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**PROGRAM ADMINISTRATION AGREEMENT**

by and between

**CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY,**  
as Authority

and

**FIGTREE COMPANY, INC.**

Dated as of January 1, 2014

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## PROGRAM ADMINISTRATION AGREEMENT

**THIS PROGRAM ADMINISTRATION AGREEMENT** (this “Agreement”) is made and entered into effective as of January 1, 2014, by and between the **CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY** (the “Authority”), a California joint powers authority, and **FIGTREE COMPANY, INC.**, a California Corporation (“Figtree”). The Authority and Figtree are each referred to herein as a “Party” and, together, the “Parties”. This Agreement supersedes in its entirety that certain Agreement for Professional Services, dated as of December 8, 2011 by and between the Authority and Figtree (the “Original Agreement”), which the Parties agree is terminated as of the effective date hereof. The Exhibits to this Agreement are incorporated herein by reference.

WHEREAS, the Parties desire to work together to establish the Program (as defined below) and to administer and operate the Program; and

WHEREAS, the Parties desire to set forth their respective rights, duties and obligations with respect to the Program and their roles related thereto.

NOW, THEREFORE, in consideration of the payments, covenants, conditions and agreements contained in this Agreement, the Parties agree as follows:

**Section 1. Services.** (a) The Authority hereby retains Figtree to implement its proprietary PACE program (the “Figtree Program” or the “Program”) and provide the Program administration services for the Authority’s approved Property Assessed Clean Energy (“PACE”) jurisdictions. The specific services (the “Services”) to be provided are set forth in the Scope of Services attached hereto as Exhibit A (the “Scope of Services”). Figtree hereby agrees to perform the Services in accordance with the terms of this Agreement.

(b) The Authority agrees to cooperate with Figtree in enhancing and promoting the Program as the Board of Directors of the Authority may from time to time deem reasonable and appropriate.

(c) Notwithstanding anything contained in this Agreement to the contrary, this Agreement relates solely to the provision of the Services in the State of California and not any other jurisdiction. The Authority agrees that it will not retain any other service provider other than Figtree to perform any of the Services with respect to any projects within the State of California eligible for financing under the Program. In the event that the Authority is contacted directly by a property owner seeking to obtain financing for a project within the State of California eligible for financing under the Program, the Authority shall refer the property owner to Figtree for implementation of the project by Figtree in accordance with the Figtree Program and this Agreement. Nothing in this Agreement shall be deemed to preclude the Authority from financing individual projects proposed to the Authority independently of Figtree in a manner other than pursuant to the Program if the relevant property owner elects to pursue financing that is not based on a PACE voluntary assessment program..

### **Section 2. Cost of Services and Figtree Compensation.**

(a) Figtree will provide the Services at no cost to the Authority and its member agencies. Figtree and the Authority will earn fees from the Program as described in Exhibit B, and such fees, the exclusive purchase right set forth in Section 2(b) below and the rights to Carbon Credits set forth in Section 2(c) below will be Figtree's compensation for its provision of the Services.

(b) The Authority hereby grants Figtree the exclusive right to purchase all Bonds issued with respect to projects originated by Figtree under the Program at a purchase price equal to the principal amount of such Bonds, and Figtree may assign such right to investors or other third parties, provided that any purchaser of the Bonds meets CEDA's eligibility requirements. The Authority and Figtree, each acting solely in their own discretion, may mutually agree on a case-by-case basis to make exceptions to this exclusive purchase right in cases where the relevant property owner requests the right for itself, an affiliate, or a third-party buyer arranged by such property owner to purchase a Bond backed by a PACE assessment on its property.

(c) Where applicable, Figtree shall administer the accumulation and aggregation of the green attributes, carbon credits and GHG offsets ("Carbon Credits") that result from projects financed through the Program. Figtree shall coordinate the assignment of rights from property owners to Figtree. At the end of each calendar year, Figtree shall assign 50% of accumulated Carbon Credits to the Authority; provided that in connection with such assignment Figtree will provide no representations or warranties other than with respect to organization, authority and title to the Carbon Credits. The Authority shall have the right to sell, assign or transfer its portion of the Carbon Credits as it deems appropriate. If and when Figtree sells the Carbon Credits it owns, it shall provide the first right of refusal to businesses in California.

