

RESOLUTION 12-_____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS
AUTHORIZING THE CITY TO JOIN THE CALIFORNIA PACE
PROGRAM; AUTHORIZING THE CALIFORNIA ENTERPRISE
DEVELOPMENT AUTHORITY TO CONDUCT CONTRACTUAL
ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL
ASSESSMENTS WITHIN THE TERRITORY OF THE CITY OF CLOVIS;
AND AUTHORIZING RELATED ACTIONS**

WHEREAS, the California Enterprise Development Authority ("CEDA") is a joint exercise of powers authority, comprised of cities and counties in the State of California, including the City Clovis (the "City"); and

WHEREAS, CEDA has established the California PACE program ("California PACE") to allow the financing of certain renewable energy, energy efficiency and water efficiency improvements (the "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 or other evidences of indebtedness (the "Bonds") under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 et seq.) (the "1915 Act") upon the security of the unpaid contractual assessments; and

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

WHEREAS, the City desires to allow the owners of property within its jurisdiction ("Participating Property Owners") to participate in California PACE, and to allow CEDA to conduct assessment proceedings under Chapter 29 and to issue Bonds under the 1915 Act to finance the Improvements; and

WHEREAS, CEDA will conduct assessment proceedings under Chapter 29 and issue Bonds under the 1915 Act to finance Improvements; and

WHEREAS, a proposed form of Resolution of Intention to be adopted by CEDA in connection with such assessment proceedings (the "ROI"), a copy of which is attached hereto as Exhibit A; and

WHEREAS, said ROI sets forth the territory within which assessments may be levied for California PACE which territory shall be coterminous with the City's official boundaries of record at the time of adoption of the ROI (the "Boundaries"); and

WHEREAS, pursuant to Chapter 29, the City authorizes CEDA to conduct assessment proceedings, levy assessments, pursue remedies in the event of

delinquencies, and issue bonds or other forms of indebtedness to finance the Improvements in connection with California PACE; and

WHEREAS, based upon such authorization as provided in the Participation Agreement, a copy of which is attached hereto as Exhibit B, the City will not be responsible for the conduct of any assessment proceedings, the levy of assessments, any required remedial action in the case of delinquencies, the issuance, sale or administration of the bonds or other indebtedness issued in connection with California PACE.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Clovis, as follows:

Section 1. On the date hereof, the City Council hereby finds and determines that the issuance of Bonds by CEDA in connection with California PACE will provide significant public benefits, including without limitation, savings in effective interest rates, bond preparation, bond underwriting and bond issuance costs and reductions in effective user charges levied by water and electricity providers within the boundaries of the City

Section 2. In connection with California PACE, the City hereby consents to the special assessment proceedings by CEDA pursuant to Chapter 29 on any property within the Boundaries and the issuance of Bonds under the 1915 Act, provided that:

- (1) Such proceedings are conducted pursuant to one or more Resolutions of Intention in substantially the form of the ROI;
- (2) The Participating Property Owners, who shall be the legal owners of such property, voluntarily execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and
- (3) The City will not be responsible for the conduct of any assessment proceedings, the levy of assessments, any required remedial action in the case of delinquencies in such assessment payments, or the issuance, sale or administration of the Bonds in connection with California PACE.

The City Council hereby approves the Participation Agreement between the City and CEDA in the form attached hereto. The City Council hereby authorizes the City Manager to execute the Participation Agreement with such changes as the City Manager deems appropriate in order to commence the California PACE program within the jurisdiction of the City.

Section 3. Pursuant to the requirements of Chapter 29, CEDA has prepared and will update from time to time the "Program Report" for California PACE (the "Program Report"), and CEDA will undertake assessment proceedings and the financing of Improvements as set forth in the Program Report.

Section 4. The appropriate officials and staff of the City are hereby authorized and directed to make applications for California PACE available to all property owners who wish to finance Improvements. The following staff persons, together with any other staff designated by the City Manager from time to time, are hereby designated as the contact persons for CEDA in connection with California PACE: Community and Economic Development Director.

Section 5. The appropriate officials and staff of the City are hereby authorized and directed to execute and deliver such closing certificates, requisitions, agreements and related documents as are reasonably required by CEDA in accordance with the Program Report to implement California PACE for Participating Property Owners.

Section 6. The City Council hereby finds that adoption of this Resolution is not a "project" under the California Environmental Quality Act ("CEQA"), because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4).

Section 7. This Resolution shall take effect immediately upon its adoption. The City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to Figtree Energy Resource Company

Section 8. Services related to the formation and administration of the assessment district will be provided by CEDA at no cost to the City per the AB811 Services Agreement attached hereto as Exhibit C.

* * * * *

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on May 21, 2012 by the following vote, to wit:

AYES:

NOES:

ABSENT.

ABSTAIN.

DATED: May 21, 2012

Mayor

City Clerk