for affordable housing projects

**Regional Housing Element Discussed**

- There was an interest expressed by members in having WRCOG provide GIS assistance or developing tools to assist our local agencies with the preparation of housing elements

**California's Recycling Requirements Update**

- Staff provided an update on AB 1383, which mandates the recycling of organic waste
- Committee members asked that WRCOG provide templates or examples of trash enclosures that member agencies could use when reviewing and approving projects

### **SB 743 Update**

- Staff provided a review of WRCOG's study on SB 743
- WRCOG will be providing template staff and updated traffic study guidelines for member agencies to use in implementing SB 743

### **Next Meeting**

The next Planning Directors Committee meeting is scheduled for Thursday, December 12, 2019, at **9:30 a.m.** at WRCOG's office, located at 3390 University Avenue, Suite 450, Riverside.



**Western Riverside Council of Governments  
Public Works Committee  
Meeting Recap  
November 14, 2019**

*Following is a summary of key items discussed at the last Public Works Committee meeting. To review the full agenda and staff reports, please click [here](#). To review the meeting PowerPoint presentation, please click [here](#).*

**TUMF Nexus Study Principles and Goals Discussed**

- Staff provided an overview of several principles or goals that should be considered when updating the Nexus Study
- Key topics include the scope of the network, the level of funding provided for projects, how easy or difficult it would be to add new projects, and whether an automatic CCI should be considered
- Member comments should be submitted by January 9, 2019

**VMT Mitigation Bank or Exchange Considered**

- Jason Pack from Fehr & Peers presented several options related to a VMT mitigation bank or VMT mitigation fee
- Several committee members asked if it would be advisable to consider a more regional effort
- WRCOG Staff indicated that this initial effort was to examine feasibility and that additional information would be brought forward

**SB 743 Analysis Shared**

- Staff presented an overview of WRCOG's efforts related to the implementation of SB 743, which requires the use of VMT as a metric for CEQA evaluations
- WRCOG will be providing updated traffic study guidelines and staff report templates for our member agencies to use

**Regional Streetlight Program Update**

- Cities of Eastvale, Murrieta, and Wildomar have substantially completed their streetlights retrofits. Cities of Hemet, Lake Elsinore, Moreno Valley, San Jacinto, and the Jurupa Community Services District are currently retrofitting streetlights and/or nearing completion. Cities of Menifee, Perris, and Temecula are anticipated to start retrofitting streetlights in Q4 2019 and Q1 2020.
- 10 of 11 participating jurisdictions are utilizing Siemens for streetlight O&M services as part of a regional program administered by WRCOG.
- 683 O&M work orders were resolved across the region between September 2018 through October 2019. Average resolution time for routine O&M work orders is 4.99 work days, and the average resolution time for extraordinary O&M callouts is 1.84 days. Additionally, 16 pole knockdowns across the region have occurred since September 2018. Siemens responded to and restored public safety at pole knockdown sites in an average 2.56 hours.

**Next Meeting**

The next Public Works Committee meeting is scheduled for Thursday, December 12, 2019, at 2:00 p.m., in WRCOG's office, located at 3390 University Avenue, Suite 450, Riverside.



**Western Riverside Council of Governments  
Technical Advisory Committee  
Meeting Recap  
November 21, 2019**

*Following is a summary of key items discussed at the last Technical Advisory Committee meeting. To review the full agenda and staff reports, please click [here](#). To review the meeting PowerPoint presentation, please click [here](#).*

**1st Quarter Budget Amendment Approved**

- Overall Agency Budget remains balanced.

**Santa Ana MS4 Permit Compliance Program**

- Darcy Kuenzi of the Riverside County Flood Control and Water Conservation District provided a status of the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Programs within the Santa Ana Region of Riverside County.
- These permits, issued pursuant to the federal Clean Water Act, are designed to protect local lakes, rivers and streams from pollution associated with urban land use.
- The Santa Ana Regional Water Quality Control Board is planning to proceed with a regional MS4 permit that will address a tri-county regional permit, watershed planning requirements, bacteria TMDL updates, and homelessness encampments.
- Click here for information on [SB 205 Implementation](#)

**Southern California Edison Presents on its Public Safety Power Shutoff Program**

- Jeremy Goldman of Southern California Edison (SCE) presented on the 2019 Wildfire Mitigation Plan which will harden infrastructure, bolster situational awareness capabilities, enhance operational practices, and harness the power of data and technology.
- A report was also presented on the Public Safety Power Shutoffs (PSPS), which occur when SCE de-energizes power lines during high fire risk weather conditions. SCE has committed to provide timely notification to impacted customers.
- Customers can call (800) 611-1911 to learn about or report power outages, down powered lines, items in the power lines, etc. Alternatively, customers can do the same at <https://www.sce.com/outage-center>.

**2020 Census**

- Jason Farin of the Riverside County Executive Office provided an update on a recently-released funding announcement for the 2020 Census; \$500,000 has been allocated to jurisdictions throughout Riverside County and will be allocated based on the following:
  1. Population size
  2. Hard-to-count percentage (provided by state)
  3. Base amount
- Jurisdictions that would like to opt-in to the County's funding opportunity for 2020 Census Outreach efforts are asked to make a request by contacting [2020Census@rivco.org](mailto:2020Census@rivco.org) by December 9, 2019.
- Click here for [Riverside County 2020 Census – City Funding Announcement](#)

### **TUMF Nexus Study Update Principles and Goals Discussed**

- Staff provided an overview of several principles or goals that will be considered during the update of the TUMF Program Nexus Study including the overall Network, the level of funding provided for projects, the potential incorporation of vehicle miles traveled programs, and whether an automatic CCI adjustment should be considered.
- TAC members will consider recommendations from the PWC members on these and other potential Nexus Study update issues.

### **Alternative Compliance Program (ACP) Report Update**

- WRCOG has been partnering with the Riverside County Flood Control, County of Riverside, and the Cities of Murrieta, Temecula, and Wildomar to evaluate the feasibility of establishing a voluntary regional ACP Program.
- ACP uses off-site facilities to address storm water issues for individual development projects; these off-site facilities can include regional detention basins, stream improvements, habitat improvements, and other related items.
- Currently the San Diego Regional Water Quality Control Board (RWQCB) allows for the development of a comprehensive ACP program; WRCOG is focusing its efforts on jurisdictions that are within the San Diego Water Quality Board region.

### **Regional Streetlights Program Update**

- Approximately 28,000 of the 55,000 streetlights among the 11 participating jurisdictions / agencies have been retrofitted to LED to date.
- The Cities of Eastvale, Murrieta, and Wildomar have substantially completed their streetlights retrofits. The Cities of Hemet, Lake Elsinore, Moreno Valley, and San Jacinto, and the Jurupa Community Services District are currently retrofitting streetlights and/or nearing completion. The Cities of Menifee, Perris, and Temecula are anticipated to begin retrofitting their streetlights in Q4 2019 and Q1 2020.
- 10 of the 11 participating jurisdictions are utilizing Siemens for streetlight operations and maintenance (O&M) services as part of a regional program administered by WRCOG.
- Staff provided an update on the types and amount of maintenance work orders being addresses. 683 O&M work orders were resolved across the region between September 2018 and October 2019. Average resolution time for routine O&M work orders is 4.99 work days, and the average resolution time for extraordinary O&M callouts is 1.84 days. Additionally, 16 pole knockdowns across the region have occurred since September 2018. Siemens responded to and restored public safety at pole knockdown sites in an average 2.56 hours.

### **Next Meeting**

The Technical Advisory Committee is **DARK** in December. The next Technical Advisory Committee meeting is scheduled for Thursday, January 16, 2020, at 9:30 a.m., at WRCOG's office located at 3390 University Avenue, Suite 450, Riverside.

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# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** Report out of WRCOG Representatives on Various Committees

**Contact:** Rick Bishop, Executive Director, [rbishop@wrcog.us](mailto:rbishop@wrcog.us), (951) 405-6701

**Date:** December 2, 2019

*The purpose of this item is to inform the Executive Committee of activities occurring on the various Committees in which WRCOG has an appointed representative.*

### **Requested Action:**

1. Receive and file.

This item serves as a placeholder for WRCOG representatives' use in providing materials or making comments pertaining to meetings of the Committee they have been appointed to.

### **SANDAG Borders Committee (Crystal Ruiz)**

The SANDAG Borders Committee meeting of November 22, 2019, was cancelled. The next SANDAG Borders Committee meeting is scheduled for January 24, 2020.

### **CALCOG Board of Directors (Micheal Goodland)**

Agenda highlights from the November 15, 2019, meeting:

- Website Refresh & Communications Strategy
- SAFE Rule Update
- Regions Rise Together Initiative
- 2020 regional Leadership Forum
- 2020 Priorities and Organizational Goals

The next meeting of the CALCOG Board of Directors is scheduled for Thursday, November 7, 2019.

### **SAWPA OWOW Steering Committee (Rusty Bailey)**

Agenda highlights from the November 19, 2019, meeting:

- Disadvantaged Community Involvement Program Funding
- Revised Commissioner Compensation, Expense Reimbursement, and Ethics Training

The next meeting of the SAWPA OWOW Committee is scheduled for Tuesday, December 17, 2019.

**Prior Action:**

November 4, 2019: The Executive Committee received and filed.

**Fiscal Impact:**

This item is for informational purposes only; therefore, there is no fiscal impact.

**Attachments:**

1. CALCOG Board of Directors meeting agenda of November 15, 2019.
2. SANDAG Borders Committee meeting agenda of November 19, 2019.



# Item 5.G

Report out of WRCOG  
Representatives on Various  
Committees

## Attachment 1

CALCOG Board of Directors meeting  
agenda of November 15, 2019

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# California Association of Councils of Governments

Effective Regions Through Partnership

## **BOARD OF DIRECTORS**

### **MEETING AGENDA**

**November 15, 2019**

**10:30 am to 2:30 pm**

**Sterling Hotel  
1300 H Street  
Sacramento, CA 95814**

### **CALL-IN INFORMATION**

*Phone: (515) 604-9094*

*Pin: 106-833-521*



## AGENDA

| TIME     | ITEM      | DESCRIPTION                                                                                                                                        | PURPOSE     | PAGE |
|----------|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------|-------------|------|
| 10:30 am | <b>1</b>  | <b>Welcome &amp; Roll Call</b>                                                                                                                     |             |      |
| 10:35 am | <b>2</b>  | <b>Approval of the Minutes</b>                                                                                                                     | Action      | 5    |
| 10:40 am | <b>3</b>  | <b>Year in Review:</b> Summary; presentation at meeting.                                                                                           | Information | 7    |
|          |           | <b>POLICY ITEMS</b>                                                                                                                                |             |      |
| 10:50 am | <b>4</b>  | <b>Website Refresh &amp; Communications Strategy.</b> Overview of how the new features will serve as the baseline for our communications strategy. | Information | 10   |
| 11:05 am | <b>5</b>  | <b>SAFE Rule Update:</b> The latest regarding how the SAFE Rule will affect transportation conformity in California.                               | Discussion  | 11   |
| 11:20 am | <b>6</b>  | <b>Regions Rise Together.</b> A discussion of how to engage in this framework raised by the Newsom Administration.                                 | Discussion  | 14   |
| 11:40 am | <b>7</b>  | <b>Regional Leadership Forum.</b> Quick discussion; this year's theme (not surprisingly): Regions Rise Together.                                   | Information | 19   |
| 11:45 am | <b>8</b>  | <b>Legislative Recap.</b> Staff will provide an update day of the meeting.                                                                         | Discussion  | 20   |
|          |           | <b>Lunch</b>                                                                                                                                       |             |      |
| 12:30 pm | <b>9</b>  | <b>Education Programs Report.</b> Review of program. Preparations for next year.                                                                   | Information | 26   |
|          |           | <b>ORGANIZATION &amp; GOVERNANCE ITEMS</b>                                                                                                         |             |      |
| 12:45 pm | <b>10</b> | <b>Fiscal Committee Report.</b> Full financial statements will be available the day of the meeting.                                                | Information | 28   |
| 12:50 pm | <b>11</b> | <b>Budget Amendments for FY 2019-20.</b> Updates to account for new program and staffing changes.                                                  | Action      | 31   |
| 1:00 pm  | <b>12</b> | <b>CLOSED SESSION. Executive Director Performance &amp; Contract Extension.</b> Board Discussion.                                                  | Action      | 35   |
| 1:30 pm  | <b>13</b> | <b>2020 Priorities and Organizational Goals.</b> Governance items                                                                                  | Action      | 36   |
| 2:00 pm  | <b>14</b> | <b>Announcements &amp; Adjourn.</b>                                                                                                                |             |      |

# Item 5.G

Report out of WRCOG  
Representatives on Various  
Committees

## Attachment 2

SANDAG Borders Committee  
meeting agenda of November 19,  
2019

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# SAWPA

## SANTA ANA WATERSHED PROJECT AUTHORITY

11615 Sterling Avenue, Riverside, California 92503 • (951) 354-4220

### REGULAR COMMISSION MEETING TUESDAY, NOVEMBER 19, 2019 – 9:30 A.M.

#### AGENDA

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE (Ronald W. Sullivan, Chair)

2. ROLL CALL

3. PUBLIC COMMENTS

Members of the public may address the Commission on items within the jurisdiction of the Commission; however, no action may be taken on an item not appearing on the agenda unless the action is otherwise authorized by Government Code §54954.2(b).

4. CONSENT CALENDAR

All matters listed on the Consent Calendar are considered routine and non-controversial and will be acted upon by the Commission by one motion as listed below.

A. APPROVAL OF MEETING MINUTES: NOVEMBER 5, 2019

**Recommendation:** Approve as posted.

B. SALARY SCHEDULE EFFECTIVE JULY 1, 2019 (CM#2019.114)

**Recommendation:** Approve the current salary schedule effective July 1, 2019.

C. TREASURER'S REPORT – OCTOBER 2019

**Recommendation:** Approve as posted.

5. WORKSHOP DISCUSSION AGENDA

A. LEGISLATIVE REPORT

**Presenter:** Michael Boccadoro, President, West Coast Advisors

**Recommendation:** Receive and file.

## **6. NEW BUSINESS**

### **A. DISADVANTAGED COMMUNITY INVOLVEMENT (DCI) PROGRAM – TECHNICAL ASSISTANCE FUNDING SUB-AGREEMENTS (CM#2019.113)**

**Presenter:** Rich Whetsel | Mark Norton

**Recommendation:** Receive and file a presentation providing an overview and background information about the DCI grant program; and, direct the General Manager to execute Proposition 1 Disadvantaged Community Involvement Program Technical Assistance Funding Sub-agreements with the following:

1. Big Bear Area Regional Wastewater Agency (BBARWA) in the amount not to exceed \$500,000 to implement the Replenish Big Bear Project; and,
2. Soboba Band of Luiseno Indians in the amount not to exceed \$350,000 to implement the Residential Asbestos Cement Pipe Abandonment and Replacement Project.

### **B. VENDOR SELECTION | VOIP PHONE AND CONFERENCE SERVICES (CM#2019.115)**

**Presenter:** Dean Unger

**Recommendation:** Receive and file.

### **C. COMMISSIONER COMPENSATION POLICY (CM#2019.116)**

**Presenter:** Rich Haller

**Recommendation:** Approve the revised Commissioner Compensation, Expense Reimbursement, and Ethics Training Policy, effective October 1, 2019.

## **7. INFORMATIONAL REPORTS**

**Recommendation:** Receive for information.

### **A. CASH TRANSACTIONS REPORT – SEPTEMBER 2019**

**Presenter:** Karen Williams

### **B. INTER-FUND BORROWING – SEPTEMBER 2019 (CM#2019.111)**

**Presenter:** Karen Williams

### **C. PERFORMANCE INDICATORS/FINANCIAL REPORTING – SEPTEMBER 2019 (CM#2019.112)**

**Presenter:** Karen Williams

### **D. OWOW QUARTERLY STATUS REPORT: JULY 1, 2019 – SEPTEMBER 30, 2019**

**Presenter:** Mark Norton

### **E. ROUNDTABLES QUARTERLY STATUS REPORT: JULY 1, 2019 – SEPTEMBER 30, 2019**

**Presenter:** Mark Norton

### **F. GENERAL MANAGER REPORT**

### **G. STATE LEGISLATIVE REPORT**

**Presenter:** Rich Haller

### **H. SAWPA GENERAL MANAGERS MEETING NOTES**

- November 12, 2019

### **I. CHAIR'S COMMENTS/REPORT**



**J. COMMISSIONERS' COMMENTS**

**K. COMMISSIONERS' REQUEST FOR FUTURE AGENDA ITEMS**

**8. CLOSED SESSION**

**A. PURSUANT TO GOVERNMENT CODE SECTION 54957 – PUBLIC EMPLOYEE ANNUAL PERFORMANCE EVALUATION**

Title: General Manager

**B. PURSUANT TO GOVERNMENT CODE SECTION 54957.6 – CONFERENCE WITH LABOR NEGOTIATOR**

SAWPA-Designated Representative: Ronald W. Sullivan, Commission Chair

Unrepresented Employee: Richard E. Haller

**9. ADJOURNMENT**

Americans with Disabilities Act: If you require any special disability related accommodations to participate in this meeting, call (951) 354-4230 or email [kberry@sawpa.org](mailto:kberry@sawpa.org). 48-hour notification prior to the meeting will enable staff to make reasonable arrangements to ensure accessibility for this meeting. Requests should specify the nature of the disability and the type of accommodation requested.

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection during normal business hours at the SAWPA office, 11615 Sterling Avenue, Riverside, and available at [www.sawpa.org](http://www.sawpa.org), subject to staff's ability to post documents prior to the meeting.

**Declaration of Posting**

I, Kelly Berry, Clerk of the Board of the Santa Ana Watershed Project Authority declare that on Thursday, November 14, 2019, a copy of this agenda has been uploaded to the SAWPA website at [www.sawpa.org](http://www.sawpa.org) and posted at the SAWPA office, 11615 Sterling Avenue, Riverside, California.

/s/

Kelly Berry, CMC

**2019 SAWPA Commission Meetings/Events/Important Dates**

First and Third Tuesday of the Month

(NOTE: Unless otherwise noticed, all Commission Workshops/Meetings begin at **9:30 a.m.**, and are held at SAWPA.)

| <b>November</b> |                            | <b>December</b> |                                            |
|-----------------|----------------------------|-----------------|--------------------------------------------|
| 11/5/19         | Commission Workshop        | 12/3/19         | <del>Commission Workshop</del> [cancelled] |
| 11/19/19        | Regular Commission Meeting | 12/3 – 12/6/19  | ACWA Fall Conference, San Diego            |
|                 |                            | 12/17/19        | Regular Commission Meeting                 |

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# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** Regional Housing Needs Assessment Methodology Activities Update

**Contact:** Chris Gray, Director of Transportation & Planning, [cgray@wrcog.us](mailto:cgray@wrcog.us), (951) 405-6710

**Date:** December 2, 2019

*The purpose of this item is to provide an update on the Regional Housing Needs Assessment (RHNA) Cycle 6 process occurring at the Southern California Association of Governments (SCAG).*

### **Requested Action:**

1. Receive and file.

### **Background**

The state-wide housing crisis is creating challenges locally in housing the subregion's growing population, complying with changing legislation, meeting RHNA targets, and avoiding growing risks that might come with findings of non-compliance. In response to this, WRCOG's 2019/2020 Legislative Platform established Housing as a Priority Issue Area, recognizing the acute impact of the state-wide housing shortage and housing-related legislative activity to the WRCOG subregion. For this Priority Issue Area, WRCOG committed, to the extent possible, to having staff lead more targeted efforts, including engaging state agency staff in solutions-oriented discussions regarding the housing crisis and related activities. One of the leading topics in housing-related issues is RHNA.

Each local jurisdiction in California is required to adopt a Housing Element as part of its General Plan that shows how the jurisdiction plans to meet the existing and projected housing needs of people at all income levels. RHNA is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its Housing Element. As part of this process, the California Department of Housing and Community Development (HCD) and SCAG identify the total housing need for the SCAG region. California's Housing Element Law ([Government Code](#), Section [65584.04](#)) charges SCAG with developing a "methodology to distribute the identified housing need to local governments in a manner that is consistent with the development pattern included in the Sustainable Communities Strategy (SCS).

SCAG is currently preparing for its 6th RHNA Cycle, which will cover the planning period of October 2021 through October 2029. Between February and June 2019, SCAG staff presented to its RHNA Subcommittee on different factors that could be used to develop a proposed RHNA methodology. Based on the feedback received from the Subcommittee and public comment, SCAG staff developed three options for consideration. In August 2019, SCAG held four public hearings to obtain input from stakeholders on the methodologies. The deadline to submit comments was September 13, 2019. WRCOG, along with many of its member agencies, submitted comment letters to SCAG regarding the proposed RHNA methodologies.

Based on the comments received from stakeholders (including WRCOG and its member agencies), SCAG developed a fourth option to allocate RHNA units to jurisdictions in the SCAG region. This option was approved by SCAG's RHNA Subcommittee and Community, Economic & Human Development Committee. Final discussion and approval of a methodology occurred on November 7, 2019, at the SCAG Regional

Council Meeting. The Regional Council approved a new RHNA allocation methodology, which was a modified version of the one recommended by SCAG staff. This new allocation methodology was proposed by City of Riverside Mayor Rusty Bailey and removed the use of local growth projections to calculate a portion of the RHNA allocation. This change to the methodology reduced the RHNA allocation to the WRCOG subregion by approximately 45,000 units. This new methodology was supported by about 70% of the Regional Council members. The allocation of units by WRCOG member jurisdiction is depicted in the table below. The table compares the SCAG staff recommendation to what was approved by the SCAG Regional Council (New Alternative RHNA Allocation).

During this meeting, the City of Los Angeles requested that SCAG review several of the inputs, particularly the manner in which units are assigned to High Quality Transit Areas (HQTAs). SCAG has agreed to provide this information and staff are unsure if it will substantially change the current estimates.

This new methodology will be forwarded to HCD for its consideration. Based on input from HCD, SCAG will finalize the methodology and notify jurisdictions of their RHNA allocation prior to the 6th RHNA Cycle.

| WRCOG Jurisdictions | NEW Alternative RHNA Allocation | Staff Recommended RHNA | Difference     |
|---------------------|---------------------------------|------------------------|----------------|
| Banning             | 1654                            | 3281                   | -1627          |
| Beaumont            | 4129                            | 6216                   | -2087          |
| Calimesa            | 1996                            | 4349                   | -2353          |
| Canyon Lake         | 128                             | 192                    | -64            |
| Corona              | 5849                            | 6419                   | -570           |
| Eastvale            | 2913                            | 2405                   | 508            |
| Hemet               | 6499                            | 12662                  | -6163          |
| Jurupa Valley       | 4261                            | 4966                   | -705           |
| Lake Elsinore       | 6656                            | 12238                  | -5582          |
| Menifee             | 6567                            | 11997                  | -5430          |
| Moreno Valley       | 13495                           | 16303                  | -2808          |
| Murrieta            | 3019                            | 3318                   | -299           |
| Norco               | 417                             | 42                     | 375            |
| Perris              | 7662                            | 10059                  | -2397          |
| Riverside           | 18185                           | 20139                  | -1954          |
| San Jacinto         | 3385                            | 6534                   | -3149          |
| Temecula            | 4169                            | 7764                   | -3595          |
| Wildomar            | 2703                            | 4971                   | -2268          |
| Unincorp. Riverside | 40719                           | 46214                  | -5495          |
|                     |                                 |                        |                |
| <b>TOTAL</b>        | <b>134406</b>                   | <b>180069</b>          | <b>-45,663</b> |

### **WRCOG Actions**

At WRCOG's December 2, 2019, Executive Committee meeting, SCAG's Executive Director (Kome Ajise) will be presenting the Draft Connect SoCal Development, a long-range land use and transportation plan for the SCAG region. Staff expects that this presentation will also address an update on the RHNA process from SCAG's perspective.

### **Prior Actions:**

November 21, 2019: The Technical Advisory Committee received and filed.

November 13, 2019: The Administration & Finance Committee received and filed.

October 10, 2019: The Planning Directors Committee received and filed.

October 7, 2019: The Executive Committee received and filed.

**Fiscal Impact:**

This item is for informational purposes only; therefore, there is no fiscal impact.

**Attachment:**

None.

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# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** SoCal AltCar Conference, Expo, and Ride & Drive Recap

**Contact:** Kyle Rodriguez, Staff Analyst, [krodriguez@wrcoq.us](mailto:krodriguez@wrcoq.us), (951) 405-6721

**Date:** December 2, 2019

*The purpose of this item is to provide a summary of the Southern California AltCar Conference, Expo, and Ride & Drive.*

### **Requested Action:**

1. Receive and file.

On October 16, 2019, WRCOG hosted the SoCal AltCar Conference, Expo, and Ride & Drive (Expo) at the Riverside Convention Center. The Expo has been around for 15 years and is hosted in various locations across California (Oakland, Sacramento, Santa Monica, and now Riverside). The Expo brings together groups of leading policymakers, fleets, sustainability directors, and legislators to discuss the importance of alternative and advanced technology transportation. The Expo's purpose is to increase the awareness and knowledge of alternative fuel vehicles in California and provide an opportunity for local governments, staff, and residents the chance to learn about the different alternative fuel vehicle choices available.

This year's event kicked off with a California Air Resources Board (CARB) press conference in which CARB Chair Mary Nichols marked the initiation of a partnership with the University of California, Riverside (UCR), Riverside City College, and Riverside County School District. The partnership will support making the Inland empire a hub for clean energy by encouraging and enhancing student's education and understanding about air quality.

Following the press conference, Ms. Nichols served as the Expo's hosted keynote speaker. Ms. Nichols embraced Riverside's blue sky, recalling years past where mountains were not visible. Although the air quality has improved from years past, the Inland Empire's air quality still needs more attention.

Two-panel sessions were held:

1. The first panel, moderated by Annette Hebert with CARB, was on Innovative Mobility Solutions: Light- Duty to Heavy-Duty Product and Best Fleet Practices, featuring representatives from UCR's CE-CERT, the City of Colton, PepsiCo, and Nissan North America. Panelists highlighted their success stories based on implementing innovative projects with their staff and everyday workforce environment through the adoption of electric vehicles (EV). The panel shared insight through moderated discussion on why they are investing in a more modernized fleet and relying on sustainable energy practices.
2. The second panel, moderated by Casey Dailey with WRCOG, was on Alternative Technology Infrastructure and Product Investment Opportunities, featuring representatives from the South Coast Air Quality Management District (AQMD), Electrify America, and Southern California Edison. Representatives highlighted the EV infrastructure projects that have been completed to assist with their respected goals of greenhouse gas emissions reductions. Panelists provided further information on rebate projects they offer

for both vehicle replacement programs and infrastructure support and enhancing opportunities with disadvantaged communities.

The Expo concluded with a Ride & Drive, where attendees were able to test drive some of the industry's leading alternative fuel vehicles and were given the opportunity to ask questions to subject matter experts.

The event included a variety of stakeholders within the Inland Empire: ADOMANI Zero-Emission Vehicles, Bike Riverside, AQMD, CA Clean Vehicle Rebate Project, CR&R, GRIP Idle Management System, Honda Motor Company, Jurupa Unified School District, Nissan, OmniTrans, Riverside Transit Agency, SoCal Gas, Southern California Edison, StratosFuel, UCR CE-CERT, Reach-Out Volvo Lights Project, and the WRCOG Clean Cities Coalition.

Members of the community were able to preview vehicles such as the Nissan Leaf, Lion's Electric School bus, CE-CERT's EV Trailer, StratoShare's Hydrogen vehicles, Honda's Clarity PHEV, CR&R's CNG Waste truck, Bike Riverside's Electric Bike, and ADOMANI's Electric Cutaway logistics van.

Staff with Electrify America attended the Expo and shared their innovations and progress in the development of the largest EV charger network in the nation. To engage WRCOG and its member jurisdictions, a hosted WRCOG-member discussion took place revolving around the steps that can be taken to attract EV infrastructure investment opportunities to their cities, and within the subregion. Specifically, Electrify America provided insight into its EV charger investment and development process including hurdles, success stories, and best practices for EV station siting and development.

Below are pictures of the CARB Press Conference, SoCal AltCar keynote, Ride & Drive, and panel discussion.



### **Prior Action:**

**November 21, 2019:** The Technical Advisory Committee received and filed.



**Fiscal Impact:**

This item is for informational purposes only; therefore, there is no fiscal impact.

**Attachment:**

None.

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# Western Riverside Council of Governments

## Executive Committee

### Staff Report

**Subject:** California Clean Air Day Activities Recap

**Contact:** Rayza Sison, Staff Analyst, [rsison@wrcog.us](mailto:rsison@wrcog.us), (951) 405-6735

**Date:** December 2, 2019

*The purpose of this item is to provide a summary on completed California Clean Air Day goals and activities.*

#### **Requested Action:**

1. Receive and file.

#### **Background**

The 2nd annual California Clean Air Day took place on October 2, 2019, and was a statewide effort to raise awareness for pollution-related health problems, reduce air pollution, and improve air quality. WRCOG staff served as a co-chair for the Inland Empire Working Group.

#### **WRCOG Activities**

WRCOG's Executive Committee adopted Resolution 30-19, declaring October 2nd as California Clean Air Day. Member agencies that adopted a similar resolution were provided with resources to host a tree planting ceremony at a location of their choice by WRCOG, which received a micro-grant to support event activities.

The Cities of Beaumont, Calimesa, Hemet, Menifee, Murrieta, Norco, and Perris participated by:

1. Adopting a resolution / proclamation in support of California Clean Air Day, and;
2. Coordinating a tree planting ceremony to raise awareness for air quality concerns.

| Jurisdiction | Location                                       | Event                                        |
|--------------|------------------------------------------------|----------------------------------------------|
| Beaumont     | Fallen Heroes Park                             | Tree Planting Ceremony                       |
| Calimesa     | City Hall                                      | Tree Planting Ceremony                       |
| Hemet        | Mary Henley Park                               | Tree Planting Ceremony                       |
| Menifee      | John Denver Park (formerly Rancho Ramona Park) | Park Rededication and Tree Planting Ceremony |
| Murrieta     | City Hall                                      | Tree Planting Ceremony                       |
| Norco        | Fifth St.                                      | Tree Planting Ceremony                       |
| Perris       | City Garden                                    | Tree Planting Ceremony                       |

Overall, 1.2 million Californians participated in Clean Air Day activities this year, with 462 incorporated cities and 316 organizations taking the pledge to clean the air. Over 222,000 individuals from the Inland Empire acted to reduce air pollution. The subregion hosted 14 dedicated Clean Air Day events, nine of which were supported or organized by WRCOG member agencies. See Attachment 1 for additional Clean Air Day Results.

**Prior Action:**

November 21, 2019: The Technical Advisory Committee received and filed.

**Fiscal Impact:**

This item is for informational purposes only; therefore, there is no fiscal impact.

**Attachment:**

1. Coalition for Clean Air Inland Empire Clean Air Day Report.

# Item 5.J

## California Clean Air Day Activities Recap

# Attachment 1

## Coalition for Clean Air Inland Empire Clean Air Day Report

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## Coalition for Clean Air Inland Empire Clean Air Day Report

### Statistics

222,151 individuals pledged

242,722 actions pledged

### Resolutions and Proclamations

Calimesa – Resolution 2019-43, passed on September 3, 2019

Menifee – Proclamation passed on September 18, 2019

Beaumont – Resolution passed on September 17, 2019

Norco – Resolution 2019-53, passed on September 18, 2019

Perris – Resolution, passed on September 24, 2019

Murrieta – Resolution, passed on September 17, 2019

Hemet – Resolution, Passed on September 10, 2019

### Inland Empire Clean Air Day Event Recap

14 Events

| Event                                                         | Location                                               | Sponsor                                       | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------------------------------------------------------------|--------------------------------------------------------|-----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Green Today, Clean Tomorrow                                   | 14740 Ramona Ave., Chino, CA                           | Creative Bus Sales                            | CBS' showcase for its Alternative Fuel Vehicles (ultra-low and zero emission) powered by Electric, Hybrid, Natural Gas, and Propane.                                                                                                                                                                                                                                                                                                                                         |
| Southern California AltCar Conference, Expo, and Ride & Drive | 3637 5th Street, Riverside, CA                         | Western Riverside Council of Governments      | The 14th annual Southern California AltCar Expo, hosted in the Inland Empire with the goal of showcasing California's commitment to alternative fuel technology for transportation, infrastructure, and energy, took place on November 16, 2019. The expo consisted of a conference, exposition hall, and Ride & Drive.                                                                                                                                                      |
| Switch It Out!                                                | 401 E. 21st Street, San Bernardino, CA                 | Dignity Health: St. Bernardine Medical Center | Dignity Health hosted a workshop to teach the public on why they should switch their household cleaning products due to the impact chemicals can have on a family's health.                                                                                                                                                                                                                                                                                                  |
| Environmental Health Literacy                                 | Redlands High School, 840 E. Citrus Ave., Redlands, CA | STEM For All Foundation                       | The Redlands Unified School District and the STEM for All Foundation, a student-run non-profit organization, organized an Environmental Health Literacy (EHL) event at Redlands High School, on October 2, 2019. The purpose of this event was to create awareness about Clean Air Day and the harmful effects of air pollution on children. As a part of the EHL event, the Foundation ran a campaign to get high school students to walk or ride their bicycles to school. |
| Clean Air Day Engagement                                      | 2101 N. Waterman Ave., San Bernardino, CA              | Dignity Health: St. Bernardine Medical Center | St. Bernardine Medical Center, along with an organization-wide pledge, hosted an event to teach hospital employees, visitors, and patients about Clean Air Day and how they can take part in cleaning the air.                                                                                                                                                                                                                                                               |

| <b>Event</b>                                                 | <b>Location</b>                                               | <b>Sponsor</b>                                                                                                                         | <b>Description</b>                                                                                                                                                                                                                                                      |
|--------------------------------------------------------------|---------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CE-CERT Open House                                           | 1084 Columbia Ave., Riverside, CA                             | UCR College of Engineering-Center for Environmental Research & Technology (CE-CERT)                                                    | UCR CE-CERT opened its laboratories for the public to learn about sustainable technologies being developed by the CE-CERT team to help improve our region.                                                                                                              |
| Vermont Elementary School: Walk to School Day for Clean Air! | 3695 Vermont St, San Bernardino, CA                           | Vermont Parents in Action; Safe Routes Partnership; Assemblymember Eloise Gomez Reyes; and the County of San Bernardino Public Health. | Parents, students, and teachers celebrated International Walk to School Day and Clean Air Day by walking or biking to school in an effort to improve air quality.                                                                                                       |
| City of Beaumont Tree Planting Ceremony                      | Oak View Drive & Iris Street, Beaumont, CA                    | City of Beaumont                                                                                                                       | On Tuesday, September 17, 2019, the City Council approved a resolution supporting Clean Air Day. Beaumont, in partnership with WRCOG, supported California Clean Air Day with a tree planting ceremony.                                                                 |
| City of Norco Tree Planting Ceremony                         | 5th St. between Western Ave. and Broken Lance Lane, Norco, CA | City of Norco                                                                                                                          | The City of Norco hosted a tree planting ceremony in honor of California Clean Air Day on October 2, 2019. Sixty trees were be planted along 5th Street, between Western Ave. and Broken Lance Lane by city officials and community residents.                          |
| City of Murrieta Tree Planting Ceremony                      | 1 Town Square, Murrieta, CA                                   | City of Murrieta                                                                                                                       | The City of Murrieta celebrated California Clean Air Day with a tree planting ceremony at City Hall on October 2, 2019. The City planted a tree at City Hall to recognize the importance of clean air and our community's growing efforts to reduce, reuse and recycle. |
| City of Calimesa Tree Planting Ceremony                      | City Hall                                                     | City of Calimesa                                                                                                                       | The City of Calimesa hosted a tree planting ceremony in honor of California Clean Air Day, on October 2, 2019.                                                                                                                                                          |
| City of Hemet Tree Planting Ceremony                         | Mary Henley Park                                              | City of Hemet                                                                                                                          | The City of Hemet hosted a tree planting ceremony in honor of California Clean Air Day, on October 2, 2019.                                                                                                                                                             |
| City of Menifee Tree Planting Ceremony                       | John Denver Park (formerly Rancho Ramona Park)                | City of Menifee                                                                                                                        | The City of Menifee hosted a tree planting ceremony in honor of California Clean Air Day, on October 2, 2019, alongside the John Denver Park rededication ceremony.                                                                                                     |





# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** Regional Energy Network Development Activities Update

**Contact:** Anthony Segura, Senior Analyst, [asegura@wrcog.us](mailto:asegura@wrcog.us), (951) 405-6733

**Date:** December 2, 2019

*The purpose of this item is to provide information on the development of a Regional Energy Network (REN) between the Coachella Valley Association of Governments (CVAG), San Bernardino Council of Governments (SBCOG), and WRCOG, and a regulatory update from the California Public Utilities CPUC (CPUC). A REN will offer energy efficiency programs that are administered by local government entities to its enrolled members. These programs can include energy upgrades towards local government buildings, financing mechanisms for energy upgrades, and workforce development programs for energy efficiency trades.*

### **Requested Action:**

1. Receive and file.

### **Background**

Over the past year, SBCOG, CVAG, and WRCOG have engaged a consultant to support and develop a business plan for a new energy efficiency program (Regional Energy Network – REN) within the region that would be presented for consideration and approval to the California Public Utilities (CPUC). To date, staff have been working alongside consultants Frontier Energy to gather information on public building data for both electric / gas models, addressing challenges / barriers; develop a strategic framework to be incorporated into the business plan; identify the program areas for the region; and have been communicating with staff at the CPUC, academia, and utility level to continue voicing the need of a REN within the Counties of Riverside and San Bernardino.

### **CPUC REN Ruling**

On March 27, 2019, the CPUC released an initial ruling regarding the future of RENs where it was seeking comments from parties on future policy on RENs, both existing and newly proposed. The CPUC's intent on this ruling was to further evaluate whether to continue RENs and/or allow the formation of new RENs, but no overall policy or framework has yet been adopted on how to approach the future of this energy efficiency program.

On October 24, 2019, the CPUC released its proposed decision and staff is pleased to announce that the proposed decision is highly in favor for the continuation of existing RENs and opens the doors to local governments which would like to pursue the development of and establishing a new REN within its region. Staff has developed a draft report of the proposed decision (Attachment 1) that breaks down the key components of this decision. As part of this proposed decision, the CPUC has added new requirements for newly proposed RENs as follows:

1. Any new REN business plan proposal must be vetted during at least one meeting of the California Energy Efficiency Coordinating Committee (CAEECC) for discussion and feedback.

2. Any new RENS will be required to provide initial Joint Cooperation Memos (JCMs) in its business plan proposal to the CPUC. JCMs are required for each Utility (SCE and SoCal Gas) and existing RENS within the subregion (Los Angeles County).
3. New RENS will represent at least two local government entities within its governance structure, though one local government entity may propose to take the lead, at least initially.
4. New RENS will be required to file its progress towards its proposed metrics unique to the REN and specific to each of its approved business plans and considering its proposed service area, once the REN is approved and operating.

At the time of this writing, the proposed decision is still in draft form and will be finalized when it is up for final voting at the December 2019 CPUC meeting. Once approved, the proposed decision will be final and will allow for the continuation of existing RENS that are no longer considered under the term “pilot” and will allow local governments to explore the arena of developing new RENS within the state.

### **Next Steps**

As part of the next steps for REN development, CVAG, SBCOG, and WRCOG have begun coordinating with its consultants to initiate writing the business plan, working with the CAEECC members to get on an upcoming meeting agenda to present the idea of a new REN within the Counties of Riverside and San Bernardino, and have started the communication process to develop a JCM between other program administrators as requested within the proposed decision from the CPUC.

For additional questions or information on the REN development, please contact Anthony Segura at [asegura@wrcog.us](mailto:asegura@wrcog.us).

### **Prior Action:**

May 6, 2019: The Executive Committee authorized the Executive Director to enter into a contract agreement with Frontier Energy for Regional Energy Network Development.

### **Fiscal Impact:**

This item is for informational purposes only; therefore, there is no fiscal impact.

### **Attachment:**

1. Draft REN Proposed Decision.

# Item 5.K

Regional Energy Network  
Development Activities Update

## Attachment 1

Draft REN Proposed Decision

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**DECISION REGARDING FRAMEWORKS FOR ENERGY EFFICIENCY REGIONAL ENERGY NETWORKS AND MARKET TRANSFORMATION**

**Quick Overview:**

The decision authorizes the continued operation of existing RENs and invites new REN proposals as business plans to be filed with the Commission, if they meet certain additional requirements as defined in this decision. Any new REN will be required to represent more than one local government entity, to coordinate with existing program administrators in their geographic area prior to filing their business plan, to vet their proposal with stakeholders through the California Energy Efficiency Coordinating Committee (CAEECC), and to explain their REN governance structure in their business plan filing.

This decision also clarifies that some geographic overlap among more than one REN and other program administrators may be permitted, as long as there is appropriate coordination. REN criteria are also kept in place and clarified such that RENs are designed to fill gaps in the portfolios of all other program administrators (not just utilities) and to serve hard-to-reach customers. No cost-effectiveness threshold is required for RENs, but benefit-cost ratios and savings targets must be filed with the REN business plans. Finally, RENs are not confined to any particular program area or customer segment.

**Findings:**

1. RENs are no longer considered as “Pilots”. RENs have now been in existence since 2012 under the CPUC’s Energy Efficiency (EE) policy and as such the CPUC sees no further purpose in labeling RENs as “Pilots”.
2. Under D.15-10-028, the CPUC requires Program Administrators (PA’s) to refile their Business Plans when certain “Trigger” events happen.
  - a. Example of “Trigger” event: PA is unable to adjust its portfolio in response to goal, parameter, or other updates to meet savings goals; stay within budget of last approved business plan; or meet the CPUC’s cost effectiveness threshold (excludes Codes & Standards)
3. CPUC remains optimistic on the unique and appropriate role that Local Governments have with oversight & delivery of energy programs.
  - a. Unique value of Local Governments: Public Sector Buildings, Building Code Compliance, and treating / delivering EE services to hard-to-reach (HTR) customers.
  - b. Additional value: RENs also have the capability to leverage not only multiple local government entities into a single program delivery channel, but also utilize funding from various sources to deliver more comprehensive holistic programs, especially within HTR communities.
4. For all the reasons listed in #3, is why the CPUC supports the continuation of RENs.
  - a. CPUC also sees no reason to limit the ability of new RENs to form, provided that they meet the requirements set by the CPUC as found below:
    - i. Any new REN business plan proposal must be vetted during at least **ONE** meeting of the CAEECC, for discussion and feedback.

1. In its proposal to the CPUC, the new REN will then be required to include a summary of the CAEECC meeting and feedback received, and any changes made to the proposal as result of that stakeholder feedback.
2. New proposals are also encouraged to include similar summaries of any other stakeholder engagement or outreach conducted by the REN proponent prior to making the proposal to the CPUC.
  - a. This could include but not limited to, expressions of support from other local government entities or other stakeholders that would interact with the REN, if approved by the CPUC.
- ii. Any new RENs will require to provide initial JCMs in its business plan proposal to the CPUC.
  1. This means for new RENs, coordination and overlap issues will be required to be worked out ahead of the Commission's consideration of the new REN business plan, instead of negotiated after a REN is approved.
    - a. Individual JCM will be required with every PA that has overlapping operation in the same geographic areas as the new REN (includes utilities, CCA's, and other RENs)
- iii. New RENs will represent at least two local government entities within their governance structure, though one local government entity may propose to take the lead, at least initially.
- iv. New RENs & existing RENs when seeking to renew their budgets in their next business plan proposal will include a detailed description of their Governance Structure and they will operate as a regional entity to deliver their programs.
- v. New RENs will be required to file their progress towards their proposed metrics unique to the REN and specific to each of their approved business plans and considering their proposed service area, once the REN is approved and operating.
  1. At the time of approval, the CPUC will also set energy saving targets for the REN business plan, and measure REN progress toward meeting their unique metrics and savings goals, which will be set based on the specific REN program proposals that are approved by the CPUC.
5. If a new business plan cycle is ordered, either for an individual REN or for a larger number of PA's, the existing REN would file its updated business plan at the time, as required by the CPUC.
6. CPUC & staff will continue to monitor RENs program performance, and make portfolio changes as warranted by evaluation results, just as they would with all other PA's.
7. For the concerns of geographic overlap, the CPUC seeks to avoid duplicative administrative costs that may be associated with multiple administrators operating in one area, disproportionate funding concentrated on one geographic area, and / or multiple PA's conducting similar activities.
  - a. CPUC would also like to avoid customers receiving confusing or multiple competing offers for the same type of measure or project.

- b. The CPUC encourages but does not requires all new & existing RENs to negotiate program design and implementation details with third parties, once selected by the utilities, whose program offerings overlap within those of the REN.
      - i. Coordination and cooperation is the interest of all PA's and / or implementers as well as the CPUC and the customers being served by these entities.
- 8. Existing or prospective RENs will be required to show how their program offerings supplement those of overlapping REN, utility, and CCA PA's or implementors.
  - a. Specifically, RENs must state their desired outcome from activities that fill gaps of other program administrators.
    - i. RENs shall also propose savings goals and metrics associated with their unique value, as well as a methodology for measuring progress toward their metrics, in their business plan and ABALs.
- 9. The CPUC requires that RENs (new / existing) meet at least one of the criteria, not all three as seen below:
  - a. Activities that utilities or CCAs cannot or do not intend to undertake.
  - b. Pilot activities where there is no current utility or CCA program offering, and where there is potential for scalability to a broader geographic reach, if successful.
  - c. Activities serving hard-to-reach markets, whether or not there is another utility or CCA program that may overlap.
- 10. The CPUC foresees no need to restrict the customer segments or program areas that the RENs are intended to serve as long as RENs meet the other criteria laid out in item #9.

### **Closing:**

The proposed decision will be voted up on the an upcoming CPUC meeting in December 2019. At the very moment, these findings are in draft form and if approved at the upcoming voting meeting in December then this report will be final.

In conclusion, the proposed decision shows a lot of promise not just for existing RENs but for new RENs. This means that local governments that are interested in pursuing this energy program can and will have the opportunity to present business plan to the CPUC as long as item #4 can be met.

*\*This overview is only for the Future of RENs item, not the Market Transformation which is also listed on the Proposed Decision report of R.13-11-005*

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# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** Grant Writing Assistance Program Activities Update

**Contact:** Chris Gray, Director of Transportation & Planning, [cgray@wrcog.us](mailto:cgray@wrcog.us), (951) 405-6710

**Date:** December 2, 2019

*The purpose of this item is to provide an update on the Grant Writing Assistance Program.*

### **Requested Action:**

1. Receive and file.

*WRCOG provides assistance to member jurisdictions to fund local projects through its Grant Writing Assistance Program. This Program assists member jurisdictions on an as-needed basis as funding is available and covers the cost of hiring professional grant writers to develop proposals for competitive external funding.*

### **WRCOG Grant Writing Assistance Program – Summary and Update**

WRCOG commenced the Grant Writing Assistance Program to assist member jurisdictions in grant writing assistance on an as-needed basis as funding is available. The Program Guidelines were approved by the Executive Committee in September 2017 and WRCOG immediately received several requests to assist member jurisdictions with grant opportunities allowed in the Program. Based on the volume of requests, staff requested additional funding for the Program to enable more assistance to member jurisdictions. The Executive Committee approved an additional \$500,000 in funding to this Program in December 2017 for a total of \$700,000.

To date, \$400,000 has been utilized on the following tasks:

- Advisory services to WRCOG member agencies
- Direct grant assistance for applications
- Grant opportunity tables sent to staff on a bi-weekly basis
- Preparation of Grant Program fact sheets

The Program is structured to focus on a few select grant opportunities to allow growth in the future based on success rates, feedback from users, and funding availability. Eligible grants are as follows:

- [Active Transportation Program](#)
- [Caltrans Sustainable Transportation Planning Grant Program](#) (Transportation Planning Grants & Adaptation Planning Grants)
- [Affordable Housing and Sustainable Communities Program](#)
- [Clean Cities](#)-related grants
- New planning grant opportunities

The focus of opportunities is in areas in which WRCOG provides assistance to its member agencies. To maintain flexibility with the Program, “New Planning Grant Opportunities” category is included in the Program

so that other grant opportunities related to planning may be considered. This category enables members to request assistance if any grant opportunities that focus on planning grants become available – such as those that help fund General Plans, Specific Plans, or Community Plans. The Program is **not** intended to assist infrastructure grant opportunities, i.e., TIGER, HSIP, FASTLANE, etc.

In addition to direct assistance, the Program has provided member agencies the ability to discuss potential projects or ideas in order to align with the Grant Program that fits best. This has been an aspect of the Program not quantifiable but has proved beneficial in ensuring the efficient use of a jurisdiction's resources.

### **Direct Assistance Provided**

The Program has provided assistance to jurisdictions in developing almost 20 grant applications with 11 successful applications; one has not received a result, and one was not submitted. The Program has secured over \$15 million in funding, with a majority of the funding attained from the statewide Active Transportation Program (ATP).

The Program also partially assisted the City of Riverside and Wakeland Housing and Development Corporation in a successful Affordable Housing and Sustainable Community grant application that attained \$16.8 million for the Mission Heritage Plaza project that will build affordable housing, green transportation / transit improvements, and neighborhood-driven beautification projects in downtown Riverside.

The following is a listing of projects that have utilized the Grant Writing Assistance Program and status:

| <b>Grant Program</b>                                                              | <b>Project</b>                                                                | <b>Jurisdiction / Agency</b> | <b>Award Amount / Status</b>                                          |
|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------|------------------------------|-----------------------------------------------------------------------|
| 2018 Caltrans Sustainable Transportation Planning Grant - Sustainable Communities | City-wide Active Transportation Plan                                          | Lake Elsinore                | \$175,000                                                             |
| 2018 Caltrans Sustainable Transportation Planning Grant - Sustainable Communities | SR-74/Winchester Land Use/Transportation Study                                | County of Riverside          | \$133,000                                                             |
| 2018 Urban Greening Grant                                                         | City of Hemet Downtown Area/Mobility Hub                                      | Hemet                        | Not awarded                                                           |
| 2018 ATP Cycle IV                                                                 | City of Eastvale                                                              | Eastvale                     | \$6.5 million                                                         |
| 2017 Bureau of Reclamation Watersmart Water and Energy Efficiency Grant           | City of Banning                                                               | Banning                      | Not awarded                                                           |
| 2018 ATP Cycle IV                                                                 | City of Temecula San Gertrudis Street Project                                 | Temecula                     | \$1.5 million                                                         |
| 2018 ATP Cycle IV                                                                 | City of Wildomar Bundy Canyon Road Implementation Project                     | Wildomar                     | Not awarded                                                           |
| 2018 ATP Cycle IV                                                                 | City of Jurupa Valley Safe Routes to School Applications - three applications | Jurupa Valley                | \$2.9 million                                                         |
| 2018 AHSC Grant Application Development                                           | City of Riverside – Mission Heritage Development                              | Riverside                    | \$16 million (partial assistance provided to application development) |

|                                                                                                                      |                                                                                |                     |               |
|----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|---------------------|---------------|
| 2018 Caltrans Sustainable Transportation Planning Grant - Sustainable Communities                                    | WRCOG Climate Action Plan                                                      | WRCOG               | \$344,900     |
| Caltrans Sustainable Transportation Planning Grant - Adaptation Planning                                             | Regional Climate Adaptation Toolkit for Transportation Infrastructure Phase I  | WRCOG               | \$683,431     |
| Caltrans Sustainable Transportation Planning Grant - Adaptation Planning                                             | Regional Climate Adaptation Toolkit for Transportation Infrastructure Phase II | WRCOG               | \$409,894     |
| 2018 Caltrans Sustainable Transportation Planning Grant - Sustainable Communities                                    | Western Riverside County ITS Strategic Plan                                    | WRCOG               | Not awarded   |
| 2018 SCAG Sustainable Communities Program                                                                            | Calimesa SRTS                                                                  | Calimesa            | Not awarded   |
| 2018 SCAG Sustainable Communities Program                                                                            | City-wide Trails Master Plan                                                   | Norco               | Not awarded   |
| 2018 Housing Assistance and Homeless Services – HEAP Grant Application                                               | City of Lake Elsinore HEAP Grant Application                                   | Lake Elsinore       | \$1.5 million |
| 2018 Bureau of Reclamation Watersmart Water and Energy Efficiency Grant Application Development Project Resubmission | Advanced Metering Infrastructure Project - City of Banning                     | Banning             | \$300,000     |
| 2018 CALRECYCLE Household Hazardous Waste Application                                                                | WRCOG                                                                          | WRCOG               | \$60,000      |
| SCAQMD Surplus Off-Road Opt-in for Nox (SOON) Carl Moyer Air Quality Standards Attainment                            | County of Riverside                                                            | County of Riverside | Not submitted |

#### **Grant Writing Consultants – Assistance Not Covered by WRCOG Program**

The WRCOG on-call planning bench was formed in July 2017 with a group of consultants to serve the Grant Writing Assistance Program. In addition to requesting direct assistance and advisory services on grant opportunities, member jurisdictions have occasionally reached out for assistance on grants that do not meet the criteria of the Program and are not eligible for direct assistance on grant application development. In these instances, WRCOG has been able to connect the jurisdiction with an appropriate consultant to ensure the proposed project fits with the identified grant opportunity. If the member jurisdiction has sought to develop a grant application, and the jurisdiction and consultant agree upon a cost for services, WRCOG establishes an understanding with the jurisdiction that the cost for assistance is the jurisdiction's responsibility. WRCOG then establishes a contract with the consultant through the on-call planning bench. WRCOG invoices the jurisdiction when invoices from the consultant are submitted to WRCOG. This is beneficial because the jurisdiction does not have to go through a procurement process for grant application development or to administer a contract.

Below is a list of the consultants on the WRCOG on-call planning bench and the areas each firm focuses on.

| Consultant                     | Grant Areas of Focus                                                                                                                                                                                                           |
|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Alta Planning + Design         | Active Transportation, Highway Safety Improvement Program, Transportation Infrastructure, Transportation Planning, Regional Planning, Transit, Capital Improvement, Sustainability                                             |
| Blais & Associates             | Full-service                                                                                                                                                                                                                   |
| KTUA                           | Active Transportation, Highway Safety Improvement Program, Transportation Infrastructure, Transportation Planning, Regional Planning, Transit, Urban Greening, Parks and Recreation, Capital Improvement, Sustainability       |
| National Community Renaissance | Transportation, Land Use Planning, Housing, Water, Wastewater, Storm Water, Capital Improvement, Parks & Recreation, Cultural, Education, Public Safety, Economic Development, Sustainability, Environmental Protection Grants |
| WSP                            | Transportation, Land Use Planning, Housing, Capital Improvement, Economic Development, Sustainability                                                                                                                          |

**Prior Action:**

November 21, 2019: The Technical Advisory Committee received and filed.

**Fiscal Impact:**

This item is for informational purposes only; therefore, there is no fiscal impact.

**Attachment:**

None.



# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** Western Community Energy Activities Update

**Contact:** Barbara Spoonhour, Deputy Executive Director – Operations, [bspoonhour@wrcog.us](mailto:bspoonhour@wrcog.us), (951) 405-6760

**Date:** December 2, 2019

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*The purpose of this item is to provide an update on Western Community Energy's upcoming launch.*

### **Requested Action:**

1. Receive and file.

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*Community Choice Aggregation (CCA) allows cities and counties to aggregate their buying power to secure electrical energy supply contracts on a region-wide basis. A CCA provides a choice for the community, which it does not currently have (unless their community is served by a separate public utility). A CCA provides local control over rate setting and programs by locally elected city councilmembers. Rates and programs are designed and implemented at the local level, at local public meetings, where members of the public who are living within the CCA boundaries can readily participate.*

Established in August 2018, Western Community Energy (WCE) will purchase energy on behalf of its member jurisdictions, the Cities of Eastvale, Hemet, Jurupa Valley, Norco, Perris, and Wildomar. The Cities of Norco, Perris, and Wildomar will launch in April 2020 and the Cities of Eastvale, Hemet, and Jurupa Valley will launch in May 2020. The WCE Board of Directors have been meeting to adopt policies and provide staff and its consultants direction on various data inputs (i.e., energy mixture, rate savings goals, reserves, etc.) needed for the April and May 2020 launch. To date, all assumptions regarding a savings off the bottom line of Southern California Edison's (SCE) utility bills remains intact. Current WCE member jurisdictions are expected to save its residents and businesses over \$6 million per year.

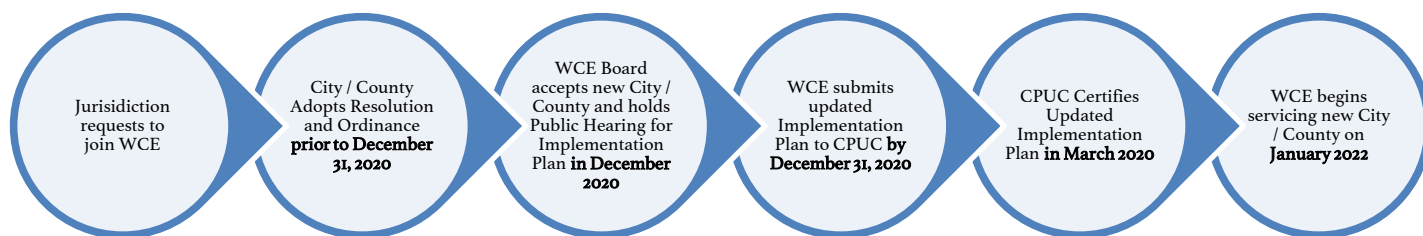
### **Updates**

**Rate Setting:** In mid-November 2019, SCE released its Energy Resource Recovery Account (ERRA) filing. This is the first staff has seen of SCE's 2020 rates. From November 2019 through January 2020, SCE might make minor changes to its rates, which staff will track so that WCE may update its rates, if needed. During November and December 2019, staff and WCE's consultants will be putting together the various residential and non-residential rate schedules for the WCE Board of Directors to discuss and adopt in January / February 2020.

**Customer Savings:** As the financial proformas continue to show a 2% savings off the total SCE bill, it is staff's intent to bring forward rate schedules that reflect this discount. There has been some discussion on whether WCE could potentially offer a higher savings from the start. Staff and its consultants have discussed this and the consultants are recommending that WCE remain conservative with its savings for the first year of operations, as it will allow WCE to put more money into reserves and/or pay-off its financial obligations sooner. As a reminder, the Board will be reviewing and setting rates on an annual basis and can determine if it can / should increase the discount during these annual reviews.

New members: The Board remains interested in having other jurisdictions (whether members of WRCOG or outside the subregion) join our efforts and will be having a discussion in the next few months on how to bring new members onboard.

Please contact WRCOG staff if your jurisdiction is interested in joining Western Community Energy. The following outlines the timeline if a jurisdiction was interested in joining WCE. For a **2021 launch**, jurisdictions would need to join WCE and adopt the CCA ordinance by **December 31, 2019**. For a **2022 launch**, jurisdictions would need to join WCE and adopt the CCA ordinance by **December 31, 2020**.



**Prior Actions:**

November 21, 2019: The Technical Advisory Committee received and filed.

February 5, 2019: The Executive Committee received and filed.

**Fiscal Impact:**

This item is for informational purposes only; therefore, there is no fiscal impact.

**Attachment:**

None.



# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** TUMF Nexus Study Principles and Goals

**Contact:** Chris Gray, Director of Transportation & Planning, [cgray@wrcog.us](mailto:cgray@wrcog.us), (951) 405-6710

**Date:** December 2, 2019

*The purpose of this item is to engage members of the Committee regarding key principles and goals related to an upcoming update of the Transportation Uniform Mitigation Fee (TUMF) Nexus Study.*

### **Requested Action:**

1. Receive and file.

*WRCOG's TUMF Program is a regional fee program designed to provide transportation and transit infrastructure that mitigates the impact of new growth in Western Riverside County.*

### **Nexus Study Principles & Goals**

WRCOG anticipates that it will initiate a comprehensive update of the TUMF Nexus Study in the summer of 2020. The update process will follow the Southern California Association of Governments' (SCAG) update of the Regional Transportation Plan / Sustainable Communities Strategy (RTP/SCS) document since the TUMF Nexus Study will be using the same growth forecasts as the SCAG RTP/SCS for consistency purposes. This schedule is also consistent with previous direction from the WRCOG Executive Committee.

As part of this Nexus Study, staff will be soliciting input from member agencies regarding facilities to include in the TUMF Program, which is a key determinant in the overall program cost and resulting fee levels. Prior to meeting with member agencies, staff believe it is advisable to first obtain direction on key principles, which will then be refined and adopted by the various WRCOG Committees prior to the formal beginning of the Nexus Study. Staff would also like committee feedback about project costs member agencies are observing in their jurisdiction, which will also help guide the direction and goals for the update of the Nexus.

The following topics are presented for discussion and described in further detail below.

### **Topic #1 - Should TUMF continue to focus on higher value regional projects?**

TUMF does not fund every roadway within an Agency's boundaries, instead focusing on regional projects. Criteria used to identify TUMF eligible roadways includes the following:

- Traffic volume
- Whether the project is projected to operate beyond its capacity in future years
- Regional connectivity

The criteria used to define roadways for inclusion in the TUMF Network have not significantly changed since the adoption of the first Nexus Study in 2003. Given these criteria, three possible options present themselves as listed below:

1. The criteria can be made more stringent, which would reduce the number of eligible projects for inclusion in the Network. This change would reduce the overall share of projects funded by TUMF and shift more of the costs to the local agencies.
2. The criteria can remain as currently defined, which would keep many of the existing facilities in the Network. Some increase in the fee is still likely to occur given the continual increase in labor and materials associated with construction of transportation infrastructure.
3. The criteria can be made less stringent, which could significantly increase the fee level given how much the criteria are changed.

## **Topic #2 - Should TUMF provide a higher or lower level of funding for each individual project?**

Currently, TUMF funds both pre-construction and construction activities. We estimate that the current reimbursement level can fund most of the pre-construction activities including Planning, Environment, and Design Studies. Agencies usually only require significant amounts of additional funding when studies are significantly delayed or have to be updated for various reasons. The level of Construction funding varies depending on the facility with TUMF providing between 1/3 and 2/3 of the total construction cost for a project. TUMF is specifically designed to only fund those elements of a project related to roadway capacity. For example, landscaped medians, roadway lighting, and landscaping are not currently reimbursable through the TUMF Program.

This approach has also not varied since the inception of the Program. If a change is desired, three options present themselves, as described below:

1. The use of TUMF funds can be limited to fund either only construction activities or limit funding for pre-construction activity. This change could result in a reduction in the current fee levels by approximately 1/3 since this amount reflects the portion of TUMF fees which go towards these types of activities. The downside to this approach is that it would make it difficult for local agencies to fund these activities as there is often limited funding available. Many of WRCOG's member agencies often require more TUMF funding for these pre-construction activities since there are often limited funds available. Construction funding is generally more available once an agency has secured the necessary entitlements from outside sources such as the Riverside County Transportation Commission (RCTC), the State of California, and federal funds.
2. The current status quo can be maintained, under which most of the pre-construction activities are funded and the same portion of construction activity can be funded by TUMF. Because of continual increases in roadway costs, leaving the current process in place would automatically lead to an increase in fee levels without some offsetting change in other elements of the Program.
3. Higher levels of funding could be provided for pre-construction, construction, or both, by allowing higher levels of reimbursement. Such a change would likely significantly increase the current fee levels, unless offsetting changes were made to the Program such as reducing the number of projects eligible for inclusion in the Program.

## **Topic #3 - How stringent should the process be for an agency to add a project to the TUMF Network?**

Prior to the 2016 Nexus Study Update, WRCOG implemented a policy making it difficult for agencies to add roadways to the Nexus Study without removing an existing roadway, essentially "swapping" one project for another. While this approach created some challenges for WRCOG and the local agency, it also limited the number of new projects being added to the TUMF network and resulted in a limited increase in the fee for most land use categories.

There are two options available in terms of this item as described below:

1. A similar practice could be required in which projects are added to the TUMF Network only if it replaces a completed project or a proposed project with a focus on creating a "no-net" cost increase scenario. Under this approach, if an agency wishes to add a \$50 million project, it must identify another \$50 million project or two \$25 million projects, etc. This approach would limit increases in the overall fee amounts since the TUMF Network would not significantly expand.



2. The requirement to swap projects could be removed, which would result in an expanded TUMF Network. This expansion would likely increase the overall fee levels, unless other changes are made to the Program eligibility criteria or other procedures are put in place to reduce the level of funding for specific projects.

#### **Topic #4 - Should WRCOG implement an automatic Construction Cost Index (CCI) adjustment?**

One issue with TUMF Nexus Studies is the need to perform updates on a regular basis, since there has been limited support for adjusting construction costs in those years between Nexus Study adoptions. One reason the adoption of the 2016 Nexus Study was so challenging is that there had not been a comprehensive update since 2009 and construction costs had escalated significantly between 2009 and 2016. WRCOG's TUMF Program does not have a comprehensive CCI adjustment built into the Program. Instead, WRCOG calculates the CCI and brings the fee adjustment forward for consideration by the WRCOG Committees. These CCI adjustments often have limited support.

One way to limit the amount of fee increases associated with each Nexus Study is to implement an automatic CCI adjustment process by which the fees would be increased automatically without WRCOG having to take action. Implementing this approach could reduce the amount of fee increases in each Nexus Study, thereby making it more palatable for member agencies to adopt the Nexus Study as there would be less of a fee increase to consider.

#### **Prior Actions:**

November 21, 2019: The Technical Advisory Committee received and filed.

November 14, 2019: The Public Works Committee received and filed.

November 13, 2019: The Administration & Finance Committee received and filed.

#### **Fiscal Impact:**

This item is for informational purposes only; therefore, there is no fiscal impact.

#### **Attachment:**

None.

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# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** Report from the League of California Cities

**Contact:** Erin Sasse, Regional Public Affairs Manager, League of California Cities,  
[esasse@cacities.org](mailto:esasse@cacities.org), (951) 321-0771

**Date:** December 2, 2019

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*The purpose of this item is to provide an update of activities undertaken by the League of California Cities.*

**Requested Action:**

1. Receive and file.

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This item is reserved for a presentation from the League of California Cities Regional Public Affairs Manager for Riverside County.

**Prior Action:**

November 4, 2019: The Executive Committee received and filed.

**Fiscal Impact:**

This item is for informational purposes only; therefore, there is no fiscal impact.

**Attachment:**

None.

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# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** Connect SoCal Development Presentation

**Contact:** Kome Ajise, Executive Director, Southern California Association of Governments, [ajise@scag.ca.us](mailto:ajise@scag.ca.us), (213) 236-1835

**Date:** December 2, 2019

*The purpose of this item is to provide an update on Connect SoCal Development, which is the Southern California Association of Governments (SCAG) long-range land use and transportation plan.*

### **Requested Action:**

1. Receive and file.

### **Background**

Every four years, each Metropolitan Planning Organization (MPO) in California is required to prepare a long-range land use and transportation plan known as a Regional Transportation Plan / Sustainable Community Strategy (RTP/SCS). This document includes lists of roadway and transit projects developed through input from SCAG's member agencies. The document also includes strategies designed to reduce the impacts of these projects and future development in the SCAG Region.

SCAG has held a series of workshops to gather input on Connect SoCal and is currently developing a Draft RTP/SCS which is expected to be circulated for public comment in November / December 2019. After the public comment period concludes, SCAG will then adopt the RTP/SCS in 2020.

### **Prior Actions:**

- October 10, 2019: The Public Works Committee received and filed.
- October 10, 2019: The Planning Directors Committee received and filed.
- September 19, 2019: The Technical Advisory Committee received and filed.

### **Fiscal Impact:**

This item is for informational purposes only; therefore, there is no fiscal impact.

### **Attachment:**

1. Plan Summary for Connect SoCal.

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# Item 6.B

## Connect SoCal Development Presentation

# Attachment 1

## Plan Summary for Connect SoCal

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A PLAN SUMMARY FOR  
CONNECT  
SOCAL

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS



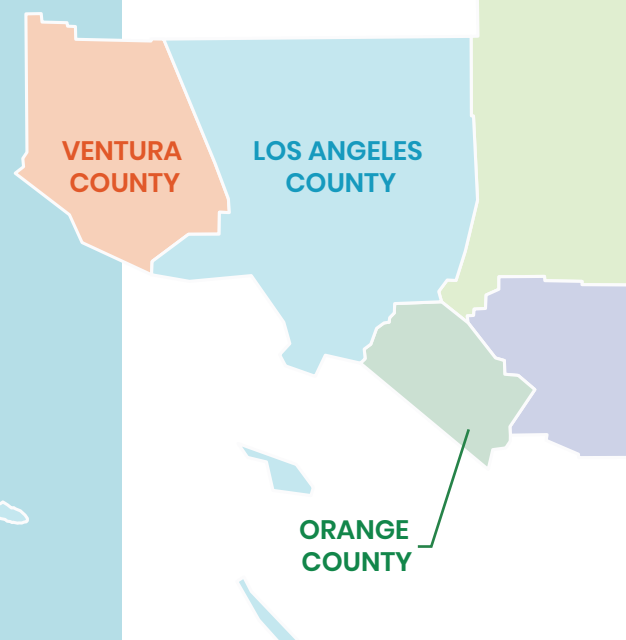
NOVEMBER 2019



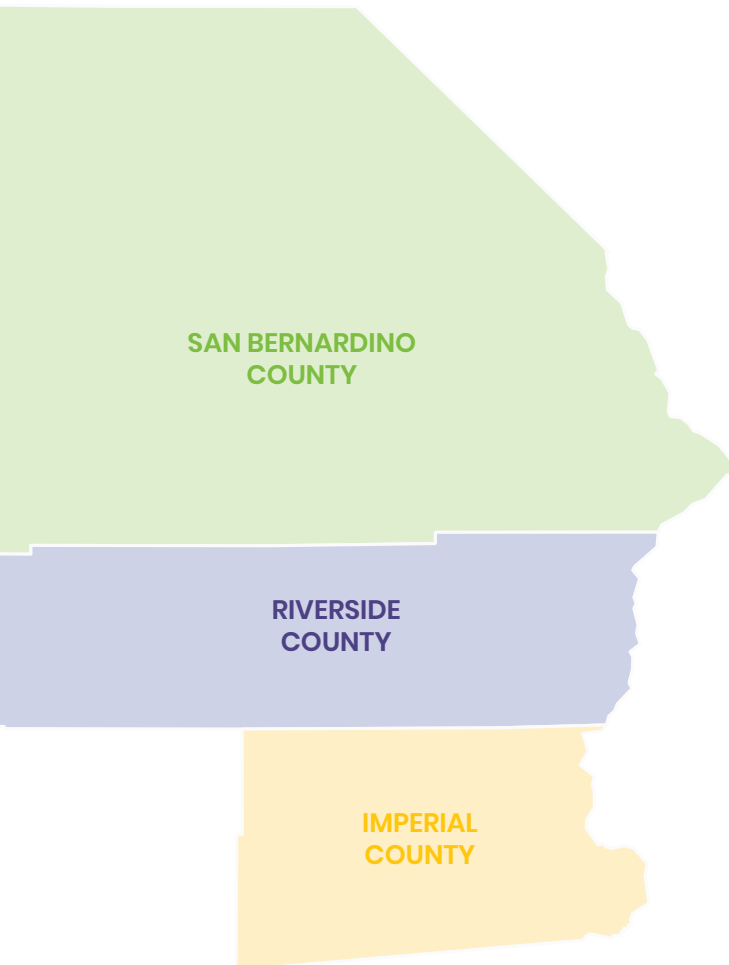
## A PLAN SUMMARY

NOVEMBER 2019

[connectsocal.org](http://connectsocal.org)



# MAKING CONNECTIONS



## WHAT IS CONNECT SOCAL?

As a metropolitan planning organization – the largest in the nation – SCAG is responsible for developing long-range transportation plans and a Sustainable Communities Strategy for a vast and varied region, which includes the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino and Ventura. The centerpiece of that planning work is Connect SoCal, our 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS).

## HOW WAS THIS PLAN DEVELOPED?

Connect SoCal embodies a collective vision for the region's future. SCAG engaged with local, state and federal agency partners when developing this plan. Through many collaborative initiatives SCAG was able to better understand existing conditions in the region, building a foundation for planning to how to accommodate growth and direct future transportation investments. The Plan details the challenges facing our region, our shared goals and transportation and land use strategies and how we intend to realize them.

## WHY CREATE THIS PLAN?

Connect SoCal is an important planning document for the region, allowing public agencies who implement transportation projects to do so in a coordinated manner, while qualifying for federal and state funding. SCAG is required by federal law to prepare and update a long-range regional transportation plan, keep up with Clean Air Act requirements, monitor system performance, develop a sustainable communities strategy, and strategy to achieve greenhouse gas reduction targets set by the California Air Resources Board (ARB).

# CURRENT & FUTURE TRENDS IN THE REGION

In order to create a plan for the future, Connect SoCal projects growth in employment, population, and households at the regional, county, city, town and neighborhood levels. These projections take into account economic and demographic trends, as well as feedback reflecting on-the-ground conditions from SCAG's member jurisdictions.

**BY 2045**  
**1 IN 5**  
**PEOPLE WILL BE**  
**AGE 65+**

Similar to what's happening at a national level, the population growth rate has slowed and an increasing share of Baby Boomers are retiring. Since most Millennials – the generation born between years 1982 and 1996 – entered adulthood during the recession, difficulties in securing stable employment have caused many of them to lag behind previous generations in building lifetime wealth.

During this time, Millennials were less likely than previous generations to form a family, move out of their parents' homes to form a household, or purchase their own homes. This has had the effect of increased demand and higher prices in the rental housing market, since many would-be homeowners lacked the income to buy.

At the same time, California is in the midst of a long-term structural housing shortage and affordability crisis. The housing crisis is a two-part problem – a shortage of housing and a lack of affordability. The region's housing supply has not kept up with population growth. From 2006 to 2016, an additional 930,000 people called Southern California home. But over a comparable period, only one new housing unit was created for every 3.32 persons added. Many areas in Riverside and San Bernardino Counties were appealing for development due to the availability of lower priced land, which attracted new residents looking for larger or lower priced housing. Jobs, however, did not follow in proportion to housing unit growth in these communities. As a result, residents of the Inland Empire had to travel longer distances on average than other Southern Californians to reach their jobs, increasing congestion, automobile dependency, greater wear and tear on our roads, increasing traffic collisions, air pollution, and limiting the effectiveness of public transit.

As our communities continue to expand, vital habitat lands face severe development pressure. The diverse natural and agricultural landscapes of Southern California are a valuable asset to the region and its residents. The region's desert, mountain and coastal habitats have some of the highest concentrations of native plant and animal species on the planet. These areas support a robust economy, provide clean drinking water, protect the air and host countless recreation activities.

## PROJECTED REGIONAL GROWTH



HOUSEHOLDS

2016

**6M**

2045

**7.6M**

**+1.6M**



POPULATION

**18.9M**

**22.5M**

**+3.6M**



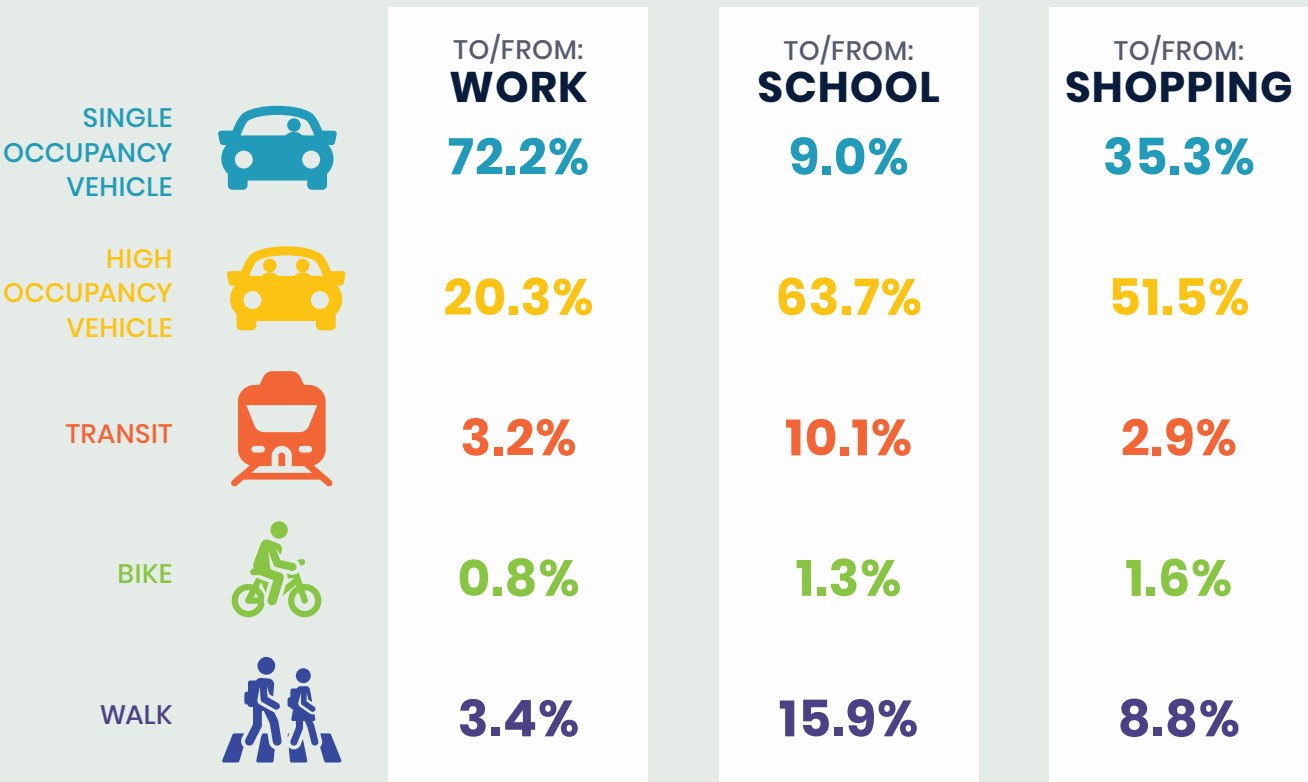
EMPLOYMENT

**8.4M**

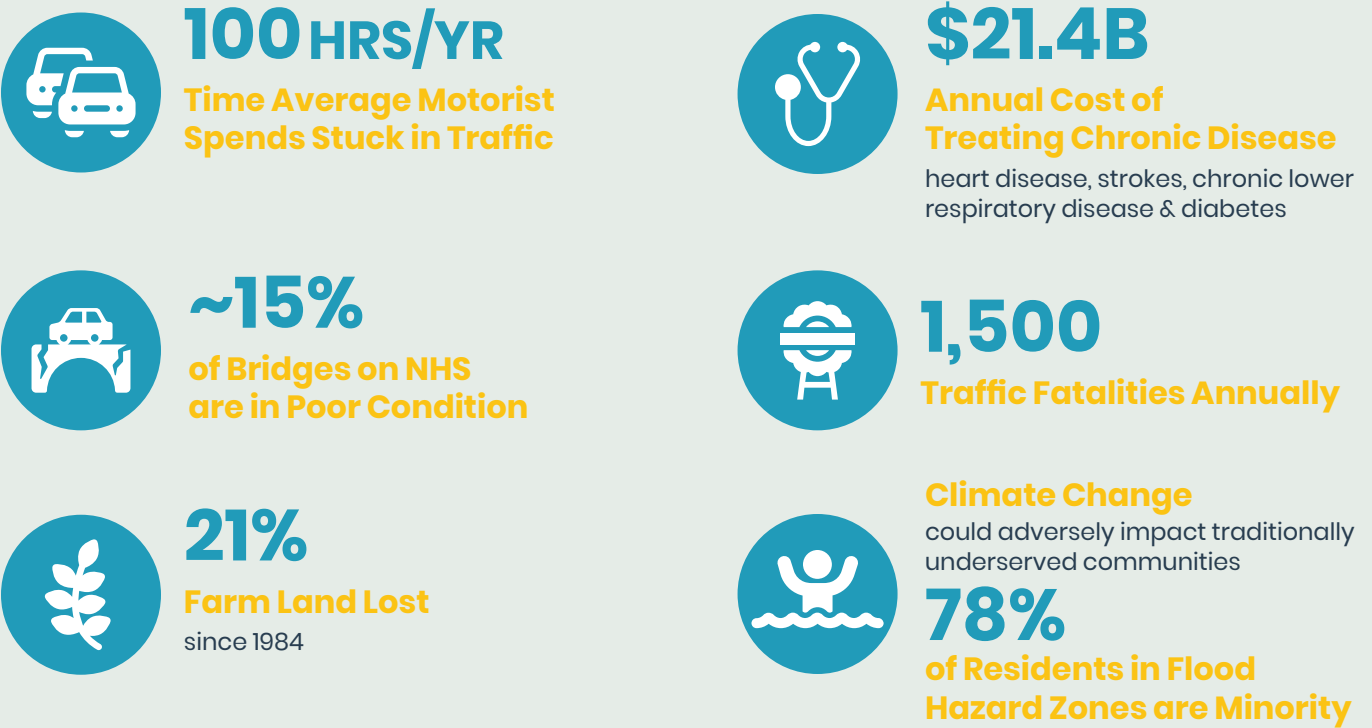
**10M**

**+1.6M**

# HOW WE TRAVEL TODAY



# CHALLENGES IN THE REGION



# CORE VISION

Rooted in past Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) plans, Connect SoCal's "Core Vision" centers on maintaining and better managing the transportation network we have for moving people and goods, while expanding mobility choices by locating housing, jobs and transit closer together and increasing investment in transit and complete streets. SCAG's Core Vision include:



## DEMAND & SYSTEM MANAGEMENT

Better managing the existing transportation system through demand management strategies and Intelligent Transportation Systems (ITS) yields significant mobility benefits in a cost-effective manner.

### PROGRESS SINCE 2016

The I-210 Integrated Corridor Management Pilot, a first of its kind in Southern California, integrates management and operation of the freeway with, nearby arterials and local transit using real-time monitoring of travel conditions, and improved corridor-wide collaboration to re-direct vehicles during congestion causing incidents.

The California Road Charge Pilot Program is a statewide effort to test the functionality, complexity and feasibility of a road charge system for transportation funding. The pilot demonstrated the feasibility for a variety of technologies to facilitate mileage reporting methods and data collection. Coupled with carefully designed incentives, a road charge is a powerful tool for reducing congestion and supporting our sustainability goals.

In 2018, the Metro board signaled a major change in direction for the former I-710 North capacity project by approving an alternative that focuses on TDM/TSM strategies in this corridor.

### PLANNING FOR 2045

Connect SoCal increases investment and strengthens policy levers to optimize system performance while realizing greenhouse gas reduction, quickly and efficiently.

New strategies resulting from SCAG's TDM Strategic Plan provide an objectives-driven, performance-based process to identify and promote TDM strategies and programs across the region. SCAG will pursue implementation of these strategies in coordination with regional and local partners.

SCAG will pursue research and planning as autonomous vehicles emerge in the market, transforming system management opportunities.



## GOODS MOVEMENT

The efficient movement of goods is critical to a strong economy and improves quality of life in the SCAG region by providing jobs and access to markets through trade. However, increased volumes of goods moving across the transportation system contribute to greater congestion, safety concerns and harmful emissions. It is critical to integrate land use decisions and technological advancements to minimize environmental and health impacts while fostering continued growth in trade and commerce.

### PROGRESS SINCE 2016

Adoption of the Clean Air Action Plan Update in 2017. Since inception in 2006, the Ports have reduced air pollution from harbor trucks alone by more than 90 percent.

Selection of a Locally Preferred Alternative for the I-710 South Recirculated Draft EIR/ Supplemental Draft EIS.

Twenty-five regional grade separations have been completed and opened to traffic, reducing delays and emissions from idling vehicles, and addressing noise and safety concerns.

Near completion of the Gerald Desmond Bridge (completion 2020).

Expansion of the international POE in Calexico.

### PLANNING FOR 2045

Connect SoCal includes expanded railyards, additional mainline railroad tracks, grade separations, improved port terminals and truck bottleneck relief projects, including dedicated truck lanes.

Connect SoCal addresses drivers of change such as e-commerce, new technologies, shifts in trade policies, last-mile delivery and the move to a near-zero and zero-emissions system.



## COMPLETE STREETS

Creating “complete streets” that are safe and inviting to all roadway users is critical to increasing mobility choices, reducing traffic fatalities and serious injuries and meeting greenhouse gas reduction targets.

### PROGRESS SINCE 2016

In December 2018, the City of Santa Ana opened its first protected bikeway, or cycletrack. The project, funded by OC Go (Orange County Measure M), features a 6-foot wide bikeway protected from vehicle traffic by a landscaped median. About 55 percent of the surrounding community doesn’t have access to a car. Santa Ana has been awarded about \$45 million in grant funding for projects like this one that improve safety for people walking and biking.

In the City of Los Angeles, the Mobility Plan 2035 advances the complete streets concept beyond a single project by prioritizing multi-modal networks including a Bicycle Enhanced Network, Transit Enhanced Network, Vehicle Enhanced Network and Pedestrian Enhanced Districts.

### PLANNING FOR 2045

Connect SoCal invests in local streets and arterials and anticipates continued success in securing grant funds for regionally significant projects through programs like the California Active Transportation Program (ATP).

By expanding, complete streets concepts to accommodate and optimize new technologies and micro-mobility devices, first-last mile connections to transit and curbside management strategies, the region will achieve even greater mode shift and reductions in VMT.

SCAG’s Go Human campaign and planning resources, like the Regional High Injury Network and upcoming curbside management study, help local agencies implement complete streets projects and policies.



## SYSTEM PRESERVATION & RESILIENCE

“Fix-It First” has been a guiding principle for prioritizing transportation funding in the regional transportation plan for the last decade. The cost of rebuilding roadways is eight times more than preventative maintenance. Thus, a commitment to preservation reflects the fiscal responsibility that is a priority of the plan.

### PROGRESS SINCE 2016

Passage of SB-1 in California in 2017 provides much needed infusion of funding to address these challenges. More specifically, SB-1 is expected to generate over \$52 billion statewide over the next ten years dedicated primarily to Road Maintenance and Rehabilitation. Most of the new sources that make up SB-1 are indexed to CPI so that the funds keep pace with inflation moving forward. Three roadway improvement/rehabilitation projects, including bridge improvement have already been programmed.