### **Section 3. Term and Termination of Agreement.**

(a) The term of this Agreement shall commence on the effective date hereof and shall remain in effect until December 31, 2018 (the "Initial Term"). The term of this Agreement shall renew automatically for successive three-year terms (the Initial Term, collectively with any applicable renewal terms, the "Term") through December 31, 2027, unless terminated in accordance with Sections 3(b) or (c) below.

(b) Not more than 180 days nor less than 90 days prior to the end of the Initial Term or any renewal term, either Party may notify the other of its intent to terminate this Agreement at the end of the then-current Term. In such event, this Agreement will terminate at the end of the then-current Term and the Transition Period (as defined below) will commence 90 days prior to the termination of the then-current Term.

(c) This Agreement may be terminated by the Authority (i) upon the occurrence and during the continuance of an Event of Default by Figtree as provided in Section 7 hereof, (ii) a breach by Figtree of a written policy of the Authority that has a material detrimental effect on the Authority; provided that Figtree had received prior written notice of such policy or (iii) any fraudulent, unlawful, grossly negligent, dishonest or willful misconduct engaged in by Figtree. This Agreement may be terminated by Figtree upon the occurrence and during the continuance of an Event of Default by the Authority as provided in Section 7.

(d) Following notice of termination of this Agreement, the Parties will use commercially reasonable efforts to effect a smooth termination of the Program or transition to another program administrator in a professional manner during a transition period (the “Transition Period”) of 90 days following the date of the notice of termination.

(e) A termination of this Agreement under any circumstances shall not affect any obligation to pay or entitlement to receive any amounts in accordance with this Agreement or the Indenture (as defined below), including Cost of Issuance Fees, Figtree Fees and Cost Recovery Fees (as such Fees as further described in Exhibit B) (i) owing by either Party to the other or (ii) owing to Figtree from administrative charges as contemplated by Exhibit B, the entitlement to which arose prior to the effective date of such termination, including, for the avoidance of doubt, all Fees to which Figtree is entitled pursuant to Exhibit B with respect to Bonds issued prior to the effective date of termination, including during any applicable Transition Period.

(f) The provisions of Sections 3 and 4 shall survive expiration or termination of this Agreement.

**Section 4. Indemnification.** Figtree shall defend, indemnify and hold harmless the Authority, its officers, employees, representatives, and agents from and against any and all actions, suits, proceedings, claims, demands, losses, costs and expenses, including legal costs and attorneys’ fees, for injury or damage due to negligence or malfeasance of any type claimed as a result of the acts or omissions of Figtree, its officers, employees, subcontractors and agents, arising from or related to the Program, the Assessments, the Assessment Districts, the Improvements or the financing and marketing thereof. This Section shall survive the termination of this Agreement.

**Section 5. Insurance.** Figtree shall maintain insurance as set forth in Exhibit C to this Agreement throughout the term of this Agreement.

**Section 6. Intellectual Property.** The Authority expressly acknowledges and agrees that any and all computer software and all source code thereof, used or developed by Figtree (“Proprietary Software”) in performing the Services, including all intellectual property rights contained therein, is proprietary and Figtree or its licensors. The Authority expressly acknowledges and agrees that any and all of the data and intellectual property acquired or created in connection with the origination of the Bonds, including all documentation, marketing strategies, marketing collateral, trademarks (including trademarked names), processes, procedures, methodology, know-how, criteria, financial performance data and records, shall be owned by Figtree.

**Section 7. Default.**

(a) An event of default (an “Event of Default”) under this Agreement shall mean, with respect to either Party, the material failure or delay by such Party to perform any material term of this Agreement; provided, however, that if the Party that is otherwise claimed to be in default by the other Party commences to cure, correct or remedy the alleged default within 30 calendar days after receipt of written notice specifying such default and completes such cure,

correction or remedy within 60 calendar days after receipt of such written notice, such Party shall not be deemed to be in default hereunder.