### PLANNING FOR 2045

Given the magnitude of our need, and to and enhance resilience in light of climate change, Connect SoCal continues to prioritize funding for system preservation. The plan includes \$68 billion towards preservation, operation and resiliency needs of the state highway system, and \$20.8B billion towards preservation, operation and resiliency needs of the local roads.

SCAG will continue to collaborate with federal, state and local partners to monitor the conditions of transportation assets and pursue new research and partnerships to ensure plan resources are deployed to address the region’s greatest vulnerabilities.



## TRANSIT BACKBONE

Expanding the transit network and fostering development in transit-oriented communities is central to the region’s plan for meeting mobility and sustainability goals while continuing to grow the regional economy.

### PROGRESS SINCE 2016

Major urban rail projects under construction:

- Metro Rail Regional Connector and Crenshaw/LAX lines
- OC Streetcar
- Arrow / Redlands Rail

Metrolink achieved record ridership levels in fiscal year 2018–2019, almost 12 million annual boardings.

Regional agencies have committed to major bus system redesigns including OC Bus 360 and the Metro NextGen Bus Study.

Microtransit pilots and partnerships with Transportation Network Companies are being implemented to provide additional options connecting to fixed route transit and rail.

### PLANNING FOR 2045

Connect SoCal builds upon extensive local investment in the transit and rail network by increasing resources for frequent and reliable bus service and closing gaps in the fixed guideway system.

Regional collaboration to implement Metrolink’s Southern California Optimized Rail Expansion (SCORE) and complete the Link Union Station (LinkUS) to transform Los Angeles Union Station from a “stub-end” station, to a “run-through” will reduce rail travel times across the system and allow one-seat rides to many more destinations.

SCAG supported plans and pilot projects to address first-last mile challenges will be essential to improving the transit experience and expanding access to jobs and destinations.









Through our continuing efforts to better align transportation investments and land use decisions, we strive to improve mobility and reduce greenhouse gases by bringing housing, jobs and transit closer together.

#### **PROGRESS SINCE 2016**

From 2008 to 2016, 71 percent of the region's household growth and 77 percent of the region's job growth occurred in Connect SoCal's priority growth areas. During this same period, only 11 percent of the region's household growth and five percent of the job growth occurred on prime farmland, and in areas vulnerable rising seas.

#### **PLANNING FOR 2045**

From 2016 to 2045, 68 percent of new households and 79 percent of new jobs will occur in priority growth areas. During this same period, roughly 11 percent of new households and 9 percent of new jobs will occur in absolute constraint areas.

SCAG's Sustainable Communities Program supports planning in local jurisdiction to advance the regional growth vision. In addition, new regional data tools, like the Regional Data Platform, will help local jurisdictions identify areas well suited for infill and redevelopment as well as natural and farm lands to be preserved. Studies and partnerships to establish Regional Advanced Mitigation Program (RAMP) will also be pursued to preserve habitat.

# KEY CONNECTIONS

Connect SoCal's "Key Connections" augment the Core Vision of the plan to address trends and emerging challenges while "closing the gap" between what can be accomplished through intensification of core planning strategies alone and what must be done to meet increasingly aggressive greenhouse gas reduction goals. These Key Connections lie at the intersection of land-use, transportation and innovation, aiming to coalesce policy discussions and advance promising strategies for leveraging new technologies and partnerships to accelerate progress on regional planning goals. The Key Connections include:



TELEWORKING

E-GOVERNMENT

TELEMEDICINE



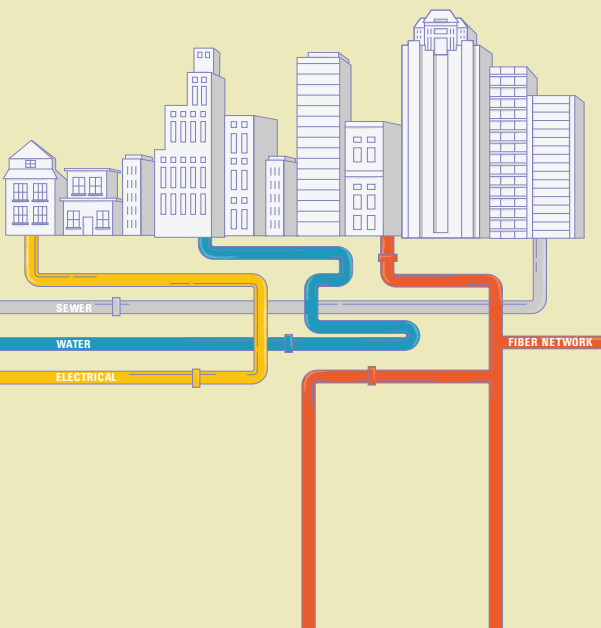
## SMART CITIES & JOB CENTERS

The Smart Cities and Job Centers strategy aims to catalyze investments across sectors to make "virtual access" a cost-effective and reliable option for all types of trips, expanding the air quality, congestion and VMT reduction benefits the region already realizes through teleworking. Smart Cities connect people, vehicles and infrastructure, allowing them to communicate in "real-time" through regional telecommunications networks.

While Smart Cities strategies can be deployed universally, virtual access is particularly beneficial in rural communities where destinations are far apart. Connect SoCal also envisions intensified deployment in sub-regional job centers to encourage more growth of both jobs and housing in areas with already high employment density. Strengthening these locally significant employment centers allows the region to capitalize on the economic and mobility benefits of compact development, where housing and jobs are closer together. This strategy builds upon promising trends in "co-working" to promote alternatives for long-distance commuters who prefer not to telecommute. It incorporates transit demand management (TDM) measures that encourage carpooling and transit, and parking strategies that reduce the cost to build new employment facilities within job centers.

## HOUSING SUPPORTIVE INFRASTRUCTURE

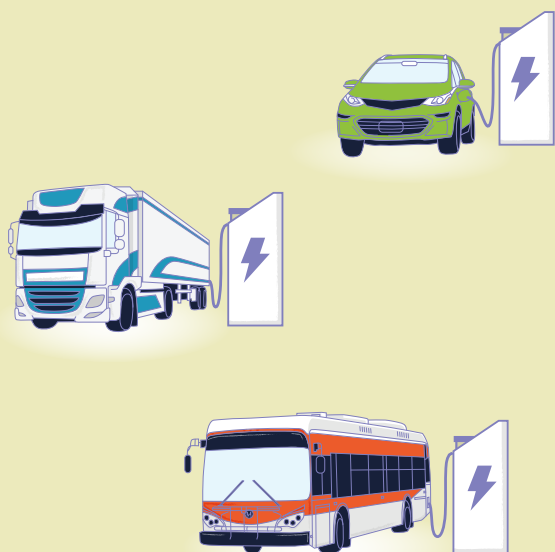
The extraordinary cost of producing housing is a significant barrier to growth throughout Southern California, but also specifically, to achieving the level of infill and transit-oriented development anticipated in Connect SoCal. The Regional Housing Supportive Infrastructure strategy will help make it quicker for local jurisdictions to produce critically-needed housing. The costs of building parking, and sewer/water infrastructure through Development Fees can range from 10% to nearly 25% of construction costs. By implementing tax-increment finance districts, jurisdictions can plan and implement housing supportive infrastructure. With the increase in use of ridesourcing, right-sizing parking strategies, enabled by technology, can reduce the overall cost of housing construction in Connect SoCal's Priority Growth Areas.





## GO ZONES

Go Zones are geographic areas where a suite of mobility service options are provided together with incentives to reduce dependency on personal automobiles. This expanded mobility ecosystem can include increased transit, bike share, enhanced active transportation infrastructure, and incentives—such as a fee on solo driving during peak traffic periods. Incentives would encourage the use of shared modes or shift less time sensitive trips to off-peak times. Revenues collected from the fee would be used to fund local transportation improvements and support sustainability goals by contributing to reductions in GHG emissions. Go Zones can be designed with policies and discounts that address equity concerns and promote mobility options for commuters of various income levels.

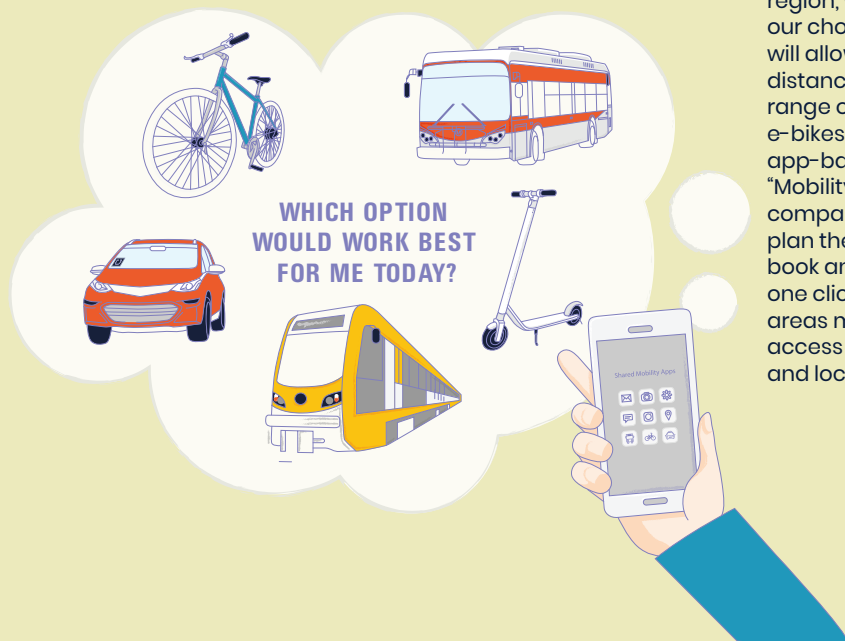


## ACCELERATED ELECTRIFICATION

The Accelerated Electrification strategy offers a holistic and coordinated approach to de-carbonizing or electrifying passenger vehicles, transit and goods movement vehicles. Through greater coordination and deeper collaboration, this strategy aims to go beyond benefits achieved through state mandates alone. In the light-duty sector, Connect SoCal plans for greater incentives to increase sales of electric vehicles and strategies to increase the availability of charging infrastructure. Electric vehicles (EVs) currently make up only seven percent of new car sales, but the growth is healthy: In 2013 EVs made up just 2.4 percent of all new car sales statewide. For transit, in 2018 the California Air Resources Board voted to mandate purchases of electric buses. We can facilitate that process by working with transit agencies to ensure adequate charging stations and electricity rates. In the goods movement sector, the goal is to achieve a zero-emissions system, fostering early adoption of near-zero-emissions technologies.

## SHARED MOBILITY & MOBILITY AS A SERVICE

The future of transportation, like so many aspects of living in our region, will be shaped by technology and the ability to customize our choices. The rise of shared mobility and mobility as a service will allow residents choose how to travel, depending on the time, distance or goal of their trip. "Shared mobility" refers to a broad range of transportation options, such as rental e-scooters and e-bikes, ridesourcing services like Uber and Lyft, and on-demand app-based transit connections provided by vans and shuttles. "Mobility as a service," or MaaS, allows travelers to research and compare different transportation options from one screen and plan their trip accordingly. MaaS will also allow the traveler to book and pay for different segments of a multi-modal trip with one click. This will make it increasingly critical that dense urban areas manage their curb space smartly, in order to ensure safe access for low-speed modes, ridesourcing providers, parking and local deliveries.





# FINANCING THE PLAN

The financially constrained Connect SoCal includes both a “traditional” core revenue forecast comprised of existing local, state, and federal sources, and more innovative but reasonably available sources of revenue to implement a program of improvements that keeps people and goods moving. The financial plan further documents progress made since past RTPs and describes steps we can take to obtain needed revenues to implement the region’s transportation vision.

The financial plan highlights the importance of finding new and pioneering ways to pay for transportation, including an ever-expanding backlog of projects necessary to preserve our existing transportation system. Nationally, we continue to face an insolvency crisis with the Federal Highway Trust Fund (HTF), which is funded by excise taxes on fuel. The federal gas tax remains unchanged since 1993, and fuel tax receipts have declined precipitously as fuel efficiency has increased. California’s passage of the Road Repair and Accountability Act of 2017 (Senate Bill 1) provides a significant influx of new state revenue through a state gas tax increase and other transportation fees, yet only a fraction of our needs is funded through state sources. Furthermore, these fees do not completely address the erosion of purchasing power as construction costs are rising faster than the general inflation rate.

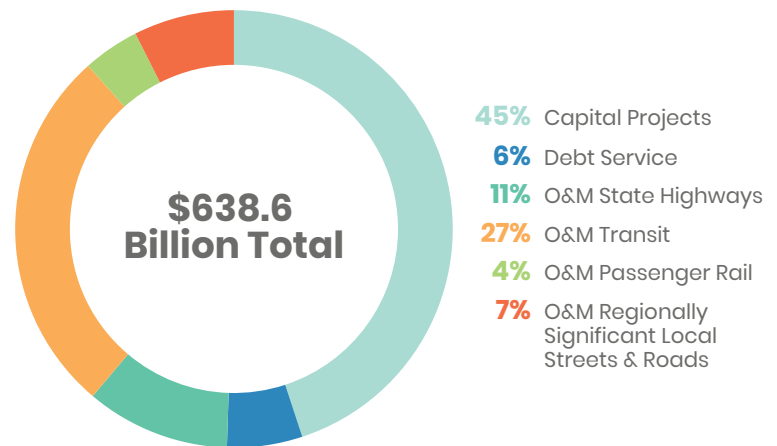
Our region continues to rely heavily on local sources of tax revenue. Eight sales tax measures in the region are the key reason that local sources generate 61 percent of core revenues for transportation improvements. Our region’s success in providing local sources of transportation funding also increases our ability to secure federal and state funding that requires local contribution.

The SCAG region’s financially constrained Connect SoCal plan includes revenues from both core and reasonably available revenue sources, which together total \$638.6 billion from FY2020-21 through FY2044-45.

Connect SoCal expenditures on capital projects total \$287 billion in nominal dollars. Operating and maintenance (O&M) costs total \$316 billion, while debt service obligations total \$35.6 billion. Transit-related costs comprise the largest share of O&M costs for the region, totaling \$173.9 billion.

Federal guidelines permit the inclusion in the financial plan of revenues that are reasonably available. Further, the Plan includes strategies for ensuring the availability of these sources. The region’s reasonably available revenues include new sources

## CONNECT SOCIAL EXPENDITURES



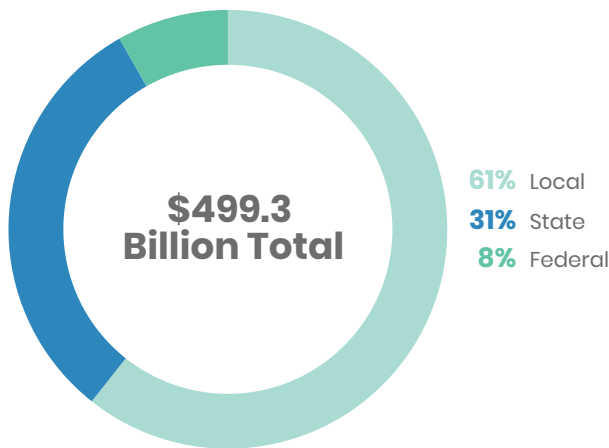
of transportation funding likely to materialize within the Connect SoCal timeframe. These sources include:

- Adjustments to the existing federal gas tax rate
- Replacement of existing state and federal gas excise taxes with more direct mileage-based user fees
- Federal credit assistance and bond proceeds
- Private equity participation
- A local road charge program
- Value capture strategies
- A per-mile charge for Transportation Network Companies (e.g. Uber and Lyft)

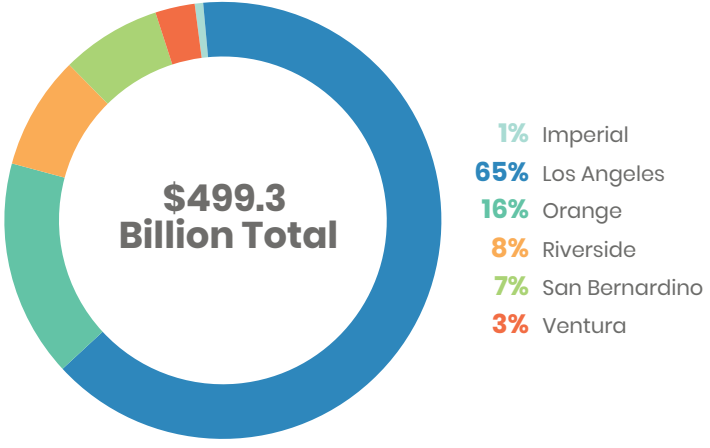
It is vital that we find new ways to make transportation funding more sustainable in the long-term, and efforts are underway to explore how we can transition from our current system, based on fuel taxes, to a more direct system of user fees linked to how people travel. User fees can support our infrastructure needs and promote a more balanced transportation system by encouraging residents and visitors to consider their travel choices. User fees can be structured and implemented to advance environmental, economic and equity goals, including reducing congestion and vehicle miles traveled (VMT), while encouraging active transportation and transit ridership goals, including reducing congestion and vehicle miles traveled (VMT), while encouraging active transportation and transit ridership.

# CORE REVENUE FORECAST

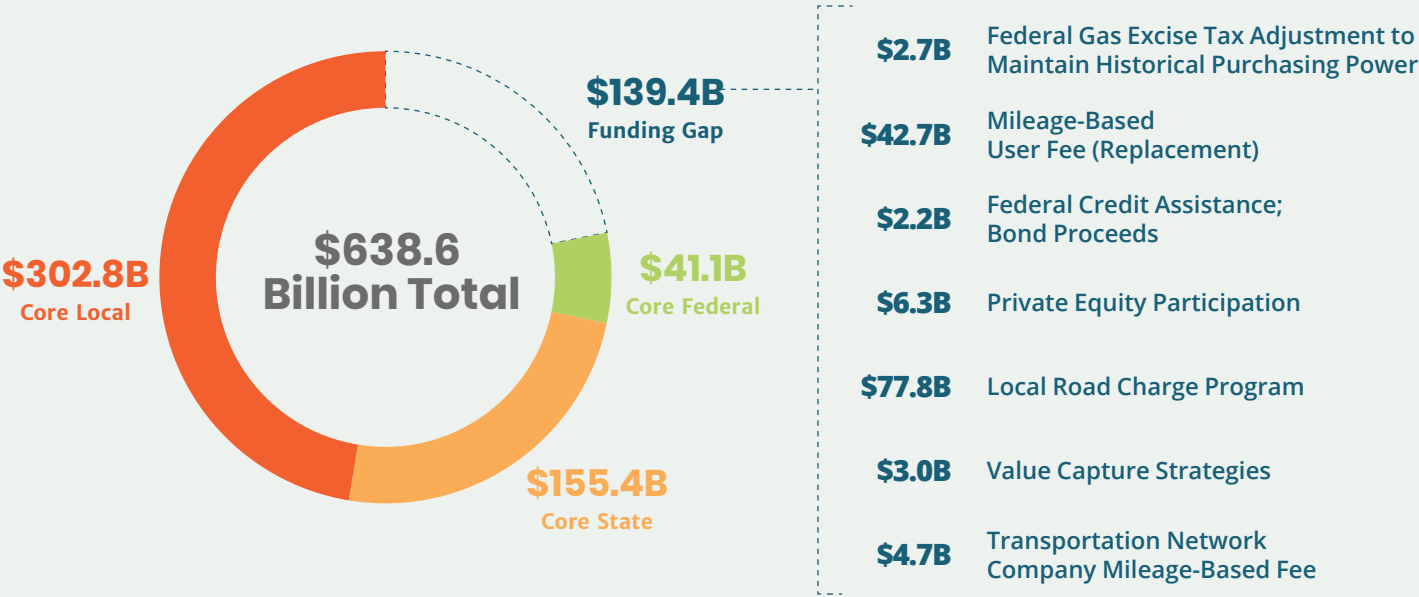
Core Revenues (in Nominal Dollars)



Core Revenues by County (in Nominal Dollars)



# NEW REVENUE SOURCES TO FILL FUNDING GAP



# BENEFITS OF PLAN IMPLEMENTATION

Connect SoCal generates substantial benefits for the SCAG region, contributing meaningfully toward achievement of our regional goals for sustainability, transportation equity, improved public health and safety, and enhancement of overall quality of life in Southern California.

Some of the Connect SoCal performance results include:

- Increase the combined percentage of work trips made by carpooling, active transportation, and public transit by four percent, with a commensurate reduction in the number of commuters traveling by single-occupancy vehicle
- Reduce VMT per capita by four percent and vehicle hours traveled per capita by nine percent (for automobiles and light/medium-duty trucks) as a result of more efficient land use strategies and improved regional transit service
- Increase transit use for work trips by three percent, as a result of improved transit service and more transit-oriented, mixed-use development
- Reduce travel delay per capita by 22 percent
- Create more than 195,000 new jobs annually due to enhanced economic competitiveness and improved overall regional economic performance. This more competitive economic environment would be the result of an improved regional transportation system and reduced levels of congestion
- Reduce greenfield development by 36 percent. Conservation of open space and agricultural lands are achieved by focusing new residential and commercial development in higher density areas already equipped with the requisite urban infrastructure.
- Increase the share of new regional household growth occurring in High Quality Transit Areas (HQTAs) by nearly 10 percent, and increase the share of new job growth in HQTAs by about 24 percent. With more people living and working in locations near convenient and efficient transit options, congestion levels will be reduced accordingly.

Connect SoCal prioritizes the attainment of all applicable federal and state performance requirements. The Plan meets all federal provisions for transportation conformity as defined under the federal Clean Air Act and therefore demonstrates transportation conformity. Connect SoCal achieves per capita GHG emission reductions relative to 2005 levels of eight percent in 2020, and 19 percent in 2035, thereby meeting the GHG reduction targets established by the California Air Resources Board (ARB) for the SCAG region.

## IMPROVED PUBLIC HEALTH

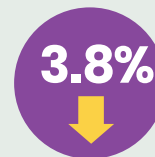


### HEALTHCARE

**\$350M** ANNUAL SAVINGS  
from increased walking/biking

## IMPROVED AIR QUALITY

### PM<sub>2.5</sub> EMISSIONS



**13.0** tons  
TREND

**12.5** tons  
PLAN

### GHG REDUCTIONS

|      | ARB TARGET | CONNECT SOCAL | % DIFFERENCE |
|------|------------|---------------|--------------|
| 2020 | <b>8%</b>  | <b>8%</b>     | <b>0%</b>    |
| 2035 | <b>19%</b> | <b>19%</b>    | <b>0%</b>    |

## ECONOMIC OPPORTUNITY

### BENEFIT/COST RATIO

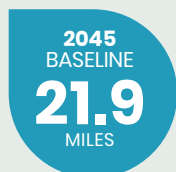


**\$1.00 = \$1.54**  
INVESTMENT BENEFIT

## LESS TIME SPENT DRIVING

### DAILY VEHICLE MILES TRAVELED (VMT)

PER CAPITA



Baseline to Plan  
Comparison

**-4.1%**

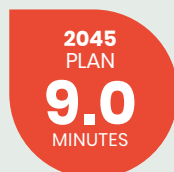


Base Year to Plan  
Comparison

**-9.5%**

### REDUCED DAILY MINUTES OF DELAY

PER CAPITA



Baseline to Plan  
Comparison

**-22.4%**



Base Year to Plan  
Comparison

**-14.1%**

## LOCATION EFFICIENCY



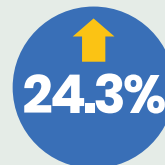
HIGH QUALITY TRANSIT AREA  
HOUSEHOLD GROWTH SHARE

**44.6%**

TREND

**54.1%**

PLAN



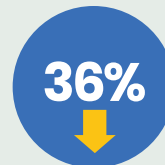
HIGH QUALITY TRANSIT AREA  
EMPLOYMENT GROWTH SHARE

**46.3%**

TREND

**70.6%**

PLAN



RURAL LAND CONSUMPTION

**101** SQ.  
MILES

TREND

**65** SQ.  
MILES

PLAN

## ANNUAL NEW JOBS

**167,100\***

SUPPORTED BY

TRANSPORTATION  
INVESTMENTS



**195,500\***

SUPPORTED BY

IMPROVED  
COMPETITIVENESS



SAVED IN ANNUAL  
HEALTHCARE EXPENDITURE

**\$350M**

\*Preliminary Projections



## MAIN OFFICE

900 Wilshire Blvd., Ste. 1700  
Los Angeles, CA 90017  
Tel: (213) 236-1800

## REGIONAL OFFICES

### IMPERIAL COUNTY

1405 North Imperial Ave., Ste. 104  
El Centro, CA 92243  
Tel: (760) 353-7800

### ORANGE COUNTY

OCTA Building  
600 South Main St., Ste. 741  
Orange, CA 92868  
Tel: (714) 542-3687

### RIVERSIDE COUNTY

3403 10th St., Ste. 805  
Riverside, CA 92501  
Tel: (951) 784-1513

### SAN BERNARDINO COUNTY

Santa Fe Depot  
1170 West 3rd St., Ste. 140  
San Bernardino, CA 92410  
Tel: (909) 806-3556

### VENTURA COUNTY

4001 Mission Oaks Blvd., Ste. L  
Camarillo, CA 92418  
Tel: (805) 642-2800



## A PLAN SUMMARY

NOVEMBER 2019





# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** 1st Quarter Draft Budget Amendment for Fiscal Year 2019/2020

**Contact:** Andrew Ruiz, Chief Financial Officer, [aruiz@wrcog.us](mailto:aruiz@wrcog.us), (951) 405-6741

**Date:** December 2, 2019

*The purpose of this item is to request approval of WRCOG's 1st Quarter Draft Budget Amendment for Fiscal Year (FY) 2019/2020. The staff report includes a summary of increases and/or decreases to both revenues and expenditures by department, including addition of positions to support Western Community Energy (WCE).*

### **Requested Action:**

1. Approve the 1st Quarter Draft Agency Budget Amendment for Fiscal Year 2019/2020.

### **WRCOG General Fund / WCE**

As part of the Implementation and Management Services Agreement between WRCOG and WCE, WRCOG provides administrative support (i.e., staffing) to implement WCE, and will continue to do so until WCE decides it should hire its own employees. Currently, the WRCOG Deputy Executive Director – Operations spends approximately 80% of her time, and the Energy Program Manager spends approximately 50% of his time, working on WCE, along with a few other WRCOG staff that spend less than 10% of their time on WCE.

In examining WCE's staffing needs for the next eight months in preparation for launch, staff has identified key positions that are needed. These include the following:

- **Energy Accounts Manager:** The Energy Accounts Manager's primary function will be to focus on the retention of commercial, industrial, and agricultural accounts. Staff recommends bringing this person on board during **January 2020**.
- **Accounting Manager:** The Accounting Manager primary function will be to assist the Chief Financial Officer with day to day accounting tasks as they relate to WCE operations. Funding for this position will be split between WRCOG, WCE, and the Riverside County Habitat Conservation Agency. Staff recommends bringing this person on board during **January 2020**.
- **WCE Director:** The WCE Director's primary function will be overseeing the day to day operations of WCE as well as working with the Executive Director on recruiting new members, representing the Agency, overseeing the team of consultants, and other activities that relate to running the Agency. With the pending retirement of the Deputy Executive Director – Operations in late July 2020, there is the intent to promote from within WRCOG for this position. Staff recommends the promotion to this position in **June 2020**.
- **Staff Analyst:** The Staff Analyst's primary function will be to assist the WCE Director with the day to day functions and operations of WCE. This includes working with the WCE consultant team, presenting to the community, preparing staff reports and agendas, etc. Staff recommends bringing this person on board during the **spring of 2020**.

At the WCE Board of Directors meeting on November 13, 2019, it was requested that these positions be added to the WRCOG budget prior to bringing the staff on-board. Since the employees working on WCE are WRCOG employees, staff is bringing these specific positions forward to be added to budget to work on WCE.

As part of the Implementation and Management Services Agreement between WRCOG and WCE, WCE will pay back WRCOG for all start-up costs associated with launching WCE. It is anticipated that WCE will begin to pay back WRCOG in late 2021. This is due to financing being received from Barclay's Bank for energy-related costs that stipulates WCE is restricted from paying back WRCOG until the WCE facility is paid off or certain covenants have been met.

Once WCE launches in April 2020, however, WCE will be self-sufficient and will be able to support its ongoing operational costs, such as staffing, through its own revenues and will no longer need WRCOG to support any additional expenses. Staff is requesting an additional \$135,000 be transferred to WCE for additional staffing costs associated with its launch.

### **Transportation & Planning Department**

Transportation & Planning Department expenditures exceeded the budgeted amount by \$304, primarily due to training costs associated with the Fellowship Program and member dues related to TUMF Program. These expenditures will be offset by a decrease in expenditures in other budgeted categories.

***Net Expenditure increase to Transportation & Planning Department: \$0***

### **Energy Department**

Energy Department expenditures exceeded the budgeted amount by \$12,982, primarily due to legal costs associated with PACE providers SAMAS Capital and TWAIN Capital. SAMAS is expected to pay back the legal costs, and the legal costs associated with TWAIN Capital are expected to be offset by future revenues. \$1,638 in expenditures will be offset by a decrease in expenditures in other budgeted categories.

***Net Expenditure increase to the Energy Department: \$11,344***

### **Environmental Department**

Environmental Department expenditures exceeded the budgeted amount by \$881, primarily due to costs associated with a new computer for staff. These expenditures will be offset by a decrease in expenditures in other budgeted categories.

***Net Expenditure increase to the Environment Department: \$0***

### **Prior Actions:**

November 21, 2019: The Technical Advisory Committee recommended that the Executive Committee approve the 1st Quarter Draft Agency Budget Amendment for Fiscal Year 2019/2020.

November 13, 2019: The Administration & Finance Committee recommended that the Executive Committee approve the 1st Quarter Draft Agency Budget Amendment for Fiscal Year 2019/2020.

October 24, 2019: The Finance Directors Committee recommended that the Executive Committee approve the 1st Quarter Draft Agency Budget Amendment for Fiscal Year 2019/2020.

### **Fiscal Impact:**

For the 1st Quarter of Fiscal Year 2019/2020, there will a net increase in expenditures of \$146,344 related to additional WCE staffing and legal costs associated with PACE providers SAMAS Capital and TWAIN Capital.

**Attachment:**

1. Fiscal Year 2019/2020 1st Quarter Budget amendment.

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# Item 6.C

1st Quarter Draft Budget Amendment  
for Fiscal Year 2019/2020

## Attachment 1

Fiscal Year 2019/2020 1st Quarter  
Budget amendment

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**Department: Government Relations (Fellowship - 4700)**

## Expenditures

|                                                                                   |           |           |           |
|-----------------------------------------------------------------------------------|-----------|-----------|-----------|
|  | Thru      | Approved  | Amendment |
|                                                                                   | 9/30/2019 | 6/30/2020 | Needed    |
|                                                                                   | Actual    | Budget    | 9/30/2019 |
|                                                                                   | <hr/>     |           |           |
| <b>Expenditures</b>                                                               |           |           |           |
| Salaries & Wages                                                                  | 40,020    | 273,961   | 189       |
| Event Support                                                                     | 689       | 500       | (189)     |
|                                                                                   | <hr/>     |           |           |
| <b>Total net (increase)/decrease</b>                                              |           |           | <b>-</b>  |

**Western Riverside Council of Governments  
Annual Budget  
For the Year Ending June 30, 2020**

## Department: Transportation (TUMF - 1148)



|           |           |           |
|-----------|-----------|-----------|
| Thru      | Approved  | Amendment |
| 9/30/2019 | 6/30/2020 | Needed    |
| Actual    | Budget    | 9/30/2019 |

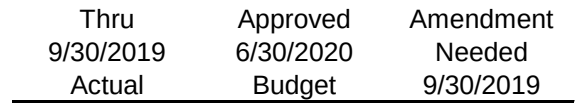
## Expenditures

|                            |     |     |       |
|----------------------------|-----|-----|-------|
| Membership Dues            | 115 | -   | (115) |
| Subscriptions/Publications | -   | 500 | 115   |

**Total net (increase)/decrease** -



Department: Energy (Streetlights - 2026)



|                                      |       |        |          |
|--------------------------------------|-------|--------|----------|
| Bank Fees                            | 1,638 | -      | (1,638)  |
| General Legal Services               | 1,043 | 10,000 | 1,638    |
| <b>Total net (increase)/decrease</b> |       |        | <b>-</b> |

**Western Riverside Council of Governments  
Annual Budget  
For the Year Ending June 30, 2020**

**Department: Energy (Twain - 2115)**



| Thru<br>9/30/2019<br>Actual | Approved<br>6/30/2020<br>Budget | Amendment<br>Needed<br>9/30/2019 |
|-----------------------------|---------------------------------|----------------------------------|
|-----------------------------|---------------------------------|----------------------------------|

**Expenditures**

|                                      |       |   |                |
|--------------------------------------|-------|---|----------------|
| General Legal Services               | 6,322 | - | (6,322)        |
| <b>Total net (increase)/decrease</b> |       |   | <b>(6,322)</b> |

**Western Riverside Council of Governments  
Annual Budget  
For the Year Ending June 30, 2020**

**Department: Energy (SAMAS - 2107)**

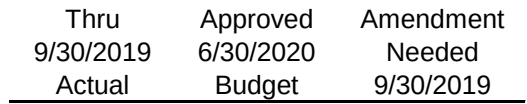


| Thru<br>9/30/2019<br>Actual | Approved<br>6/30/2020<br>Budget | Amendment<br>Needed<br>9/30/2019 |
|-----------------------------|---------------------------------|----------------------------------|
|-----------------------------|---------------------------------|----------------------------------|

**Expenditures**

|                                      |       |   |                |
|--------------------------------------|-------|---|----------------|
| General Legal Services               | 5,022 | - | (5,022)        |
| <b>Total net (increase)/decrease</b> |       |   | <b>(5,022)</b> |

|                                                |
|------------------------------------------------|
| Department: Environmental (Solid Waste - 1038) |
|------------------------------------------------|



|                   |     |        |       |
|-------------------|-----|--------|-------|
| Event Support     | -   | 30,000 | 881   |
| Computer Supplies | 881 | -      | (881) |

178

**Western Riverside Council of Governments**  
**Annual Budget**  
**For the Year Ending June 30, 2020**

**Department: General Fund**



|                          | Thru<br>9/30/2019<br>Actual | Approved<br>6/30/2020<br>Budget | Amendment<br>Needed<br>9/30/2019 |
|--------------------------|-----------------------------|---------------------------------|----------------------------------|
| Fund Balance Transfer in | -                           | -                               | 135,000                          |
| <b>Expenditures</b>      |                             |                                 |                                  |
| Transfer out to WCE      | -                           | -                               | (135,000)                        |

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# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** Regional Streetlight Program Activities Update

**Contact:** Daniel Soltero, Staff Analyst, [dsoltero@wrcog.us](mailto:dsoltero@wrcog.us), (951) 405-6738.

**Date:** December 2, 2019

*The purpose of this item is to provide an update on the Streetlight Operations and Maintenance services provided by Siemens, and a Regional Retrofit timeline update.*

### **Requested Action:**

1. Receive and file.

### **Background**

The Regional Streetlight Program provides the 11 participating jurisdictions with streetlight retrofit, and operations and maintenance (O&M) services. In 2017, WRCOG released RFQ 17-04 to solicit proposals for these services, and in 2018, Siemens was selected as the provider. As jurisdictions are taking ownership of their streetlights, they are required to maintain them should any issues arise such as lamp burnouts, damaged equipment, or pole knockdowns. One of the main reasons for selecting Siemens as the O&M provider for the region is improved level of service when compared to the previous owner and operator of the streetlights, Southern California Edison (SCE).

There are 10 participating jurisdictions in the Program that are or will be utilizing Siemens O&M services. In 2018, the City of Murrieta was the first jurisdiction to acquire streetlights, and the only jurisdiction to initiate Siemens' services that year. In 2019 to date, nine more jurisdictions have acquired streetlights and are utilizing Siemens' services. As each jurisdiction initiates Siemens' services, they are provided with a log-in to the Maintenance Portal which shows all the work orders for that jurisdiction. The Portal will display all open, pending, and closed work orders, response dates and times, as well as brief descriptions of the issue and work conducted. In addition to the 10 jurisdictions utilizing Siemens, the City of Moreno Valley is utilizing its own public electric utility, Moreno Valley Utility, to retrofit, operate, and maintain its acquired and city-owned streetlights.

### **Ongoing Operations and Maintenance (O&M) Update**

Of the 11 participating jurisdictions in the Regional Streetlight Program, 10 have completed the acquisition process and have commenced with Siemens O&M services. The City of Menifee is the remaining jurisdiction to acquire its streetlights and is anticipated to commence with O&M services in the fourth quarter of 2019.

This process has ultimately resulted in different O&M start dates for all jurisdictions. For example, the City of Murrieta became the first jurisdiction to commence with O&M services in September 2018, while the City of Menifee is anticipated to commence with O&M in the fourth quarter of 2019.

It is important to note that O&M services for most jurisdictions in the Program starts before LED retrofit occurs, meaning most of the initial work orders are for the existing High-Pressure Sodium (HPS) and/or Low-Pressure

Sodium (LPS) streetlights. Staff expects an initial increase in work orders due to the existing lamps having shorter life span, were of varying age at acquisition, and are prone to require additional maintenance or replacement due to the lamp technology. As jurisdictions retrofit their streetlights to LED fixtures, staff anticipate a decrease in work orders as LED's have a longer lifespan, operate more efficiently, and were all new at the time of installation.

Siemens has responded to 683 work orders across the region from September 27, 2018, to October 31, 2019. The regional average response time to routine O&M work orders is currently 4.99 work days, which includes responding to lamp burnouts, cycling and flickering lights due to bad ballasts, or day burning streetlights due to photocell malfunction. Additionally, the regional average response time to Extraordinary O&M work is currently 1.84 days, which can include pole knockdowns, tracing power feed issues or securing live wires, and overhead wiring replacement. In emergency responses for pole knockdowns, Siemens responds immediately and returns public safety within an average of 2.56 hours. Additionally, Siemens has responded to a total of 16 pole knockdowns since September 2018.

Currently, staff is reviewing all work orders for each jurisdiction in order to develop a detailed O&M Report. This Report will include metrics for typical response times, most common maintenance issues, and number of routine and extraordinary O&M work orders. Staff will bring a more detailed Report (City-level data) at a later Committee meeting.

### **Regional Streetlight Retrofit Update**

The below table reflects the streetlight retrofit progress or anticipated retrofit start of each jurisdiction in the Program. The three jurisdictions highlighted in green in the table below, the Cities of Eastvale, Murrieta, and Wildomar, have substantially completed the major portion of their streetlight retrofit. These three jurisdictions are currently working with SCE to review any poles missed during the initial SCE true-up and/or sale, as well as identifying any remaining poles for conversion. Moreover, the five jurisdictions highlighted in yellow in the table below, the Cities of Hemet, Lake Elsinore, Moreno Valley, and San Jacinto, and the Jurupa Community Services District, are still undergoing the streetlight retrofit and/or installing pole tags. Once these jurisdictions complete the major portion of streetlight retrofit, they will enter a project closeout phase which includes working with SCE to discuss remaining streetlights for acquisition, as well as identifying any remaining streetlights for retrofit. The remaining three jurisdictions without highlighting, the Cities of Menifee, Perris, and Temecula, are anticipated to start retrofitting streetlights by the end of 2019, and during the first quarter of 2020.

| Jurisdiction  | Streetlight Count | Progress | Retrofit Start  |
|---------------|-------------------|----------|-----------------|
| Eastvale      | 4,107             | 99%      | 6/4/2019        |
| Murrieta      | 6,436             | 99%      | 2/11/2019       |
| Wildomar      | 1,405             | 99%      | 7/19/2019       |
| Hemet         | 3,993             | 90%      | 8/15/2019       |
| JCSD          | 1,905             | 98%      | 9/30/2019       |
| Lake Elsinore | 3,739             | 70%      | 10/7/2019       |
| Moreno Valley | 11,257            | 87%      | 12/18/2018      |
| San Jacinto   | 1,945             | 95%      | 9/19/2019       |
| Menifee       | Est. 6,780        |          | Q4 2019         |
| Perris        | 4,581             |          | Q1 2020         |
| Temecula      | 7,279             |          | Est. 11/25/2019 |



**Prior Actions:**

November 21, 2019: The Technical Advisory Committee received and filed.

November 14, 2019: The Public Works Committee received and filed.

November 13, 2019: The Administration and Finance Committee received and filed.

**Fiscal Impact:**

This item is for informational purposes only; therefore, there is no fiscal impact.

**Attachment:**

None.

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# Western Riverside Council of Governments Executive Committee

## Staff Report

**Subject:** PACE Programs Activities Update

**Contact:** Casey Dailey, Director of Energy & Environmental Programs, [cdailey@wrcog.us](mailto:cdailey@wrcog.us), (951) 405-6720

**Date:** December 2, 2019

*The purpose of this item is to request that the Executive Committee approve the HERO Commercial Programs Administration Agreement between Renovate America and WRCOG to allow Renovate America to administer services to WRCOG for the HERO Commercial Programs, and recommend that the Executive Committee adopt Resolution Number 32-19, authorizing Renovate America to administer and finance eligible improvements on commercial properties.*

### Requested Actions:

1. Approve and authorize the Executive Director to execute a HERO Commercial Programs Administration Agreement, as to form.
2. Adopt Resolution Number 32-19; A Resolution of the Executive Committee of the Western Riverside Council of Governments authorizing Renovate America to administer and finance eligible improvements to be installed on commercial properties and in connection with such authorization, approving amendments to the Program Report for the WRCOG Energy Efficiency and Water Conservation Program for Western Riverside County and the form of a commercial handbook, agreement to pay assessment and finance improvements, indenture authorizing the issuance of bonds pursuant to such indenture and subsequent indentures in similar form secured by assessments levied on commercial properties to finance the installation of authorized improvements on such commercial properties and approving other actions in connection thereto.

*WRCOG's PACE Programs provide financing to property owners to implement energy saving, renewable energy, water conservation, and seismic strengthening improvements to their homes and businesses. Financing is paid back from assessments revenues generated by placing a lien on the subject property's tax bill. The Program was initiated in December 2011 and was expanded in 2014 to allow jurisdictions throughout the state to join WRCOG's Program and allow property owners in these jurisdictions to participate. WRCOG now offers HERO, CaliforniaFIRST, PACE Funding, and Ygrene as residential PACE providers and Greenworks, CleanFund, and Twain as commercial PACE providers.*

### Renovate America Commercial PACE

In June 2016, the Executive Committee adopted a resolution to have Renovate America implement the HERO Commercial PACE Program. Like the residential HERO PACE Program, Renovate America would have access to all participating jurisdictions within the California HERO footprint for commercial PACE (C-PACE) projects. However, due to certain market conditions, Renovate America was unable to establish the HERO Commercial PACE Program.

On October 2, 2017, the Executive Committee adopted a resolution which rescinded the authorization for Renovate America to administer the Commercial HERO Program and removed HERO Commercial Program

references from the Program Report. This action allowed other commercial PACE providers, such as Greenworks Lending, to operate within California HERO Statewide member jurisdictions.

As C-PACE markets have continued to evolve, Renovate America has been approached by several C-PACE providers who have pending projects in jurisdictions located within the California HERO Program footprint but are not authorized to provide program administration services within such area that desire to partner with Renovate America to finance such projects. For all such commercial projects, Renovate America will serve as the program administrator.

In order to facilitate financing of these projects and expand C-PACE, WRCOG staff is recommending that the Executive Committee adopt Resolution Number 32-19, as well as approve and authorize the Executive Director to execute the HERO Commercial Programs Administration Agreement, as to form, and agreements for consideration of approval (Attachments 3-10), authorizing Renovate America to administer and finance eligible improvements on commercial properties. This will allow Renovate America to serve as an additional program administrator for commercial properties within the WRCOG Programs and allow Renovate America to originate commercial projects of its own as well as partner with other PACE providers to finance commercial projects. This action does not impact existing WRCOG C-PACE providers that are currently allowed to operate within the footprint of the WRCOG Programs.

### **Prior Actions:**

November 13, 2019: The Administration & Finance Committee recommended that the Executive Committee 1) approve and authorize the Executive Director to execute a HERO Commercial Programs Administration Agreement, as to form; and 2) adopt Resolution Number 32-19; A Resolution of the Executive Committee of the Western Riverside Council of Governments authorizing Renovate America to administer and finance eligible improvements to be installed on commercial properties and other actions in connection thereto.

October 9, 2017: The Executive Committee adopted a Resolution Number 41-17, which rescinded the authorization for Renovate America to administer the Commercial HERO Program and removed HERO Commercial Program references from the Program Report.

### **Fiscal Impact:**

There is no fiscal impact directly associated with this item. Approval of the requested actions are likely to result in additional revenue to the WRCOG PACE Program.

### **Attachments:**

1. HERO Commercial Programs Administration Agreement.
2. Resolution Number 32-19; A Resolution of the Executive Committee of the Western Riverside Council of Governments authorizing Renovate America to administer and finance eligible improvements to be installed on commercial properties and in connection with such authorization, approving amendments to the Program Report for the WRCOG Energy Efficiency and Water Conservation Program for Western Riverside County and the form of a commercial handbook, agreement to pay assessment and finance improvements, indenture authorizing the issuance of bonds pursuant to such indenture and subsequent indentures in similar form secured by assessments levied on commercial properties to finance the installation of authorized improvements on such commercial properties and approving other actions in connection thereto.
3. WRCOG Energy Efficiency and Water Conservation Administrative Guidelines and Program Report Amended December 2, 2019 - addition of HERO Commercial Program.
4. CA HERO Program Report Amended December 2, 2019 - addition of HERO Commercial Program.
5. HERO Commercial Programs Assessment Contract.
6. Commercial Indenture with HERO Commercial Programs.

7. Master Bond Purchase Agreement with HERO Commercial Programs.
8. Master Assignment and Assumption Agreement with HERO Commercial Programs.
9. Depositary and Account Control Agreement with HERO Commercial Programs.
10. HERO Commercial Programs Handbook.

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# Item 6.E

PACE Programs Activities Update

## Attachment 1

HERO Commercial Programs  
Administration Agreement

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## **HERO COMMERCIAL PROGRAMS**

### **ADMINISTRATION AGREEMENT**

#### **1. PARTIES AND DATE.**

This HERO Commercial Programs Administration Agreement is made and entered into as of \_\_\_\_\_, 2019, by and between the Western Riverside Council of Governments, a California public agency (“WRCOG”) and Renovate America, Inc., a Delaware corporation (“Renovate America”). WRCOG and Renovate America are sometimes individually referred to as a “Party” and collectively as the “Parties.” This agreement may be referred to herein as the “Administration Agreement” or the “Agreement.”

#### **2. RECITALS.**

**2.1** The Executive Committee of WRCOG (the “Executive Committee”) has established a property assessed clean energy (“PACE”) program designated as the Energy Efficiency and Water Conservation Program for Western Riverside County (the “WRCOG PACE Program”) pursuant to the provisions of Chapter 29 of Part 3, Division 7 of the California Streets and Highways Code (commencing at Section 5898.12) (“Chapter 29”), the Joint Powers Agreement of WRCOG originally made and entered into April 1, 1991, as further amended to date (as amended, the “JPA”), and separate Implementation Agreements entered into pursuant to the JPA by and between WRCOG and its member agencies that elected to participate in the WRCOG PACE Program (the “Member Agencies”), to assist owners of commercial properties (the “Commercial Properties”) or commercial properties (“Residential Properties”) within the jurisdictional boundaries such Member Agencies to finance the cost of installation of distributed generation renewable energy sources or energy efficiency or water conservation improvements, seismic improvements or electric vehicle charging infrastructure (the “Eligible Products”) that are permanently fixed to the properties of such owners.

**2.2** As a part of such proceedings, the Executive Committee initially approved and has subsequently amended a report prepared pursuant to and addressing all of the matters set forth in Streets and Highways Code Section 5898.22 and 5898.23 (as amended, the “WRCOG PACE Program Report”), including a map showing the boundaries of the territory within which the voluntary contractual assessments may be offered (the “WRCOG PACE Program Area”), a form of contract specifying the terms and conditions that would be agreed to by an owner of property within such boundaries and WRCOG (each, a “WRCOG PACE Program Assessment Contract”), a statement of policies of WRCOG concerning such voluntary contractual assessments and a plan for raising a capital amount required to pay for the work performed pursuant to the voluntary contractual assessments.

**2.3** As a further part of such proceedings, the Executive Committee provided that one or more series of limited obligation improvement bonds would be issued under the Bond Act of 1915, being Division 10 of the Streets & Highways Code of the State of

California (the “1915 Bond Act”) or other financing relationships would be entered for the purpose of financing the installation of Eligible Products.

**2.4** WRCOG and Renovate America entered into agreements and amendments and addendums thereto (the “WRCOG Residential Agreement”) to provide that Renovate America would, as a part of the WRCOG PACE Program, administer and finance a program (the “WRCOG HERO Residential Program”) to finance the installation of Eligible Improvements on Residential Properties within the WRCOG PACE Program Area.

**2.5** Subsequently the Member Agencies of WRCOG entered into that certain Amendment to the Joint Powers Agreement of the Western Riverside Council of Governments to Permit the Provision of PACE Services (the “PACE JPA Amendment”) to empower WRCOG to establish and operate one or more PACE programs pursuant to Chapter 29 and to enter into one or more implementation agreements or joint powers agreements or amendments thereto to fulfill such programs both within and outside the jurisdictional boundaries of WRCOG and to further empower WRCOG to establish an “Associate Member” status that provides membership in WRCOG of local jurisdictions that are located outside of WRCOG’s jurisdictional boundaries but within whose boundaries such a PACE program will be established and implemented by WRCOG.

**2.6** The PACE JPA Amendment provided that such local jurisdictions shall become Associate Members of WRCOG by the adopting an agreement on the terms established by the Executive Committee.

**2.7** The Executive Committee did, pursuant to the PACE JPA Amendment, establish the terms of such an agreement in the form of an amendment to the JPA enabling local jurisdictions to be added as Associate Members to WRCOG to permit the provision of PACE services within such local jurisdiction (each such agreement, a “JPA Amendment”).

**2.8** The Executive Committee subsequently undertook proceedings to establish and did thereby establish a PACE program designated as the California HERO Program (the “California HERO Program” and, together with the WRCOG PACE Program, the “Programs”) pursuant to the provisions of Chapter 29, the JPA, and separate JPA Amendments entered into pursuant to the JPA by and between WRCOG and the cities and counties that elected to become Associate Members of WRCOG and to participate in the California HERO Program, to assist owners of Commercial Properties or Residential Properties within the jurisdictional boundaries such Associate Members to finance the cost of installation of Eligible Products that are permanently fixed to the properties of such owners.

**2.9** As a part of such proceedings, the Executive Committee initially approved and has subsequently amended a report prepared pursuant to and addressing all of the matters set forth in Streets and Highways Code Section 5898.22 and 5898.23 (as amended, the “California HERO Program Report” and, together with the WRCOG PACE Program Report, the “Program Reports”), including a map showing the boundaries of the territory within which the voluntary contractual assessments may be offered (the “California HERO

Program Area” and, together with the WRCOG PACE Program Area, the “Program Areas”), a form of contract specifying the terms and conditions that would be agreed to by an owner of property within such boundaries and WRCOG (each, together with the WRCOG PACE Program Assessment Contracts, an “Assessment Contract”), a statement of policies of WRCOG concerning such voluntary contractual assessments and a plan for raising a capital amount required to pay for the work performed pursuant to the voluntary contractual assessments.

**2.10** As a part of such proceedings, the Executive Committee provided that one or more Series of Bonds would be issued under the 1915 Bond Act or other financing relationships would be entered for the purpose of financing the installation of Eligible Products.

**2.11** WRCOG and Renovate America entered into agreements and amendments and addendum thereto (the “California HERO Residential Agreement,” collectively with the WRCOG Residential Agreement, the “Residential Agreements”) to provide that Renovate America would, as a part of the California HERO Program, administer and finance a separate program (the “California HERO Residential Program,” and together with the WRCOG HERO Residential Program, the “HERO Residential Programs”) to finance the installation of Eligible Improvements on Residential Properties within the California HERO Program Area.

**2.12** Subsequently, WRCOG has also entered into agreements with numerous other program administrators that would, as a part of the Programs, administer and finance separate program (the “WRCOG Commercial Programs”) to finance the installation of Eligible Improvements on Commercial Properties within the Program Areas.

**2.13** Renovate America has created the infrastructure and developed the resources to administer and finance the installation of Eligible Improvements on Commercial Properties.

**2.14** The Executive Committee has determined that it would be in the best interests of the owners of Commercial Properties within the Program Areas to enable Renovate America to administer and finance a program as a part of each of the Programs (each, a “HERO Commercial Program” and together, the “HERO Commercial Programs”), separate and apart from the HERO Residential Programs and the Samas Commercial Programs, to finance the installation of Eligible Improvements on Commercial Properties in each of the Program Areas.

**2.15** The Executive Committee has amended the Program Reports to enable Renovate America to implement the applicable HERO Commercial Program within each of the Program Areas.

**2.16** WRCOG and Renovate America now desire and intend to enter into this agreement pursuant to which Renovate America shall provide administrative services for the HERO Commercial Programs (the “Administration Agreement”) and an Master Bond

Purchase Agreement (the “Master BPA”) to provide for and establish the terms and conditions pursuant to which WRCOG will sell to Renovate America and Renovate America shall purchase from WRCOG the limited obligation improvement bonds issued by WRCOG (the “Bonds”) to finance the installation of Eligible Improvements on Commercial Properties the owners of which elect to participate in one of the HERO Commercial Programs.

**2.17** The Parties hereto desire and that this Administration Agreement and this Master BPA taken together represent the operating relationship between the parties pertaining to the HERO Commercial Programs.

### **3. THE PURPOSE OF THE AGREEMENT.**

WRCOG and Renovate America desire to enter into the Agreement to establish the terms and conditions pursuant to which Renovate America shall provide administration services to WRCOG for both the HERO Commercial Programs for Commercial Properties participating in such programs (the “Program Administration Services”) as set forth in Exhibit B attached hereto and incorporated herein by this reference. In respect to such services, Renovate America desires to perform and assume responsibility for the provision of such Program Administration Services on the terms and conditions set forth in this Agreement. Renovate America represents that it is legally qualified to provide such Program Administration Services, and has or will obtain all necessary licenses and authorizations from the State of California and any agency of the federal government with the authority to regulate the provision of such Program Administration Services. The Parties intend that terms and conditions providing for the purchase of the limited obligation improvement bonds to be issued by WRCOG to finance the installation of Eligible Products on Commercial Properties located within the Program Areas shall be incorporated in the Master BPA to be entered into between the Parties concurrently with this Agreement.

WRCOG desires to engage Renovate America to render such Program Administration Services as set forth in and pursuant to the terms and conditions of this Agreement.

### **4. TERMS.**

#### **4.1 Scope of Program Administration Services and Term of Agreement.**

**4.1.1 General Scope of Program Administration Services.** Renovate America promises and agrees to provide Program Administration Services and to furnish financing necessary to provide labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately implement the provision of the Program Administration Services. All Program Administration Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

In the event that the Program Administration Services conflict with the Program Reports, the provisions of the Program Reports shall prevail; *provided that* any changes to the Program Reports subsequent to the date hereof, shall be provided to Renovate America and Renovate America shall expressly acknowledge and agree to any such changes before they shall

be deemed to control pursuant to this Section 4.1.1.

**4.1.2 Term.** The initial term of this Agreement shall commence on December \_\_, 2019 and shall terminate on June 1, 2022 and shall extend for an additional year at the end of each succeeding year upon the written consent of WRCOG and Renovate America.

**4.1.3 Residential Agreements.** Nothing in this Agreement shall modify any terms and conditions under the Residential Agreements and none of the provisions of the Residential Agreements shall apply and/or modify the terms and conditions of this Agreement.

## **4.2 Responsibilities of Renovate America and WRCOG.**

**4.2.1 Control and Payment of Subordinates; Independent Contractor and Other Costs.** The Program Administration Services shall be performed by Renovate America. Renovate America will determine the means, methods and details of performing the Program Administration Services subject to the requirements of this Agreement. WRCOG retains Renovate America on an independent contractor basis and not as an employee. Any personnel performing Program Administration Services under this Agreement on behalf of Renovate America shall not be employees of WRCOG and shall at all times be under Renovate America's exclusive direction and control. Renovate America shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Program Administration Services under this Agreement and as required by law. Renovate America shall be responsible for all reports and obligations respecting such personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers compensation insurance.

**4.2.2** Rights to provide Program Administrator Services to other entities and Limitations thereon

(a) Renovate America hereby acknowledges that (i) WRCOG has established the WRCOG Commercial Programs, (ii) such WRCOG Commercial Programs shall continue operate and (iii) may authorize additional program administrators to administer and finance separate programs to finance the installation of Eligible Improvements on Commercial Properties within the Program Areas.

(b) Outside California, Renovate America retains the right to perform services similar to Program Administration Services authorized to be provided under this Agreement for other public agencies implementing similar programs ("Other Issuers" and each an "Other Issuer").

(c) Within California, Renovate America shall market the HERO Commercial Programs to cities and counties outside only on behalf of WRCOG.

**4.2.3 Schedule of Responsibilities.** Renovate America shall perform Program Administration Services and WRCOG shall perform the WRCOG Responsibilities (defined in

4.2.3 below) upon and pursuant to a Schedule of Responsibilities to be agreed upon by the WRCOG Representative (defined in 4.2.7 below) and the Renovate America Representative (defined in 4.2.8 below) which Schedule of Responsibilities shall be executed by both the WRCOG Representative and Renovate America Representative indicating the approval and acceptance of such schedule and the incorporation of such schedule into this Agreement, shall thereafter be attached to this Agreement as Exhibit C hereto and shall thereafter be incorporated herein by this reference. Renovate America represents that it has the professional and technical personnel and financial resources required to perform Program Administration Services in conformance hereto. WRCOG represents that it has the professional personnel and financial resources required to perform the WRCOG Responsibilities in conformance hereto.

**4.2.4 WRCOG Responsibilities.** In order to facilitate Renovate America's performance of Program Administration Services, WRCOG shall respond to Renovate America's requests and submittals in a timely manner including reviewing, approving, acting upon and/or executing documents listed in the Schedule of Responsibilities.

**4.2.5 Compensation for Performance of Program Administration Services.** WRCOG has no responsibility to directly pay Renovate America and the only payment to Renovate America for the provision or the performance of its Program Administration Services shall be from the proceeds of the Bonds to be issued to finance the Eligible Improvements for a property participating in one of the HERO Commercial Programs. Renovate America will be compensated for its Program Administration Services performed relating to the administration of the HERO Commercial Programs as follows: at the time of the issuance of a Bond or a Series of Bonds to fund Eligible Improvements for a Commercial Property participating in one of the HERO Commercial Programs, Renovate America will receive a one-time fee for its Program Administration Services in the amounts as shall be mutually agreed to by the Parties from time to time and payable solely from the proceeds of the Bonds. As of the effective date of this Agreement, the Parties agree that such fee shall be equal to \_\_\_\_% of the principal amount of each Bond.

**4.2.6 Conformance to Applicable Requirements.** At the beginning of each calendar year, Renovate America shall meet with the WRCOG Representative and other WRCOG representatives to review and approve Renovate America's marketing and customer service plans for the HERO Programs. To the extent there are material changes to the marketing and customer service plans, Renovate America shall meet with the WRCOG Representative and other WRCOG representatives to review and approve the revised marketing and customer service plans. Renovate America and WRCOG shall schedule monthly meetings at Renovate America offices for an update on the HERO Commercial Programs.

**4.2.7 The WRCOG Representative.** WRCOG hereby designates Rick Bishop, Executive Director, or his or her designee, to act as its representative for the performance of this Agreement (the "WRCOG Representative"). The WRCOG Representative shall have the power to act on behalf of WRCOG for all purposes under this Agreement. Renovate America shall not accept direction or orders from any person on behalf of WRCOG other than the WRCOG Representative or his or her designee. The WRCOG Representative shall provide written notice

to Renovate America of the appointment or the rescission of the appointment of any designee of the WRCOG Representative hereunder.

**4.2.8 The Renovate America Representative.** Renovate America hereby designates \_\_\_\_\_, or his or her designee, to act as its representative for the performance of this Agreement (the “Renovate America Representative”). The Renovate America Representative shall have full authority to represent and act on behalf of Renovate America for all purposes under this Agreement. The Renovate America Representative shall supervise and direct Program Administration Services, using his or her best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of Program Administration Services under this Agreement. The Renovate America Representative shall provide written notice to the WRCOG Representative of the appointment or the rescission of the appointment of any designee of the Renovate America Representative hereunder.

**4.2.9 Coordination of Program Administration Services.** Renovate America agrees to work closely with WRCOG staff and WRCOG’s other consultants engaged to assist WRCOG in the HERO Commercial Programs (the “HERO Commercial Programs Consultants”) in the performance of Program Administration Services and shall be reasonably available to WRCOG’s staff and the HERO Commercial Programs Consultants.

**4.2.10 Standard of Care.** Renovate America shall perform all Program Administration Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Renovate America represents and maintains that it is skilled in the professional calling and has the financial resources necessary to perform Program Administration Services. Renovate America warrants that all employees and/or agents of Renovate America shall have sufficient skill and experience to perform Program Administration Services assigned to them. Finally, Renovate America represents that it, its employees and agents have, or will have prior to the performance of Program Administration Services, all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform Program Administration Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Renovate America shall perform, at its own cost and expense and without reimbursement from WRCOG, any services necessary to correct errors or omissions which are caused by Renovate America’s failure to comply with the standard of care provided for herein.

**4.2.11 Laws and Regulations.** Renovate America shall keep itself fully informed of and in compliance in all material respects with all local, state and federal laws, rules and regulations in any manner affecting the performance of the HERO Commercial Programs or Program Administration Services, including without limitation, all Cal/OSHA requirements and all applicable federal and state securities laws and regulations, and shall give all notices required by law. Renovate America shall be liable for all violations of such laws, rules and regulations in connection with Program Administration Services. If Renovate America performs or fails to perform any work contrary to such laws, rules and regulations, Renovate America shall be solely responsible for all costs arising therefrom. Renovate America shall defend, indemnify and hold

WRCOG, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure by Renovate America to comply with such laws, rules or regulations.

#### **4.3 Accounting Records – Maintenance and Inspection.**

Renovate America shall maintain complete and accurate records, consistent with its records retention policy, which policy shall be commercially reasonable and shall take into account the nature and duration of the instruments to be issued in connection with the Programs. All such records shall be clearly identifiable. Renovate America shall, at reasonable times and upon reasonable notice, allow a representative of WRCOG during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Renovate America shall, at reasonable times and upon reasonable notice, allow inspection of all work, data, documents, proceedings, and activities related to the Agreement. Renovate America shall cooperate with WRCOG to facilitate WRCOG's compliance with its responsibilities under the California Public Records Act in relation to the Program Administration Services.

#### **4.4 General Provisions.**

**4.4.1 Grounds for Termination – At Will.** Either WRCOG or Renovate America may, by written notice to the other party, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to such party of such termination, and specifying the effective date thereof, at least ninety (90) days before the effective date of such termination. Notwithstanding the provisions of Section 4.4.1.1 of this Agreement, upon termination by WRCOG, Renovate America shall be compensated only for those services which have been rendered to WRCOG, and Renovate America shall be entitled to no further compensation.

**4.4.1.1 Effect of Termination.** Upon notification of termination Renovate America shall be required to notify WRCOG of all pending applications for WRCOG Assessment Contracts to fund Commercial PACE Projects originated by Renovate America during the course of Renovate America's provision of Program Administrative Services hereunder (each, a "Pending Renovate America Program Assessment Contract") and Renovate America shall have the right but not the obligation to close such Pending WRCOG Assessment Contracts subject to the review of the appropriate documentation by WRCOG. Except in the case previously described upon termination, Renovate America shall be compensated in the amount and from the sources set forth in Section 4.2.5 only for those Program Administration Services which have been provided in accordance with standard industry practices as determined by WRCOG, and Renovate America shall be entitled to no further compensation. If this Agreement is terminated as provided in this Section 4.4, WRCOG may require Renovate America to provide all finished or unfinished documents and data and other information of any kind prepared by Renovate America in connection with this Agreement, the performance of services under this Agreement and such finished



or unfinished documents produced in connection with this Agreement. Renovate America shall be required to provide such document and other information within fifteen (15) days of the request.

**4.4.1.2 Additional Services.** In the event this Agreement is terminated in whole or in part as provided in Section 4.4.1, WRCOG may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated upon effectiveness of such termination.

**4.4.2 Delivery of Notices.** All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Renovate America: Renovate America, Inc.  
15073 Avenue of Science, Suite 200  
San Diego, CA 92128  
Attn: \_\_\_\_\_  
Facsimile: (619) 923-2761

WRCOG: Western Riverside Council of Governments  
3390 University Avenue, 4th Floor  
Riverside, CA 92502  
Attn: Rick Bishop  
Facsimile: (951) 787-7991

With copy to: Best Best & Krieger LLP  
3390 University Avenue, 5th Floor  
Riverside, CA 92502  
Attn: Steven DeBaun, Esq., General Counsel, WRCOG  
Facsimile: (951) 686-3083

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

**4.4.3 Confidentiality, Intellectual Property and Data Compilation.**

**(a) Confidentiality.** Except as otherwise set forth in this Agreement, all ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other documents and data provided either Party to the other Party (including any copies or manuscripts of such information produced by a Party pursuant to this Agreement) or otherwise including any financial structure and financing approach of HERO Commercial Program Assessments in connection with the

performance of this Agreement shall be held confidential by the other Party. Nothing furnished to either Party which is otherwise known to the receiving Party prior to such disclosure or is generally known, or has become known, to the related industry, shall be deemed confidential. Renovate America shall not use WRCOG's name or insignia in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of WRCOG. Notwithstanding the above, any documents prepared for the HERO Commercial Programs that are intended to be provided to the public shall not be subject to the limitations of this Section 4.4.3.

**(b) Intellectual Property.** WRCOG expressly acknowledges and agrees that any and all computer software and all source code thereof, used or developed by Renovate America ("Proprietary Software") in performing the Services is proprietary and Renovate America, or its licensors, shall at all times exclusively own all rights, title, and interest in such software and Proprietary Software, including all intellectual property rights contained therein.

During the term of the Agreement, Renovate America grants WRCOG, solely for use in connection with HERO Commercial Programs related to Commercial Property, a non-exclusive, non-transferable license for WRCOG to use Renovate America's trademarks or trade names including, without limitation, "Renovate America," "Financing the Home Energy Revolution," "Home Energy Renovation Opportunity," "HERO," "HERO Financing," or new trademarks developed by Renovate America (collectively, the "Renovate America Marks"). Renovate America hereby reserves all right, title and interest in and to the Renovate America Marks. WRCOG agrees it will not use the Renovate America Marks upon termination of the Agreement and shall not contest, oppose or challenge Renovate America's ownership of any Renovate America Marks. Notwithstanding the foregoing, if Renovate America exits the business and ceases to provide Program Administration Services for any entity WRCOG and its agents shall have the right for a period of no more than one (1) year to use the names "Home Energy Renovation Opportunity," "HERO," or "HERO Financing," in connection with the WRCOG Program at no cost to WRCOG, using a formulation substantially similar to the following: "XYZ Company/Program, formerly known as the HERO Financing Program," in all cases qualifying each and every use (whether provided in writing, electronically, orally or otherwise) of the Renovate America Marks with the term "formerly" or a term of similar meaning.

**(c) Data Compilation.** WRCOG acknowledges and agrees that Renovate America, or its licensors, will have spent substantial time and effort in collection and compiling data and information (the "Data Compilations") in connection with the Program Administration Services and that such Data Compilations may be used by Renovate America (or such licensors) for their own purposes, including, without limitation, sale or distribution to third parties; provided, however, that Renovate America will not, and shall ensure that its licensors will not, sell or distribute any of WRCOG's confidential information that may be contained in such Data Compilations, unless such confidential information is used only on an aggregated and anonymous basis.

**4.4.4 Cooperation; Further Acts.** The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be reasonably necessary, appropriate or convenient to attain the purposes of this Agreement.

**4.4.5 Arbitration and Equitable Relief.** This Section shall govern the resolution of all controversies or claims between WRCOG and Renovate American that arise from this Agreement and any modifications hereto. The provisions of this Section, and the entitlement of one party to obtain damages, or other such appropriate legal or equitable remedies, for a breach by the other party, shall survive termination of this Agreement. Wherever this Agreement makes reference to any means of resolving and dispute between the Parties or termination of the Agreement, the Parties agree to follow the below arbitration procedures.

**(a) Arbitration.** In consideration of rights and obligations set forth by each party in this Agreement, Renovate America and WRCOG agree that any and all controversies, claims, or disputes with anyone (including WRCOG and any employee, officer, director, volunteer of WRCOG in his, her or its capacity as such or otherwise), whether brought on any individual, group or class basis, arising out of, relating to, or resulting from Renovate America's performance of the Program Administration Services under this Agreement or the termination of this Agreement, including any breach of this Agreement by either Party, shall be subject to binding arbitration in accordance with the Comprehensive Arbitration Rules & Procedures (the "Rules") of the Judicial Arbitration and Mediation Services ("JAMS"), as they may be amended from time to time where not inconsistent with the further provisions hereof. The Parties hereby agree that judgment upon the award rendered by the arbitrator(s) may be entered in Riverside Superior Court. The Parties submit to the jurisdiction of the Riverside Superior Court for purposes enforcing any such award and entering judgment thereon.

**(b) Procedure.** Appointment of the arbitrator pursuant to this Section shall be in accordance with the provisions of the Rules, which Rules provide a procedure for the selection of an arbitrator, or arbitration panel if agreed to by the Parties. Renovate America and WRCOG agree that the arbitrator shall have the power to decide any motions brought by any Party to the arbitration, including motions for summary judgment and/or adjudication, motions to dismiss and demurrers, and motions for class certification, prior to any arbitration hearing. Renovate America and WRCOG also agree that the arbitrator shall have the power to award any remedies available under applicable law, and that the arbitrator shall award attorneys' fees and costs to the prevailing Party except as prohibited by law. Costs shall be allocated as set forth in the Rules. Renovate America and WRCOG agree that the decision of the arbitrator shall be in writing. The written opinion of the arbitrator or arbitrators, as the case may be, shall be governed by the Rules. The arbitrator(s) shall have the powers established by JAMS, as delineated in the Rules, but shall have no authority to revise or vary the terms of this Agreement or the Parties' respective rights and obligations hereunder. Except as provided by the Rules and this Agreement, arbitration shall be the sole, exclusive and final remedy for any dispute between Renovate America and WRCOG. Accordingly, except as provided for by the Rules and this Agreement, neither Renovate America nor WRCOG will be permitted to pursue court action regarding claims that are subject to arbitration.

(c) Availability of Injunctive Relief. Renovate America and WRCOG agree that either Renovate America or WRCOG may petition a court for provisional relief, including injunctive relief. Renovate America and WRCOG understand that any breach or threatened breach of such an agreement (including this Agreement) will cause irreparable injury and that money damages will not provide an adequate remedy therefor and both WRCOG and Renovate America hereby consent to the issuance of an injunction.

**4.4.6** Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. However, the Parties acknowledge that the Master Bond Purchase Agreement executed between the Parties is dated concurrently herewith and contains related subject matter, which the Parties intend to respect and be bound by.

**4.4.7** Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

**4.4.8** Time of Essence. Time is of the essence for each and every provision of this Agreement.

**4.4.9** Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

**4.4.10** Assignment or Transfer. Renovate America shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of WRCOG, provided, however, Renovate America may assign this Agreement in connection with a merger or the sale of all or substantially all of its assets provided that the successor entity expressly assumes all of the obligations and confirms all of the representations and warranties of Renovate America hereunder. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

**4.4.11** Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not workdays. All references to Renovate America include all personnel, employees, agents, and subcontractors of Renovate America, except as otherwise specified in this Agreement. All references to WRCOG include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

**4.4.12** Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

**4.4.13** Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit,

privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

**4.4.14 No Third Party Beneficiaries.** There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

**4.4.15 Invalidity; Severability.** If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

**4.4.16 Prohibited Interests.** Renovate America warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Renovate America or independent contractors and consultants engaged by Renovate America to perform services of the nature of those included on the Schedule of Responsibilities attached hereto to solicit or secure this Agreement. Further, other than its outside counsel, Renovate America warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Renovate America, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, WRCOG shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of WRCOG, during the term of his or her service with WRCOG, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

**4.4.17 Equal Opportunity Employment.** Renovate America represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

**4.4.18 Labor Certification.** By its signature hereunder, Renovate America certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of Program Administration Services.

**4.4.19 Authority to Enter Agreement.** Renovate America has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

## **4.5 Subcontracting.**

**4.5.1 Prior Approval Required.** Renovate America shall not subcontract any portion of Program Administration Services, except as expressly stated herein, without prior written approval of WRCOG; *provided that* Renovate America is not prohibited from hiring

individuals that act as independent contractors or consultants with respect to the work such individuals perform for Renovate America. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

#### **4.6 Insurance.**

**4.6.1 Time for Compliance.** Renovate America shall not commence Program Administration Services under this Agreement until it has provided evidence satisfactory to WRCOG that it has secured all insurance required under this Section. In addition, Renovate America shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to WRCOG that the subcontractor has secured all insurance required under this section.

**4.6.2 Minimum Requirements.** Renovate America shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by Renovate America, its agents, representatives, employees or subcontractors. Renovate America shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(a) **Minimum Scope of Insurance.** Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers Compensation and Employers Liability*: Workers Compensation insurance as required by the State of California and Employers Liability Insurance.

(b) **Minimum Limits of Insurance.** Renovate America shall maintain limits no less than: (1) *General Liability*: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (3) *Workers Compensation and Employers Liability*: Workers Compensation limits as required by the Labor Code of the State of California. Employers Liability limits of \$1,000,000 per accident for bodily injury or disease.

**4.6.3 Professional Liability.** Renovate America shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of three (3) years following completion of Program Administration Services, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$1,000,000 per claim, and shall be endorsed to include contractual liability.

**4.6.4 Privacy/Network Security (Cyber) Liability Coverage.** Renovate America shall procure and maintain insurance providing protection against liability for (1) privacy breaches (2) system breach (3) denial or loss of service (4) introduction, implantation, or spread of malicious software code (5) unauthorized access to or use of computer systems with limits of \$2 million. No exclusion/restriction for unencrypted portable devices/media may be on the policy.

**4.6.5 Insurance Endorsements.** The insurance policies shall contain the following provisions, or Renovate America shall provide endorsements on forms supplied or approved by WRCOG to add the following provisions to the insurance policies:

**(a) General Liability.** The general liability policy shall be endorsed to state that: (1) WRCOG, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to Program Administration Services or operations performed by or on behalf of Renovate America, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as respects WRCOG, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Renovate America's scheduled underlying coverage. Any insurance or self-insurance maintained by WRCOG, its directors, officials, officers, employees, agents and volunteers shall be excess of Renovate America's insurance and shall not be called upon to contribute with it in any way.

**(b) Automobile Liability.** The automobile liability policy shall be endorsed to state that: (1) WRCOG, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Renovate America or for which Renovate America is responsible; and (2) the insurance coverage shall be primary insurance as respects WRCOG, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Renovate America's scheduled underlying coverage. Any insurance or self-insurance maintained by WRCOG, its directors, officials, officers, employees, agents and volunteers shall be excess of Renovate America's insurance and shall not be called upon to contribute with it in any way.

**(c) Workers Compensation and Employers Liability Coverage.** The insurer shall agree to waive all rights of subrogation against WRCOG, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by Renovate America.

**(d) All Coverages.** Each insurance policy required by this Agreement shall be endorsed to state that: (1) the respective insurer (or in the case of professional liability insurance provided pursuant to Section 4.6.3, the respective insurer or Renovate America) shall provide WRCOG with written notice within thirty (30) days of any suspension, voiding or cancellation of the insurance policy; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to WRCOG, its directors, officials, officers, employees, agents and volunteers.

**4.6.6 Separation of Insureds; No Special Limitations.** All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to WRCOG, its directors, officials, officers, employees, agents and volunteers.

**4.6.7 Deductibles and Self-Insurance Retentions.** Any deductibles or self-insured retentions in an amount greater than \$10,000 must be declared to and approved by the WRCOG. Renovate America shall guarantee that, at the option of WRCOG, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects WRCOG, its directors, officials, officers, employees, agents and volunteers; or (2) Renovate America shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

**4.6.8 Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Bests rating no less than A:VII, licensed to do business in California.

**4.6.9 Verification of Coverage.** Renovate America shall furnish WRCOG with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to WRCOG. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by WRCOG if requested. All certificates and endorsements must be received and approved by WRCOG before work commences. WRCOG reserves the right to require complete, certified copies of all required insurance policies, at any time.

#### **4.7 Indemnification.**

Renovate America shall defend, indemnify and hold WRCOG, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any allegedly negligent or wrongful acts or omissions or willful misconduct of Renovate America, its officials, officers, employees, agents, consultants, contractors and subcontractors, arising out of or in connection with the performance of the Program Administration Services, the HERO Commercial Programs or this Agreement, including without limitation, the negligent disclosure of Data Compilations under Section 4.4.3(a) of this Agreement. Such costs, expenses, liability, loss, damage or injury shall including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses. Renovate America shall defend, at Renovate America's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against WRCOG, its directors, officials, officers, employees, agents or volunteers. Renovate America shall pay and satisfy any judgment, award or decree that may be rendered against WRCOG or its directors, officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. Renovate America shall reimburse WRCOG and its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Renovate America's obligation to indemnify shall not



be restricted to insurance proceeds, if any, received by the WRCOG, its directors, officials, officers, employees, agents or volunteers.

WRCOG shall defend, indemnify and hold Renovate America, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any reckless acts or omissions or willful misconduct of WRCOG, its officials, officers, employees, agents, consultants, contractors and subcontractors, arising out of or in connection with the performance of the Program Administration Services, the HERO Commercial Programs or this Agreement, including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses. WRCOG shall defend, at WRCOG's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Renovate America, its directors, officials, officers, employees, agents or volunteers. WRCOG shall pay and satisfy any judgment, award or decree that may be rendered against Renovate America or its directors, officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. WRCOG shall reimburse Renovate America and its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. WRCOG's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Renovate America, its directors, officials, officers, employees, agents or volunteers.

No third party shall be a direct beneficiary of this Section 4.7.

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IN WITNESS WHEREOF, the Parties hereby have made and executed this Agreement as of the date first written above.

WESTERN RIVERSIDE COUNCIL OF  
GOVERNMENTS

RENOVATE AMERICA, INC.

By: \_\_\_\_\_  
Rick Bishop, Executive Director

By: \_\_\_\_\_  
Authorized Officer

APPROVED AS TO FORM:

By: \_\_\_\_\_  
General Counsel  
Best Best & Krieger LLP

**Exhibit “A”**

**WRCOG  
ADMINISTRATIVE GUIDELINES  
AND  
PROGRAM REPORT**

**and**

**CALIFORNIA HERO PROGRAM REPORT**

Exhibit A

## **EXHIBIT “B”**

### **SCOPE OF PROGRAM ADMINISTRATION SERVICES**

Renovate America shall provide the following Program Administrative Services:

#### **Program Design**

As part of Program Administration Services, Renovate America shall provide program design services which include: (1) review and edit all policies relating to commercial projects; (2) provide documentation, processes and procedures required for registering contractors, accepting, processing and approving property owner applications, reviewing eligibility of and approving proposed improvements, providing and tracking all financing disclosures and accepting, processing and approving funding requests, issuing and executing contractual assessment agreements (property owner and issuer), recording or causing to be recorded lien documents, issuing and executing Bond documents, and instructing the bond trustee when to issue payment for funding requests, including HERO Commercial Program Guidelines, Eligible Improvement Lists, contractor registration/approval forms, commercial applications, all financing disclosure forms, all forms required to approve improvements, , funding request form(s), and contractual assessment agreement and lien recordation documents (unless provided by municipality); (3) design and build the HERO Commercial Programs’ website; (4) integration of Renovate America’s origination systems with the HERO Commercial Programs website.

#### **Origination**

As part of Program Administration Services, Renovate America shall provide origination services which include: (1) process all commercial applications, including accepting applications (online and hard copy), entering hard copy applications into online system, pulling all credit, title, valuation and other reports, reviewing eligibility of proposed property, applicants, equipment and contractors, tracking all financing disclosures, application and authorization forms, contacting applicants, contractors and other parties as needed, providing notifications of approval, denial or incomplete status; (2) obtaining or assisting property owners to obtain consent of the first mortgage holder, if any; (3) process all funding requests for Residential parcels participating in the HERO Commercial Programs, including accepting funding request forms, reviewing submitted forms and attachments, providing notification of funding request approval, denial or incomplete status; (4) process and finalize all contractual assessment documentation, including issuance of contractual assessment and financing disclosures; (4) provide telephone and email customer service

support; (5) track and report to WRCOG key HERO Commercial Programs statistics, including applications received, approved, assessment contracts issued and signed; (6) periodically assess and/or adjust policies and procedures of the HERO Commercial Programs as needed to resolve any recurring issues.

Marketing of Program:

As part of Program Administration Services, Renovate America shall work with WRCOG and its Member and Associate Member jurisdictions to promote the HERO Commercial Programs including notices on appropriate governmental web sites, press interviews and public meetings and announcements. Renovate America shall also publicize the HERO Commercial Programs on its web site as well as through direct contact with property owners. Renovate America shall maintain sufficient resources to answer any questions by potential participants in the HERO Commercial Programs. Renovate America shall also work with WRCOG and Members and Associate Members within the HERO Commercial Program Area in order to utilize the HERO Commercial Programs to help bring industry and developments to the areas in which the HERO Commercial Programs are offered.

Documentation:

As part of Program Administration Services, Renovate America shall work with WRCOG to develop and produce a standard set of documents suitable to the parties that shall document the legal obligations associated with the contractual assessments and the issuance of Bonds, and any other legal requirements of the transaction.

Assessment

Tax Roll Management:

Renovate America shall work with the Program Assessment Administrator, and the counties within which the HERO Commercial Programs are offered to ensure that the proper contractual assessment installment are placed on the appropriate property owners property tax bills and that the contractual assessment installments shall be collected promptly for the properties subject to such contractual assessments.

Regular reporting  
Of complaints, claims  
Or legal actions

Renovate shall provide weekly reports to WRCOG showing all complaints and claims made by property owners who have applied and/or are participants in the HERO Commercial Program and any resolution thereto. In addition, Renovate America shall promptly notify WRCOG of any suits that have been filed against Renovate America relating to the Program Administration Services.



## **EXHIBIT “C”**

### **SCHEDULE OF RESPONSIBILITIES**

#### **Responsibilities of Renovate America**

Renovate America will prepare closing package and send to owner(s) of a Commercial Property participating in one of the HERO Commercial Programs (each, a “Owner”) for signature (the “Renovate America Closing Documents”), which package shall include:

- Financing Summary
- Application
- Assessment Contract
  - Exhibit A – Description of Property
  - Exhibit B – List of Documents
- Right to Cancel
- Program Handbook

Upon receipt of signed documents from Owner, Renovate America will deliver original documents to WRCOG.

Renovate America will electronically send the Contractual Assessment Data File for each Bond or Series of Bonds to be issued, along with all Bond Documents for each Bond or Series of Bonds, to Bond Counsel, the Trustee, David Taussig and Associates, and Public Financial Management for review and set-up.

Renovate America shall execute and deliver the Renovate America Closing Documents (as such term is defined in this Exhibit C above) to Bond Counsel at the Closing Location on or before the Closing Date.

Upon receipt of verification that all Closing Documents have been properly executed and, if applicable, recorded, Renovate America or any assign, affiliate, subsidiary, or any other person or entity that Renovate America designates will purchase the Bond or Series of Bonds pursuant to the Master Bond Purchase Agreement. Said purchase will be accomplished via a wire transfer to the Trustee.

#### **Responsibilities of WRCOG**

WRCOG shall prepare, or cause to be prepared, the following documents:

- Supplemental Indenture
- Improvement Bond
- Notice of Assessment
- Payment of Contractual Assessment Required
- Omnibus Closing Certificate of WRCOG
- Certificate of Trustee
- Instructions to Trustee Regarding Disbursement of Proceeds of Bond

Receipt for Bond Proceeds  
Receipt for Improvement Bond  
Opinion of Bond Counsel  
Supplemental Opinion of Bond Counsel  
Reliance Letter of Bond Counsel

WRCOG will cause recordation of and notification to the financing team electronically of recordation of:

Notice of Assessment and Assessment Contract  
Payment of Contractual Assessment Required

WRCOG will execute and deliver all WRCOG Closing Documents (as such term is defined in the Master Bond Purchase Agreement) to Bond Counsel at the Closing Location or shall cause all such WRCOG Closing Documents to be so executed and delivered, as applicable, on or before the Closing Date.

WRCOG will execute, by facsimile or original signatures, and deliver the Bond or Series of Bonds to the Trustee for authentication (with electronic copy to remainder of financing team) and delivery to Renovate America.



# Item 6.E

## PACE Programs Activities Update

### Attachment 2

Resolution Number 32-19; A Resolution of the Executive Committee of the Western Riverside Council of Governments authorizing Renovate America to administer and finance eligible improvements to be installed on commercial properties and in connection with such authorization, approving amendments to the Program Report for the WRCOG Energy Efficiency and Water Conservation Program for Western Riverside County and the form of a commercial handbook, agreement to pay assessment and finance improvements, indenture authorizing the issuance of bonds pursuant to such indenture and subsequent indentures in similar form secured by assessments levied on commercial properties to finance the installation of authorized improvements on such commercial properties and approving other actions in connection thereto

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## **RESOLUTION NUMBER 32-19**

### **A RESOLUTION OF THE EXECUTIVE COMMITTEE OF THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS**

**AUTHORIZING RENOVATE AMERICA, INC., TO ADMINISTER AND FINANCE ELIGIBLE IMPROVEMENTS TO BE INSTALLED ON COMMERCIAL PROPERTIES, AND IN CONNECTION WITH SUCH AUTHORIZATION, APPROVING AMENDMENTS TO THE PROGRAM REPORT FOR BOTH THE WRCOG ENERGY EFFICIENCY AND WATER CONSERVATION PROGRAM FOR WESTERN RIVERSIDE COUNTY AND THE CALIFORNIA HERO PROGRAM AND THE FORMS OF A COMMERCIAL HANDBOOK, COMMERCIAL APPLICATION, ASSESSMENT CONTRACT, MASTER BOND PURCHASE AGREEMENT, ADMINISTRATION AGREEMENT AND MASTER INDENTURE AND AUTHORIZING THE ISSUANCE OF BONDS PURSUANT TO SUCH MASTER INDENTURE SECURED BY ASSESSMENTS LEVIED ON COMMERCIAL PROPERTIES TO FINANCE THE INSTALLATION OF ELIGIBLE IMPROVEMENTS ON SUCH COMMERCIAL PROPERTIES AND APPROVING OTHER ACTIONS IN CONNECTION THERETO**

**WHEREAS**, the Executive Committee of the Western Riverside Council of Governments (“WRCOG”) has established of the Energy Efficiency and Water Conservation Program for Western Riverside County (commonly referred to as the “WRCOG PACE Program”) and the California HERO Program (the “CA HERO Program,” collectively with the WRCOG PACE Program, the “Programs”) for the purpose financing the installation of authorized improvements (“Eligible Improvements”) on commercial properties (“Commercial Properties”) located within the program area of the Programs (the “Program Area”) as authorized under and defined by the Program; and

**WHEREAS**, the Executive Committee previously approved Renovate America, Inc., (“Renovate America”) to provide administration and financing for residential properties for each Program; and

**WHEREAS**, subsequently, Renovate America created the infrastructure and developed the resources to administer and finance the installation of Eligible Improvements on Commercial Properties and offered and requested to be able to provide such administration and financing for Commercial Properties for each Program, which request was approved by the Executive Committee; and

**WHEREAS**, following such approval, Renovate America requested that the Executive Committee, rescind such approval, and the Executive Committee did grant such request, as Renovate America made a decision at such time not to pursue the administration and financing of Commercial Properties for the Programs; and

**WHEREAS**, Renovate America now desires to pursue the administration and financing of Commercial Properties for the Programs and has requested the Executive Committee re-authorize such approval; and

**WHEREAS**, the Executive Committee has determined that it would be in the best interests of the Programs and the owners of Commercial Properties within the Program Areas to re-authorize Renovate America to administer and finance a program as a part of each of the Programs (each, a “HERO Commercial Program” and together, the “HERO Commercial Programs”), separate and apart from the Samas Commercial Programs, to finance the installation of Eligible Improvements on Commercial Properties in each of the Program Areas; and

**WHEREAS**, in order to provide for and implement such re-authorization for the establishment of a HERO Commercial Program as a part of each Program, it will be necessary to modify the Program Reports for each of the Programs (together, the "Program Reports") and to approve the form of an application (the "Commercial Application"), a handbook (the "Commercial Handbook") and an assessment contract (the "Commercial Assessment Contract") to be incorporated into each Program Report; and

**WHEREAS**, WRCOG and Renovate America desire to enter into an Administration Agreement to establish the terms and conditions pursuant to which Renovate America will administer each HERO Commercial Program and a Master Bond Purchase Agreement to establish the terms and conditions pursuant to which WRCOG will issue and Renovate America will purchase the limited obligation improvement bonds to finance the installation of Eligible Improvements on Commercial Properties; and

**WHEREAS**, the Executive Committee desires to authorize the issuance of limited obligation improvement bonds to finance the installation of Eligible Improvements on Commercial Properties of such bonds to be secured by the voluntary contractual assessments levied on such Commercial Properties and to approve the form of a Master Indenture to establish the terms and conditions pursuant to which such bonds shall be issued and administered; and

**WHEREAS**, forms of the amended Program Reports, the Commercial Application, the Commercial Handbook, the Assessment Contract, the Administration Agreement, and the Master Bond Purchase Agreement have been presented to the Executive Committee for its review and approval; and

**WHEREAS**, the Executive Committee, with the aid of its staff and counsel, has reviewed the documents identified in the preceding recital and found them to be in proper order; and

**WHEREAS**, there has been submitted to the Executive Committee forms of a Master Indenture, including a supplemental indenture thereto contained in the Master Indenture (a "Supplement Indenture"), providing for the issuance of limited obligation improvement bonds to be designated substantially as the "Western Riverside Council of Governments Limited Subordinate Obligation Improvement Bonds (HERO Commercial Programs) (First Commercial Property Tranche) (the "Initial Limited Obligation Improvement Bonds" or "Initial LOI Bonds") in one or more series (each such series of bonds referred to as a "Series") pursuant to Chapter 29, the 1915 Act, this resolution, and the use of the proceeds of such Bonds to finance the installation of Authorized Improvements on Commercial Parcels that are participating in one of the HERO Commercial Programs and are located in the Program Area of such HERO Commercial Program; and

**WHEREAS**, WRCOG staff and the WRCOG HERO financing team have advised the Executive Committee that the projected volume of Limited Obligation Improvement Bonds to be issued pursuant to the Master Indenture that the owners of such bonds will desire to undertake securitization of such bonds thereby necessitating the approval of multiple master indentures on a regular basis as such securitizations occur, and have recommended that the Executive Committee delegate to the Executive Director the authority to approve, subject to the review of and concurrence by Best Best & Krieger LLP, as bond counsel to WRCOG for the HERO Programs ("Bond Counsel"), a new master indenture for each new tranche of such bonds substantially in the form of the master indenture presented to and approved by the Executive Committee by adoption of this Resolution, in order to facilitate the ongoing issuance of such bonds and administration thereof, and the subsequent securitization thereof; and

**WHEREAS**, Section 5852.1 of the Government Code of the State of California ("Section 5852.1") provides that the Authority obtain from an underwriter, financial advisor, or private lender and disclose, in a meeting open to the public, prior to authorization of the issuance of the bonds, good faith estimates of (a) the true interest cost of the bonds, (b) the finance charge of the bonds, meaning the sum of all fees and charges paid to third parties, (c) the amount of proceeds of the bonds received less the finance charge described above and any reserves or capitalized interest paid or funded with proceeds of the bonds, and (d) the sum total of all debt service payments on the bonds calculated to the final

maturity of the bonds plus the fees and charges paid to third parties not paid with the proceeds of the bonds, which information is contained in Exhibit A hereto; and

**WHEREAS**, all conditions, things, and acts required to exist, to have happened and to have been performed, precedent to and in the issuance of the Limited Obligation Improvement Bonds exist, have happened and have been performed in due time, form, and manner as required by the laws of the State of California, including Chapter 29 and the 1915 Act.

**NOW, THEREFORE, BE IT RESOLVED**, by the Executive Committee of the Western Riverside Council of Governments as follows:

Section 1. Approval of the Amended Program Reports, the Commercial Application, the Commercial Assessment Contract and the Commercial Handbook. The Executive Committee hereby approves the forms of the amended Program Reports, the Commercial Application and the Commercial Assessment, the final forms of which shall be incorporated in the Program Reports, and the Commercial Handbook, presented to the Executive Committee at this meeting, together with any changes therein and additions thereto approved by the Executive Director, or any designee of the Executive Director (each, an "Authorized Representative") and reviewed and concurred in by Bond Counsel.

Section 2. Approval of Forms of the Administration Agreement and the Master Bond Purchase Agreement. The Executive Committee hereby approves the forms of the Administration Agreement and the Master Bond Purchase Agreement presented to the Executive Committee at this meeting, together with any changes therein or additions thereto approved by the Executive Director or another Authorized Representative, and reviewed and concurred in by Bond Counsel, and the execution thereof by an Authorized Representative shall be conclusive evidence of the approval of any such changes or additions. The Executive Committee hereby authorizes and directs an Authorized Representative to execute the final forms of the Administration Agreement for and in the name of WRCOG.

Section 3. Authorization of Issuance of Limited Obligation Improvement Bonds. The Executive Committee hereby authorizes the issuance of one or more Series of the Limited Obligation Improvement Bonds under and pursuant to Chapter 29, the 1915 Act, and this Resolution in the maximum aggregate principal amount not to exceed \$250,000,000 to finance the installation of Eligible Improvements to be installed or caused to be installed on Commercial Properties that are participating in one of the HERO Commercial Programs and are located in the Program Area of such HERO Commercial Program.

Section 4. Approval of Master Indenture and Supplemental Indenture. With respect to the Limited Obligation Improvement Bonds to be issued on or after the effective date of this Resolution, the Executive Committee hereby approves the form of the master indenture (the "Initial Master Indenture") substantially in the form on file with the Secretary, together with any changes therein and additions thereto approved by the Executive Director or any Authorized Representative and reviewed and concurred in by Bond Counsel, and the execution thereof by an Authorized Representative shall be conclusive evidence of the approval of any such changes or additions. The Executive Committee hereby authorizes and directs an Authorized Representative to execute the final form of the Initial Master Indenture for and in the name of WRCOG for each Series (as defined in the Initial Master Indenture) of the Limited Obligation Improvement Bonds. The Executive Committee hereby authorizes the delivery and performance of the Initial Master Indenture for each Series of the Limited Obligation Improvement Bonds.

The Executive Committee hereby approves the form of the Supplemental Indenture substantially in the form contained in the Initial Master Indenture, together with any changes therein or additions thereto approved by an Authorized Representative and reviewed and concurred in by Bond

Counsel, required for the issuance of each Initial LOI Bond, and the execution thereof by an Authorized Representative shall be conclusive evidence of the approval of any such changes or additions. The Executive Committee hereby authorizes and directs an Authorized Representative to execute the final form of each Supplemental Indenture for and in the name of WRCOG for each Series of Limited Obligation Improvement Bonds. The Executive Committee hereby authorizes the delivery and performance of each Supplemental Indenture for each Series of Limited Obligation Improvement Bonds.

Section 5. Closure of the Initial Limited Obligation Improvement Bonds. The Executive Director or another Authorized Representative is hereby authorized to order the closure of the Initial Master Indenture and direct that no further bonds be issued pursuant to such master indenture by delivering an Officer's Certificate (as defined in the Initial Master Indenture) to the Trustee to such effect.

Section 6. Delegation of Authority to Approve Additional Master Indentures and Order the Closure of such Master Indentures. With respect to additional future Limited Obligation Improvement Bonds to be issued following the closure of the Initial Master Indenture (each, "Future Limited Obligation Improvement Bonds") to be issued on or after the effective date of this Resolution, the Executive Committee hereby delegates to the Executive Director or another Authorized Representative the authority to approve the master indenture for each such tranche of bonds (each, a "Future Master Indenture") so long as such master indenture is substantially in the form of the Initial Master Indenture, together with any changes therein and additions thereto approved by the Executive Director, or another Authorized Representative, and reviewed and concurred in by Bond Counsel, and the execution thereof by an Authorized Representative shall be conclusive evidence of the approval of any such changes or additions. The Executive Committee hereby authorizes and directs an Authorized Representative to execute the final form of each such Future Master Indenture for and in the name of WRCOG for each series of the Future Limited Obligation Improvement Bonds authorized to be issued pursuant to such Future Master Indenture. The Executive Committee hereby authorizes the delivery and performance of such Future Master Indenture for each series of such Future Limited Obligation Improvement Bonds.

The Executive Committee hereby delegates to the Executive Director or another Authorized Representative the authority to approve each supplemental indenture required for the issuance of each series of such Future Limited Obligation Improvement Bond (each, a "Future Supplemental Indenture") pursuant to the applicable Future Master Indenture, together with any changes therein and additions thereto approved by the Executive Director, or another Authorized Representative, and reviewed and concurred in by Bond Counsel, and the execution thereof by an Authorized Representative shall be conclusive evidence of the approval of any such changes or additions. The Executive Committee hereby authorizes and directs an Authorized Representative to execute the final form of each Future Supplemental Indenture for and in the name of WRCOG for each series of Future Limited Obligation Improvement Bonds. The Executive Committee hereby authorizes the delivery and performance of each such Future Supplemental Indenture for each series of Future Limited Obligation Improvement Bonds.

Proposed provisions of any Future Master Indenture that constitute substantive revisions to the Initial Master Indenture shall be subject to the approval of the Executive Committee.

The Executive Director or another Authorized Representative is hereby authorized to order the closure of any Future Master Indenture and direct that no further bonds be issued pursuant to such master indenture by delivering a certificate of WRCOG to such effect as provided for in the applicable Future Master Indenture to the trustee under such Future Master Indenture.

Section 7. Sale of the Limited Obligation Improvement Bonds. WRCOG hereby authorizes the negotiated sale of the Limited Obligation Improvement Bonds to Renovate America or an assignee thereof approved by Executive Director (the "Purchaser") provided that the conditions for issuance of each such Limited Obligation Improvement Bond set forth in the applicable Master Indenture and the

applicable Supplemental Indenture have been satisfied. Each Limited Obligation Improvement Bond shall be sold to the Purchaser pursuant to the applicable Master Indenture and the Supplemental Indenture applicable to such bond or Series thereof. The Executive Committee hereby delegates to the Executive Director or another Authorized Representative the authority to establish and agree with the Purchaser to the final terms for each Limited Obligation Improvement Bond or Series thereof including, but not limited to, the principal amount thereof, the interest rate on such Limited Obligation Improvement Bond or Series thereof and the redemption provisions.

Section 8. Appointment of Trustee. The Bank of New York Mellon Trust Company, N.A., is appointed as Trustee pursuant to each Master Indenture and each Supplemental Indenture, to take any and all actions provided for therein to be taken by the Trustee.

Section 9. Form of Limited Obligation Improvement Bonds. The form of Limited Obligation Improvement Bonds as set forth in the form of each Supplemental Indenture is approved. The Treasurer of WRCOG and the Secretary of the Executive Committee are authorized and directed to execute by manual or facsimile signature, in the name and on behalf of WRCOG, the Limited Obligation Improvement Bonds in either temporary or definitive form and to deliver or cause the delivery of each Limited Obligation Improvement Bond to the applicable Limited Obligation Improvement Bonds Purchaser pursuant to the applicable Master Indenture.

Section 10. No Obligation of WRCOG, its Regular Members, or Associate Members. Pursuant to Streets and Highways Code Section 8769, the Executive Committee does hereby determine that WRCOG will not obligate itself to advance funds from the WRCOG treasury to cure any deficiency in the Redemption Fund (as such term is defined in the applicable Master Indenture) for the Limited Obligation Improvement Bonds established pursuant to such Master Indenture. The Executive Committee further declares and determines that no Regular Member or Associate Member shall be obligated to advance funds from the treasury of such Regular Member or Associate Member to cure any such deficiency in such Redemption Fund.

Section 11. Conditions of Approval. The approvals, authorization and direction given by this Resolution are conditioned upon the satisfaction of the requirements hereof and of each Master Indenture with respect to the issuance and sale of the Limited Obligation Improvement Bonds. The Authorized Officers shall not take any action with respect to the execution and delivery of a Supplemental Indenture or the issuance, sale, or delivery of any Limited Obligation Improvement Bond unless and until such conditions are satisfied; provided, however, that upon satisfaction of such conditions as to any Limited Obligation Improvement Bond, this Resolution shall be fully effective and shall be carried out as to such Limited Obligation Improvement Bonds without the further approval or action of the Executive Committee.

Section 12. Official Actions. Each officer of WRCOG or Authorized Representative is hereby authorized and directed, for and in the name and on behalf of WRCOG, to do any and all things and take any and all actions, including the execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the issuance and sale of the Limited Obligation Improvement Bonds and any of the other transactions contemplated by the documents approved pursuant to this Resolution. All actions heretofore taken by the officers and agents of WRCOG with respect to the establishment of the Programs and the sale and issuance of the Limited Obligation Improvement Bonds are hereby approved, confirmed, and ratified.

Section 13. Additional Action. The Executive Director or any Authorized Representative is hereby authorized and directed to approve any other documents related to the HERO Commercial Programs necessary in the judgment of the Executive Director or such Authorized Representative to conform such documents to the actions taken by the adoption of this Resolution.

Section 14. Effective Date. This Resolution shall take effect upon the date of its adoption.

**PASSED AND ADOPTED** by the Executive Committee of the Western Riverside Council of Governments on December 2, 2019.

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Bonnie Wright, Chair  
WRCOG Executive Committee

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Rick Bishop, Secretary  
WRCOG Executive Committee

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Warren Diven  
WRCOG Bond Counsel

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_



## EXHIBIT A

### GOOD FAITH ESTIMATE

**Good Faith Estimate.** The good faith estimates set forth herein are provided with respect to the Bonds in accordance with California Government Code Section 5852.1. Such good faith estimates have been provided to WRCOG by PFM Financial Advisors LLC (the "Municipal Advisor").

**Principal Amount.** The Municipal Advisor has informed WRCOG that, based on the financing plan and current market conditions, its good faith estimate of the aggregate principal amount of the Bonds to be sold is \$250,000,000 (the "Estimated Principal Amount").

**True Interest Cost of the Bonds.** The Municipal Advisor has informed WRCOG that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the true interest cost of the Bonds, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Bonds, is \_\_\_\_\_%.

**Finance Charge of the Bonds.** The Municipal Advisor has informed WRCOG that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the finance charge for the Bonds, which means the sum of all fees and charges paid to third parties (or costs associated with the Bonds), is \$\_\_\_\_\_.

**Amount of Proceeds to be Received.** The Municipal Advisor has informed WRCOG that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the amount of proceeds expected to be received by WRCOG for the sale of the Bonds, less the finance charge of the Bonds, as estimated above, and any reserves or capitalized interest paid or funded with proceeds of the Bonds, is \$\_\_\_\_\_.

**Total Payment Amount.** The Municipal Advisor has informed WRCOG that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the total payment amount, which means the sum total of all payments the Authority will make to pay debt service on the Bonds, plus the finance charge for the Bonds, as described above, not paid with the proceeds of the Bonds, calculated to the final maturity of the Bonds, is \$\_\_\_\_\_ (excluding any offsets from reserves or capitalized interest).

The foregoing estimates constitute good faith estimates only. The actual principal amount of the Bonds issued and sold, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom, and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual date of the sale of the Bonds being different than the date assumed for purposes of such estimates, (b) the actual principal amount of Bonds sold being different from the Estimated Principal Amount, (c) the actual amortization of the Bonds being different than the amortization assumed for purposes of such estimates, (d) the actual market interest rates at the time of sale of the Bonds being different than those estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in the financing plan or finance charges, or a combination of such factors. The actual date of sale of the Bonds and the actual principal amount of Bonds sold will be determined by the Authority, on behalf of WRCOG, based on the timing of the need for proceeds of the Bonds and other factors. The actual interest rates borne by the Bonds will depend on market interest rates at the time of sale thereof. The actual amortization of the Bonds will also depend, in part, on market interest rates at the time of sale thereof. Market interest rates are affected by economic and other factors beyond the control of WRCOG.

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# Item 6.E

## PACE Programs Activities Update

### Attachment 3

WRCOG Energy Efficiency and  
Water Conservation Administrative  
Guidelines and Program Report  
Amended December 2, 2019 -  
addition of HERO Commercial  
Program

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ENERGY EFFICIENCY  
AND  
WATER CONSERVATION PROGRAM  
FOR  
WESTERN RIVERSIDE COUNTY



ADMINISTRATIVE GUIDELINES  
AND  
PROGRAM REPORT

ADOPTED: JUNE 7, 2010 – AMENDED JANUARY 12, 2011 – AMENDED JUNE 6, 2011  
AMENDED JULY 29, 2011 – AMENDED: SEPTEMBER 12, 2011 – REVISED OCTOBER 7, 2011  
REVISED OCTOBER 11, 2011 – REVISED JUNE 3, 2013 – REVISED FEBRUARY 3, 2014  
AMENDED JUNE 9, 2014 – AMENDED AUGUST 4, 2014 – AMENDED OCTOBER 6, 2014 –  
REVISED NOVEMBER 4, 2014— AMENDED DECEMBER 1, 2014 – REVISED APRIL 4, 2016  
REVISED – JUNE 6, 2016 – AMENDED SEPTEMBER 12, 2016 – REVISED MARCH 6, 2017 –  
AMENDED MARCH 7, 2017 – REVISED APRIL 3, 2017 – AMENDED APRIL 4, 2017 – REVISED  
JULY 11, 2017– REVISED OCTOBER 2, 2017 – REVISED APRIL 2, 2018 – JUNE 4, 2018 –  
REVISED AUGUST 6, 2018- REVISED APRIL 1, 2019 – REVISED JUNE 3, 2019  
REVISED AUGUST 1, 2019 – AMENDED DECEMBER 2, 2019



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## PROGRAM REQUIREMENTS FOR PARTICIPATION IN RENOVATE AMERICA HERO COMMERCIAL FINANCING FOR COMMERCIAL PROPERTIES

If financing is provided for the Program by Renovate America for commercial properties, the following eligibility requirements will apply:

### A. ELIGIBLE PROPERTYOWNERS AND ELIGIBLE PROPERTIES

Renovate America Commercial financing is available for commercial property owners and will finance alternative energy systems, energy efficiency, water conservation and seismic strengthening improvements, using Renovate America Commercial financing.

Property owners may be individuals, associations, business entities, cooperatives, and virtually any owner of Commercial property for which real property taxes are paid or assessments may otherwise be collected on the property tax bill. New construction of eligible properties are subject to additional underwriting and technical requirements as further described in Sections 4.1 and 4.4 of the Renovate America Commercial Handbook. Certain eligibility criteria must be satisfied, and financing may be approved only if all of the following criteria are met:

- Applicant property owner(s) must be the property owner(s) of record.
- Property owners must be current on all property debt.
- There must be no notices of default, whether in effect or released, recorded against the Property due to non-payment of property taxes or loan payments within the prior three (3) years (or since acquisition, if Property Owner has held title to the property for less than 3 years).
- There must be no foreclosures against, or bankruptcies involving, the Property Owner in the prior seven (7) years.
- Financing term: Up to 39 years, provided that the weighted average life of the financing (weighted by principal amortization) is equal to or less than the weighted average life of the Qualified Improvements.
- Financing rate: Fixed or floating rates of interest, determined by Program Administrator or outside capital provider, on a project-by-project basis.
- Property owner agrees to participate in surveys, and program evaluations, which may include access to utility bill usage information.
- All Property Owners of the fee simple title to the subject Property, or their legally authorized representatives, must sign the Program documents and agree to participate in the Program on the terms set forth.
- Prior to funding any transaction, receipt of acknowledgement (acceptable in form and substance to Program Administrator) by any Mortgage Lender that the contractual assessment does not create an event of default under any security instrument. The Program Administrator and/or the outside capital provider will assist the Property Owner to facilitate this acknowledgement.
- Prepayment of the contractual assessment is allowed. The terms and any prepayment premiums shall be determined on a case-by-case basis.
- Property type must be Commercial Real Property.
- Property value to be established by Program Administrator, and is typically based upon either a recent appraised value or assessed value.
- Property must not have any liens other than lender debt or liens recorded by community facility districts or similar financing districts.
- Proposed Eligible Products must not exceed 20% of the market value of the property.

- Mortgage-related debt on the property plus the principal amount of the contractual assessment does not exceed 100% of the market value of the property.
- No serious environmental conditions may be permitted on the Property, to the extent that they are known, or believed to be likely, to have a materially adverse consequence on the Property Value. The Program Administrator may utilize third party services to help assess environmental risk on a case-by-case basis, and exceptions may be granted on a case-by-case basis.
- The total annual property tax and assessments, including the contractual assessment, on the property will not exceed 5% of the property's market value, as determined at the time of approval of the contractual assessment.
- The financing amount is between \$50,000-\$25,000,000.

Program financing is not currently available for properties that are not subject to secured property taxes, such as governmental entities and certain non-profit corporations.

Program financing may, however, be available to such properties if assessments levied on such properties may be placed on the tax roll. Property owners may make more than one application for funding under the Program if additional energy, water or seismic strengthening improvements are desired by the owner and the eligibility criteria and maximum assessment amount criteria are met.

The eligibility requirements for Renovate America Commercial financing may be clarified as deemed necessary by the Program Administrator without amending the Administrative Guidelines and Program Report if such clarification will not result in a substantial revision of such eligibility requirements.

## B. ELIGIBLE PRODUCTS

The Program affords commercial property owners in Western Riverside County the opportunity to take advantage of a wide range of energy-savings, water conservation/efficiency and seismic strengthening measures, consistent with the following provisions:

1. The Program is intended principally for retrofit activities to replace outdated inefficient equipment and to install new equipment that reduces energy or water consumption or produces renewable energy or provides seismic strengthening to existing structures. However, the Program is also available for purchasers of new businesses that wish to add eligible energy efficiency, renewable energy, water conservation/efficiency and seismic strengthening Products to such homes or businesses after taking title to the property.
2. The Program provides financing only for Eligible Products that are permanently affixed to real property.
3. The Program provides financing only for Eligible Products specified in Appendix A of the report. Broadly, these include:
  - a. Water Conservation/Efficiency Eligible Products
  - b. Energy Efficiency Eligible Products
  - c. Renewable Energy Systems
  - d. Seismic Strengthening Products
  - e. Approved Custom Eligible Products
  - f. New Construction Eligible Projects with additional underwriting

The property owner must ensure that any and all permits required by the jurisdiction for the installation of the Eligible Products are acquired.

Financing is also available for projects that combine Eligible Products, such as bundling of water conservation/efficiency, energy efficiency, renewable energy and seismic strengthening measures. For instance, a property owner may choose to replace an aging and inefficient furnace, install weather stripping, install artificial turf, and install a photovoltaic system as part of a single project.

#### Proposed Products Must Meet Minimum Eligibility Requirements

Eligible Improvements must meet the minimum efficiency specifications of the PACE Act and the Program. For retrofits of existing buildings, minimum energy efficiency specifications are set at EnergyStar, California Title 24 and Title 20, and WaterSense standards or other new standards or other new standards as may be appropriate and as agreed upon by WRCOG. Any Solar PV system must be eligible for CSI or an equivalent utility rebate program unless the property is not connected to the electricity grid or such utility rebate program is not available.

For new construction projects, Water Conservation/Efficiency Eligible Products and Energy Efficiency Eligible Products Eligible Improvements must meet the minimum specifications for retrofit projects as set forth above. 100% of the cost of any individual Water Conservation/Efficiency Eligible Products and Energy Efficiency Eligible Products in the construction of a new building that meet the minimum specifications is eligible for C-PACE financing. Renewable Energy Systems are eligible in new construction projects. However, any Solar PV system must be eligible for CSI or an equivalent utility rebate program unless the property is not connected to the electricity grid or such utility rebate program is not available.

Property Owners and their Contractors must submit supporting documentation to the Program Administrator to summarize their proposed project and to demonstrate that the proposed Eligible Improvements meet the minimum efficiency specifications. New construction projects specifically will require additional supporting documentation including building plans, equipment cut sheets, and code compliance certificates as required by the Program Administrator. The supporting documentation will be reviewed by the Program Administrator to ensure the installation of the product(s) is designed to meet the minimum energy efficiency specifications listed above.

For new construction, the property developer must provide:

- Resumes of the development team including experience of on comparable properties
- As complete appraisal including full financial projections for property lease up or revenue
- Summary of capital stack showing sources and uses for property construction
- Financial documentation of developer equity allocated toward property construction

#### C. Eligible Costs

Eligible costs of the improvements include the cost of equipment and installation. Installation costs may include, but are not limited to, energy and water audit consultations, labor, design, drafting, engineering, permit fees, and inspection charges.

The cost of installation of Eligible Products shall be eligible to be financed only if such installation is completed by a contractor that is registered with the Program or by the property owner is self-installing subject to the limitation in the last sentence of this paragraph. A list of contractors registered with the Program shall also be located on the Program website; however, WRCOG will not make



recommendations for contracting assistance. Eligible costs do not include labor costs for property owners that elect to do the work themselves.

Property owners who elect to engage in broader projects – such as business remodeling – may only receive Program financing for that portion of the cost of retrofitting existing structures with renewable energy, energy efficiency and water conservation/efficiency or seismic strengthening improvements. Repairs and/or new construction do not qualify for Program financing except to the extent that the construction is required for the specific approved improvement. Repairs to existing infrastructure, such as water and sewer laterals, are considered repairs and are not eligible.

Program staff will evaluate conditions in the construction and installation market for the proposed Eligible Products and may require the property owner to obtain additional bids to determine whether costs are reasonable. While the property owner may choose the contractor, the amount available for financing may be limited to an amount determined reasonable by Program staff and may be reviewed by the Program Administrator.

All available reservation rebates will be deducted from the assessment amount at the time of financing. State or federal tax credits and performance-based incentives such as the CSI PBI rebate will not be deducted from the assessment amount, but property owners may wish to consider these additional benefits in determining the amount of their financing request.

#### D. ADMINISTRATIVE COSTS/FEES

As required pursuant to Section 5898.22 of Chapter 29, WRCOG met and consulted with the staff of the County Auditor-Controller's office on March 29, 2010 concerning the additional fees, if any, that will be charged to WRCOG for incorporating the proposed contractual assessments into the assessments of the general taxes on real property.

The consultations revealed that the Auditor-Controller will charge WRCOG the same fees applicable to other fixed charges to be placed on the secured property tax roll as are established from time to time by the Board of Supervisors. The payment of such fees shall be included as a part of annual assessment administration and collection costs which will be added each year to the annual assessment on property tax bills. Such annual administration and collection costs are described below and in Section IV.D.

The Program will cover all or a portion of its costs through an expense component to be added to the amount of the financing request, not to exceed 7%. In addition, there are other costs that are not covered in the expense component and will be borne by the property owners. These costs include:

1. An application fee may be required and will not exceed the greater of \$250 or one percent (1%) of the financing amount per application for commercial properties; provided however, such fee may not exceed the actual cost of processing the application. The owner may not include this cost in the financing request. Except as otherwise provided in applicable federal or state law, the application fee is nonrefundable, unless the property owner is deemed ineligible and the unused portion of the application fee may be prorated, however, may be waived by Renovate America.
2. Title and recording costs, including title insurance, where required, will be paid by the property owner.

3. Permitting costs. Property owners are required to verify whether or not a permit is required by the participating jurisdictions. Permit costs will be paid by the property owner and are an eligible cost to include in the financing.
4. Annual assessment administration and collection costs will be added each year to the annual assessment on property tax bills and will be set by the Executive Director and can escalate annually in accordance with the terms set forth by the Assessment Contract.
5. Environmental Reports and/or appraisals, as required by the Program.
6. Onsite Validation Fees. Onsite validation fees may be required for Program staff to confirm proposed eligible energy efficiency, water efficiency, and/or renewable generation Products were actually installed prior to funding; provided, however, such fee may not exceed the actual cost to undertake such validation.
7. The Program may offer multiple disbursements for assessments by a third-party provider. If multiple disbursements are offered, the partial disbursement funding requests may be subject to an additional processing fee; provided, however, that such fee may not exceed the actual cost of providing such service. The property owner will need to provide sufficient proof of purchased and delivered construction materials and/or completion of Eligible Products as required by the executed Assessment Contract. The terms of the financing provided by the third-party will be subject to the credit of the borrower. A draft Assessment Contract is provided in Appendix C of this report.
8. The property owner may be subject to prepayment calculation fee in the event that a payoff estimate is requested for the PACE assessment.

## E. REFINANCING

The Program may refinance Authorized Improvements for commercial properties in accordance with parameters approved by the Executive Director.

## THE FINANCIAL STRATEGIES

The Program includes the following financial strategies. These include the use of one or more of the following: the Riverside County Treasurer Teeter Program, requirement of a reserve fund, participation in the State pooled reserve funding program, the use of the HERO Financing Plan for Residential, Ygrene Energy Fund for Residential Properties, Renew Financial PACE Financing for Residential Properties, Renew Financial Open-Market Commercial PACE Financing and Commercial PACE Refinancing, PACE Funding Residential PACE financing, Greenworks Commercial Financing and Commercial Refinancing, Twain Financial Partners for Commercial Financing and Commercial Refinancing, Ygrene Energy Fund for Commercial Financing and Commercial Refinancing, CleanFund Commercial PACE Capital for Commercial Financing and Commercial Refinancing, and exploration of other potential funding sources. An example of each strategy is provided below. WRCOG is a joint powers agency formed to assist participating jurisdictions with financings. WRCOG intends to cooperate in a financing arrangement whereby the Authority issues a bond or a series of bonds in an aggregate principal amount not to exceed \$3 million.

Strategy One: *WRCOG will establish the “WRCOG Energy Efficiency and Water Conservation Program for Western Riverside County Fund” (the “WRCOG Fund”) and may accept funds from any available source. Repayments will be made pursuant to Assessment Contracts between the property owners and WRCOG and will be collected through the property assessment mechanism in the Riverside County property tax system, and, if approved by the County of Riverside, included in the Riverside County Teeter Program. WRCOG will manage or cause the County of Riverside to manage the WRCOG Fund in one enterprise fund with multiple sub-funds.*

Strategy Two: The Program may require that inclusion of a 10% reserve fund be paid by the property owner and captured through the assessment charges, financing proceeds, grant resources or other sources as necessary and available to support the financing process.

Strategy Three: The Program may modify its eligibility criteria as needed to participate in the State’s pooled reserve funding program.

Strategy Four: The Program will, at launch, utilize the HERO Financing Plan, PACE Funding Group, Renew Financial, and Ygrene Energy Fund to fund installations of Eligible Products for residential properties in the statewide residential Program. Pursuant to such financing plan, Renovate America, PACE Funding Group, Renew Financial, and Ygrene Energy Fund, will provide a revolving credit line to finance the installation of Eligible Products to residential properties. Property and other eligibility requirements will be determined pursuant to the criteria set forth above. In consideration for funding the installation of such Eligible Products WRCOG shall issue and deliver to Renovate America, Inc., PACE Funding Group, Renew Financial, and Ygrene Energy Fund one or more municipal bonds secured by the contractual assessments payable by the properties to be improved.

Strategy Five: The Program will utilize the CleanFund PACE Capital Inc. Commercial Financing Plan, Twain Financial Partners, Renew Financial Commercial, Ygrene Energy Fund, [Renovate America HERO Commercial](#), and Greenworks for Commercial to fund installations of Eligible Products for commercial properties. Pursuant to such financing plans, Twain, CleanFund, Renew Financial, Ygrene Energy Fund, [Renovate America HERO Commercial](#), and Greenworks Commercial Financing will provide a revolving credit line to finance and refinance the installation of Eligible Products to commercial properties. Property and other eligibility requirements will be determined pursuant to the criteria set forth above. In consideration for

funding the installation of such Eligible Products WRCOG shall issue and deliver to Greenworks, Renew Financial, Twain, Ygrene Energy Fund, Renovate America HERO Commercial and CleanFund, as applicable, one or more municipal bonds secured by the contractual assessments payable by the properties to be improved.

Strategy Six: For long-term and additional financing, WRCOG will continue to explore funding opportunities from a number of other potential funding sources, and combinations of sources, which may include but are not limited to additional funding from any funds under the control of the WRCOG Executive Committee, the issuance of notes, bonds, or agreements with utilities or public or private lenders, other governmental entities and quasi-governmental entities such as SCERA, CALPERS, Nationwide Retirement Solutions, funding from private entities, or any financing structure allowed by law.

## APPEAL PROCESS

The Program allows for property owners to go through an appeal process if their application is denied or if the property owner or property is deemed ineligible to participate in the Program. The following describes the process:

1. The parties who are participating in the Program shall attempt in good faith to promptly resolve any dispute arising out of or relating to any Assessment Contract under the Program by negotiations between the Program Administrator or his or her designated representative and the Property Owner.
2. Either party may give the other party or parties written notice (sent by certified mail) of any dispute. Within thirty (30) calendar days after delivery of the notice, the WRCOG Executive Director and the Property Owner shall meet at a mutually acceptable time and place and shall attempt to resolve the dispute.
3. If the matter has not been resolved within thirty (30) calendar days of the first meeting, any party may pursue other remedies, including mediation. All negotiations and any mediation conducted pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations, to which Section 1152.5 of the California Evidence Code shall apply, and Section 1152.5 is incorporated herein by reference.
4. Notwithstanding the foregoing provisions, a party may seek a preliminary injunction or other provisional judicial remedy if in its judgment such action is necessary to avoid irreparable damage or to preserve the status quo. Each party is required to continue to perform its obligations under the Assessment Contract pending final resolution of any dispute arising out of or relating to the Assessment Contract.

Property Owners who have not signed a formal assessment contract but who wish to dispute decision(s) made by WRCOG shall use a similar process.

1. Written notice may be sent by certified mail to WRCOG at 3390 University Avenue, Suite 450 Riverside, CA 92501. The notice must identify the issue(s) for resolution, the circumstances that surround the issue(s), the section in the Handbook that the issue(s) pertain(s) to, and a timeline of events.
2. Within thirty (30) calendar days after delivery of the notice, the Program Administrator shall meet at the headquarters of WRCOG office in Riverside with the Property Owner and shall attempt to resolve the dispute.

The decision of the Program Administrator shall render a written decision in 30 calendar days and send that decision to the Property Owner. The decision of the Program Administrator is final.

## TRACKS FOR PARTICIPATION

There are different categories of improvements under which property owners may participate in this Program. Minimum energy efficiency specifications are set at EnergyStar, California Title 24 and Title 20, and WaterSense standards, among other equivalent rating agencies. Efficiency standards will “ratchet-up” with EnergyStar, WaterSense, California Title 24 and Title 20 standards, or other new standards as may be appropriate and as agreed upon by WRCOG Executive Committee. A complete list of Eligible Products can be found in Appendix A.

**A. WATERCONSERVATION/EFFICIENCY**

Water Conservation/Efficiency covers a wide range of water conserving fixtures, including but not limited to, water heat recovery, water delivery systems and irrigation controllers.

**B. ENERGYEFFICIENCY**

Energy Efficiency covers a wide range of energy efficiency fixtures including, but not limited to, windows and doors, attic insulation, and HVAC equipment that are rated by EnergyStar or an equivalent rating agency. Most Eligible Products in this category must meet specified minimum efficiencies.

**C. RENEWABLEENERGY**

Solar Systems cover solar energy generation, solar hot water systems, and solar pool heating systems. Small wind turbines, fuel cell system, and advanced energy storage may also be eligible under this category.

**D. SEISMICSTRENGTHENING**

Seismic Strengthening Improvements cover include, but are not limited to, seismic strengthening of cripple walls and sill plate anchorage of light, wood-framed buildings.

**E. CUSTOMPRODUCTS**

The development of technologies is encouraged by the Program as a means of diversifying the sub region's energy and water sources. Custom Products will be evaluated and provided funding, if appropriate, for either innovative projects or for more complex, larger projects that require additional review.

**F. NEW CONSTRUCTION PROJECTS**

New Construction Properties require a more thorough vetting before the approval of PACE financing through the WRCOG PACE Program.

**E. REFINANCING**

Commercial properties have the option to pursue a refinancing or "look-back" of 36 months.

For new construction projects, Water Conservation/Efficiency Eligible Products and Energy Efficiency Eligible Products Eligible Improvements must exceed the minimum specifications for retrofit projects as set forth above. 100% of the cost of any individual Water Conservation/Efficiency Eligible Products and Energy Efficiency Eligible Products in the construction of a new building that exceeds the minimum specifications is eligible for C-PACE financing. Renewable Energy Systems are eligible in new construction projects. However, any Solar PV system must be eligible for CSI or an equivalent utility rebate program unless the property is not connected to the electricity grid or such utility rebate program is not available.

Property Owners and their Contractors must submit supporting documentation to the Program Administrator to summarize their proposed project and to demonstrate that the proposed Eligible Improvements meet the minimum efficiency specifications. New construction projects specifically will require additional supporting documentation including building plans, equipment cut sheets, and code

compliance certificates as required by the Program Administrator. The supporting documentation will be reviewed by the Program Administrator to ensure the installation of the product(s) is designed to meet the minimum energy efficiency specifications listed above.

For new construction, the property developer must provide:

- Resumes of the development team including experience of on comparable properties
- As complete appraisal including full financial projections for property lease up or revenue
- Summary of capital stack showing sources and uses for property construction
- Financial documentation of developer equity allocated toward property construction

Applicants wishing to install a Custom Product must provide a written explanation describing the improvement as well as how the improvement increases energy efficiency, increases water conservation/efficiency and/or produces renewable energy or improves seismic safety. The Program will then determine what documentation is required to submit an application for the proposed Custom Products. Custom Products will be eligible if approved by the WRCOG Executive Committee. The Applicant will be expected to bear the cost of such consultation. Cost reimbursement and estimates will be discussed with the Applicant before the project is reviewed.

## PROGRAM PARAMETERS

### ***MINIMUM ENERGY FINANCING AMOUNT AND DURATION OF ASSESSMENT***

For HERO (Residential) Assessment Contracts are available for up to 25-year terms to accommodate a wide range of efficiency measures and renewable energy investments for residential property owners. The minimum amount for an Assessment Contract is \$5,000. All residential and commercial assessment contracts are subject to a 5-, 10-, 15-, 20-year, or 25- assessment repayment period, as requested by the property owner and agreed to by the Program Administrator and/or his designee. Assessment repayment periods cannot exceed the estimated reasonable useful life of the installed improvement(s). Solar PV systems may have a 20- or 30-year assessment repayment period. The WRCOG Executive Committee reserves the right to approve a 30-year assessment repayment period for other residential and commercial property Eligible Products if deemed appropriate or amend the minimum energy financing amount and duration of assessment.

For Renew Financial PACE Programs (Residential and Commercial) - Assessment Contracts are available for up to 30-year terms to accommodate a wide range of efficiency measures and renewable energy investments and seismic strengthening for residential and commercial. The minimum amount for the Residential Assessment Contract is \$5,000. All residential and commercial assessment contracts are subject to a 5-, 10-, 15-, 20-, 25-, or 30-year\* assessment repayment period, as requested by the property owner and agreed to by the Program Administrator and/or his designee. Assessment repayment periods cannot exceed the estimated reasonable useful life of the installed improvement(s). Solar PV systems may have a 20-, 25-, or 30-year\* assessment repayment period. The WRCOG Executive Committee reserves the right to approve a 25- year assessment repayment period for other residential and commercial property Eligible Products if deemed appropriate or amend the minimum energy financing amount and duration of assessment.

\*30-year terms are available solely for projects including solar generation systems that monitor performance within the Renew Financial PACE Financing Plan for Residential Properties. Renew Financial Open-Market Commercial PACE financing for Commercial Properties facilitates 30-year terms for solar generation systems plus other technologies with expected useful lives of 30+ years.



For PACE Funding Residential Financing - Assessment Contracts are available for up to 25-year terms to accommodate a wide range of energy and water efficiency measures and renewable energy investments and seismic strengthening for residential properties. The minimum amount for an Assessment Contract is \$5,000. All residential assessment contracts are subject to a 5-, 10-, 15-, 20-year, or 25- assessment repayment period, as requested by the property owner and agreed to by the Program Administrator and/or his designee. Assessment repayment periods cannot exceed the estimated reasonable useful life of the installed improvement(s). Solar PV systems may have a 20- or 25-year assessment repayment period. The WRCOG Executive Committee reserves the right to approve a 25-year assessment repayment period for other residential property Eligible Products if deemed appropriate or amend the minimum energy financing amount and duration of assessment.

For Commercial Projects - Assessment Contracts are available for up to 30-year terms to accommodate a wide range of efficiency measures and renewable energy investments and seismic strengthening for commercial. The minimum amount for an Assessment Contract is \$5,000. All residential commercial assessment contracts are subject to a 5-, 10-, 15-, 20-year, -25, or -30\*year assessment repayment period, as requested by the property owner and agreed to by the Program Administrator and/or his designee. Assessment repayment periods cannot exceed the estimated reasonable useful life of the installed improvement(s). Solar PV systems may have a 20-, 25-, or 30\*- year assessment repayment period. The WRCOG Executive Committee reserves the right to approve a 30-year assessment repayment period for other residential and commercial property Eligible Products if deemed appropriate or amend the minimum energy financing amount and duration of assessment.

#### ***PRIORITY IN APPLICATION PROCESSING***

In the case where upfront funding is available, complete and eligible applications will be processed on first-come, first-served basis until funds are no longer available. Once funds are no longer available, additional applications may be placed on a waitlist.

#### ***MAXIMUM PORTFOLIO***

The maximum aggregate dollar amount of contractual assessments available under the WRCOG HERO Residential Program is \$3 billion. If this amount is exceeded, WRCOG may, in its sole discretion, pass a resolution to increase the maximum aggregate dollar amount of contractual assessments.

The maximum aggregate dollar amount of contractual assessments available under the WRCOG HERO Commercial Program is \$250 million. If this amount is exceeded, WRCOG may, in its sole discretion, pass a resolution to increase the maximum aggregate dollar amount of contractual assessments.

The maximum aggregate dollar amount of contractual assessments available under the WRCOG CaliforniaFIRST Residential Program is \$150 million. If this amount is exceeded, WRCOG may, in its sole discretion, pass a resolution to increase the maximum aggregate dollar amount of contractual assessments.

The maximum aggregate dollar amount of contractual assessments available under the WRCOG PACE Funding Group Residential Program is \$100 million. If this amount is exceeded, WRCOG may, in its sole discretion, pass a resolution to increase the maximum aggregate dollar amount of contractual assessments.

The maximum aggregate dollar amount of contractual assessments available under the WRCOG Ygrene Residential Program is \$50 million. If this amount is exceeded, WRCOG may, in its sole discretion, pass a resolution to increase the maximum aggregate dollar amount of contractual assessments

The maximum aggregate dollar amount of contractual assessments available under the WRCOG Greenworks Commercial Program is \$200 million. If this amount is exceeded, WRCOG may, in its sole



discretion, pass a resolution to increase the maximum aggregate dollar amount of contractual assessments.

The maximum aggregate dollar amount of contractual assessments available under the WRCOG CleanFund Commercial Program is \$200 million. If this amount is exceeded, WRCOG may, in its sole discretion, pass a resolution to increase the maximum aggregate dollar amount of contractual assessments.

The maximum aggregate dollar amount of contractual assessments available under the WRCOG Twain Financial Partners Commercial Program is \$150 million. If this amount is exceeded, WRCOG may, in its sole discretion, pass a resolution to increase the maximum aggregate dollar amount of contractual

### ***ASSESSMENT INTEREST RATE***

Any changes to interest rates proposed by any Program Administrator shall be subject to the approval of the Executive Director and/or Executive Committee of WRCOG.

HERO Financing Plan for Residential: The Program Administrator will set the interest rate for a contract assessment financed through the HERO Financing Plan at the time that the application is approved and when the assessment contract is signed. The current rate will always be available on the Program website and any variations from that estimated rate will be based solely on market fluctuations. The Program Administrator will review the interest rates on an annual basis.

HERO Commercial Financing for Commercial: The Program Administrator will set the interest rate for contract assessment financed at the time that the Eligible Products are funded. Renovate America, Inc., will provide ongoing pricing feedback from the capital markets to aid in adjusting product pricing. The Program Administrator will review the interest rates on an annual basis.

Renew Financial PACE Financing for Residential Properties: The Program Administrator will set the interest rate for a contract assessment financed through the standard financing plan at the time the application is approved, and the assessment contract is signed. The Program Administrator will review the interest rates on an annual basis.

Renew Financial Open-Market Commercial PACE Financing for Commercial Properties: The Program Administrator will set the interest rate for contract assessment financed at the time that the Eligible Products are funded. Renew Financial will provide ongoing pricing feedback from the capital markets to aid in adjusting product pricing. The Program Administrator will review the interest rates on an annual basis.

Ygrene Funding Group PACE Financing for Residential Properties: The Program Administrator will set the interest rate for contract assessment financed at the time that the Eligible Products are funded. Ygrene will provide ongoing pricing feedback from the capital markets to aid in adjusting product pricing. The Program Administrator will review the interest rates on an annual basis.

Ygrene Funding Group Commercial PACE Financing for Commercial Properties: The Program Administrator will set the interest rate for contract assessment financed at the time that the Eligible Products are funded. Ygrene will provide ongoing pricing feedback from the capital markets to aid in adjusting product pricing. The Program Administrator will review the interest rates on an annual basis.

PACE Funding PACE Financing for Residential Properties. The Program Administrator will set the interest rate for an assessment contract financed through the standard financing plan at the time the application is approved, and the assessment contract is signed. The Program Administrator will review the interest rates on an annual basis.

Greenworks Commercial Financing for Commercial: The Program Administrator will set the interest rate for contract assessment financed at the time that the Eligible Products are funded. Greenworks will provide ongoing pricing feedback from the capital markets to aid in adjusting product pricing. The Program Administrator will review the interest rates on an annual basis.

Twain Financial Partners for Commercial: The Program Administrator will set the interest rate for contract assessment financed at the time that the Eligible Products are funded. Twain will provide ongoing pricing feedback from the capital markets to aid in adjusting product pricing. The Program Administrator will review the interest rates on an annual basis.

CleanFund Commercial PACE Capital Financing for Commercial: The Program Administrator will set the interest rate for contract assessment financed at the time that the Eligible Products are funded. CleanFund will provide ongoing pricing feedback from the capital markets to aid in adjusting product pricing. The Program Administrator will review the interest rates on an annual basis.

Standard Financing Plan: The Program Administrator will set the interest rate for a contract assessment at the time the application is approved, and the assessment contract is signed. The Program Administrator will review the interest rates on an annual basis.

### ***PROPERTY ASSESSMENT LIEN***

As part of the approval of the financing amount for each property owner who applies to the Program, the Program will, as part of its application review, calculate the total annual property taxes and assessments on the property, including the maximum assessment amount available through the Program, to ensure that such total will not exceed five percent (5%) of the market value of the property as required by California law.

All property owners must sign, notarize or provide such verification as may be required by WRCOG, and return the Assessment Contract to WRCOG within the time period specified in the approval notice. Upon execution of the Assessment Contract, the Program will place a lien for the full amount of the assessment on the property that secures the assessment. If the lien is recorded before the first business day in July, the assessment will appear on the next tax bill. For liens recorded made after the first business day of July, the assessment will not appear on the tax bill until the following tax year, but interest will accrue on the outstanding balance. A direct bill and/or additional tax bill or other method of payment (including capitalized interest) may be required, as determined by the Program, during the first tax year.

### ***DELINQUENT ASSESSMENT COLLECTIONS***

In general, it is expected that assessment installments will be collected on the *ad valorem* tax bills sent to property owners by the County Treasurer-Tax Collector, and therefore delinquency information will generally be available from the Treasurer-Tax Collector's office. In order to attract financing, WRCOG will covenant to commence and pursue judicial foreclosure proceedings with respect to parcels that are delinquent in the payment of assessment installments. The precise terms of such a covenant will be determined at the time of bond issuance. If the assessments levied in connection with the Program are covered by the County's Teeter Plan, the County will have an important role in determining the language of the foreclosure covenant.

### ***SUBORDINATIONS***

All residential Providers operating may offer the ability to subordinate the assessment upon request from a property owner for a sale and/or refinancing of a property, although, this is not a general practice.

### ***DISCLOSURES***

All residential Providers operating will offer disclosures to the property owners that are similar in nature to that are consistent with State law.

***PREPAYMENT PENALTIES***

All residential Providers will not charge prepayment penalties to property owners for early pay-off. However, the accrued interest until the next payment date to bond holders must be paid by the property owner at time of prepayment. All property owners may be subject to pay a prepayment calculation fee in the event an estimate payoff is requested.

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# Item 6.E

PACE Programs Activities Update

## Attachment 4

CA HERO Program Report Amended  
December 2, 2019 - addition of  
HERO Commercial Program

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## PROGRAM REPORT

CITIES/TOWNS OF ALAMEDA, ALBANY, ALHAMBRA, ALISO VIEJO, AMADOR, AMERICAN CANYON, ANAHEIM, ANTIOCH, ARCADIA, ARCATA, ARVIN, ATHERTON, ATWATER, AVALON (COMMERCIAL ONLY), AVENAL, AZUSA BAKERSFIELD, BALDWIN PARK, BEAUMONT, BELL GARDENS (COMMERCIAL ONLY), BELLFLOWER, BELMONT, BELVEDERE, BENICIA, BERKLEY, BISHOP, BLUE LAKE, BLYTHE, BRADBURY, BRAWLEY, BREA, BRENTWOOD, BRISBANE, BUENA PARK, BURLINGAME, CALABASAS (COMMERCIAL ONLY), CALEXICO, CALIFORNIA CITY, CALIPATRIA, CALISTOGA, CAMARILLO, CAMPBELL, CAPITOLA, CARLSBAD, CARMEL, CARSON, CATHEDRAL CITY, CERES, CHICO, CHOWCHILLA, CHULA VISTA, CITRUS HEIGHTS, CLAREMONT, CLAYTON, CLOVERDALE, CLOVIS, COACHELLA, COALINGA, COLMA, COMMERCE, CONCORD, CORCORAN, CORNING, CORONADO, COSTA MESA, COTATI, COVINA, CRESCENT CITY, CUPERTINO, CYPRESS, DALY CITY, DANVILLE, DAVIS, DEL MAR, DEL REY OAKS, DELANO, DESERT HOT SPRINGS, DIAMOND BAR, DINUBA, DIXON, DORRIS, DOS PALOS, DUBLIN, DUNSMUIR, EL CAJON, EL CENTRO, EL CERRITO, EL MONTE, EL SEGUNDO, ELK GROVE, ENCINITAS, ESCONDIDO, ETNA, EUREKA, EXETER, FAIRFAX, FAIRFIELD, FARMERSVILLE, FERNDALE, FILLMORE, FIREBAUGH, FORT BRAGG, FORTUNA, FOSTER, FOUNTAIN VALLEY, FOWLER, FREMONT, FRESNO, GALT, GARDEN GROVE, GARDENA, GILROY, GLENDORA, GONZALES, GRASS VALLEY, GREENFIELD, GROVER BEACH, GUSTINE, HALF MOON BAY, HANFORD, HAWTHORNE, HAYWARD, HEALDSBURG, HERMOSA BEACH, HILLSBOROUGH, HOLTVILLE, HUGHSON, HUNTINGTON BEACH, HURON, IMPERIAL BEACH, IMPERIAL, INDIAN WELLS, INDIO, INDUSTRY, INGLEWOOD, IONE, IRWINDALE, ISLETON, JACKSON, KERMAN, KING CITY, KINGSBURG, LA CANADA FLINTRIDGE, LA HABRA, LA MESA, LA PALMA, LA QUINTA, LA VERNE, LAFAYETTE, LAGUNA BEACH, LAGUNA HILLS, LAKE FOREST, LANCASTER, LARKSPUR, LATHROP, LAWDALE, LEMON GROVE, LEMOORE, LINDSAY, LIVE OAK, LIVINGSTON, LODI, LOMITA, LOMPOC, LONG BEACH (COMMERCIAL ONLY), LOS BANOS, LOYALTON, MADERA, MALIBU, MAMMOTH LAKES, MANTECA, MARTINEZ, MARYSVILLE, MCFARLAND, MENDOTA, MENLO PARK, MERCED, MILL VALLEY, MILLBRAE, MILPITAS, MISSION VIEJO, MODESTO, MONROVIA, MONTEBELLO, MONTEREY PARK, MONTEREY, MOORPARK, MORAGA, MORGAN HILL, MORRO BAY, MOUNT SHASTA, MOUNTAIN VIEW, NAPA, NATIONAL CITY, NEVADA CITY, NEWARK, NEWMAN, NEWPORT BEACH, NOVATO, OAKDALE, OAKLAND, OAKLEY, OCEANSIDE, OJAI, ORANGE COVE, ORLAND, OROVILLE, OXNARD, PACIFIC GROVE, PACIFICA, PALM DESERT, PALM SPRINGS, PALMDALE, PARADISE, PARLIER, PASO ROBLES, PATTERSON, PETALUMA, PIEDMONT, PINOLE, PITTSBURG, PLACENTIA, PLACERVILLE, PLEASANT HILL, PLEASANTON, PLYMOUTH, POINT ARENA, POMONA, PORT HUENEME, PORTERVILLE, PORTOLA VALLEY, POWAY, RANCHO CORDOVA, RANCHO MIRAGE, RANCHO PALOS VERDES, RANCHO SANTA MARGARITA, REDDING, REDONDO BEACH, REDWOOD CITY, REEDLEY, RICHMOND, RIDGECREST, RIO VISTA, RIPON, RIVERBANK, ROHNERT PARK, ROLLING HILLS ESTATES, ROLLING HILLS, ROSEMEAD, SACRAMENTO, SALINAS, SAN ANSELMO, SAN BRUNO, SAN BUENAVENTURA, SAN CARLOS, SAN CLEMENTE, SAN DIEGO, SAN DIMAS, SAN

FERNANDO, SAN GABRIEL, SAN JOAQUIN, SAN JOSE, SAN JUAN BAUTISTA, SAN LEANDRO, SAN LUIS OBISPO, SAN MARCOS, SAN MARINO, SAN MATEO, SAN PABLO, SAN RAFAEL, SAN RAMON, SAND CITY, SANGER, SANTA ANA, SANTA BARBARA, SANTA CLARA, SANTA CRUZ, SANTA MONICA, SANTA PAULA, SANTA ROSA, SANTEE, SAUSALITO, SCOTTS VALLEY, SEASIDE, SEBASTOPOL, SELMA, SHAFTER, SHASTA LAKE, SIERRA MADRE, SIMI VALLEY, SOLANA BEACH, SONOMA, SOUTH EL MONTE, SOUTH LAKE TAHOE, SOUTH PASADENA, SOUTH SAN FRANCISCO, ST. HELENA, STANTON, STOCKTON, SUISUN CITY, SUSANVILLE, SUTTER CREEK, TAFT, TEHACHAPI, TEHAMA, TEMPLE CITY, THOUSAND OAKS, TIBURON, TORRANCE, TRACY, TRINIDAD, TRUCKEE, TULARE, TURLOCK, TUSTIN, UKIAH, UNION CITY, VACAVILLE, VALLEJO, VISALIA, VISTA, WALNUT, WALNUT CREEK, WASCO, WATERFORD, WATSONVILLE, WEED, WEST COVINA, WEST SACRAMENTO, WESTMINSTER, WHEATLAND, CITY OF WINDSOR, AND, WINTERS, WOODLAKE, WOODLAND, WOODSIDE, YORBA LINDA, YOUNTVILLE, YREKA, AND YUBA. THE UNINCORPORATED COUNTIES OF ALAMEDA, AMADOR, BUTTE, COLUSA, CONTRA COSTA, DEL NORTE, EL DORADO, FRESNO, GLENN, HUMBOLDT, IMPERIAL, KERN, KINGS, MADERA, MARIN, MARIPOSA, MENDOCINO, MERCED, MONO, MONTEREY, NAPA, NEVADA, RIVERSIDE, SACRAMENTO, SAN DIEGO, SAN FRANCISCO, SAN JOAQUIN, SAN LUIS OBISPO, SAN MATEO, SANTA CRUZ, SHASTA, SISKIYOU, SOLANO, SONOMA, TEHAMA, TULARE, YOLO, AND YUBA.

ADOPTED JUNE 3, 2013 - REVISED JULY 15, 2013 - REVISED AUGUST 5, 2013 - REVISED SEPTEMBER 9, 2013 – REVISED  
 NOVEMBER 4, 2013 - REVISED DECEMBER 2, 2013 - REVISED JANUARY 6, 2014 REVISED FEBRUARY 3, 2014 - REVISED MARCH  
 3, 2014 - REVISED APRIL 7, 2014 - REVISED MAY 5, 2014 REVISED JUNE 2, 2014 – AMENDED JUNE 9, 2014 - REVISED JULY 7,  
 2014 – REVISED AUGUST 4, 2014 – REVISED SEPTEMBER 8, 2014 – REVISED OCTOBER 6, 2014 -REVISED NOVEMBER 3, 2014  
 REVISED DECEMBER 1, 2014 – REVISED JANUARY 5, 2015 - REVISED FEBRUARY 2, 2015, REVISED MARCH 2, 2015- REVISED APRIL 6, 2015 – REVISED MAY 4, 2015 – REVISED JUNE 1, 2015 – REVISED JULY 6, 2015 – REVISED AUGUST 3, 2015 – REVISED SEPTEMBER 14, 2015 – REVISED OCTOBER 5, 2015 – REVISED NOVEMBER 2, 2015 – REVISED DECEMBER 7, 2015 – REVISED JANUARY 4, 2016 – REVISED FEBRUARY 1, 2016 – REVISED MARCH 7, 2016 – REVISED APRIL 4, 2016 – REVISED MAY 2, 2016 – REVISED JUNE 6, 2016 – REVISED JULY 11, 2016 – REVISED AUGUST 1, 2016 – REVISED DECEMBER 5, 2016 –  
 REVISED JANUARY 9, 2017 – REVISED APRIL 3, 2017 – REVISED JUNE 5, 2017– REVISED JULY 10, 2017– REVISED AUGUST 7,  
 2017– REVISED SEPTEMBER 11, 2017— REVISED OCTOBER 2, 2017— REVISED DECEMBER 4, 2017– REVISED FEBRUARY 5, 2018 – REVISED APRIL 2, 2018 – REVISED JULY 2, 2018 - REVISED MARCH 4, 2019 – REVISED MARCH 22, 2019 – REVISED APRIL 1, 2019 - REVISED MAY 6, 2019 - AMENDED JUNE 3, 2019 - REVISED JULY 1, 2019 – AMENDED DECEMBER 2, 2019



## **REFINANCING**

The Program may refinance Authorized Improvements for commercial properties in accordance with parameters approved by the Executive Director.

## **MAXIMUM PORTFOLIO**

~~The maximum aggregate dollar amount of contractual assessments initially authorized under the California HERO Program is \$3.7 billion.~~

The maximum aggregate dollar amount of contractual assessments initially authorized under the Greenworks Statewide Program is \$200 million.

The maximum aggregate dollar amount of contractual assessments initially authorized under the Twain Financial Partners Statewide Program is \$150 million.

The maximum aggregate dollar amount on contractual assessments initially authorized under the Renovate America Residential HERO Program is \$3,000,000,000.

The maximum aggregate dollar amount on contractual assessments initially authorized under the Renovate America Residential HERO Program is 250,000,000.

The maximum aggregate dollar amount on contractual assessments initially authorized under the CaliforniaFirst Renew Financial Program is \$150,000,000.

~~The maximum aggregate dollar amount on contractual assessments initially authorized under the PACEFunding Program is \$100,000,000.~~

~~The maximum aggregate dollar amount on contractual assessments initially authorized under the CleanFund Program is \$200,000,000.~~

The maximum aggregate dollar amount on contractual assessments initially authorized under the Ygrene Program is \$50,000,000.

## **ASSESSMENT INTEREST RATE**

Residential Properties: The interest rate for a contractual assessment on a residential property is set at the time that the Assessment Contract is delivered to the property owner. An estimated, current rate will always be available on the Program website and any variations from that estimated rate will be based solely on market fluctuations.

## **PROPERTY ASSESSMENT LIEN**

All property owners must sign, and return the Assessment Contract within the time period specified in the notice of approval of a property owner's application. Upon completion of the project and execution of the Assessment Contract, the Agent will place a lien for the full amount of the contractual assessment on the property that secures such assessment. If the lien is recorded before the first business day in July, the assessment installment will appear on the next tax bill. For liens recorded after the first business day of July, the assessment installment will not appear on the tax bill until the following tax year, but interest will accrue on the outstanding balance. A direct bill and/or additional tax bill or other method of payment (including capitalized interest) may be required, as determined by the Program, during the first tax year.

## **DELINQUENT ASSESSMENT COLLECTIONS**

In general, it is expected that assessment installments will be collected on the *ad valorem* tax bills sent to property owners by the Treasurer-Tax Collector of the County in which such owner's property is located, and therefore delinquency information will generally be available from such the Treasurer-Tax Collector's office. In order to attract financing, the Agent will covenant to commence and pursue judicial foreclosure proceedings with respect to parcels that are delinquent in the payment of assessment installments. The precise terms of such a covenant will be determined at the time of bond issuance.

## **THE FINANCIAL STRATEGIES**

The Program includes the following financial strategies.

Strategy One: The Program will, at launch, utilize Renovate America to fund installations of Eligible Products for Residential and Commercial properties. Renovate America will provide a revolving credit line to finance the installation of Eligible Products for such Residential and Commercial properties. Property and other eligibility requirements will be determined pursuant to the criteria set forth in above and in the Residential Handbook. In consideration for funding the installation of such Eligible Products the Agent shall issue and deliver to Renovate America one or more municipal bonds secured by the contractual assessments payable by the Residential and Commercial and to be improved.

Strategy Two: The Program will, at launch, utilize the Twain Financial Partners to fund installations of Eligible Products for Commercial properties, under Twain. Twain Financial Partners will provide a revolving credit line to finance and refinance the installation of Eligible Products to Commercial

properties. Property and other eligibility requirements will be determined pursuant to the criteria set forth in above and the Commercial Handbook. In consideration for funding the installation of such Eligible Products the Agent shall issue and deliver to Twain Financial Partners one or more municipal bonds secured by the contractual assessments payable by the Commercial properties to be improved.

Strategy Three: The Program will, at launch, utilize the Greenworks Lending, LLC to fund installations of Eligible Products for Commercial properties, under Greenworks Commercial. Greenworks will provide a revolving credit line to finance and refinance the installation of Eligible Products to Commercial properties. Property and other eligibility requirements will be determined pursuant to the criteria set forth in above and the Commercial Handbook. In consideration for funding the installation of such Eligible Products the Agent shall issue and deliver to Greenworks one or more municipal bonds secured by the contractual assessments payable by the Commercial properties to be improved.

Strategy Four: The Program will, at launch, utilize the Ygrene Energy Fund to fund installations of Eligible Products for Commercial properties, under Ygrene Commercial. Ygrene will provide a revolving credit line to finance and refinance the installation of Eligible Products to Commercial properties. Property and other eligibility requirements will be determined pursuant to the criteria set forth in above and the Commercial Handbook. In consideration for funding the installation of such Eligible Products the Agent shall issue and deliver to Ygrene one or more municipal bonds secured by the contractual assessments payable by the Commercial properties to be improved.

Strategy ~~Four~~Five: The Agent may establish the “Statewide PACE Financing Fund” (the “PACE Fund”) and may accept funds from any available source. Repayments will be made pursuant to Assessment Contracts between the property owners and the Agent and will be collected through the property assessment mechanism in the County property tax system in which the properties of such owners are located. The Agent will manage or cause the Trustee or other qualified ~~third-party~~third-party administrator to manage the PACE Fund in one enterprise fund with multiple sub-funds.

Strategy ~~Five~~Six: For additional financing, the Agent will continue to explore funding opportunities from a number of other potential funding sources, and combinations of sources, which may include but are not limited to additional funding from any funds under the control of the Agent, the issuance of notes, bonds, or agreements with utilities or public or private lenders, other governmental entities and quasi-governmental entities such as SCERA, CALPERS, Nationwide Retirement Solutions, funding from private entities, or any financing structure allowed by law.

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# Item 6.E

PACE Programs Activities Update

## Attachment 5

HERO Commercial Programs  
Assessment Contract

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## **Agreement to Pay Assessment and Finance Improvements**

**WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS  
WRCOG PACE PROGRAM AND CALIFORNIA PACE PROGRAM  
(HERO Commercial PACE Program)**

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# Agreement to Pay Assessment and Finance Improvements

## WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS WRCOG PACE PROGRAM AND CALIFORNIA PACE PROGRAM (HERO Commercial PACE Program)

This AGREEMENT TO PAY ASSESSMENT AND FINANCE IMPROVEMENTS (this "**Agreement**") is made and entered into as of this [ ] day of [ ], 2019, (the "**Effective Date**") by and between the Western Riverside Council of Governments, a joint exercise of powers authority (the "**Authority**"), and [ ], the record owner(s) (the "**Property Owner**") of the fee title to the real property identified on Exhibit A (the "**Property**") and is acknowledged and accepted by Renovate America, Inc. ("**Renovate**" or the "**PACE Program Administrator**"), in its role as the Program Administrator.

### RECITALS

**WHEREAS**, the Authority is a joint exercise of powers authority the members of which include numerous cities and counties in the State of California; and

**WHEREAS**, the Authority has established the Energy Efficiency and Water Conservation Program for Western Riverside County (the "**Program**") to allow the financing of certain distributed generation renewable energy sources, energy and water efficiency improvements, electric vehicle charging infrastructure and seismic improvements (the "**Authorized Improvements**") through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code ("**Chapter 29**") and the issuance of improvement bonds ("Improvement Bonds") under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 and following) (the "**1915 Act**") upon the security of the unpaid contractual assessments; and

**WHEREAS**, the purpose and method of administration of the assessments under the Program are described in the WRCOG Program Report dated June 7, 2010, as such report has been and may be amended from time to time (the "**Program Report**") prior to the Effective Date of this Agreement; and

**WHEREAS**, the Authority executed an Administration Agreement with Renovate to provide program administrative services to owners of commercial properties participating in the HERO Commercial PACE Program (the "**HERO Commercial Program**"), including but not limited to reviewing and approving application materials for proposed projects subject to compliance with the Program Report (a proposed project so approved, an "**Approved Project**"), processing all disbursement requests, including accepting disbursement request forms, reviewing submitted forms and attachments, and providing for the disbursement of funds for the Authorized Improvements; and

**WHEREAS**, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner(s) of each lot or parcel on which an assessment is levied at the time the assessment is levied pursuant to a contract between the property owner and the public agency; and

**WHEREAS**, the Authority has conducted the proceedings required by Chapter 29 with respect to the territory within the boundaries of the City of [ ], California (the "**City**"); and

**WHEREAS**, the Property is located in the boundaries of the City and the City has consented to (i) owners of property within its jurisdiction (the “**Participating Property Owners**”) participating in the Program and (ii) the Authority conducting assessment proceedings under Chapter 29 and issuing bonds under the 1915 Act to finance the Authorized Improvements; and

**WHEREAS**, the Property Owner has submitted application materials including a description of the Authorized Improvements that will be acquired, constructed on and/or installed on the Property and are to be financed pursuant to the HERO Commercial Program and Renovate has determined it is an Approved Project; and

**WHEREAS**, pursuant to Chapter 29, the Authority and the Property Owner wish to enter into a contract pursuant to which the Property Owner would agree to pay an assessment in order to finance the installation on the Property of the Authorized Improvements described in Exhibit B (the “**Improvements**”) and the Authority would agree to provide financing, all on the terms set forth in this Agreement;

**NOW, THEREFORE**, in consideration of the foregoing and the material covenants hereinafter contained, the Property Owner and the Authority formally covenant, agree and bind themselves and their successors and assigns as follows:

### **AGREEMENT**

**Section 1. Purpose.** The Property Owner and the Authority are entering into this Agreement for the purpose of financing the installation of the Improvements identified on Exhibit B on the Property.

**Section 2. The Property.** This Agreement relates to the real property identified in Exhibit A. The Property Owner has supplied to the Authority current evidence of its ownership of fee title to the Property and possesses all legal authority necessary to execute this Agreement as or on behalf of the Property Owner.

**Section 3. Assessment and Lien.**

(a) Pursuant to the terms of this Agreement, the Authority shall disburse funds, or cause funds to be disbursed, to or on behalf of the Property Owner in an amount equal to the total principal amount set forth on Exhibit C (the “**Financed Amount**”), of which \$[ ] shall be for the actual cost of the design, approval, acquisition, construction, financing, and/or installation of the Improvements, (the “**Project Cost**”), and of which \$[ ] shall be for Authority and PACE Program Administrator fees and expenses (“**Financing Expenses**”). If the actual cost of the Improvements exceeds the Project Cost, the Property Owner shall be solely responsible for the payment of such excess costs.

(b) Interest shall accrue on the Financed Amount from the Effective Date at [ ] ( [ ] %) per annum until all outstanding obligations are paid in full. Interest shall be computed for the actual number of days which have elapsed, on the basis of a 360-day year and applied to the actual number of days elapsed until the first Delinquent After Date (as specified in Exhibit C) occurs and thereafter between subsequent Delinquent After Dates regardless of when each Assessment Installment (as defined herein) is paid. Property Owner acknowledges and agrees that the calculation of interest on the basis described in the immediately preceding sentence may result in the accrual and payment of interest in amounts

greater than those which would be payable if interest were calculated on the basis of a three hundred sixty-five (365) day year.

(c) The Property Owner agrees that upon the execution of this Agreement by the parties, the Property is subject to a voluntary contractual assessment levied against the Property pursuant to this Agreement, Chapter 29 and other applicable law in an amount equal to the Financed Amount plus any administration fees, accrued interest and penalties thereon and any Non-Completion Assessment, if applicable (the “**Assessment**”). Upon execution of this Agreement, the Authority will execute and cause to be recorded in the office of the County Recorder of the County within which the Property is located (the “**County**”) a notice of assessment and payment of contractual assessment required (collectively, the “**Notice of Assessment**”) as required pursuant to Chapter 29, together with a copy of this Agreement. The recordation of the Notice of Assessment will create a lien against the Property.

(d) The execution of this Agreement by the parties constitutes the levy of the Assessment by the Authority against the Property without any further action required by the parties.

(e) The Property Owner hereby promises to pay the Assessment for a period of [ ] years annually, in two installments (each such installment, an “**Assessment Installment**”), as permitted by the County tax collector, together with any Annual Assessment Administrative Fees as defined in paragraph (f) below, on the due dates set forth in Exhibit C hereto (the “**Assessment Schedule**”). The Property Owner agrees to pay each Assessment Installment by its due date in order to avoid delinquencies and related penalties.

(f) The Property Owner hereby freely and willingly agrees to pay an additional assessment (the “**Non-Completion Assessment**”) in the event that the Property Owner fails to install the Improvements in compliance with the HERO Commercial Program rules or the Program rules, or the Property Owner otherwise fails to meet the financing conditions established by the Authority. The Non-Completion Assessment shall include, to the extent such costs are not otherwise paid by the Property Owner, (i) all costs of redeeming the Improvement Bonds from the unused proceeds of the Improvement Bonds, including but not limited to any portion of the prepayment premium that is not paid from the unused proceeds and (ii) all of the Authority's costs related to the release of the lien of the Assessment on the Property. The Property Owner acknowledges that the Non-Completion Assessment will be levied in full by the Authority as set forth in Section 5898.30 of Chapter 29 in the first fiscal year in which the Authority is able to cause the Non-Completion Assessment to be placed on the County property tax roll.

(g) The Property Owner hereby acknowledges that, pursuant to the 1915 Act, including Sections 8682(b) and 8682.1(a), the Authority may add amounts to an Assessment Installment each year in order to pay for the costs of collecting and administering the Assessment (the “**Annual Assessment Administrative Fees**”). The maximum Annual Assessment Administrative Fee shall not exceed \$\_\_\_\_\_ in the tax year commencing on July 1, 2018. The Annual Assessment Administrative Fee shall thereafter be adjusted annually commencing on July 1 of each subsequent tax year for cost of living based on the U.S. Department of Labor, Bureau of Labor Statistics, and Consumer Price Index for all urban consumers applicable to the West Census Region. The PACE Program Administrator shall annually determine the amount of the Annual Assessment Administrative Fee, not to exceed the maximum Annual Assessment Administrative Fee determined in accordance with the preceding sentence.

(h) The Assessment shall constitute a lien upon the Property until paid. Failure to pay any Assessment Installment, like failure to pay any property taxes pertaining to the Property, will result in penalties and interest accruing on the amounts due. In addition, under those circumstances, the Authority has the right to judicially foreclose the lien of the Assessment, as set forth in paragraph 4(d) below.

**Section 4. Collection of Assessment; Other Remedies.**

(a) The Assessment Installments shall be collected on the property tax bill pertaining to the Property. The Assessment Installments shall be payable in the same manner and at the same time as the general taxes of the County on real property are payable, and shall be payable and become delinquent at the same times and shall bear the same penalties and interest after delinquency, and be subject to the same provisions for redemption and sale, as the general taxes on real property of the County.

(b) The Assessment Installments shall commence on the due dates set forth in the Assessment Schedule (Exhibit C).

(c) The lien of the Assessment (the "Assessment Lien") shall be co-equal to and independent of the lien for general taxes, and, pursuant to Government Code Section 53936, not subject to extinguishment by the sale of the Property on account of the nonpayment of any taxes, and prior and superior to all liens, claims and encumbrances on or against the Property except: (i) the lien for general taxes, special taxes or ad valorem assessments in the nature of and collected as taxes levied by the State of California or any county, city, special district or other local agency; (ii) the lien of any special assessment or assessments the lien date of which is prior in time to the lien date of the Assessment; (iii) easements constituting servitudes upon or burdens the Property; (iv) water rights, the record title to which is held separately from the title to the Property; and (v) restrictions of record.

(d) The Property Owner acknowledges that if any Assessment Installment is not paid when due, the Authority has the right to have the delinquent Assessment Installment and its associated penalties and interest stripped off the secured property tax roll and immediately enforced through a judicial foreclosure action that could result in a sale of the Property for the payment of the delinquent Assessment Installments, associated penalties and interest, and all costs of such action, including attorneys' fees. The Property Owner acknowledges that, if bonds are sold to finance the Improvements, the Authority may obligate itself, through a covenant with the owners of such bonds, to exercise its foreclosure rights with respect to delinquent Assessment Installments under specified circumstances. Additionally, if no action is taken by the Authority and the Property Owner remains delinquent on the payment of any Assessment Installment for a period of five (5) years, the County in which the Property is located may commence foreclosure proceedings.

**Section 5. Financing of the Improvements; Installation of the Improvements.**

(a) The Authority hereby approves the disbursement of funds against the Financed Amount subject to the provisions of this Section. The funds will be disbursed by the Trustee on behalf of the Authority, pursuant to the terms of this Agreement and applied by Property Owner to pay for the Improvements.

(b) Notwithstanding anything to the contrary contained herein, the PACE Program Administrator's obligation to disburse any of the Project Cost to Property Owner or

their contractor (“**Contractor**”) shall be subject to satisfaction of the following conditions precedent, in the PACE Program Administrator’s sole discretion, unless such conditions precedent are expressly waived in writing by the PACE Program Administrator and the Authority:

(i) the construction contract between the Property Owner and the Contractor, together with all major subcontracts thereunder (collectively, the “**Construction Contract**”) shall have been approved in all respects by the PACE Program Administrator;

(ii) the Property Owner shall have provided copies of all permits required by law to the PACE Program Administrator;

(iii) the Property Owner shall have provided to the PACE Program Administrator the written consent of its existing mortgage lender to the Assessment;

(iv) the PACE Program Administrator shall have received confirmation from the applicable County Recorder that the Notice of Assessment, together with a copy of this Agreement has been recorded in the relevant land records;

(v) the Property Owner shall have provided to the PACE Program Administrator evidence acceptable to the PACE Program Administrator of incentive awards related to the Improvements, if applicable;

(vi) Property Owner shall have provided the PACE Program Administrator original, executed copies of this Agreement and any related certificates;

(vii) The PACE Program Administrator shall have determined that the representations of Property Owner contained in this Agreement are true and correct, and no Default (as defined in Section 14 below) shall have occurred and be continuing hereunder;

(viii) No order or notice shall have been given by any governmental agency stopping construction or stating that the work or construction is in violation of any law, ordinance, code or regulation, unless such order or notice has been rescinded and a copy of such rescission has been delivered to and shall be satisfactory to the PACE Program Administrator in its sole discretion. No stop payment or mechanic’s lien notice pertaining to the Products has been filed and remains in effect as of the Effective Date;

(ix) the Property Owner shall have submitted to the Authority and the PACE Program Administrator a request for the disbursement in the form of the certification attached hereto as Exhibit D;

(x) the Property Owner shall have furnished to the PACE Program Administrator partial waivers and releases of liens (for labor, services or materials which have been performed and paid for or such lien waiver will be subject to payment) from the Contractor and all other contractors, subcontractors and suppliers performing labor, services or materials in connection with the Improvements in the form attached hereto as Schedule 2 to Exhibit D;

(xi) the Property Owner shall have provided a list of authorized representatives on whose instructions and directions the PACE Program Administrator may rely until such time as an updated list has been provided, as set forth on Exhibit H attached hereto; and

(xii) the Property Owner shall have provided to the PACE Program Administrator evidence satisfactory to the PACE Program Administrator of current insurance policies on the Property and has provided evidence satisfactory to the PACE Program Administrator that such insurance shall be maintained in force during the term of the Assessment.

(c) Upon satisfaction or waiver of the conditions described in paragraph (b), above, the PACE Program Administrator will disburse funds to or on behalf of the Owner.

(d) The PACE Program Administrator's obligation to authorize the final disbursement shall be subject to the satisfaction of the following conditions precedent in the PACE Program Administrator's sole discretion:

(i) Satisfaction of all conditions set forth in this Section;

(ii) Full completion of construction of the Improvements in accordance with the Construction Contract, as evidenced through a receipt by the PACE Program Administrator of the executed Completion Certificates in the forms attached hereto as Exhibit E.

(iii) If applicable, receipt by the PACE Program Administrator of the final unconditional Certificate of Occupancy for the Improvements or a conditional Certificate of Occupancy which conditions are punch-list items only;

(iv) Receipt by the PACE Program Administrator of final waivers and releases of liens from the Contractor and all other contractors, subcontractors and suppliers performing labor, services or materials in connection with the Improvements, substantially in the form of the waiver and release attached hereto as Exhibit F; and

(v) No stop payment or mechanic's lien notice pertaining to the Improvements has been served upon Property Owner, the PACE Program Administrator, or the Authority or recorded against the Property and which remains in effect.

(e) Amount and Frequency of Disbursements.

(i) Each disbursement of Project Costs shall either (x) reimburse the Property Owner for costs of the Improvements already incurred by the Property Owner, or (y) be disbursed directly to the Contractor and/or suppliers retained for the Improvements, for construction costs incurred by the Property Owner in accordance with the approved budget. The Property Owner may apply any savings or under-budget line item cost in the approved budget to increase the amount of any other line item in the approved budget, subject in each instance to the PACE Program Administrator's review and approval, which approval shall not be unreasonably withheld.

(ii) Disbursements shall be made upon the Property Owner's compliance with the terms hereof in such proportion of the total cost of that part of the work completed to the PACE Program Administrator's satisfaction in its sole discretion, so that at all times the undisbursed portion of the Project Cost shall be sufficient, in the PACE Program Administrator's sole discretion, to complete the Improvements (including, without limitation, to pay all non-construction costs associated with the Improvements). The PACE Program Administrator shall have the right to make the final determination in its sole discretion as to the amount of each disbursement. The PACE Program Administrator may, in its sole discretion,

determine the number and frequency of each disbursement, which will not exceed one hundred percent (100%) of the cost of the work then completed and in place less the standard retainage of ten percent (10%) for all construction costs (unless a higher retainage is specified in any contract). Such retainage will be disbursed to the Property Owner at the date on which the Completion Certificate has been executed.

(iii) The final disbursement will be made upon full completion of the Improvements in accordance with the Construction Contract and satisfaction of the conditions precedent set forth in Section 5 (d).

(iv) No disbursement shall be made for materials not yet installed or incorporated into the Improvements, except that the PACE Program Administrator may agree, in its sole discretion, to authorize a disbursement for such materials.

(v) In no event shall the amount of any disbursement exceed an amount equal to (x) the cost of the construction work in place at the Property, subject to the retainage provisions set forth in Section 5(e)(ii), plus the amount of non-construction costs paid or payable by the Property Owner pursuant to the approved budget as of the date of the requested advance, less (y) all disbursements previously disbursed.

(vi) In no event shall the aggregate amount of all disbursements exceed the Project Cost.

(vii) In no event shall any disbursement be made to the Property Owner from and after the date on which the final disbursement shall have been paid in accordance with Section 5 (d).

#### **Section 6. Prepayment of the Assessment.**

The outstanding principal balance of the Financed Amount may be prepaid, in whole or in any amount of at least \$5,000, at any time upon the payment of (i) the whole or a portion of the outstanding balance of the Financed Amount, (b) the accrued but unpaid interest on the outstanding balance of the Financed Amount through the prepayment date or through the redemption date of Improvement Bonds issued to finance the Assessment, as applicable, and (c) a premium in an amount equal to a percentage of the amount of the principal to be prepaid as calculated pursuant to the schedule of prepayment premiums set forth in Exhibit I hereto. In addition, prepayment costs may also include any applicable recorder's fees, trustee fees, and other related charges incurred by the Authority in connection with the processing of the prepayment.

#### **Section 7. Term; Agreement Runs with the Land; Subdivision.**

(a) Except as otherwise set forth in this Agreement, this Agreement shall expire upon the final payment or prepayment of the Assessment. Following such expiration, the Authority shall cause to be executed, delivered and/or recorded such instruments as are necessary in order to release the lien of the Assessment.

(b) This Agreement establishes rights and obligations that are for the benefit of the Property and, therefore, such rights and obligations run with the land pursuant to Civil Code Section 1462.



(c) Property Owner shall not, without the express written consent of the Authority and the PACE Program Administrator, in their sole discretion, by act or omission impair the integrity of the Property as a single, separate, subdivided and zoned lot (as applicable) separate and apart from all other property, if any, owned by Property Owner. Property Owner hereby acknowledges that, in the event a subdivision of the Property is approved by the Authority and PACE Program Administrator while the Assessment remains unpaid, the Assessment will be assigned to each of the newly created parcels on a per acre basis unless the Authority, at the direction of the owners of a majority of any Improvement Bonds outstanding, determines that the Assessment should be allocated in an alternate manner so as to best assure repayment of the Assessment. Notwithstanding the foregoing, for the portion of the Property identified as Parcel S on Exhibit K attached hereto (the "Subdivision Parcel") no written consent of the Authority and the PACE Program Administrator shall be required so long as the Property Owner provides notice of the proposed subdivision, within five days of approval of the subdivision, to the Authority and the PACE Program Administrator in a form substantially similar to the one attached as Exhibit L.

**Section 8. Recordation of Documents.** The Property Owner hereby authorizes and directs the Authority to cause to be recorded in the office of the County Recorder the various notices and other documents required by Chapter 29 and other applicable laws to be recorded against the Property.

**Section 9. Representations and Warranties of Property Owner.** Property Owner represents and warrants to the Authority and PACE Program Administrator as follows, which representations and warranties shall be true and correct as of the date of this Agreement and at all times thereafter until the Assessment has been repaid in full:

(a) **Corporate Existence; Qualification.** Property Owner is duly organized, validly existing and in good standing in the state of its organization and with authority to do business under the laws of the State of California.

(b) **Authorization; Enforceable Obligations.**

(i) Property Owner has all necessary power and authority to own the Property and to conduct its business and enter into the transactions contemplated hereby. Property Owner has the right to enter into and perform this Agreement and all other documents executed in connection therewith have been duly authorized, executed and delivered and constitute valid and binding obligations of Property Owner, each enforceable in accordance with its respective terms.

(ii) No consent or authorization of, filing with, notice to or other act by or in respect of any governmental authority (Federal, State or Local) or any other person is required to be obtained by the Property Owner in connection with (1) the financing hereunder, (2) the execution, delivery, validity or enforceability of this Agreement or any related documents, or (3) the performance of this Agreement, except, in each case, for routine consents, authorizations, filings and notices required to be made in the ordinary course of business.