(b) Delay in giving a written notice contemplated by Section 7(a) above shall not constitute a waiver of any default nor shall it change the time of default; provided, however, that the other Party shall have no right to exercise any remedy for an Event of Default hereunder without delivering the written default notice, as specified herein.

**Section 8. Notice.** All notices given hereunder shall be in writing. Notices shall be presented in person or by certified or registered United States Mail, return receipt requested, postage prepaid or by overnight delivery by a nationally recognized delivery service to the addresses set forth below. Notice presented by United States Mail shall be deemed effective on the third business day following the deposit of such Notice with the United States Postal Service. This Section 8 shall not prevent the Parties hereto from giving notice by personal service or telephonically verified electronic mail, which shall be deemed effective upon actual receipt of such personal service or telephonic verification. Either Party may change their address for receipt of written notice by notifying the other Party in writing of a new address for delivering notice to such Party:

to Figtree:                      Figtree Company, Inc.  
Suite 130  
9915 Mira Mesa Boulevard  
San Diego, CA 92131  
Attention: Mahesh Shah, CEO  
Email: mshah@figtreefinancing.com

to Authority:                    California Enterprise Development Authority  
Suite G  
550 Bercut Drive  
Sacramento, CA 95814  
Attention: Chair of the Board  
Email: gsahota@caled.org

**Section 9. Compliance With Law.** Figtree shall comply with all local, state, and federal laws, including, but not limited to, environmental acts, rules and regulations applicable to the work to be performed by Figtree under this Agreement. Figtree shall maintain all necessary licenses and registrations for the lawful performance of the work required of Figtree under this Agreement.

**Section 10. Nondiscrimination.** Figtree shall not discriminate against any person on the basis of race, color, creed, religion, natural origin, ancestry, sex, marital status or physical handicap in the performance of the Scope of Services of this Agreement. Without limitation, Figtree hereby certifies that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status of national origin. Further, Figtree shall promote affirmative action in its hiring practices and employee policies for minorities and other designated classes in accordance with federal, state and local laws. Such action shall include, but not be limited to, the following: recruitment and recruitment advertising,

employment, upgrading and promotion. In addition, Figtree shall not exclude from participation under this Agreement any employee or applicant for employment on the basis of age, handicap or religion in compliance with State and federal laws.

**Section 11. Figtree and Each Subcontractor Are Independent Contractors.** Figtree shall at all times during the performance of any work described in the Scope of Services be deemed to be an independent contractor. Neither Figtree nor any of its subcontractors shall at any time or in any manner represent that it or any of its employees are employees of the Authority or any member agency of the Authority. The Authority shall not be requested or ordered to assume any liability or expense for the direct payment of any salary, wage or benefit to any person employed by Figtree or its subcontractors to perform any item of work described in the Scope of Services. Under no circumstances shall the Authority be deemed to be an employer, partner, joint venturer, agent or principal of Figtree or any of Figtree's employees. Neither Figtree, nor any of Figtree's employees, shall be entitled to any benefits from or on behalf of the Authority, including without limitation worker's compensation, disability, unemployment, or paid time off. Figtree shall be responsible for providing, at Figtree's expense, and in Figtree's own name, unemployment, disability, worker's compensation and other insurance covering Figtree and its employees, as well as all licenses and permits necessary for conducting the services under this Agreement.

**Section 12. Severability.** Each and every section of this Agreement shall be construed as a separate and independent covenant and agreement. If any term or provision of this Agreement or the application thereof to certain circumstances shall be declared 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 declared invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**Section 13. Entire Agreement.** This Agreement constitutes the entire agreement between the Parties. This Agreement supersedes all prior negotiation, discussions and agreements between the Parties concerning the subject matters covered herein, including without limitation the Original Agreement. The Parties intend this Agreement to be the final expression of their agreement with respect to the subjects covered herein and a complete and exclusive statement of such terms.

**Section 14. Amendment or Modification.** This Agreement may only be modified or amended by written instrument duly approved and executed by each of the Parties. Any such modification or amendment shall be valid, binding and legally enforceable only if in written form and executed by each of the Parties, following all necessary approvals and authorizations for such execution.