(iii) The Property Owner has secured all necessary approvals or consents required with respect to this transaction by any mortgagor, creditor, or other party having any financial interest in the Property Owner or the Property.

(c) No Legal Bar. The execution, delivery and performance of this Agreement or any related documents by the Property Owner, the financing hereunder and the use of the proceeds thereof will not violate any applicable law, the Property Owner's organizational documents or any material agreement of the Property Owner.

(d) Financial Statements. All financial statements delivered to the Authority and the PACE Program Administrator are true and correct, have been prepared in accordance with generally accepted accounting principles (or such alternate accounting method acceptable to the Authority) consistently applied, fairly represent the financial condition of Property Owner as of the date thereof, and no material adverse change has occurred in the financial condition presented therein since such date.

(e) No Litigation. There are no actions, suits, claims or proceedings pending, or to the knowledge of Property Owner threatened, against or affecting it or the Property which could materially adversely affect Property Owner, its financial condition, any of its properties (including the Property), or the construction of the Improvements or which may impair Property Owner's ability to satisfy its obligations under this Agreement.

(f) Title. Property Owner has good, marketable and insurable title to the Property subject only to real property taxes, pari passu assessment liens of record, and the permitted encumbrances approved by the Authority and the PACE Program Administrator and set forth in Exhibit G attached hereto ("Permitted Encumbrances").

(g) Compliance with Laws. Property Owner has complied with, and will continue to comply with, all applicable statutes, regulations and ordinances in connection with the Property and construction of the Improvements. All permits, consents, approvals and authorizations required to be issued by any governmental body (collectively, the "Permits") necessary for (a) the installation and construction of the Improvements in accordance with the plans and specifications submitted by Property Owner; (b) the construction, connection and operation of all utilities necessary to service the Improvements; and (c) the construction and use of all roadways, driveways, curb cuts and other vehicular or other access to and egress from the Property, either (i) have been obtained, are valid, are in full force and effect and have been complied with by the Property Owner in all respects; or (ii) will be obtained, will be valid, will be in full force and effect prior to the initiation of construction, and Property Owner will be in compliance therewith in all respects prior to the PACE Program Administrator's disbursing any of the funds. Construction and installation of the Improvements will comply with applicable zoning, use, building or other applicable codes, laws, regulations and ordinances and any restrictive covenants affecting the Property.

(h) Marijuana and Environmental Matters. Property Owner does not and will not engage (nor will it allow any tenants of the Property to engage) in operations that involve the growth, testing, production or distribution of marijuana, nor the generation, manufacture, refining, transportation, treatment, storage or handling of hazardous materials or hazardous wastes, pursuant to applicable state law, or any other federal, state or local environmental laws or regulations, and, to the best of Property Owner's knowledge, after due inquiry, neither the Property nor any other of its buildings thereon has been so used previously, except as previously disclosed in writing to and approved by the Authority and the PACE Program Administrator. There are no underground storage tanks located on the Property. There is no present and to the best of Property Owner's knowledge there has been no past, non-compliance with environmental laws, or with permits issued pursuant thereto, in connection with the Property, which has not been fully remediated in accordance with environmental laws.

(i) No Default. No Default (as defined herein) has occurred hereunder, and no event has or shall have occurred and be continuing, which, with the lapse of time or the giving of notice, or both, would constitute a Default. No foreclosure action is currently threatened or has been commenced with respect to the Property. Property Owner is not currently in default on any mortgage or deed of trust loan(s) secured by the Property.

(j) No Misrepresentation or Material Nondisclosure. Property Owner has not made and will not make to the Authority or to the PACE Program Administrator, in this Agreement or otherwise, any untrue statement of a material fact, nor has it omitted and nor will it omit to state a material fact necessary to make any statement made not misleading. All information provided by Property Owner to the Authority or to the PACE Program Administrator in writing or in electronic form is complete, true and correct in all material respects.

(k) Approval of Plans and Budgets. The plans and specifications submitted by the Property Owner to the Authority and the PACE Program Administrator and approved thereby (the “**Plans**”) will be a true and accurate reflection of the Improvements (when completed) and have been approved as required by all governmental bodies or agencies having jurisdiction or will be approved prior to the first disbursement request. The budget for construction of the Improvements (the “**Budget**”) submitted by the Property Owner to the Authority and the PACE Program Administrator is an accurate current estimate of all costs necessary to construct the Improvements in accordance with the Plans and the cost of construction of the Improvements on any portion thereof is not expected to exceed the cost therefor set forth in the Budget.

(l) Commercial Purpose. Property Owner will use the proceeds from the disbursements of funds for the Improvements only for the purposes specified in the Recitals to this Agreement. The primary purpose of the funds disbursed pursuant to this Agreement is for a commercial and business purpose, and said funds will not be used primarily for personal, family or household purposes.

(m) Improvements. The proposed Improvements are consistent with the purpose of the Program.

(n) Incorporation of Representations and Warranties. The request by Property Owner for a disbursement shall constitute a certification by Property Owner that the representations and warranties contained herein are true and correct as of the date of such request.

(o) Insolvency Event. No Insolvency Event shall have occurred or shall be continuing with respect to the Property Owner. Property Owner is not aware of any circumstances or conditions with respect to the Property Owner, its properties, the Improvements, the Property, the Assessment or any Assessment Lien that could reasonably be expected to materially and adversely affect any of the Property Owner, its properties, the Improvements, the Property, the Assessment or any Assessment Lien. For purposes hereunder, “**Insolvency Event**” shall mean the Property Owner has (i) consented to the appointment of a conservator or receiver or liquidator in any insolvency, bankruptcy, readjustment of debt, marshalling of assets and liabilities or similar proceeding or of relating to the Property Owner or relating to all or substantially all of such Property Owner’s property, (ii) failed to pay its debts as they become due and such failure has not been cured within thirty (30) days of the event; (iii) admitted in writing its inability to pay its debts as they become due, (iv) filed a petition to take advantage of any applicable insolvency or reorganization statute, (v)

made an assignment for the benefit of its creditors, (vi) had filed against it a petition for involuntary bankruptcy or some other involuntary insolvency proceeding which is not dismissed within thirty (30) days, or (vii) or voluntarily suspended payment of its obligations.

(p) Fraud. No fraud, error, omission, misrepresentation, negligence or similar occurrence with respect to the Property or Improvements has taken place on the part of the Property Owner or any other person, including, without limitation, to the best of Property Owner's knowledge, any appraiser, title company, closing or settlement agent, realtor, builder or developer or any other party involved in the Property or Improvements, that would impair in any way the rights of the Authority in the Property or Improvements or that violated applicable law.

(q) No Damage/Condemnation. The Property is undamaged by waste, vandalism, fire, hurricane, earthquake or earth movement, windstorm, flood, tornado or other casualty adversely affecting the value of a Property or the use for which the Property was intended and the Property is in substantially the same condition it was at the time the most recent appraisal was obtained. There is no proceeding pending or, to the knowledge of the Property Owner, threatened for the total or partial condemnation of the Property.

(r) Legally Occupied. With respect to the Property lawfully occupied as of the date hereof, all inspections, licenses and certificates required to be made or issued with respect to all occupied portions of the Property and, with respect to the use and occupancy of the same, including but not limited to certificates of occupancy and fire underwriting certificates, have been made or obtained from the appropriate authorities.

#### **Section 10. Covenants Of Property Owner.**

The Property Owner covenants and agrees as follows:

(a) Completion and Maintenance of the Improvements. The Property Owner shall commence construction of the Improvements and shall diligently proceed with construction in accordance with the approved Plans and Budget in a good, substantial and workmanlike manner in accordance with all applicable laws, ordinances, codes, rules and regulations. Construction of the Improvements shall be completed on or prior to the completion date set forth in the Construction Contract. If, in the Authority's opinion, after thirty (30) days' written notice to Property Owner, the construction is not proceeding with reasonable dispatch, the Authority may (i) request that Property Owner remove and replace the general contractor with a general contractor acceptable to the Authority, the failure of which by Property Owner shall be a default under this Agreement, (ii) utilize funds and continue construction of the Improvements and such funds shall be considered disbursements of the Financed Amount, or (iii) deny any disbursements of the Financed Amount until such time as the construction resumes proceeding with reasonable dispatch.

(b) Changes to Construction Contract. There shall be no material revision to the Construction Contract, Plans or Budget without the prior written approval of the Authority and the PACE Program Administrator, whose consent shall not be unreasonably withheld. If the cost of construction of the Improvements or any portion thereof exceeds the cost therefor set forth in the approved Budget, the Property Owner shall immediately deposit with the Authority the deficiency between such budgeted cost and the actual cost.

(c) Payment of the Financing. The Property Owner shall pay punctually the Assessment Installments on this Agreement on each due date according to its terms and

conditions and shall pay punctually any other amounts that may become due and payable to the Authority under or pursuant to the terms of this Agreement, regardless of whether or not the Assessment Installments appear on the Property Owner's property tax bill.

(d) Payment of All Charges. The Property Owner shall pay when due all taxes, assessments, water charges, sewer charges, liens for taxes past due with respect to the Property, carrier's, warehousemen's, mechanics', materialmen's, repairmen's or other liens and all other charges levied on or against the Property, and upon written request, submit to the Authority evidence of such payments.

(e) Compliance with Law and Agreements. In commencing and completing the Improvements, Property Owner shall comply with all existing laws, regulations, orders, building restrictions and requirements of, and all agreements with and commitments to, all governmental, judicial and legal authorities having jurisdiction over the Property or the Improvements and which are applicable to the Improvements, and with all recorded instruments, agreements, and covenants and restrictions affecting the Property.

(f) Permits, Licenses and Approvals. Property Owner shall properly obtain, comply with and keep in effect all permits, licenses and approvals which are required to be obtained from any governmental authority in order to commence and complete the Improvements. Property Owner, upon the request of the Authority or the PACE Program Administrator, shall deliver within fifteen (15) days, copies of all such permits, licenses and approvals to the Authority or the PACE Program Administrator.

(g) Site Visits. Property Owner grants the Authority and the PACE Program Administrator, their agents and representatives the right to enter and visit the Property at any reasonable time, after giving reasonable notice to Property Owner, for the purposes of observing the Improvements. The Authority and the PACE Program Administrator, their agents and representatives will make reasonable efforts during any site visit to avoid interfering with Property Owner's use of the Property. Property Owner shall also allow Authority or the PACE Program Administrator to examine and copy records and other documents of Property Owner which relate to the Improvements. The Authority and the PACE Program Administrator are under no duty to visit the Property, or observe any aspects of the Improvements, or examine any records, and the Authority and the PACE Program Administrator shall not incur any obligation or liability by reason of not making any such visit or examination. Any site visit, observation or examination by the Authority or the PACE Program Administrator shall be solely for the purposes of protecting the PACE Program Administrator and the Authority's rights under the Agreement.

(h) Protection against Lien Claims. The Property Owner shall promptly pay and discharge all claims for labor performed and material and services furnished in connection with construction of the Improvements, and take all other steps necessary to prevent the assertion of claims or liens either against the Property or the Improvements, other than (i) the claims and lien provided herein, (ii) all liens, encumbrances and other matters expressly set forth in Exhibit G, (iii) liens, if any, for taxes imposed by any governmental authority not yet due or delinquent, and (iv) such other title and survey exceptions as the PACE Program Administrator has approved or may approve in writing in the PACE Program Administrator's sole discretion.

(i) Notice of Claims; Adverse Matters. Property Owner shall promptly notify the Authority and the PACE Program Administrator in writing of any potential Insolvency Event

and all pending or threatened litigation or other matters that may materially and adversely affect the Property or Property Owner's ability to meet its obligations under this Agreement or otherwise with respect to the Improvements.

(j) Damage or Destruction. Property Owner shall promptly notify the Authority and the PACE Program Administrator if the Property is damaged or destroyed by fire, casualty, injury or any other cause (each such occurrence, a "Casualty"). The PACE Program Administrator shall have no obligation to make additional disbursements upon the occurrence of a Casualty. Upon the occurrence of such Casualty, the insurance proceeds will be applied to repayment of the total outstanding principal due and owing under this Agreement plus any applicable fees, unless the Authority and the PACE Program Administrator agree in their commercially reasonable discretion to the application of the insurance proceeds to the restoration of the Improvements. In the event restoration of the Improvements is permitted, Property Owner shall immediately proceed with the restoration thereof in accordance with the Construction Contract and Plans. If, in the Authority and PACE Program Administrator's commercially reasonable judgment, said insurance proceeds are insufficient to complete the restoration, Property Owner shall deposit with the PACE Program Administrator an amount necessary, in the Authority and PACE Program Administrator's sole judgment, to complete the restoration in accordance with the Plans and Construction Contract.

(k) Notice of Default. Property Owner shall notify in writing the Authority and the PACE Program Administrator within fifteen (15) days of any Default under this Agreement, or any event which, with notice or lapse of time or both, would constitute a Default hereunder.

(l) Changes to Ownership. Property Owner shall, prior to completing construction of the Improvements, preserve and keep in full force and effect its existence and retain title to the Property. After completion of the Improvements, Property Owner shall not transfer ownership of the Property without (a) prior written notice to the Authority and the PACE Program Administrator, and (b) execution by the purchaser of the Property of an assignment of this Agreement in the form of Exhibit J.

(m) Insurance. Property Owner shall maintain in force, and provide evidence thereof when requested by the Authority and the PACE Program Administrator, the insurance required by Section 9(k) of this Agreement throughout the term of the Assessment.

(n) Condemnation. If the Improvements or the Property or any part thereof are taken temporarily or permanently by any governmental authority as the result or in lieu or in anticipation of the exercise of the right of condemnation or eminent domain, of all or any part of the Property, or any interest therein or right accruing thereto, including any right of access thereto or any change of grade affecting the Property or any part thereof (a "**Condemnation**"), or are subject to an imminent threat of Condemnation, the PACE Program Administrator's obligation to make further disbursements hereunder shall immediately terminate unless, in the Authority and the PACE Program Administrator's sole judgment, the Property and the Improvements can be replaced and restored in a manner which will enable the Improvements to be functionally and economically utilized and occupied as originally intended. If the Authority and the PACE Program Administrator so decide that the Improvements can be so restored, then the rights and obligations of the PACE Program Administrator, the Authority and the Property Owner subsequent to a taking by Condemnation or imminent threat thereof and the disbursement of any Condemnation proceeds actually paid to the Authority and undisbursed funds hereunder, shall be the same as described in the Section 10(j) hereof with regard to insurance proceeds.

(o) Indemnification.

(i) Without limitation of any other obligation or liability of the Property Owner or any right or remedy of the Authority contained herein, the Property Owner agrees to indemnify, defend, protect and hold harmless the Authority and PACE Program Administrator, as well as each of the respective directors, officers, employees, agents, subsidiaries and affiliates, and the successors and assigns of the foregoing (each, a "Person"), from and against all damages, losses, settlement payments, obligations, liabilities, claims, suits, penalties, fines, assessments, citations, directives, demands, judgments, actions or causes of action, whether statutorily created or under the common law, including all costs and expenses (including, without limitation, reasonable fees and disbursements of attorneys, engineers and consultants) and all other liabilities whatsoever (including, without limitation, liabilities under any applicable environmental laws, regulations or rules) which shall at any time or times be incurred, suffered, sustained or required to be paid by any such indemnified Person (except any of the foregoing to the extent it results from the gross negligence or willful misconduct of the indemnified Person) (collectively, the "Indemnified Amounts") on account of or in relation to or in any way in connection with (i) any of the arrangements or transactions contemplated by, associated with or ancillary to this Agreement, or any other documents executed or delivered in connection herewith or therewith, all as the same as may be amended from time to time, or any action taken or omitted to be taken by any Person in connection with or under any of the foregoing, whether or not all or part of the transactions contemplated by, associated with or ancillary to this Agreement or any such other documents are ultimately consummated, (ii) any violation or alleged violation of, non-compliance with or liability under any requirements of law or regulation, (iii) ownership of, liens on, security interests in or the exercise of rights or remedies under any of the items referred to in the preceding clause (i), (iv) any taxes attributable to the execution, delivery, filing or recording of any this Agreement, or any other documents executed or delivered in connection herewith or therewith or any memorandum of any of the foregoing, (v) any lien or claim arising on or against the Property under any requirements of law or any liability asserted against any Person with respect thereto, (vi) (1) a past, present or future violation or alleged violation of any environmental laws in connection with the Property by any person or other source, whether related or unrelated to Property Owner, (2) any presence of any hazardous, toxic or harmful substances, materials, wastes, pollutants or contaminants defined as such in or regulated under any environmental law ("Materials of Environmental Concern") in, on, within, above, under, near, affecting or emanating from the Property, (3) the failure to timely perform any investigation, inspection, site monitoring, containment, clean-up, removal, response, corrective action, mitigation, restoration or other remedial work of any kind or nature because of, or in connection with, the current or future presence, suspected presence, Release (defined below) or threatened Release in or about the air, soil, ground water, surface water or soil vapor at, on, about, under or within all or any portion of the Property of any Materials of Environmental Concern, including any action to comply with any applicable environmental laws or directives of any governmental authority with regard to any environmental Laws, (4) any past, present or future activity by any person or other source, whether related or unrelated to Property Owner in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Materials of Environmental Concern at any time located in, under, on, above or affecting the Property, (5) any past, present or future actual generation, treatment, use, storage, transportation, manufacture, refinement, handling, production, removal, remediation, disposal, presence or migration of Materials of Environmental Concern on, about, under or within all or any portion of the Property (a "Release") (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) to, from, on, within, in, under,

near or affecting the Property by any person or other source, whether related or unrelated to Property Owner , (6) the imposition, recording or filing or the threatened imposition, recording or filing of any lien on the Property with regard to, or as a result of, any Materials of Environmental Concern or pursuant to any environmental law, or (7) any misrepresentation or failure to perform any obligations pursuant this Agreement, or any other documents executed or delivered in connection herewith or therewith to environmental matters in any way, or (vii) Property Owner's conduct, activities, actions and/or inactions in connection with, relating to or arising out of any of the foregoing clauses of this Section 10(o), that, in each case, results from any conduct, act or failure to act by the Property Owner or its affiliates or related parties or the use or intended use of the proceeds of any disbursements made pursuant to this Agreement. To the extent that the undertaking to indemnify and hold harmless set forth in the preceding sentence may be unenforceable because it violates any law or public policy, Property Owner shall pay the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all liabilities set forth in the preceding sentence incurred by any Person. In the case of an investigation, litigation or other proceeding to which the indemnification in this Section 10.(o) applies, such indemnification shall be effective whether or not such investigation, litigation or proceeding is brought by Property Owner, a Person or any other person or any Person is otherwise a party thereto and whether or not any transactions contemplated by this Agreement are entered into. In any investigation, proceeding or litigation, or the preparation therefor, the Authority shall select its own counsel and, in addition to the foregoing indemnity, the Property Owner agrees to pay promptly the reasonable fees and expenses of such counsel. In the event of the commencement of any such proceeding or litigation, the Property Owner shall be entitled to participate in such proceeding or litigation with counsel of its choice at its own expense, provided that such counsel shall be reasonably satisfactory to the Authority. This section shall survive the execution, delivery, performance and repayment of this Agreement, and the extinguishment of any Assessment Lien.

(ii) If for any reason the indemnification provided in this Section 10.(o) is unavailable to any Person or is insufficient to hold a Person harmless, even though such Person is entitled to indemnification under the express terms thereof, the Property Owner shall contribute to the amount paid or payable by such Person as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative benefits received by such Person on the one hand and Property Owner on the other hand, the relative fault of such Person, and any other relevant equitable considerations.

(iii) A Person may at any time send Property Owner a notice showing in reasonable detail the basis for and calculation of Indemnified Amounts, and Property Owner shall pay such Indemnified Amounts to such Indemnified Person within fifteen (15) days after Property Owner receives such notice. The obligations of Property Owner under this Section 10(o) shall apply to assignees and survive the termination of this Agreement.

(iv) Neither the Authority nor the PACE Program Administrator shall have any liability to the Property Owner or any other person on account of (i) the Property Owner engaging a contractor from the list of contractors submitted by the Authority or the PACE Program Administrator to the Property Owner, (ii) the services performed by the Contractor, or (iii) any neglect or failure on the part of the Contractor to perform or properly perform its services. Neither the Authority nor the PACE Program Administrator assumes any obligation of the Property Owner concerning Contractor, the quality of construction of the Improvements or the absence therefrom of defects. The authorization by the Authority of a disbursement shall not constitute the Authority's approval or acceptance of the construction theretofore completed. The Authority's inspection and approval of the Budget, the construction work, the Improvements



comprising the Improvements, or the workmanship and materials used therein, shall impose no liability of any kind on the Authority, the sole obligation of the Authority as the result of such inspection and approval being to authorize the disbursements if, and to the extent, required by this Agreement. Any disbursement authorized by the Authority without the Authority having received each of the items to which it is entitled under this Agreement shall not constitute breach or modification of this Agreement, nor shall any written amendment to this Agreement be required as a result thereof.

**Section 11. Waivers, Acknowledgment and Agreement.** Because this Agreement reflects the Property Owner's free and willing consent to pay the Assessment following a noticed public hearing, the Property Owner hereby waives any otherwise applicable requirements of Article XIII D of the California Constitution or any other provision of California law for an engineer's report, notice, public hearing, protest or ballot.

The Property Owner hereby waives its right to repeal the Assessment by initiative or any other action, or to file any lawsuit or other proceeding to challenge the Assessment or any aspect of the proceedings of the Authority undertaken in connection with the Program. The Property Owner hereby agrees that the Property Owner and its successors in interest to fee title in the Property shall be solely responsible for the installation, operation and maintenance of the Improvements. The Property Owner hereby acknowledges that the Property Owner will be responsible for payment of the Assessment regardless of whether the Improvements are properly installed, operated, maintained or perform as expected.

The Property Owner hereby agrees that the Authority is entering into this Agreement solely for the purpose of assisting the Property Owner with the financing of the installation of the Improvements, and that the Authority, the City and the PACE Program Administrator have no responsibility of any kind for, and shall have no liability arising out of, the installation, operation, financing, refinancing, maintenance or performance of the Improvements. Based upon the foregoing, the Property Owner hereby waives the right to recover from and fully and irrevocably releases the Authority, the City, the PACE Program Administrator and any and all agents, employees, program administrators, attorneys, representatives and successors and assigns of the Authority. the City and the PACE Program Administrator from any and all losses, liabilities, claims, damages (including consequential damages), penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorney's fees), relating to the subject matter of this Agreement that the Property Owner may now have or hereafter acquire against the Authority, the City, the PACE Program Administrator and any and all agents, employees, attorneys, representatives and successors and assigns of the Authority, the City or the PACE Program Administrator.

To the extent that the foregoing waivers and agreements are subject to Section 1542 of the California Civil Code or similar provisions of other applicable law, it is the intention of the Property Owner that the foregoing waivers and agreements will be effective as a bar to any and all losses, liabilities, claims, damages (including consequential damages), penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorney's fees), of whatever character, nature and kind, known or unknown, suspected or unsuspected, and Property Owner agrees to waive any and all rights and benefits conferred upon the Property Owner by the provisions of Section 1542 of the California Civil Code or similar provisions of applicable law. Section 1542 reads as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR

HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

By initialing below, the Property Owner agrees to waive the provisions of Section 1542 in connection with the matters that are the subject of the foregoing waivers and releases.

Property Owner's Initials: \_\_\_\_\_

The waivers, releases and agreements set forth in this Section 11 shall survive termination of this Agreement.

**Section 12. Carbon Credits.** The Property Owner hereby agrees that any carbon credits attributable to the Improvements shall be owned by the Authority.

**Section 13. Renovate Application.** The Property Owner hereby represents and warrants to the Authority that the information set forth in all information submitted to the Authority and/or the PACE Program Administrator in connection with its request for financing is true and correct as of the date hereof, and that the representations set forth in such information with respect to the Property and the Property Owner are true and correct as of the date hereof as if made on the date hereof.

**Section 14. Events of Default and Remedies**

(a) Remedies with respect to the nonpayment of the Assessment or other amounts payable by Property Owner hereunder are governed by the provisions of Section 4 hereof and state law.

(b) The occurrence of any of the following events shall constitute a "Default" hereunder:

(i) Any of Property Owner's representations, disclosures or warranties made to the Authority or the PACE Program Administrator shall have been false or misleading in any material respect as of the date when made, or the failure or delay by Property Owner to perform any of its obligations under the terms or provisions of this Agreement, other than with respect to the payment of the Assessment, the Annual Assessment Administrative Fees, or other amount payable by Property Owner.

(ii) An Insolvency Event occurred with respect to the Property Owner or the Property Owner becomes insolvent or unable to pay its debts as they mature and such has not been cured within thirty (30) days of the event;

(iii) There occurs any event which in the Authority's sole discretion materially and adversely affects: (x) the ability of the Property Owner to perform any of its obligations hereunder; (y) the business or financial condition of the Property Owner; or (z) the timely repayment of the Assessment authorized by this Agreement, which Property Owner has not cured within thirty (30) days of receiving notice from the Authority of such breach;

(iv) Any encumbrance on any portion of the Property is hereinafter created, other than current liens for real estate property taxes or special assessments, which encumbrance purports to have priority over the Assessment Lien;

(v) The existence of any liens for taxes past due with respect to the Property, or carrier's, warehousemen's, mechanics', materialmen's, repairmen's or other liens which have not been dismissed, escrowed (subject to the Authority's sole approval) or bonded for thirty (30) days after the filing or recording thereof;

(vi) Any material deviation in the Improvements from the Plans without the prior written consent of the PACE Program Administrator, or the appearance of defective workmanship or materials, the PACE Program Administrator's sole discretion, which has not been cured for a period exceeding thirty (30) days; and

(vii) Any general contractor or any other contractor defaults under any construction contract, in a manner which the PACE Program Administrator deems to be material, and unless otherwise agreed in writing by the PACE Program Administrator, the obligor fails to exercise its rights and remedies under the construction contract, as applicable with respect to such default and such failure to exercise its rights has not been cured within thirty (30) days of when such right first arose.

(c) Upon the occurrence of a Default, the Authority may in addition to any other remedies which it may have, at its option and without prior demand or notice, take any of the following actions:

(i) The Authority may, in addition to any other remedies which it may have, at its option and without prior demand or notice, immediately cause the cancellation of any pending disbursement (and the PACE Program Administrator shall have no obligation to make further disbursements) and from time to time apply all or any part of any undisbursed funds to payment of amounts owing on the Assessment and/or to any other obligations of the Property Owner hereunder. The Authority has authorized the PACE Program Administrator at its option and without prior demand or notice, to enter the Property and complete construction of the Improvements in accordance with the Plans and the Construction Contract with such changes therein as the PACE Program Administrator may from time to time and in its judgment deem appropriate, all at the risk and expense of the Property Owner.

(ii) Exercise any other rights and remedies available to it hereunder or at law or in equity

(iii) Except as otherwise expressly provided in this Agreement, no remedy provided for by this Agreement shall be exclusive of any other remedy, each and every remedy shall be cumulative and in addition to any other remedy, and no delay or omission to exercise any right or remedy shall impair any such right or remedy or shall be deemed to be a waiver of a Default.

(iv) Property Owner agrees to pay all costs of collection when actually incurred, by the Authority, including but not limited to reasonable attorneys' fees and all related costs. If any suit or action is instituted to enforce this Agreement, Property Owner promises to pay, in addition to the costs and disbursements otherwise allowed by law, such sum as the court may adjudge reasonable attorneys' fees and costs in such suit or action to the Authority as the prevailing party

**Section 15. Amendment.** This Agreement may be modified only by the written agreement of the Authority and the Property Owner. A modification of this Agreement shall be

approved in writing by the owner(s) of any Improvement Bonds secured by the Assessment if the amendment will adversely impact the owner(s) of the Improvement Bonds.

**Section 16. Binding Effect; Assignment.** This Agreement inures to the benefit of and is binding upon the Authority, the Property Owner and their respective successors and assigns.

(a) The Authority has the right to assign any or all or any of its rights and obligations under this Agreement without the consent of the Property Owner. The obligation to pay the Assessment set forth in this Agreement is an obligation of the Property and no agreement or action of the Property Owner will be competent to impair in any way the Authority's rights, including, but not limited to, the right to pursue judicial foreclosure of the Assessment lien or the right to enforce the collection of the Assessment or any installment thereof against the Property. Any assignee shall be a party to this Agreement and shall have all of the rights and obligations of the Authority hereunder to the extent that such rights and obligations have been assigned by the Authority pursuant to the assignment documentation between the Authority and the assignee. The Authority may furnish any information concerning the Property Owner in its possession from time to time to prospective assignees.

(b) In no event shall Property Owner assign or transfer any portion of this Agreement or Property Owner's obligations under this Agreement without the prior express written consent of the Authority, which consent may be granted or withheld in the sole and absolute discretion of the Authority. Sale, transfer, or rental of the Property or any parcel thereof is not an assignment or transfer of this Agreement.

**Section 17. Exhibits.** The Exhibits to this Agreement are incorporated into this Agreement by this reference as if set forth in their entirety in this Agreement.

**Section 18. Severability.** Each and every provision of this Agreement is, and shall be construed to be, a separate and independent covenant and agreement. If any term or provision of this Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

**Section 19. Notices.** Notices and demands shall be given in writing by first class mail, postage prepaid, by personal delivery (by recognized courier service or otherwise), or via electronic mail. Notices shall be considered given upon the earlier of (a) receipt of electronic mail or personal delivery or (b) five (5) business days following deposit in the United States mail, postage prepaid. Notices shall be addressed as provided below and incorporated herein by this reference for the respective party; provided that if any party gives notice in writing of a change of name or address, notices to such party shall thereafter be given as demanded in that notice. Notwithstanding anything set forth above, after disbursement of the Disbursement Amount to Owner, all notices regarding the assessment shall be sent only as provided by state law.

If to Authority:

Western Riverside Council of Governments  
3390 University Avenue, 4th Floor  
Riverside, CA 92501  
Attention: Executive Director

If to Program Administrator:

Renovate America, Inc.  
16409 West Bernardo Drive, 3rd Floor  
San Diego, CA 92127  
ATTN: Michael Mildenberger  
Phone: 855-437-6411

If to Property Owner:

[ ]

**Section 20. Corrective Instruments.** The Authority and the Property Owner agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required in order to carry out the expressed intention of this Agreement.

**Section 21. Governing Law; Venue.** This Agreement is governed by and construed in accordance with the laws of the State of California. Any legal action brought under this Agreement must be instituted in the Superior Court of the County of Riverside, State of California; provided, however, actions to foreclose delinquent installments of the Assessment will be instituted in the superior court of the County or as otherwise provided by law.

**Section 22. Counterparts.** This Agreement may be executed in several counterparts, each of which is an original and all of which constitutes one and the same instrument.

**Section 23. No Waiver; Amendments.** No waiver of any default or breach by Property Owner hereunder shall be implied from any failure by the PACE Program Administrator or the Authority to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver. Waivers of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. No modification, rescission, waiver, release or amendment of any provision of this Agreement shall be made except by a written agreement executed by Property Owner and the Authority. The Authority and the Property Owner agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonable be required in order to carry out the expressed intention of this Agreement

**Section 24. Waiver of Jury Trial and Class Action.** TO THE EXTENT ENFORCEABLE BY LAW, EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH PARTY WAIVES THE RIGHT TO LITIGATE IN COURT OR ARBITRATE ANY CLAIM OR DISPUTE AS A CLASS ACTION, EITHER AS A MEMBER OF A CLASS OR AS A REPRESENTATIVE, OR TO ACT AS A PRIVATE ATTORNEY GENERAL.

IN WITNESS WHEREOF, the Authority and the Property Owner have caused this Agreement to be executed in their respective names by their duly authorized representatives, all as of the date first above written.

**WESTERN RIVERSIDE COUNCIL OF  
GOVERNMENTS**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**PROPERTY OWNER**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**ACKNOWLEDGED AND ACCEPTED BY:**

**RENOVATE AMERICA, INC.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

WITNESS my hand and official seal.

277

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

Signature: \_\_\_\_\_ (seal)



**EXHIBIT A**  
**PROPERTY LEGAL DESCRIPTION**

[To be updated]

**EXHIBIT B**  
**IMPROVEMENTS**<sup>1</sup>

| IMPROVEMENT | AMOUNT |
|-------------|--------|
|             |        |
|             |        |
|             |        |
|             |        |
|             |        |
|             |        |
|             |        |
|             |        |

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<sup>1</sup> To be updated/customized.

EXHIBIT C

**ASSESSMENT SCHEDULE**

| Period | Bill date | Delinquent<br>After Date | Payment | Interest | Principal | Principal<br>Remaining | Annual<br>Collection<br>Costs** | Total Payment<br>Due |
|--------|-----------|--------------------------|---------|----------|-----------|------------------------|---------------------------------|----------------------|
| 1      |           |                          |         |          |           |                        |                                 |                      |
| 2      |           |                          |         |          |           |                        |                                 |                      |
| 3      |           |                          |         |          |           |                        |                                 |                      |
| 4      |           |                          |         |          |           |                        |                                 |                      |
| 5      |           |                          |         |          |           |                        |                                 |                      |
| 6      |           |                          |         |          |           |                        |                                 |                      |
| 7      |           |                          |         |          |           |                        |                                 |                      |
| 8      |           |                          |         |          |           |                        |                                 |                      |
| 9      |           |                          |         |          |           |                        |                                 |                      |
| 10     |           |                          |         |          |           |                        |                                 |                      |
| 11     |           |                          |         |          |           |                        |                                 |                      |
| 12     |           |                          |         |          |           |                        |                                 |                      |
| 13     |           |                          |         |          |           |                        |                                 |                      |
| 14     |           |                          |         |          |           |                        |                                 |                      |
| 15     |           |                          |         |          |           |                        |                                 |                      |
| 16     |           |                          |         |          |           |                        |                                 |                      |
| 17     |           |                          |         |          |           |                        |                                 |                      |
| 18     |           |                          |         |          |           |                        |                                 |                      |
| 19     |           |                          |         |          |           |                        |                                 |                      |
| 20     |           |                          |         |          |           |                        |                                 |                      |
| 21     |           |                          |         |          |           |                        |                                 |                      |
| 22     |           |                          |         |          |           |                        |                                 |                      |
| 23     |           |                          |         |          |           |                        |                                 |                      |
| 24     |           |                          |         |          |           |                        |                                 |                      |
| 25     |           |                          |         |          |           |                        |                                 |                      |

\*\*Subject to modification pursuant to Section 3(f) of the Agreement.

## EXHIBIT D

### FORM OF PROPERTY OWNER'S CERTIFICATE AND REQUEST FOR DISBURSEMENT

#### PROPERTY OWNER'S CERTIFICATE AND REQUEST FOR DISBURSEMENT

Date:

RE: Agreement to Pay Assessment and Finance Improvements dated \_\_\_\_\_,  
2019 ("Agreement")

Project: \_\_\_\_\_

This Property Owner's Certificate and Request for Disbursement is submitted by the Property Owner to Renovate America, Inc. ("Renovate") in connection with the Assessment advance made pursuant to the Agreement. Capitalized terms used herein and not otherwise defined shall have their respective meanings set forth in the Agreement. The Property Owner hereby requests Greenworks to make a principal disbursement under the Assessment (a "Disbursement") in the amount of \$\_\_\_\_\_ which is to be funded as follows:

\_\_\_\_\_ Issue a check to the Property Owner for reimbursement of proper costs

\_\_\_\_\_ Issue a check to the Contractor at:

Full Legal Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_ Wire Transfer to the Property Owner or Contractor (circle one) at:

ABA

Bank Name

Bank Address

Account Name

Account Number

Reference:

To induce Renovate to make the requested Disbursement, the Property Owner hereby certifies, warrants and represents to Renovate that:

1. The proceeds of this Disbursement will be used for the purposes detailed in Schedule 1 attached hereto, which shall have attached to it (A) copies of invoices and other evidence of the items to be paid or reimbursed and (B) if required by Renovate, certifications from the Architect in form satisfactory to Renovate in its sole discretion.

2. The improvements will be completed as specified in the Agreement. All proceeds of all prior Disbursements have been expended solely for the purposes for which they were requisitioned, and no proceeds of the current or any prior Disbursement have been or will be returned to the Property Owner as a rebate, refund or otherwise. Each future Disbursement shall be at Renovate's sole discretion and made in accordance with the Agreement

3. The Property Owner has paid all obligations incurred in connection with all work and materials supplied for the Approved Project through the date of the last requisition.

4. The Property Owner has not authorized, nor does the Property Owner contemplate, any change-orders or other modifications to any contracts entered into in connection with the Approved Project's development costs that have not been authorized in writing by Renovate.

5. The cost to complete the Approved Project (including financing and other soft costs) is reasonably projected to be \$\_\_\_\_\_, and the amount of the undisbursed portion of the Assessment is therefore sufficient to complete the Approved Project.

6. If the Approved Project is complete, the completion date of the Approved Project was \_\_\_\_\_. If the Approved Project is not yet completed, the projected completion date remains \_\_\_\_\_, which is within one year of the effective date of the Agreement.

7. Each condition precedent to the making of this Disbursement under the Agreement has been satisfied.

8. The Property Owner has no knowledge or notice of any mechanics' notices of intention, contracts, stop work notices, liens or claims for liens having been filed or threatened to be filed against the Project. The Property Owner has furnished to Renovate partial waivers and releases of liens (for labor, services or materials which have been performed and paid for or such lien waiver will be subject to payment) from the Contractor and all other contractors, subcontractors and suppliers performing labor, services or materials in connection with the Approved Project, substantially in the form attached hereto as Schedule 2.

9. All required licenses, approvals and permits covering or required for the development of the Project have been issued and are in force, and there are no actions pending or threatened to revoke, rescind, alter or declare invalid any such licenses, approvals or permits or any laws, ordinances, regulations, permits, variances, certificates or agreements for or relating to the Approved Project.

10. No event of default under the terms of the Agreement has occurred.

11. The Property Owner is not a party to any lawsuit and the Property Owner has no knowledge of any actions, suits or proceedings pending or threatened, against or affecting the Property Owner which could materially adversely affect the Property Owner, any of its properties, its financial condition or which will hinder, delay, prevent or interfere with the construction of the Approved Project.

12. There have been no material adverse changes in the financial condition of the Property Owner since the date of the Agreement that have not been previously disclosed in writing to Renovate.

13. A Builder's Risk (or hazard) or Inland Marine insurance policy issued by \_\_\_\_\_ Policy Number \_\_\_\_\_ is presently in effect and is equal to or greater than the total cost of the Project.

Property Owner: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE 1 TO EXHIBIT D**

**PURPOSE OF DISBURSEMENT**

| Equipment/Service | Amount | Description                                                                                                                      |
|-------------------|--------|----------------------------------------------------------------------------------------------------------------------------------|
| 1.                |        | For equipment*, circle one:<br>_____ \$ _____<br>(Installed/Stored/Contractor Custody)<br>Additional Information: _____<br>_____ |
| 2.                |        | For equipment*, circle one:<br>_____ \$ _____<br>(Installed/Stored/Contractor Custody)<br>Additional Information: _____<br>_____ |
| 3.                |        | For equipment*, circle one:<br>_____ \$ _____<br>(Installed/Stored/Contractor Custody)<br>Additional Information: _____<br>_____ |
| Total Amount:     |        | \$ _____                                                                                                                         |

\*For any equipment expenses answer the following question(s) by circling the appropriate answer in the 'Description' column:

Is the equipment installed on the Property? (Y/N)

If No, is the equipment stored on the Property or in a bonded warehouse? (Y/N) If No, is the equipment in the custody of the Contractor? (Y/N)

When is the equipment expected to be delivered and/or installed on the Property?

## SCHEDULE 2 TO EXHIBIT D

### FORM OF PARTIAL LIEN WAIVER AND RELEASE

**Contractor:** \_\_\_\_\_ (the "Contractor")

**Property Address:** \_\_\_\_\_ (the "Property")

1. Contractor is the contractor pursuant to an agreement dated \_\_\_\_\_, (the "Contract") entered into by and between Contractor and \_\_\_\_\_ (the "Owner") in connection with the renovation or retrofit of the Property to reduce energy consumption or to install renewable energy systems at the Property (the "Project").

2. This Partial Lien Waiver and Release is delivered in consideration of a progress payment of \$ \_\_\_\_\_ ("Payment") under the Contract for labor performed and/or materials supplied by the Contractor through \_\_\_\_\_, (the "Waiver Date").

3. The Contractor and the individual signing on behalf of the Contractor warrant and represent that: (i) all taxes applicable to the materials furnished and the work performed under the Contract have been fully paid and (ii) all laborers, mechanics, subcontractors of any tier, materialmen and suppliers for all work done and for all materials, machinery, equipment, fixtures, tools, scaffolding and appliances furnished for the performance of the Contract and for any other indebtedness connected therewith have been paid in full to the date hereof. The undersigned acknowledges and agrees that Renovate America, Inc., the Owner, lessees, lessors, mortgage holders, lenders, and any other persons or entities claiming an interest in connection with the Project or the Property, and any person or entity associated with the foregoing, may rely on the statements, agreements, and representations made by the undersigned herein.

4. The Contractor, for itself, its successors, and on behalf of all persons able to claim through or under the Contractor hereby:

(a) waives, relinquishes and releases Owner, its sureties, if any, and the Property from all mechanic's liens, claims of mechanic's lien, and claims against labor and material payment bonds that Contractor has for the labor and materials furnished to the Project or Property through the Waiver Date;

(b) releases Owner, and the Property of and from all, and all manner of action and actions, cause and causes of actions, suits, debts, dues, sums of money, accounts, reckoning, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in laws, in admiralty, or in equity from the beginning of the world to the Waiver Date; and

(c) agrees to save harmless Renovate America, Inc. and Owner from all liability, costs and expenses, including reasonable attorney's fees to discharge (by bond or otherwise) any such mechanic's lien or claim of mechanic's lien, to defend suit to enforce or foreclose upon any such mechanic's lien, claim of mechanic's lien, or bond substituted for such mechanic's lien, and to defend suit to enforce any such labor and material payment bond.



5. This Partial Release and Lien Waiver is intended to be enforceable to the fullest extent permitted by law and shall be governed under the laws of the state in which the Property is located. Should any term or provision herein be determined to be unenforceable or otherwise rendered null or void as a matter of law, the terms and provisions hereof shall be deemed modified only to the most limited extent necessary to render this Partial Release and Lien Waiver enforceable to the fullest extent permitted by law.

6. The undersigned is an authorized representative and signatory of the Contractor.

Dated: \_\_\_\_\_

Contractor:

\_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

## EXHIBIT E

### **FORM OF COMPLETION CERTIFICATES**

#### **Property Owner's Completion Certificate**

\_\_\_\_\_ (the "Property Owner") hereby certifies that the Project, as such term is defined in the Agreement to Pay Assessment and Finance Improvements entered into by and between the Property Owner and the Authority dated \_\_\_\_\_, 2019 (the "Agreement") has been completed at \_\_\_\_\_ (the "Property") in strict compliance with the requirements of the Agreement and the Construction Contract entered into by and between the Property Owner and \_\_\_\_\_ (the "Contractor") dated \_\_\_\_\_ (the "Construction Contract").

**Note:** Capitalized terms used but not defined in this Completion Certificate have the meaning assigned to them in the Agreement to which this Exhibit F is attached and of which it forms a part.

#### **I HEREBY CERTIFY:**

1. I am an authorized representative and signatory of the Property Owner.
2. The Contractor has completed the work in accordance with the terms of the Construction Contract that I have entered into and executed. I have no service requests and no unresolved complaints regarding the work performed.
3. The Project was completed in all material respects, in accordance with the Plans, Permits and Budget approved by Renovate America, Inc. (the "Program Administrator").
4. I have complied with, and will continue to comply with, all applicable statutes, regulations and ordinances in connection with the Property and construction of the Project.
5. I hold fee ownership in the Property on which the Project was completed.
6. The Contractor has not offered me any payment, refund, or any commission in return for completing the Project.
7. All funds provided to the Property Owner by the Program Administrator for this Project have been used in accordance with the Agreement and all sources and uses of funds as set forth and described in the Appendix of this Exhibit are correct.

**NOTICE:** DO NOT SIGN THIS COMPLETION CERTIFICATE UNLESS YOU AGREE TO EACH OF THE ABOVE STATEMENTS.

#### **PROPERTY OWNER:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

### **Contractor's Completion Certificate**

\_\_\_\_\_ (the "Contractor") is the contractor pursuant to an agreement dated \_\_\_\_\_ (the "Construction Contract") entered into by and between Contractor and \_\_\_\_\_ (the "Property Owner") in connection with the renovation, retrofit, or construction of \_\_\_\_\_ (the "Property") to reduce energy consumption or to install renewable energy systems at the Property (the "Project"). Contractor hereby certifies that the Project has been completed at the Property in strict compliance with the requirements of the Construction Contract.

#### **I HEREBY CERTIFY:**

1. I am an authorized representative and signatory of the Contractor.
2. I have completed the work in accordance with the terms of the Construction Contract that I have entered into and executed. I have not received any service requests or unresolved complaints regarding the work performed.
3. The Project was completed in all material respects, in accordance with the plans, permits and budget approved by Renovate America, Inc..
4. I have complied with, and will continue to comply with, all applicable statutes, regulations and ordinances in connection with the Property and construction of the Project.
5. I have not offered the Property Owner any payment, refund, or any commission in return for completing the Project.

**NOTICE:** DO NOT SIGN THIS COMPLETION CERTIFICATE UNLESS YOU AGREE TO EACH OF THE ABOVE STATEMENTS.

#### **CONTRACTOR:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT E – APPENDIX**  
**Sources and Uses of Funds**

## EXHIBIT F

### **FORM OF FINAL LIEN WAIVER AND RELEASE OF LIEN**

**Contractor:** \_\_\_\_\_ (the "Contractor")

**Property Address:** \_\_\_\_\_ (the "Property")

1. Contractor is the contractor pursuant to an agreement dated \_\_\_\_\_, 2019 (the "Contract") entered into by and between Contractor and \_\_\_\_\_ (the "Owner") in connection with the renovation or retrofit of the Property to reduce energy consumption or to install renewable energy systems at the Property (the "Project").

2. This Final Lien Waiver and Release is delivered in consideration of a final payment of \$\_\_\_\_\_ ("Payment") under the Contract for labor performed and/or materials supplied by the Contractor in connection with the Project.

3. The Contractor and the individual signing on behalf of the Contractor warrant and represent that: (i) the undersigned is an authorized representative of the Contractor, (ii) all taxes applicable to the materials furnished and the work performed under the Contract have been fully paid and (iii) all laborers, mechanics, subcontractors of any tier, materialmen and suppliers for all work done and for all materials, machinery, equipment, fixtures, tools, scaffolding and appliances furnished for the performance of the Contract and for any other indebtedness connected therewith have been paid in full to the date hereof. The undersigned acknowledges and agrees that Renovate America, Inc. ("Renovate"), the Owner, lessees, lessors, mortgage holders, lenders, and any other persons or entities claiming an interest in connection with the Project or the Property, and any person or entity associated with the foregoing, may rely on the statements, agreements, and representations made by the undersigned herein.

4. The Contractor, for itself, its successors, and on behalf of all persons able to claim through or under the Contractor hereby:

(a) Waives, relinquishes and releases Owner, its sureties, if any, and the Property from all mechanic's liens, claims of mechanic's lien, and claims against labor and material payment bonds that Contractor has for the labor and materials furnished to the Project or Property;

(b) Releases Owner, and the Property of and from all, and all manner of action and actions, cause and causes of actions, suits, debts, dues, sums of money, accounts, reckoning, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in laws, in admiralty, or in equity from the beginning of the world to the date hereof; and

(c) Agrees to save harmless Renovate and Owner from all liability, costs and expenses, including reasonable attorney's fees to discharge (by bond or otherwise) any such mechanic's lien or claim of mechanic's lien, to defend suit to enforce or foreclose upon

any such mechanic's lien, claim of mechanic's lien, or bond substituted for such mechanic's lien, and to defend suit to enforce any such labor and material payment bond.

5. This Final Release and Lien Waiver is intended to be enforceable to the fullest extent permitted by law and shall be governed under the laws of the state in which the Property is located. Should any term or provision herein be determined to be unenforceable or otherwise rendered null or void as a matter of law, the terms and provisions hereof shall be deemed modified only to the most limited extent necessary to render this Final Release and Lien Waiver enforceable to the fullest extent permitted by law.

Dated: \_\_\_\_\_

Contractor:

\_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

**EXHIBIT G**  
**PERMITTED ENCUMBRANCES**

[To be updated]

## EXHIBIT H

### **PROPERTY OWNER'S AUTHORIZED REPRESENTATIVES**

#### **Authorized Representatives for Property Owner**

The following individuals are authorized to provide instructions and directions to Renovate America, Inc. ("Renovate") and/or Western Riverside Council of Governments ("WRCOG") on behalf of the Property Owner until such time as an updated list has been provided. The Property Owner may change, modify, or amend, the list of authorized individuals by providing five (5) days prior written notice to Renovate. Instructions may be provided via electronic mail and are valid so long as one of the individuals below are copied thereto.

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Email: \_\_\_\_\_ Email: \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Email: \_\_\_\_\_ Email: \_\_\_\_\_



## EXHIBIT I

### SCHEDULE OF PREPAYMENT PREMIUMS

The Assessment may not be prepaid, in whole or in part, without payment of a Prepayment Premium based on the following schedule:

Pre-payment within five years of the Effective Date ☐%

Pre-payment after five years of the Effective Date but within ten years of the Effective Date ☐%

Pre-payment after ten years of the Effective Date but within fifteen years of the Effective Date ☐%

Pre-payment after Fifteen years of the Effective Date ☐%

## EXHIBIT J

### FORM OF ASSIGNMENT AND ASSUMPTION OF AGREEMENT TO PAY ASSESSMENT AND FINANCE IMPROVEMENTS

**THIS ASSIGNMENT AND ASSUMPTION AGREEMENT** (this "**Assignment**"), is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2019, by and between [Original Borrower] ("**Assignor**"), and [New Borrower] ("**Assignee**").

#### **W I T N E S S E T H:**

**WHEREAS**, pursuant to that certain Agreement to Pay Assessment and Finance Improvements (the "**Financing Agreement**") dated as of \_\_\_\_\_, 2019 by and between Assignor and the Western Riverside Council of Governments ( "**WRCOG**") and in accordance with Chapter 29 of Division 7 of the Streets & Highways Code ("**Chapter 29**") and the Program (as such term is defined in the Financing Agreement) the Assignor has renovated or retrofitted, or is in the process of renovating or retrofitting, the property located at \_\_\_\_\_, \_\_\_\_\_, California (the "**Property**"), with financing for the Project provided by Renovate America, Inc. ("Renovate") on behalf of WRCOG in the original principal amount of up to \$\_\_\_\_\_ (the "**Project Advance**"), which is secured by a special charge levied against the Property (the "**Assessment**"); and

**WHEREAS**, the Assignor is obligated to pay the Assessment in accordance with the Financing Agreement; and

**WHEREAS**, Assignor is selling, and Assignee, is purchasing the Property including the Project and Assignee acknowledges receiving a material benefit from the transaction contemplated by this Assignment; and

**NOW, THEREFORE**, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, and intending to be legally bound hereby, Assignor and Assignee hereby agree as follows.

Section 1. Assignment. Effective as of \_\_\_\_\_, 2019 (the "**Effective Date**"), Assignor hereby assigns, sells, transfers and sets over to and for the exclusive benefit of Assignee, all of the right, title and interest of Assignor, in and to, in the Financing Agreement, the Assessment, and all other documents evidencing or securing the Assessment together with the obligations of Assignor thereunder. In furtherance of the foregoing, Assignor and Assignee agree, represent and warrant that **Exhibit A** attached hereto and made a part hereof contains a true, correct and complete copy of the Financing Agreement.

Section 2. Assumption. From and after the Effective Date, Assignee hereby assumes and accepts all of Assignor's right, title and interest in and to the Financing Agreement, the Assessment, and all other documents evidencing or securing the Assessment. Assignee agrees to pay, perform and discharge, and otherwise be and remain responsible for, at its sole cost and expense, all obligations and liabilities of Assignor pursuant to the Financing Agreement, the Assessment, and all other documents evidencing or securing the Assessment and to comply with all the terms, covenants and conditions thereof, as Property Owner (as such term is defined in the Financing Agreement) thereunder, first arising and accruing on or after the Effective Date. Nothing in this Assignment shall be construed, nor do the parties intend, to modify any of the terms, obligations or definitions in the Financing Agreement. In the event of

any conflict between the terms of this Assignment and the Financing Agreement, the Financing Agreement shall prevail.

Section 3. Acknowledgement of Indebtedness. Assignee hereby acknowledges the validity of the indebtedness evidenced by the Financing Agreement, the Assessment and all other documents evidencing or securing the Assessment including the obligation to make all installment payments pursuant to the Assessment and the Financing Agreement, including any payment of any delinquent assessments and interest and penalties thereon. Assignor and Assignee hereby acknowledge and agree that the amounts owed under the Financing Agreement and the Assessment as of the Effective Date are as follows:

Unpaid Principal: \$ \_\_\_\_\_

Accrued Interest: \$ \_\_\_\_\_

Section 4. Binding Effect; Governing Law. All obligations, covenants and undertakings contained in this Assignment shall bind and be enforceable against, and shall inure to the benefit of, Assignor and Assignee, and their respective successors, legal representatives and assigns. This Assignment shall be governed by the laws of the State of California, and shall be construed in accordance with such laws.

Section 5. Notices. Every notice or other communication required or contemplated by this Assignment to Assignor or Assignee shall be in writing and sent by: (i) certified or registered mail, postage prepaid, return receipt requested, or (ii) nationally recognized overnight courier, such as Federal Express or UPS, in each case addressed to the intended recipient at the address set forth below or at such other address as the intended recipient previously designated by written notice to the other party, as follows:

If to Assignor: \_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

If to Assignee: \_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Section 6. Representations. Assignor and Assignee each hereby represents to the other, to WRCOG and to Renovate that it has the power and authority to execute and deliver this Assignment and perform its obligations hereunder and that the undersigned has the power and authority to bind said party to the terms hereof.

Section 7. Headings. Section captions contained herein are inserted as a matter of convenience and for reference only, and in no way define, limit, extend or describe the scope of this Assignment or any provision hereof.

Section 8. Severability. In the event that any covenant, condition or other provision herein contained is held to be invalid, void or illegal by any court of competent jurisdiction, the

same shall be deemed severable from the remainder of this Assignment and shall in no way affect, impair or invalidate any other covenant, condition or other provision herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such covenant, condition or other provision shall be deemed valid to the extent of the scope or breadth permitted by applicable law.

Section 9. Waivers; Modifications. No breach of any provision hereof can be waived unless in writing. Waiver of any one breach of any provision hereof shall not be deemed to be a waiver of any other breach of the same or any other provision hereof. This Assignment may be amended or modified only by a written agreement executed by the parties in interest at the time of the amendment or modification.

Section 10. Dispute Resolution. In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and costs, both at the trial and appellate levels.

Section 11. Counterparts. This Assignment may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall be deemed to constitute one and the same agreement.

Section 12. Assignee hereby acknowledges and confirms that nothing contained in this Assignment shall be construed to modify, waive, impair or affect any of the covenants, agreements, terms, provisions or conditions contained in the Financing Agreement and all other documents evidencing or securing the Assessment (except as may be herein expressly provided), or to waive any obligation contained therein.

Section 13. Entire Agreement. This Assignment contains all of the agreements of the parties hereto with respect to the matters contained herein, and no prior agreement, arrangement or understanding pertaining to any such matters shall be effective for any purpose.

[Remainder of Page Left Blank. Signature Page to Follow]

**IN WITNESS WHEREOF**, Assignor and Assignee have hereunto caused this Assignment to be duly executed as of the date first set forth above.

**ASSIGNOR:**

[\_\_\_\_\_]

WITNESSES:

\_\_\_\_\_  
Name

By:\_\_\_\_\_  
Name:  
Title:  
Duly Authorized

\_\_\_\_\_  
Name

Date:\_\_\_\_\_

**ASSIGNEE:**

[\_\_\_\_\_]

\_\_\_\_\_  
Name

By:\_\_\_\_\_  
Name:  
Title:  
Duly Authorized

\_\_\_\_\_  
Name

Date:\_\_\_\_\_

Consented and Agreed to this \_\_ day of \_\_\_\_\_, 20\_\_ by:

**Renovate America, Inc.**

By:\_\_\_\_\_  
Name:  
Title:

**EXHIBIT K**

**DEPICTION OF PROPOSED SUBDIVISION OF PROPERTY**

## EXHIBIT L

### **FORM OF NOTICE OF SUBDIVISION**

Re: Notice of Subdivision of Property (WRCOG –CA- [\_\_\_\_])

This Notice of Subdivision is provided pursuant to Section 3.07(c) of that certain Agreement to Pay Assessment and Finance Improvements dated [\_\_\_\_], 2019 (the "Assessment Contract") by and between [\_\_\_\_\_] (the "Property Owner") and Western Riverside Council of Governments (the "Authority"). The undersigned hereby represents as follows:

1. I am an authorized representative and signatory of the Property Owner; and
2. The portion of the Property being subdivided is located solely within the parcel identified in Exhibit K of the Assessment Contract as Parcel S (the "Subdivision Parcel"); and
3. The Subdivision Parcel receives no benefit from the Improvements identified on Exhibit B of the Assessment Contract; and
4. Upon subdivision, the Subdivision Parcel will be identified as Assessor Parcel No. \_\_\_\_\_. The remainder of the Property will be identified as Assessor Parcel No. \_\_\_\_\_ (the "Remainder Property");
5. The Property Owner hereby allocates 100% of the Assessment, as defined in the Assessment Contract, to the Remainder Property and 0% to the Subdivision Parcel.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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# Item 6.E

PACE Programs Activities Update

## Attachment 6

Commercial Indenture with HERO  
Commercial Programs

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**MASTER INDENTURE**

**between**

**WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS**

**and**

**WILMINGTON TRUST, NATIONAL ASSOCIATION  
as Trustee**

**Dated as of [\_\_], 2019**

**Relating to:**

**WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS  
HERO COMMERCIAL PACE PROGRAM  
LIMITED OBLIGATION IMPROVEMENT BONDS  
(First Commercial Property Tranche)**

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## MASTER INDENTURE

**THIS MASTER INDENTURE** (this “**Master Indenture**”) is made and entered into as of [\_\_\_\_], 2019, between the **WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS**, a joint exercise of powers agency duly organized and existing under the Constitution and laws of the State of California (“**WRCOG**”), and **WILMINGTON TRUST, NATIONAL ASSOCIATION**, a national banking association duly organized and existing under the laws of the United States of America (the “**Trustee**”).

### ***BACKGROUND:***

WHEREAS, acting under the provisions of Chapter 29 of the Improvement Bond Act of 1911, being Division 7 of the California Streets and Highways Code (“Chapter 29”), WRCOG has established the Energy Efficiency and Water Conservation Program for Western Riverside County (the “WRCOG Program”) pursuant to which WRCOG is authorized to enter into contractual assessments with the owners of residential or commercial real property located within the County of Riverside and the cities within the western portion of the County of Riverside that have elected to participate in the WRCOG Program to finance the installation of distributed generation renewable energy sources, energy and water efficiency improvements and electric vehicle charging infrastructure (the “Authorized Improvements”); and

WHEREAS, acting under Chapter 29, WRCOG has also established the California PACE Program (the “California Program” and, together with the WRCOG Program, the “Program”) pursuant to which WRCOG is authorized to enter into contractual assessments with the owners of residential and commercial real property located within cities and counties located outside of the western portion of the County of Riverside that have elected to become Associate Members of WRCOG and to participate in the California Program to finance the installation of Authorized Improvements; and

WHEREAS, WRCOG is authorized to issue limited obligation improvement bonds pursuant to Section 5898.22 and Section 5898.28 of Chapter 29 and the Improvement Bond Act of 1915, as amended, being Division 10 of the California Streets and Highways Code (the “Bond Act”), to finance the installation of Authorized Improvements that are permanently fixed to residential or commercial real property located within cities or counties participating in the Program; and

WHEREAS, on [December 2, 2019], the Executive Committee adopted Resolution Number \_\_\_\_, entitled “Resolution of the Western Riverside Council of Governments Authorizing Renovate America, Inc. to Administer and Finance Eligible Improvements to be Installed on Commercial Properties, and in Connection with Such Authorization, Approving Amendments to the Program Report for both the WRCOG Energy Efficiency and Water Conservation Program for Western Riverside County and the California HERO Program and the forms of a Commercial Handbook, Assessment Contract, Master Bond Purchase Agreement, Administration Agreement, Master Assignment and Assumption Agreement, Depositary and Account Control Agreement and Master Indenture and Authorizing the Issuance of Bonds Pursuant to Such Master Indenture Secured by Assessments Levied on Commercial Properties to Finance the Installation of Eligible Improvements on such Commercial Properties and



Approving Other Actions in Connection Thereto” (the “Resolution No. \_\_\_\_\_”) to authorize Renovate America, Inc. (“Renovate America”) to implement a commercial property assessed clean energy program to be known as the “HERO Commercial PACE Program” under and pursuant to the Program within the boundaries of the WRCOG Program; and

WHEREAS, the Executive Committee did, by the adoption of the Resolution of Issuance, approve the form of this Master Indenture, appoint Wilmington Trust, National Association, as trustee hereunder and authorize WRCOG to issue limited obligation improvement bonds pursuant to this Master Indenture (defined herein as the “Bonds”) to finance the installation of Authorized Improvements on commercial properties the owners of which have elected to participate in the HERO Commercial PACE Program; and

WHEREAS, it is in the public interest and for the benefit of WRCOG and the owners of the Bonds that WRCOG and the Trustee enter into this Master Indenture to provide for the issuance of the Bonds, the disbursement of proceeds of such bonds, the disposition of the assessments securing the Bonds and the administration and payment of the Bonds; and

WHEREAS, WRCOG has determined that all things necessary to cause the Bonds, when authenticated by the Trustee and issued as provided in the Bond Act, the Resolution of Issuance, and this Master Indenture, to be legal, valid and binding limited obligations in accordance with their terms, and all things necessary to cause the creation, authorization, execution and delivery of this Master Indenture and the creation, authorization, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

**NOW, THEREFORE**, in consideration of the covenants and provisions herein set forth and for other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

## ARTICLE I

### STATUTORY AUTHORITY AND DEFINITIONS

**Section 1.01. Authority for this Master Indenture.** This Master Indenture is entered into under Chapter 29, the Bond Act and the Resolution of Issuance.

**Section 1.02. Definitions.** Unless the context otherwise requires, the terms defined in this Section 1.02 will, for all purposes of this Master Indenture, of any Supplemental Indenture (as herein defined), and of any certificate, opinion or other document herein mentioned, have the meanings herein specified.

***“Accredited Investor”*** means 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.

***“Administrative Expense Account”*** means the account of that name established in the Program Fund and designated “Western Riverside Council of Governments HERO Commercial PACE Program Limited Obligation Improvement Bonds (First Commercial Property Tranche) Administrative Expense Account,” established and administered pursuant to Section 4.02.

***“Administrative Expenses”*** means costs directly related to the administration of the Program, as determined by WRCOG in its sole reasonable discretion, including, but not limited to: the actual costs of preparing the annual Assessment Installment collection schedules (whether by an employee of WRCOG or a consultant or both) and the actual costs of collecting the Assessment Installments (whether by a county or otherwise); actual fees and costs of the Trustee, in each case as evidenced by written documentation provided to WRCOG or the Program Administrator; the actual costs of remitting the Assessment Installments to the Trustee; actual costs of the Trustee (including its legal counsel) in the discharge of its duties under the Indenture; the actual costs of WRCOG or its designee of complying with the disclosure provisions of Chapter 29, the Bond Act, federal securities laws and the Indenture, including those related to public inquiries regarding the Assessments and disclosures to Owners of the Bonds; the actual costs of WRCOG or its designee related to an appeal or challenge of the Assessment; any amounts required to be rebated to the federal government; and an allocable share of the salaries of WRCOG staff directly related to the foregoing and a proportionate amount of Authority general administrative overhead related thereto. Administrative Expenses shall also include amounts advanced by WRCOG for any administrative purpose relating to the Program, including costs related to prepayments of Assessments and the costs of prosecuting foreclosure of delinquent Assessment Installments and actual fees and costs of the Program Administrator (including amounts advanced or incurred by the Program Administrator on behalf of WRCOG in the discharge of the duties of WRCOG under this Master Indenture).

***“Annual Assessment Administrative Fee”*** means, as to each Participating Parcel, the administrative fee due and payable pursuant to an Assessment Contract that shall be collected on the property tax bill pertaining to such Participating Parcel.

**“Assessment” or “Assessments”** means the unpaid contractual assessment(s) levied on the Participating Parcel(s) pursuant to an Assessment Contract(s), but excludes Penalties and Interest.

**“Assessment Administrator”** means David Taussig & Associates, and its successors, or any financial consultant or firm of such financial consultants judged by WRCOG to have experience in the administration for and on behalf of public agencies of assessments similar to the Assessments levied by such public agencies in the State of California.

**“Assessment Collection Account”** means the account within the Redemption Fund designated as the “Western Riverside Council of Governments HERO Commercial PACE Program Limited Obligation Improvement Bonds (First Commercial Property Tranche) Assessment Collection Account,” established and administered by the Trustee pursuant to Section 4.01 hereof. Unless otherwise instructed by WRCOG, such account will be established in the Redemption Fund for each Series of Bonds for accounting purposes only.

**“Assessment Contract”** means the contract between WRCOG and the Property Owner pursuant to which the Property Owner agrees to pay the Assessment and WRCOG agrees to finance the installation of Improvements on the Participating Parcel.

**“Assessment Installment”** means, as to each Participating Parcel, the portion of the principal amount of the Assessment, together with the interest on the Assessment, due and payable pursuant to an Assessment Contract that shall be collected on the property tax bill pertaining to such Participating Parcel.

**“Auditor”** means the auditor/controller or tax collector of the applicable county in which the Participating Parcel is located, or such other official of the county who is responsible for preparing real property tax bills.

**“Authorized Denominations”** means the entire principal amount of the Outstanding Bonds of a Series.

**“Authorized Representative”** means the Executive Director of WRCOG or his or her designee or designees each of whom is authorized pursuant to a Certificate of WRCOG executed by the Executive Director.

**“Bond” or “Bonds”** means the Western Riverside Council of Governments HERO Commercial PACE Program Limited Obligation Improvement Bonds (First Commercial Property Tranche) in one or more Series, authorized, executed and delivered under this Master Indenture.

**“Bond Counsel”** means Best Best & Krieger LLP, and its successors, or any other attorney or firm of attorneys of nationally recognized standing in matters pertaining to the issuance of bonds by states and their political subdivisions, duly admitted to the practice of law before the highest court of the State of California.

**“Bond Act”** means the Improvement Bond Act of 1915, being Division 10 of the California Streets and Highways Code (commencing with Section 8500 et seq.), and as it may be amended from time to time, to the extent not in conflict with Chapter 29.

**“Bond Register”** means the books maintained by the Trustee pursuant to Section 2.07 for the registration and transfer of ownership of the Bonds.

**“Bond Year”** means, with respect to the Bonds, the twelve-month period beginning on September 3 in each year and ending on September 2 in the following year except that (i) the first Bond Year will begin on the date of delivery of the Bonds and end on the next September 2, and (ii) the last Bond Year may end on a prior redemption date.

**“Business Day”** means any day other than (i) a Saturday or a Sunday or (ii) a day on which banking institutions in California or in the state in which the Trustee has its principal corporate trust office are authorized or obligated by law or executive order to be closed.

**“Capitalized Interest Account”** means the account of that name established in the Redemption Fund and administered under Section 4.01. Such account will be established only as directed in a Supplemental Indenture with respect to a Series of Bonds and unless otherwise instructed by WRCOG, such account will be established for accounting purposes only.

**“Certificate of WRCOG”** means a written certificate of WRCOG signed by an Authorized Representative of WRCOG.

**“Chapter 29”** shall have the meaning given such term in the recitals hereto.

**“Closing Date”** means, as to each Bond or Series of Bonds, the date of issuance of thereof.

**“Collateral”** shall have the meaning given such term in Section 3.01 hereto.

**“Commercial”** shall have the meaning given such term in the Program Report.

**“Costs of Issuance”** means all items of expense directly or indirectly payable by or reimbursable to WRCOG relating to the authorization, issuance, sale and delivery of the Bonds, including, but not limited to: printing expenses; rating agency fees; filing and recording fees; initial fees, expenses and charges of the Trustee and its counsel, including the Trustee’s first annual administrative fee; fees, charges and disbursements of Bond Counsel and other attorneys, financing advisors, accounting firms, consultants and other professionals, the Program Administrator’s fee, fees and charges for preparation, execution and safekeeping of the Bonds; and any cost, charge or fee in connection with the original issuance of a Series of Bonds.

**“Costs of Issuance Account”** means the account of that name established in the Program Fund and designated “Western Riverside Council of Governments HERO Commercial PACE Program Limited Obligation Improvement Bonds (First Commercial Property Tranche) Costs of Issuance Account,” established and administered pursuant to Section 4.04 of this Master Indenture. Unless otherwise instructed by WRCOG, such account will be established in the Program Fund for each Series of Bonds for accounting purposes only.

**“County”** means the County of \_\_\_\_\_.

**“Covered Jurisdiction”** means the jurisdictional boundaries of the Member Agencies of WRCOG participating in the Programs.

**“Debt Service”** means, for each Bond Year, with respect to a Series of Bonds, the sum of (i) the interest due on the Outstanding Bonds of such Series in such Bond Year, assuming that the Outstanding Bonds of such Series are retired as scheduled, and (ii) the principal amount of the Outstanding Bonds of such Series and the Sinking Fund Payments on such Bonds due in such Bond Year.

**“Debt Service Schedule”** means the schedule, as may be amended, established by WRCOG or its authorized agent, which sets forth the dates on which Debt Service shall be paid.

**“Designated Transferee”** means, as to any Series of Bonds, the party identified as the Designated Transferee, if any, in the Supplemental Indenture and/or Certificate of WRCOG with respect to a Series of Bonds providing for the issuance of such Series of Bonds.

**“Electronic Means”** shall mean the following communications methods: e-mail; facsimile transmission; secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee; or another method or system specified by the Trustee as available for use in connection with its services hereunder.

**“Event of Default”** means any event described as an Event of Default in Section 9.01.

**“Excess Program Account Proceeds”** means the proceeds, if any, from the issuance of a Series of Bonds deposited on the Closing Date in the respective Program Account within the Program Fund for the payment or reimbursement of Improvement Costs for the installation of Improvements on a Participating Parcel that remain on deposit in such account following the payment of all such Improvement Costs.

**“Executive Committee”** means the Executive Committee of WRCOG.

**“Extraordinary Mandatory Redemption Account”** means the account within the Redemption Fund designated as the “Western Riverside Council of Governments HERO Commercial PACE Program Limited Obligation Improvement Bonds (First Commercial Property Tranche) Extraordinary Mandatory Redemption Account,” established by the Trustee pursuant to Section 4.01(A)(3).

**“Federal Securities”** means any of the following which are non-callable and which at the time of investment are legal investments under the laws of the State of California for funds held by the Trustee:

- (ii) direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the United States Department of the Treasury) and obligations, the timely payment of principal of and interest on which are, directly or indirectly, fully and unconditionally guaranteed by the

United States of America, including, without limitation, such of the foregoing which are commonly referred to as stripped obligations and coupons; or

(iii) any of the following obligations of the following agencies of the United States of America:

(a) direct obligations of the Export-Import Bank;

(b) certificates of beneficial ownership issued by the Farmers Home Administration;

(c) participation certificates issued by the General Services Administration;

(d) mortgage-backed bonds or pass-through obligations issued and guaranteed by the Government National Mortgage Association;

(e) project notes issued by the United States Department of Housing and Urban Development; and

(f) public housing notes and bonds guaranteed by the United States of America.

***“Financed Amount”*** has the meaning given that term in the Assessment Contract(s).

***“Improvement Costs”*** means the costs of installing the Improvements on Participating Parcels in accordance with the Program Report, the Program Handbook and the related Assessment Contract or Assessment Contracts.

***“Improvements”*** means the distributed generation renewable energy, energy efficiency, water efficiency, seismic and electric vehicle charging infrastructure improvements to be installed on the Participating Parcel(s) pursuant to the Assessment Contracts.

***“Indenture”*** means collectively this Master Indenture, as it may be amended, modified or supplemented from time to time, together with any Supplemental Indenture executed pursuant to the provisions of this Master Indenture.

***“Initial Purchaser”*** means the party designated as the Initial Purchaser pursuant to each Supplemental Indenture and/or Certificate of WRCOG with respect to a Series of Bonds.

***“Interest Payment Dates”*** means, as to any Series of Bonds, March 2 and September 2 of each year, commencing on the Interest Payment Date specified in the Supplemental Indenture pursuant to which such Series of Bonds have been issued.

***“Joint Exercise of Powers Agreement”*** means that Joint Powers Agreement of WRCOG originally made and entered into April 1, 1991, as amended and to date and as it may be amended or supplemented from time in accordance with its terms.

**“Master Indenture”** means this Master Indenture, dated as of [\_\_\_\_], 2019, by and between WRCOG and the Trustee, as it may be amended, modified or supplemented from time to time pursuant to the provisions of this Master Indenture.

**“Non-Completion Assessment”** means an Assessment collected from the owner of the Participating Parcel(s) resulting from failure to install the Improvements or otherwise comply with requirements of WRCOG.

**“Outstanding”** when used as of any particular time with reference to the Bonds, means, subject to the provisions of Section 8.03, all Bonds except:

- (iv) Bonds canceled by the Trustee or surrendered to the Trustee for cancellation;

- (v) Bonds paid or deemed to have been paid within the meaning of Article X; and

- (vi) Bonds in lieu of or in substitution for which other Bonds have been authorized, executed, issued and delivered by WRCOG pursuant to the Indenture.

**“Owner”** or **“Bond Owner”** means the registered owner of any Outstanding Bond as shown on the Bond Register of the Trustee under Section 2.07.

**“Participating Parcel(s)”** means the parcel(s) within a Program Area that is (are) subject to the lien of an Assessment pursuant to an Assessment Contract or Assessment Contracts securing a Series of Bonds as identified on Appendix I of each Supplemental Indenture.

**“Penalties and Interest”** means any (i) penalties on delinquent contractual assessments levied on a Participating Parcel(s) pursuant to an Assessment Contract and (ii) interest on delinquent contractual assessments levied on a Participating Parcel(s) pursuant to an Assessment Contract in excess of the interest rate of the related Series of Bonds, in both cases pursuant to Section 5898.30 of Chapter 29.

**“Penalties and Interest Account”** means the account within the Redemption Fund and designated “Western Riverside Council of Governments HERO Commercial PACE Program Limited Obligation Improvement Bonds (First Commercial Property Tranche), Penalties and Interest Account,” established and administered under Section 4.01 hereof.

**“Permitted Investments”** means any of the following:

- (a) Federal Securities.

- (b) Federal Housing Administration debentures.

- (c) Unsecured certificates of deposit, time deposits, demand deposits, overnight bank deposits, trust funds, trust accounts, interest-bearing deposits, interest-bearing money market accounts, other deposit products, and bankers’ acceptances (having maturities of not more than thirty (30) days) of any bank

(including those of the Trustee and its affiliates) the short-term obligations of which are rated “A-1” or better by S&P.

(d) Deposits the aggregate amount of which are fully insured by the Federal Deposit Insurance Corporation (FDIC), in banks which have capital and surplus of at least \$5 million (including those of the Trustee and its affiliates).

(e) Commercial paper (having original maturities of not more than 270 days) rated “A-1+” by S&P and “Prime-1” by Moody’s.

(f) State Obligations, which means

(i) Direct general obligations of any state of the United States or any subdivision or agency thereof to which is pledged the full faith and credit of a state the unsecured general obligation debt of which is rated “A3” by Moody’s and “A” by S&P, or better, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose unsecured general obligation debt is so rated.

(ii) Direct, general short-term obligations of any state agency or subdivision described in (i) above and rated “A-1+” by S&P and “Prime-1” by Moody’s.

(iii) Special Revenue Bonds (as defined in the United States Bankruptcy Code) of any state, state agency or subdivision described in (i) above and rated “AA” or better by S&P and “Aa” or better by Moody’s.

(g) Pre-refunded municipal obligations rated “AAA” by S&P and “Aaa” by Moody’s meeting the following requirements:

(i) the municipal obligations are (A) not subject to redemption prior to maturity or (B) the trustee for the municipal obligations has been given irrevocable instructions concerning their call and redemption and the issuer of the municipal obligations has covenanted not to redeem such municipal obligations other than as set forth in such instructions;

(ii) the municipal obligations are secured by cash or United States Treasury Obligations which may be applied only to payment of the principal of, interest and premium on such municipal obligations;

(iii) the principal of and interest on the United States Treasury Obligations (plus any cash in the escrow) has been verified by the report of independent certified public accountants to be sufficient to pay in full all principal of, interest, and premium, if any, due and to become due on the municipal obligations (“Verification”);



(iv) the cash or United States Treasury Obligations serving as security for the municipal obligations are held by an escrow agent or trustee in trust for owners of the municipal obligations;

(v) no substitution of a United States Treasury Obligation will be permitted except with another United States Treasury Obligation and upon delivery of a new Verification; and

(vi) the cash or the United States Treasury Obligations are not available to satisfy any other claims, including those by or against the trustee or escrow agent.

(h) Investments in a money market mutual fund rated AAAM or AAAM-G or better by S&P and having a rating in the highest investment category granted thereby from Moody's, including, without limitation, any mutual fund for which the Trustee or an affiliate of the Trustee serves as investment manager, administrator, shareholder servicing agent, or custodian or subcustodian, or otherwise, notwithstanding that: (i) the Trustee or an affiliate of the Trustee receives and retains fees from funds for services rendered; (ii) the Trustee collects fees for services rendered pursuant to the Indenture, which fees are separate from the fees received from such funds; and (iii) services performed for such funds and pursuant to the Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee.

(i) Repurchase and reverse repurchase agreements collateralized with securities described in (a) and (b) above, including those of the Trustee or any of its affiliates.

(j) California's Local Agency Investment Fund ("LAIF").

***"Prepayment Account"*** means the account within the Redemption Fund and designated "Western Riverside Council of Governments HERO Commercial PACE Program Limited Obligation Improvement Bonds (First Commercial Property Tranche) Prepayment Account," established and administered under Section 4.01 hereof. Unless otherwise instructed by WRCOG, such account will be established in the Redemption Fund for each Series of Bonds for accounting purposes only.

***"Prepayments"*** means Non-Completion Assessments or prepayments of Assessments received by WRCOG or the Trustee, less any administrative fees or penalties collected as part of any such Non-Completion Assessment or prepayment of Assessments.

***"Principal Office"*** means the corporate trust office of the Trustee in Costa Mesa, California, located at such address as will be specified in a written notice by the Trustee to WRCOG under Section 10.06 hereof or such other office of the Trustee designated for payment, transfer or exchange of the Bonds.

***"Program"*** means the HERO Commercial PACE Program established pursuant to the Resolution of Issuance.

***“Program Account”*** means the respective account within the Program Fund and designated “Western Riverside Council of Governments HERO Commercial PACE Limited Obligation Improvement Bonds (First Commercial Property Tranche) Program Account,” established and administered under Section 4.01 hereof. Unless otherwise instructed by WRCOG, such account will be established in the Program Fund for each Series of Bonds for accounting purposes only.

***“Program Administrator”*** means Renovate America, Inc. acting in its capacity as the administrator of the HERO Commercial PACE Program pursuant to the Resolution of Issuance and the HERO Commercial PACE Program Administration Agreement, dated as of [December 2], 2019, by and between WRCOG and Renovate America, Inc., as such agreement may be amended or supplemented from time to time.

***“Program Area”*** has the meaning given to it in the recitals hereto.

***“Program Fund”*** means the fund designated “Western Riverside Council of Governments HERO Commercial PACE Limited Obligation Improvement Bonds Program Fund” established and administered under Section 4.02.

***“Program Handbook”*** means the “HERO Commercial PACE Program Handbook” as approved by WRCOG, as such handbook may be amended or supplemented from time to time with the approval of WRCOG.

***“Program Manager”*** means the official of WRCOG designated as the program manager of the Program from time to time.

***“Program Report”*** means the Administrative Guidelines and Program Report for the Program.

***“Property Owner”*** means the owner of the Participating Parcel(s).

***“Qualified Institutional Buyer”*** means a “qualified institutional buyer” as such term is defined in Rule 144A promulgated under the Securities Act of 1933, as amended.

***“Record Date”*** means the 15th day of the calendar month immediately preceding the applicable Interest Payment Date, and any date established by the Trustee as a Record Date for the payment of defaulted interest on the Bonds, if any.

***“Redemption Fund”*** means the fund designated “Western Riverside Council of Governments HERO Commercial PACE Program Limited Obligation Improvement Bonds (First Commercial Property Tranche), Redemption Fund,” established and administered under Section 4.01.

***“Redemption Premium,”*** when used in reference to a Series of Bonds, the redemption premium set forth in the Related Supplemental Indenture.

***“Related,”*** when used in reference to a Series of Bonds, Assessments, Collateral, Improvements or Assessment Contract, means the Series of Bonds that financed or refinanced

the installation of the Improvements in respect of which the property owner agreed to pay the Assessment, the Assessment that relates to the Series of Bonds that financed or refinanced the installation of the Improvements in respect of which the Assessment was made and agreed to or the Collateral that includes those Assessments; the Improvements in respect of which the property owner agreed to pay the Assessment the installation of which are financed or refinanced from a Series of Bonds or the Assessment Contract pursuant to which the Assessment was levied that relates to the Series of Bonds that financed or refinanced the installation of the Improvements. “**Related**,” when used in reference to a Supplemental Indenture and a Series of Bonds, the Supplemental Indenture that supplements this Master Indenture to establish the terms and conditions set forth in such Supplemental Indenture related to the issuance of such Series of Bonds.

“**Reserve Fund**” means, as to any Series of Bonds, a debt service reserve fund established by the Trustee pursuant to the Related Supplemental Indenture.

“**Resolution of Issuance**” shall have the meaning given such term in the recitals hereto.

“**Series**” means each series of Bonds issued pursuant to this Master Indenture and the Related Supplemental Indenture. A “Series” may, as provided in such Related Supplemental Indenture, be a single Bond.

“**Sinking Account Payments**” means amounts to be paid by WRCOG with respect to any Term Bonds.

“**Supplemental Indenture**” means an agreement which is amendatory of and/or supplemental to this Master Indenture substantially in the form set forth in Exhibit A hereto executed and delivered in connection with the issuance of a Series of Bonds pursuant to this Master Indenture.

“**Teeter Plan**” means the alternative procedure for the distribution of property taxes and assessments adopted by a county pursuant to Revenue and Taxation Code sections 4701 through 4717.

“**Term Bonds**” means a Series of Bonds which are payable on or before their specified maturity dates from Sinking Account Payments established pursuant to the Related Supplemental Indenture for that purpose and calculated to retire such Series of Bonds on or before their specified maturity dates.

“**Trustee**” means Wilmington Trust, National Association, its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in Section 7.01 hereof.

“**WRCOG**” means the Western Riverside Council of Governments, a joint exercise of powers agency duly organized and existing under the Constitution and laws of the State of California.

“**WRCOG Counsel**” means the general counsel of WRCOG or designated counsel to WRCOG with respect to the Bonds.

### **Section 1.03. Interpretation.**

(A) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to include the neuter, masculine or feminine gender, as appropriate.

(B) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(C) All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of the Indenture; the words “herein,” “hereof,” “hereby,” “hereunder” and other words of similar import refer to the Indenture as a whole and not to any particular Article, Section or subdivision hereof.

**Section 1.04. Indenture Constitutes Contract.** In consideration of the purchase and acceptance of any and all of the Bonds issued hereunder by those who shall hold the same from time to time, the Indenture shall be deemed to be and shall constitute a contract among WRCOG, the Trustee and the Owners of the Bonds. The pledge made in the Indenture and the provisions, covenants and agreements set forth in the Indenture to be performed by or on behalf of WRCOG shall be for the equal benefit, protection and security of the Owners of any and all of the Bonds. All of the Bonds, without regard to the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof, except as expressly provided in or permitted by the Indenture.

## ARTICLE II

### THE BONDS

#### Section 2.01. Bonds Authorized.

(A) **Authorized Bonds.** WRCOG hereby authorizes the issuance of the Bonds in Authorized Denominations under and subject to the terms of the Resolution of Issuance, the Indenture, Chapter 29 and the Bond Act. Pursuant to the Resolution of Issuance, the Authorized Representatives of WRCOG are authorized and directed to deliver any and all documents and instruments necessary to cause the issuance of the Bonds in accordance with the provisions of Chapter 29, the Bond Act, the Resolution of Issuance, this Master Indenture and any applicable Supplemental Indentures.

(B) **Procedures for the Issuance of Bonds.** WRCOG may at any time issue a Series of Bonds in Authorized Denominations payable from Assessments and secured by first priority perfected liens upon such Assessments on the Participating Parcels and the other Collateral pledged hereunder for the payment of such Series of Bonds, subject to the following specific conditions, which are hereby made conditions precedent to the issuance of such Series of Bonds:

(ii) All the requirements of Section 3.04 have been met.

(iii) The issuance of such Series of Bonds has been duly authorized pursuant to the Bond Act and all applicable laws, and the issuance of such Series of Bonds has been provided for by a Supplemental Indenture, in substantially the form attached hereto as Exhibit A, duly executed by WRCOG and the Trustee.

WRCOG acknowledges and agrees that the Initial Purchaser or its Designated Transferee (if applicable) may acquire such Series of Bonds issued hereunder through, or through the account maintained with, a registered broker dealer.

(C) **Proceeds of the Bonds.** Upon the receipt of payment for each Series of Bonds on the Closing Date thereof, the Trustee will apply the proceeds of sale thereof in the amounts and to the funds and accounts as provided for in the Related Supplemental Indenture.

#### Section 2.02. Payment of Principal of and Interest on the Bonds.

(A) **Payment of Interest.** Interest on each Bond will be computed on the basis of a 360-day year of twelve 30-day calendar months, and will be payable on each Interest Payment Date, pursuant to Debt Service Schedule set forth on Attachment A to the Related Bond. The Bonds will bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless they are authenticated on a day during the period from the sixteenth day of the month next preceding an Interest Payment Date to such Interest Payment Date, both days inclusive, in which event they will bear interest from such Interest Payment Date; or unless they are authenticated on a day on or before the fifteenth day of the month next preceding the first Interest Payment Date, in which event they will bear interest from the date of delivery of such Bonds. Notwithstanding the foregoing, if interest on any Bond is in default at the time of

authentication thereof, such Bond will bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

The Bonds shall bear interest at the rate per annum, and mature on the date, shown thereon.

**(B) Method of Payment.** Interest on the Bonds (including the final interest payment upon maturity or earlier redemption) is payable in lawful money of the United States of America. As to each Series of Bonds, the Trustee shall pay interest on such Series of Bonds when due by wire transfer in immediately available funds to the person whose name appears on the Bond Register as the Owner thereof on the Record Date preceding such Interest Payment Date in accordance with such wire transfer instructions as shall be filed by such Owner with the Trustee from time to time prior to such Record Date.

The principal of any Bond and any premium on such Bond are payable in lawful money of the United States of America by the Trustee to the person whose name appears on the Bond Register as the Owner thereof on the Record Date immediately preceding the applicable Interest Payment Date upon surrender of the Bonds at the Principal Office of the Trustee. As to each Series of Bonds, payments of principal of such Series of Bonds shall, except on the final maturity thereof, be made without the requirement for presentation and surrender of such Series of Bonds at the Principal Office of the Trustee, and the Trustee shall pay such principal of such Series of Bonds when due by wire transfer in immediately available funds to the Owner in accordance with such wire transfer instructions as shall be filed by the Owner of such Series of Bonds with the Trustee from time to time prior to such Record Date. All Bonds paid by the Trustee under this Section will be canceled by the Trustee. The Trustee will destroy the canceled Bonds and, upon request of WRCOG, issue a certificate of destruction of such Bonds to WRCOG.

Notwithstanding anything contained herein to the contrary, the Initial Purchaser and any Designated Transferee shall not be required to present and surrender the Bond for any principal payment, mandatory redemption payment for the redemption of such Bond in part, or mandatory sinking fund payment other than the final principal payment at maturity.

### **Section 2.03. Redemption.**

**(A) General.** The Supplemental Indenture with respect to any Bond or Series of Bonds may provide that all or a portion of such Bond is or such Series of Bonds are subject to optional or mandatory redemption prior to maturity pursuant to the terms thereof.

All Bonds will be subject to mandatory redemption from amounts received by WRCOG as Prepayments as provided in the applicable Supplemental Indenture and subject to the provisions of Part 11.1 of the Bond Act. WRCOG shall advise the Trustee of such provisions to the extent not specified herein.

Whenever less than all of the Outstanding Bonds issued as a Series of Bonds are called for redemption, the Trustee will select Bonds for redemption among maturities in such a way that the ratio of Outstanding Bonds to issued Bonds will be approximately the same in each maturity insofar as possible, and such that the remaining Assessments will be sufficient on a timely basis to pay the aggregate Debt Service on the Bonds. Within each maturity of such a Series, the

Trustee will select Bonds for retirement by lot from all Bonds not previously called for redemption; provided that the Trustee shall have not less than seventy-two (72) hours before such selection in which to make the selection.

**(B) Refundings.** The provisions of Part 11.1 of the Bond Act are applicable to the advance payment of Assessments and to the refunding and redemption of any Series of the Bonds. WRCOG will advise the Trustee of such provisions to the extent not specified herein.

**(C) Partial Redemption.** Whenever less than all of the Outstanding Bond or Bonds of a Series are called for redemption, the Trustee will select Bonds for redemption in accordance with written direction from WRCOG among maturities in such a way that the remaining Related Assessments will be sufficient on a timely basis to pay debt service on such Series of Bonds. Within each maturity, the Trustee will select Bonds of such Series for retirement by lot. Payment of principal of any Bond selected for redemption in part and accrued interest and premium, if any, on such Bond shall be payable without surrender of such Bond at the Principal Office of the Trustee.

The payment of the principal of, premium, if any, and accrued interest on a Bond upon redemption in part shall be payable without the surrender of such Bond to the Trustee.

If the Bonds have been redeemed pursuant to an optional redemption or a mandatory prepayment redemption, the total amount of all future Sinking Fund Payments relating to such maturity will be reduced by the aggregate principal amount of Term Bonds of such maturity so redeemed, to be allocated among such Sinking Fund Payments on a pro rata basis in Authorized Denominations as set forth in a revised sinking fund schedule provided to the Trustee by WRCOG.

**(D) Notice to Trustee.** WRCOG will give the Trustee written notice of the aggregate amount of Bonds to be redeemed not less than sixty (60) days prior to the applicable redemption date.

**(E) Redemption Procedure by Trustee.**

(ii) Mailing of Notice. If any Bonds are designated for redemption pursuant to the related Supplemental Indenture, the Trustee will cause notice of any redemption to be mailed by first class mail to the respective Owners of any Bonds designated for redemption, at their addresses appearing on the Bond Register in the Principal Office of the Trustee, at least thirty (30) days but no more than sixty (60) days before the date designated for redemption.

Any failure of any person or entity to receive any such redemption notice if mailed in compliance with the previous paragraph, or any defect in any notice of redemption, will not affect the validity of the proceedings for the redemption of such Bonds.

(iii) Contents of Notice. Such notice will state the following:

(1) the redemption date;

(2) the redemption price;

(3) the date of issue of the Series of the Bonds;

(4) if less than all of the then Outstanding Bonds of a Series are to be called for redemption, the Bond numbers of the Bonds to be redeemed (by designating the Bond number of each Bond to be redeemed or by stating that all Bonds between two designated Bond numbers, both inclusive, are to be redeemed) or that all of the Bonds of one or more maturities have been called for redemption;

(5) as to any Bond called in part, the principal amount thereof to be redeemed;

(6) that such Bonds must be then surrendered at the Principal Office of the Trustee for redemption at the redemption price; provided that the Initial Purchaser and any Designated Transferee shall not be required to present and surrender the Bond for any principal payment, mandatory redemption payment, or mandatory sinking fund other than the final principal payment at maturity; and

(7) that further interest on the Bonds (or portion thereof) called for redemption will not accrue from and after the redemption date.

(iv) Rescission of Redemption. WRCOG may provide conditional notice of optional redemption and it may rescind any notice of optional redemption by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of redemption will be cancelled and annulled if for any reason adequate funds are not on deposit in the Redemption Fund on the redemption date, and such cancellation will not constitute an Event of Default hereunder. The Trustee will mail notice of rescission of redemption in the same manner notice of redemption was originally provided.

(v) Identification of Bonds Redeemed. Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose will, to the extent practicable, bear the Bond number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

**(F) Effect of Redemption.** From and after the date fixed for redemption, if funds available for the payment of the principal of, and interest and any premium on, the Bonds, Series of Bonds, or portion of Bonds so called for redemption have been deposited in the Redemption Fund on the date fixed for redemption, then such Bonds, Series of Bonds, or portion of Bonds so called for redemption will become due and payable at the redemption price specified in the redemption notice, and such Bonds, Series of Bonds or portion of Bonds will be defeased and will cease to be entitled to any benefit or security under the Indenture other than the right to receive payment of the redemption price, and no interest will accrue thereon on or after the redemption date specified in such notice.

All Bonds redeemed by the Trustee pursuant to this Section 2.03 and the related Supplemental Indenture will be canceled by the Trustee. The Trustee will destroy the canceled



Bonds and, upon request of WRCOG, issue a certificate of destruction of such Bonds to WRCOG.

**Section 2.04. Execution of Bonds.** The Bonds will be executed on behalf of WRCOG by the manual or facsimile signature of the Treasurer and attested by the manual or facsimile signature of the Secretary. If any officer whose signature appears on any Bond ceases to be such officer before delivery of the Bonds to the Owner, such signature will nevertheless be as effective as if the officer had remained in office until the delivery of the Bonds to the Owner. Any Bond may be signed and attested on behalf of WRCOG by such persons who, as of the actual date of the execution of such Bond will be the proper officers of WRCOG although at the nominal date of such Bond any such person will not have been such officer of WRCOG.

Only such Bonds as bear thereon a certificate of authentication in substantially the form set forth in the applicable Supplemental Indenture, manually executed and dated by the Trustee, will be valid or obligatory for any purpose or entitled to the benefits of the Indenture, and such certificate of authentication of the Trustee will be conclusive evidence that the Bonds registered hereunder have been duly authenticated, registered and delivered hereunder and are entitled to the benefits of the Indenture.

**Section 2.05. Transfer of Bonds.**

**(A) General.** Any Bond may, in accordance with its terms and subject to paragraph (B) of this Section, be transferred, upon the Bond Register under Section 2.07 hereof by the person in whose name it is registered, in person or by such person's duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a duly written instrument of transfer in a form approved by the Trustee. The cost for any services rendered or any expenses incurred by the Trustee in connection with any such transfer will be paid by WRCOG. The Trustee will collect from the Owner requesting such transfer any tax or other governmental charge required to be paid with respect to such transfer.

Whenever any Bond is or Bonds are surrendered for transfer, WRCOG will execute and the Trustee will authenticate and deliver a new Bond or Bonds of the same Series, for like aggregate principal amounts, maturities, and interest rates in the denominations herein authorized. Neither WRCOG nor the Trustee will be required to make such transfer of Bonds on or after a Record Date and before the next ensuing Interest Payment Date.

**(B) Transfer Restriction Applicable to Bonds.** With respect to any Bond registered in the name of an entity, unless the Trustee shall have been otherwise directed in a Certificate of WRCOG accompanied by an opinion of Bond Counsel to the effect that such transfer is consistent with federal securities law, the Bond may only be transferred in an Authorized Denomination to (a) WRCOG (or the Trustee at the direction of WRCOG) or (b) an Accredited Investor or a Qualified Institutional Buyer who delivers to the Trustee and WRCOG an executed letter substantially in the form of Exhibit B attached to this Master Indenture.

**Section 2.06. Exchange of Bonds.** Bonds may be exchanged at the Principal Office of the Trustee for a like aggregate principal amount of Bonds of the same Series and of the same maturity. The cost for any services rendered or any expenses incurred by the Trustee in

connection with any such exchange will be paid by WRCOG. The Trustee will collect from the Owner requesting such exchange any tax or other governmental charge required to be paid with respect to such exchange.

Neither WRCOG nor the Trustee will be required to make such exchange of Bonds after a Record Date and before the next ensuing Interest Payment Date.

**Section 2.07. Bond Register.** The Trustee will keep, or cause to be kept, at its Principal Office the Bond Register for the registration and transfer of the Bonds. The Bond Register will show the Series number, date, maturity amount, rate of interest and last registered Owner of each Bond and will at all times be open to inspection by WRCOG during regular business hours on any Business Day, upon reasonable notice; and, upon presentation for such purpose, the Trustee will, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, the ownership of the Bonds as hereinbefore provided.

**Section 2.08. Temporary Bonds.** The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, will be of such authorized denominations as may be determined by WRCOG, and may contain such reference to any of the provisions of the Indenture as may be appropriate. Every temporary Bond will be executed by WRCOG and authenticated by the Trustee upon the same conditions and in substantially the same manner as the definitive Bonds. If WRCOG issues temporary Bonds it will execute and furnish definitive Bonds without delay, but in no event more than fifteen (15) days from the date temporary Bonds are issued, and thereupon the temporary Bonds will be surrendered, for cancellation, in exchange for the definitive Bonds at the Principal Office of the Trustee or at such other location as the Trustee will designate, and the Trustee will authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary Bonds will be entitled to the same benefits under the Indenture as definitive Bonds authenticated and delivered hereunder.

**Section 2.09. Bonds Mutilated, Lost, Destroyed or Stolen.** If any Bond becomes mutilated, WRCOG, at the expense of the Owner of that Bond, will execute, and the Trustee will authenticate and deliver, a new Bond of like tenor and principal amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee will be canceled by it and destroyed by the Trustee who will, upon request of WRCOG, deliver a certificate of destruction thereof to WRCOG.

If any Bond is lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to the Trustee and indemnity satisfactory to the Trustee will be given, WRCOG, at the expense of the Owner, will execute, and the Trustee will authenticate and deliver, a new Bond of like tenor and principal amount in lieu of and in substitution for the Bond so lost, destroyed or stolen. WRCOG may require payment of a sum not exceeding the actual cost of preparing each new Bond delivered under this Section 2.09 and of the expenses that may be incurred by WRCOG and the Trustee for the preparation, execution, authentication and delivery. Any Bond delivered under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen will constitute an original

additional contractual obligation on the part of WRCOG whether or not the Bond so alleged to be lost, destroyed or stolen is at any time enforceable by anyone, and will be equally and proportionately entitled to the benefits of the Indenture with all other Bonds issued under the Indenture.

## ARTICLE III

### SECURITY; ISSUANCE OF BONDS

**Section 3.01. Security for the Bonds; Pledge of Assessments and Funds.** Each Series of Bonds will be secured by a first pledge (which pledge will be effected in the manner and to the extent herein provided) of all of (i) the Related Assessment or Assessments together with all revenues, moneys, accounts receivable, contractual rights to payment, recoveries and other rights to payment of whatever kind with respect to such Related Assessment or Assessments or Related Assessment Contract or Assessment Contracts (except amounts required hereunder to be deposited into the Administrative Expense Account of the Program Fund) that are or may be owed to, or collected or received by, WRCOG or any other entity acting on WRCOG's behalf, including, without limitation, the Related Assessment Installments, Related Prepayments, the foreclosure on a Participating Parcel on which an Assessment has been levied, or any other payment or recovery with respect to an Assessment from any other source but excluding Annual Assessment Administrative Fees, and (ii) the Redemption Fund and all monies, securities or contractual or other rights to payment that are or may be owed or credited to, or deposited in, the Redemption Fund, or owed to, or collected, recovered, received or held by, any other person that is required to credit to or deposit such monies or securities in the Redemption Fund by Chapter 29, the Bond Act or the terms of this Master Indenture attributable to proceeds of such Series of Bonds, such Related Assessment or Assessments and such Related Assessment Contract or Assessment Contracts, in each case, derived from the Related Assessment Installments, Related Prepayments, penalties and interest with respect to any delinquent Related Assessment Installment, the foreclosure on a Participating Parcel on which a Related Assessment has been levied, or payments pursuant to a Teeter Plan with respect to Related Assessments, if applicable (the foregoing items in (i) and (ii) above collectively referred to as the "Collateral").

So long as any of the Bonds are Outstanding, the Collateral shall not be used for any other purpose except as provided in this Master Indenture. The security interest with respect to a Series of Bonds shall constitute a lien on the Related Collateral of such Series of Bonds and shall attach and be effective, binding and enforceable against WRCOG and all others asserting rights therein from and after delivery by the Trustee of such Series of Bonds, irrespective of whether those parties have notice thereof and without any physical delivery thereof or further act.

**Section 3.02. Limited Obligation.** All obligations of WRCOG under the Indenture and each Series of Bonds are not general obligations of WRCOG, but are limited obligations, payable solely from the Related Assessments and the funds pledged therefor hereunder. The faith and credit of WRCOG, any Covered Jurisdiction or the State of California, or any political subdivision thereof, is not pledged to the payment of the Bonds.

Each Series of Bonds are "Limited Obligation Improvement Bonds" under section 8769 of the Bond Act and each Series of Bonds is payable solely from and secured solely by the Related Assessments and the amounts in the Redemption Fund attributable to the Related Assessments. Notwithstanding any other provision of the Indenture, WRCOG is not obligated to advance available surplus funds from WRCOG treasury to cure any deficiency in the Redemption Fund; provided, however, WRCOG is not prevented, in its sole discretion, from so advancing funds.

**Section 3.03. No Parity Debt.** WRCOG may not issue additional Bonds payable from the Assessments other than refunding bonds pursuant to Section 3.05 below.

**Section 3.04. Requirements for Issuance of Bonds.** Each Series of Bonds issued under a Supplemental Indenture will constitute a Bond hereunder and will be secured by a first priority perfected security interest on the Assessment or Assessments securing the payment of such Bond and the other Collateral purported to be pledged and assigned for the payment of such Bond or Bonds hereunder. WRCOG may issue a Bond or Series of Bonds only if the following specific conditions precedent have been met:

**(A) Due Authorization.** WRCOG shall have reviewed all proceedings heretofore taken relative to the authorization of such Bond or Series of Bonds and shall conclude, as a result of such review, and find and determine that all things, conditions, and acts required by law to exist, happen and be performed precedent to and in the issuance of such Bond or Series of Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and that WRCOG shall be authorized under Chapter 29, the Bond Act and each and every requirement of law, to issue such Bond or Series of Bonds in the manner and form provided in the Indenture

**(B) Compliance.** WRCOG shall be in compliance with all covenants set forth in this Master Indenture, and issuance of such Bond or Series of Bonds will not cause WRCOG to exceed the bonded indebtedness limit established for the Program or the maximum Bond authorization set forth in the Resolution of Issuance or as such maximum authorization may be amended by a resolution of the Executive Committee of WRCOG. Neither WRCOG nor anyone acting on its behalf shall have taken, or will take, any action that would subject the issuance or sale of the Bonds to the registration requirements set forth in the Securities Act of 1933, as amended, or to the registration requirements of any securities or blue sky laws of any applicable jurisdiction, and the Bonds issued hereunder shall be subject to a valid exemption from all such registration requirements.

**(C) Value.** For each Participating Parcel, the value of such parcel (including the value of the Related Improvements financed from the proceeds of the Bond issued for such parcel) shall not be less than the minimum required value as determined at the time of the execution of the Related Assessment Contract by WRCOG pursuant to the requirements set forth in the Program Handbook.

**(D) Coverage.** The aggregate Assessment Installments payable under each Related Assessment Contract or Assessment Contracts specified in the Related Supplemental Indenture shall be at least 100% of the cumulative Debt Service on the Bond or Series of Bonds to be secured by the Related Assessment or Related Assessments levied pursuant to such Assessment Contract or Assessment Contracts, as applicable, through the final maturity date of such Bond or Series of Bonds and the Annual Assessment Administrative Fee or aggregate Annual Assessment Administrative Fees payable pursuant to an Assessment Contract or Assessment Contracts, as applicable, shall be sufficient to pay the total anticipated Administrative Expenses through the final maturity date of such Bond or Series of Bonds.

In addition, the scheduled Assessment Installments payable pursuant to the applicable Assessment Contract or Assessment Contracts in every Bond Year with respect to a Bond secured by an Assessment or Assessments levied pursuant to such Assessment Contract or Assessment Contracts, as applicable, shall be at least 100% of the annual Debt Service on such Bond through its final maturity date and the scheduled Annual Assessment Administrative Fees levied pursuant to the Assessment Contract or Assessment Contracts in every Bond Year shall be sufficient to pay the anticipated Administrative Expenses for such Bond Year.

**(E) Notice of Assessment.** A notice of assessment shall have been duly recorded against each Participating Parcel pursuant to Chapter 29 and the Bond Act and there shall have been created a perfected first priority security interest in and to the Assessment levied against each such Participating Parcel and the other Collateral pledged for the payment of each Bond pursuant to the applicable Assessment Contract, the Bond Act, Chapter 29 and this Master Indenture.

**(F) Opinion of Bond Counsel.** On the Closing Date of each Bond or Series of Bonds, WRCOG will deliver an opinion or opinions of Bond Counsel addressed to WRCOG and the Trustee in form and substance mutually agreed upon by Bond Counsel and the Initial Purchaser (and accepted by the Trustee). Bond Counsel shall either address each such opinion to the Initial Purchaser and the Designated Transferee (if applicable) or shall, on the Closing Date, provide a reliance letter addressed to the Initial Purchaser and the Designated Transferee (if applicable) indicating to the Initial Purchaser and the Designated Transferee (if applicable) that Bond Counsel has delivered such opinion or opinions to WRCOG and the Trustee on such date and that the Initial Purchaser may rely upon such opinions as if they had been addressed to the Initial Purchaser and the Designated Transferee (if applicable). In such opinion Bond Counsel shall opine that the issuance of the Bond or Series of Bonds has been duly authorized pursuant to the Bond Act and all other applicable laws and the issuance of the Bond or Series of Bonds has been provided for by the Related Supplemental Indenture.

Notwithstanding the foregoing, WRCOG may issue a Series of Bonds as refunding Bonds without the need to satisfy the requirements of paragraphs (C) or (D) above.

**Section 3.05. No Acceleration.** The principal of the Bonds will not be subject to acceleration hereunder. Nothing in this Section 3.04 will in any way prohibit the prepayment or redemption of Bonds under Section 2.03 hereof, or the defeasance of the Bonds and discharge of the Indenture under Article X hereof.

**Section 3.06. Refunding of Bonds.** The Bonds may be refunded by WRCOG pursuant to Divisions 11 or 11.5 of the California Streets and Highways Code upon the conditions as set forth in appropriate proceedings therefor or under any other statutory authority. This Section will not apply to or in any manner limit advancement of the maturity of any of the Bonds as provided in Parts 8, 9, 11, or 11.1 of the Bond Act, nor will this Section apply to or in any manner limit the redemption and payment of any Bond pursuant to subsequent proceedings providing for the payment of amounts to eliminate previously imposed fixed lien assessments, including the Assessments. Nothing in this Section 3.05 affects WRCOG's obligation to comply with Section 2.03 hereof in connection with a redemption of the Bonds.

**Section 3.07. Agreement for Benefit of Bond Owners.** The provisions, covenants and agreements herein set forth to be performed by or on behalf of WRCOG will be for the equal benefit, protection and security of the registered Owners of the Bonds.

## ARTICLE IV

### FUNDS AND ACCOUNTS

#### Section 4.01. Redemption Fund.

(A) **Establishment of Redemption Fund.** The Redemption Fund is hereby established as a separate fund to be held by the Trustee to the credit of which deposits will be made as required by Section 5.01(A), and any other amounts required to be deposited therein by the Indenture or the Bond Act. Moneys in the Redemption Fund, exclusive of those in the Penalties and Interest Account therein, will be held by the Trustee for the benefit of WRCOG and Owners of the related Series of Bonds and disbursed for the payment of the principal of (including Sinking Account Payments), and interest and any redemption premium on, the related Series of Bonds as provided below. The moneys held in the Penalties and Interest Account of the Redemption Fund will be held by the Trustee for the benefit of the Owners of the Related Series of Bonds and disbursed at the times and for the purposes set forth in Section 4.01(B).

(1) Within the Redemption Fund there is hereby established a Prepayment Account for each Series of Bonds, which will be used exclusively for the administration of any Related Prepayments pursuant to Section 8767 of the Bond Act and paragraph (C) of Section 2.03 and the provisions of the Related Supplemental Indenture to assure the timely redemption of the Related Series of Bonds. If all of the Related Assessments securing such Series of Bonds are paid in full WRCOG shall deliver a Certificate of WRCOG directing the Trustee to close such Prepayment Account.

Within the Redemption Fund there is also hereby established:

- (i) the Capitalized Interest Account, to the credit of which a deposit will be made from the proceeds of the related Series of Bonds pursuant to Section 2.01;
- (ii) the Extraordinary Mandatory Redemption Account which will be used exclusively for administration of any Excess Program Account Proceeds;
- (iii) the Penalties and Interest Account, to the credit of which any Penalties and Interest will be deposited; and
- (iv) the Assessment Collection Account to the credit of which deposits will be made as described below.

[Unless otherwise instructed by WRCOG, each such account will be established in the Redemption Fund for accounting purposes only].

(2) Assessment Collection Account. Except for Prepayments which shall be deposited in the Prepayment Account, Excess Program Account Proceeds which shall be deposited into the Extraordinary Mandatory Redemption Account, Penalties and Interest which shall be deposited in the Penalties and Interest Account, or as otherwise provided in this paragraph (b), the Trustee shall deposit into the Assessment Collection Account all proceeds and payments with respect to each Assessment, including, without limitation:



- (i) Assessment Installments;
- (ii) any amounts transferred to the Assessment Collection Account from the debt service reserve fund, if any, established pursuant to the Related Supplemental Indenture for the Related Series of Bonds;
- (iii) any proceeds from the collection of delinquent Assessment Installments as a result of a foreclosure proceeding conducted pursuant to Section 5.02 against the Participating Parcel on which the applicable Assessment has been levied or otherwise (excluding (A) amounts identified as representing attorney's fees and costs incurred by WRCOG or such other person in prosecuting such foreclosure proceeding and (B) amounts required to be transferred hereunder to replenish the debt service reserve fund, if any, established for the Related Series of Bonds);
- (iv) any amounts received pursuant to the County's Teeter Plan with respect to the Assessments securing the Related Series of Bonds; and
- (v) any amount transferred to the Assessment Collection Account from the respective Program Account pursuant to a Certificate of WRCOG delivered to the Trustee.

All amounts in the Assessment Collection Account shall be used and withdrawn by the Trustee solely for the purpose of:

- (i) paying the Debt Service on the Related Series of Bonds on an Interest Payment Date;
- (ii) the payment of remaining principal with respect to the Related Series of Bonds on the respective maturity date thereof;
- (iii) the payment of the principal of and the accrued but unpaid interest and premium, if any, on any Bond upon the redemption thereof as provided in a Supplemental Indenture (excluding mandatory redemptions occurring as a result of a Prepayment or application of Excess Program Account Proceeds ); or
- (iv) reimbursing WRCOG or a third party from the proceeds of payments representing the redemption of delinquent Assessment Installments for which advances were made by WRCOG or such third party.

All amounts in the Assessment Collection Account, including any earnings on the amounts held in the Assessment Collection Account, shall be held in trust for the benefit of the Bond Owners.

(3) Extraordinary Mandatory Redemption Account. The Trustee shall, upon receipt of a Certificate of WRCOG directing the Trustee to transfer Excess Program Account Proceeds to the Extraordinary Mandatory Redemption Account from the related Program Account, deposit such proceeds in such account. Amounts deposited in the Extraordinary Mandatory Redemption Account shall be credited to the Bond specified in such Certificate of WRCOG and used and

withdrawn by the Trustee solely for the purpose of redeeming such Bond, in whole or in part, on any Interest Payment. The principal amount of the Bond to be redeemed shall equal the amount of the Excess Program Account Proceeds plus the amount, if any, as specified in such Certificate of WRCOG that is then on deposit in the Assessment Collection Account and to be credited to the payment of principal amount of such Bond; provided, however, such principal amount shall be decreased if and to the extent that the amount on deposit in the Assessment Collection Account and/or the Capitalized Interest Account in connection with such Bond is insufficient to pay the accrued interest on such Bond to the date of redemption. The redemption price for such Bond shall be equal to the amount of the Excess Program Account Proceeds, plus the amount, if any, on deposit in the Assessment Collection Account to be credited to the payment of principal amount of such Bond, plus interest to the date of redemption to be paid from the Assessment Collection Account and/or the Capitalized Interest Account, without premium. Interest shall cease to accrue on such Bond, or the principal amount of such Bond that is subject to redemption, from and after the date of redemption. All amounts in the Extraordinary Mandatory Redemption Account, including any earnings on the amounts held therein, shall be held in trust for the benefit of the applicable Bond Owners.

**(B) Disbursements.** On or before each Interest Payment Date set forth in the table set forth in each Bond pursuant to the Related Supplemental Indenture with respect to each Series of Bonds, the Trustee will withdraw from the applicable accounts in the Redemption Fund and pay to the Owners of the Bonds the principal of (including Sinking Account Payments, if any), and interest and any redemption premium then due and payable on, the Related Series of Bonds. At least five (5) Business Days prior to each Interest Payment Date, WRCOG shall cause the Assessment Administrator to provide to the Trustee written information, upon which the Trustee may conclusively rely, as to amounts in the applicable accounts in the Redemption Fund that are for the credit of each Bond for purposes of making such payments pursuant to the Indenture. Funds on deposit in the Redemption Fund (and any account established thereunder) and credited to a Bond shall not be used to pay the principal of, or interest or any premium on, any other Bond.

If there are insufficient funds in the Redemption Fund to pay to the Owners of the Related Series of Bonds the principal of (including Sinking Account Payments), and interest and any redemption premium then due and payable on, the Related Series of Bonds, the Trustee will apply the available funds first to the payment of interest on the Related Series of Bonds, then to the payment of principal due on the Related Series of Bonds (including Sinking Account Payments), and then to payment of interest to the date of redemption and principal and any redemption premium due on the Related Series of Bonds by reason of Related Series of Bonds called for optional redemption or mandatory prepayment redemption.

On each September 2, in accordance with the direction of WRCOG, the Trustee will use any amounts remaining in the Redemption Fund after payment of interest on the Related Series of Bonds through such September 2 and the payment of principal due on the Related Series of Bonds through such September 2, but excluding any amounts remaining in the Prepayment Account, the Penalties and Interest Account, the Capitalized Interest Account or the Extra Mandatory Redemption Account, to reduce the installments of the Related Assessments that are levied in the current or succeeding Bond Year upon the Participating Parcel(s) to pay the principal of and interest on the Related Series of Bonds.

On or before each Interest Payment Date, the Trustee will, at the direction of WRCOG, withdraw from the Penalties and Interest Account and pay to the Owners of the Related Series of Bonds any amounts on deposit therein as additional interest on the Related Series of Bonds.

The Trustee will disburse the amounts in the Assessment Collection Account that are attributable to the payment of the Non-Completion Assessment pursuant to Section 5.01(A) to pay the redemption price for as many Bonds as possible on the first possible redemption date pursuant to Section 2.03, including accrued interest to the redemption date and the applicable redemption premium (if any) specified in Section 2.03.

**(C) Investment.** Moneys in the Redemption Fund (and the accounts therein) will be invested and deposited in accordance with Section 6.01. Interest earnings and profits resulting from such investment and deposit will be retained in the Redemption Fund and the accounts therein, as applicable.

**(D) Transfers from Reserve Fund.** Amounts transferred to the Redemption Fund from a debt service reserve fund, if any, established pursuant to the Related Supplemental Indenture for a Series of Bonds will be used in accordance with Part 16 of the Bond Act as directed in an appropriate Certificate of WRCOG.

#### **Section 4.02. Program Fund.**

**(A) Establishment of Program Fund and the Accounts Therein.** The Program Fund is hereby established as a separate fund to be held by the Trustee and within such fund the following accounts are established: (i) the Program Account, (ii) the Cost of Issuance Account and (iii) the Administrative Expense Account.

**(B) Deposits to the Accounts within the Program Fund.** The Trustee shall, pursuant to the Supplemental Indenture for the Related Series of Bonds, establish the foregoing accounts with respect to such Related Series of the Bonds, to the credit of which deposits will be made (i) from the proceeds of the Related Series of Bonds as specified in such Supplemental Indenture, (ii) as required by Section 5.01(A) and (iii) as otherwise required by the Indenture or the Bond Act.

**(C) Disbursements.** Moneys in the accounts of the Program Fund will be held by the Trustee and will be disbursed as provided in this paragraph (B).

**(ii) Disbursements from Program Accounts.** Amounts in each Program Account will be disbursed from time to time to pay for the costs of installing the Related Improvements in accordance with the Related Assessment Contract, as set forth in written instructions of the Program Administrator delivered to the Trustee containing the amounts to be paid to the designated payees. Such written instructions will be sufficient evidence to the Trustee of the facts stated therein and the Trustee will have no duty to confirm the accuracy of such facts.

The Trustee will maintain funds on deposit in the Program Account established for a Series of Bonds until receipt by the Trustee of a Certificate of WRCOG: (a) notifying the Trustee that all Improvement Costs to be paid from such account pursuant to a Related Assessment Contracts have been paid and directing the Trustee to transfer

the Excess Program Fund Proceeds remaining on deposit in such Program Account as follows: (i) transfer such Excess Program Fund Proceeds in the amount of \$500 or more as specified in such Certificate of WRCOG to the Extraordinary Mandatory Redemption Account of the Redemption Fund to be applied to the redemption pursuant to paragraph (D) of Section 2.03 of the Related Series of Bonds, in whole or in part, specified in such Certificate of WRCOG; or (ii) directing the Trustee to transfer any moneys remaining on deposit in such account, including any investment earnings thereon, to the Assessment Collection Account of the Redemption Fund for the credit of such Series of Bond(s).

Funds on deposit in a Program Account and credited to a Bond shall be used solely to pay or reimburse the Improvement Costs associated with the Participating Parcel that has been levied by an Assessment that secures such Bond, and shall not be used to pay the Improvement Costs associated with any other Participating Parcel underlying any other Bond of the same Series or otherwise.

(iii) Disbursements from the Cost of Issuance Accounts. Moneys in each Costs of Issuance Account will be held in trust by the Trustee and will be disbursed as provided in this paragraph (ii) for the payment or reimbursement of Costs of Issuance for the Related Series of Bonds.

Amounts in the Costs of Issuance Account for a Related Series of Bonds will be disbursed from time to time to pay Costs of Issuance for such Related Series of Bonds, as set forth in a Certificate of WRCOG containing respective amounts to be paid to the designated payees and delivered to the Trustee concurrently with the delivery of the Related Series of Bonds, or in any future requisition submitted by WRCOG to the Trustee. Each such certificate will be sufficient evidence to the Trustee of the facts stated therein and the Trustee will have no duty to confirm the accuracy of such facts. The Trustee will pay all Costs of Issuance after receipt of the Certificate of WRCOG, or an invoice from any such payee which requests payment in an amount which is less than or equal to the amount set forth with respect to such payee pursuant to the Certificate of WRCOG requesting payment of Costs of Issuance. The Trustee will maintain the Costs of Issuance Account for a period of one hundred twenty (120) days from the final date of delivery of the Related Series of Bonds and then will transfer any moneys remaining therein, including any investment earnings thereon, to the Administrative Expense Account for such Related Series of Bonds.

(iv) Disbursements from the Administrative Expense Accounts. Amounts in each Administrative Expense Account shall be used by WRCOG to pay Administrative Expenses for the Related Series of Bonds. Amounts in the Administrative Expense Account for a Related Series of Bonds will be disbursed from time to time to pay Administrative Expenses for such Related Series of Bonds, as set forth in a Certificate of WRCOG containing respective amounts to be paid to the designated payees and delivered to the Trustee. Each such certificate will be sufficient evidence to the Trustee of the facts stated therein and the Trustee will have no duty to confirm the accuracy of such facts. The Trustee will pay all Administrative Expenses after receipt of the Certificate of WRCOG, or an invoice from any such payee which requests payment in an amount

which is less than or equal to the amount set forth with respect to such payee pursuant to the Certificate of WRCOG requesting payment of Administrative Expenses.

**(D) Closure of the Program Fund and the Accounts Therein.**

(ii) Closure of the Program Fund. The Trustee will maintain the Program Fund until all amounts in the Program Fund and the accounts therein are expended or until WRCOG directs the Trustee to close the fund and all accounts therein, and then the Trustee will transfer any moneys remaining therein, including any investment earnings thereon, to the Redemption Fund to pay the redemption price for as many Bonds as possible on the first possible redemption date pursuant to Section 2.03(A), including accrued interest to the redemption date and the applicable redemption premium, or to make payments on the Bonds as they come due, as directed by WRCOG.

(iii) Closure of the Cost of Issuance Accounts. The Trustee will maintain the funds on deposit the Cost of Issuance Account for each Series of Bonds until all such funds are expended or until as directed by a Certificate of WRCOG directing the Trustee to close such account and to transfer any money remaining on deposit in such account to the Administrative Expense Account for such Series of Bonds.

(iv) Closure of the Administrative Expense Accounts. The Trustee shall maintain the Administrative Expense Account for each Series of Bonds until (a) the payment of all Bonds included in such Series and the surrender of such Bonds to the Trustee for cancellation and payment of all outstanding Administrative Expenses due and payable hereunder and (b) the receipt by the Trustee of a Certificate of WRCOG declaring that all obligations of WRCOG with respect to such Series of Bonds have been satisfied. Upon satisfaction of such conditions the Trustee shall deliver all amounts then remaining in such account to WRCOG and any outstanding Administrative Expenses shall be payable solely from WRCOG. All such amounts delivered to WRCOG and not required to pay Administrative Expenses for such Series of Bonds may be used for any lawful purpose of WRCOG.

**(E) Investment.** Moneys in the Program Fund and the accounts therein will be invested and deposited in accordance with Section 6.01. Earnings and profits resulting from said investment will be retained by the Trustee in the applicable account of the Program Fund to be used for the purposes of such account.

**Section 4.03. Reserve Fund.** As to any Series of Bonds, the Trustee may be directed pursuant to the Related Supplemental Indenture to establish and maintain a debt service reserve fund in trust separate and distinct from the other funds and accounts for such Series of Bonds established under the Indenture. The failure to maintain an amount in a debt service reserve fund which may be established for a Series of Bonds shall not be a default or an Event of Default hereunder.

**Section 4.04. Establishment of Subaccounts.** The Trustee may establish subaccounts within any of the funds or accounts established under this Master Indenture or any Supplemental Indenture at the written request of WRCOG or if the Trustee determines in its sole discretion that

such subaccounts are beneficial for the administration of the Bonds or for record-keeping purposes.

## ARTICLE V

### COVENANTS OF WRCOG

**Section 5.01. Collection of Assessments.** WRCOG will comply with all requirements of Chapter 29, the Bond Act and the Indenture to assure the timely collection of the Assessments, including, without limitation, the enforcement of delinquent Assessments. To that end, the following will apply:

(A) The Assessments, together with the interest thereon, will be payable in the installments specified in the Assessment Contracts. Each Assessment Installment will be payable in the same manner and at the same time and in the same installments as the general taxes on real property are payable, and become delinquent at the same times and bear the same proportionate Penalties and Interest after delinquency as do the general taxes on real property. All sums received from the collection of the Assessments (except for amounts received by WRCOG as a result of the payment of a Non-Completion Assessment, which shall be deposited as set forth in the following paragraph, and amounts allocable to Administrative Expenses, which shall be deposited in the Administrative Expense Account) will be transferred from the County to the Trustee for deposit into the Assessment Collection Account. All sums received from the collection of any Penalties and Interest will be transferred to the Trustee for deposit into the Penalties and Interest Account of the Redemption Fund.

WRCOG will notify the Trustee when it receives the payment of a Non-Completion Assessment and (x) transfer the amount of the Non-Completion Assessment payment intended to be used to redeem the Related Series of Bonds to the Trustee with a direction to deposit such amount in the applicable Assessment Collection Account and (x) transfer the amount of the Non-Completion Assessment payment intended to be used to pay Administrative Expenses to the Trustee with a direction to deposit such amount in the Administrative Expense Account.

(B) WRCOG will, before the final date on which the Auditor will accept the transmission of the Assessment Installments for the Participating Parcels for inclusion on the next tax roll, prepare or cause to be prepared, and will transmit to the Auditor, such data as the Auditor requires to include the installments of the Assessments on the next secured tax roll. WRCOG is hereby authorized to employ consultants to assist in computing the installments of the Assessments hereunder.

(C) In the event that a County files a petition under Chapter 9 or is otherwise unable or unwilling to include the Assessment Installments and the Annual Assessment Administrative Fees on the tax roll and to collect such amounts on the property tax bill for any Fiscal Year, WRCOG covenants to:

(ii) take such action as shall be necessary to enforce the statutory and contractual obligations of such County to include the Assessment Installments and the Annual Assessment Administrative Fees on the tax roll each Fiscal Year and to collect such amounts on the property tax bills of the Participating Parcels for any Fiscal Year, and

(iii) exercise its best efforts to collect such Assessment Installments and Annual Assessment Administrative Fees by directly billing the owners of the Participating Parcels for their respective Assessment Installments and Annual Assessment Administrative Fees.

WRCOG makes no representation or warranty regarding its ability to collect such Assessment Installments and Annual Assessment Administrative Fees by such direct billing pursuant to paragraph (C)(ii) above or its ability or legal authority to enforce the payment of Assessment Installments and Annual Assessment Administrative Fees directly billed by WRCOG to the owners of Participating Parcels through a judicial foreclosure action in the event of the delinquency in the payment of any such Assessment Installments and Annual Assessment Administrative Fees.

If WRCOG is unable to enforce the statutory and contractual obligations of the County to include the Assessment Installments and the Annual Assessment Administrative Fees on the tax roll each Fiscal Year or to collect, or cause any other person acting on its or the County's behalf to collect, the Assessment Installments, the Annual Assessment Administrative Fees or any other amounts with respect to the Assessments, which is absolute and unconditional, to pay the interest and redemption premium (if any) on and principal of the related Series of Bonds to the respective Owners of the related Series of Bonds when due and all Administrative Expenses (including indemnity), as herein provided, out of the Related Assessments pledged for such payment, or affect or impair the right of action, which is also absolute and unconditional, then the Trustee may, on behalf of such Owners, institute suit to enforce such payment by virtue of the contract embodied in the respective Series of Bonds and in the Indenture. Nothing in this Section 5.01 shall limit in any way the rights of the Owners to declare an Event of Default pursuant to Section 9.01 hereof or to pursue all rights and remedies available to such Owners under this Master Indenture and applicable law.

**Section 5.02. Foreclosure.** WRCOG hereby covenants with and for the benefit of the Owners of the Bonds that it will order, and cause to be commenced, and thereafter diligently prosecute an action in the superior court to foreclose the lien of any Assessment or installment thereof which has been billed, but has not been paid, pursuant to and as provided in sections 8830 and 8835, inclusive, of the Bond Act and the conditions specified in this Section 5.02.

No later than October 1 each year, WRCOG will determine whether any single Participating Parcel is delinquent in the payment of two or more semiannual installments (or as long as there is a single Owner, of any semi-annual installments of Assessment payments, including any payment of principal, interest, redemption premium (if any) and Penalties and Interest, and, if so, will notify WRCOG Counsel, and the Owner of the related Series of Bonds as long as there is a single Owner, of any such delinquencies. WRCOG Counsel will commence, or cause to be commenced, the foreclosure proceedings against each such delinquent Participating Parcel, including collection actions preparatory to the filing of any complaint, but will file the complaint by the immediately succeeding December 1. WRCOG Counsel is hereby authorized to employ counsel to conduct any such foreclosure proceedings. The fees and expenses of any such counsel (including a charge for staff time) in conducting foreclosure proceedings shall be an Administrative Expense hereunder. In the event funds on deposit in the Administrative Fund are insufficient to pay for such fees and expenses, Renovate America shall advance funds for such



fees and expenses. Renovate America shall be entitled to reimbursement of such advances upon receipt by WRCOG of foreclosure proceeds.

However, notwithstanding the foregoing, WRCOG may elect, in its sole discretion, to defer foreclosure proceedings on any Participating Parcel if WRCOG has received funds equal to the delinquent Related Assessments from any other source, and those funds are available to contribute toward (i) Administrative Expenses and (ii) the payment of the principal of (including Sinking Account Payments) interest, redemption premium (if any) and Penalties and Interest on the Related Series of Bonds when due (including without limitation funds from the sale of the receivables associated with delinquent Related Assessments).

Further notwithstanding the foregoing, as to each Series of Bonds, as long as there is a single Owner of such Bond or Bonds, WRCOG will not initiate foreclosure proceedings unless directed in writing to do so within the time period contemplated by the Section 8834 of the Bond Act by the Owner of such Bond or Bonds, which written direction must be delivered to WRCOG along with an amount reasonably determined by WRCOG to be sufficient to pay its costs of prosecuting the foreclosure. Nothing in this paragraph is intended to limit any obligation imposed on WRCOG by the Revenue & Taxation Code with respect to tax defaulted properties. If the Owner of the Bond or Bonds pays the costs of prosecuting the foreclosure, it shall be entitled to recover such costs in the foreclosure proceedings to the extent permitted by law.

Penalties and Interest are payable to the Owner of the Bonds as set forth in Section 4.01(B).

**Section 5.03. Punctual Payment.** WRCOG will punctually pay or cause to be paid the principal of (including Sinking Account Payments), and interest and any redemption premium on, the Bonds when and as due in strict conformity with the terms of the Indenture, and it will faithfully observe and perform all of the conditions, covenants and requirements of the Indenture and of the Bonds.

**Section 5.04. Extension of Time for Payment.** In order to prevent any accumulation of claims for interest after maturity, WRCOG will not, directly or indirectly, extend or consent to the extension of the time for the payment of any interest on any of the Bonds and will not, directly or indirectly, be a party to the approval of any such arrangement by purchasing or funding any claims for interest on any of the Bonds, or in any other manner.

**Section 5.05. Against Encumbrance.** WRCOG will not encumber, pledge or place any charge or lien upon any of the Assessments or other amounts pledged to the Bonds superior to or on a parity with the pledge and lien herein created for the benefit of the Bonds, except as permitted by the Resolution of Issuance, the Indenture, Chapter 29 and the Bond Act and with the written consent of the Owners.

**Section 5.06. Books and Accounts.** WRCOG will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of WRCOG, in which complete and correct entries will be made of all transactions relating to the Assessments and the application of amounts disbursed from the funds and accounts held by WRCOG hereunder,

which records will be subject to inspection by the Trustee upon reasonable prior notice on any Business Day.

**Section 5.07. Protection of Security and Rights of Owners.** WRCOG will preserve and protect the security of the Bonds and the rights of the Owners thereto, and will warrant and defend their rights to such security against all claims and demands of all persons. From and after the delivery of any of the Bonds by WRCOG, the Bonds will be incontestable by WRCOG. WRCOG will take all commercially reasonable measures to enforce the provisions of the Assessment Contract.

**Section 5.08. Compliance with Law; Completion of Improvements.** WRCOG will comply with all applicable provisions of Chapter 29 and the Bond Act in providing financing for the Improvements, but WRCOG will have no obligation to advance any funds to complete Related Improvements in excess of the proceeds of the Bonds available therefor.

**Section 5.09. Further Assurances.** WRCOG will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of the Indenture, and for the better assuring and confirming unto the Owners of the rights and benefits provided in the Indenture.

## ARTICLE VI

### INVESTMENTS; LIABILITY OF WRCOG

**Section 6.01. Deposit and Investment of Moneys in Funds.** The following will apply to the investment of funds held by the Trustee:

(ii) Moneys in any fund or account created or established by the Indenture and held by the Trustee will be invested by the Trustee in Permitted Investments, as directed pursuant to a Certificate of WRCOG filed with the Trustee at least two (2) Business Days in advance of the making of such investments. Ratings of Permitted Investments shall be determined at the time of purchase of such Permitted Investments and without regard to ratings subcategories. In the absence of any such Certificate of WRCOG, the Trustee shall hold funds uninvested.

Obligations purchased as an investment of moneys in any fund will be deemed to be part of such fund or account, subject, however, to the requirements of the Indenture for transfer of interest earnings and profits resulting from investment of amounts in funds and accounts.

(iii) The Trustee may act as principal or agent in the acquisition or disposition of any investment. The Trustee may make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge its ordinary and customary fees for such trades, including investment maintenance fees. The Trustee will incur no liability for losses arising from any investments made pursuant to this Section. The Trustee will be entitled to rely upon any investment directions from WRCOG as conclusive a certification to the Trustee that the investments described therein are so authorized under the laws of the State of California.

The Trustee will not invest any cash held by it hereunder in the absence of timely and specific written direction from WRCOG. In no event will the Trustee be liable for the selection of investments.

(iv) Investments in any and all funds and accounts may at the discretion of the Trustee be commingled in a separate fund or funds for purposes of making, holding and disposing of investments, notwithstanding provisions herein for transfer to or holding in or to the credit of particular funds or accounts of amounts received or held by the Trustee hereunder, provided that the Trustee will at all times account for such investments strictly in accordance with the funds and accounts to which they are credited and otherwise as provided in the Indenture.

(v) The Trustee will sell, or present for redemption, any investment security whenever it is necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such investment security is credited. The Trustee will not be liable or responsible for any loss resulting from the acquisition or disposition of such investment security in accordance herewith.

(v) Although WRCOG recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, WRCOG hereby agrees that confirmations of Permitted Investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month.

**Section 6.02. Limited Liability of WRCOG.** WRCOG will not be obligated to make any payments required hereunder or under any Bond, or be deemed to incur any liability hereunder or by reason hereof or arising out of any of the transactions contemplated hereby, payable from any funds or assets other than as specifically provided herein.

**Section 6.03. Employment of Agents by WRCOG.** In order to perform its duties and obligations hereunder, WRCOG may employ such persons or entities as it deems necessary or advisable. WRCOG will not be liable for any of the acts or omissions of such persons or entities employed by it with reasonable care and in good faith hereunder, and will be entitled to rely, and will be fully protected in doing so, upon the opinions, calculations, determinations and directions of such persons or entities. Nothing in this Section 6.03 shall be interpreted to prevent the Owner of the Bonds from seeking remedies for an Event of Default as set forth in Section 9.02.

## ARTICLE VII

### THE TRUSTEE

**Section 7.01. Appointment of Trustee.** Wilmington Trust, National Association, is hereby appointed trustee and paying agent for the Bonds. The Trustee undertakes to perform such duties, and only such duties, as are specifically set forth in the Indenture, and no implied covenants or obligations will be read into the Indenture against the Trustee. With respect to the appointment of the Trustee, the following will apply:

(A) Any bank or company into which the Trustee may be merged or converted or with which it may be consolidated, or any bank or company resulting from any merger, conversion or consolidation to which it is a party, or any bank or company to which the Trustee may sell or transfer all or substantially all of its corporate trust business (if such bank or company is eligible under the following paragraph of this Section 7.01) will be the successor to such Trustee without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding. The Trustee will give WRCOG written notice of any such succession hereunder.

(B) WRCOG may, upon not less than sixty (60) days' prior written notice, remove the Trustee initially appointed and any successor thereto, and may appoint a successor thereto, but any Trustee will be a national banking association or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least \$75,000,000 and subject to supervision or examination by federal or state authority. If such national banking association or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section 7.01, combined capital and surplus of such national banking association or trust company will be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(C) The Trustee may at any time resign by giving written notice to WRCOG and by giving to the Owners notice by mail of such resignation. Upon receiving notice of such resignation, WRCOG will promptly appoint a successor Trustee, satisfying the requirements of Section 7.01(B) above, by an instrument in writing. Any resignation or removal of the Trustee will become effective upon acceptance of appointment by the successor Trustee.

(D) If, by reason of the judgment of any court, the Trustee is rendered unable to perform its duties hereunder, WRCOG will promptly appoint a successor Trustee by an instrument in writing.

(E) If no appointment of a successor Trustee is made pursuant to the foregoing provisions of this Section within forty-five (45) days after the Trustee has given to WRCOG written notice or after a vacancy in the office of the Trustee has occurred by reason of its inability to act, the Trustee or any Bond Owner may apply, at the expense of WRCOG, to any court of competent jurisdiction to appoint a successor Trustee. That court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

**Section 7.02. Liability of Trustee.** With respect to the liability of the Trustee, the following will apply:

(A) The recitals of facts, covenants and agreements herein and in the Bonds contained will be taken as statements, covenants and agreements of WRCOG, and the Trustee assumes no responsibility for the correctness of the same, makes no representations as to the validity or sufficiency of the Indenture or of the Bonds, or will incur any responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Bonds assigned to or imposed upon it. The Trustee will not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Trustee assumes no responsibility or liability for any information, statement or recital in any official statement or other disclosure material prepared or distributed with respect to the issuance of the Bonds.

(B) The Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of the Indenture; but in the case of any such certificates or opinions by which any provision hereof are specifically required to be furnished to the Trustee, the Trustee will be under a duty to examine the same to determine whether or not they conform to the requirements of the Indenture on their face.

Except as provided above in this paragraph, Trustee will be fully protected and will incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of the Indenture, upon any resolution, order, notice, request, consent or waiver, certificate, statement, affidavit, or other paper or document which it in good faith reasonably believes to be genuine and to have been adopted or signed by the proper person or to have been prepared and furnished pursuant to any provision of the Indenture, and the Trustee will not be under any duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument.

(C) The Trustee will not be liable for any error of judgment made in good faith by a responsible officer unless it is proved that the Trustee was negligent in ascertaining the pertinent facts.

(D) No provision of the Indenture will require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(E) The Trustee will be under no obligation to exercise any of the rights or powers vested in it by the Indenture at the request or direction of WRCOG or any of the Owners pursuant to the Indenture unless such Owners have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction. The permissive right of the Trustee to do things enumerated in this Master Indenture shall not be construed as a duty.

(F) The Trustee may become the owner of the Bonds with the same rights it would have if it were not the Trustee.

**(G)** The Trustee will not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay (“unavoidable delay”) in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event or occurrences beyond the control of the Trustee.

**(H)** The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions (“Instructions”) given pursuant to this Master Indenture and delivered using Electronic Means; provided, however, that WRCOG shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions and containing specimen signatures of such Authorized Representatives, which incumbency certificate shall be amended by WRCOG whenever a person is to be added or deleted from the listing. If WRCOG elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee’s understanding of such Instructions shall be deemed controlling. WRCOG understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Representative listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Representative. WRCOG shall be responsible for ensuring that only Authorized Representatives transmit such Instructions to the Trustee and that WRCOG and all Authorized Representatives are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Corporation. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee’s reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. WRCOG agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by WRCOG; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

**(I)** The Trustee will have no responsibility or liability with respect to any information, statements or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Bonds.

(J) The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, affiliates, or receivers, and will be entitled to advice of counsel concerning all matters of trust and its duty hereunder, and the Trustee will not be answerable for the default or misconduct of any such attorney, agent, or receiver selected by it with reasonable care.

(K) The Trustee shall not be accountable for the use or application by WRCOG of any of the Bonds or the proceeds thereof or for the use or application of any money paid over by the Trustee in accordance with the provisions of this Master Indenture or any Supplemental Indenture or for the use and application of money received by any paying agent.

**Section 7.03. Information; Books and Accounts.** The Trustee will provide to WRCOG such information relating to the Bonds and the funds and accounts maintained by the Trustee hereunder as WRCOG may reasonably request, including, but not limited to, quarterly statements reporting funds held and transactions by the Trustee.

The Trustee will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Trustee, in which complete and correct entries will be made of all transactions made by it relating to the expenditure of amounts disbursed from the Redemption Fund and the accounts therein. Such books of record and accounts will, upon reasonable notice, at all times during business hours on any Business Day be subject to the inspection of WRCOG and the Owners of not less than 10% of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing.

**Section 7.04. Notice to Trustee.** The Trustee may conclusively rely, without undertaking any investigation or inquiry, and will be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, facsimile transmission, electronic mail, warrant, bond or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or proper parties.

The Trustee may consult with counsel, who may be counsel to WRCOG, with regard to legal questions, and the opinion of such counsel will be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

The Trustee will not be bound to recognize any person as the Owner of a Bond unless and until such person is the registered Owner of such Bond and such Bond is submitted for inspection, if required, and such Owner's title thereto satisfactorily established, if disputed.

Whenever in the administration of its duties under the Indenture the Trustee deems it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by a certificate of an Authorized Representative of WRCOG, and such certificate will be full warrant to the Trustee for any action taken or suffered under the provisions of the Indenture or any Supplemental Indenture upon the faith thereof, but



in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

**Section 7.05. Compensation; Indemnification.** WRCOG will pay to the Trustee from time to time reasonable compensation for all services rendered as Trustee under the Indenture, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of the Trustee's in house or other attorneys and agents, incurred in and about the performance of their powers and duties under the Indenture.

WRCOG further agrees, to the extent permitted by applicable law, to indemnify and save the Trustee, its officers, employees, directors and agents harmless against any losses, expenses, costs, claims, judgments, damages, suits or liabilities which it may incur in the exercise and performance of its powers and duties hereunder (including, without limitation, legal fees and expenses) which are not due to its negligence or willful misconduct. As security for the performance of the obligations of WRCOG under this section pertaining to exercise and performance of the powers and duties of the Trustee hereunder related to any Bond or Series of Bonds, the Trustee shall have a lien prior to such Bond or Series of Bonds upon all property and funds held or collected by the Trustee as such pertaining to such Bond or Series of Bonds, except funds held in trust for the payment of principal of or interest or premiums on such Bond or Series of Bonds.

The obligation of WRCOG under this Section will survive resignation or removal of the Trustee under the Indenture and payment of the Bonds and discharge of the Indenture.

**Section 7.06. Trustee as Owner.** In the event the Trustee wishes to purchase the Bonds, the Trustee may become the owner of any of the Bonds in its own or any other capacity with the same rights it would have if it were not Trustee.

## ARTICLE VIII

### MODIFICATION OR AMENDMENT OF THE INDENTURE

#### Section 8.01. Conditions for Amendment.

(A) **Amendment with Consent of Bond Owners.** The Indenture and the rights and obligations of WRCOG and of the Owners of the Bonds may be modified or amended at any time by a Supplemental Indenture with the written consent of the Owners of at least 60% in aggregate principal amount of the Bonds then Outstanding, or, alternatively, if such amendment or modification affects only one or more Series of Bonds, with the written consent of the Owners of at least a majority in aggregate principal amount of such Series (which may include Series to be issued contemporaneously with the amendment or modification), in each case exclusive of Bonds disqualified as provided in Section 8.03.

No such modification or amendment may:

(ii) extend the maturity of any Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of WRCOG to pay the principal of, and the interest, any redemption premium or Penalties and Interest on, any Bond, without the express consent of the Owner of such Bond; or

(iii) permit the creation by WRCOG of any pledge or lien upon the Assessments pledged to any Series of Bonds superior to or on a parity with the pledges and liens created for the benefit of such Series of Bonds, without the express written consent of the Owners of all Outstanding Bonds of such Series; or

(iv) reduce the percentage of Bonds required for the amendment hereo; or

(v) amend this Section 8.01.

Any such amendment may not modify any of the rights or obligations of the Trustee without its written consent.

(B) **Amendment without Consent of Bond Owners.** The Indenture and the rights and obligations of WRCOG and of the Owners may also be modified or amended at any time by a Supplemental Indenture, without the consent of any Owners, only to the extent permitted by law and only for any one or more of the following purposes:

(ii) Additions. To add to the covenants and agreements of WRCOG contained in the Indenture, other covenants and agreements thereafter to be observed, or to limit or surrender any right or power herein reserved to or conferred upon WRCOG, so long as such addition, limitation or surrender does not adversely affect any outstanding Bonds in any material respect, as evidenced by an opinion of Bond Counsel delivered to the Trustee.

(iii) Not Materially Adversely Affecting Bonds. To make modifications not adversely affecting any outstanding Bonds in any material respect, as evidenced by an opinion of Bond Counsel delivered to the Trustee.

(iv) Corrections. To make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in the Indenture, or in regard to questions arising under the Indenture, as WRCOG may deem necessary or desirable and not inconsistent with the Indenture, and which will not materially adversely affect the rights of the Owners of the Bonds as evidenced by an opinion of Bond Counsel delivered to the Trustee.

(v) Issuance of Bonds. To issue Bonds in accordance with the Indenture.

(vi) Credit Enhancements. To provide for the delivery of credit enhancements for one or more Bonds or Series of Bonds.

**Section 8.02. Procedure for Amendment with Written Consent of Owners.** WRCOG and the Trustee may at any time adopt a Supplemental Indenture amending the provisions of the Bonds or of the Indenture, to the extent that such amendment is permitted by Section 8.01, to take effect when and as provided in this Section. With respect to such Supplemental Indenture under this Section, the following will apply:

(A) A copy of such Supplemental Indenture, together with a request to respective Owners for their consent thereto, will be mailed by first class mail, by the Trustee to each Owner of respective Bonds Outstanding, but failure to mail copies of such Supplemental Indenture and request will not affect the validity of the Supplemental Indenture when assented to as provided in this Section.

(B) Such Supplemental Indenture will not become effective unless there has been filed with the Trustee the written consents of the Owners of at least 60% in aggregate principal amount of the Bonds then Outstanding or, if such amendment or modification affects only one or more Series of Bonds, with the written consent of the Owners of at least a majority in aggregate principal amount of such Series as applicable (exclusive of Bonds disqualified as provided in Section 8.03) and a notice has been mailed as described in subsection (A) above. Each such consent will be effective only if accompanied by proof of ownership of the Bonds for which such consent is given, which proof will be such as is permitted by Section 10.04.

Any such consent will be binding upon the Owner of the Bonds giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Trustee prior to the date when the notice hereinafter in this Section provided for has been mailed.

(C) After the Owners of the required percentage of Bonds have filed their consents to the Supplemental Indenture, the Trustee will mail a notice to the Owners in the manner described in subsection (A) above for the mailing of the Supplemental Indenture, stating in substance that the Supplemental Indenture has been consented to by the Owners of the required percentage of Bonds and will be effective as provided in this Section; provided, however, that failure to mail

copies of this notice will not affect the validity of the Supplemental Indenture or consents thereto.

Proof of the mailing of such notice will be filed with the Trustee. A record, consisting of the papers required by this Section 8.02 to be filed with the Trustee, will be proof of the matters therein stated until the contrary is proved.

The Supplemental Indenture will become effective upon the filing with the Trustee of (a) the proof of the required notice, and (b) an approving opinion of Bond Counsel to the effect that the Supplemental Indenture complies with this Section 8.02. The Supplemental Indenture will be deemed conclusively binding (except as otherwise specifically provided in this Article) upon WRCOG and the Owners of all Bonds at the expiration of sixty (60) days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such 60-day period.

**Section 8.03. Disqualified Bonds.** Bonds owned or held for the account of WRCOG, excepting any pension or retirement fund, will not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Bonds provided for in this Article VIII, and will not be entitled to consent to, or take any other action provided for in this Article VIII; except that in determining whether the Trustee will be protected in relying upon any such approval or consent of an Owner, only Bonds which a responsible officer of the Trustee having direct responsibility for the administration of the Indenture actually knows to be owned by or held for the account of WRCOG (excepting any pension or retirement fund) will be disregarded unless all Bonds are so owned, in which case such Bonds will be considered Outstanding for the purpose of such determination.

Upon request of the Trustee, WRCOG will specify in a certificate to the Trustee those Bonds disqualified pursuant to this Section and the Trustee may conclusively rely on such certificate.

**Section 8.04. Effect of Supplemental Indenture.** From and after the time any Supplemental Indenture becomes effective pursuant to this Article VIII, the Indenture will be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations under the Indenture of WRCOG and all Owners of Bonds Outstanding will thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such Supplemental Indenture will be deemed to be part of the terms and conditions of the Indenture for any and all purposes.

**Section 8.05. Endorsement or Replacement of Bonds Issued After Amendment.** WRCOG may determine that Bonds issued and delivered after the effective date of any action taken as provided in this Article VIII will bear a notation, by endorsement or otherwise, in form approved by WRCOG, as to such action. In that case, upon request of the Owner of any Bond Outstanding at such effective date and presentation of his or her Bond for that purpose at the Principal Office of the Trustee or at such other office as WRCOG may select and designate for that purpose, a suitable notation will be made on such Bond.

WRCOG may determine that new Bonds, so modified as in the opinion of WRCOG is necessary to conform to such Owners' action, will be prepared, executed and delivered. In that case, upon request of the Owner of any Bonds then Outstanding, such new Bonds will be exchanged at the Principal Office of the Trustee without cost to any Owner, for Bonds then Outstanding, upon surrender of such Bonds.

**Section 8.06. Amendatory Endorsement of Bonds.** The provisions of this Article VIII will not prevent any Owner from accepting any amendment as to the particular Bonds held by him, provided that due notation thereof is made on such Bonds.

**Section 8.07. Execution of Supplemental Indenture.** Prior to executing any Supplemental Indenture hereunder, the Trustee will be entitled to receive an opinion of Bond Counsel stating that the execution of such Supplemental Indenture is authorized and permitted by the Indenture and that all conditions precedent to the execution of such Supplemental Indenture have been met.

## ARTICLE IX

### EVENTS OF DEFAULT; REMEDIES

**Section 9.01. Events of Default.** Any one or more of the following events will constitute an “Event of Default”:

(A) Default in the due and punctual payment of the principal of or redemption premium, if any, on any Bond when and as the same will become due and payable, whether at maturity as therein expressed or from mandatory redemption;

(B) Default in the due and punctual payment of the interest on any Bond when and as the same will become due and payable; or

(C) Default by WRCOG in the observance of any of the other agreements, conditions or covenants on its part in the Indenture or in the Bonds contained, and the continuation of such default for a period of thirty (30) days after WRCOG has been given notice in writing of such default by the Trustee or any Owner; *provided, however*, if in the reasonable opinion of WRCOG the failure stated in the notice can be corrected, but not within such thirty (30) day period, such failure shall not constitute an Event of Default if corrective action is instituted by WRCOG within such thirty (30) day period and WRCOG shall thereafter diligently and in good faith cure such failure within a reasonable period of time, such period of time not to exceed one hundred eighty (180) days after such default notice is delivered to WRCOG .

**Section 9.02. Remedies of Owners.** Following the occurrence of an Event of Default, any Owner will have the right (and the right to instruct the Trustee, subject to the Trustee’s rights under Section 7.02(E) hereof) for the equal benefit and protection of all Owners similarly situated:

(A) By mandamus or other suit or proceeding at law or in equity to enforce its, his or her rights against WRCOG and any of the members, officers and employees of WRCOG, and to compel WRCOG or any such members, officers or employees to perform and carry out their duties under Chapter 29 or the Bond Act and their agreements with the Owners as provided in the Indenture; or

(B) By suit in equity to enjoin any actions or things that are unlawful or violate the rights of the Owners.

(C) To exercise every power and remedy available to it under Chapter 29 or the Bond Act.

Nothing in this article or in any other provisions of the Indenture or in the Bonds will affect or impair the obligation of WRCOG, which is absolute and unconditional, to pay the interest, redemption premium (if any), and Penalties and Interest on and principal of the Bonds to the respective owners of the Bonds when due, as herein provided, out of the Related Assessments pledged for such payment, or affect or impair the right of action, which is also absolute and unconditional, of such Owners to institute suit to enforce such payment by virtue of the contract embodied in the Bonds and in the Indenture.

A waiver by any Owner of any default or breach of duty or contract will not affect any subsequent default or breach of duty or contract, or impair any rights or remedies on any such subsequent default or breach. No delay or omission by any Owner to exercise any right or power accruing upon any default will impair any such right or power and it will not be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the Owners by Chapter 29 or the Bond Act or by this article may be enforced and exercised from time to time and as often as will be deemed expedient by the Owners.

If any suit, action or proceeding to enforce any right or exercise any remedy is abandoned or determined adversely to the Owners, WRCOG and the Owners will be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken. No remedy herein conferred upon or reserved to the Owners is intended to be exclusive of any other remedy. Every such remedy will be cumulative and will be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by Chapter 29, the Bond Act or any other law. In any suit, action or proceeding to enforce the provisions of this Master Indenture, the prevailing party shall be entitled to receive reasonable attorney's fees. In no event will the Trustee have any responsibility to cure or cause WRCOG or any other person or entity to cure an Event of Default hereunder.

**Section 9.03. Application of Funds After Default.** If an Event of Default shall occur and be continuing with respect to a Series of Bonds, all monies held or thereafter received by the Trustee with respect to such Series of Bonds, and any other funds then held or thereafter received by the Trustee with respect to such Series of Bonds under any of the provisions of this Master Indenture shall be applied in the following order:

(A) To the payment of any expenses necessary in the opinion of the Trustee to protect the interests of the Owners of such Series of Bonds and payment of reasonable fees and expenses of the Trustee (including reasonable fees and disbursements of its accountants and counsel) incurred with respect to such Series of Bonds in and about the performance of its powers and duties under the Indenture;

(B) To the payment of Administrative Expenses of such Series of Bonds;

(C) To the payment of the principal of and interest then due on such Series of Bonds, in accordance with the provisions of this Master Indenture, in the following order of priority:

(ii) First: To the payment to the persons entitled thereto of all installments of interest then due on such Series of Bonds, as applicable, in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

(iii) Second: To the payment to the persons entitled thereto of all installments of unpaid principal of such Series of Bonds, as applicable, which shall have become due, whether at maturity or redemption, and, if the amount available shall not be sufficient to

pay in full all of such Series of Bonds together with such interest, then to the payment thereof ratably, according to the amounts of principal due on such date to the persons entitled thereto, without any discrimination or preference; and

(iv) Third: If there shall exist any remainder after the foregoing payments, such remainder shall be paid to WRCOG as directed in a Certificate of WRCOG.



## ARTICLE X

### MISCELLANEOUS

**Section 10.01. Discharge of Indenture.** Subject to the provisions of Section 2.03 hereof regarding redemption, if WRCOG pays and discharges the entire indebtedness on all or a portion of any Bonds or Series of Bonds Outstanding in any one or more of the following ways:

(A) by paying or causing to be paid the principal of (including any Sinking Account Payments) and interest and any redemption premium on, all Bonds or Series of Bonds Outstanding, as and when the same become due and payable;

(B) by irrevocably depositing with the Trustee, in trust, at or before maturity, money which, together with the amounts then on deposit in the funds and accounts provided for in Section 4.01, is fully sufficient to pay such Bonds or Series of Bonds Outstanding, including all principal (including Sinking Account Payments), interest and any applicable redemption premiums with respect to such Bond or Series of Bonds being discharged or defeased; or

(C) by irrevocably depositing with the Trustee, in trust, cash and Federal Securities in such amount as WRCOG may determine, as confirmed by an independent certified public accountant, will, together with the interest to accrue thereon and moneys then on deposit in the fund and accounts provided for in Section 4.01, be fully sufficient to pay and discharge the indebtedness on such Bonds or Series of Bonds, including all principal, Sinking Account Payments, interest and any applicable redemption premiums with respect to the Bond or Series of Bonds being discharged or defeased, at or before their respective maturity dates;

and if such Bonds or Series of Bonds are to be redeemed prior to the maturity thereof notice of such redemption has been given as required by the Indenture (or provision satisfactory to the Trustee has been made for the giving of such notice), then, at the election of WRCOG, and notwithstanding that any Bonds or Series of Bonds have not been surrendered for payment, the pledge of the Assessments and other funds provided for in the Indenture and all other obligations of WRCOG under the Indenture with respect to all Bonds or Series of Bonds Outstanding will cease and terminate, except only: (i) the obligation of WRCOG to pay or cause to be paid to the Owners of the Bonds not so surrendered and paid all sums due thereon and (ii) the obligation of WRCOG to pay or cause to be paid all amounts owing to the Trustee pursuant to Section 7.05 hereof.

If all Bonds or Series of Bonds outstanding are discharged pursuant to this Section, thereafter the Related Assessments will not be payable to the Trustee. Notice of election to discharge the Indenture with respect to such Bond or Series of Bonds will be filed with the Trustee.

Any funds thereafter held by the Trustee upon payment of all fees and expenses of the Trustee, which are not required for said purpose, will be paid over to WRCOG to be used by WRCOG as provided in Chapter 29 and the Bond Act.

**Section 10.02. Benefits of Agreement Limited to Parties.** Nothing in the Indenture, expressed or implied, is intended to give to any person other than WRCOG, the Trustee and the

Owners, any right, remedy or claim under or by reason of the Indenture. Any covenants, stipulations, promises or agreements in the Indenture contained by and on behalf of WRCOG will be for the sole and exclusive benefit of the Owners and the Trustee.

**Section 10.03. Successor is Deemed Included in All Reference to Predecessor.** Whenever in the Indenture or any Supplemental Indenture either WRCOG or the Trustee is named or referred to, such reference will be deemed to include the successors or assigns thereof, and all the covenants and agreements in the Indenture contained by or on behalf of WRCOG or the Trustee will bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

**Section 10.04. Execution of Documents and Proof of Ownership by Owners.** Any request, declaration or other instrument which the Indenture may require or permit to be executed by Owners may be in one or more instruments of similar tenor, and will be executed by Owners in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

The ownership of registered Bonds and the amount, maturity, number and date of holding the same will be proved by the registry books.

Any consent, request, declaration or other instrument or writing of the then registered Owner of any Bond will bind all future Owners of such Bond in respect of anything done or suffered to be done by WRCOG or the Trustee in good faith and in accordance therewith.

**Section 10.05. Waiver of Personal Liability.** No member, officer, agent or employee of WRCOG will be individually or personally liable for the payment of the principal of, or interest or any redemption premium on, the Bonds; but nothing herein contained will relieve any such member, officer, agent or employee from the performance of any official duty provided by law.

**Section 10.06. Notices to and Demand on Authority and Trustee.** All notices or communications herein required or permitted to be given to WRCOG or the Trustee shall be in writing and shall be deemed to have been sufficiently given or served for all purposes by being delivered or sent by telecopy or upon actual receipt by being deposited, postage prepaid, in a post office letter box, addressed as follows:

If to WRCOG: Western Riverside Council of Governments  
3390 University Avenue, Suite 450  
Riverside, CA 92501  
Attention: Executive Director

If to the Trustee: Wilmington Trust, National Association  
650 Town Center Drive, Suite 800,  
Costa Mesa, CA 92626  
Attention: Corporate Trust Services

**Section 10.07. Partial Invalidity.** If any one or more of the provisions contained in the Indenture or in the Bonds shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in the Indenture and such invalidity, illegality or unenforceability shall not affect any other provision of the Indenture, and the Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. WRCOG hereby declares that it would have entered into the Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of the Indenture may be held illegal, invalid or unenforceable.

**Section 10.08. Unclaimed Moneys.** Notwithstanding any provisions of the Indenture, any moneys held by the Trustee in trust for the payment of the principal of, or interest on, any Bonds and remaining unclaimed for two (2) years after the principal of all of the Bonds has become due and payable (whether at maturity or upon call for redemption as provided in the Indenture), if such moneys were so held at such date, or two (2) years after the date of deposit of such moneys if deposited after said date when all of the Bonds became due and payable, shall be repaid to WRCOG (without liability for interest) free from the trusts created by the Indenture upon receipt of an indemnification agreement acceptable to WRCOG and the Trustee indemnifying the Trustee with respect to claims of Owners of Bonds which have not yet been paid, and all liability of the Trustee with respect to such moneys shall thereupon cease; provided, however, that before the repayment of such moneys to WRCOG as aforesaid, the Trustee may (at the cost of WRCOG) first mail, by first class mail postage prepaid, to the Owners of Bonds which have not yet been paid, at the respective addresses shown on the Registration Books, a notice, in such form as may be deemed appropriate by the Trustee with respect to the Bonds so payable and not presented and with respect to the provisions relating to the repayment to WRCOG of the moneys held for the payment thereof.

**Section 10.09. Applicable Law.** The Indenture will be governed by and enforced in accordance with the laws of the State of California applicable to contracts made and performed in the State of California.

**Section 10.10. Content of Certificates.** Every certificate with respect to compliance with a condition or covenant provided for in this Master Indenture shall include (a) a statement that the person or persons making or giving such certificate have read such covenant or condition and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate are based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such covenant or condition has been complied with; and (d) a statement as to whether, in the opinion of the signers, such condition or covenant has been complied with.

Any such certificate made or given by an officer of WRCOG may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his certificate may be based, aforesaid, are erroneous, or in the exercise of reasonable care should have known that the same were erroneous. Any such certificate or opinion or representation made or given by counsel may be based, insofar as it relates to factual matters, on information with respect to which is in the possession of WRCOG, or upon the certificate or opinion of or representations by an officer or officers of WRCOG, unless such counsel knows that the certificate or opinion or representations with respect to the matters upon which his certificate, opinion or representation may be based, as aforesaid, are erroneous, or in the exercise of reasonable care should have known that the same were erroneous.

**Section 10.11. Conclusive Evidence of Regularity.** The issuance of each Series of Bonds pursuant to the Indenture will constitute conclusive evidence of the regularity of all proceedings under Chapter 29 and the Bond Act relative to their issuance and the levy of the Related Assessments.

**Section 10.12. Payment on Business Day.** In any case where the date of the maturity of interest or of principal, including Sinking Account Payments, (and redemption premium, if any) of the Bonds or the date fixed for redemption of any Bonds or the date any action is to be taken pursuant to the Indenture is other than a Business Day, the payment of interest or principal, including Sinking Account Payments, (and any redemption premium) or the action need not be made on such date but may be made on the next succeeding day which is a Business Day with the same force and effect as if made on the date required and no additional interest will accrue from such Interest Payment Date until such Business Day.

**Section 10.13. Counterparts.** This Master Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as WRCOG and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

\*\*\*\*\*

**IN WITNESS WHEREOF**, WRCOG and the Trustee have caused this Master Indenture to be executed, all as of the date first written above.

**WESTERN RIVERSIDE COUNCIL OF  
GOVERNMENTS**

By Treasurer

By: \_\_\_\_\_  
Authorized Signatory

**WILMINGTON TRUST, NATIONAL  
ASSOCIATION, as Trustee**

By: \_\_\_\_\_  
Authorized Representative

**MASTER INDENTURE**  
**EXHIBIT A**  
**FORM OF SUPPLEMENTAL INDENTURE**

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**SUPPLEMENTAL INDENTURE NO. [ ]**

**between the**

**WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS**

**and**

**WILMINGTON TRUST, NATIONAL ASSOCIATION**

**as trustee**

**Dated as of [ ], 20\_\_**

**Relating to**

**WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS**  
**HERO COMMERCIAL PACE PROGRAM**  
**LIMITED OBLIGATION IMPROVEMENT BONDS**  
**SERIES \_\_\_\_**  
**(First Commercial Property Tranche)**

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(Supplemental to the MASTER INDENTURE, dated as of [\_\_\_\_], 2019)

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## SUPPLEMENTAL INDENTURE NO. [ ]

THIS SUPPLEMENTAL INDENTURE NO. [ ], dated as of [ ], 20\_\_ (this “**Supplemental Indenture**”), is made by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS, a joint exercise of powers agency duly organized and existing under and by virtue of the laws of the State of California (the “**WRCOG**”), and WILMINGTON TRUST, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America (the “**Trustee**”);

### BACKGROUND:

**WHEREAS**, WRCOG and the Trustee have executed and delivered a MASTER INDENTURE, dated as of [ ], 2019 (the “**Master Indenture**”), to provide for the terms and conditions of the issuance by WRCOG of one or more Series of Bonds (as defined in the Master Indenture) from time to time;

**WHEREAS**, in order to provide for the authentication and delivery of the Series \_\_\_\_ Bonds, to establish and declare the terms and conditions upon which the Series \_\_\_\_ Bonds are to be issued, to secure the Series \_\_\_\_ Bonds by a lien and charge upon (i) the Assessment or Assessments (as defined in the Assessment Contract(s) with respect to the Participating Parcel(s) set forth on Exhibit A hereto, the “Assessment” herein) together with all revenues, moneys, accounts receivable, contractual rights to payment, recoveries and other rights to payment of whatever kind with respect to such Assessment or Assessments or the Assessment Contract(s) with respect to the Participating Parcel(s) set forth on Exhibit A hereto (except amounts required hereunder to be deposited into the Administrative Expense Account of the Program Fund) that are or may be owed to, or collected or received by, WRCOG or any other entity acting on WRCOG’s behalf, including, without limitation, the Assessment Installments, a Prepayment of the Assessment, the foreclosure on a Participating Parcel(s) set forth on Exhibit A hereto on which an Assessment has been levied, or any other payment or recovery with respect to an Assessment from any other source but excluding Annual Assessment Administrative Fees, and (ii) the Redemption Fund and all monies, securities or contractual or other rights to payment that are or may be owed or credited to, or deposited in, the Redemption Fund, or owed to, or collected, recovered, received or held by, any other person that is required to credit to or deposit such monies or securities in the Redemption Fund by Chapter 29, the Bond Act or the terms of the Indenture attributable to proceeds of the Series \_\_\_\_ Bonds, such Assessment or Assessments and such Assessment Contract(s) with respect to the Participating Parcel(s) set forth on Exhibit A hereto, in each case, derived from the Assessment Installments, a Prepayment of the Assessment, penalties and interest with respect to any delinquent Assessment Installment, the foreclosure on a Participating Parcel(s) set forth on Exhibit A hereto on which an Assessment has been levied, or payments pursuant to a Teeter Plan with respect to Assessments, if applicable, (the foregoing items in (i) and (ii) above collectively referred to as the “Series \_\_\_\_ Bond Collateral”), the Executive Committee has authorized the execution and delivery of this Supplemental Indenture;

**WHEREAS**, all acts and proceedings required by law and the Master Indenture necessary to make the Series \_\_\_\_ Bonds, when executed by WRCOG and authenticated and delivered by the Trustee, the duly issued, valid, binding and legal special obligations of WRCOG, and to constitute this Supplemental Indenture a valid and binding agreement for the



uses and purposes herein set forth, in accordance with its terms, have been done and taken; and the execution and delivery of this Supplemental Indenture have been in all respects duly authorized; and

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants contained herein, the parties hereto hereby agree as follows:

**ARTICLE I**  
**DEFINITIONS; AUTHORIZATION AND PURPOSE OF SERIES \_\_\_ BONDS; EQUAL SECURITY; COVENANTS**

**Section 1.01. Definitions.** Unless the context clearly otherwise requires or unless otherwise defined in this Supplemental Indenture, the capitalized terms in this Supplemental Indenture will have the respective meanings that such terms have in the Master Indenture.

**“Closing Date”** means the date of initial issuance and delivery of the Series \_\_\_ Bonds hereunder.

**“Interest Payment Dates”** means March 2 and September 2 of each year, commencing as of the date indicated in Appendix 1.

*Optional: Only applies if a Reserve Fund is established for the Series of Bonds.*

[**“Series \_\_\_ Bond Reserve Requirement”** means, initially, \$ \_\_\_\_\_.]

[**“Series \_\_\_ Bond Reserve Fund”** means the fund by that name established and administered pursuant to this Supplemental Indenture.]

**“Series \_\_\_ Bonds”** means the Western Riverside Council of Governments HERO Commercial Pace Program Limited Obligation Improvement Bonds, Series 20\_\_ (First Commercial Property Tranche) issued pursuant to this Supplemental Indenture.

**Section 1.02. Interpretation.** Section 1.03 of the Master Indenture shall govern interpretation of this Supplemental Indenture.

**Section 1.03. Authorization.** Each of the parties represents and warrants that it has full legal authority and is duly empowered to enter into this Supplemental Indenture and has taken all actions necessary to authorize the execution of this Supplemental Indenture by the officers and persons signing it.

**Section 1.04. Representations of WRCOG.** WRCOG hereby warrants and represents on the date hereof as follows:

(A) WRCOG is a joint powers authority duly organized, duly constituted and validly existing under the laws of the State of California, and has the full legal right, authority and power to enter into and carry out the terms and conditions of this Supplemental Indenture.

(B) No approval of, or consent from, any governmental authority (other than WRCOG's governing body) is required for the execution, delivery or performance by WRCOG of this Supplemental Indenture.

(C) The Indenture, when executed and delivered by WRCOG, shall be duly and validly authorized, executed and delivered by WRCOG.

(D) The execution, delivery and performance by WRCOG of this Supplemental Indenture and the performance by WRCOG of its obligations under the Indenture and the transactions contemplated hereby and thereby:

(i) do not contravene any provisions of law applicable to WRCOG, and

(ii) do not conflict with, and will not result (with or without the giving of notice or passage of time or both) in the breach of or constitute a default or require any consent under any credit agreement, indenture, mortgage, purchase agreement, deed of trust, security agreement, lease, guarantee or other instrument to which WRCOG is a party, by which WRCOG may be bound or to which WRCOG or its property may be subject.

(E) The Indenture constitutes the legal, valid and binding obligation of WRCOG, enforceable against WRCOG in accordance with its terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally, and by applicable laws and judicial decisions which may affect the remedies provided in the Indenture.

(F) WRCOG has complied with Section 3.04 of the Master Indenture in connection with the issuance of the Series \_\_\_ Bonds, and the aggregate initial principal amount of Bonds issued under the Master Indenture, after giving effect to the Series \_\_\_ Bonds, will be as indicated in Section 2.01(a) of Appendix 1.

(G) Each of the Assessment Contract(s) with respect to the Participating Parcel(s) set forth on Exhibit A hereto was executed and delivered by WRCOG in compliance with the requirements of the Act, the Program Report, all relevant and applicable laws and regulations of the federal government and the State of California and all relevant and applicable resolutions of WRCOG.

(H) Based on the information provided to WRCOG by, and representations of, the Property Owners (as defined in the Assessment Contract(s) with respect to the Participating Parcel(s) set forth on Exhibit A hereto), the transactions represented by the Assessment Contract(s) with respect to the Participating Parcel(s) set forth on Exhibit A hereto, such Participating Parcels and such Property Owners satisfy all eligibility criteria under and underwriting requirements of the Act, the Program Report and all other relevant and applicable laws and regulations of the federal government and the State of California, and all relevant and applicable resolutions of WRCOG necessary to participate in the Program.

(I) The Series \_\_\_ Bonds are limited obligation improvement bonds governed by the provisions of the Indenture, the Act and the Bond Law and have been issued in accordance with

and in satisfaction of all applicable terms and underwriting criteria for such bonds set forth in the Indenture, the Act, the Bond Law and all other relevant and applicable laws and regulations of the federal government and the State of California, the Program Report and all relevant and applicable resolutions of WRCOG.

(J) Without limiting Section 5.01(C) of the Master Indenture, WRCOG, either directly or through the Program Administrator or its other agents, has taken and shall continue to take all commercially reasonable steps necessary to ensure that all amounts owed under any and all Assessment Contract(s) with respect to the Participating Parcel(s) set forth on Exhibit A hereto are accurately and timely entered on the tax roll of the applicable County.

## **ARTICLE II ISSUANCE OF SERIES \_\_\_\_ BONDS**

### **Section 2.01. Terms of Series \_\_\_\_ Bonds.**

(A) The Series \_\_\_\_ Bonds authorized to be issued by WRCOG under and subject to the Bond Law and the terms of the Master Indenture, as supplemented and amended, and this Supplemental Indenture will be designated the Western Riverside Council of Governments HERO Commercial Pace Program Limited Obligation Improvement Bonds, Series 20\_\_ - (First Commercial Property Tranche)", and will be issued in the original principal amount as indicated in Appendix 1.

The Series \_\_\_\_ Bonds shall be issued as fully registered Bonds without coupons.

(B) The Series \_\_\_\_ Bonds will be dated the Closing Date and will be payable on the Payment Dates and in the principal amounts, and will bear interest at the rate per annum (with accrued and unpaid interest payable on each Payment Date in accordance with Sections 2.02(B) and (C) of the Master Indenture), set forth in the schedule indicated in Appendix 1.

### **Section 2.02. Redemption of Series \_\_\_\_ Bonds.**

(A) The Series \_\_\_\_ Bonds are subject to mandatory redemption from Prepayments and from Sinking Account Payments, optional redemption from amounts on deposit in the Redemption Fund and redemption from Excess Program Account Proceeds on deposit in the Extraordinary Mandatory Redemption Account, in each case as set forth in Appendix 1 hereto, but are not otherwise subject to optional redemption prior to maturity.