**Section 15. Governing Law; Venue.** This Agreement shall be governed by the laws of the State of California. Any legal action arising from or related to this Agreement shall be brought in the Superior Court of the State of California in and for the County of Sacramento.

**Section 16. Non-Waiver.** Failure of either Party to enforce any provision of this Agreement shall not constitute a waiver of the right to compel enforcement of the same provision or any remaining provisions of this Agreement.

**Section 17. Assignment, Subcontracting and Outsourcing.** This Agreement may not be assigned by Figtree without the prior written consent of the Authority in its sole and complete discretion. Figtree may not subcontract or outsource to any third party all or a material portion of the Services without the prior reasonable written consent of the Authority, provided that Figtree shall remain primarily responsible for any work performed pursuant to any subcontract. The Outsourcing Agreement described in Exhibit A-1 is approved by the Authority.

**Section 18. Representations of Parties.** Each Party has all requisite power and authority to conduct its business and to execute, deliver, and perform this Agreement. Each Party executing this Agreement represents and warrants that the individuals who have signed this Agreement on its behalf are duly authorized to execute this Agreement.

**Section 19. Execution in Counterparts.** This Agreement may be executed in one or more counterparts, each of which will constitute an original.

**Section 20. Effectiveness of Agreement; Successors and Assigns.** This Agreement shall not be binding on the Parties until signed by an authorized representative of Figtree, approved by the Authority's Board of Directors and executed by the Chair of the Board of Directors of the Authority or his designee. This Agreement shall be binding on the successors and assigns of the Parties.

**Section 21. Conflicts of Interest.** During the Term, Figtree shall disclose to the Authority the existence of any financial or personal interest in the Authority or any of the Authority's directors, officers or employees of Figtree or any Figtree director, stockholder, officer, employee, representative or subcontractor, including such persons' immediate family members (spouse and children, including adult children). Any such potential or actual conflict of interest shall be evaluated by the Authority in accordance with its conflicts of interest policy then in effect. As used herein, personal interests are interests or relationships that may appear to affect independent, unbiased judgment when participating in the decision making process on behalf of the Authority, where such decisions could materially benefit an individual's convictions or beliefs rather than the stated mission and best interests of the Authority. As used herein, financial interests are if a person has, directly or indirectly, through business, investment, or family, (a) an ownership or investment interest (more than 5%) in any entity with which the Authority has a transaction or arrangement, (b) a compensation arrangement with the Authority or with any entity or individual with which the Authority has a transaction or arrangement, or (c) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Authority is negotiating a transaction or arrangement.

**Section 22. Consequential Damages and Limitation of Liability.** The Authority and Figtree agree that in no event will either be liable to the other under this Agreement for any special damages, loss of revenue, loss of profit, operating costs or business interruption losses, regardless of cause, including breach of contract, negligence, strict liability or otherwise. The limitations and exclusions of liability set forth in this Section 22 shall apply regardless of fault,



breach of contract, tort, strict liability or otherwise of Figtree and the Authority, their employees, directors, officers, stockholders, agent, representatives or subcontractors.

**Section 23. Appointment of Bond Counsel and Underwriters.** Figtree has organized a team of professionals including bond counsel, structuring counsel, investment banking advisors and an underwriter to facilitate a standardized, efficient and scalable financing product. Figtree may from time to time evaluate and modify the team members to maintain commercial viability of the Program. Figtree shall submit its evaluation and recommendation of Figtree's team members to the Authority for the Authority's reasonable approval and the Authority agrees to approve or reject said recommendation within 30 days of Figtree's request for approval.

**Section 24. Periodic Reporting on Progress, Strategy and Alignment.** During the term of this Agreement, appropriate representatives of Figtree and the Authority will meet in person or by telephone, as mutually agreed by the parties from time to time, at least once per month to review the progress with member agencies, the amount of financings under Figtree's Program, strategic plans, marketing programs, partnership opportunities and other matters relevant to the success of the joint initiatives described herein. Failure to meet during one month shall not constitute a default hereunder as long as each party sets a time and date to meet that is mutually agreeable.