(B) Except as otherwise set forth in this Section 2.02 and in Appendix 1 hereto, Section 2.03 of the Master Indenture will govern redemption of the Series \_\_\_\_ Bonds.

**Section 2.03. Form of Series \_\_\_\_ Bonds.** The Series \_\_\_\_ Bonds, the Trustee's certificate of authentication, and the assignment to appear thereon, will be substantially in the form set forth in Exhibit B attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Supplemental Indenture, the Resolution of Issuance and the Bond Law.

**Section 2.04. Validity of Bonds.** The validity of the authorization and issuance of the Series \_\_\_\_ Bonds will not be dependent upon the installation or operation of the Improvements (as defined in the Assessment Contract(s) with respect to the Participating Parcel(s) set forth on Exhibit A hereto) or upon the performance by any person of such person's obligation with respect to the Improvements.

**Section 2.05. Registration of Series \_\_\_\_ Bonds.** The Series \_\_\_\_ Bonds shall be registered in the name of the Initial Purchaser indicated in Appendix 1.

### **ARTICLE III USE OF PROCEEDS**

**Section 3.01. Issuance of Series \_\_\_\_ Bonds.** Upon the execution and delivery of this Supplemental Indenture and satisfaction of the requirements for issuance of a Series of Bonds under Section 3.04 of the Master Indenture, WRCOG will execute and deliver the Series \_\_\_\_ Bonds in the aggregate principal amount as indicated in Appendix 1 to the Trustee for authentication and delivery to the Initial Purchaser thereof as indicated in Appendix 1.

**Section 3.02. Application of Proceeds of Sale of Series \_\_\_\_ Bonds.** Upon the receipt of payment for the Series \_\_\_\_ Bonds on the Closing Date, the Trustee will apply the proceeds of sale thereof (being an amount equal to the principal amount of the Series \_\_\_\_ Bonds) as indicated in Appendix 1.

### **ARTICLE IV ADDITIONAL PROVISIONS**

**Section 4.01. Applicable Law.** This Supplemental Indenture will be governed by and enforced in accordance with the laws of the State of California applicable to contracts made and performed in the State of California.

**Section 4.02. Conflict with Bond Law.** In the event of a conflict between any provision of this Supplemental Indenture with any provision of the Bond Law as in effect on the Closing Date, the provision of the Bond Law will prevail over the conflicting provision of this Supplemental Indenture.

**Section 4.03. Conclusive Evidence of Regularity.** Series \_\_\_\_ Bonds issued pursuant to this Supplemental Indenture will constitute conclusive evidence of the regularity of all proceedings under the Bond Law relative to their issuance and the levy of the Assessment (as defined in the Assessment Contract(s) with respect to the Participating Parcel(s) set forth on Exhibit A hereto).

**Section 4.04. Confirmation of Master Indenture; Conflict With Master Indenture.** All representations, covenants, warranties and other provisions of the Master Indenture, as previously amended and supplemented, unless specifically amended, modified or supplemented by this Supplemental Indenture, are hereby confirmed as applicable to this Supplemental Indenture. In the event of any conflict between the provisions of this Supplemental Indenture and the Master Indenture, the provisions of this Supplemental Indenture will govern.

**Section 4.05. Counterparts.** This Supplemental Indenture may be executed in counterparts, each of which will be deemed an original.

IN WITNESS WHEREOF, WRCOG and the Trustee have caused this Supplemental Indenture to be executed, all as of the date first written above.

WESTERN RIVERSIDE COUNCIL OF  
GOVERNMENTS

By: \_\_\_\_\_  
Authorized Representative

WILMINGTON TRUST, NATIONAL  
ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Authorized Signatory

## APPENDIX 1 BOND SPECIFICS

### Article I

#### **Section 1.01. Definitions**

*Interest Payment Dates:* Interest on the Series \_\_\_ Bonds is due and payable on March 2 and September 2 of each year, commencing on [DATE].

Principal of the Series \_\_\_ Bonds is due on September 2 in the years identified below.

### Article II

#### **Section 2.01. Terms of Series \_\_\_ Bonds.**

- (a) Original principal amount of the Series \_\_\_ Bonds is \$\_\_\_\_\_ and the aggregate principal amount of all Bonds issued under the Master Indenture, after giving effect to the Series \_\_\_ Bonds, is \$\_\_\_\_\_.
- (b) [Interest Rate of the Series \_\_\_ Bonds is: \_\_\_\_\_%.] [The Series \_\_\_ Bonds shall be payable at the rates, and will be payable on each Interest Payment Date, pursuant to Debt Service Schedule set forth on Attachment A to the Series \_\_\_ Bond and as set forth in the following schedule:

| <b>Payment Date</b> | <b>Interest</b> | <b>Principal</b> | <b>Total</b> |
|---------------------|-----------------|------------------|--------------|
|                     | *               |                  |              |
|                     |                 |                  |              |
|                     |                 |                  |              |
|                     |                 |                  |              |
|                     |                 |                  |              |

\* Represents amounts payable from Capitalized Interest Account, as provided in Section 4.01(B) of the Master Indenture.

## Section 2.02. Redemption of Series \_\_\_\_ Bonds.

(a) Mandatory Prepayment Redemption. The Series \_\_\_\_ Bonds will be redeemed, as a whole or in part, and paid in advance of maturity, from amounts received by WRCOG as a Prepayment of the Assessment, on any Interest Payment Date, at a price equal to:

(i) 100% of the principal amount of the Series \_\_\_\_ Bonds to be prepaid;

(ii) accrued but unpaid interest to the date of redemption, unless sooner surrendered, in which event said interest will be paid to the date of payment, all in the manner and as provided in the Bond Act; and

(iii) a redemption premium equal to \_\_\_\_%.

Upon redemption of the Series \_\_\_\_ Bonds as set forth in this subsection, WRCOG shall cause the Financed Amount (as defined in the Assessment Contract) to be reduced in an amount equal to the principal amount of the Series \_\_\_\_ Bonds redeemed.

(b) Optional Redemption. The Series \_\_\_\_ Bonds are subject to optional redemption, as a whole or in part, on any Interest Payment Date from funds derived by WRCOG from any source other than Related Prepayments, at a price equal to:

(i) 100% of the principal amount of the Series \_\_\_\_ Bonds to be prepaid;

(ii) accrued but unpaid interest to the date of redemption, unless sooner surrendered, in which event said interest will be paid to the date of payment, all in the manner and as provided in the Bond Act; and

(iii) a redemption premium equal to \_\_\_\_%.

(c) Extraordinary Mandatory Redemption from Excess Program Account Proceeds. The Series \_\_\_\_ Bonds will be redeemed, as whole or in part, and paid in advance of maturity, from amounts received by WRCOG as Excess Program Account Proceeds relating to this Bond and the Related Assessment Contract, on any Interest Payment Date, at a price equal to:

(i) 100% of the principal amount of the Series \_\_\_\_ Bonds to be prepaid;

(ii) accrued but unpaid interest to the date of redemption, unless sooner surrendered, in which event said interest will be paid to the date of payment, all in the manner and as provided in the Bond Act; and

(iii) a redemption premium equal to \_\_\_\_%.

(d) Mandatory Sinking Account Redemption. All the Series \_\_\_\_ Bonds constitute Term Bonds, which will be subject to mandatory redemption in part by lot, from Sinking



Account Payments made by WRCOG from the Redemption Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts, as shown in Attachment A.

However, if the Series \_\_\_\_ Bonds have been redeemed pursuant to an optional redemption or a mandatory prepayment redemption, the total amount of all future Sinking Account Payments relating to such maturity will be reduced by the aggregate principal amount of Term Bonds of such maturity so redeemed, to be allocated among such Sinking Account Payments on a pro rata basis in Authorized Denominations as determined by the Trustee, notice of which determination will be given by the Trustee to WRCOG.

#### **Section 2.05. Registration of Series \_\_\_\_ Bonds.**

The name of the Initial Purchaser is \_\_\_\_\_.

### Article III

#### **Section 3.01. Application of Proceeds of Sale of Series \_\_\_\_ Bonds.**

(a) \$\_\_\_\_\_ to the Capitalized Interest Account for the Series \_\_\_\_ Bonds within the Redemption Fund representing capitalized interest on the Series \_\_\_\_ Bonds.

(b) \$\_\_\_\_\_ to the Costs of Issuance Account for the Series \_\_\_\_ Bonds within the Program Fund established pursuant to the Master Indenture.

(c) \$\_\_\_\_\_ to the Program Account for the Series \_\_\_\_ Bonds within the Program Fund established pursuant to the Master Indenture.

(d) \$\_\_\_\_\_ to the Administrative Expense Account of the Program Fund established pursuant to the Master Indenture.

[Unless otherwise instructed by WRCOG, each such account will be established for accounting purposes only.]

*Optional: Utilized only if Reserve Fund established for the Series \_\_\_\_ Bonds.*

[(e) \$\_\_\_\_\_ to the Series Bond Reserve Fund established pursuant to this Supplemental Indenture.]

*Optional: Utilized only if Reserve Fund established for the Series \_\_\_\_ Bonds.*

### [Article IV]

#### **Section 4.01. Series \_\_\_\_ Bond Reserve Fund**

(A) General. The Trustee shall establish and maintain the Series \_\_\_\_ Bond Reserve Fund in trust separate and distinct from the other funds and accounts established hereunder. Except as provided below, all moneys in the Series Bond Reserve Fund shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on or the principal of the

Series \_\_ Bonds in the event that insufficient moneys are available in the Assessment Collection Account for the Series \_\_ Bonds within the Redemption Fund for such purpose or for the redemption or payment of Series \_\_ Bonds under subparagraph (E) below.

(B) Investment; Maintenance of Funds in the Series \_\_ Bond Reserve Fund. Moneys in the Series \_\_ Bond Reserve Fund shall be invested in Permitted Investments with a maturity of not greater than five (5) years as directed in a Certificate of WRCOG; in the absence of direction the Trustee shall hold funds uninvested. The Trustee shall retain in the Series \_\_ Bond Reserve Fund all earnings on amounts on deposit in the Series \_\_ Bond Reserve Fund until the amount on deposit in the Series \_\_ Bond Reserve Fund exceeds the Series \_\_ Bond Reserve Requirement, then the amount in excess of the Series \_\_ Bond Reserve Requirement shall be transferred to the Assessment Collection Account for the Series \_\_ Bonds within the Redemption Fund.

Notwithstanding any other provision hereof, the failure to maintain an amount in the Series \_\_ Bond Reserve Fund equal to the Series \_\_ Bond Reserve Requirement shall not be a default or an Event of Default under the Master Indenture.

(C) Redemption as a Result of Principal Prepayments. In the event of a Prepayment (other than as a result of transfers made pursuant to subparagraph (E) below) of a Series \_\_ Bond, WRCOG shall transfer a proportionate amount in the Series \_\_ Bond Reserve Fund to the Assessment Collection Account for the Series \_\_ Bonds within the Redemption Fund. The proportionate amount shall be determined by multiplying (i) the fraction equal to the principal amount of Outstanding Series \_\_ Bonds to be redeemed pursuant to Section 2.03(C) of the Master Indenture over the total principal amount of the Outstanding Series \_\_ Bonds by (ii) the amounts on deposit in the Series \_\_ Bond Reserve Fund, but in any event not in excess of the amount that will leave the balance in the Series \_\_ Bond Reserve Fund equal to the Series \_\_ Bond Reserve Requirement for the Series \_\_ Bonds that will remain Outstanding following the redemption pursuant to Section 2.03(C) of the Master Indenture. Upon receipt of a Written Request from WRCOG, the Trustee shall transfer the proportionate amounts from the Series \_\_ Bond Reserve Fund to the Assessment Collection Account for the Series \_\_ Bonds within the Redemption Fund in the amounts set forth in the Written Request.

(D) Use for Final Assessment Installment. WRCOG may, but is not obligated to, use a proportionate amount in the Series \_\_ Bond Reserve Fund to pay the final fiscal year's Assessment Installments to be levied on a Participating Parcel(s) set forth on Exhibit A hereto that is not delinquent in the payment of Assessment Installments. The proportionate amount shall be determined on the basis of (i) the principal amount of Outstanding Series \_\_ Bonds attributable to the Participating Parcel(s) set forth on Exhibit A hereto and the total principal amount of the Outstanding Series \_\_ Bonds and (ii) the amounts on deposit in the Series \_\_ Bond Reserve Fund, but in any event not in excess of the amount that will leave the balance in the Series \_\_ Bond Reserve Fund equal to the Series \_\_ Bond Reserve Requirement for all Outstanding Series \_\_ Bonds for which principal will not be paid with the Assessment Installments to be paid by the Participating Parcel(s) set forth on Exhibit A hereto in the next fiscal year. Upon receipt of a Written Request from WRCOG, the Trustee shall transfer the proportionate amounts from the Series \_\_ Bond Reserve Fund to the Assessment Collection

Account for the Series \_\_\_\_ Bonds within the Redemption Fund in the amounts set forth in the Written Request.

(E) Additional Use of Series \_\_\_\_ Bond Reserve Fund; Reduction in Series \_\_\_\_ Bond Reserve Requirement. Pursuant to the terms of the Assessment Contracts related to the Series \_\_\_\_ Bond, if certain conditions are met, the Property Owner may request that the amount in the Series \_\_\_\_ Bond Reserve Fund be utilized to prepay Assessments and redeem Series \_\_\_\_ Bonds hereunder. Upon receipt of a Written Request from WRCOG, the Trustee will transfer all amounts in the Series \_\_\_\_ Bond Reserve Fund to the Prepayment Account for the Series \_\_\_\_ Bonds within the Redemption Fund to redeem Series \_\_\_\_ Bonds under Section 2.03(C) of the Master Indenture. After such transfer, the Series \_\_\_\_ Bond Reserve Requirement thereafter will be zero and the Trustee will close the Series \_\_\_\_ Bond Reserve Fund.]

**SUPPLEMENTAL INDENTURE**  
**EXHIBIT A**  
**LIST OF PARTICIPATING PARCELS**

## SUPPLEMENTAL INDENTURE

### EXHIBIT B

#### FORM OF BOND

**\*\* WHILE THE BONDS ARE OWNED BY AN ACCREDITED INVESTOR OR A QUALIFIED INSTITUTIONAL BUYER, THE BONDS ARE SUBJECT TO TRANSFER RESTRICTIONS PURSUANT TO SECTION 2.05 OF THE MASTER INDENTURE \*\***

Number \_\_\_\_-1

\*\*\*\$\_\_\_\_\_\*\*\*

**WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS  
HERO Commercial PACE Program  
Limited Obligation Improvement Bonds, Series 20\_\_\_\_  
(First Commercial Property Tranche)**

STATED INTEREST RATE

\_\_\_\_\_%

MATURITY DATE

September 2, 20\_\_\_\_

DATED DATE

\_\_\_\_\_, 20\_\_\_\_

REGISTERED OWNER:

PRINCIPAL AMOUNT: \*\*\*

\_\_\_\_\_ DOLLARS\*\*\*

Under and by virtue of the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the California Streets and Highways Code (the "Bond Act"), the Western Riverside Council of Governments ("WRCOG"), will, out of the Redemption Fund established pursuant to a Master Indenture, dated as of [\_\_\_\_], 2019 (the "Master Indenture"), as amended or supplemented by Supplemental Indenture No. [\_\_\_\_], dated as of \_\_\_\_\_, 20\_\_\_\_ (the Master Indenture as supplemented, the "Indenture") relating to Series 20\_\_\_\_ Bonds (the "Bonds"), each by and between WRCOG and Wilmington Trust, National Association, as trustee (the "Trustee"), pay to the registered owner named above, or registered assigns, the principal amount set forth above, and interest on such principal amount, at the times and in the amounts set forth in Attachment A in lawful money of the United States of America; in addition, the Bond shall accrue additional interest as set forth in Section 4.01(B) of the Indenture. In the event of the redemption of this Bond in part prior to maturity the principal amount and the interest on such principal amount if this Bond set forth in Attachment A will be subject to amendment without amending Attachment A and the Trustee shall have no obligation to revise Attachment A hereto to reflect such amendment.

Capitalized terms not otherwise defined herein shall have the meanings given such terms in the Indenture.

This Bond bears interest from the Interest Payment Date next preceding its date of authentication and registration unless it is authenticated and registered (i) prior to an Interest Payment Date and after the close of business of the 15th day of the calendar month preceding such Interest Payment Date, in which event it will bear interest from such Interest Payment Date,

EXHIBIT B-1

or (ii) prior to the close of business on the 15th day of the calendar month preceding the first Interest Payment Date above, in which event it will bear interest from its date of delivery, until payment of such principal sum has been discharged.

Interest (excluding the final interest payment due upon maturity or earlier redemption) on and principal (excluding the final principal payment upon maturity or earlier redemption) of this Bond are payable in lawful money of the United States of America by the Trustee to the person whose name appears on the Bond Register as the Owner thereof as of the close of business on the Record Date preceding the Interest Payment Date by wire transfer of immediately available funds made on such Interest Payment Date upon the written instructions by such Owner delivered to the Trustee at least five (5) Business Days prior to the applicable Record Date.

Payment of principal of this Bond and accrued interest and premium, if any, on this Bond upon final maturity or redemption in whole shall be payable in lawful money of the United States of America by the Trustee of immediately available funds, to the person whose name appears on the Bond Register as the Owner thereof, upon surrender of this Bond at the Corporate Trust Office of the Trustee.

Payment of principal of this Bond on any Interest Date and in the amount set forth in Attachment "A" hereto and accrued interest and premium, if any, on this Bond upon redemption in part shall be payable in lawful money of the United States of America by the Trustee to the person whose name appears on the Bond Register as the Owner thereof as of the close of business on the Record Date preceding the applicable Interest Payment Date, without surrender of this at the Corporate Trust Office of the Trustee, by wire transfer of immediately available funds made on such Interest Payment Date upon the written instructions by such Owner delivered to the Trustee at least five (5) Business Days prior to the applicable Record Date.

This Bond will continue to bear interest after maturity at the rate above stated if this Bond is presented at maturity and payment hereof is refused upon the sole ground that there are not sufficient moneys in the Redemption Fund with which to pay same. If this Bond is not presented at maturity, interest hereon will run only until maturity.

This Bond will not be entitled to any benefit under the Bond Act or the Indenture, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon are dated and signed by the Trustee.

This Bond is issued by WRCOG under the Bond Act and the Indenture for the purpose of providing means for paying for the Improvements described in the Indenture. It is secured by certain moneys in the Redemption Fund, the unpaid portion of Related Assessments made for the payment of those Related Improvements and any Penalties and Interest (as defined in the Indenture) received by WRCOG relating to the Related Assessments. Principal, interest and redemption premium, if any, is payable exclusively out of the Redemption Fund. This Bond and any other Bonds issued under the Indenture are referred to as the "Bonds."

This Bond is transferable by the registered Owner hereof, in person or by the Owner's attorney duly authorized in writing, at the office of the Trustee, subject to the terms and conditions provided in the Resolution of Issuance and the Indenture, including the payment of

certain charges, if any, upon surrender and cancellation of this Bond. Upon such transfer, a new registered Bond or Bonds, of any authorized denomination or denominations, of the same maturity, and for the same aggregate principal amount, will be issued to the transferee in exchange therefor. This Bond may only be transferred in an Authorized Denomination to (i) an Accredited Investor or Qualified Institutional Buyer who delivers to the Trustee and WRCOG an executed letter substantially in the form of Exhibit B attached to the Indenture or (ii) WRCOG (or the Trustee at the direction of WRCOG).

Bonds will be registered only in the name of an individual (including joint owners), a corporation, a partnership or limited liability company, or a trust.

Neither WRCOG nor the Trustee will be required to make such exchange or registration of transfer of Bonds during the fifteen (15) days of the calendar month immediately preceding any Interest Payment Date.

WRCOG and the Trustee may treat the registered Owner hereof as the absolute owner for all purposes, and WRCOG and the Trustee will not be affected by any notice to the contrary.

Optional Redemption. The Bonds are subject to optional redemption, as a whole or in part, on any Interest Payment Date from funds derived by WRCOG from any source other than Related Prepayments, at a price equal to:

(ii) 100% of the principal amount of the Bonds to be prepaid;

(iii) accrued but unpaid interest to the date of redemption, unless sooner surrendered, in which event said interest will be paid to the date of payment, all in the manner and as provided in the Bond Act; and

(iv) a redemption premium equal to \_\_\_\_%.

Mandatory Sinking Account Redemption. All the Bonds constitute Term Bonds, which will be subject to mandatory redemption in part by lot, from Sinking Account Payments made by WRCOG from the Redemption Fund, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts, as shown in Attachment A.

However, if the Bonds have been redeemed pursuant to an optional redemption or a mandatory prepayment redemption, the total amount of all future Sinking Account Payments relating to such maturity will be reduced by the aggregate principal amount of Term Bonds of such maturity so redeemed, to be allocated among such Sinking Account Payments on a pro rata basis in Authorized Denominations as determined by WRCOG, notice of which determination will be given by WRCOG to the Trustee.

Mandatory Prepayment Redemption. The Bonds will be redeemed, as a whole or in part, and paid in advance of maturity, from amounts received by WRCOG as Related Prepayments, on any Interest Payment Date, at a price equal to:

(i) 100% of the principal amount of the Bonds to be prepaid;

(ii) accrued but unpaid interest to the date of redemption, unless sooner surrendered, in which event said interest will be paid to the date of payment, all in the manner and as provided in the Bond Act; and

(iii) a redemption premium equal to \_\_\_\_%.

Upon redemption of the Bonds as set forth in this subsection, WRCOG shall cause the Financed Amount to be reduced in an amount equal to the principal amount of the Bonds redeemed.

Extraordinary Mandatory Redemption from Excess Program Account Proceeds. The Bonds will be redeemed, as whole or in part, and paid in advance of maturity, from amounts received by WRCOG as Excess Program Account Proceeds relating to this Bond and the Related Assessment Contract, on any Interest Payment Date, at a price equal to:

(i) 100% of the principal amount of the Bonds to be prepaid;

(ii) accrued but unpaid interest to the date of redemption, unless sooner surrendered, in which event said interest will be paid to the date of payment, all in the manner and as provided in the Bond Act; and

(iii) a redemption premium equal to \_\_\_\_%.

This Bond is a Limited Obligation Improvement Bond because, under the Indenture, WRCOG is not obligated to advance funds from WRCOG treasury to cover any deficiency that may occur in the related accounts of the Redemption Fund for the Bonds.



IN WITNESS WHEREOF, WRCOG has caused this Series \_\_\_\_ Bond to be executed in its name and on its behalf by the facsimile signatures of its Treasurer and Secretary all as of the Original Issue Date identified above.

WESTERN RIVERSIDE COUNCIL OF  
GOVERNMENTS

By: \_\_\_\_\_  
Treasurer

Attest:

\_\_\_\_\_  
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is one of the Series 20\_\_ Bonds described in the within mentioned Indenture.

Dated: \_\_\_\_\_, 20\_\_

Wilmington Trust, National Association, as Trustee

By: \_\_\_\_\_  
Authorized Signatory

## ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this bond, will be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common  
TEN ENT - as tenants by the entireties  
JT TEN - as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT - \_\_\_\_\_ Custodian  
(Cust) (Minor)

Under Uniform Gifts to Minors Act \_\_\_\_\_  
(State)

Additional abbreviations may also be used though not in the above list

## (FORM OF ASSIGNMENT)

For value received, the undersigned do(es) hereby sell, assign and transfer unto

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Name, Address and Tax Identification or Social Security Number of Assignee)

the within mentioned Bond and hereby irrevocably constitute(s) and appoint(s): \_\_\_\_\_  
\_\_\_\_\_  
attorney, to transfer the same on the registration books of the  
Trustee, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_

NOTICE: The signature(s) on this assignment must correspond with the name(s) as written on the face of the registered Bond in every particular without alteration or enlargement or any change whatsoever.

## ATTACHMENT A

### DEBT SERVICE SCHEDULE

[illegible]

**MASTER INDENTURE**

**EXHIBIT “B”**

**FORM OF TRANSFER LETTER**

**[NOTE: WILL NEED TO MATCH FINAL PURCHASER LETTER]**

Western Riverside Council of Governments  
3390 University Avenue, Suite 450  
Riverside, CA 92501

Wilmington Trust, National Association  
650 Town Center Drive, Suite 800  
Costa Mesa, CA 92626

Re: Western Riverside Council of Governments  
HERO Commercial PACE Program  
Limited Obligation Improvement Bonds Series 20\_\_  
(First Commercial Property Tranche)

Ladies and Gentlemen:

The Western Riverside Council of Governments (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, dated as of \_\_, 20\_\_ (the “Indenture”) relating to the Bonds.

In connection with our purchase on the date hereof 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, or a “Qualified Institutional Buyer” as defined in Rule 144A, promulgated under the 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 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, to the extent not permitted under the applicable securities laws.

(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.

EXHIBIT B-1

(e) 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 about 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.

(f) 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.

(g) 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.

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

(i) 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.

(j) The Bond Purchaser acknowledges that Best Best & Krieger LLP ("Bond Counsel") is acting as bond counsel to the Issuer, that Bond Counsel has no attorney-client relationship with the Bond Purchaser, and that the Bond Purchaser has sought legal advice from its own counsel to the extent it concluded legal advice was necessary.

(k) Notwithstanding the foregoing, the Bond Purchaser and any successor of the Bond Purchaser may elect at its own expense to securitize its interest in the Bonds, sell the Bonds to an entity in connection with such securitization and sell the asset-backed securities to the investment community without the delivery of an investor letter in substantially the form of this letter, provided that (i) any such sale of the Bonds is to an Accredited Investor or a Qualified Institutional Buyer and (ii) the purchaser of the Bonds delivers a letter to the Issuer to the effect that it is an Accredited Investor or a Qualified Institutional Buyer and that acknowledges the transfer restrictions set forth in the Indenture; no further action or acknowledgement by the Issuer will be required to authorize such securitization or sale of the Bonds by the Bond Purchaser or a successor to the Bond Purchaser.

(1) Bond Purchaser agrees to defend, indemnify and hold harmless the Issuer from and against any and all claims, liabilities, obligations, losses, damages and penalties of any kind (including reasonable fees of outside counsel, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) that may be imposed on, incurred by or asserted against the Issuer in any way relating to or arising out of a transfer by the Bond Purchaser of the Bonds to which this letter relates in violation of the restrictions contained in Section 2.05(B) of the Indenture.

Very truly yours,

[Insert] \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

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# Item 6.E

PACE Programs Activities Update

## Attachment 7

Master Bond Purchase Agreement  
with HERO Commercial Programs

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## HERO COMMERCIAL PROGRAMS

### MASTER BOND PURCHASE AGREEMENT

#### 1. PARTIES AND DATE

THIS MASTER BOND PURCHASE AGREEMENT, dated as of \_\_\_\_\_, 2019, (the “Master BPA”), is entered into by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS, a California public agency (“WRCOG”) and RENOVATE AMERICA, INC., a Delaware corporation (“Renovate America”) to arrange for the sale by WRCOG and the purchase by Renovate America or its designee of all of the Bonds described below, which are being issued by WRCOG.

#### 2. RECITALS.

2.1 The Executive Committee of WRCOG (the “Executive Committee”) has established a property assessed clean energy (“PACE”) program designated as the Energy Efficiency and Water Conservation Program for Western Riverside County (the “WRCOG PACE Program”) pursuant to the provisions of Chapter 29 of Part 3, Division 7 of the California Streets and Highways Code (commencing at Section 5898.12) (“Chapter 29”), the Joint Powers Agreement of WRCOG originally made and entered into April 1, 1991, as further amended to date (as amended, the “JPA”), and separate Implementation Agreements entered into pursuant to the JPA by and between WRCOG and its member agencies that elected to participate in the WRCOG PACE Program (the “Member Agencies”), to assist owners of commercial properties (the “Commercial Properties”) or residential properties (“Residential Properties”) within the jurisdictional boundaries such Member Agencies to finance the cost of installation of distributed generation renewable energy sources or energy efficiency or water conservation improvements or electric vehicle charging infrastructure (the “Eligible Products”) that are permanently fixed to the properties of such owners.

2.2 As a part of such proceedings, the Executive Committee initially approved and has subsequently amended a report prepared pursuant to and addressing all of the matters set forth in Streets and Highways Code Section 5898.22 and 5898.23 (as amended, the “WRCOG PACE Program Report”), including a map showing the boundaries of the territory within which the voluntary contractual assessments may be offered (the “WRCOG PACE Program Area”), a form of contract specifying the terms and conditions that would be agreed to by an owner of property within such boundaries and WRCOG (each, a “WRCOG PACE Program Assessment Contract”), a statement of policies of WRCOG concerning such voluntary contractual assessments and a plan for raising a capital amount required to pay for the work performed pursuant to the voluntary contractual assessments.

2.3 As a further part of such proceedings, the Executive Committee provided that one or more series of limited obligation improvement bonds would be issued under the Bond Act of 1915, being Division 10 of the Streets & Highways Code of the State of

California (the “1915 Bond Act”) or other financing relationships would be entered for the purpose of financing the installation of Eligible Products.

2.4 WRCOG and Renovate America entered into agreements to provide that Renovate America would, as a part of the WRCOG PACE Program, administer and finance a program (the “WRCOG HERO Residential Program”) to finance the installation of Eligible Improvements on Residential Properties within the WRCOG PACE Program Area.

2.5 Subsequently the Member Agencies of WRCOG entered into that certain Amendment to the Joint Powers Agreement of the Western Riverside Council of Governments to Permit the Provision of PACE Services (the “PACE JPA Amendment”) to empower WRCOG to establish and operate one or more PACE programs pursuant to Chapter 29 and to enter into one or more implementation agreements or joint powers agreements or amendments thereto to fulfill such programs both within and outside the jurisdictional boundaries of WRCOG and to further empower WRCOG to establish an “Associate Member” status that provides membership in WRCOG of local jurisdictions that are located outside of WRCOG’s jurisdictional boundaries but within whose boundaries such a PACE program will be established and implemented by WRCOG.

2.6 The PACE JPA Amendment provided that such local jurisdictions shall become Associate Members of WRCOG by the adopting an agreement on the terms established by the Executive Committee.

2.7 The Executive Committee did, pursuant to the PACE JPA Amendment, establish the terms of such an agreement in the form of an amendment to the JPA enabling local jurisdictions to be added as Associate Members to WRCOG to permit the provision of PACE services within such local jurisdiction (each such agreement, a “JPA Amendment”).

2.8 The Executive Committee subsequently undertook proceedings to establish and did thereby establish a PACE program designated as the California HERO Program (the “California HERO Program” and, together with the WRCOG PACE Program, the “Programs”) pursuant to the provisions of Chapter 29, the JPA, and separate JPA Amendments entered into pursuant to the JPA by and between WRCOG and the cities and counties that elected to become Associate Members of WRCOG and to participate in the California HERO Program, to assist owners of Commercial Properties or Residential Properties within the jurisdictional boundaries such Associate Members to finance the cost of installation of Eligible Products that are permanently fixed to the properties of such owners.

2.9 As a part of such proceedings, the Executive Committee initially approved and has subsequently amended a report prepared pursuant to and addressing all of the matters set forth in Streets and Highways Code Section 5898.22 and 5898.23 (as amended, the “California HERO Program Report” and, together with the WRCOG PACE Program Report, the “Program Reports”), including a map showing the boundaries of the territory within which the voluntary contractual assessments may be offered (the “California HERO Program Area” and, together with the WRCOG PACE Program Area, the “Program

Areas”), a form of contract specifying the terms and conditions that would be agreed to by an owner of property within such boundaries and WRCOG (each, together with the WRCOG PACE Program Assessment Contracts, an “Assessment Contract”), a statement of policies of WRCOG concerning such voluntary contractual assessments and a plan for raising a capital amount required to pay for the work performed pursuant to the voluntary contractual assessments.

2.10 As a part of such proceedings, the Executive Committee provided that one or more Series of Bonds would be issued under the 1915 Bond Act or other financing relationships would be entered for the purpose of financing the installation of Eligible Products.

2.11 WRCOG and Renovate America entered into agreements to provide that Renovate America would, as a part of the California HERO Program, administer and finance a separate program (the “California HERO Residential Program, and together with the WRCOG HERO Residential Program, the “HERO Residential Programs”) to finance the installation of Eligible Improvements on Residential Properties within the California HERO Program Area.

2.12 Renovate America has created the infrastructure and developed the resources to administer and finance the installation of Eligible Improvements on Commercial Properties.

2.13 The Executive Committee has determined that it would be in the best interests of the owners of Commercial Properties within the Program Areas to enable Renovate America to administer and finance a program as a part of each of the Programs (each, a “HERO Commercial Program” and together, the “HERO Commercial Programs”), separate and apart from the HERO Residential Programs, to finance the installation of Eligible Improvements on Residential Properties in each of the Program Areas.

2.14 The Executive Committee has amended the Program Reports to enable Renovate America to implement a HERO Commercial Program within each of the Program Areas.

2.15 WRCOG and Renovate America now desire and intend to enter into an agreement pursuant to which Renovate America shall provide administrative services for the HERO Commercial Programs (the “Administration Agreement”) and this Master BPA to provide for and establish the terms and conditions pursuant to which WRCOG will sell to Renovate America and Renovate America shall purchase from WRCOG the limited obligation improvement bonds issued by WRCOG to finance the installation of Eligible Improvements on Commercial Properties the owners of which elect to participate in one of the HERO Commercial Programs.

2.16 The Parties hereto desire and that the Administration Agreement and this Master BPA taken together represent the operating relationship between the parties pertaining to the HERO Commercial Programs.

3. DEFINITIONS. Capitalized terms that are used in this Master BPA and not otherwise defined herein shall have the respective meanings ascribed to them in the applicable Master Indentures (defined below) or the Administration Agreement executed simultaneously herewith.

4. PURCHASE AND SALE AND DELIVERY OF THE BONDS.

4.1 Subject to the terms and conditions set forth in this Master BPA and any supplement to this Master BPA entered into by and between the parties hereto (each, a "Supplement to Master BPA"), and in reliance upon the representations, warranties and agreements set forth herein and in any Supplement to this Master BPA, Renovate America hereby agrees to purchase, or cause its designee to purchase (as used herein the term "Renovate America" shall include any designee thereof), all (but not less than all) of the limited obligation improvement bonds (the "Bonds" or a "Series of Bonds"), from WRCOG and WRCOG hereby agrees to sell to Renovate America, when as and if issued, all (but not less than all) of the Bonds associated with the HERO Commercial Programs or any similar program that the Parties may develop, implement or offer (collectively, the "Programs") in an aggregate principal amount of not less than Two Hundred Fifty Million Dollars (\$250,000,000.00). Notwithstanding anything to the contrary in this Section 4.1, WRCOG shall take all corporate and organizational actions necessary to authorize and to issue all bonds necessary to meet, without delay, the commitments for such instruments that arise under and in connection with the operation of the BPAA, as amended and restated and now known as the Administration Agreement.

4.2 WRCOG understands that Renovate America, before and in reliance upon WRCOG's issuance of Bonds to finance or refinance the installation of Eligible Improvements on Commercial Properties, [will be advancing/may elect to advance] funds to owners of such Properties (including but not limited to their contractors, equipment suppliers, installers and other service and materials providers) who have sought and who qualify for financing under one of the HERO Commercial Programs. Accordingly and in recognition of such reliance, WRCOG agrees promptly and timely, upon receipt of duly executed Notices of Completion, to issue Bonds in the amount of any financing for the Commercial Properties Renovate America and WRCOG have approved under HERO Commercial Programs.

4.3 WRCOG shall issue the Bonds or each Series of Bonds pursuant to a master indenture (each, a "Master Indenture") by and between WRCOG and the trustee thereunder (the "Trustee") and a supplemental indenture (each, a "Supplemental Indenture"), the terms and conditions of each such agreement having been agreed to by WRCOG and Renovate America.

4.4 WRCOG and the Trustee shall pursuant to the applicable Master Indenture, on such schedule as Renovate America and WRCOG shall agree, enter into a Supplemental Indenture pertaining to each Bond or Series of Bonds which Supplemental Indenture shall set forth and establish the Closing Date for such Bond or Series of Bonds, the date from which such Bond or Series of Bonds shall bear interest and the dates on which the principal of and interest on such Bond or Series of Bonds shall be payable, the principal amount of

each Bond, the scheduled payment of the principal of and interest on such the Bond of Series of Bonds, the rate of interest per annum payable on such Bond or Series of Bonds, the maturity date of such Bond or Series of Bonds, the redemption provisions pertaining to such Bond or Series of Bonds and the Purchase Price (defined below) for such Bond or Series of Bonds. Each such Supplemental Indenture shall be subject to the approval of Renovate America and WRCOG.

4.5 Each Bond or Series of Bonds shall be substantially in the form described in, shall be issued and secured under the provisions of, and shall be payable and be subject to redemption as provided in, the Master Indenture and the Supplemental Indenture pertaining to such Bond or Series of Bonds.

4.6 The “Purchase Price” of a Bond or Series of Bonds shall be the sum equal to the principal amount of such Bond or Series of Bonds.

4.7 At 10:00 A.M., Pacific Daylight Time, on the Closing Date for each Bond or Series of Bonds, or at such other time as shall be agreed upon by WRCOG and Renovate America, (i) WRCOG will deliver or cause to be delivered the Bond or Series of Bonds to Renovate America, duly executed by WRCOG and authenticated by the Trustee as provided in the Master Indenture, (ii) WRCOG will deliver or cause to be delivered the WRCOG Closing Documents (as designated in Exhibit H for delivery by or on behalf of WRCOG) to Bond Counsel at the offices of Bond Counsel or another place to be mutually agreed upon by WRCOG and Renovate America (the “Closing Location”) and Renovate America shall accept such delivery and pay the Purchase Price of the Bond or Series of Bonds in federal funds payable to the order of WRCOG or its designee and deliver Renovate America’s Closing Documents (as designated in Exhibit H for delivery by Renovate America or such individual or entity to which Renovate America has assigned its rights hereunder to purchase such Bond or Series of Bonds) to Bond Counsel at the Closing Location. This payment and these deliveries, together with the delivery of the WRCOG Closing Documents and the Renovate America Closing Documents, are herein called the “Closing.”

**5. REPRESENTATIONS, WARRANTIES AND AGREEMENTS OF WRCOG.** WRCOG represents, warrants and covenants to and agrees with Renovate America as of the date hereof and, as of the Closing Date of such Bond or Series of Bonds, that:

5.1 WRCOG is a joint exercise of powers authority duly organized and existing under the Constitution of the State of California (the “Constitution”) and laws of the State of California (the “State”), and has, and at each Closing Date will have, full legal right, power and authority, to adopt the resolution authorizing of the issuance of each Bond or Series of Bonds (each, a “Resolution of Issuance”):

5.1.1 to enter into this Master BPA and the Supplement to Master BPA, if any, pertaining to each Bond or Series of Bonds;

5.1.2 to enter into the applicable Master Indenture and the applicable Supplemental Indenture with respect to each Bond or Series of Bonds;

5.1.3 to issue, sell and deliver, without delay, each Bond or Series of Bonds to Renovate America as provided herein;

5.1.4 to enter into each Assessment Contract as such term is defined in the applicable Master Indenture and that is identified in the applicable Supplemental Indenture; and

5.1.5 to carry out and consummate the transactions as to each Bond or Series of Bonds on its part contemplated by this Master BPA and the Supplement to Master BPA, if any, the applicable Master Indenture, the applicable Supplemental Indenture and such Bond or Series of Bonds.

As to each Bond or Series of Bonds, this Master BPA, the applicable Supplement to Master BPA, if any, the applicable Master Indenture, the applicable Supplemental Indenture and such Bond or Series of Bonds are collectively referred to herein as the “WRCOG Documents.”

5.2 By all necessary official action of WRCOG, WRCOG has duly authorized and approved the adoption or execution and delivery by WRCOG of, and the performance by WRCOG of the obligations contained in, the WRCOG Documents and the applicable Resolution of Issuance and such authorizations and approvals are and shall, as of each Closing Date, be in full force and effect and have not been amended, modified or rescinded. When executed and delivered by the parties thereto, each Bond or Series of Bonds and the WRCOG Documents will constitute the legally valid and binding obligations of WRCOG enforceable against WRCOG in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or affecting creditors’ rights generally. WRCOG has complied, and as of each Closing Date, shall be in compliance in all respects, with the obligations on its part to be performed on or prior to each Closing Date under the WRCOG Documents.

5.3 The Executive Committee has duly established the Programs pursuant to Chapter 29. The Executive Committee has duly authorized or shall duly authorize the issuance and sale of each Bond or Series of Bonds pursuant to the applicable Resolutions of Issuance adopted by the Executive Committee, the applicable Master Indenture and the applicable Supplemental Indenture.

5.4 WRCOG is not and, as of each Closing Date, will not be in breach of or in default under any applicable constitutional provision, law or administrative rule or regulation of the State or the United States of America, or any applicable judgment or decree or any trust agreement, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which WRCOG is a party or is otherwise subject, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or event of default under any such instrument which breach, default or event could have a material adverse effect on WRCOG’s ability to perform its obligations under each Bond or Series of Bonds or the WRCOG Documents; and, as of such



times, the authorization, execution and delivery of each Bond or Series of Bonds and the WRCOG Documents and compliance by WRCOG with the obligations on its part to be performed in each of such agreements or instruments does not and will not conflict with or constitute a breach of or default under any applicable constitutional provision, law or administrative rule or regulation of the State or the United States of America, or any applicable judgment, decree, license, permit, trust agreement, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which WRCOG (or any of its officers in their respective capacities as such) is subject, or by which it or any of its properties is bound, nor will any such authorization, execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of its assets or properties or under the terms of any such law, regulation or instrument, except as may be provided by the WRCOG Documents.

5.5 There is, and as of each Closing Date, there shall be no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body (collectively and individually, an “Action”) pending with respect to which WRCOG has been served with process or to the best knowledge of WRCOG threatened, in which any such Action (i) in any way questions the corporate existence of WRCOG or the titles of the officers of WRCOG to their respective offices, (ii) in any way questions the establishment of the Programs or the titles of the Executive Committee of WRCOG, (iii) affects, contests or seeks to prohibit, restrain or enjoin the issuance or delivery of each Bond or Series of Bonds, or the payment or collection of any amounts pledged or to be pledged to pay the principal of and interest on each Bond or Series of Bonds, or in any way contests or affects the validity of the WRCOG Documents or the consummation of the transactions on the part of WRCOG contemplated thereby, or contests the exclusion of the interest on any Bond from state income taxation or contests the powers of WRCOG, or its authority, to levy and collect the applicable Assessments, (iv) may result in any material adverse change relating to the financial condition of WRCOG; and as of the time of acceptance hereof and as of each Closing Date, to the knowledge of WRCOG, there is no basis for any action, suit, proceeding, inquiry or investigation of the nature described in clauses (i) through (iv) of this sentence.

5.6 Each Bond or Series of Bonds, when issued, executed and delivered in accordance with the Master Indenture and the applicable Supplemental Indenture and sold to Renovate America or its assignee, will be validly issued and an outstanding limited obligation of WRCOG, entitled to the benefits of the applicable Master Indenture and the applicable Supplemental Indenture and the security of the pledge of the proceeds of the levy of the applicable Assessment or Assessments. The applicable Master Indenture and the applicable Supplemental Indenture create a valid pledge of the moneys in certain funds and accounts established pursuant to such Master Indenture, including the investments thereof subject in all cases to the provisions of such Master Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein.

5.7 Each Assessment constituting the security for a Bond has been duly and lawfully authorized and levied under Chapter 29 and the Constitution and the applicable laws of the State, and pursuant to Chapter 29 such Assessment, when levied, will constitute a valid and legally binding lien on the Participating Parcel upon which it has been levied.

5.8 All authorizations, approvals, licenses, permits, consents, elections, and orders of or filings with any governmental authority, legislative body, board, agency or commission having jurisdiction in the matters which are required by each Closing Date for the due authorization of, or which would constitute a condition precedent to or the absence of which would adversely affect the due performance by WRCOG of its obligations in connection with the WRCOG Documents have been duly obtained or made and are in full force and effect.

5.9 WRCOG will apply the proceeds of each Bond or Series of Bonds or cause such proceeds to be applied in accordance with the Master Indenture and the applicable Supplemental Indenture.

**6. REPRESENTATIONS, WARRANTIES AND AGREEMENTS OF RENOVATE AMERICA.** Renovate America represents, warrants and covenants to and agrees with WRCOG that:

6.1 Renovate America a corporation, duly organized, validly existing, and in good standing under the laws of the State of Delaware, and is qualified to transact business in the State of California, and has full legal right, power and authority, to enter into this Master BPA and the Supplement to Master BPA, if any, pertaining to each Bond or Series of Bonds.

6.2 The execution and delivery of this Agreement does not conflict with, violate or constitute a default under the terms, conditions or provisions of any agreement or instrument to which Renovate America is a party, or any law, judgment or order of which Renovate America is aware that would affect Renovate America's ability to fulfill its obligations under this Master BPA.

6.3 There are no actions, suits, proceedings or claims now pending, or, to the best of Renovate America's knowledge, threatened against Renovate America, which would affect Renovate America's ability to fulfill its obligations under this Master BPA.

6.4 All authorizations, approvals, licenses, permits, consents, elections, and orders of or filings with any governmental authority, legislative body, board, agency or commission having jurisdiction in the matters which are required by each Closing Date for the due authorization of, or which would constitute a condition precedent to or the absence of which would adversely affect the due performance by Renovate America of its obligations under this Master BPA have been duly obtained or made and are in full force and effect.

7. CONDITIONS PRECEDENT TO THE OBLIGATIONS OF RENOVATE AMERICA. The obligations of Renovate America to accept delivery of and pay for each Bond or Series of Bonds on the Closing Date thereof shall be subject, at the option of Renovate America, to the accuracy in all material respects of the representations and warranties on the part of WRCOG contained herein, as of the date hereof and as of the Closing Date, to the accuracy in all material respects of the statements of the officers and other officials of WRCOG made in any certificates or other documents furnished pursuant to the provisions hereof, to the performance by WRCOG of its obligations to be performed hereunder at or prior to the Closing Date and to the following additional conditions:

7.1 At each such Closing Date, the WRCOG Documents shall be in full force and effect, and shall not have been amended, modified or supplemented, except as may have been agreed to in writing by Renovate America, and there shall have been taken in connection therewith, with the issuance of each Bond or Series of Bonds and with the transactions contemplated thereby and by this Master BPA, all such actions as, in the opinion of Bond Counsel shall be necessary and appropriate;

7.2 Between the date hereof and the Closing Date applicable to each Bond or Series of Bonds, the market price or marketability of such Bond at the prices set forth in the Supplemental Indenture applicable thereto shall not have been materially adversely affected, in the judgment of Renovate America (evidenced by a written notice to WRCOG terminating the obligation of Renovate America to accept delivery of and pay for the Bonds), which judgment shall be formed (to the maximum extent reasonably practicable under the circumstances) only after consultation with WRCOG's financial advisor, by reason of any of the following:

7.2.1 legislation introduced in or enacted (or resolution passed) by the Congress of the United States of America, or an order, decree or injunction issued by any court of competent jurisdiction, or an order, ruling, regulation (final, temporary or proposed), press release or other form of notice issued or made by or on behalf of the Securities and Exchange Commission, or any other governmental agency having jurisdiction of the subject matter, to the effect that obligations of the general character of the Bonds, or such Bond, including any or all underlying arrangements, are not exempt from registration under or other requirements of the Securities Act of 1933, as amended, or that the applicable Master Indenture is not exempt from qualification under or other requirements of the Trust Indenture Act of 1939, as amended, or that the issuance, offering or sale of obligations of the general character of the Bonds, or of the Bonds as contemplated hereby or otherwise is or would be in violation of the federal securities laws, rules or regulations as amended and then in effect; or

7.2.2 any amendment to the federal or State Constitution or action by any federal or State court, legislative body, regulatory body or other authority materially adversely affecting the validity or enforceability of the Assessments or the ability of WRCOG to finance the installation of the applicable Eligible Improvements as contemplated by WRCOG Documents.

7.3 On each Closing Date, Renovate America shall have received counterpart originals or certified copies of the following documents, in each case satisfactory in form and substance to Renovate America:

7.3.1 WRCOG Documents, together with a certificate dated as of the Closing Date of WRCOG Secretary to the effect that each such document is a true, correct and complete copy of the one duly approved by the Executive Committee; provided, however, the Master BPA and the applicable Master Indenture need not be provided so long as such certificate specifies that such document or documents have not been amended since such document or documents were previously received by Renovate America;

7.3.2 Unqualified approving opinion for each Bond or Series of Bonds delivered on such Closing Date, dated such Closing Date and addressed to WRCOG, of Bond Counsel for WRCOG, substantially in the form attached as Exhibit A hereto and a reliance letter dated such Closing Date and addressed to Renovate America, or any assign, affiliate, subsidiary, or any other person or entity that in the form attached as Exhibit B hereto, to the effect that such approving opinion addressed to WRCOG may be relied upon by Renovate America to the same extent as if such opinion was addressed to them;

7.3.3 Supplemental opinion, dated the Closing Date and addressed to WRCOG, Renovate America and the Trustee, of Bond Counsel for WRCOG, substantially in the form attached as Exhibit C hereto;

7.3.4 A certificate, dated such Closing Date and signed by an authorized representative of WRCOG, in substantially the form attached hereto as Exhibit D;

7.3.5 A certificate of the Trustee dated such Closing Date in substantially the form attached hereto as Exhibit E;

7.3.6 An executed copy of each Assessment Contract pertaining to the Commercial Property(ies) upon which the Assessment(s) securing such Bond has been levied (each such Commercial Property, a “Participating Parcel”).

7.3.7 A conformed copy of the Notice of Assessment and Payment of Contractual Assessment Required pertaining to the Assessment(s) levied against each Participating Parcel as recorded in the office of the County Recorder of the County in which such Participating Parcel is located (the “County Recorder”); and

**8. CONDITIONS PRECEDENT TO WRCOG’S OBLIGATIONS.** WRCOG’s obligations hereunder as to the sale of any Bond or Series of Bonds are subject to Renovate America’s performance of their obligations hereunder, and are also subject to the following conditions:

8.1 As of the Closing Date, no litigation shall be pending or, to the knowledge of the duly authorized officer of WRCOG executing the certificate referred to in Section 6.3.4

hereof, threatened, to restrain or enjoin the issuance or sale of such Bond or Series of Bonds or in any way affecting any authority for or the validity of such Bond or such Series of Bonds or WRCOG Documents or the existence or powers of WRCOG;

8.2 As of the Closing Date, WRCOG shall receive the approving opinions of Bond Counsel referred to in Section 7.3.2 and 7.3.3 hereof, dated as of the Closing Date;

8.3 Receipt by WRCOG of a duly executed letter of Renovate America and/or the assignee of Renovate America purchasing such Bond or Series of Bonds dated as of the Closing Date and in substantially the form attached hereto as Exhibit F; and

8.4 Receipt by WRCOG of a duly executed certificate of Renovate America or the assignee of Renovate America purchasing such Bond or Series of Bonds regarding the receipt of such Bond or Series of Bonds in substantially the form attached as Exhibit G hereto.

9. EXPENSES. Whether or not the Bonds are delivered to Renovate America as set forth herein, the payments provided in this Section 9 shall be paid as follows:

9.1 Renovate America shall be under no obligation to pay, and WRCOG shall pay or cause to be paid (out of the proceeds of each Bond or Series of Bonds all expenses incidental to the performance of WRCOG's obligations hereunder in such amounts as the Parties shall mutually agree) to the following parties:

9.1.1 WRCOG as issuer of the Bonds;

9.1.2 the Assessment Administrator ;

9.1.3 Bond Counsel;

9.1.4 Renovate America, in payment for the provision by Renovate America of its Program Administrative Services as defined in and payable pursuant to the Administration Agreement; and in payment for the purchase of the Bonds by Renovate America;

9.1.5 Trustee; and.

9.1.6 Any such other party in such amounts that may be mutually agreed upon in writing by the Parties will be paid in accordance with such agreement.

9.2 WRCOG shall be under no obligation to pay, and Renovate America shall pay any and all expenses incurred by Renovate America, including but not limited to, the fees and disbursements of its counsel pertaining to the issuance of any Bond.

9.3 Renovate America shall be obligated to pay any applicable fees of the California Debt and Investment Advisory Commission pertaining to any Bond or Series of Bonds.

#### **10. AUTHORITY OF RENOVATE AMERICA TO ISSUE ASSET BACKED SECURITIES AND SELL IMPROVEMENT BONDS.**

Renovate America, or any of its direct or indirect subsidiaries, affiliates, assignees or agents, will purchase the Bonds using any source of funds available to it or them. From time to time Renovate America may elect at its own expense to securitize its interest in Bonds and sell such securities to the investment community or sell any Bond, provided that any such sale is to an Accredited Investor (as such term is defined in Regulation D – Rules Governing the Limited Offer and sale of Securities Without Registration under the Securities Act of 1933, being 17 CFR 230.501 through 230.508) and that all subsequent buyers of such Bond agree to be bound by this provision. No further action or acknowledgment by WRCOG will be required to authorize such securitization or sale by Renovate America. All fees, costs and liabilities arising directly or indirectly from or associated with Renovate America's issuance of asset-backed securities or selling the Bonds, including without limitation costs of issuance and annual disclosure costs, will be borne by Renovate America.

WRCOG will provide any reasonable assistance requested by Renovate America, including without limitation, the provision of relevant WRCOG HERO Program and California HERO Program data and reports as may be deemed reasonably necessary by Renovate America for the securitization or other sale of Bonds by Renovate America. Nothing contained in this paragraph shall, however, require WRCOG to prepare any disclosure documents pertaining to such securitization or other sale of Bonds as may be required pursuant to securities laws and regulations of the federal government or the State of California or any agency, department or office of either such government. The Renovate America shall pay all reasonable expenses incurred by or on behalf of WRCOG in providing such data and reports.

#### **10. General Provisions.**

(a) Term and Termination of Agreement. The term of this Master BPA shall be the same as the term of the Administration Agreement. Should Renovate America breach one or more of its material obligations as outlined herein, WRCOG shall provide Renovate America with written notice of such breach(s), and Renovate America shall have ninety (90) days' within which to cure such breach(s) (the "Cure Period"). If the matter is cured, as determined by WRCOG in the exercise of its reasonable discretion, within the Cure Period, then WRCOG shall not be entitled to terminate this Agreement. If Renovate America cannot remedy such breach within the Cure Period, then WRCOG shall have the right (but not the obligation) to terminate this Agreement by providing eighteen (18) months advance written notice to Renovate America. Renovate America may, by written notice to WRCOG, terminate this Master BPA for cause which shall include, but not be limited to, the determination by Renovate America, in the exercise of its reasonable professional judgment after consultation with the WRCOG Representative, that WRCOG cannot reasonably be expected to be able to issue Bonds pursuant to this Master BPA.

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(b) Delivery of Notices. All notices permitted or required under this Master BPA shall be given to the respective Parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Renovate America: Renovate America, Inc.  
Finance Funding Department  
16409 West Bernardo Drive  
San Diego, CA 92127  
Attn: Michael Mildenerberger

With copy to:

WRCOG: Western Riverside Council of Governments  
1170 W. 3<sup>rd</sup> St., 2<sup>nd</sup> Floor  
Riverside, CA 92410  
Attn: Rick Bishop, Executive Director

and

Best Best & Krieger LLP  
3390 University Avenue, 5th Floor  
Riverside, CA 92501  
Attn: Mrunal Shah

Such notice shall be deemed made when (i) personally delivered (ii) when delivered by electronic mail that attaches an executed copy of the notice, provided that within 72 hours following electronic delivery the addressee receive a physical copy of such notice, or (iii) when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

(c) Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Master BPA.

(d) Arbitration and Equitable Relief. This Section shall govern the resolution of all controversies or claims between WRCOG and Renovate American that arise from this Agreement and any modifications hereto. The provisions of this Section, and the entitlement of one party to obtain damages, or other such appropriate legal or equitable remedies, for a breach by the other party, shall survive termination of this Agreement. Wherever this Agreement makes reference to any means of resolving and dispute between the Parties or termination of the Agreement, the Parties agree to follow the below arbitration procedures.

(i) Arbitration. In consideration of rights and obligations set forth by each party in this Agreement, Renovate America and WRCOG agree that any and all controversies, claims, or disputes with anyone (including WRCOG and any employee, officer, director, volunteer of WRCOG in his, her or its capacity as such or otherwise), whether brought on any individual, group or class basis, arising out of, relating to, or resulting from either party's performance or non-performance under this Agreement or the termination of this Agreement, including any breach of this Agreement by either Party, shall be subject to binding arbitration in accordance with the Comprehensive Arbitration Rules & Procedures (the "Rules") of the Judicial Arbitration and Mediation Services ("JAMS"), as they may be amended from time to time where not inconsistent with the further provisions hereof. The Parties hereby agree that judgment upon the award rendered by the arbitrator(s) may be entered in Riverside Superior Court. The Parties submit to the jurisdiction of the Riverside Superior Court for purposes enforcing any such award and entering judgment thereon.

(ii) Procedure. Appointment of the arbitrator pursuant to this Section shall be in accordance with the provisions of the Rules, which Rules provide a procedure for the selection of an arbitrator, or arbitration panel if agreed to by the Parties. Renovate America and WRCOG agree that the arbitrator shall have the power to decide any motions brought by any Party to the arbitration, including motions for summary judgment and/or adjudication, motions to dismiss and demurrers, and motions for class certification, prior to any arbitration hearing. Renovate America and WRCOG also agree that the arbitrator shall have the power to award any remedies available under applicable law, and that the arbitrator shall award attorneys' fees and costs to the prevailing Party except as prohibited by law. Costs shall be allocated as set forth in the Rules. Renovate America and WRCOG agree that the decision of the arbitrator shall be in writing. The written opinion of the arbitrator or arbitrators, as the case may be, shall be governed by the Rules. The arbitrator(s) shall have the powers established by JAMS, as delineated in the Rules, but shall have no authority to revise or vary the terms of this Agreement or the Parties' respective rights and obligations hereunder. Except as provided by the Rules and this Agreement, arbitration shall be the sole, exclusive and final remedy for any dispute between Renovate America and WRCOG. Accordingly, except as provided for by the Rules and this Agreement, neither Renovate America nor WRCOG will be permitted to pursue court action regarding claims that are subject to arbitration.

(iii) Availability of Injunctive Relief. Renovate America and WRCOG agree that either Renovate America or WRCOG may petition a court for provisional relief, including injunctive relief, as permitted by the Rules, including, but not limited to, where either Renovate America or WRCOG alleges or claims a violation of this Master BPA between WRCOG and Renovate America. Renovate America and WRCOG understand that any breach or threatened breach of such an agreement (including this Master BPA) will cause irreparable injury and that money damages will not provide an adequate remedy therefor and both WRCOG and Renovate America hereby consent to the issuance of an injunction.

(e) Indemnification and Hold Harmless.

(i) Renovate America shall defend, indemnify and hold WRCOG, its officials, officers, employees, volunteers and agents free and harmless from any and all claims,

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demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged negligent or wrongful acts, omissions or willful misconduct of Renovate America, its officials, officers, employees, agents, consultants, contractors and subcontractors, arising out of or in connection with the performance under this Agreement, including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses. Renovate America shall defend, at Renovate America's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against WRCOG, its directors, officials, officers, employees, agents or volunteers. Renovate America shall pay and satisfy any judgment, award or decree that may be rendered against WRCOG or its directors, officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. Renovate America shall reimburse WRCOG and its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Renovate America's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the WRCOG, its directors, officials, officers, employees, agents or volunteers. No third party shall be a direct beneficiary of this Section 8(e) (i).

(ii) WRCOG shall defend, indemnify and hold Renovate America, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any reckless acts or omissions or willful misconduct of WRCOG, its officials, officers, employees, agents, consultants, contractors and subcontractors, arising out of or in connection with the performance under this Agreement, including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses. WRCOG shall defend, at WRCOG's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Renovate America, its directors, officials, officers, employees, agents or volunteers. WRCOG shall pay and satisfy any judgment, award or decree that may be rendered against Renovate America or its directors, officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. WRCOG shall reimburse Renovate America and its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. WRCOG's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Renovate America, its directors, officials, officers, employees, agents or volunteers. No third party shall be a direct beneficiary of this Section 8(e) (ii).

(f) Entire Agreement. This Master BPA contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements.

(g) Governing Law. This Master BPA shall be governed by the laws of the State of California. Venue shall be in Riverside County.

(h) Time of Essence. Time is of the essence for each and every provision of this Master BPA.

(i) Successors and Assigns. This Master BPA shall be binding on the successors and assigns of the Parties.

(j) Assignment or Transfer. Renovate America shall not assign, hypothecate, or transfer, either directly or by operation of law, this Master BPA or any interest herein without the prior written consent of WRCOG; provided, however, Renovate America may assign this Master BPA in connection with the merger or the sale of all or substantially all of its assets provided that the successor entity expressly assumes all of the obligations and confirms all of the representations and warranties of Renovate America hereunder. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. For the avoidance of doubt, the prohibitions in this Section 10 (j) shall not limit or affect Renovate America's rights described in Section 9 of this Agreement.

(k) Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Master BPA, the language of this Master BPA shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not workdays. All references to Renovate America include all personnel, employees, agents, and subcontractors of Renovate America, except as otherwise specified in this Master BPA. All references to WRCOG include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Master BPA. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Master BPA.

(l) Amendment; Modification. No supplement, modification, or amendment of this Master BPA shall be binding unless executed in writing and signed by both Parties.

(m) Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

(n) No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

(o) Invalidity; Severability. If any portion of this Master BPA is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

(p) Prohibited Interests. Renovate America maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Renovate America, or independent contractors and consultants engaged by Renovate

America to perform Renovate America's obligations and duties under this Master BPA to solicit or secure this Master BPA. Further, other than its outside counsel, Renovate America warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Renovate America, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Master BPA. For breach or violation of this warranty, WRCOG shall have the right to rescind this Master BPA without liability. For the term of this Master BPA, no member, officer or employee of WRCOG, during the term of his or her service with WRCOG, shall have any direct interest in this Master BPA, or obtain any present or anticipated material benefit arising therefrom.

(q) Survival of Representations, Warranties and Agreements. The representations, warranties and agreements of the Parties set forth in or made pursuant to this Master BPA shall not be deemed to have been discharged, satisfied or otherwise rendered void by reason of the Closing and regardless of any investigations made by or on behalf of the other Party (or statements as to the results of such investigations) concerning such representations and statements of the Parties and regardless of delivery of and payment for the Bonds or performance under this Master BPA.

(r) Equal Opportunity Employment. Renovate America represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

(s) Authority to Enter Master BPA. Renovate America has all requisite power and authority to conduct its business and to execute, deliver, and perform the Master BPA. Each Party warrants that the individuals who have signed this Master BPA have the legal power, right, and authority to make this Master BPA and bind each respective Party.

11. Effective. This Master BPA shall become effective and binding upon the respective parties hereto upon the execution of the acceptance hereof by WRCOG and shall be valid and enforceable as of the time of such acceptance.

12. Counterparts. This Master BPA may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Master BPA as of the date first written above.

WESTERN RIVERSIDE  
COUNCIL OF GOVERNMENTS

RENOVATE AMERICA, INC.

By: \_\_\_\_\_  
Name: Rick Bishop  
Title: Executive Director

By: \_\_\_\_\_  
Name: Michael Mildenberger  
Title: Chief Risk and Compliance Officer

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Best Best & Krieger LLP

EXHIBIT A  
FORM OF BOND COUNSEL OPINION

[Closing Date]

Executive Committee  
Western Riverside Council of Governments  
4080 Lemon Street, 3rd Floor Annex  
Riverside, California

Re: Western Riverside Council of Governments  
Limited Obligation Improvement Bonds  
(HERO Commercial Programs) (\_\_\_\_\_ Commercial Property Tranche)

**Bond Counsel Opinion**

Ladies and Gentlemen:

We have acted as bond counsel to the Western Riverside Council of Governments (“WRCOG”) in connection with the issuance by WRCOG of those Western Riverside Council of Government Limited Obligation Improvement Bonds (HERO Commercial Programs) (\_\_\_\_\_ Commercial Property Tranche) listed on the attached Schedule I (the “Bonds”). In such capacity we have examined the proceedings taken by WRCOG for the levy of assessments and the authorization and issuance of the Bonds with respect to the California HERO Program (collectively, the “Program Proceedings”). Additionally, we have examined such law, certifications, and other documents as we have deemed necessary to render this opinion.

The Program Proceedings were taken pursuant to the provisions of Chapter 29 of Part 3, Division 7 of the Streets and Highways Code of the State of California (“Chapter 29”). Each Bond has been issued pursuant to Chapter 29, the Municipal Improvement Act of 1915 (Division 10 of the Streets and Highways Code of the State of California), Resolution No. \_\_\_\_-\_\_ adopted by the Executive Committee of WRCOG (the “Executive Committee”) on [December 2, 2019] (the “Resolution of Issuance”), the Master Indenture dated as of \_\_\_\_\_ (the “Master Indenture”), by and between WRCOG and Wilmington Trust, National Association, as Trustee (the “Trustee”), and the Supplemental Indenture, dated as of \_\_\_\_\_ (the “Supplemental Indenture”), by and between WRCOG and the Trustee, pertaining to the Bonds. Capitalized terms used herein and not defined herein shall have the meanings given such terms in the Master Indenture or the Supplemental Indenture, as appropriate.

As to questions of fact material to our opinion, we have relied upon representations of WRCOG, the certified proceedings and other certifications or documents furnished to the WRCOG or to us, including, without limitation, the Investor Letter dated as of \_\_\_\_\_ from \_\_\_\_\_, without undertaking to verify the same by independent investigation.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions, including the default judgments rendered on: July 1, 2011 by the Superior Court of the County of Riverside in the validation action entitled Superior Court of the County of Riverside as *Western Riverside Council of Governments v. All Persons Interested, etc.*, Case No. RIC 1103280; and December 12, 2013 by the Superior Court of the County of Riverside in the validation action entitled Superior Court of the County of Riverside as *Western Riverside Council of Governments v. All Persons Interested, et al.*, Case No. RIC 1308636, as amended on April 22, 2014, July 1, 2014, November 14, 2014, March 24, 2015, June 10, 2015; September 15, 2015, December 2, 2015, April 13, 2016, August 22, 2016, February 10, 2017, October 13, 2017 and October 11, 2018 and cover certain matters not directly addressed by such authorities. We call attention to the fact that the opinions contained herein may be affected by actions taken (or not taken) or events occurring (or not occurring) after the date hereof. This opinion is given as of the date hereof and we assume no obligation to revise and supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may thereafter occur.

Based upon the foregoing, we are of the opinion that the Program Proceedings have been undertaken in accordance with the law and the Constitution of the State of California and that the Bonds, having been duly issued, executed and delivered in the manner provided by law, and the Master Indenture and the Supplemental Indenture having been duly authorized and executed by the proper official, constitute the legally valid and binding limited obligations of WRCOG enforceable in accordance with their terms subject to the qualifications specified below. Each Bond is secured by a first pledge of the Assessment or Assessments, as applicable, securing such Bond levied upon the Participating Parcel or Participating Parcels (except amounts deposited into the Administrative Expense Fund established pursuant to the Master Indenture) as identified and set forth in the Supplemental Indenture and all moneys deposited in the Redemption Fund (including the Capitalized Interest Account and the Prepayment Account therein) established pursuant to the Master Indenture derived from the installments of such Assessment or Assessments, as applicable, or from the prepayment of such Assessment or Assessments, as applicable, received by WRCOG.

We are further of the opinion that interest on the Bonds is exempt from personal income taxes imposed by the State of California, however, we observe that interest on the Bonds is not excludable from gross income for federal income tax under Section 103 of the Internal Revenue Code of 1986 (the "Code"). We express no opinion regarding other federal tax consequences with respect to the Bonds.

Any federal tax advice contained herein with respect to the Bonds is not intended or written to be used, and it cannot be used, for the purpose of avoiding penalties under the Code. The federal tax advice contained herein with respect to the Bonds was written to support the promoting and marketing of the Bonds. Before purchasing the Bonds, all potential purchasers should consult their independent tax advisors with respect to the tax consequences relating to the Bonds and the taxpayer's particular circumstances.

We are admitted to the practice of law only in the State of California and our opinion is limited to matters governed by the laws of the State of California and federal law. We assume no responsibility with respect to the applicability or the effect of the laws of any other

jurisdiction and express no opinion as to the enforceability of the choice of law provisions contained in the Indenture.

The rights of the owner of the Bonds and the enforceability of the Bonds, the Master Indenture and the Supplemental Indenture may be subject to bankruptcy, insolvency, moratorium and other similar laws affecting creditors' rights heretofore and hereafter enacted, and their enforcement may be subject to the exercise of judicial discretion in accordance with general principals of equity.

Respectfully submitted,

BEST BEST & KRIEGER LLP

EXHIBIT B

FORM OF RELIANCE LETTER OF BOND COUNSEL

[Closing Date]

Executive Committee  
Western Riverside Council of Governments  
4080 Lemon Street, 3rd Floor  
Riverside, California 92501

[Purchaser of the Bonds]

Wilmington Trust, National Association  
650 Town Center Drive, Suite 800,  
Costa Mesa, CA 92626  
Attention: Corporate Trust Services

Re: Western Riverside Council of Governments Limited Obligation Improvement  
Bonds (HERO Commercial Programs) (\_\_\_\_\_ Commercial Property  
Tranche)

RELIANCE LETTER

Ladies and Gentlemen:

We are delivering to you on the date of this letter a copy of our opinion dated \_\_\_\_\_ that is attached hereto, and addressed to the Executive Committee of the Western Riverside Council of Governments with respect to the bonds listed on the attached Schedule I (the "Bonds"). This is to confirm that you may rely on that opinion as though it were addressed to you.

Respectfully submitted,

BEST BEST & KRIEGER LLP



EXHIBIT C

FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL

[Closing Date]

Executive Committee  
Western Riverside Council of Governments  
4080 Lemon Street, 3rd Floor Annex  
Riverside, California

Wilmington Trust, National Association  
650 Town Center Drive, Suite 800,  
Costa Mesa, CA 92626

[Purchaser of the Bonds]

Re: Western Riverside Council of Governments  
Limited Obligation Improvement Bonds  
(HERO Commercial Program) (\_\_\_\_\_ Commercial Property Tranche)

Supplemental Opinion of Bond Counsel

Ladies and Gentlemen:

This opinion is rendered in our capacity as bond counsel for Western Riverside Council of Governments (“WRCOG”) and in conjunction with and pertaining to the proceedings conducted by WRCOG for the levy of assessments and the authorization and in connection with the issuance of the Western Riverside Council of Governments Limited Obligation Improvement Bonds (HERO Commercial Programs) (\_\_\_\_\_ Commercial Property Tranche) listed on the attached Schedule I (the “Bonds”), with respect to the WRCOG HERO Program and California HERO Program (the “Program”) taken pursuant to the provisions of Chapter 29 of Part 3, Division 7 of the Streets and Highways Code of the State of California (“Chapter 29”) and the sale and delivery of the Bonds by WRCOG pursuant to the provisions of Chapter 29, the Improvement Bond Act of 1915 (Division 10 of the Streets and Highways Code of the State of California) (the “Bond Act”), Resolution No. \_\_-\_\_ adopted by the Executive Committee of WRCOG (the “Executive Committee”) on [December 2, 2019] (the “Resolution of Issuance”), the Master Indenture, dated as of \_\_\_\_\_ the (“Master Indenture”), by and between WRCOG and Wilmington Trust, National Association, as trustee (the “Trustee”), and the Supplemental Indenture, dated as of \_\_\_\_\_ (the “Supplemental Indenture”), by and between WRCOG and the Trustee, pertaining to such Bonds.

On February 18, 2011, WRCOG filed a judicial validation proceeding pursuant to the provisions of Section 860 *et seq.* of the California Code of Civil Procedure (the “Validation Statute”) in the Superior Court of the County of Riverside (the “Superior Court”) entitled Superior Court of the County of Riverside as *Western Riverside Council of Governments v. All*

*Persons Interested, et al.*, Case No. RIC 1103280 (the “Validation Action I”) to validate the WRCOG HERO Program and all proceedings relating to or leading up to the WRCOG HERO Program, the contractual assessments to be levied by WRCOG and the issuance and sale of limited obligation improvement bonds related thereto. On July 1, 2011, a default judgment was entered in the Validation Action I (the “Validation Action I Judgment”) in which the Superior Court ordered, judged and decreed, in part, that all proceedings by and for WRCOG in connection with the WRCOG HERO Program, the contractual assessment agreements, and all proceedings related to or leading up to the issuance of such limited obligation improvement bonds, and all matters related thereto, and the execution and delivery of such limited obligation improvement bonds were and are, legal and binding obligations in accordance with their terms and were and are in conformity with all applicable provisions of all laws and enactments at any time in force or controlling upon such proceedings, whether imposed by law, constitution, statute or ordinance, and whether federal, state or local. On July 30, 2013, WRCOG filed a judicial validation proceeding pursuant to the provisions of the Validation Statute in the Superior Court entitled Superior Court of the County of Riverside as *Western Riverside Council of Governments v. All Persons Interested, et al.*, Case No. RIC 1308636 (the “Validation Action II”) to validate the California HERO Program and all proceedings relating to or leading up to the California HERO Program, the contractual assessments to be levied by WRCOG and the issuance and sale of limited obligation improvement bonds related thereto. On December 12, 2013, a default judgment was entered in the Validation Action II (the “Initial Validation Action II Judgment”) in which the Superior Court ordered, judged and decreed, in part, that all proceedings by and for WRCOG in connection with the California HERO Program, the contractual assessment agreements, and all proceedings related to or leading up to the issuance of such limited obligation improvement bonds, and all matters related thereto, and the execution and delivery of such limited obligation improvement bonds were and are, legal and binding obligations in accordance with their terms and were and are in conformity with all applicable provisions of all laws and enactments at any time in force or controlling upon such proceedings, whether imposed by law, constitution, statute or ordinance, and whether federal, state or local. Subsequent to the entry of the Initial Validation Action II Judgment, WRCOG petitioned the Superior Court to amend such judgment and the first amended judgment was entered on April 22, 2014 (the “First Amended Judgment”), the second amended judgment was entered on July 1, 2014 (the “Second Amended Judgment”), the third amended judgment was entered on November 14, 2014 (the “Third Amended Judgment”), the fourth amended judgment was entered on March 24, 2015 (the “Fourth Amended Judgment”), the fifth amended judgment was entered on June 10, 2015 (the “Fifth Amended Judgment”), the sixth amended judgment was entered on September 15, 2015 (the “Sixth Amended Judgment”), the seventh amended judgment was entered on December 2, 2015 (the “Seventh Amended Judgment”), the eighth amended judgment was entered on April 13, 2016 (the “Eighth Amended Judgment”); the ninth amended judgment was entered on August 22, 2016 (the “Ninth Amended Judgment”); the tenth amended judgment was entered February 10, 2017 (the “Tenth Amended Judgment”); the eleventh amended judgment was entered on October 13, 2017 (the “Eleventh Amended Judgment”) and the twelfth amended judgment was entered on October 11, 2018 (the “Twelfth Amended Judgment”) (together with the Initial Validation Action II Judgment and the First Amended Judgment, the Second Amended Judgment, the Third Amended Judgment, the Fourth Amended Judgment, the Fifth Amended Judgment, the Sixth Amended Judgment, the Seventh Amended Judgment, the Eighth Amended Judgment, the Ninth Amended Judgment, the Tenth Amended Judgment, the Eleventh Amended Judgment and the Twelfth Amended Judgment, the “Validation Action II Judgment”).

(Validation Action I and Validation Action II shall be collectively referred to as the “Validation Actions” and the Validation Action I Judgment and the Validation Action II Judgment entered for the Validation Actions shall be collectively referred to as the “Default Judgments”).)

Capitalized terms used herein and not defined herein shall have the meanings given such terms in the Master Indenture or the Supplemental Indenture.

As to questions of fact material to our opinion, we have relied upon representations of WRCOG, the certified proceedings and other certifications or documents furnished to the WRCOG or to us, including, without limitation, the Investor Letter dated as of \_\_\_\_\_ from \_\_\_\_\_ without undertaking to verify the same by independent investigation.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions, including the Default Judgments, and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to our attention after the date hereof.

As used in this opinion, the phrase “current actual knowledge” means knowledge of facts or other information that is in the conscious awareness of lawyers currently in our firm who have performed legal services for WRCOG.

Based upon the foregoing and subject to the qualifications set forth herein, we are of the opinion that:

1. WRCOG is duly created and validly existing as a joint exercise of powers authority organized and existing under the Constitution and laws of the State of California.

2. WRCOG has full legal power and lawful authority to adopt the Resolution of Issuance and approve and enter into the Master Indenture and the Supplemental Indenture, and the Resolution of Issuance, the Master Indenture, the Supplemental Indenture and such Bonds were duly approved by the Executive Committee of WRCOG.

3. The execution of the Supplemental Indenture relating to the Bonds is authorized and permitted by the terms of the Master Indenture and that all conditions precedent to the execution of the Supplemental Indenture have been met.

4. [The/Each Bond] has been duly authorized, issued, executed and delivered by WRCOG and constitutes the legal, valid and binding agreement of WRCOG, enforceable in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or transfer and other laws affecting the enforcement of creditors’ rights in general and except as such enforceability may be limited by the application of equitable principles and the exercise of judicial discretion in appropriate cases. The Master Indenture and the Supplemental Indenture have been duly authorized, executed and delivered by WRCOG, and, assuming due authorization, execution and delivery where applicable by the other parties thereto, constitute the legal, valid and binding agreements of WRCOG, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent

conveyance or transfer and other laws affecting the enforcement of creditors' rights in general and except as such enforceability may be limited by the application of equitable principles and the exercise of judicial discretion in appropriate cases.

5. The Validation Actions were duly filed and the Default Judgments duly entered in accordance with all applicable, laws, rules and regulations of the State of California.

6. Notices of the Validation Actions were duly made in accordance with the Validation Statute and the order of the Superior Court.

7. The Default Judgments are final and in full force and effect.

8. Pursuant to its terms and the Validation Statute, the Default Judgments are, notwithstanding any other provisions of law, forever binding and conclusive, as to all matters adjudicated or which could have been adjudicated, against all persons interested, and such Default Judgments shall permanently enjoin the institution by any person of any proceeding raising any issue as to which the judgments are binding and conclusive.

9. Each Assessment, as specified in the Supplemental Indenture, has been duly and validly authorized in accordance with the laws of the State of California and a lien to secure payment of such Assessment has been imposed on the applicable Participating Parcel.

10. The lien of each Assessment is coequal to and independent of the lien for general taxes, and, except as provided in Government Code Section 53936, not subject to extinguishment by the sale of the property on account of the nonpayment of any taxes, and prior and superior to all liens, claims and encumbrances except: (a) the lien for general taxes or *ad valorem* assessments in the nature of and collected as taxes levied by the State of California, the city and/or county, special district or other local agency, if any, within which the applicable Participating Parcel is located; (b) the lien of any special assessment or assessments the lien date of which is prior in time to the lien date of such Assessment; (c) easements constituting servitudes upon or burdens to the applicable Participating Parcel; (d) water rights, the record title to which is held separately from the title to the applicable Participating Parcel; and (e) restrictions of record. The lien of each Assessment has the same priority as the lien for general taxes or *ad valorem* assessments in the nature of and collected as taxes levied by the State of California, the city and/or the county, special district or other local agency, if any, within which the applicable Participating Parcel is located.

11. To our actual knowledge, no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, or public board or body (except for the Validation Actions) is pending or threatened, in any way affecting the existence of WRCOG or the titles of its officers to their respective offices, or seeking to restrain or to enjoin the issuance, sale or delivery of the Bonds, the application of the proceeds thereof in accordance with the Master Indenture and the Supplemental Indenture, the collection or application of the Assessments pledged or to be pledged to pay the principal of and interest on the Bonds, or the pledge thereof, or in any way contesting or affecting the validity or enforceability of the Assessments, the Bonds, the Master Indenture, the Supplemental Indenture, any other applicable agreements, or any action of the WRCOG contemplated by any of those documents, or in any way contesting the powers of the WRCOG or its authority with respect to

the Bonds, the Master Indenture, the Supplemental Indenture, any other applicable agreements, or any action of the WRCOG contemplated by any of those documents, or which would adversely affect the exemption of interest on the Bonds from California personal income taxation; nor to our actual knowledge, is there any basis for any of the foregoing actions.

12. The Programs, the Assessment Contracts, the levy of the Assessments and the issuance of the Bonds do not violate the prohibition against “impairing the obligation of contracts” as provided in the United States Constitution, Article I, Section 10, clause 1, or the California Constitution, Article I, Section 9, do not constitute a taking of a pre-existing lender’s property and do not constitute a taking of private property without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution or the California Constitution, Article I, Section 19.

13. The Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Master Indenture and the Supplemental Indenture are exempt from qualification under the Trust Indenture of 1939, as amended.

The opinions expressed above do not constitute a guarantee of the outcome of any particular litigation, and there can be no assurance that no action may be taken in federal or state court challenging the constitutionality of Chapter 29 and/or the Bond Act relating to the Bonds. Furthermore, given the lack of judicial precedent directly on point, and the novelty of the transactions pertaining to Chapter 29, the Programs and/or the Bonds, the outcome of any such litigation cannot be predicted with certainty. In the event of any claim and/or action which adversely impacts the rights of the holder of the Bonds, costly and time-consuming litigation could ensue, adversely affecting, at least temporarily, the price and liquidity of the Bonds.

The opinions set forth herein is intended for the information solely of the addressees hereof and is not to be relied upon by any other person or entity, or for any other purpose, or quoted as a whole or in part, or otherwise referred to, in any document, or to be filed with any governmental or other administrative agency or other person or entity for any purpose without our prior express written consent. We do not undertake to advise you of matters that may come to our attention subsequent to the date hereof that may affect the opinions expressed herein.

Respectfully submitted,

BEST BEST & KRIEGER LLP

## EXHIBIT D

### OMNIBUS CERTIFICATE OF WRCOG

Name and address of purchaser of Bond

Wilmington Trust, National Association  
650 Town Center Drive, Suite 800,  
Costa Mesa, CA 92626

Re: Western Riverside Council of Governments  
Limited Obligation Improvement Bonds  
(HERO Commercial Programs)  
(\_\_\_\_\_ Commercial Property Tranche)

The undersigned hereby certifies that he is an Authorized Representative of the Western Riverside Council of Governments (“WRCOG”) and that the undersigned is authorized to execute this Omnibus Certificate of WRCOG on behalf of WRCOG in connection with the issuance of the Western Riverside Council of Governments Limited Obligation Improvement Bonds (HERO Commercial Programs) (\_\_\_\_\_ Commercial Property Tranche) listed on the attached Schedule I (the “Bonds”). All capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Master Indenture, dated as of \_\_\_\_\_ 1, 20\_\_ (the “Master Indenture”), by and between WRCOG and Wilmington Trust, National Association, as trustee (the “Trustee”).

1. The Western Riverside Council of Governments (“WRCOG”) is a joint exercise of powers authority duly organized and existing under the Constitution of the State of California (the “Constitution”) and laws of the State of California (the “State”), and has, and at the Closing Date will have, full legal right, power and authority, for and on behalf of the Member Agencies:

- (a) to adopt the Resolution of Issuance;
- (b) to enter into the Master Bond Purchase Agreement, dated as of \_\_\_\_\_ 1, 20\_\_ (the “Bond Purchase Agreement”), by and between WRCOG and Renovate America, Inc. (“Renovate America”);
- (c) to enter into the Master Indenture, dated as of \_\_\_\_\_ 1, 20\_\_ and the Supplemental Indenture, dated as of \_\_\_\_\_, 20\_\_, (the “Supplemental Indenture”), by and between WRCOG and the Trustee with respect to the Bonds;
- (d) to issue, sell and deliver the Bonds to [Renovate America, Inc. or its assignee as provided herein];
- (e) to enter into the Assessment Contract for each Participating Parcel as identified in the Supplemental Indenture; and

(f) to carry out and consummate the transactions on its part contemplated by the Bond Purchase Agreement, the Master Indenture, the Supplemental Indenture, the Bonds and the Assessment Contracts.

The Bond Purchase Agreement, the Master Indenture, the Supplemental Indenture and the Assessment Contracts are collectively referred to herein as the “WRCOG Documents.”

2. By all necessary official action of WRCOG, WRCOG has duly authorized and approved the adoption or execution and delivery by WRCOG of, and the performance by the WRCOG of the obligations on its contained in, the Bonds, the WRCOG Documents and the Resolution of Issuance and, as of the date hereof, such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded. The Bonds and, when executed and delivered by the parties thereto, the WRCOG Documents will constitute the legally valid and binding obligations of WRCOG enforceable against WRCOG in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or affecting creditors’ rights generally. WRCOG has complied, and will at the Closing (as such term is defined in the Bond Purchase Agreement, be in compliance in all respects, with the obligations on its part to be performed on or prior to the Closing Date under the Bonds and the WRCOG Documents.

3. The Executive Committee has duly established the Programs pursuant to the Resolutions Confirming Program Report and Chapter 29. The Executive Committee has duly authorized the issuance and sale of the Bonds pursuant to Resolution of Issuance, adopted by the Executive Committee, the Master Indenture and the Supplemental Indenture.

4. As of the Closing Date, WRCOG is not or will not be in breach of or in default under any applicable constitutional provision, law or administrative rule or regulation of the State or the United States of America, or any applicable judgment or decree or any trust agreement, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which WRCOG is a party or is otherwise subject, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or event of default under any such instrument which breach, default or event could have an adverse effect on WRCOG’s ability to perform its obligations under the Bonds or the WRCOG Documents; and, as of such times, the authorization, execution and delivery of the Bonds and the WRCOG Documents and compliance by WRCOG with the obligations on its part to be performed in each of such agreements or instruments does not and will not conflict with or constitute a breach of or default under any applicable constitutional provision, law or administrative rule or regulation of the State or the United States of America, or any applicable judgment, decree, license, permit, trust agreement, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which WRCOG (or any of its officers in their respective capacities as such) is subject, or by which it or any of its properties is bound, nor will any such authorization, execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of its assets or properties or under the terms of any such law, regulation or instrument, except as may be provided by the WRCOG Documents.