**Section 25. Periodic Review of Fee Structure.** The parties agree to review the fees paid hereunder annually during the month of December for the term of this Agreement. The Parties agree to negotiate increases or decreases in fees hereunder in good faith based upon current market rates and to amend or cause to be amended the Indenture to give effect to any such increases or decreases. It is expected that fees hereunder shall not increase or decrease more than 10% per year.

**Section 26. No Third Party Beneficiaries.** Except as set forth in Section 4 with respect to the Indemnified Parties, there are no intended third party beneficiaries of any right or obligation assumed by the Parties.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date set forth above.

CALIFORNIA ENTERPRISE  
DEVELOPMENT AUTHORITY

By \_\_\_\_\_  
Gurbax Sahota, Chair

FIGTREE COMPANY, INC.

By \_\_\_\_\_  
Mahesh Shah, Chief Executive Officer

## EXHIBIT A

### SCOPE OF SERVICES

#### Section 1. Services Performed by Figtree.

(a) ***PACE Assessment District Formation.*** Figtree shall conduct the PACE program outreach efforts of educating, promoting and corresponding with cities and counties (each, a “Public Entity”) in California to assist in their participation in the Figtree PACE program. Figtree shall work with the Authority and the Bond Counsel to prepare the necessary documents, resolutions and reports required for the formation of the PACE assessment district consistent with, and the continued compliance of the Program with, California Streets and Highways Code beginning with Sections 5898.10 (originally approved under Assembly Bill 811). The aforementioned documents shall be as follows:

- (i) the Figtree PACE Program Report updated from time to time;
- (ii) the resolutions for a Public Entity authorizing the implementation of the Figtree PACE Program in its jurisdiction;
- (iii) the utility notices;
- (iv) the Authority resolutions of intention for district formation and for public hearing;
- (v) voluntary assessment contracts;
- (vi) assessment district liens;
- (vii) applicable disclosure related to the PACE financings; and
- (viii) published notices in the appropriate newspapers of general circulation;

(b) ***Property Owner and Contractor Services.*** Figtree shall provide the following customer service, administrative and closing services to eligible property owners and contractors to effect implementation and furtherance of the Program. Such property owner and contractor services shall be:

- (i) Presence on the Internet to provide up-to-date program materials and information including an electronic form of application for PACE financing for a property owner, an electronic form of application for participation in the Program as a registered contractor, disclosures and frequently asked questions;
- (ii) A database of registered contractors accessible through the Internet;
- (iii) An Internet-accessible estimating tool to calculate the approximate cost of PACE financing;

- (iv) Processing of property owners' applications for PACE financing;
- (v) Assisting property owners in obtaining written acknowledgment of existing mortgage lenders to the levying of PACE assessments;
- (vi) Closing of PACE financing and recording the PACE liens;
- (vii) Making requisitions to trustee to disburse improvement funds per the Indenture;
- (viii) Processing contractor application pursuant to the Program guidelines; and
- (ix) Live customer support with a toll-free phone number for property owner and contractor inquiries available at least during normal business hours.

(c) ***Bond Administration Services.*** Figtree shall provide bond administration services to the Authority and has contracted with Willdan Financial Services ("Willdan") to provide certain of these services as a subcontractor. If Willdan can no longer provide these services, Figtree shall be responsible for performing the services or finding a comparable replacement. Figtree shall indemnify the Authority in accordance with and as contemplated by Section 4 of the Agreement with respect to these services. The bond administration services shall be:

- (i) Maintain a database of the parcels that have received Figtree PACE Financing along with the relevant data for each parcel;
- (ii) Establish and maintain amortization schedules for each parcel;
- (iii) Request the placement of the annual assessment levy on the Secured County Property Tax Roll through the County Auditor-Controller;
- (iv) Review county records on each January 31<sup>st</sup> and May 31<sup>st</sup> to determine delinquency;
- (v) Begin delinquency control process including the commencement of the foreclosure of defaulting properties; and
- (vi) Provide live customer service support with a toll-free phone number to field inquiries from property owners and other interested parties.

The complete Scope of Services and Fees for services agreed upon between Figtree and Willdan are provided in Exhibit A-1 (attached hereto).