5. As of the Closing Date there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body (collectively and individually, an "Action") pending with respect to which WRCOG has been served with process or to the best knowledge of WRCOG threatened, in which any such Action: (i) in any way questions the corporate existence of WRCOG or the titles of the officers of WRCOG to their respective offices; (ii) in any way questions the establishment of the Programs or the titles of the Executive Committee of WRCOG; (iii) affects, contests or seeks to prohibit, restrain or enjoin the issuance or delivery of the Bonds, or the payment or collection of any amounts pledged or to be pledged to pay the principal of and interest on the Bonds, or in any way contests or affects the validity of the WRCOG Documents or the consummation of the transactions on the part of WRCOG contemplated thereby, or contests the exclusion of the interest on the Bonds from state income taxation or contests the powers of WRCOG, or its authority, to levy and collect the Assessments; and (iv) may result in any material adverse change relating to the financial condition of WRCOG; and as of the time of acceptance hereof and as of the Closing Date, to the knowledge of WRCOG, there is no basis for any action, suit, proceeding, inquiry or investigation of the nature described in clauses (i) through (iv) of this sentence.

6. The Bonds, when issued, executed and delivered in accordance with the Indenture and sold to [\_\_\_\_\_, or its assignee], will be validly issued and an outstanding limited obligation of WRCOG, entitled to the benefits of the Master Indenture and the Supplemental Indenture and the security of the pledge of the proceeds of the levy of the applicable Assessments identified in the Supplemental Indenture. The Indenture creates a valid pledge of the moneys in certain funds and accounts established pursuant to such Indenture, including the investments thereof subject in all cases to the provisions of such Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein.

7. Each Assessment constituting security for the applicable Bond has been duly and lawfully authorized and levied under Chapter 29 and the Constitution and the applicable laws of the State, and pursuant to Chapter 29 such Assessment, when levied, will constitute a valid and legally binding lien on the Participating Parcel upon which it has been levied.

8. All authorizations, approvals, licenses, permits, consents, elections, and orders of or filings with any governmental authority, legislative body, board, agency or commission having jurisdiction in the matters which are required by the Closing Date for the due authorization of, or which would constitute a condition precedent to or the absence of which would adversely affect the due performance by WRCOG of its obligations in connection with the WRCOG Documents have been duly obtained or made and are in full force and effect.

9. WRCOG will apply the proceeds of each of the Bonds in accordance with the Master Indenture and the Supplemental Indenture.



EXHIBIT E

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS  
LIMITED OBLIGATION IMPROVEMENT BONDS  
(HERO Commercial Programs)  
(\_\_\_\_\_ Commercial Property Tranche)

Certificate of Trustee

I, an Authorized Signer of Wilmington Trust, National Association (“Wilmington”), the Trustee under the Master Indenture, dated as of \_\_\_\_\_, 20\_\_ (the “Master Indenture”), by and between Western Riverside Council of Governments(the “Issuer”) and Wilmington, and the Supplemental Indenture, dated as of \_\_\_\_\_, 20\_\_ (the “Supplemental Indenture”), by and between the Wilmington, as Trustee and Issuer related to the bonds listed in the attached Schedule I (the “Bonds”), hereby certify the following information. Capitalized terms used but not defined herein shall have the meanings set forth in the Master Indenture.

(a) Wilmington is a national banking association duly organized, validly existing and in good standing under the laws of the United States and is authorized to execute the Master Indenture and Supplemental Indenture (collectively, the “Transaction Documents”), and accept the trust and perform its obligations under the Transaction Documents.

(b) The individuals listed on the attached Exhibit A are duly authorized to execute the Agreement and are the duly elected and qualified incumbents of the office set forth opposite his or her name.

(c) The Bonds, dated the date hereof and provided for by the Transaction Documents have been authenticated by Authorized Officers of Wilmington.

(d) The Bonds have, on or before this date, been delivered by Wilmington to or upon the Issuer Order.

IN WITNESS WHEREOF, Wilmington Trust, National Association has caused this certificate to be executed in its name by a duly authorized officer, as of the [Closing Date].

DATED:

WILMINGTON TRUST, NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

## EXHIBIT F

### LETTER OF PURCHASER

Western Riverside Council of Governments  
4080 Lemon Street  
3rd Floor, MS 1032  
Riverside, California 92501-3609  
Attention: Executive Director

Wilmington Trust, National Association  
650 Town Center Drive, Suite 800,  
Costa Mesa, CA 92626

Re: Western Riverside Council of Governments  
Limited Obligation Improvement Bonds  
(HERO Commercial Programs)  
(\_\_\_\_\_ Commercial Property Tranche)

Ladies and Gentlemen:

The undersigned (the “Investor”) proposes to purchase the limited obligation improvement bonds as listed on the attached Schedule I (the “Bonds”) from the Western Riverside Council of Governments (“WRCOG”). Capitalized terms used in this Investor Letter and not otherwise defined herein shall have the meanings ascribed to such terms in the Master Indenture, dated as of \_\_\_\_\_, 20\_\_ (the “Master Indenture”), by and between WRCOG and Wilmington Trust, National Association, as trustee (the “Trustee”).

In connection with the sale of the Bonds to the Investor, the Investor hereby makes the following representations upon which you may rely:

1. The Investor has authority to purchase the Bonds and to execute this letter and any other instruments and documents required to be executed by the Investor in connection with the purchase of the Bonds.

2. The Investor is an “accredited investor” under Regulation D of the Securities Act of 1933 and, therefore, has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the Bonds.

3. The Bonds are being acquired by the Investor for investment and not for more than one account or with a view to distribution of the Bonds except as provided for in paragraph 8 below. The Investor understands that it may need to bear the risks of this investment for an indefinite time, since any sale prior to maturity may not be possible.

4. The Investor understands that the Bonds are not registered under the 1933 Act and that such registration is not legally required as of the date hereof; and further understands that the

Bonds: (a) are not being registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state; (b) will not be listed on any stock or other securities exchange; (c) will not carry a rating from any rating service; and (d) will be delivered in a form which may not be readily marketable.

5. The Investor understands that: (a) the Bonds are not secured by any pledge of any moneys received or to be received from taxation by the State of California or any political subdivision thereof and that WRCOG has no taxing power; (b) the Bonds do not and will not represent or constitute a general obligation or a pledge of the faith and credit of WRCOG, the State of California or any political subdivision thereof; and (c) the liability of WRCOG with respect to each Bond is limited to first priority perfected security interest granted in the applicable Assessment and all other Collateral securing such Bond and all moneys deposited in the Redemption Fund (including the Capitalized Interest Account, the Assessment Collection Account and the Prepayment Account therein) are derived from the issuance of the Bonds, the installments of such Assessments or from the prepayment of such Assessment received by WRCOG as set forth in the Indenture.

6. The Investor acknowledges that it has either been supplied with or been given access to such information, to which a reasonable investor would attach significance in making investment decisions, and the Investor has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning WRCOG, the Programs, the Assessment Contract, the Assessments, the Participating Parcels, the Master Indenture, the Supplemental Indenture, the Bonds and the security therefor and the Side Letter Agreement so that, as a reasonable investor, the Investor has been able to make its decision to purchase the Bonds.

7. The Investor has made its own inquiry and analysis with respect to the Bonds and the security therefor, and other material factors affecting the security and payment of the Bonds. The Investor, with assistance of counsel, has reviewed the Bonds, the Master Indenture and the Supplemental Indenture. The Investor acknowledges, consents and agrees to all terms of such documents including, without limitation, the provisions relating to the redemption of the Bonds and the sale of Assessment Security Interests in Assessments securing the Bonds as provided for in the Master Indenture.

8. The Investor acknowledges that it has the right to sell and transfer the Bonds, in accordance with the terms of the Master Indenture and the Supplemental Indenture, subject to the delivery to the Trustee of a letter from the transferee in the form attached to the Master Indenture as Exhibit C, with no material revisions except as may be approved in writing by WRCOG. Failure to deliver such letter shall cause the purported transfer to be null and void.

9. The Investor acknowledges that it has received a copy of the Side Letter Agreement and agrees and obligates itself to provide a copy of the Side Letter Agreement to any subsequent purchaser or assignee of the Bonds.

10. The Investor understands that neither the members, directors, officers, employees or agents of the WRCOG, nor any person executing the Bonds, the Master Indenture or the Supplemental Indenture, shall be subject to any personal liability or accountability by reason of or in connection with the issuance, offering, execution and delivery of the Bonds.

11. The Investor has obtained what it considers adequate information regarding WRCOG, the Programs, the Assessment Contracts, the Assessments, the Participating Parcels, the Master Indenture, the Supplemental Indenture and the Bonds to make an informed investment decision to purchase the Bonds. Except as set forth in the Indenture, the Investor acknowledges that WRCOG and its agents, representatives and attorneys are under no duty to provide, and the Investor acknowledges that it is not entitled to receive, (i) any additional information regarding WRCOG, the Programs, the Assessment Contract, the Assessments, the Participating Parcels, the Master Indenture, the Supplemental Indenture or the Bonds, or (ii) an update to the information previously provided by such persons to the Investor; provided, however, that such acknowledgement does not extend to information provided by WRCOG, its agents, representatives and/or attorneys that would have the effect of correcting, (a) any untrue statement of a material fact made in the Bonds, the Master Indenture or the Supplemental Indenture or in any of the other information provided to the Investor by WRCOG or its agents, representatives or attorneys, or (b) any omission of a material fact necessary to make a statement made in such documents not misleading in light of the circumstances under which it was made.

[INVESTOR SIGNATURE BLOCK]

EXHIBIT G

RECEIPT FOR BONDS

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS  
LIMITED OBLIGATION IMPROVEMENT BOND  
(HERO Commercial Programs)  
(\_\_\_\_\_ Commercial Property Tranche)

RECEIPT FOR BONDS

Receipt is hereby acknowledged of the Western Riverside Council of Governments Limited Obligation Improvement Bonds (HERO Commercial Programs) (\_\_\_\_\_ Commercial Property Tranche) listed on the attached Schedule I (the "Bonds") by Renovate America, Inc. ("Renovate America") [or assignee, if applicable], as the original purchaser of the Bonds.

The undersigned hereby states and certifies on behalf of Renovate America that Renovate America has received on this date from Deutsche Bank National Trust Company, as Trustee (the "Trustee"), under the Master Indenture, dated as of \_\_\_\_\_, 20\_\_ (the "Master Indenture"), by and between the Trustee and the Western Riverside Council of Governments ("WRCOG"), as supplemented by each Supplemental Indenture, dated as of \_\_\_\_\_, 20\_\_ (the "Supplemental Indenture" and, together with the Master Indenture, the "Indenture"), pertaining to the applicable Bond by and between the Trustee and WRCOG, such Bonds, as authenticated and delivered by the Fiscal Agent pursuant to the Indenture.

The undersigned further states and certifies that all certificates, opinions and agreements requested by Renovate America under the Master Bond Purchase Agreement, dated \_\_\_\_\_, 20\_\_ (the "Purchase Agreement"), between Renovate America, Inc. and WRCOG, have been delivered and that all conditions precedent for Renovate America to accept delivery of such Bonds under the Purchase Agreement have been met or waived.

Dated: \_\_\_\_\_

Purchaser of the Bonds

By: \_\_\_\_\_  
Authorized Signatory

## EXHIBIT H

### WRCOG AND RENOVATE AMERICA CLOSING DOCUMENTS

#### **WRCOG Closing Documents**

- Supplemental Indenture.
- Limited Obligation Improvement Bonds
- Omnibus Closing Certificate of WRCOG.
- Officer's Certificate.
- Instructions to Trustee.
- Certificate of Trustee
- Receipt of Bond Proceeds
- Bond Counsel Opinion
- Supplemental Opinion
- Reliance Letter
- Requisition for Disbursements from the Cost of Issuance Fund
- Requisition for Disbursements from the Program Fund

#### **Renovate America Closing Documents**

- Investor Letter of Renovate America substantially as shown in Exhibit F
- Investor Letter of Assignee Purchasing Bonds substantially as shown in Exhibit F
- Receipt for Bonds substantially as shown in Exhibit G
- Certificate of Program Administrator

# Item 6.E

PACE Programs Activities Update

## Attachment 8

Master Assignment and Assumption  
Agreement with HERO Commercial  
Programs

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WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS  
WRCOG PROGRAM AND CALIFORNIA PROGRAM  
HERO COMMERCIAL PACE PROGRAM  
MASTER ASSIGNMENT AND ASSUMPTION AGREEMENT

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EXHIBIT H - FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

## MASTER ASSIGNMENT AND ASSUMPTION AGREEMENT

This MASTER ASSIGNMENT AND ASSUMPTION AGREEMENT (this “*Agreement*”) is made and entered into effective as of [\_\_\_\_], 2019 (the “*Effective Date*”) by and between Western Riverside Council of Governments, a joint exercise of powers agency duly organized and existing under the Constitution and laws of the State of California (“*Transferor*” or “*WRCOG*”), and Renovate America, Inc., a Delaware corporation (“*Transferee*”).

### RECITALS

WHEREAS, Transferor is authorized to act under Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (the “*Act*”) pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California; and

WHEREAS, the Executive Committee of Transferor (the “*Executive Committee*”) previously adopted Resolution No. 09-10 adopted March 1, 2010 for the County of Riverside (the “*County*”), and cities in the County, listed in the PACE Program Report as defined below (the “*Covered Jurisdictions*” and each, a “*Covered Jurisdiction*”) entitled “Resolution of the Western Riverside Council of Governments Declaring its Intention to Finance Distributed Generation Renewable Energy Sources and Energy Efficiency Improvements through the use of Contractual Assessments Pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code and setting a public hearing thereon” (collectively, the “*WRCOG Resolution of Intention*”), to initiate proceedings under the Act in and for the territory within each Covered Jurisdiction (the “*Program Area*”) to establish the Energy Efficiency and Water Conservation Program for Western Riverside County (the “*WRCOG Program*” or the “*Program*”), pursuant to which the Authority would enter into contractual assessments to finance the installation of distributed generation renewable energy, energy efficiency and water efficiency improvements as described in the Resolution of Intention; and

WHEREAS, after holding a duly noticed public hearing at which interested persons were allowed to object to or inquire about the proposed Program within the Program Area or any of the Program’s particulars, the Executive Committee adopted Resolution No. 13-10 adopted June 7, 2010 entitled “Resolution of Western Riverside Council of Governments Confirming Report Relating to the Financing of the Installation of Distributed Generation Renewable Energy Sources, Energy Efficiency and Water Efficiency Improvements and Approving and Ordering Other Related Matters,” as subsequently amended, (the “*WRCOG Resolution Confirming Program Report*”), pursuant to which the Executive Committee, among other things, (i) confirmed and approved a report (the “*PACE Program Report*”) addressing all the matters required by the Act, including a draft agreement between the Authority and property owners participating in the Program providing for payment of contractual assessments (the “*Assessment Contracts*”), (ii) established the Program, (iii) identified the types of improvements that may be financed through the use of contractual assessments (the “*WRCOG Program Improvements*”) and (iv) appointed Authorized Officers (as defined herein) to execute agreements with the owners of property in the Program Area to provide for the levy of contractual assessments to finance installation of distributed generation renewable energy, energy efficiency and water efficiency improvements; and

WHEREAS, under the Act and the Improvement Bond Act of 1915, Division 10 of the California Streets and Highways Code (as amended, the “*Bond Law*”), the Executive Committee adopted Resolution No. 03-12 on July 29, 2011, as subsequently amended, entitled “A Resolution Authorizing Issuance of Limited Obligation Improvement Bonds, Approving and Directing the Execution of Related Documents and Approving Related Documents and Actions” (the “*Resolution of Issuance*”), which among other matters, authorized the issuance of one or more series of improvement bonds of the Authority upon the security of assessments levied on the participating parcels within the Program Area under the Act and the

Bond Law, and provided that the issuance of improvement bonds would be in accordance with the Bond Law and a Master Indenture and authorized the execution thereof; and

WHEREAS, with respect to the WRCOG Program, Transferor obtained the default judgment rendered on July 1, 2011 by the Superior Court of the State of California County of Riverside in the validation action entitled *Western Riverside Council of Governments v. All Persons Interested, et al.*, Case No. RIC 1103283; and

WHEREAS, Subsequent to the establishment of the WRCOG Program, the Joint Exercise of Powers Agreement was amended on October 23, 2013 by that certain Amendment to the Joint Powers Agreement of the Western Riverside Council of Governments to Permit the Provision of PACE Services (the “**PACE Amendment**”) to empower WRCOG to establish and operate one or more Property Assessed Clean Energy (“**PACE**”) programs pursuant to Chapter 29, and to enter into one or more agreements to fulfill such programs both within and outside the jurisdictional boundaries of WRCOG; and

WHEREAS the PACE Amendment further empowered WRCOG to establish an “Associate Member” status that provides membership in WRCOG to local jurisdictions that are outside WRCOG’s jurisdictional boundaries but within the boundaries of a PACE program that will be established and implemented by WRCOG; and

WHEREAS, on May 6, 2013, the Executive Committee adopted Resolution Number 04-13, entitled “Resolution of the Western Riverside Council of Governments Declaring Its Intention to Finance Distributed Generation Renewable Energy Sources and Energy Efficiency and Water Efficiency Improvements and Electric Vehicle Charging Infrastructure Through the Use of Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code and Setting a Public Hearing Thereon” (the “**California Program Resolution of Intention**”), to initiate proceedings under Chapter 29 to establish the California Program (the “**California Program**” and, together with the WRCOG Program, the “**Program**”), pursuant to which WRCOG will enter into contractual assessments with the owners of real property located in jurisdictions of WRCOG Associate Members (the “**California Program Area**” and, together with the WRCOG Program Areas, the “**Program Areas**”) to finance the installation of Improvements on real property located within the California Program Area; and

WHEREAS, by the adoption of the California Program Resolution of Intention, the Executive Committee provided that one or more series of bonds would be issued or other financing relationships would be entered into under the Bond Act for the purpose of financing the installation of such Improvements within the California Program Area; and

WHEREAS, on June 3, 2013, after holding a duly noticed public hearing at which interested persons were allowed to object to or inquire about the proposed California Program or any of its particulars, the Executive Committee adopted Resolution Number 10-13, entitled “Resolution of the Western Riverside Council of Governments Confirming the Report Relating to the Financing of the Installation of Distributed Generation Renewable Energy Sources and Energy Efficiency and Water Efficiency Improvements and Electric Vehicle Charging Infrastructure and Approving and Ordering Other Related Matters,” (the “**California Program Resolution Confirming Program Report**” together with the WRCOG Resolution Confirming Program Report, the “**Resolutions Confirming Program Reports**”), pursuant to which the Executive Committee, among other things, (i) confirmed and approved a report (as originally approved and subsequently amended, the “**California Program Report**” and, together with the WRCOG Program Report, the “**Program Reports**”) addressing all of the matters set forth in Section 5898.22 and 5898.23 of Chapter 29, including, but not limited to: (i) (a) identification of the types of Improvements that may be financed through the use of contractual assessments (the “**California Program Improvements**,” together with the **WRCOG Program Improvements**, the “**Improvements**”) and

(b) a plan for raising the capital amount required to pay for work performed pursuant to voluntary contractual assessments; (ii) establishment of the California Program; and (iii) authorization for the execution of Assessment Contracts with the owners of property in the California Program Area to provide for the levy of contractual assessments to finance installation of Improvements on such properties; and

WHEREAS, on June 3, 2013, the Executive Committee adopted its Resolution Number 08-13, entitled “A Resolution of the Western Riverside Council of Governments Authorizing Issuance of Limited Obligation Improvement Bonds Pertaining to the California HERO Program, Approving and Directing the Execution of Related Documents and Approving Related Actions” (the “**California Program Resolution of Issuance**”), pursuant to which, the Executive Committee, among other actions, authorized the issuance of one or more series of limited obligation improvement bonds pursuant to Chapter 29 and the Bond Act, secured by voluntary contractual assessments levied on Commercial (as such term is defined in the California Program Report) parcels located in the California Program Area; and

WHEREAS, WRCOG has, pursuant to the PACE Amendment, entered into amendments to the Joint Exercise of Powers Agreement to add certain cities and counties as “Associate Members” of WRCOG to enable WRCOG to undertake proceedings pursuant to Chapter 29 to establish the California Program (defined below) to make contractual assessment financing available to eligible property owners within the jurisdictions of such cities and counties; and

WHEREAS, on December 2, 2013, the Executive Committee adopted Resolution Number 24-13, entitled “Resolution of the Western Riverside Council of Governments Authorizing for the Issuance of the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG HERO Program and California Program), Approving and Directing the Execution of Related Documents and Approving Related Actions” (the together with the WRCOG Resolution of Issuance and the California Resolution of Issuance, the “**Resolutions of Issuance**”) pursuant to which the Executive Committee, among other actions, authorized the issuance of one or more series of limited obligation improvement bonds pursuant to Chapter 29 and the Bond Act, secured by voluntary contractual assessments levied on Commercial (as defined in both the WRCOG Program Report and the California Program Report) parcels located in both the WRCOG Program Area and the California Program Area.

WHEREAS, with respect to the WRCOG Program, Transferor obtained the default judgment rendered on December 12, 2013, by the Superior Court of the County of Riverside in the validation action entitled Superior Court of the County of Riverside as *Western Riverside Council of Governments v. All Persons Interested, et al.*, Case No. RIC 1308639; and

WHEREAS, on June 10, 2017, the Executive Committee adopted Resolution No. 11-17 modifying the Program Report to authorize the Program to finance certain seismic improvements; and

WHEREAS, on [\_\_\_\_], 2019 Transferor and Renovate America entered into that certain HERO Commercial PACE Program Administration Agreement dated as of December 2, 2019, (as amended, supplemented or otherwise modified from time to time, the “**Administrative Agreement**”) whereby Renovate America shall provide Program Administration Services for Commercial PACE Projects participating in the HERO Commercial PACE Program (as such terms are defined in the Administrative Agreement) and wherein Transferor agreed to the WRCOG Responsibilities as set forth in the Administrative Agreement.

WHEREAS, on December 2, 2019, the Executive Committee did, by the adoption of Resolution No. [\_\_\_\_] authorize the issuance one or more series of Limited Obligation Improvement Bonds (the “**Bonds**”) providing that each such Bond shall be issued pursuant to one or more Master Indentures (each

a “*Master Indenture*”), by and between WRCOG and Wilmington Trust, National Association, as trustee (the “*Trustee*”), the form of which was approved by Resolution No. [\_\_\_\_]; and

WHEREAS, Section 5898.28(b) of the Act (i) authorizes Transferor to transfer its right, title, and interest in and to any voluntary contractual assessments, if bonds have not been issued, (ii) authorizes Transferor and any Transferee to enter into an agreement that, among other things, identifies the specific period of time during which the transfer of voluntary contractual assessments will be operative, not to exceed three years and (iii) provides that a transfer of any voluntary contractual assessments under this provision shall be treated as a true and absolute transfer of the asset so transferred for the period of the transfer and not as a pledge or grant of a security interest by the public agency for any borrowing; and

WHEREAS, in anticipation of the issuance of limited improvement bonds under the Act to provide long-term financing for the installation of authorized improvements, Transferor wishes to establish an interim financing mechanism as set forth in this Agreement.

NOW, THEREFORE, in consideration of the covenants and provisions herein set forth and for other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

**1. Definitions.**

(a) “*Accredited Investor*” has the meaning given to it in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended.

(b) “*Assessment Contract*” means an Agreement to Pay Assessment and Finance Improvements by a Property Owner and the Transferor entered into as contemplated by the Act substantially in the form attached hereto as Exhibit B.

(c) “*Assignment Date*” means, for a particular Transferred Interest, the “date of transfer” indicated in an Assignment Instrument executed by Transferor and Transferee.

(d) “*Assignment Instrument*” means an Assignment Instrument in the form attached hereto as Exhibit A that specifies, among other things, the Assessment Contract(s) being assigned on such date and the consideration payable on such date by the Transferee.

(e) “*Assignment Term*” means with respect to any Transferred Interest, the period beginning on (and including) the applicable Assignment Date and ending on (but excluding) the applicable Assignment Termination Date.

(f) “*Assignment Termination Date*” means, with respect to a Transferred Interest, the earlier of (i) the third (3<sup>rd</sup>) anniversary of the Assignment Date of such Transferred Interest (in accordance with Section 5898.28(b) of the Act), or (ii) the re-conveyance of the Transferred Interest from Transferee to Transferor in exchange for a PACE Bond or cash, as applicable.

(g) “*Authorized Officer*” means the Executive Director of WRCOG or his or her designee or designees each of whom is authorized pursuant to a certificate of WRCOG executed by the Executive Director.

(h) “*Business Day*” means any day other than a Saturday, a Sunday, or a day on which banks in the state of California are authorized or permitted to close.

(i) “*Collection Account*” means the deposit account by that name established and held by the Depositary subject to the Depositary and Account Control Agreement.

(j) “*Complying PACE Bonds*” means with respect to any Transferred Interests as of any date of determination, PACE Bonds having the PACE Bond Parameters with respect to such Transferred Interests.

(k) “*Depositary*” means Wilmington Trust, National Association or its successor, acting in such capacity under the Depositary and Account Control Agreement.

(l) “*Depositary and Account Control Agreement*” means that certain Depositary and Account Control Agreement in the form attached hereto as Exhibit E, by and among Transferor, Transferee, Depositary and Renovate America that specifies, among other things, the flow and management of funds during the Assignment Term.

(m) “*Exchanged Transferred Interests*” has the meaning set forth in Section 5(b) hereof.

(n) “*Indenture*” means a bond indenture substantially in the form attached hereto as Exhibit C.

(o) “*Issue Date*” has the meaning set forth in Section 5(b) hereof.

(p) “*PACE Bond*” means a bond issued by the Transferor under an Indenture secured by Transferor’s right to receive payment pursuant to one or more Assessment Contracts.

(q) “*PACE Bond Parameters*” means, as of any date of determination, with respect to any PACE Bonds issued under this Agreement on such date of determination in exchange for the reassignment of one or more Transferred Interests on such date of determination, and/or in connection with Transferred Interests whose Assignment Terms are expiring on such date of determination, one or more PACE Bonds,

(r) “*Renovate America*” means Renovate America, Inc., in its capacity as program administrator of the HERO Commercial PACE Program.

(i) the principal amount, maturity date(s), amortization schedules and interest rates of which, in the aggregate, produce cash flows that replicate the remaining scheduled principal and interest components of the contractual assessment installments under the Assessment Contract(s) relating to such Transferred Interest(s) after such date of determination;

(ii) any ongoing annual administrative fees of which replicate the annual assessment administrative fee components of the contractual assessment installments under the Assessment Contract(s) relating to such Transferred Interest(s) after such date of determination;

(iii) that accounts for or account for any additional interest or penalties due under the Assessment Contract(s) relating to such Transferred Interest(s) at the date of determination;

(iv) that accounts for or account for any prepayment penalty and related processing fee due under the Assessment Contract(s) relating to such Transferred Interest(s) at the date of determination;

(v) that complies or comply with the Authority's bond issuance policies as of the applicable Assignment Date;

(vi) any purchaser of which must be an Accredited Investor or Qualified Institutional Buyer; such purchaser shall execute and deliver to Transferor an investor letter in substantially the form and substance of Exhibit B to the form of Indenture attached hereto as Exhibit C; and

(vii) with respect to which bond counsel to Transferor shall have issued an unqualified bond counsel opinion addressed to Transferor, a reliance letter addressed to the purchaser and its assigns and a supplemental opinion addressed to the trustee under the Indenture and the purchaser.

To the extent there are any delinquent amounts under the Assessment Contracts relating to the Transferred Interest(s) referred to above as of such date of determination, for purposes of determining the applicable PACE Bond Parameters with respect to such Transferred Interest(s), such delinquent payments will be treated as being scheduled to be due and payable on such date of determination.

(s) "*Program Guidelines*" means, collectively, the PACE Program Report and the Program Handbook, each as amended from time to time.

(t) "*Program Handbook*" means the Program Handbook established by Renovate America, as may be amended from time to time with the written consent of the Transferor.

(u) "*Property Owner*" means an owner of non-residential real property, including four or more units of residential real property, that is a party to an Assessment Contract.

(v) "*Qualified Institutional Buyer*" has the meaning given to it by the Securities and Exchange Commission Rule 144A (17 CFR §230.144A).

(w) "*Re-Conveyance Instrument*" means an assignment instrument substantially in the form attached hereto as Exhibit D.

(x) "*Tax Collector*" means each applicable taxing authority responsible for the collection of amounts paid by Property Owners in connection with Assessment Contracts.

(y) "*Transferred Interest*" means, with respect to an Assessment Contract as to which Transferor and Transferee have executed an Assignment Instrument, all right, title and interest to receive payment from the applicable Property Owner of (i) the Financed Amount (as defined in the Assessment Contract) and (ii) interest on the unpaid Financed Amount receivable pursuant to the applicable Assessment Contract; provided, however, that in no event shall such Transferee or any other entity other than Transferor be permitted to initiate or prosecute any foreclosure action with respect to any Assessment Contract associated with a Transferred Interest. For an avoidance of a doubt and notwithstanding anything in the applicable Assessment Contract to the contrary, all principal, interest, delinquent interest, penalties, and prepayments shall accrue to the benefit of the Transferee from the date the Transferred Interest is assigned to Transferee pursuant to the terms of this Agreement; provided further that the Transferred Interest shall not include the Annual Assessment Administrative Fees (as defined in the Assessment Contract).



## **2. Assignment by Transferor.**

(a) As of each applicable Assignment Date, Transferor hereby agrees to sell, assign and transfer to the Transferee identified in the Assignment Instrument, and such Transferee agrees to purchase from Transferor, for the Assignment Term, all of Transferor's right, title, and interest in, to, and under each Transferred Interest specified in the Assignment Instrument executed on such Assignment Date in exchange for the (i) the consideration specified with respect to such Transferred Interest in such Assignment Instrument and (ii) Transferor's undertakings in Section 5 hereof. Transferee hereby acknowledges and agrees that each assignment made pursuant to this Agreement and an Assignment Instrument is solely of a Transferred Interest, and in no event shall such Transferee or any other entity other than Transferor be permitted to initiate or prosecute any foreclosure action with respect to any Assessment Contract associated with a Transferred Interest. Transferee also acknowledges and agrees that, as of the effective date of this Agreement, Transferor has no legal authority to initiate or prosecute any foreclosure action with respect to any Assessment Contract unless i) an event of default has occurred under Section 14 of the Assessment Contract; or ii) until PACE Bonds have been issued with respect to such Assessment Contract.

(b) Transferee hereby agrees to fund the Assessment Contract in an amount equal to the Financed Amount (as defined in the Assessment Contract) to finance the Project Cost and Financing Expenses (as defined in the Assessment Contract) identified in the Assessment Contract by making such funds available to the PACE Program Administrator to be disbursed, on behalf of WRCOG, pursuant to the provisions of the Assessment Contract.

(c) On each Assignment Date, Transferor shall deliver to Transferee the deliverables listed in Section C of Exhibit F.

**3. Continuing Assignment.** Pursuant to Section 5898(b) of the Act, the assignment of a Transferred Interest pursuant to this Agreement and an Assignment Instrument shall constitute a true and absolute transfer of such Transferred Interest for the period of the transfer and not a pledge or grant of a security interest by the Transferor for any borrowing, and such assignment shall remain in full force and effect until the Assignment Termination Date applicable to such Transferred Interest, notwithstanding any obligation of the Transferor contained in Section 5 of this Agreement. Without in any way limiting the preceding sentence, for the protection of the Transferee, in the event that (a) the transfer is held not to be a true and absolute conveyance, or (b) an Assignment Termination Date occurs under clause (i) of the definition thereof with respect to a Transferred Interest before a Complying PACE Bond is issued with respect to such Transferred Interest, Transferor shall, within 30 days of the date on which an event in clause (a) or (b) occurs, (x) issue a Complying PACE Bond or (y) execute a new three-year Assignment Instrument for the benefit of Transferee if authorized by law, with the choice of (x) or (y) to be in Transferor's sole and absolute discretion.

The covenants on the part of Transferor in the previous paragraph are duties imposed by law and it is the duty of each and every public official of Transferor to take such action and do such things as are required by law in the performance of the official duty of such officials to enable Transferor to carry out and perform such covenants. The parties intend for Transferor's covenants in the previous paragraph to be enforceable by a writ of mandamus issued pursuant to California Civil Code Section 1084 et seq. In the event the Transferee obtains such a writ of mandamus from a court of applicable jurisdiction, Transferor shall pay Transferee's reasonable attorneys fees and costs.

#### **4. Representations and Warranties.**

(a) Each party represents and warrants to the other (i) that it has full power and authority to enter into this Agreement and to perform its obligations hereunder in accordance with the provisions hereof, (ii) that this Agreement has been duly authorized, executed and delivered by such party and (iii) that this Agreement constitutes a legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and by general principles of equity.

(b) Each party represents and warrants to the other that the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby (i) will not conflict with any law or order applicable to such party or any of its properties or assets and (ii) requires no consent from any party not already obtained.

(c) Transferee represents and warrants, as of the date hereof, (i) no applicable law would prevent or make unlawful its holding of any Transferred Interest, and (ii) no applicable law would prevent or make unlawful its holding of a PACE Bond to otherwise be conveyed to it pursuant to the terms hereof.

(d) Transferee represents and warrants:

(i) it is an Accredited Investor or Qualified Institutional Buyer;

(ii) it has sufficient knowledge and experience in financial and business matters, including the purchase and ownership of municipal bonds and other obligations similar to the Transferred Interests, to be capable of evaluating the merits and risks of an investment in the Transferred Interests, and such Transferee is able to bear the economic risks of such an investment;

(iii) it is purchasing the Transferred Interest for not more than one account for investment purposes and not with a view to distributing the Transferred Interests except in compliance with Section 5(g) hereof;

(iv) it recognizes that an investment in the Transferred Interests involves significant risks, that there is no established market for the Transferred Interests and that none is likely to develop and, accordingly, that such Transferee must bear the economic risk of an investment in the Transferred Interests for an indefinite period of time;

(v) it (A) has conducted its own independent inquiry, examination, and analysis with respect to the Transferred Interests, (B) has had the opportunity to ask questions of and receive answers from the Transferor regarding the Transferred Interests and the matters, transactions, and documents relating to the foregoing; (C) has been provided by the Transferor with all documents and information regarding the Transferred Interests and the matters, transactions, and documents relating to the foregoing that it has requested, and (D) has been provided with information sufficient to allow it to make an informed decision to purchase the Transferred Interests;

(vi) it (A) is not relying upon the Transferor, or any of its affiliates, officers, employees, or agents, for advice as to the merits and risks of investment in the Transferred

Interests, and (B) has sought such accounting, legal, and tax advice as it has considered necessary to make an informed investment decision;

(vii) it understands and acknowledges (A) that the transaction contemplated hereby is not subject to the requirements of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended, and (B) that the Transferor has not prepared or caused to be prepared, and is not delivering, a deemed final official statement with respect to the Transferred Interests and has not undertaken to provide to or for the benefit of such Transferee financial or operating data or any other information with respect to the Transferred Interests on an ongoing basis; and

(viii) it is able to bear the economic risk of the investment represented by its purchase of the Transferred Interests.

(e) Transferor represents and warrants that it is the legal and beneficial owner of the Transferred Interest, free and clear of any liens, claims or encumbrances.

(f) Transferee acknowledges that except for the representation in paragraph (g), (A) Transferor shall not be responsible to any Transferee for (i) the execution, effectiveness, genuineness, validity, enforceability, collectability or sufficiency of any Assessment Contract, (ii) any representations, warranties, recitals or statements made therein or in connection with any Assessment Contract and the transactions contemplated thereby or (iii) the financial condition of any Property Owner, and (B) Transferor is under no obligation to such Transferee to ascertain or inquire as to the performance or observance of any of the terms, conditions, provisions, covenants or agreements contained in any of Assessment Contract or as to the use of the proceeds of the financing evidenced by the Assessment Contract.

(g) Transferor represents and warrants that each Assessment Contract and each Assignment Instrument will be duly authorized, executed and delivered by Transferor as of the Assignment Date and that each Assessment Contract and each Assignment Instrument will constitute as of the Assignment Date the legal, valid and binding obligation of Transferor enforceable against Transferor in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and by general principles of equity.

(h) Transferor represents and warrants that to its actual current knowledge there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body (collectively and individually, an "Action") pending with respect to which the Transferor has been served with process or threatened, in which any such Action (i) in any way questions the corporate existence of the Transferor or the titles of the officers of the Transferor to their respective offices, (ii) in any way questions the establishment of the Program, (iii) affects, contests or seeks to prohibit, restrain or enjoin the execution of any Assessment Contract or Assignment or the payment or collection of any amount pledged or to be pledged to pay the principal of and interest on each Assessment Contract or Assignment, or in any way contests or affects the validity of the Assessment Contract or Assignment or the consummation of the transactions on the part of the Transferor contemplated thereby, or contests the powers of the Transferor, or its authority to levy contractual assessments, and (iv) may result in any material adverse change relating to the financial condition of the Transferor; and as of the time of acceptance hereof, to the knowledge of the Transferor, there is no basis for any action, suit, proceeding, inquiry or investigation of the nature described in clauses (i) through (iv) of this sentence.

(i) Transferor represents and warrants that each Assessment constituting the security for the related Assessment Contract has been duly and lawfully authorized and levied under the provisions of the Bond Law and the applicable laws of the State of California, and, pursuant to the provisions of the Bond Law, such Assessment, when levied, will constitute a valid and legally binding lien on the Property upon which it has been levied.

## **5. Covenants.**

(a) Transferor hereby agrees to direct all applicable Tax Collectors to make all payments received in connection with any Transferred Interest during the related Assignment Term to the Collection Account; provided, however, that Transferee acknowledges and agrees that the Tax Collectors may not agree to make such payments to the Collection Account and that Transferor may continue to receive the payments. To the extent Transferor receives any such payment, Transferor agrees to promptly deposit such amount in the Collection Account.

(b) In accordance with the procedures set forth below, Transferor (i) shall, within four weeks of receipt of instructions by the Transferee or later as the Transferor or the Transferee may mutually agree as to any particular request and solely on a Business Day issue one or more Complying PACE Bonds and sell them to Transferee or its designee in exchange for one or more Transferred Interests and (ii) shall, no later than the Assignment Termination Date of any Transferred Interest, use good faith efforts to issue a Complying PACE Bond with respect to such Transferred Interest. In furtherance of the foregoing, Transferor shall, no later than four weeks before the date Transferor elects (in the case of clause (i)) or is required (in the case of clause (ii) to use good faith efforts) to issue Complying PACE Bonds, deliver to Transferee a notice specifying (1) the Business Day on which the Complying PACE Bonds will be issued, which may be no later than the applicable Assignment Termination Date (the “*Issue Date*”), (2) the applicable Transferred Interests that will be exchanged for such Complying PACE Bonds (the “*Exchanged Transferred Interests*”), (3) the number of Complying PACE Bonds that will be issued, (4) the principal amount, maturity date, interest rate and debt service schedule of each Complying PACE Bond and (5) a reconciliation of the scheduled debt service on such Complying PACE Bonds and the remaining scheduled principal and interest components of the applicable Transferred Interests (including any adjustments for overdue assessments, delinquent interest, penalties, or partial prepayments) to enable Transferee to verify that such Complying PACE Bonds meet the applicable PACE Bond Parameters (and such verification shall occur, and be notified to the Transferor, at least five Business Days prior to the scheduled Issue Date).

(c) On each Issue Date, Transferor shall use reasonable efforts to issue the applicable Complying PACE Bond(s) to Transferee or its designee; Transferee will, as full consideration for the issuance of such bond(s), re-convey any Exchanged Transferred Interests to Transferor or its designee pursuant to a Re-Conveyance Instrument; Transferee shall execute and deliver any documents required to be executed and delivered by a purchaser of the PACE Bonds under the applicable Indenture; and Transferor and Transferee shall execute and deliver such instructions to the Depositary and/or the applicable Tax Collector(s) as are necessary to ensure that all future payments under the applicable Assessment Contracts are paid into the account required by the applicable Indenture, provided that to the extent any of Transferee’s representations in Section 4(c)(ii), (d) or (f) is untrue as of the applicable Issue Date as determined by the Transferor in its sole discretion, Transferor shall have no obligation to convey such PACE Bond to the applicable Transferee or its designee. If Transferor makes such a determination, Transferor shall provide notice to the Transferee of the determination and allow Transferee to cure any untrue representations. If within ten (10) days following the transmittal of such notice the Transferee has cured the untrue statement, Transferor may, in its sole discretion, issue Complying PACE Bonds. All PACE Bonds issued to Transferee hereunder shall be issued under an Indenture substantially in the form of Exhibit C hereto. Nothing in this Agreement shall obligate Transferor to sell Complying PACE

Bond(s) to more than 35 investors to the extent necessary for Transferor and the Complying PACE Bond(s) to comply with Securities and Exchange Executive Committee Rule 15c2-12 (17 CFR 240.15c2-12).

(d) Transferor may, with the prior written consent of the applicable Transferee and in Transferor's sole discretion, in lieu of issuing Complying PACE Bonds secured by one or more Assessment Contracts with respect to which applicable Transferee has acquired a Transferred Interest and selling them to the applicable Transferee pursuant to Section 5(b), issue Complying PACE Bonds and sell them to a third-party. If such Transferee consents to any such sale, Transferee, in exchange for the payment to such Transferee of the proceeds received by Transferor from such issuance, shall re-convey, pursuant to Re-conveyance Instrument, any remaining Transferred Interest in such Assessment Contracts on the date of the issuance of such PACE Bonds. In addition, Transferor and such Transferee shall execute and deliver such instructions to the Depositary and/or any applicable Tax Collector(s) as may be necessary to ensure that all future payments under the applicable Assessment Contracts are paid into the account required by the applicable Indenture.

(e) If, during the Assignment Term of a particular Transferred Interest, (i) the Property is delinquent in the payment of any Assessment Installment or any accrued interest and penalties thereon, (ii) Transferor is expressly permitted by applicable laws or the applicable Assessment Contract to pursue foreclosure proceedings against an applicable Property Owner, and (iii) such Transferee agrees in writing to advance all estimated costs and expenses of any required proceedings (as determined in the sole judgment of the Transferor), Transferor will pursue foreclosure proceedings against delinquent Property Owner(s) and direct proceeds recovered in connection therewith to the Collection Account, with any penalties and interest to constitute additional interest for the benefit of such Transferee. In the event Transferor initiates a foreclosure action and incurs the costs and expenses thereof, at the direction of such Transferee but Transferee fails to advance such costs and expenses, Transferor may, in its sole and absolute discretion, either (y) halt all efforts to prosecute the foreclosure action or (z) pay the necessary costs and expenses, in which case the Transferor shall be entitled to recover all such costs and expenses from the foreclosure award before any amounts are deposited into the Collection Account.

(f) Transferor agrees that it shall not issue or convey any PACE Bond secured in whole or in part by any Assessment Contract with respect to which any Transferee has acquired a Transferred Interest and sell such PACE Bonds to any party other than such Transferee without the prior written consent of such Transferee.

(g) Transferee hereby covenants and agrees that it shall hold each Transferred Interest acquired hereunder throughout the applicable Assignment Term or until such date as such Transferred Interest is required to be re-conveyed under this Section 5 and shall not transfer any Transferred Interest to any party other than Transferor; provided however, that notwithstanding the foregoing, a Transferee may convey a Transferred Interest to (i) a wholly owned subsidiary, a parent company, or other affiliated entity; or (ii) a third party, where (A) the third party and such Transferee execute an assignment and assumption agreement that is in substantially similar form to the Assignment and Assumption Agreement attached hereto as Exhibit H, (B) the third party satisfies the representations set forth in Sections 4(a) through (d) and (f) hereof as of the date of transfer from such Transferee, and (C) the third party executes an investor letter in substantially the form of Exhibit B to the Indenture attached as Exhibit C to this Agreement.

(h) Transferee hereby covenants and agrees that it shall not incur, create, assume, or suffer to exist any liens or encumbrances upon any property or buildings upon which an assessment has been levied pursuant to an Assessment Contract.

(i) If, at any time of an Assignment Termination Date, the actions under Section 3 of this Agreement have not occurred with respect to a Transferred Interest with no Complying PACE Bond having been issued with respect thereto, Transferor agrees that it will either (A) execute a new three-year Assignment Instrument for the benefit of the applicable Transferee, as provided by law, (B) issue a Complying PACE Bond in accordance with the terms and conditions set forth herein with the choice of (A) or (B) to be in Transferor's sole and absolute discretion.

(j) Transferee may at any time request that Transferor issue Complying PACE Bonds with respect to any Transferred Interests and Transferor agrees to use good faith efforts to issue such bonds as soon as practicable after such request, subject to applicable law.

**6. Deliverables.** On or before the execution and delivery of this Agreement, Transferor shall deliver to Transferee the deliverables set forth in Exhibit F.

**7. Entirety of Agreement.** This Agreement sets forth the entire understanding of the parties with respect to the transactions contemplated hereby, and merges and supersedes all prior and contemporaneous understandings, representations and warranties with respect to such transactions. Except as expressly set forth in this Agreement, none of the parties hereto or thereto makes any representation or warranty to any other party.

**8. Notices.** Any notice or other communication to be given hereunder shall be in writing and shall be delivered by hand (including, without limitation, by express courier against written receipt) or sent by registered prepaid first-class mail or by facsimile copy to the persons or addresses specified below:

Transferor:

Western Riverside Council of Governments  
3390 University Ave, 4th Floor  
Riverside, CA 92501  
Attention: Executive Director

Transferee:

Renovate America  
Finance Funding Department  
16409 West Bernardo Drive  
San Diego, CA 92127  
Attention: \_\_\_\_\_

**9. Indemnity.** Transferee agrees to defend, indemnify and hold harmless Transferor from and against any and all claims, liabilities, obligations, losses, damages and penalties of any kind (including reasonable fees of outside counsel, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) that may be imposed on, incurred by or asserted against the Transferor in any way relating to or arising out of the transfer of any Transferred Interest in violation of Section 5(g).

**10. Severability.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such term or provision shall be enforced to the maximum extent permitted by law and, in any event, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

**11. Amendment.** This Agreement may be amended, waived or terminated only by a written instrument referencing this Agreement and signed by the parties to this Agreement.

**12. Counterparts; Signatures.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures may be delivered by electronic means which shall have the same force and effect as the delivery of original signature pages.

**13. Governing Law.** This Agreement shall be governed by, and construed in accordance with, the law of the State of California, and venue shall be in Riverside County, California.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have executed this MASTER ASSIGNMENT AND ASSUMPTION AGREEMENT as of the Effective Date.

**TRANSFEROR:**

**WESTERN RIVERSIDE COUNCIL OF  
GOVERNMENTS**

---

By:

**TRANSFeree:**

**RENOVATE AMERICA, INC.**

---

By:

*[Signature Page to Master Assignment and Assumption Agreement]*



## EXHIBIT A

### ASSIGNMENT INSTRUMENT NO. \_\_\_\_

As of [DATE]

Reference is made to that certain Master Assignment and Assumption Agreement, dated as of [ ] 2019, by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS, as “*Transferor*”, and RENOVATE AMERICA, INC., as “*Transferee*” (the “*Master Assignment Agreement*”). Capitalized terms used but not defined herein shall have the meaning given to such term in the Master Assignment Agreement.

As evidenced by the signature of each party hereto, pursuant to Section 2 of the Master Assignment Agreement, Transferor hereby sells, assigns and transfers to Transferee, and Transferee purchases from Transferor, as of the dates set forth on the attached Attachment 1 and for the Assignment Term, all of Transferor’s right, title, and interest in, to, and under each Transferred Interest specified on the attached Attachment 1 in exchange for the (i) the consideration specified on the attached Attachment 1 with respect to such Transferred Interest, and (ii) Transferor’s undertakings in Section 5 of the Master Assignment Agreement.

Each of the parties hereto acknowledges and agrees that the terms of Master Assignment Agreement are incorporated by reference hereto and shall apply as though the same were included in this assignment instrument. Each of the parties hereby represents and warrants that the representations and warranties made by such party in the Master Assignment Agreement are true and correct in all material respects as of the date hereof.

This assignment instrument may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

This assignment instrument shall be governed by, and construed in accordance with, the law of the State of California.

In the event of a prepayment under an Assessment Contract related to the Transferred Interest, the proceeds of the prepayment shall be applied for the following purposes in the following order of priority: (i) the Transferee shall be entitled to receive the prepayment premium paid by the Property Owner (as defined in the Assessment Contract), (ii) payment of accrued interest on the unpaid Financed Amount (as defined in the Assessment Contract) to the extent of such prepayment as of the date of the prepayment and (iii) reduction of the unpaid Financed Amount.

[signature page follows]

Acknowledged and Accepted as of [\_\_\_\_\_]:

**WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS**

\_\_\_\_\_  
By:

**RENOVATE AMERICA, INC.**

\_\_\_\_\_  
By:

**Attachment 1**

| <b><u>Property<br/>Owner</u></b> | <b><u>APN</u></b> | <b><u>Address</u></b> | <b><u>Date of<br/>Transfer</u></b> | <b><u>Principal Amount</u></b> | <b><u>Consideration*</u></b> | <b><u>Date of<br/>Assessment<br/>Contract</u></b> |
|----------------------------------|-------------------|-----------------------|------------------------------------|--------------------------------|------------------------------|---------------------------------------------------|
|                                  |                   |                       |                                    |                                |                              |                                                   |

\* The consideration amount is net of fees payable to bond counsel and Transferor on the Issue Date in connection with the issuance by Transferor of Complying PACE Bonds in exchange for re-conveyance of the Transferred Interest, for which Transferee will be responsible.

**EXHIBIT B**  
**FORM OF ASSESSMENT CONTRACT**  
*[see attached]*

**EXHIBIT C**  
**FORM OF INDENTURE**  
*[see attached]*

**EXHIBIT D**

**RE-CONVEYANCE INSTRUMENT**

**(ASSIGNMENT INSTRUMENT NO. \_\_\_\_)**

**As of [DATE]**

Reference is made to that certain Master Assignment and Assumption Agreement by and between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS (“*WRCOG*”, or the “*Re-Conveyance Transferee*”), and RENOVATE AMERICA, INC. (“*Renovate America*”, or the “*Re-Conveyance Transferor*”), dated as of [\_\_\_\_], 2019 (the “*Master Assignment Agreement*”). Further reference is made to that certain Assignment Instrument No. \_\_\_\_, dated as of [\_\_\_\_], by and between WRCOG, as Transferor, and Renovate America, as Transferee. Capitalized terms used but not defined herein shall have the meaning given to such term in the Master Assignment Agreement.

As evidenced by the signature of each party hereto, pursuant to Section 5(b) of the Master Assignment Agreement, in exchange for the cash or bond consideration indicated below, Re-Conveyance Transferor hereby assigns and transfers to Re-Conveyance Transferee, and Re-Conveyance Transferee assumes from Re-Conveyance Transferor, all of Re-Conveyance Transferor’s right, title, and interest in, to, and under each Exchanged Transferred Interest specified on the attached Attachment 1.

Each of the parties hereto acknowledges and agrees that the terms of Master Assignment Agreement are incorporated by reference hereto and shall apply as though the same were included in this assignment instrument. Re-Conveyance Transferor hereby reaffirms the representations in Section 4(c) and 4(d) of the Master Assignment Agreement as of the date hereof.

This re-conveyance instrument may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

This re-conveyance instrument shall be governed by, and construed in accordance with, the law of the State of California.

*[signature page follows]*

Acknowledged and Accepted as of [\_\_\_\_\_]:

**WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS**

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By:

**RENOVATE AMERICA, INC.**

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By:

**Attachment 1**

| <b><u>Property Owner</u></b> | <b><u>APN</u></b> | <b><u>Address</u></b> | <b><u>Date of Transfer</u></b> | <b><u>Principal Amount</u></b> | <b><u>Date of Assessment Contract</u></b> |
|------------------------------|-------------------|-----------------------|--------------------------------|--------------------------------|-------------------------------------------|
|                              |                   |                       |                                |                                |                                           |



**EXHIBIT E**  
**DEPOSITARY AND ACCOUNT CONTROL AGREEMENT**

*[see attached]*

## **EXHIBIT F**

### **LIST OF ASSIGNMENT DELIVERABLES**

#### **A. MASTER ASSIGNMENT LEVEL CLOSING DOCUMENTS**

1. Joint Powers Agreement, dated as of April 1, 1991, as amended.
2. Resolution Number [ ] adopted by the Executive Committee of WRCOG on [ ] and entitled "A Resolution Of The Executive Committee Of The Western Riverside Council Of Governments Authorizing Renovate America, Inc., To Administer And Finance Authorized Improvements To Be Installed On Commercial Properties, And In Connection With Such Authorization, Approving Amendments To The Program Report For Both The WRCOG Energy Efficiency And Water Conservation Program For Western Riverside County And The California Hero Program And The Forms Of A Commercial Handbook, Assessment Contract, Master Bond Purchase Agreement, Administration Agreement, Master Assignment And Assumption Agreement, Depositary and Account Control Agreement, Bond Purchase Agreement And Master Indenture And Authorizing The Issuance Of Bonds Pursuant To Such Indenture Secured By Assessments Levied On Commercial Properties To Finance The Installation Of Authorized Improvements On Such Commercial Properties And Approving Other Actions In Connection Thereto"
3. Master Bond Purchase Agreement.
4. Master Assignment and Assumption Agreement, dated as of [ ], 2019.
5. Depositary and Account Control Agreement, dated as of [ ], 2019.
6. Opinion of Counsel to Transferor as set forth in Exhibit G with a reliance letter addressed to the Transferee.
7. Opinion of Counsel to Depositary as to the due authorization, execution, delivery and enforceability of the Depositary and Account Control Agreement.

#### **B. ASSIGNMENT LEVEL CLOSING DOCUMENTS**

##### **LOCAL JURISDICTION DOCUMENTS**

1. Resolutions of applicable jurisdiction authorizing WRCOG to implement the HERO Commercial PACE Program.
2. Default Judgments (see attached list).

#### **C. PROPERTY-SPECIFIC DOCUMENTS [THIS SECTION MAY BE REPEATED FOR MULTIPLE PROPERTIES]**

1. Agreement to Pay Assessment and Finance Improvements.
2. Payment of Contractual Assessment Required/Notice of Assessment (recorded in real property records), along with confirmation of recording in real property records of applicable county.

3. Incumbency Certificate of the corporation and the corporation's good standing certificate and related documents.
4. CEQA Certification.
5. Property Owner Disbursement Request Letter.
6. Requisition from Program Account.
7. Closing Statement.
8. Lender Acknowledgement.
9. Title Report.
10. Property Owner Closing Certificate.
11. Direction of WRCOG to Depositary.
12. Receipt of Depositary.
13. Requisition from Cost of Issuance Account].

**D. ASSIGNMENT-LEVEL CLOSING DOCUMENTS**

1. Assignment Instrument.
2. Form of Investor Letters.

List of Default Judgments  
Superior Court of the County of Riverside, California

*Western Riverside Council of Governments v. All Persons Interested, et al.*, Case No. RIC 1103280, July 1, 2011.

Western Riverside Council of Governments v. All Persons Interested, et al., Case No. RIC 1308636, Default Judgment granted December 12, 2013; as amended:  
First Amended Judgment entered on April 22, 2014;  
Second Amended Judgment entered on July 1, 2014;  
Third Amended Judgment entered on November 14, 2014;  
Fourth Amended Judgment entered on March 24, 2015;  
Fifth Amended Judgment entered on June 10, 2015;  
Sixth Amended Judgment entered on September 15, 2015;  
Seventh Amended Judgment entered on December 2, 2015;  
Eighth Amended Judgment entered on April 13, 2016;  
Ninth Amended Judgment entered on August 22, 2016;  
Tenth Amended Judgment entered on February 10, 2017;  
Eleventh Amended Judgment entered on October 13, 2017; and  
Twelfth Amended Judgment entered on October 11, 2018.

## EXHIBIT G

### TEXT OF OPINION – HERO COMMERCIAL PACE PROGRAM

[month] [date], 20[ ]

Executive Committee  
Western Riverside Council of Governments  
3390 University Avenue, Suite 450  
Riverside, CA 92501

Re: *Western Riverside Council of Governments*  
*HERO Commercial PACE Program*

Ladies and Gentlemen:

We are general counsel and bond counsel to the Western Riverside Council of Governments (“**WRCOG**”) and have acted in such capacities in connection with the establishment, implementation and administration by WRCOG of those property assessed clean energy (“**PACE**”) programs entitled the “Energy Efficiency and Water Conservation Program for Western Riverside County” (the “**WRCOG PACE Program**”) and the “California HERO Program” (the “**California PACE Program**,” and together with the WRCOG PACE Program, the “**PACE Program**”) under which WRCOG intends to provide financing through Renovate America, Inc. (“**Renovate America**”) to owners of Participating Properties (as defined herein) to fund the installation and construction of Qualifying Improvements (as defined herein) on such properties. Repayment of financing provided pursuant to the PACE Program (“**PACE Financing**”) may be collected as an assessment (a “**PACE Assessment**”) levied on Participating Properties pursuant to Chapter 29 of Part 3 of Division 7 of the Improvement Act of 1911 (California Streets & Highways Code Section 5898.10 and following)<sup>1</sup> (“**Chapter 29**”).

WRCOG has requested our opinions with respect to certain aspects of the PACE Program, as set forth in Section IV of this opinion letter. Our opinions are based upon the PACE Documents (as defined in Section I of this opinion letter), the Model Transaction (as defined in Section II of this opinion letter), and laws and regulations as in effect on the date of this opinion letter.

### **BACKGROUND**

The State of California (the “**State**”) has authorized a public agency (each, a “**Public Agency**”) to establish a PACE program pursuant to Chapter 29 to finance the installation of distributed generation renewable energy sources, energy and water efficiency improvements, electric vehicle charging infrastructure and seismic strengthening improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property. A Public Agency, as defined in Chapter 29, includes a city, county, or city and county.<sup>2</sup> Pursuant to the Joint Exercise of Powers Act (California Government Code § 6500 and following) (the “**Joint Powers Law**”), two or

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<sup>1</sup> References to sections of the California Streets & Highways Code may be abbreviated herein as “S&H Code § \_\_\_\_.”

<sup>2</sup> S&H Code §5898.20(c).

more public agencies<sup>3</sup> by agreement may jointly exercise any power common to the contracting parties if authorized by their legislative or other governing bodies.<sup>4</sup>

Pursuant to the Joint Powers Law, the County of Riverside and certain cities located in the western portion of the County of Riverside (such County and each such city, a “**Member**”<sup>5</sup>) entered into a joint exercise of powers agreement dated April 1, 1991 in the form attached hereto as **Exhibit A** (the “**Joint Powers Agreement**”) to create WRCOG, a joint exercise of powers authority. WRCOG was formed pursuant to the Joint Powers Law and the Joint Powers Agreement for the purpose of providing an agency to conduct studies and projects designed to improve and coordinate the common governmental responsibilities and services on an area-wide and regional basis. Pursuant to the Joint Powers Agreement, WRCOG shall perform all necessary functions to fulfill the purposes of such agreement including, among other functions, exploring practical avenues for intergovernmental cooperation, coordination and action in the interest of local public welfare and means of improvements in the administration of governmental services.

The Joint Powers Agreement provides that when authorized by the Executive Committee, any affected Member or Members may execute an implementation agreement (each, an “**Implementation Agreement**”) for the purpose of authorizing WRCOG to implement, manage and administer area-wide and regional programs in the interest of the local public welfare. Pursuant to such authority, WRCOG entered into Implementation Agreements with each Member authorizing WRCOG to undertake proceedings pursuant to Chapter 29 to establish the WRCOG PACE Program to make PACE Financing available to eligible owners of property located within the jurisdictions of the Members.

On March 1, 2010, the Executive Committee adopted Resolution Number 09-10 (the “**WRCOG PACE Program Resolution of Intention**”) to initiate proceedings under Chapter 29 to establish the WRCOG PACE Program. By the adoption of such resolution, the Executive Committee provided that one or more series of bonds would be issued under Section 5898.22 and Section 5898.28 of Chapter 29 and the Improvement Bond Act of 1915, as amended, being Division 10 of the California Streets and Highways Code (the “**Bond Act**”), to finance the installation of distributed generation renewable energy, energy efficiency and water efficiency improvements and electric vehicle charging infrastructure that are permanently fixed to real property located within the jurisdiction of one of the Member.

On June 7, 2010, the Executive Committee adopted Resolution Number 13-10 (the “**Resolution Confirming the WRCOG PACE Program Report**”), pursuant to which the Executive Committee, among other things, (i) confirmed and approved a report (the “**Original WRCOG PACE Program Report**”) addressing all of the matters set forth in Section 5898.22 of Chapter 29, including, but not limited to, (a) identification of types of facilities, distributed generation renewable energy sources and energy and water efficiency improvements that may be financed through the use of contractual assessments (the “**Authorized Improvements**”) and (b) a plan for raising a capital amount required to pay for work performed pursuant to voluntary

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<sup>3</sup> Government Code §6500 provides that a “public agency” includes, but is not limited to, a county or a city.

<sup>4</sup> Government Code §6502.

<sup>5</sup> There were eleven (11) cities that were original signatories to the Joint Powers Agreement. There are currently 18 cities within the western portion of Riverside County that are current Members of WRCOG and are participating in the WRCOG PACE Program.

contractual assessments, (ii) established the WRCOG PACE Program, and (iii) authorized execution of agreements with the owners of property located within the jurisdictions of the Member Agencies (the “**WRCOG PACE Program Area**”) to provide for the levy of contractual assessments to finance installation of Authorized Improvements.

On January 12, 2011, the Executive Committee adopted Resolution Number 07-11 (“**Resolution Confirming WRCOG PACE Program Changes**”), pursuant to which the Executive Committee, among other actions, confirmed certain changes made to the Original WRCOG PACE Program Report to outline the program requirements for participation in three financing options then within the WRCOG PACE Program (the Original WRCOG PACE Program Report as so changed is referred to as the “**WRCOG PACE Program Report**”).

On January 12, 2011, the Executive Committee adopted Resolution Number 09-11 (the “**WRCOG PACE Program Judicial Validation Authorizing Resolution**”) authorizing the initiation of judicial validation proceedings required to for the judicial validation of the proceedings to establish the WRCOG PACE Program and other matters related thereto.

On February 18, 2011, WRCOG caused the complaint (the “**WRCOG PACE Program Commercial Validation Complaint**”) initiating proceedings to validate and confirm the WRCOG PACE Program as it relates commercial and other non-residential property to be filed in the Superior Court of the State of California County of Riverside in Case No. RIC 1103283 (the “**WRCOG PACE Program Commercial Validation Action I**”).

On July 1, 2011, judgment was entered in the WRCOG PACE Program Commercial Validation Action (the “**WRCOG PACE Program Commercial Validation Action I Judgment**”).

On October 23, 2013, the Joint Powers Agreement was amended by the certain Amendment to the Joint Powers Agreement of the Western Riverside Council of Governments to Permit the Provision of PACE Services (the “**PACE JPA Amendment**”) to empower WRCOG to establish and operate one or more PACE programs pursuant to Chapter 29 and to enter into one or more agreements to fulfill such programs both within and outside the jurisdictional boundaries of WRCOG. The PACE JPA Amendment further empowered WRCOG to establish an “**Associate Member**” status that provides such a membership in WRCOG to local jurisdictions that are outside WRCOG’s jurisdictional boundaries but within whose boundaries a PACE program that will be established and implemented by WRCOG.

On May 6, 2013, the Executive Committee adopted Resolution Number 04-13 (the “**California PACE Program Resolution of Intention**”), to initiate proceedings under Chapter 29 to establish the California PACE Program, pursuant to which WRCOG will enter into contractual assessments with the owners of real property located in the California PACE Program Area to finance the installation of Authorized Improvements. By the adoption of the California PACE Program Resolution of Intention, the Executive Committee provided that one or more series of bonds would be issued or other financing relationships would be entered into under the Bond Act.

On June 3, 2013, the Executive Committee adopted Resolution Number 10-13 (the “**Resolution Confirming California PACE Program Report**”), pursuant to which the Executive Committee, among other things, (i) confirmed and approved a report (the “**California PACE Program Report**”) addressing all of the matters set forth in Section 5898.22 and 5898.23 of Chapter 29, including, but not limited to, (a) identification of Authorized Improvements that may be financed through the use of contractual assessments and (b) a plan for raising a capital amount required to pay for work performed pursuant to voluntary contractual assessments, (ii) established the California HERO Program, and (iii) authorized execution of agreements (“**Assessment Contracts**”) with the owners of property in WRCOG (the

“California PACE Program Area”) to provide for the levy of contractual assessments to finance installation of Authorized Improvements.

On June 3, 2013, the Executive Committee adopted Resolution Number 09-13 (the “**California PACE Program Judicial Validation Authorizing Resolution**”) authorizing the initiation of judicial validation proceedings required to for the judicial validation of the proceedings to establish the California PACE Program and other matters related thereto.

On July 30, 2013, WRCOG filed a judicial validation proceeding pursuant to the provisions of the Validation Statute in the Superior Court entitled *Western Riverside Council of Governments v. All Persons Interested, et al.*, Case No. RIC 1308636 (the “**WRCOG PACE Program Commercial Validation Action II**”) to validate the California HERO Program and all proceedings relating to or leading up to the California HERO Program, the contractual assessments to be levied by WRCOG and the issuance and sale of limited obligation improvement bonds related thereto. On December 12, 2013, a default judgment was entered in the WRCOG PACE Program Commercial Validation Action II (the “**WRCOG PACE Program Commercial Validation Action II Judgment**”). Subsequent to the entry of the WRCOG PACE Program Commercial Validation Action II Judgment, WRCOG petitioned the Superior Court to amend such judgment and the first amended judgment was entered on April 22, 2014 (the “**First Amended Judgment**”), the second amended judgment was entered on July 1, 2014 (the “**Second Amended Judgment**”), the third amended judgment was entered on November 14, 2014 (the “**Third Amended Judgment**”) the fourth amended judgment was entered on March 24, 2015 (the “**Fourth Amended Judgment**”), the fifth amended judgment was entered on June 10, 2015 (the “**Fifth Amended Judgment**”), the sixth amended judgment was entered on September 15, 2015 (the “**Sixth Amended Judgment**”), the seventh amended judgment was entered on December 2, 2015 (the “**Seventh Amended Judgment**”), the eighth amended judgment was entered on April 13, 2016 (the “**Eighth Amended Judgment**”), the ninth amended judgment was entered on August 22, 2016 (the “**Ninth Amended Judgment**”), the tenth amended judgment was entered on February 10, 2017 (the “**Tenth Amended Judgment**”), and the eleventh amended judgment was entered on October 10, 2017 (the “**Eleventh Amended Judgment**”) (together with the WRCOG PACE Program Validation Action II Judgment and the First Amended Judgment, the Second Amended Judgment, the Third Amended Judgment, the Fourth Amended Judgment, the Fifth Amended Judgment, the Sixth Amended Judgment, the Seventh Amended Judgment, the Eighth Amended Judgment, the Ninth Amended Judgment, the Tenth Amended Judgment, and the Eleventh Amended Judgment, the “**Validation Action II Judgments**”) the WRCOG PACE Program Commercial Validation Action I Judgment and the WRCOG PACE Program Commercial Validation Action II Judgment along with Validation Action II Judgments shall be collectively referred to as the “**WRCOG PACE Program Commercial Validation Default Judgments**”).

On [December 2], 2019, the Executive Committee adopted Resolution Number [\_\_\_\_\_] (“**Resolution Approving the HERO Commercial PACE Program**”) to, among other actions, (a) approve Renovate America, Inc. as a program administrator (“**Program Administrator**”) to administer the HERO Commercial PACE Program [for both the WRCOG PACE Program], (b) approve the forms of amendments [to both the WRCOG PACE Program Report] to incorporate the HERO Commercial PACE Program, the form Agreement to Pay Assessment and Finance Improvements and the form of the HERO Commercial Pace Program handbook, (c) approve the forms of (i) the Administration Agreement by and between WRCOG and Program Administrator (the “**Administration Agreement**”), (ii) the Master Assignment and Assumption Agreement by and between WRCOG and Renovate America (the “**Master AAA**”) and (iii) the Depositary and Account Control Agreement by and among WRCOG, Renovate America, Wilmington Trust, National Association, as depositary (the “**Depositary**”) and Program Administrator (the “**Depositary and**



**Account Control Agreement**”); (d) authorize the issuance of limited obligation improvement bonds in the maximum principal amount of \$[\_\_\_\_\_] (the “**Bonds**”) to finance the installation of Authorized Improvements to be installed or caused to be installed on commercial properties that are participating in the HERO Commercial PACE Program and are located in one of the PACE Program Areas, (e) approving the forms of the Master Indenture and Supplemental Indenture by and between WRCOG and Wilmington Trust, National Association, as trustee thereunder, (f) authorizing the negotiated sale of the Bonds to Renovate America or an assignee thereof, and (g) approving the form of a Professional Services Agreement by and between WRCOG and David Taussig & Associates (“**DTA**”) to provide assessment administration services for the HERO Commercial PACE Program (the “**Assessment Administrator Agreement**”).

#### **DOCUMENTS REVIEWED.**

In our capacity as counsel for WRCOG, we have examined copies of the following form documents:

- a. The Joint Powers Agreement, as amended to the date hereof;
- b. The WRCOG PACE Program Resolution of Intention;
- c. The Resolution Confirming the WRCOG PACE Program Report;
- d. The Resolution Confirming WRCOG PACE Program Changes;
- e. WRCOG PACE Program Judicial Validation Authorizing Resolution;
- f. WRCOG PACE Program Commercial Validation Complaint;
- g. WRCOG PACE Program Commercial Validation Action Judgment;
- h. The PACE JPA Amendment;
- i. The California PACE Program Resolution of Intention;
- j. The Resolution Confirming the California PACE Program Report;
- k. California PACE Program Judicial Validation Authorizing Resolution;
- l. California PACE Program Commercial Validation Complaint;
- m. California PACE Program Commercial Validation Action Judgment;
- n. The resolutions adopted by the cities and counties consenting to inclusion of the properties within the jurisdiction of such cities or counties in the California PACE Program;
- o. The Associate Member JPA Amendments;
- p. The California PACE Program Commercial Validation Action Amended Judgments;
- q. The Resolution Approving the HERO Commercial PACE Programs;
- r. The Administration Agreement attached hereto as Exhibit B;

s. The WRCOG PACE Program Report as approved by the Resolution Approving the HERO Commercial PACE Programs;

t. The California PACE Program Report as approved by the Resolution Approving the HERO Commercial PACE Programs;

u. The HERO Commercial PACE Program Handbook (the “**Program Handbook**”) attached hereto as Exhibit C;

v. The form of the Agreement to Pay Assessment and Finance Improvements to be entered into between WRCOG and a Qualified Property Owner (each, an “**Assessment Contract**”) attached hereto as Exhibit D;

w. The Master Assignment and Assumption Agreement attached hereto as Exhibit E;

x. The Depositary Agent Agreement attached hereto as Exhibit F;

y. The form of Bond Purchase Agreement;

z. The form of the Master Indenture;

aa. The form of the Supplemental Indenture;

bb. The Assessment Administrator Agreement attached hereto as Exhibit G;

cc. The form of mortgage lender consent (“**Lender Consent**”) attached hereto as Exhibit H;  
and

dd. The Notice of Assessment and Assessment Contract (collectively, the “**Notice of Assessment**”) recorded against the related Participating Property; and

ee. The Payment of Contractual Assessment Required (“**PCAR**”) recorded against the related Participating Property.

The documents described in clauses a. through ee above, including all of the schedules and exhibits thereto, are collectively referred to herein as the “**PACE Documents**.”

The documents described in clauses “o,” “r,” “v” through “cc” are collectively referred to herein as the “**PACE Agreements**.”

In addition, we have reviewed such provisions of law deemed necessary to express the opinions set forth herein. As to various questions of fact material to our opinion, we have relied upon statements of fact contained in the documents we have examined.

#### **MODEL TRANSACTION: MODEL APPLICATION, MODEL COLLECTION AND MODEL ENFORCEMENT.**

As the basis for the opinions rendered herein, we have assumed that any Assessment Contracts entered into by and between WRCOG and the record owner or owners of a Participating Property (each, a “**PACE Property Owner**”) through the HERO Commercial PACE Program will comply with the parameters of a “**Model Approval**” as described in Section II.A, that any PACE Financing by Renovate

America through such HERO Commercial PACE Program will be paid by the PACE Property Owner through the levy of a PACE Assessment on the related Participating Property by WRCOG pursuant to Chapter 29 and the related Assessment Contract. Each such PACE Assessment is secured by a lien created by the recordation of a Notice of Assessment against such Participating Property (each, a “**PACE Assessment Lien**”). Annual assessment installments of such PACE Assessment shall be caused by WRCOG to be placed and collected on the property tax bill for such Participating Property according to the procedures outlined in Section II.B (“**Model Collection**”), and that any PACE Assessment that becomes delinquent according to the terms set forth in an applicable Assessment Contract will be enforced by WRCOG according to the procedures outlined in Section II.C (“**Model Enforcement**”). We define a “**Model Transaction**” as a transaction entered into utilizing the PACE Documents pursuant to a Model Approval, collected according to a Model Collection, and enforced (if applicable) according to the Model Enforcement, all as further described below in this Section II. Any material deviation from the following description of a Model Transaction in connection with any Assessment Contract may alter our analysis and the opinions contained herein.

### **Model Approval**

A Model Approval has the elements set forth below in this Section II.A.

Pursuant to the provisions of Chapter 29 and Section 7.1 of the Program Handbook, a PACE Property Owner must apply to Program Administrator for financing for the construction and installation of a “**Commercial PACE Project**” (as such term is defined in Section 2.1 of the Administration Agreement) under the HERO Commercial PACE Program. Program Administrator will collect all financial, technical, and legal documentation as required in Program Administrator’s sole discretion to determine whether such PACE Property Owner, Participating Property, and Commercial PACE Project meet the requirements of the Program Report, the Program Handbook and Chapter 29. The PACE Property Owner must be the record owner of an “**Eligible Property**,” i.e., a property that meets the requirements that are specified in Section 4.1 of the Program Handbook (a “**Participating Property**”). The PACE Property Owner must intend to construct and install or cause the construction and installation of qualifying energy efficiency, water efficiency or renewable energy improvements or electric vehicle charging infrastructure as required under Chapter 29 and that otherwise meet the eligibility requirements set forth in Section 4.4 of the Program Handbook (“**Qualifying Improvements**”). The Property Owner must meet all of the “Eligible Property Owner” requirements of Section 4.2 of the Program Handbook. If Program Administrator determines that the PACE Property Owner, the Participating Property and the Qualifying Improvements meet all of the requirements of the Program Reports, the Program Handbooks and Chapter 29, Program Administrator will, pursuant to the Administration Agreement, submit the following documents to WRCOG (the “**Approved Application Documents**”)<sup>6</sup>:

1. A Financing Summary Form containing the information specified in Exhibit “C”, Schedule of Responsibilities, to the Administration Agreement and executed by an authorized representative of Renovate America;
2. Executed mortgage lender consent (if required);
3. Engineer letter confirming the Qualifying Improvements;
4. Copy of title report for the Participating Property dated within 60 calendar days of the Financing Summary Form;
5. Disclosure of Risk Form; and

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<sup>6</sup> Renovate America and WRCOG to confirm.

6. Unexecuted form of the proposed Assessment Contract.

Upon receipt of the Approved Application Documents and confirmation that the Commercial PACE Project included in the Approved Application Documents meets all the requirements of the Renovate America Program Handbook and Chapter 29, WRCOG will provide a written confirmation to Program Administrator, which confirmation shall not be unreasonably withheld, that such Commercial PACE Project is approved (an “**Approved Commercial PACE Project**”).

Upon receipt of written confirmation from WRCOG that the Commercial PACE Project in the Approved Application Documents is an Approved Commercial PACE Project, Program Administrator will send the Assessment Contract to the Property Owner for signature. No less than 10 business days before the effective date of the Assessment Contract, Program Administrator shall deliver original copies of the Assessment Contract to WRCOG for signature.

Upon receipt of the executed Assessment Contract from Program Administrator for each Approved Commercial PACE Project, WRCOG will execute on or before the effective date of the Assessment Contract, and then promptly cause recordation in the office of the County recorder in which the Participating Property is located of:

7. The Notice of Assessment; and

8. The Payment of Contractual Assessment Required.

If WRCOG receives written instruction from Program Administrator to assign an Assessment Contract pursuant to the Master AAA, immediately after the recordation of the related Notice of Assessment, WRCOG will cause recordation of and notification to the financing team of the Assignment Instrument as required pursuant to the Master AAA assigning the Assessment Contract to Renovate America or Renovate America’s designee. WRCOG will send Program Administrator copies of the recorded Assignment Instrument within 5 business days of execution by WRCOG. Additionally, on the Assignment Date WRCOG shall provide or cause to be provided to Renovate America the applicable Assignment-Level Closing Documents as specified in Exhibit F of the Master AAA.

If WRCOG receives instruction from Program Administrator to issue a Complying PACE Bond (as defined in the Master AAA) pursuant to the Master AAA, WRCOG will promptly execute and deliver all documents as described in the Administration Agreement (the “**WRCOG Bond Closing Documents**”) and in the related BPA to Bond Counsel or shall cause all such WRCOG Closing Documents to be so executed and delivered, as applicable, on or before the Closing Date, as specified in the related BPA (e.g. the Issue Date as defined in the Master AAA).

### **Model Collection**

A Model Collection has the elements set forth below in this Section II.B.

Each Assessment Contract provides in Section 3(d) that the PACE Property Owner promises to pay the PACE Assessment for a period of years as specified in such Assessment Contract in two installments (each, a “**PACE Assessment Installment**”), together with annual assessment administrative fees (“**Annual PACE Assessment Administrative Fees**”). The annual proportion of each PACE Assessment levied pursuant to Chapter 29 and the Assessment Contracts coming due in any year, together with the annual interest on such PACE Assessment, shall be payable in the same manner and at the same time and in the same installments as the general taxes of the city or county in which the related Participating Parcel is located on real property are payable, and the PACE Assessment Installments and

the annual interest on the PACE Assessment shall be payable and come delinquent at the same times and in the same proportionate amounts and shall bear the same proportionate penalties and interest after delinquency as do the general taxes on real property of such city or county.<sup>7</sup>

WRCOG shall cause to be submitted to the auditor-controller for each county in which a Participating Property that is subject to a PACE Assessment is located (each, an “**Auditor-Controller**”) data pertaining to the annual PACE Assessment Installments to be collected on the property tax bill for such Participating Parcel for each tax year. The data submitted shall include the assessor’s parcel number for each such Participating Property and the amount of the PACE Assessment Installments, together with the Annual PACE Administrative Fees, applicable to each such Participating Property. WRCOG has contracted with 30 Three Sixty pursuant to the Assessment Administrator Agreement to provide PACE Assessment administration and collection services. Included among the services to be provided by 30 Three Sixty is the preparation and submission of annual PACE Assessment Installment enrollment packages in accordance with direct assessment enrollment packages of the applicable Auditor-Controller.

The Auditor-Controller shall annually enter in the assessment roll on which taxes will next become due, opposite each Participating Property in a space marked “public improvement assessment,” or by other suitable designation, the PACE Assessment Installments, together with the Annual PACE Administrative Fees, coming due during the tax year covered by the assessment roll. On or before the fourth Monday in September of each tax year, the Auditor-Controller shall deliver the secured roll, which includes the PACE Assessment Installments, together with the Annual PACE Administrative Fees, to be collected for such tax year, to the treasurer-tax collector of the County of Riverside (each, a “**Treasurer-Tax Collector**”).<sup>8</sup> The Treasurer-Tax Collector is then responsible for collecting all property taxes and assessments, including the PACE Assessment Installments.<sup>9</sup> Upon receipt of the property taxes and the PACE Assessment Installments and Annual PACE Administrative Fees for a Participating Property, the Treasurer-Tax Collector is required to mark the fact and date of payment on the tax roll, opposite the tax to which the payment relates.<sup>10</sup>

Each Treasurer-Tax Collector of a county in which a Participating Property is located that is subject to a PACE Assessment levied pursuant to an Assessment Contract and Chapter 29 shall be instructed, or caused to be instructed, by WRCOG to collect and pay over and distribute to the Depositary all PACE Assessment Installments and Annual PACE Administrative Fees received by such Treasurer-Tax Collector. The Depositary shall deposit such PACE Assessment Installments and Annual PACE Administrative Fees in the Collection Account established and held under the Depositary and Account Control Agreement (the “**Assessment Collection Account**”). The Depositary shall, pursuant to the Depositary and Account Control Agreement, make all payments of principal, penalties, Annual PACE Administrative Fees, if any, and interest on the PACE Assessments to one or more accounts, as specified in writing by Renovate America.

PACE Assessments levied pursuant to Chapter 29, and the interest and any penalties thereon constitute a lien against the Participating Property on which such PACE Assessment is made, until such PACE Assessment is paid.<sup>11</sup> Pursuant to Section 7 of each Assessment Contract, the Participating

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<sup>7</sup> S&H Code §§5898.30 and 8680(a).

<sup>8</sup> California Revenue and Taxation Code § 2601. References to the California Revenue and Taxation Code may be abbreviated herein as “R&T § \_\_\_\_.”

<sup>9</sup> R&T §2602.

<sup>10</sup> R&T Code §1614.

<sup>11</sup> S&H §5898.30; Government Code §53931

Property encumbered by a PACE Assessment will remain transferrable by the owner thereof, and a PACE Assessment will remain as an encumbrance on the Participating Property as a burden that runs with the land to become the obligation of the transferee. Pursuant to Section 16 of the PACE Agreement, WRCOG will retain the right to assign all or any portion of its rights and obligations under an Assessment Contract and any documents executed in connection therewith according to the terms and requirements of such Assessment Contract.

### **Model Enforcement**

A Model Enforcement has the elements set forth below in this Section II.C.

Pursuant to Sections 4(c) of each Assessment Contract, if the Participating Property is delinquent in the payment of any PACE Assessment Installment or any accrued interest and penalties thereon, the Participating Property will be subject to the commencement of judicial foreclosure proceedings. Except as provided below, WRCOG will commence, or cause to be commenced, judicial foreclosure proceedings against the Participating Property, including collection actions preparatory to the filing of any complaint, but will file the complaint not later than sixty (60) days following the determination that the property is delinquent in the payment of such PACE Assessment Installments. Failure of such a complaint to be filed by such date shall not, however, invalidate any judicial foreclosure proceedings commenced after such date. The PACE Property Owner acknowledges that WRCOG shall have the delinquent PACE Assessment Installment and its associated penalties and interest stripped off the secured property tax roll and immediately enforced through a judicial foreclosure action that could result in a sale of the Participating Property for the payment of the delinquent PACE Assessment Installments, associated penalties and interest, and all costs of suit, including attorneys' fees.

## **ASSUMPTIONS.**

For purposes of this opinion, we have also assumed the following:

Each PACE Property Owner, Commercial PACE Project and Model Transaction will be in compliance with the requirements of Chapter 29 and the Program Handbook.

Each Assessment Contract entered into by and between WRCOG and a PACE Property Owner under one of the PACE Program will be a Model Transaction in every respect, and will comply with all applicable law; and

Each such Assessment Contract will be with respect to a Participating Property that is in the jurisdiction of a Member with respect to the WRCOG PACE Program or an Associate Member with respect to the California PACE Program; and

The accuracy of all certificates and representations, documents and records and the representations and warranties made by all parties in the PACE Documents, in each case with respect to the factual matters set forth therein; and

All parties to the PACE Agreements will be validly existing and in good standing under the laws of their respective jurisdictions of organization and will have the requisite power and authority to enter into such PACE Agreements; and

The execution and delivery of the PACE Agreements will be duly authorized by all necessary action of the parties thereto; and the respective terms and provisions of each of the PACE Agreements, and the execution, delivery and performance of its obligations thereunder by each of such parties, will not violate the articles or certificates of incorporation, formation or organization or other charter document or bylaws, operating agreement, limited partnership agreement of any such party or any law, order or decree of any court, administrative agency or other governmental authority binding on any such party, or result in a breach of, or cause a default under any contract or indenture to which it is a party or by which it is bound; and

Each party to a PACE Agreement will remain in compliance with the provisions of all laws governing the transaction of its business and the exercise of its powers in the State; and

Each mortgagee holding a mortgage encumbering the applicable Participating Property will have executed a Lender Consent prior to WRCOG and the PACE Property Owner entering into an Assessment Contract; and

All of the PACE Agreements and the documents referenced therein will be duly authorized, executed and delivered by each of the parties thereto, and all blanks and exhibits will be completed and attached, as appropriate and contain all the exhibits, riders and attachments as required pursuant to the Program Handbook or any other requirement of WRCOG or Renovate America; and

Each natural person executing the PACE Agreements or related documents or certificates shall have the legal capacity to do so; and

All representations and warranties of factual matters made by all parties to the PACE Agreements will be accurate and complete; and

The PACE Agreements will accurately reflect the complete understanding of the parties thereto with respect to the transactions contemplated thereby and the rights and obligations of the parties thereunder; and

Upon execution, the PACE Agreements will be the valid and legally binding obligations of each of the parties thereto enforceable in accordance with the terms of such PACE Agreements; and

Each PACE Property Owner that enters into an Assessment Contract will utilize the funds received solely to pay the approved soft costs and costs of the construction and installation of the Qualified Improvements that are included in the related Approved Commercial PACE Project; and

WRCOG will act in compliance with all requirements and procedures for the collection, enforcement and foreclosure and sale of delinquent fixed lien assessments set forth in applicable State law and specifically Chapter 29 and the Bond Act; and

WRCOG, any PACE Property Owner, Program Administrator, as the administrator of the HERO Commercial PACE Program, and Renovate America, who shall finance the installation and construction of the Commercial PACE Project (or its assignee), any contractor or engineer, and any agent of any of the foregoing will fully exercise and perform their rights and obligations as set forth in the PACE Documents; and

There is no oral or written agreement, instrument, understanding, course of dealing or usage of trade that affects the rights and obligations of the parties set forth in the PACE Agreements, or that would have an effect on the opinions expressed herein; none of the other documents executed and delivered by any of the parties to the PACE Agreements in connection with a PACE Financing conflict with the terms of or supersede the PACE Agreements or affect the rights and obligations of the parties set forth in the PACE Agreements, or have an effect on the opinions expressed herein; there are no judgments, decrees or orders that impair or limit the ability of any party to enter into, execute and deliver, and perform, observe and be bound by the PACE Agreements and the transactions contemplated therein; all material terms and conditions of the relevant transactions among the parties thereto are correctly and completely reflected in the PACE Agreements; and there has been no waiver of, or any amendment or other change to, any of the provisions of the PACE Agreements by conduct of the parties or otherwise; and

A correct, valid, sufficient and accurate legal description of a Participating Property and the assessor's parcel number(s) will be included in the applicable Assessment Contract; the applicable Assessment Contract will contain the correct name of the applicable PACE Property Owner(s); and

All of the parties to the PACE Agreements will have received adequate consideration to the execution and delivery of the PACE Agreements to which they are a party; and

The applicable PACE Property Owner will have the power to transfer rights in the Participating Property subject to the terms of the applicable Assessment Contract and the related PACE Agreements; and

The Notice of Assessment and the PCAR will be properly recorded and indexed in the Office of the County Recorder of the County in which the related Participating Property is located; and

The PACE Documents ultimately executed in conjunction with a PACE Financing made by WRCOG to a PACE Property Owner will not differ from the copies of the PACE Documents attached hereto in any way that would be relevant to the opinions expressed herein.



## **OPINIONS RENDERED**

Based upon and subject to the foregoing assumptions, and subject also to the qualifications, exceptions and limitations set forth above and below, we are of the opinion that:

The State has authorized the imposition of PACE Assessments by WRCOG against Participating Properties pursuant to the Chapter 29, the Bond Act, the Program Report, the Program Handbook and the related Assessment Contracts.

The PACE Documents and PACE Agreements comply with, and any PACE Financing made pursuant to the PACE Documents and the related PACE Agreements will comply with, Chapter 29.

WRCOG has validly contracted with Program Administrator for the administration of the PACE Program according to the terms of the Administration Agreement.

The execution of an Assessment Contract by WRCOG and the PACE Property Owner constitutes the levy of a PACE Assessment against the Participating Property. PACE Assessments levied against a Participating Property pursuant to Chapter 29 and the related Assessment Contract and the interest and penalties thereon shall constitute a lien against such Participating Property until such PACE Assessment and such interest and penalties are paid.

The obligations of WRCOG to levy and collect the PACE Assessment Installments set forth in the Assessment Contract and cause the collection thereof will not terminate upon any voluntary or involuntary sale of the Participating Property and the PACE Assessment Lien will constitute a lien against the Participating Property until the PACE Assessment is paid in full.

The lien of each PACE Assessment is coequal to and independent of the lien for general taxes, and, except as provided in Government Code Section 53936, not subject to extinguishment by the sale of the property on account of the nonpayment of any taxes, and prior and superior to all liens, claims and encumbrances except: (a) the lien for general taxes or ad valorem assessments in the nature of and collected as taxes levied by the State of California, the county or the city, special district or other local agency, if any, within which the applicable Participating Property is located; (b) the lien of any special assessment or assessments the lien date of which is prior in time to the lien date of such PACE Assessment; (c) easements constituting servitudes upon or burdens to the applicable Participating Properties; (d) water rights, the record title to which is held separately from the title to the applicable Participating Parcel; and (e) restrictions of record. The lien of each PACE Assessment has the same priority as the lien for general taxes or ad valorem assessments in the nature of and collected as taxes levied by the State of California, the county or the city, special district or other local agency, if any, within which the applicable Participating Parcel is located.

The validity and priority of a PACE Assessment will not be affected by the technological performance or completion of a Commercial PACE Project.

Transfers of Assessment Contracts pursuant to the Master AAA conform to the requirements of Chapter 29 and are valid and binding on the parties thereto.

## **QUALIFICATIONS, ETC.**

The opinions expressed herein are solely based on a Model Transaction and are not expressed with respect to any particular transaction entered into with any particular PACE Property Owner.

No opinion is given with respect to any documents to be executed and delivered in connection with a property assessed clean energy program or a financing thereunder that are governed by the laws of any other jurisdiction.

The foregoing is subject to the following:

Our opinions are limited to only those laws, rules and regulations that we have, in the exercise of customary professional diligence, but without any special investigation, recognized as generally applicable to the transactions contemplated by the PACE Documents or to business organizations of the same type as the parties to the PACE Documents. In addition, we express no opinion as to any law, rule or regulation, the violation of which would not have a material effect on the PACE Program.

Our opinions are subject to the effect of any applicable bankruptcy, insolvency, fraudulent conveyance, equitable subordination, reorganization, readjustment of debt, moratorium or similar laws affecting creditors' rights generally. We note that Section 552 of the Federal Bankruptcy Code limits the extent to which property acquired by the debtor after the commencement of a case under the Federal Bankruptcy Code may be subject to a security interest arising from a security agreement entered into by the debtor before the commencement of the case.

We express no opinion as to the existence, nature or extent of the title to any personal or real property or the accuracy or adequacy of any descriptions thereof or the existence of any liens, charges or encumbrances thereon.

We express no opinion as to the laws of any jurisdiction other than the laws of the State.

Any reference to the State statutes or particular sections or chapters therein are to the State statutes in effect as of the date of this opinion;

Our opinions are limited to the specific matters addressed in Part IV, and except as expressly stated in Part IV, we express no opinion as to the validity and enforceability of the PACE Documents.

General principles of equity, regardless of whether such principles are considered in a proceeding in equity or at law, and limitations on the availability of specific performance, injunctive relief and other equitable remedies; principles which limit the availability of a remedy under certain circumstances where another remedy has been elected; principles requiring reasonableness, good faith and fair dealing in the performance and enforcement of an agreement by the party seeking enforcement; principles which may permit a party to cure a material failure to perform its obligations; and principles affording equitable defenses such as waiver, laches and estoppel.

The possible rights of third parties to the extent that the consent of any third party is necessary for the valid creation of a PACE Assessment and such consent has not been obtained.

No opinion is expressed as to the priority of the PACE Assessment Lien except as expressly set forth above.

This opinion is limited to the matters set forth herein, and no opinion may be inferred or implied beyond the matters expressly contained herein. This opinion is being furnished only to you and your successors, is solely for you and your successors' benefit, and is not to be used, quoted, relied upon or otherwise referred to by any other person or for any other purposes without our prior

written consent; [provided, however, that [ ] may also rely on this opinion in connection with its extension of credit accommodations to Renovate America for the funding of the PACE Financings]. Notwithstanding the foregoing, Renovate America may disclose this opinion to the agents and employees of (i) any institution providing credit enhancement or liquidity support to Renovate America, its successors or assigns, related to a Assessment Contract (ii) any parties to a securitization or other capital markets transaction that includes a Assessment Contract, or (iii) applicable regulatory authorities having jurisdiction over you to the extent disclosure of the opinion is required by applicable law or regulation; provided, however, that such limited disclosure by Renovate America shall not entitle any such parties to rely on this opinion. This opinion is based on factual matters in existence as of the date hereof and laws and regulations in effect on the date hereof, and we assume no obligation to revise or supplement this opinion should such factual matters change or should such laws or regulations be changed by legislative or regulatory action, judicial decision or otherwise.

Sincerely,

BEST BEST & KRIEGER LLP

EXHIBITS TO OPINION ATTACHED TO ORIGINAL

## EXHIBIT H

### FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

**THIS ASSIGNMENT AND ASSUMPTION AGREEMENT** (this “Agreement”) is dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Effective Date”), between [Renovate America, Inc., a Delaware corporation] (the “Assignor”), and \_\_\_\_\_, a [state] [limited liability company] (the “Assignee”).

WHEREAS, Western Riverside Council of Governments (“WRCOG”) is authorized to act under Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (the “Act”) pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California; and

WHEREAS, the Executive Committee of WRCOG (the “Executive Committee”) previously adopted Resolution No. 09-10 adopted March 1, 2010 for the County of Riverside (the “County”), and cities in the County, listed at the PACE Program Report as defined below (the “Covered Jurisdictions” and each, a “Covered Jurisdiction”) entitled “Resolution of the Western Riverside Council of Governments Declaring its Intention to Finance Distributed Generation Renewable Energy Sources and Energy Efficiency Improvements through the use of Contractual Assessments Pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code and setting a public hearing thereon” (collectively, the “WRCOG Resolution of Intention”), to initiate proceedings under the Act in and for the territory within each Covered Jurisdiction (the “WRCOG Program Area”) to establish the Energy Efficiency and Water Conservation Program for Western Riverside County (the “WRCOG Program”), pursuant to which WRCOG would enter into contractual assessments to finance the installation of distributed generation renewable energy, energy efficiency and water efficiency improvements as described in the Resolution of Intention; and

WHEREAS, after holding a duly noticed public hearing at which interested persons were allowed to object to or inquire about the proposed Program within the Program Area or any of the Program’s particulars, the Executive Committee adopted Resolution No. 13-10 adopted June 7, 2010 entitled “Resolution of Western Riverside Council of Governments Confirming Report Relating to the Financing of the Installation of Distributed Generation Renewable Energy Sources, Energy Efficiency and Water Efficiency Improvements and Approving and Ordering Other Related Matters,” as subsequently amended, (the “WRCOG Resolution Confirming Program Report”), pursuant to which the Executive Committee, among other things, (i) confirmed and approved a report (the “PACE Program Report”) addressing all the matters required by the Act, including a draft agreement between WRCOG and property owners participating in the Program providing for payment of contractual assessments, (ii) established the Program, and (iii) Authorized Officers (as defined herein) to execute agreements with the owners of property in the Program Area to provide for the levy of contractual assessments to finance installation of distributed generation renewable energy, energy efficiency and water efficiency improvements; and

WHEREAS, under the Act and the Improvement Bond Act of 1915, Division 10 of the California Streets and Highways Code (as amended, the “Bond Law”), the Executive Committee adopted Resolution No. 03-12 on July 29, 2011, as subsequently amended, entitled “A Resolution Authorizing Issuance of Limited Obligation Improvement Bonds, Approving and Directing the Execution of Related Documents and Approving Related Documents and Actions” (the “Resolution of Issuance”), which among other matters, authorized the issuance of one or more series of improvement bonds of WRCOG upon the security of assessments levied on the participating parcels within the Program Area under the Act and the

Bond Law, and provided that the issuance of improvement bonds would be in accordance with the Bond Law and an indenture and authorized the execution thereof; and

WHEREAS, with respect to the WRCOG Program, WRCOG obtained the default judgment rendered on July 1, 2011, by the Superior Court of the State of California County of Riverside in the validation action entitled *Western Riverside Council of Governments v. All Persons Interested, et al.*, Case No. RIC 1103283; and

WHEREAS, Subsequent to the establishment of the WRCOG Program, the Joint Exercise of Powers Agreement was amended on October 23, 2013 by that certain Amendment to the Joint Powers Agreement of the Western Riverside Council of Governments to Permit the Provision of PACE Services (the “PACE Amendment”) to empower WRCOG to establish and operate one or more Property Assessed Clean Energy (“PACE”) programs pursuant to Chapter 29, and to enter into one or more agreements to fulfill such programs both within and outside the jurisdictional boundaries of WRCOG; and

WHEREAS the PACE Amendment further empowered WRCOG to establish an “Associate Member” status that provides membership in WRCOG to local jurisdictions that are outside WRCOG’s jurisdictional boundaries but within the boundaries of a PACE program that will be established and implemented by WRCOG; and

WHEREAS, on May 6, 2013, the Executive Committee adopted Resolution Number 04-13, entitled “Resolution of the Western Riverside Council of Governments Declaring Its Intention to Finance Distributed Generation Renewable Energy Sources and Energy Efficiency and Water Efficiency Improvements and Electric Vehicle Charging Infrastructure Through the Use of Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code and Setting a Public Hearing Thereon” (the “California Program Resolution of Intention”), to initiate proceedings under Chapter 29 to establish the California Program (the “California Program” and, together with the WRCOG Program, the “Program”), pursuant to which WRCOG will enter into contractual assessments with the owners of real property located in jurisdictions of WRCOG Associate Members (the “California Program Area” and, together with the WRCOG Program Areas, the “Program Areas”) to finance the installation of Improvements on real property located within the California Program Area; and

WHEREAS, by the adoption of the California Program Resolution of Intention, the Executive Committee provided that one or more series of bonds would be issued or other financing relationships would be entered into under the Bond Act for the purpose of financing the installation of such Improvements within the California Program Area; and

WHEREAS, on June 3, 2013, after holding a duly noticed public hearing at which interested persons were allowed to object to or inquire about the proposed California Program or any of its particulars, the Executive Committee adopted Resolution Number 10-13, entitled “Resolution of the Western Riverside Council of Governments Confirming the Report Relating to the Financing of the Installation of Distributed Generation Renewable Energy Sources and Energy Efficiency and Water Efficiency Improvements and Electric Vehicle Charging Infrastructure and Approving and Ordering Other Related Matters,” (the “California Program Resolution Confirming Program Report” together with the WRCOG Resolution Confirming Program Report, the “Resolutions Confirming Program Reports”), pursuant to which the Executive Committee, among other things, (i) confirmed and approved a report (as originally approved and subsequently amended, the “California Program Report” and, together with the WRCOG Program Report, the “Program Reports”) addressing all of the matters set forth in Section 5898.22 and 5898.23 of Chapter 29, including, but not limited to: (i) (a) identification of the types of Improvements that may be financed through the use of contractual assessments (the “Improvements”) and (b) a plan for raising the capital amount required to pay for work performed pursuant to voluntary

contractual assessments; (ii) establishment of the California Program; and (iii) authorization for the execution of Assessment Contracts with the owners of property in the California Program Area to provide for the levy of contractual assessments to finance installation of Improvements on such properties; and

WHEREAS, on June 3, 2013, the Executive Committee adopted its Resolution Number 08-13, entitled “A Resolution of the Western Riverside Council of Governments Authorizing Issuance of Limited Obligation Improvement Bonds Pertaining to the California HERO Program, Approving and Directing the Execution of Related Documents and Approving Related Actions” (the “California Program Resolution of Issuance”), pursuant to which, the Executive Committee, among other actions, authorized the issuance of one or more series of limited obligation improvement bonds pursuant to Chapter 29 and the Bond Act, secured by voluntary contractual assessments levied on Commercial (as such term is defined in the California Program Report) parcels located in the California Program Area; and

WHEREAS, WRCOG has, pursuant to the PACE Amendment, entered into amendments to the Joint Exercise of Powers Agreement to add certain cities and counties as “Associate Members” of WRCOG to enable WRCOG to undertake proceedings pursuant to Chapter 29 to establish the California Program (defined below) to make contractual assessment financing available to eligible property owners within the jurisdictions of such cities and counties; and

WHEREAS, on December 2, 2013, the Executive Committee adopted Resolution Number 24-13, entitled “Resolution of the Western Riverside Council of Governments Authorizing for the Issuance of the Western Riverside Council of Governments Limited Obligation Improvement Bonds (WRCOG HERO Program and California Program), Approving and Directing the Execution of Related Documents and Approving Related Actions” (the together with the WRCOG Resolution of Issuance and the California Resolution of Issuance, the “Resolutions of Issuance”) pursuant to which the Executive Committee, among other actions, authorized the issuance of one or more series of limited obligation improvement bonds pursuant to Chapter 29 and the Bond Act, secured by voluntary contractual assessments levied on Commercial (as defined in both the WRCOG Program Report and the California Program Report) parcels located in both the WRCOG Program Area and the California Program Area.

WHEREAS, with respect to the WRCOG Program, WRCOG obtained the default judgment rendered on December 12, 2013, by the Superior Court of the County of Riverside in the validation action entitled Superior Court of the County of Riverside as *Western Riverside Council of Governments v. All Persons Interested, et al.*, Case No. RIC 1308639; and

WHEREAS, WRCOG has entered into that certain HERO Commercial PACE Program Administration Agreement with Renovate America, Inc. dated as of [December 2, 2019], (as amended, supplemented or otherwise modified from time to time, the “Administrative Agreement”) to provide Program Administrative Services for Commercial PACE Projects participating in the HERO Commercial PACE Program (as such terms are defined in the Administrative Agreement) and wherein WRCOG agreed to the WRCOG Responsibilities as set forth in the Administrative Agreement; and

WHEREAS, on [December 2], 2019, the Executive Committee did, by the adoption of Resolution No. [\_\_\_\_\_] authorize the issuance of one or more series of Limited Obligation Improvement Bonds (the “Bonds”) providing that each such Bond shall be issued pursuant to a master indenture and one or more supplemental indentures by and between WRCOG and Wilmington Trust National Association, as trustee (the “Trustee”), the forms of which were approved by the Resolution of Issuance; and

WHEREAS, prior to the issuance of the Bonds, WRCOG desires to transfer its right, title and interest in certain voluntary assessment contracts entered into in connection with the HERO Commercial PACE Program; and

WHEREAS, Section 5898.28(b) of the Act (i) authorizes WRCOG to transfer its right, title, and interest in and to any voluntary contractual assessments, if bonds have not been issued, (ii) authorizes WRCOG and any Transferee to enter into an agreement that, among other things, identifies the specific period of time during which the transfer of voluntary contractual assessments will be operative, not to exceed three years and (iii) provides that a transfer of any voluntary contractual assessments under this provision shall be treated as a true and absolute transfer of the asset so transferred for the period of the transfer and not as a pledge or grant of a security interest by the public agency for any borrowing; and

WHEREAS, WRCOG has entered into that certain Master Assignment and Assumption Agreement (“Master Assignment Agreement”) with Renovate America, Inc., (the “Transferee”), dated as of [\_\_\_\_], 2019, whereby (A) WRCOG agrees to sell, assign and transfer to the Transferee, and the Transferee agrees to purchase from WRCOG, for the Assignment Term (as defined in the Master Assignment Agreement), all of WRCOG’s right, title, and interest in, to and under each Transferred Interest specified in the Assignment Instrument (each, as defined in the Master Assignment Agreement in exchange for the (i) the consideration specified with respect to such Transferred Interest in such Assignment Instrument and (ii) WRCOG’s undertakings in Section 5 of the Master Assignment Agreement; and (B) the Transferee agrees that it will subsequently assign a Transferred Interest only to (i) a wholly owned subsidiary, a parent company, or other affiliated entity; or (ii) a third party, where (1) the third party and the Transferee execute this Agreement, (2) the third party satisfies the representations set forth in Sections 4(a) through (d) and (f) of the Master Assignment Agreement as of the date of assignment, and (3) the third party executes an investor letter in substantially the form of Exhibit B to this Agreement; and

WHEREAS, in connection with the HERO Commercial PACE Program, WRCOG has entered into an Agreement to Pay Assessment and Finance Improvements dated \_\_\_\_\_, 20\_\_ (the “Assessment Contract”) for an Approved Commercial PACE Project (as defined in the Administration Agreement) with [Property OWNER LEGAL NAME], a California [OWNER ENTITY TYPE] (the “Borrower”), for the financing of the installation of certain eligible improvements to be located at the Borrower’s facility in [PROPERTY ADDRESS], California (as more specifically described in the attached Exhibit A), in the amount of \$ \_\_\_\_\_. A notice of assessment was recorded in the Office of the Recorder of Deeds for \_\_\_\_\_ County, California (the “Recorder’s Office”) on \_\_\_\_\_, 20\_\_, as Instrument No. \_\_\_\_\_, in Book \_\_\_\_\_, Page \_\_\_\_\_ in connection with the execution of the Assessment Contract; and

WHEREAS, in connection with the Assessment Contract, WRCOG and the Assignor executed an Assignment Instrument dated \_\_\_\_\_, 20\_\_ (the “Instrument”) which was recorded in the Recorder’s Office on \_\_\_\_\_, 20\_\_ as Instrument No. \_\_\_\_\_, in Book \_\_\_\_\_, Page \_\_\_\_\_); and

WHEREAS, the Master Assignment Agreement, the Assessment Contract and the Instrument, as described above, are herein referred to, collectively, as the “Assessment Documents”; and

WHEREAS, the Assignor desires to assign and is transferring to the Assignee Assignor’s rights under the Assessment Documents to the Assignee and the Assignee desires to assume the duties and obligations of the Assignor under the Assessment Documents, effective as of the Effective Date, and to take certain other actions required in relation thereto, subject in all respects to the provisions of this Agreement.

NOW, THEREFORE, in consideration of the transfer of the rights under the Assessment Documents, the assumption of the obligations and duties under the Assessment Documents, the foregoing premises and the mutual promises, covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

Recitals. The recitals set forth herein are true and accurate and are incorporated herein by reference.

Assignment of Rights of Assignor. The Assignor hereby grants, bargains, conveys, assigns and sets over to the Assignee, its successors and assigns, all of the Assignor's rights and benefits in, to and under the Assessment Documents, without recourse, representation or warranty, express or implied, except as may be set forth herein.

Assumption of Obligations by Assignee/Indemnification. The Assignee acknowledges and accepts the terms of each of the Assessment Documents. The Assignee hereby assumes, from and after the Effective Date, the Assignor's obligations, rights, responsibilities and liabilities as "Transferee" set forth in the Assessment Documents in accordance with their terms, subject to the limitations on recourse set forth therein, if any. Further, the Assignee agrees (subject to any limitation on recourse set forth in the Assessment Documents), from and after the Effective Date, to observe and perform each and every term, covenant, provision and condition required to be observed or performed by the Assignor as Transferee under each of the Assessment Documents, and further agrees, from and after the Effective Date, to perform all of the obligations and duties of the Assignor as Transferee under each of the Assessment Documents as though said documents had been originally executed by the Assignee. The Assignee assumes no obligations pursuant to this Agreement under any other document not listed on Exhibit C hereto. Notwithstanding the foregoing, the Assignee does not assume, and is hereby released from, any and all liabilities or obligations arising under the Assessment Documents on or prior to the Effective Date.

Release of Assignor. From and after the Effective Date, the Assignor (its members and the owners thereof), and its successors and assigns (other than the Assignee and its successors and assigns) are hereby released from any obligation or liability under the Assessment Documents; provided, however, that the Assignor is not released from any liability arising in connection with any violations of the Assessment Documents occurring on or prior to the Effective Date.

Representations of Assignee. The Assignee represents and covenants to the Assignor that:

The Assignee is a [state] [limited liability company], in good standing in its state of organization.

Representations of Assignor. The Assignor represents to the Assignee:

The Assignor is not in default under any of its obligations under the Assessment Documents as of the date hereof;

**Exhibit C** contains a true, correct and complete list of all documents that to the Assignor's knowledge, after due inquiry, are currently in effect relating exclusively to the Assessment Documents;

To the Assignor's knowledge, there has been no amendment to or other modification of the Assessment Documents, other than as described in the recitals or Exhibit C; and



The Assignor is a [state] [limited liability company] in good standing in its state of organization.

Representations of Parties. Each of the parties hereto severally represents, each with respect only to itself, as of the date hereof, as follows:

It is duly organized and existing under the laws of the jurisdiction of its organization, with full power and authority to execute and deliver this Agreement, to enter into the transactions contemplated hereby and to perform all the duties and obligations to be performed by it hereunder;

It has duly authorized this Agreement and the transactions contemplated hereby and the performance of all the duties and obligations to be performed hereunder by all necessary governmental, corporate and/or partnership action;

It has duly executed and delivered this Agreement and this Agreement constitutes its valid, legal and binding obligation enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization or similar laws or equitable principles relating to or limiting creditors' rights generally; and

The execution and delivery of this Agreement and the performance of the transactions contemplated hereby will not violate any agreement by which it is bound or to which it or any of its assets are affected, or its organizational documents or any statute, regulation, rule, order or judgment applicable to it.

Notices. The parties hereto hereby agree that the address for notices to the Transferee under the Assessment Documents is and shall be as follows:

[Assignee]

\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_  
Telephone: (\_\_\_\_) \_\_\_\_\_  
Email: \_\_\_\_\_

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and that the address for notices to the "Assignor" is and shall be as follows:

[Assignor]

\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_  
Telephone: (\_\_\_\_) \_\_\_\_\_  
Email: \_\_\_\_\_

Assumption of Fees, Costs, Etc. The Assignee acknowledges that from and after the Effective Date, the Assignee will be responsible for all fees, costs or payments due, if any, in accordance with the Instrument and assumed hereunder.

Miscellaneous.

Modifications and Amendments. This Agreement may only be modified, altered or amended by an agreement in writing executed by all the parties hereto.

Validity of Provisions. Any provision of this Agreement which may prove unenforceable under law shall not affect the validity of the other provisions hereof.

Construction. This Agreement shall be construed in accordance with the laws of the State of California without regard to the principles of conflicts of laws.

Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

Merger. This Agreement constitutes the entire agreement among the parties with respect to the subject matter and merges with and supersedes all prior and contemporaneous agreements and understandings among the parties hereto.

Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement.

Recording. This Agreement shall be recorded in the Recorder's Office.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives all as of the date and year first above written.

**[Assignor],**  
a [state] [limited liability company], as Assignor

By: \_\_\_\_\_  
Name: [ ]  
Title: [ ]

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED that on this \_\_ day of \_\_\_\_\_, 20\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared [Name], [Title] of [Assignor], a [state] [entity type], personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity on behalf of said company, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
Notary Public

My Commission Expires:

[Assignee],  
a [state] [limited liability company], as Assignee

By: \_\_\_\_\_  
Name:  
Title:

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, [President] \_\_\_\_\_, a \_\_\_\_\_ limited liability company, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity on behalf of said company, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
Notary Public

My Commission Expires:

**EXHIBIT A**

**LEGAL DESCRIPTION**

Real property lying and being situated in \_\_\_\_\_ County, California, more particularly described as follows:

[legal description]

## EXHIBIT B

### FORM OF INVESTOR LETTER

[Needs to match final Investor Letter]

Western Riverside Council of Governments  
3390 University Avenue, Suite 450  
Riverside, CA 92501

Wilmington Trust, National Association  
650 Town Center Drive, Suite 800  
Costa Mesa, CA 92626

\_\_\_\_\_, \_\_\_\_

Re: Western Riverside Council of Governments  
HERO Commercial PACE Program  
Limited Obligation Improvement Bonds  
(First Commercial Property Tranche), Series 20\_\_

Ladies and Gentlemen:

The Western Riverside Council of Governments (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, dated as \_\_\_\_\_, 20\_\_ (the “**Indenture**”), dated as of \_\_\_, 20\_\_ (the “**Indenture**”) 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, or a “Qualified Institutional Buyer” as defined in Rule 144A, promulgated under the 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 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, to the extent not permitted under the applicable securities laws.

(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 (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 about 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.

(f) 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.

(g) 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.

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

(i) 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.

(j) The Bond Purchaser acknowledges that Best Best & Krieger LLP ("Bond Counsel") is acting as bond counsel to the Issuer, that Bond Counsel has no attorney-client relationship with the Bond Purchaser, and that the Bond Purchaser has sought legal advice from its own counsel to the extent it concluded legal advice was necessary.

Notwithstanding the foregoing, the Bond Purchaser and any successor of the Bond Purchaser may elect at its own expense to securitize its interest in the Bonds, sell the Bonds to an entity in connection with such securitization and sell the asset-backed securities to the investment community without the delivery of an investor letter in substantially the form of this letter, provided that (i) any such sale of the Bonds is to an Accredited Investor or a Qualified

Institutional Buyer and (ii) the purchaser of the Bonds delivers a letter to the Issuer to the effect that it is an Accredited Investor or a Qualified Institutional Buyer and that acknowledges the transfer restrictions set forth in the Indenture; no further action or acknowledgement by the Issuer will be required to authorize such securitization or sale of the Bonds by the Bond Purchaser or a successor to the Bond Purchaser.

Bond Purchaser agrees to defend, indemnify and hold harmless the Issuer from and against any and all claims, liabilities, obligations, losses, damages and penalties of any kind (including reasonable fees of outside counsel, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) that may be imposed on, incurred by or asserted against the Issuer in any way relating to or arising out of a transfer by the Bond Purchaser of the Bonds to which this letter relates in violation of the restrictions contained in Section 2.05(B) of the Indenture.



## **EXHIBIT C**

### **ASSESSMENT DOCUMENTS**

Assessment Contract dated \_\_\_\_\_, 20\_\_, between the Borrower and WRCOG (recorded with the Recorder's Office as set forth above).

Master Assignment Agreement dated as of [\_\_] 2019, between WRCOG and Renovate America, Inc..

Assignment Instrument dated \_\_\_\_\_, 20\_\_, between WRCOG and [Renovate America, Inc.].

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# Item 6.E

PACE Programs Activities Update

## Attachment 9

Depository and Account Control  
Agreement with HERO Commercial  
Programs

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**DEPOSITARY AND ACCOUNT CONTROL AGREEMENT**  
dated as of [\_\_\_\_\_] 1, 2019

among

**WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS,**

**RENOVATE AMERICA, INC.,**

and

**WILMINGTON TRUST, NATIONAL ASSOCIATION,**

as Depositary

## **DEPOSITARY AND ACCOUNT CONTROL AGREEMENT**

This DEPOSITARY AND ACCOUNT CONTROL AGREEMENT (this “*Agreement*”) is made this 1st day of [\_\_\_\_], 2019 by and among the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS, a joint exercise of powers agency duly organized and existing under the Constitution and laws of the State of California (“*WRCOG*” or the “*Authority*”), RENOVATE AMERICA, INC., a Delaware Corporation (“*Program Administrator*”) and WILMINGTON TRUST, NATIONAL ASSOCIATION (“*Depositary*”).

### **Recitals**

WHEREAS, the Program Administrator and WRCOG have entered into that certain Master Assignment and Assumption Agreement, dated as of the date hereof (the “*Assignment and Assumption Agreement*”), pursuant to which, in anticipation of the issuance of limited improvement bonds to provide long-term financing for improvements authorized under Chapter 29 of Part 3 of Division 7 of the California Streets and Highway Code, WRCOG will assign certain of its interests (defined as “Transferred Interests” in the Assignment and Assumption Agreement) in certain Assessment Contracts to the Program Administrator in compliance with California Streets & Highways Code Section 5898(b); and

WHEREAS, Program Administrator and WRCOG desire to establish the Accounts (defined herein) to streamline the process of collection and disbursement of amounts received (i) by WRCOG in connection with the assignment described in the preceding recital, and (ii) under the Assessment Contracts assigned pursuant to the Assignment and Assumption Agreement; and

WHEREAS, Wilmington Trust, National Association has agreed to act as Depositary hereunder in connection with the foregoing whereas clause.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants hereinafter set forth, the Parties hereby agree as follows:

## **ARTICLE I DEFINITIONS**

**Section 1.01 Definitions.** Unless the context otherwise requires, the terms defined in this Section 1.01 will, for all purposes of this Agreement, have the meanings herein specified. Capitalized terms not defined in this Agreement shall have the meaning given to such respective terms in the Assignment and Assumption Agreement.

“*Agreement*” is defined in the Recitals hereto.

“*Accounts*” means one of, or collectively, the Program Account, the Administrative Expense Account, the Cost of Issuance Account, and/or the Collection Account.

“*Administrative Expense Account*” is defined in Section 3.01(b)(i) hereof.

***“Administrative Expenses”*** means costs directly related to the administration of the HERO Commercial PACE Program, as determined by WRCOG in its sole discretion.

***“Assessment Contract”*** means an Agreement to Pay Assessment and Finance Improvements between WRCOG and an Owner.

***“Assigned Interest”*** means, with respect to an Assessment Contract as to which WRCOG and the Program Administrator have executed an Assignment Instrument, all right, title and interest to receive payment from the applicable Owner of (i) the Financed Amount (as defined in the Assessment Contract) and (ii) interest on the unpaid Financed Amount receivable pursuant to the applicable Assessment Contract; provided that notwithstanding anything in the applicable Assessment Contract to the contrary, any such interest shall accrue to the benefit of the Program Administrator from the date the Assigned Interest is assigned to the Program Administrator pursuant to the terms of an Assignment Instrument.

***“Assignment and Assumption Agreement”*** is defined in the Recitals hereto.

***“Assignment Instrument”*** is defined in the Assignment and Assumption Agreement.

***“Assignment Proceeds”*** means the proceeds received by WRCOG from the Program Administrator in exchange for each Assigned Interest.

***“Authorized Signatory”*** means an Authorized Signatory as designated by a resolution of the Commission of the Authority.

***“Bond Reserve Subaccount”*** is defined in Section 3.01(c)(i) hereof.

***“Business Day”*** means any day other than a Saturday, a Sunday, or any other day upon which banks in the state of California are authorized or permitted to close.

***“Capitalized Interest Subaccount”*** is defined in Section 3.01(d)(i) hereof.

***“Collection Account”*** is defined in Section 3.01(d)(i) hereof.

***“Conversion”*** means the exchange of one or more Assigned Interests for one or more Complying PACE Bonds (as defined in the Assignment and Assumption Agreement).

***“Cost of Issuance Account”*** is defined in Section 3.01(c)(i) hereof.

***“Costs of Issuance”*** means all items of expense directly or indirectly payable or reimbursable to WRCOG relating to the authorization, sale and delivery of the Assigned Interests.

***“Depository”*** is defined in the Recitals hereto.

***“Non-Completion Assessment”*** means an assessment collected from the Owner of the Participating Parcel resulting from the failure to install the Project as contemplated by the applicable Assessment Contract.

***“Owner”*** means the contractual counterparty to WRCOG under an Assessment Contract.

***“Participating Parcel”*** means the land and improvements on or within which a Project is developed or constructed and to which the Project is permanently affixed in compliance with Chapter 29 of Part 3 of Division 7 of the California Streets and Highway Code.

***“Permitted Investments”*** means any investments authorized under California law for the funds to be invested.

***“Prepayment”*** means a Non-Completion Assessment or prepayment of an Assessment Contract, less any Administrative Expenses or penalties collected as part of any such Non-Completion Assessment or prepayment of Assessment Contract.

***“Prepayment Subaccount”*** is defined in Section 3.01(d)(i) hereof.

***“Program Account”*** is defined in Section 3.01(a)(i) hereof.

***“Program Administrator”*** is defined in the preamble hereto.

***“Project”*** means an improvement authorized under Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code and the Program Reports.

***“Renovate America”*** is defined in the preamble hereto.

***“Transaction Documents”*** is defined in the Recitals hereto.

***“WRCOG”*** is defined in the Recitals hereto.

## **ARTICLE II APPOINTMENT OF DEPOSITARY**

**Section 2.01 Acceptance of Appointment of Depositary.** The Depositary hereby agrees to act as such and as a securities intermediary (within the meaning of Section 8102(a)(14) of the California UCC) and to accept all cash, payments, other amounts and investments to be delivered to or held by the Depositary pursuant to the terms of this Agreement and the other Transaction Documents. The Depositary shall hold and maintain the Accounts during the term of this Agreement.

The Collections Account and the cash, instruments and investments in such Account shall be held in the custody of the Depositary, as agent solely for the benefit of the Program Administrator, but subject to the control and direction of WRCOG.



The Costs of Issuance Account, the Program Account and the Administrative Expense Account and the cash, instruments and investments in such Accounts shall be held in the custody of the Depositary, as agent solely for the benefit of WRCOG.

**Section 2.02 Authority.** WRCOG shall have no right to withdraw or transfer funds from the Accounts, as third party beneficiary or otherwise, other than the rights set forth in Sections 3.02(b) and (c) hereof.

**Section 2.03 Successors.** With respect to the appointment of the Depositary, the following will apply:

(i) Any bank or company into which the Depositary may be merged or converted or with which it may be consolidated, or any bank or company resulting from any merger, conversion or consolidation to which it is a party, or any bank or company to which the Depositary may sell or transfer all or substantially all of its corporate trust business (if such bank or company is eligible under the following paragraph of this Section 2.03) will be the successor to such Depositary without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding. The Depositary will give each of WRCOG and the Program Administrator written notice of any such succession hereunder.

(ii) WRCOG and the Program Administrator may jointly agree to remove the Depositary initially appointed and any successor thereto, and may appoint a successor thereto, but any Depositary will be a national banking association or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least \$75,000,000 and subject to supervision or examination by federal or state authority. If such national banking association or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this section, combined capital and surplus of such national banking association or trust company will be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(iii) The Depositary may at any time resign by giving written notice of such resignation to each of WRCOG and the Program Administrator. Upon receiving notice of such resignation, the WRCOG and the Program Administrator will promptly and jointly appoint a successor Depositary, satisfying the requirements of Section 2.03(ii) above, by an instrument in writing. Any resignation or removal of the Depositary will become effective upon acceptance of appointment by the successor Depositary and the transfer of all Accounts to such successor.

(iv) If, by reason of the judgment of any court, the Depositary is rendered unable to perform its duties hereunder, WRCOG and the Program Administrator will promptly and jointly appoint a successor Depositary by an instrument in writing.

(v) If no appointment of a successor Depositary is made pursuant to the foregoing provisions of this Section 2.03 within forty-five (45) days after the Depositary has given to each of WRCOG and the Program Administrator written notice or after a vacancy in the office of the Depositary has occurred by reason of its inability to act, the Depositary or any other party hereto may apply to any court of competent jurisdiction to appoint a successor Depositary. That court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Depositary.

### **ARTICLE III THE ACCOUNTS**

#### **Section 3.01 Establishment of Accounts.**

**(a) Program Account.**

(i) The Program Account is hereby established as a separate account (the “***Program Account***”), to be held by the Depositary, to the credit of which deposits will be made from the Assignment Proceeds of each Assigned Interest pursuant to Section 3.01(e). Funds in the Program Account shall be held by the Depositary and disbursed as provided in Section 3.02(a).

(ii) Upon receipt of a Prepayment as the result of the payment of a Non-Completion Assessment, the Depositary shall transfer any remaining amounts that were previously deposited into the Program Account in respect of the related Assigned Interest to the Collection Account.

(iii) The Depositary will maintain the Program Account until all amounts in the Program Account are expended or until WRCOG and the Program Administrator direct the Depositary to close the Account, and then the Depositary will transfer any moneys remaining therein, including any investment earnings thereon, to the Collection Account.

(iv) Funds in the Program Account will be invested in accordance with Article IV, and earnings and profits resulting from said investment will be retained by the Depositary in the Program Account to be used for the purposes of such Account.

**(b) Administrative Expense Account.**

(i) The Administrative Expense Account is hereby established as a separate account (the “***Administrative Expense Account***”), to be held by the Depositary, to the credit of which deposits will be made (A) from the Assignment Proceeds of each Assigned Interest and (B) from payments received in respect of each Assigned Interest, in each case, in the amount identified for the payment of Administrative Expenses pursuant to Section 3.01(e). Funds in the Administrative Expense Account shall be held by the Depositary and disbursed as provided in Section 3.02(b).

(ii) The Depositary shall close the Administrative Expense Account following the Conversion of the final Assigned Interest pursuant to the Assignment and Assumption Agreement and payment of all Administrative Expenses associated with such Conversion. Upon closing the Administrative Expense Account, any remaining funds shall be transferred to the Collection Account.

(iii) Moneys in the Administrative Expense Account shall be invested in accordance with Article IV, and earnings and profits resulting from such investment shall be retained by the Depositary in the Administrative Expense Account to be used for the purposes of such Account.

**(c) Cost of Issuance Account.**

(i) The Cost of Issuance Account is hereby established as a separate account (the “***Cost of Issuance Account***”), to be held by the Depositary, to the credit of which deposits will be made from the Assignment Proceeds of each Assigned Interest in the amount allocable to Costs of Issuance of such Assigned Interest pursuant to Section 3.01(e). The Depositary shall establish a subaccount of the Cost of Issuance Account (the “***Bond Reserve Subaccount***”) to the credit of which deposits will be made from the Cost of Issuance Account pursuant to Section 3.01(e) as a reserve for the payment of the costs of Conversion. Funds in the Cost of Issuance Account will be held by the Depositary and disbursed as provided Section 3.02(c).

(ii) The Depositary shall close the Cost of Issuance Account following the Conversion of the final Assigned Interest pursuant to the Assignment and Assumption Agreement and payment of all Costs of Issuance associated with such Conversion. Upon closing the Cost of Issuance Account, any remaining funds shall be transferred to the Collection Account.

(iii) Moneys in the Cost of Issuance Account shall be invested in accordance with Article IV, and earnings and profits resulting from such investment shall be retained by the Depositary in the Cost of Issuance Account to be used for the purposes of such Account.

**(d) Collection Account.**

(i) The Collection Account is hereby established as a separate account (the “***Collection Account***”), to be held by the Depositary, to the credit of which deposits will be made from the collection of all amounts due pursuant to each of the Assigned Interests (other than amounts allocable to the payment of Administrative Expenses pursuant to Section 3.01(e)).

Within the Collection Account there are hereby established the following subaccounts:

(1) the Prepayment Subaccount (the “**Prepayment Subaccount**”) to the credit of which deposits will be made from the collection of any payment identified to the Depository as a Prepayment; and

(2) the Capitalized Interest Subaccount (the “**Capitalized Interest Subaccount**”), to the credit of which deposits will be made from the Assignment Proceeds with respect to any Assigned Interest for which interest was capitalized.

Funds in the Collection Account will be held by the Depository and disbursed as provided in Section 3.02(d) hereof.

(ii) Upon receipt of any payment identified to Depository as a Prepayment, the Depository shall deposit the funds received in the Prepayment Subaccount.

(iii) The Depository will maintain the Collection Account until all amounts in the Collection Account are disbursed or until WRCOG and the Program Administrator direct the Depository to close the Collection Account, and the subaccounts therein, whereupon the Depository will transfer any moneys remaining therein, including any investment earnings thereon, to the Program Administrator.

(iv) Funds in the Collection Account, and the subaccounts therein, will be promptly distributed to the Program Administrator in accordance with Section 3.02(d).

**(e) Deposits to the Accounts.**

(i) On the date of each Assignment Instrument, WRCOG will cause to be delivered to the Depository, for deposit into the Program Account, the Administrative Expense Account, the Capitalized Interest Subaccount and the Cost of Issuance Account, the full amount of the Assignment Proceeds received by WRCOG from the Program Administrator in exchange for such Assignment Instrument. Program Administrator, acting as agent for WRCOG, will advise the Depository in writing on each such date as to the amount of the Assignment Proceeds to be deposited in each of the Accounts.

(ii) On or before the date on which payment is due to be received under the Assessment Contracts, Program Administrator, acting as agent for WRCOG, will advise the Depository in writing as to the amount of each payment to be deposited to the Collection Account and the amount to be deposited to the Administrative Expense Account. The Depository will accept from Program Administrator an aggregate schedule of installments under the Assessment Contracts and a direction to deposit into the Administrative Expense Account on each date on which payment is received the amount identified as being paid for Administrative Expenses. If a payment, including a Prepayment, is received before Program Administrator has notified the Depository of the amount to be deposited in each account, the Depository shall deposit the entire amount into the Collection Account pending receipt of instructions from Program Administrator.

### **Section 3.02 Disbursement of Accounts.**

**(a) Program Account.** Amounts in the Program Account will be disbursed from time to time to pay authorized expenses in respect of Projects in accordance with the HERO Commercial PACE Program Handbook and the Program Reports upon the written request of WRCOG (signed by an Authorized Signatory). Such written notice will be sufficient evidence to the Depositary of the facts stated therein and the Depositary will have no duty to confirm the accuracy of such facts. To the extent that WRCOG (in a written certificate signed by an Authorized Signatory) notifies the Depositary that amounts remaining in the Program Account exceed authorized but unpaid expenses with respect to a particular Project, such excess amounts, and any earnings thereon, shall be transferred to the Collection Account.

**(b) Administrative Expense Account.** Unless otherwise directed in writing by WRCOG (signed by an Authorized Signatory), amounts in the Administrative Expense Account will be disbursed to WRCOG from time to time to pay Administrative Expenses upon the written request of WRCOG (signed by an Authorized Signatory). Alternatively, WRCOG may direct the Depositary to make payment of Administrative Expenses directly from the Administrative Expense Account to the applicable payees. Such written notice (signed by an Authorized Signatory) will be sufficient evidence to the Depositary of the facts stated therein and the Depositary will have no duty to confirm the accuracy of such facts. The Depositary will pay all Administrative Expenses after receipt of such notice or an invoice from any such payee which requests payment in an amount which is less than or equal to the amount set forth with respect to such payee pursuant to the notice requesting payment of Administrative Expenses.

**(c) Cost of Issuance Account.** Amounts in the Cost of Issuance Account, including the Bond Reserve Subaccount, will be disbursed from time to time to pay Costs of Issuance, upon the written request (signed by an Authorized Signatory) of WRCOG specifying the respective amounts to be paid to the designated payees and delivered to the Depositary concurrently with the execution and delivery of each Assignment Instrument and the payment to the Depositary of the related Assignment Proceeds, or in any future requisition submitted by WRCOG (signed by an Authorized Signatory) to the Depositary. Each such written notice (signed by an Authorized Signatory) will be sufficient evidence to the Depositary of the facts stated therein and the Depositary will have no duty to confirm the accuracy of such facts. Amounts in the Bond Reserve Subaccount shall be held until Conversion and used to pay Costs of Issuance of the Complying PACE Bonds. The Depositary will pay all Costs of Issuance after receipt of such written notice, or an invoice from any such payee which requests payment in an amount which is less than or equal to the amount set forth with respect to such payee pursuant to the written notice requesting payment of Costs of Issuance.

**(d) Collection Account.** Amounts in the Collection Account, including the Prepayment Subaccount therein, will be disbursed to the Program Administrator on the fifteenth day of each month during the term of this Agreement.

Amounts in the Capitalized Interest Subaccount will be disbursed to the Program Administrator on March 2 and September 2 or the subsequent Business Day thereto pursuant to

written instructions provided to the Depositary by WRCOG (in a written certificate signed by an Authorized Signatory).

Depositary shall make such distribution without notice or request from any party, to the following account unless the Program Administrator shall by written notice designate a different account:

Bank:  
Address:  
ABA:  
SWIFT:  
Account Name:  
Account Number: <sup>1</sup>

Reference: 1) security description (including PPN)  
2) allocation of payment between principal and interest  
3) confirmation of principal balance

#### **ARTICLE IV INVESTMENTS; LIABILITY OF THE AUTHORITY**

**Section 4.01. Deposit and Investment of Moneys in Funds.** The following will apply to the investment of funds held by the Depositary:

**(a)** Moneys in any Account created or established by this Agreement and held by the Depositary will be invested by the Depositary in Permitted Investments, as directed pursuant to a written notice delivered by WRCOG (signed by an Authorized Signatory) to the Depositary at least two Business Days in advance of the making of such investments. In the absence of any such notice, the Depositary shall hold such moneys uninvested.

Obligations purchased as an investment of moneys in any Account will be deemed to be part of such Account, subject, however, to the requirements of this Agreement for transfer of earnings and profits resulting from investment of amounts in any Accounts.

**(b)** The Depositary may act as principal or agent in the acquisition or disposition of any Permitted Investment. The Depositary will incur no liability for losses arising from any investments made pursuant to this section. The Depositary will be entitled to rely upon any investment directions from WRCOG or Program Administrator (as applicable) as conclusive certification to the Depositary that the investments described therein are so authorized under the laws of the State of California. The Depositary will not invest any cash held by it hereunder in the absence of timely and specific written direction from the WRCOG. In no event will the Depositary be liable for the selection of investments.

<sup>1</sup> Renovate America to please confirm.

(c) Investments in any and all Accounts may at the discretion of the Depositary be commingled in a separate fund or funds for purposes of making, holding and disposing of investments, notwithstanding provisions herein for transfer to or holding in or to the credit of particular Accounts of amounts received or held by the Depositary hereunder, provided that the Depositary will at all times account for such investments strictly in accordance with the Accounts to which they are credited and otherwise as provided in this Agreement.

(d) The Depositary will sell, or present for redemption, any investment security whenever it is necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or Account to which such investment security is credited. The Depositary will not be liable or responsible for any loss resulting from the acquisition or disposition of such investment security in accordance herewith.

**Section 4.02 Limited Liability of WRCOG.** WRCOG will not be obligated to make any payments required hereunder or under any Assigned Interest, or be deemed to incur any liability hereunder or by reason hereof or arising out of any of the transactions contemplated hereby, payable from any funds or assets other than as specifically provided herein.

**Section 4.03 Employment of Agents by WRCOG.** In order to perform its duties and obligations hereunder, WRCOG may employ such persons or entities as it deems necessary or advisable. WRCOG will not be liable for any of the acts or omissions of such persons or entities employed by it with reasonable care and in good faith hereunder, and will be entitled to rely, and will be fully protected in doing so, upon the opinions, calculations, determinations and directions of such persons or entities.

## **ARTICLE V DUTIES AND LIABILITY OF DEPOSITARY**

**Section 5.01 Liability of Depositary.** With respect to the liability of the Depositary, the following will apply:

(a) The recitals of facts, covenants and agreements herein and in the Assigned Interests will be taken as statements, covenants and agreements of WRCOG, and the Depositary assumes no responsibility for the correctness of the same, makes no representations as to the validity or sufficiency of any Transaction Document, or will incur any responsibility in respect thereof, other than in connection with the duties or obligations herein assigned to or imposed upon it. The Depositary will not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Depositary assumes no responsibility or liability for any information, statement or recital in any official statement or other disclosure material prepared or distributed with respect to the Assigned Interests.

(b) The Depositary may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Depositary and conforming to the requirements of this Agreement; but in the case of any such certificates or opinions by which any provision hereof are specifically required to be furnished to

the Depositary, the Depositary will be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement on their face.

Except as provided above in this paragraph, the Depositary will be fully protected and will incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Agreement, upon any resolution, order, notice, request, consent or waiver, certificate, statement, affidavit, or other paper or document which it in good faith reasonably believes to be genuine and to have been adopted or signed by the proper person or to have been prepared and furnished pursuant to any provision of this Agreement, and the Depositary will not be under any duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument.

(c) The Depositary will not be liable for any error of judgment made in good faith by a responsible officer unless it is proved that the Depositary was negligent in ascertaining the pertinent facts.

(d) No provision of this Agreement will require the Depositary to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(e) The Depositary will be under no obligation to exercise any of the rights or powers vested in it hereunder at the request or direction of the Program Administrator unless the Program Administrator has offered to the Depositary security or indemnity satisfactory to it against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

(f) The Depositary will not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay ("unavoidable delay") in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, acts of god or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the Project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event or occurrences beyond the control of the Depositary.

(g) The Depositary agrees to accept and act upon instructions or directions pursuant to this Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Depositary has received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate will be amended and replaced whenever a person is to be added or deleted from the listing. If WRCOG or the Program Administrator elects to give the Depositary e-mail or facsimile instructions (or instructions by a similar electronic method) and the Depositary in its discretion elects to act upon



such instructions, the Depositary's understanding of such instructions will be deemed controlling. The Depositary will not be liable for any losses, costs or expenses arising directly or indirectly from the Depositary's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. Each of WRCOG and the Program Administrator agree to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Depositary, including without limitation the risk of the Depositary acting on unauthorized instructions (absent negligence on the part of the Depositary), and the risk of interception and misuse by third parties.

(h) The Depositary will have no responsibility or liability with respect to any information, statements or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the Assigned Interests.

(i) The Depositary may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, affiliates, or receivers, and will be entitled to advice of counsel concerning all matters of trust and its duty hereunder, and the Depositary will not be answerable for the default or misconduct of any such attorney, agent, or receiver selected by it with reasonable care.

**Section 5.02 Information; Books and Accounts.** The Depositary will provide to the each of WRCOG and the Program Administrator such information relating to the Accounts maintained by the Depositary hereunder as either may reasonably request, including but not limited to quarterly statements reporting Accounts held and transactions by the Depositary.

The Depositary will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Depositary, in which complete and correct entries will be made of all transactions made by it relating to the expenditure of amounts disbursed from all of the Accounts. Such books of record and accounts will, upon reasonable notice, at all times during business hours on any Business Day be subject to the inspection of each of WRCOG and the Program Administrator.

**Section 5.03 Notice to Depositary.** The Depositary may conclusively rely, without undertaking any investigation or inquiry, and will be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, facsimile transmission, electronic mail, warrant, or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or proper parties.

The Depositary may consult with counsel, who may be counsel to WRCOG, with regard to legal questions, and the opinion of such counsel will be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

Whenever in the administration of its duties hereunder the Depositary deems it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in

the absence of willful misconduct on the part of the Depositary, be deemed to be conclusively proved and established by a certificate of an Authorized Signatory of WRCOG or the Program Administrator, as applicable.

**Section 5.04 Compensation; Indemnification.** WRCOG will pay to the Depositary from time to time reasonable compensation for all services rendered as Depositary hereunder, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of the Depositary's in house or other attorneys and agents, incurred in and about the performance of their powers and duties hereunder, but the Depositary will not have a lien therefor on any funds at any time held by it hereunder.

WRCOG further agrees, to the extent permitted by applicable law, to indemnify and save the Depositary, its officers, employees, directors and agents harmless against any losses, expenses, costs, claims, judgments, damages, suits or liabilities which it may incur in the exercise and performance of its powers and duties hereunder (including without limitation legal fees and expenses) which are not due to its negligence or willful misconduct.

The obligations of WRCOG under this Section will survive resignation or removal of the Depositary hereunder, Conversion of the Assigned Interests, and discharge of the Assessment Contracts.

## **ARTICLE VI MISCELLANEOUS**

**Section 6.01 Notices.** All notices or communications herein required or permitted to be given to a party hereto shall be in writing and shall be deemed to have been sufficiently given or served for all purposes by being delivered or sent by telecopy or upon actual receipt by being deposited, postage prepaid, in a post office letter box, addressed as follows:

|              |                                                                                                                                             |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| If to WRCOG: | Western Riverside Council of Governments<br>3390 University Ave., 4th Floor<br>Riverside, California 92501<br>Attention: Executive Director |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------------|

|                       |                                                                                                                                                   |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| If to the Depositary: | Wilmington Trust, National Association<br>650 Town Center Drive, Suite 800<br>Costa Mesa, California 92626<br>Attention: Corporate Trust Services |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|

|                                  |                                                                                                          |
|----------------------------------|----------------------------------------------------------------------------------------------------------|
| If to the Program Administrator: | Renovate America, Inc.<br>Finance Funding Department<br>16409 West Bernardo Drive<br>San Diego, CA 92127 |
|----------------------------------|----------------------------------------------------------------------------------------------------------|

**Section 6.02 Partial Invalidity.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or

provisions shall be deemed severable from the remaining provisions and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. WRCOG hereby declares that it would have entered into this Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the Assessment Contracts and Assignment Instruments pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Agreement may be held illegal, invalid or unenforceable.

**Section 6.03 Applicable Law.** This Agreement will be governed by and enforced in accordance with the laws of the State of California applicable to contracts made and performed in the State of California.

**Section 6.04 Payment on Business Day.** In any case where a payment hereunder is to be made on a day which is not a Business Day, such payment need not be made on such date but may be made on the next succeeding day which is a Business Day with the same force and effect as if made on the date required and no interest will accrue from such date until such Business Day.

**Section 6.05 Counterparts.** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as shall be preserved undestroyed, shall together constitute but one and the same instrument.

**Section 6.06 Binding Effect; Assignment; Amendment.** This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors, assigns, and personal representatives. The Program Administrator and any subsequent assignee of the Program Administrator may assign this Agreement to any person to which any Assigned Interest is transferred pursuant to a sale or financing of such Assigned Interest without the consent of the Depository, but only to the extent that such transfer was in accordance with the terms of the Assignment and Assumption Agreement. WRCOG shall consent in writing to any such Assignment. CleanFund, Program Administrator and WRCOG (by Authorized Signatory) may direct Depository, in writing, to close the accounts established hereunder at such time as no Assigned Interests are covered by this Agreement and that this Agreement shall thereafter be of no further force and effect.

WRCOG (by Authorized Signatory) may also direct Depository, in writing, to transfer amounts held by Depository in the funds and accounts established hereunder in connection with the transfer of an Assigned Interest. The terms and conditions of this Agreement may not be superseded, modified, or amended except in writing stating that it is such a modification and signed by an authorized representative of each party hereto.

**Section 6.07 Further Assurances.** Each of the parties hereto shall promptly deliver to the other upon reasonable request all such other and further documents, agreements, and instruments to enforce and confirm the transactions contemplated hereunder, and shall file any notices and obtain any consents as may be reasonably necessary or appropriate in connection therewith.

**Section 6.08 Complete Agreement.** This Agreement constitutes the entire agreement between the parties as to the subject matter hereof, and supersedes and replaces all prior and contemporaneous agreements, written or oral, regarding such subject matter.

**Section 6.09 Negotiated Instrument.** This Agreement was freely negotiated by the parties hereto and no provision hereof shall be construed against any party on the grounds that such party or its counsel was the drafter thereof.

**Section 6.10 No Partnership or Joint Venture.** Nothing herein shall be deemed or construed to create a joint venture or partnership between the parties.

**Section 6.11 No Third Party Beneficiaries.** No person not a party hereto shall have any rights hereunder, it being intended that there shall be no third party beneficiaries.

*[signature pages follow]*

IN WITNESS WHEREOF, the parties have executed this DEPOSITARY AND ACCOUNT CONTROL AGREEMENT as of the date hereof.

**WESTERN RIVERSIDE COUNCIL OF  
GOVERNMENTS**

By: \_\_\_\_\_  
Authorized Signatory

**WILIMINGTON TRUST, NATIONAL ASSOCIATION**

By: \_\_\_\_\_

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# Item 6.E

PACE Programs Activities Update

## Attachment 10

HERO Commercial Programs  
Handbook

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# Renovate America Commercial PACE Program Handbook December 2019



CONFIDENTIAL

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## Section 1. Introduction

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### 1(a). Program Overview

In conjunction with WRCOG, a joint powers authority, the Program Administrator will offer a commercial PACE program under WRCOG’s judicially-validated California PACE Program. The Program will be available to all property owners in certain Active Jurisdictions as approved by the WRCOG Executive Committee.

Under Chapter 29, the Program Administrator facilitates the financing of Qualified Improvements using the PACE financing structure. To the extent permitted by Chapter 29, Qualified Improvements may be owned by people or entities besides the Property Owner, pursuant to leases or PPAs.

As set forth in this Handbook, the Program Administrator assumes the responsibilities of administering the Program. These duties include underwriting, approving, and funding projects with its own capital, as well as facilitating transactions with outside capital providers. To the extent permitted by Chapter 29, the Program finances Qualified Improvements through the levy of a contractual assessment, based on an Assessment Contract between WRCOG and the Property Owner, as well as the issuance of Bonds or an Assignment.

Installments of contractual assessments are levied annually, paid bi-annually, and are usually included as a line item on the secured property tax bill prepared by the county taxing authority. Contractual assessments are paid to the county taxing authority, along with the regular *ad valorem* taxes and other contractual assessments and special taxes.



This Handbook assumes that the Qualified Improvements will be permanently affixed to the Property upon which the contractual assessment will be levied, and that the Property Owner will execute the Assessment Contract. However, to the extent permitted by Chapter 29, the Program may provide financing for the installation of Qualified Improvements on property other than that upon which the contractual assessment will be levied. In that case, the owner of the benefitted parcel will execute the Assessment Contract.

### 1(b). Program Purpose

The primary purpose of the Program is to create a structure under which Property Owners in Active Jurisdictions can finance Qualified Improvements which benefit the public, as specified in Chapter 29, including increased public safety, greenhouse gas reductions, reduced water consumption, and increased employment. At the same time, the Program permits Property Owners to reduce the financial burden of the upfront capital costs of the Qualified Improvements by spreading the cost of the Qualified Improvements over a longer period of time as compared to traditional financing.

### 1(c). Legal Structure of the Program

The Program utilizes Chapter 29 to enable WRCOG to enter into a contractual assessment with a Property Owner for the purpose of financing the installation of Qualified Improvements. The contractual assessment is levied on the Property under an Assessment Contract, executed by WRCOG and the Property Owner. A form of the Assessment Contract is available from the Program Administrator upon request.

Chapter 29 permits “public agencies” (such as WRCOG) to enter into contractual assessments, issue bonds, assign contractual assessments to third-parties, and collect installments of contractual assessments on the Property Owner’s secured tax bill.

Under an Assessment Contract, WRCOG will provide funds sufficient enough to: (i) finance the installation of the improvements over the term of the contractual assessment; (ii) pay Capitalized



Interest; (iii) fund a Debt Service Reserve Fund, if required by the Program Administrator or third-party capital provider; and (iv) pay the administrative costs of financing the project and administering the Program.

The bi-annual installments of the contractual assessments are collected by the county in which the Property is located, via a line-item on the secured tax bill. The obligation to pay the contractual assessment remains with the Property, even if the Property is sold or transferred. In the event that the payment of contractual assessments are either delinquent or defaulted, WRCOG may initiate a judicial foreclosure action to collect the delinquent payments of contractual assessments, plus any penalties and interest authorized by California law. If a foreclosure action is filed, WRCOG may not accelerate any payments of contractual assessments that are not yet due and payable.

#### 1(d). Finance Structure of the Program

The Program accommodates both a “turnkey financing” approach, in which the Program Administrator provides capital for the project, as well as administers the Program. Additionally, the Program Administrator may permit outside capital providers to provide financing for specific transactions.

WRCOG will provide the financing directly to the Property Owner. WRCOG will obtain the funds it uses to finance the Qualified Improvements from the Program Administrator or third-party capital provider, who will purchase either the Bonds or an Assignment of the contractual assessment.

#### 1(e). Program Administration

The Program Administrator will administer the Program by:

- Reviewing and approving all program applications that comply with this Handbook;
- Ensuring that all proposed Qualified Improvements are eligible under Chapter 29, the Program Report, WRCOG’s guidelines, and this Handbook;



- Coordinating with the relevant parties to ensure that proceeds are made available to the Property Owner, including reviewing and monitoring disbursements;
- Ensuring that the contractual assessments are levied and collected through the use of a third-party tax administrator.

#### 1(f). Local Participation

In order for the Property Owner to participate in the Program, the Property must be located in an Active Jurisdiction, which means a city (if the property is located in an incorporated area) or county (if the property is located in an unincorporated area) that has:

- Adopted a resolution to permit the Program Administrator to operate the Program within their jurisdiction;
- Become a member of the WRCOG PACE program;

If the Property is not located in an Active Jurisdiction, the Program Administrator will coordinate with WRCOG to attempt to have the city or county become an Active Jurisdiction. Cities or counties that would like to participate in the WRCOG PACE Program should e-mail [HeroGov@RenovateAmerica.com](mailto:HeroGov@RenovateAmerica.com).

#### 1(g). Program Contact Information

|                      |                                                                              |
|----------------------|------------------------------------------------------------------------------|
| Program Address      | Renovate America, Inc<br>16409 W. Bernardo Dr.<br>San Diego, CA 92127        |
| Program Website      | <a href="http://www.RenovateAmerica.com">www.RenovateAmerica.com</a>         |
| Program E-Mail       | <a href="mailto:HeroGov@RenovateAmerica.com">HeroGov@RenovateAmerica.com</a> |
| Program Phone Number | (949) 237-0965                                                               |



## Section 2. Commercial PACE Program Information

### 2(a). Program Details

This section outlines the parameters for eligibility and participation in the Program. In certain circumstances, exceptions to these guidelines may be made on a case-by-case basis, where the risk of such exceptions can be appropriately mitigated. Any exceptions are made at the sole discretion of the Program Administrator.

#### 2(a)(i). Program Parameters and Project Eligibility Requirements

The Program Administrator will evaluate projects based on a broad range of criteria. Any exceptions to the Program's eligibility criteria will be documented as part of the underwriting of each transaction. However, no exceptions will be permitted where the exceptions would violate Chapter 29 or the Program Report. The Program Administrator, in its sole discretion, reserves the right to decline any transaction.

|                               |                                                                                                                                                                                                 |
|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Financing Amount</b>       | \$50,000-\$25,000,000                                                                                                                                                                           |
| <b>Financing Term</b>         | Up to 39 years, provided that the weighted average life of the financing (weighted by principal amortization) is equal to or less than the weighted average life of the Qualified Improvements. |
| <b>Closing Costs and Fees</b> | Typical Program costs and fees, legal costs, Bond issuance costs, plus servicing fees for any third party retained to assist the Program Administrator fulfil its obligations.                  |
| <b>Financing Rate</b>         | Fixed or floating rates of interest, determined by Program Administrator or outside capital provider, on a project-by-project basis.                                                            |
| <b>Property Location</b>      | Within Active Jurisdictions                                                                                                                                                                     |
| <b>Property Type</b>          | Commercial Real Property                                                                                                                                                                        |
| <b>Property Value</b>         | The Property Value to be established by Program Administrator, and is typically based upon either a recent appraised value or assessed value. Financing amount                                  |



|                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                | <p>relative to value shall be subject to the following constraints:</p> <ol style="list-style-type: none"> <li>1. PACE Lien-to-Value generally not to exceed 20.0% of Property Value. The Program Administrator may make an exception to this rule at their discretion.</li> <li>2. Combined Loan-to-Value not to exceed 100% of Property Value.</li> <li>3. The sum of all items appearing on the Property's annual property tax bill, inclusive of the annual contractual assessment, not to exceed 5.0% of Property Value as of the date of the execution of the Assessment Contract.</li> </ol> <p>Program Administrator reserves the right to use any commercially reasonable method of ascertaining both the "Lien-to-Value" and "Combined Loan-to-Value".</p> |
| <b>Eligible Improvements and Project Scope</b> | <p>Direct and indirect costs for material, labor and soft costs related to project design, evaluation, demolition, installation and construction necessary to implement Improvements as part of ground-up construction, existing-structure retrofits and renovations. Eligible categories of components involved in building Improvements include heating, ventilation, air conditioning, electrical, plumbing, envelope, seismic strengthening and other items as approved under the Program. Qualified Improvements must be permanently affixed to the Property, to the extent required by Chapter 29.</p>                                                                                                                                                         |
| <b>Surveys and Utility Bills</b>               | <p>Property Owner agrees to participate in surveys and Program evaluations, which may include access to utility bill usage information.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Energy &amp; Water Savings</b>              | <p>Property Owner must submit documentation citing the estimated energy or water savings by a third party professional prior to the close of financing.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Ownership Interest and Authorization</b>    | <p>All Property Owners of the fee simple title to the subject Property, or their legally authorized representatives, must sign the Program documents and agree to participate in the Program on the terms set forth in this Handbook.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Property Owner History</b>                  | <ul style="list-style-type: none"> <li>- There must be no notices of default, whether in effect or released, recorded against the Property due to non-payment of property taxes or loan payments within the prior three (3) years (or since acquisition, if Property Owner has held title to the property for less than 3 years).</li> <li>- There must be no foreclosures against, or bankruptcies involving, the Property Owner in the prior seven (7) years.</li> <li>- Exceptions may be granted on a case-by-case basis, based on the criteria of</li> </ul>                                                                                                                                                                                                    |





|                                        | Program Administrator.                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Mortgage Lender Acknowledgement</b> | Prior to funding any transaction, receipt of acknowledgement (acceptable in form and substance to Program Administrator) by any Mortgage Lender that the contractual assessment does not create an event of default under any security instrument. The Program Administrator and/or the outside capital provider will assist the Property Owner to facilitate this acknowledgement. |
| <b>Prepayment</b>                      | Prepayment of the contractual assessment is allowed. The terms and any prepayment premiums shall be determined on a case-by-case basis.                                                                                                                                                                                                                                             |
| <b>Environmental Conditions</b>        | No serious environmental conditions may be permitted on the Property, to the extent that they are known, or believed to be likely, to have a materially adverse consequence on the Property Value. The Program Administrator may utilize third party services to help assess environmental risk on a case-by-case basis, and exceptions may be granted on a case-by-case basis      |

#### 2(a)(ii). Compliance with Existing Secured Lenders

Chapter 29 requires WRCOG to record two notices in the real property records in the county where the Property is located. These notices include a Notice of Assessment and a Payment of Contractual Assessment Required. These notices may be combined into a single document, the NOA POCAR. This document establishes a lien as security for the repayment of the contractual assessments, as specified in California Government Code § 53935.

Some Mortgage Lenders may have documents that limit the ability of the Property Owner to further encumber the Property, which may be interpreted to preclude PACE financing. Property Owners should confirm with any Mortgage Lenders that participation in the Program will not adversely impact their standing with the Mortgage Lender. Property Owners must receive written acknowledgement from any Mortgage Lender that the PACE financing will not result in a default under any documents between the Property Owner and Mortgage Lender.



### 2(a)(iii). Eligible Contractors

Contractor eligibility to participate in the Program will be evaluated on a case-by-case basis. All contractors must be in compliance with applicable local, state, and federal laws, and must be registered with California State License Board.

The Program Administrator does not recommend or endorse contractors, and is not responsible for any failures in the installation or operation of Qualified Improvements. Property Owners are encouraged to obtain third-party validation of any estimated energy and utility savings cost, as well as retain legal counsel to review any contracts submitted by contractors as part of the financing process.

## 2(b). Finance Details

### 2(b)(i). Financing Structure

The Program may use either a “stand-alone” structure or a “pooled” structure to finance projects.

Under the “stand-alone structure”, an individual Bond or Assignment will be issued by WRCOG, and purchased by the Program Administrator or outside capital provider. Based on the cost of the transactions, the Program Administrator anticipates the issuance of stand-alone bonds only for larger transactions. The Program Administrator anticipates that stand-alone assignments will be the least expensive way to finance a transaction.

Chapter 29 specifically limits Assignments to a duration of three years before the Assignment must be renewed or converted to a Bond.

Once a number of Assignments are purchased by the Program Administrator or an outside capital provider, they may choose to convert these Assignments into a “pooled” bond. Under this structure, WRCOG would issue a new Bond, and repayment of the underlying contractual assessments would go to a single bondholder, rather than to the purchasers of the individual Assignments. This requires a standardization of a number of financing terms, and involves additional costs and fees.



## 2(b)(ii). Transaction Costs and Interest Rates

Costs involved with PACE transactions may be either paid by the Property Owner directly, or included in the total financing amount. These costs may include financing or commitment fees, legal costs, third-party report costs, and other fees or costs customarily incurred in PACE programs. Total transaction costs will be determined on a case-by-case basis, including financing or commitment fees negotiated per project. The total transaction costs will be detailed in the Commitment Letter and Assessment Contract.

Interest rates will be established on a case-by-case basis, and may either be a fixed or floating rate, as negotiated between the Program Administrator (or outside capital provider) and the Property Owner. In no case will the interest rate exceed the usury rate permitted under state law.

## 2(b)(iii). Important Legal Terms

Once the Assessment Contract has been executed, and the NOA POCAR has been recorded, the Property Owner will be obligated to pay all installments of the contractual assessment. Additional terms may apply to Property Owners and contractors beyond those discussed in this Handbook, and may be set forth in writing by the Program Administrator or outside capital provider.

**Note:** The failure to timely pay all contractual assessments in full will result in financial consequences, including penalties, interest, and the possibility of foreclosure of the Property.



#### 2(b)(iv). Financing Amount

The minimum total financing amount per transaction is \$100,000, and the maximum financing amount is \$25,000,000. These minimum and maximum amounts may be waived at the discretion of the Program Administrator to meet the current conditions of the capital markets.

All projects are subject to the fees and costs outlined in this Handbook, which will be due and payable at closing. All fees, including Capitalized Interest, may be added to the total financing amount, and repaid over the term of the financing along with ordinary principal and interest.

#### 2(b)(v). Administrative Fees

As part of the financing process, Property Owners will be charged administrative and financing fees, some of which are paid at the time of closing, while others are paid semi-annually along with each installment of the contractual assessment. The specific fees for a given transaction will be set forth in the Commitment Letter and Assessment Contract.

**Application or Underwriting Fees:** May be charged by the Program Administrator or outside capital provider in connection with the submission of a project application or upon execution of a Letter of Intent.

**Closing Fees:** May be added to the total financing amount, and will vary depending on bond structure and project size. Closing fees include program administration, financing, underwriting, legal, lien recordation, and other transaction-related fees.

**Optional Project Underwriting/Financing Fees:** May be paid by the Property Owner in return for additional services related to project scope and review, financial structuring, or mortgage lender negotiation. Optional fees must be specifically related to project design, financing, or installation.

**Ongoing Fees:** May be charged for the ongoing administration of contractual assessment installment, including the amount charged by counties to collect the contractual assessment installment on the county secured tax bill, as well as the ongoing costs of the Program Administrator and WRCOG.



## 2(c). Application and Financing Process

The application and financing process is set forth in summary form below, followed by a more detailed format. As previously noted, the funding of a project may occur through the purchase of either Bonds or Assignments.

### 2(c)(i). Overview of Application and Financing Process

From the perspective of the Property Owner, the application and funding process consists of the following steps:

- **Application:** Property Owner submits an application to the Program Administrator to confirm eligibility. The Program Administrator or outside capital provider issues a Letter of Intent.
- **Processing:** After the Property Owner signs the Letter of Intent, documentation is collected by the Program Administrator or outside capital provider, Mortgage Lender acknowledgment is obtained, an appraisal is ordered (if required), and due diligence is conducted.
- **Underwriting:** After the Mortgage Lender acknowledgement is obtained, and all required documentation is received, the Program Administrator or outside capital provider underwrites the transaction, and then issues a credit approval.
- **Commitment:** Once a credit approval is issued, the Program Administrator or outside capital provider issues a Commitment Letter, to be executed by the Property Owner.
- **Closing/Funding:** Once the Commitment Letter is executed, the Assessment Contract, NOA POCAR, and other documents are drafted and executed. The NOA POCAR is recorded, and the transaction is considered “closed”. Funds are released to the Property Owner, based on an agreed-upon schedule in the Assessment Contract or other documents. For projects which are reimbursements for work previously completed, funds are typically released the next business day after closing the transaction.



## 2(c)(ii). Detailed Application and Financing Process

A more detailed sequence and events related to the application, underwriting, closing, and funding of transactions is set forth below:

- **Application:**
  - Project screening and initial proposal: Property Owners engage with the Program Administrator (and if applicable, the outside capital provider) to determine the feasibility of financing the Qualified Improvements with the Program. The Program Administrator or outside capital provider may provide an indicative proposal of potential financing terms while it screens the transaction for eligibility.
  - Submission of application: Property Owner submits an application to the Program Administrator to facilitate evaluation of the transaction. This application includes the project scope, estimated cost, and other information.
- **Letter of Intent:**
  - Following the Program Administrators review and approval of the application, the Program Administrator or outside capital provider will issue a Letter of Intent.
  - The Letter of Intent may require the Property Owner to pay an application or underwriting fee, or provide a deposit for an appraisal or other third party reports.
- **Processing:**
  - Property Owner executes the Letter of Intent, and the Program Administrator or outside capital provider collects due diligence items from the Property Owner by issuing a document request list.
  - This list will include Mortgage Lender acknowledgement of the transaction, as well as any required underwriting items required by the Program Administrator or outside capital provider.
- **Underwriting:**
  - Once all items from the document request list are received, the Program Administrator or outside capital provider completes their underwriting and due diligence of the Property, Property Owner, and the transaction.



- Upon completion of the underwriting process, the Program Administrator (and outside capital provider, if applicable) will either approve or decline the Property Owner's application, based on the evaluation of the transaction in relation to the eligibility requirements set forth by the Program Administrator.
- **Commitment:**
  - Once the application is approved, the Program Administrator or outside capital provider will issue a Commitment Letter to the Property Owner. At the time that the Commitment Letter is issued, the interest rate is typically locked (usually for a fixed period). If the application is declined, the Program Administrator or outside capital provider will provide a notice to the Property Owner.
  - Upon receipt of an executed Commitment Letter, the Program Administrator (and outside capital provider, if applicable) will prepare and submit closing documentation to the Property Owner, as well as work to clear any conditions identified on the Commitment Letter.
- **Assessment Contract Preparation/Execution:**
  - Legal documents, including the Assessment Contract and NOA POCAR, will be prepared by the Program Administrator and legal counsel, which comply with Chapter 29, any rules or policies established by the Program, and which reflect the terms and conditions set forth in the Commitment Letter.
  - The Program Administrator will ensure that the documents are finalized and executed by the required parties.
  - The NOA POCAR is recorded in the real property records in the county where the Property is located, and evidence of the recording is obtained by the Program Administrator.
  - A depository (for Assignments) or a trustee (for Bonds) is retained by the Program Administrator to hold funds prior to disbursement and collect and distribute payments to the Program Administrator or outside capital provider.
- **Closing/Funding:**
  - Once the transaction is closed, the Program Administrator or outside capital provider will purchase the Assignment or Bond.



- Proceeds from the purchase are used to pay costs and fees, as well as provide funds to be disbursed for the installation of the Qualified Improvements.
- Under the terms identified in the Assessment Contract or other Program documents, the depositary or trustee releases funds to the Property Owner, who may assign those funds to their contractors.
- In some cases, the depositary or trustee may release funds the day after closing to reimburse the Property Owner for expenses incurred prior to the close of the transaction.





**RESPONSIBILITY KEY**



Client  
Responsibility



Capital Provider  
Responsibility

## TERM SHEET

- Project Scope & Costs Identified
- PACE Eligibility Determined
- Term Sheet Generated



WEEK 1

## APPLICATION

- Application Completed by Owner
- Initial Credit Screening
- Submitted to Program Administrator



WEEK 2-3

## PROCESSING: LETTER OF INTENT

- Letter of Intent Executed by Owner
- Owner Completes Document Request List
- Obtain Lender Acknowledgement



WEEK 3-6

## UNDERWRITING

- Capital Provider Due Diligence
- Order Appraisal
- Credit Approval



WEEK 6-8

## COMMITMENT & CLOSING

- Commitment Letter Executed
- Assessment Contract Signed & Recorded in County Land Records
- Escrow Account Funded



WEEK 8-9

## PROJECT DISBURSEMENT

- Escrow Account Drawn Down According to Construction Agreement



WEEK 9 »



## 2(c)(iii). Funding Request and Disbursement

The Program Administrator will work with the depository or trustee to disburse funds to pay for the installation of Qualified Improvements within seven business days after receiving a complete request for disbursement from the Property Owner. In most cases, the Assessment Contract or other Program documents will establish a payment schedule, which is designed to establish certain milestones that must be met before disbursements can be made, as well as the amount (usually expressed as a percentage) of funds that will be released.

For most transactions, the Program Administrator will make no more than four disbursements. For any more than four disbursements, the Program Administrator may require additional fees to be paid by the Property Owner. Larger or more complex transactions will be evaluated for an appropriate number of disbursements on a case-by-case basis.

The Program Administrator will require the receipt and review of documentation to support any disbursement request. These items may include:

- Applicable building/construction permits, material needs list, and a scope of work to be completed for a given milestone.
- AIA G702 (or equivalent) form, invoices, and cost statements showing work completed.
- Fully executed unconditional or conditional lien waivers and release on progress payments.
- Photographic documentation of completed work, or report of third party site inspection.
- Certificate of contractor, architect, engineer or owner that milestones have been achieved, inspected, and installed in accordance with the contract.
- Executed disbursement request.

For final disbursement requests, the Program Administrator may also require a signed final permit inspection from the relevant government authority, including a “certificate of occupancy” or “permission to operate” (if applicable).



Once the Program Administrator approves a disbursement request, the Program Administrator will direct the depositary or trustee to release the funds to the Property Owner or their assignee.

#### 2(c)(iv). Transfer or Sale of the Property

If the Property is sold or transferred prior to full repayment of the contractual assessment, the remaining contractual assessment will transfer with the Property, and must be paid by the new Property Owner, without any action needed by any party. A Property Owner, prior to selling or transferring the Property, may choose to prepay the outstanding principal balance of the contractual assessment, plus any required prepayment premium.

Property Owners must make any legally mandated disclosures regarding the existence of the contractual assessment as part of the sale or transfer of the Property.

## 2(d). Technical Details

#### 2(d)(i). Qualified Improvements

All Qualified Improvements must meet the following set of criteria in order to be eligible for the Program:

- Have an effective useful life of five years (or longer).
- Must be permanently affixed to the Property.
- Must qualify as meeting the public purpose requirement as identified in Chapter 29.

In addition to Qualified Improvements, the costs incurred in connection with installing the Qualified Improvements are also eligible to be financed under the Program. These costs include design, permitting, and other costs customarily incurred in connection with the



installation of Qualified Improvements. The Program maintains a list of common Qualified Improvements on its website ([www.RenovateAmerica.com](http://www.RenovateAmerica.com)).

Any measure which is not part of the list of common Qualified Improvements will be evaluated on a case-by-case basis to determine its eligibility to be financed under the Program.

The Program Administrator does not recommend, warrant, or guarantee any specific measure, nor provide performance guaranties, for any Qualified Improvement financed through the Program. Property Owners are responsible for the installation and operation of the Qualified Improvements, as well as any malfunction or failure. Property Owners are encouraged to obtain an independent verification of all Qualified Improvements with an independent third-party engineer.

#### 2(d)(ii). Quality Assurance

The Program Administrator will ensure that the Qualified Improvements meet the requirements set forth in Chapter 29, the Program Report, any guidelines established by WRCOG, and this Handbook. The Program Administrator must determine that the Qualified Improvements will result in a reduction of energy or water use, generate renewable energy, or result in a mitigation of the risk of damage from a seismic event.

The Program Administrator may require an estimate from a licensed architect, engineer, or contractor to verify the technical details to determine eligibility under the Program. For Qualified Improvements relating to seismic strengthening, the Program Administrator may require documentation from a licensed structural engineer, indicating that the scope of work to be financed under the Program is reasonable, customary, and appropriate to accomplish the seismic strengthening, as required by the specific project characteristics.



#### 2(d)(iii). Participation in Rebate/Incentive Programs

Property Owners who receive financing through the Program may also apply for rebate and incentive programs offered through their utility company. Participation in these programs is entirely voluntary, and at the discretion of the Property Owner.

## Section 3. General Terms and Provisions

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### 3(a). Taxes

Property Owners will be solely responsible for the tax implications of their participation in the Program.

### 3(b). Changes in Local, State, and Federal Law

WRCOG's ability to issue Bonds or Assignments is subject to a variety of local, state, and federal laws. If those laws, or the judicial interpretation of those laws, changes after the Property Owner has applied for funding with the Program (and may have paid fees or incurred costs in anticipation of receiving funding), but before WRCOG issues a Bond or an Assignment, WRCOG may be unable to provide funding. Neither WRCOG nor the Program Administrator will be liable for any expenses or costs incurred as a result of such change in laws.

### 3(c). Changes in Program Terms; Severability

This Handbook is provided to the Property Owner as reference only, and is subject to the Program Report, which may be amended by WRCOG at any time. The Program Administrator reserves the right to make modifications to the terms and conditions identified in this Handbook at any time, and without notice.

If any provision of this Handbook is determined to be unenforceable for any reason, then that provision will be deemed severed, but will not affect the validity or application of the remaining provisions.



At any time, the Property Owner may request the most current version of this Handbook or any other Program document.

### 3(d). Disclosure of Property Owner Information

As a condition of participating in the Program, the Property Owner agrees to permit the Program to disclose any information received about the Property, Property Owner, or transaction to any third-party, when that disclosure is essential to the operation of the Program or to facilitate the transaction. This may include compliance with any law, legal process, or request from a regulatory agency, as well as to allow the Program Administrator's employees or contractors to provide services to the Property Owner or otherwise perform their duties.

The Program Administrator will not provide any information for the purposes of telemarketing, or e-mail or direct solicitation. All information received will be treated with care in order to protect the Property Owner's privacy and security.

### 3(e). Environmental Attributes

Property Owners, or third-party owners of Qualified Improvements, shall retain the rights to any Environmental Attributes related to Qualified Improvements financed through the Program.

### 3(f). Fraud

Providing any false, misleading, or inaccurate information or statements to the Program or its employees, agents, and contractors (or omitting any information material to complying with Chapter 29, the Program Report, any WRCOG guidelines, or this Handbook) may be punishable by law. This would include any representations concerning project cost, ownership structure, or financing information relating to the Property or Property Owner.



### 3(g). Exceptions to Terms and Conditions

The Program Administrator may make exceptions to the terms and conditions identified in this Handbook, where such exceptions further the goals and objectives of the Program. However, no such exceptions may be made where they conflict with Chapter 29, the Program Report, or any guideline established by WRCOG.



## Section 4. Glossary

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"Active Jurisdiction" means a city (if the property is located in an incorporated area) or county (if the property is located in an unincorporated area) that has adopted a resolution to participate in the WRCOG PACE program

"Assessment Contract" means the Agreement to Pay Assessment and Finance Improvement

"Assignment" means the transfer of all of WRCOG's right, title, and interest in a PACE transaction to the Program Administrator or outside capital provider

"Bonds" means limited obligation revenue bonds, issued by WRCOG, and purchased by either the Program Administrator or an outside capital provider

"Capitalized Interest" means the interest which accrues between the date that the financing is provided to the Property Owner and the date of the first payment under the Assessment Contract

"Chapter 29" means California Streets & Highways Code Section 5898.20-5899.3

"Combined Loan-to-Value" means a percentage, calculated by dividing the total amount of the contractual assessment plus the outstanding principal balance of any debt secured by a lien on the Property, by the Property Value

"Commercial Real Property" means any real property that is not a residential property containing less than five dwelling units

"Commitment Letter" means a letter executed by the Program Administrator (or outside capital provider) that provides a definitive commitment to provide proceeds for a PACE transaction, including all relevant terms under which the financing will be provided, as well as any conditions precedent to completing the transaction

"Debt Service Reserve Fund" means a fund in which money will be held and released in the event of a delinquent or defaulted payment under the Assessment Contract

"Environmental Attributes" means any carbon trading credits, renewable energy credits or certificates, environmental benefits of using the Qualified Improvements, financial credits, rebates, subsidies, emission reductions, offsets, and allowances

"Letter of Intent" means a Letter, executed by the Program Administrator (or outside capital provider) and Property Owner, detailing indicative terms for the financing, including the interest rate, financing amount, and any terms or conditions of the financing

"Mortgage Lender" means any person or entity holding a recorded security instrument recorded against the Property







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"NOA POCAR" means the Notice of Assessment and Payment of Contractual Assessment Required, the document to be filed in the real property records of the county where the Property is located

"PACE Lien-to-Value" means a percentage, calculated by dividing the total amount of the contractual assessment by the Property Value

"PACE" means Property Assessed Clean Energy

"PPA" means Power Purchase Agreement

"Program Administrator" means Renovate America, Inc.

"Program Report" means the document published by WRCOG, outlining the basic design and financing structure of the to which all WRCOG PACE programs must comply

"Program" means the Commercial PACEDirect financing platform

"Property Owner" means the vested owner of Commercial Real Property, located in an Active Jurisdiction, who has applied for financing with the Program

"Property Value" means the amount that the Program Administrator reasonably believes the Property to be worth, based on either the assessed value on the county tax roll, or an appraisal accepted by the Program Administrator

"Property" means qualifying Commercial Real Property, upon which the Property Owner wants to either install Qualified Improvements or levy a contractual assessment

"Qualified Improvements" means any improvements, affixed to Commercial Real Property, that may be financed under Chapter 29, the Program Report, WRCOG guidelines, and this Handbook

"WRCOG" means the Western Riverside Council of Governments.

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