Any contract entered into by Figtree with respect to Bond Administration Services, including, but not limited to contracts with Willdan and any indenture trustee with respect to the financings of the Program, shall be assignable to the Authority or its assignee upon the termination or expiration of this Agreement.

## EXHIBIT A-1

### WILLDAN FINANCIAL SERVICES (SUBCONTRACTOR) SCOPE OF SERVICES

#### Section 1. Basic Assessment District Services.

Figtree and Willdan Financial Services (“Willdan”) have entered into an outsourcing agreement (the “Outsourcing Agreement”) pursuant to which Willdan provides bond administration and other related assessment district services to the Authority, its member agencies and other Figtree customers for an agreed upon fee (see Section 2).

Under the Outsourcing Agreement, Willdan will perform the following basic services:

(a) Maintain a database of the parcels within each program, which will include the APN, ownership information, original lien/loan amount, annual assessment amount, and all other relevant data;

(b) Establish and maintain amortization schedules for each of the parcels through the term of the lien/loan;

(c) Submit the annual assessment levy on or before August 10 of each year, or such other date specified by the subject county to the Auditor-Controller for inclusion on the consolidated property tax bills;

(d) Review county records to determine which parcels are delinquent in the payment of taxes after each installment. Willdan will prepare a delinquency report and will send reminder letters to delinquent property owners;

(e) Provide a toll-free number to field inquiries from City/the Authority staff, property owners, and other interested parties regarding assessment proceedings and annual installments; and

(f) Perform Bond Fund Analysis on an annual basis on or before June 30. Moreover, this analysis will be conducted prior to payment of the bond debt service, which determines required fund transfers that satisfy the principal and interest requirements, as well as determine excess funds available for credits against current assessments and/or for early bond retirement. In this regard, Willdan Financial Services will update and track bond fund balances by obtaining statements from fiscal agents on all existing funds. Additionally, review the bond trust Indenture to verify that improvement, reserve, and redemption fund structures are in compliance by providing the following recommendations:

- Recommendations for fund transfers (if necessary) to achieve compliance with the Indenture;
- Recommendations for funds required for upcoming debt service payment;
- Recommendations for the use of excess reserve funds (if applicable);
- Recommendations for bond calls (if required), such as in the case of a payoff of bond lien by a property owner; and

- Recommendation for Collection Fund disbursements.

## **Section 2. Fee for Basic Services.**

For commercial/industrial/multi-family projects, Willdan proposes a fee of 0.5% (half a percent) of each parcel's annual assessment per fiscal year (subject to a minimum annual per parcel charge of \$30 and a maximum annual per parcel charge of \$120).

## **Section 3. Additional Services.**

Figtree may request Willdan to perform the following additional services for an additional fee to be negotiated by the parties:

- (a) Preparation of prepayment calculations as requested. Following each prepayment, Willdan will prepare the appropriate bond call documents for the trustee and prepare and record the notice of cancellation with the appropriate county;
- (b) Preparation of the required program documents, including the engineer's report (or other similar document), assessment agreements, and other related items;
- (c) Review of the assessment documentation for each parcel;
- (d) Recording of the assessment agreements with the appropriate county Recorder's Office;
- (e) Attend meetings and provide consulting services and advice to existing clients and/or potential clients; and
- (f) Coordinate foreclosure action proceedings as needed.

## EXHIBIT B

### FIGTREE PACE PROGRAM REVENUES

Figtree will derive direct revenues under the Program from the following three fee sources (the “Program Fees”): (i) cost of issuance fee at the closing, (ii) administration fee included in the annual assessment and (iii) annual cost recovery fee paid from separate administrative charge collected in connection with the assessments underlying the Bonds. Figtree will use the Program Fees to pay for the program development, marketing, and operating costs including legal, trustee, bond-counsel, bond administration costs, underwriter fees, investment banking fees, Authority fees and overhead and profit.

The Program Fees shall be determined by the Authority and Figtree for each series of Bonds to be issued under the Master Indenture of Trust and the related Supplemental Indenture of Trust (together, the “Indenture”) for each PACE financing. The following Program Fees shall be deemed to be initial guidelines for the Program; provided, however, the Authority and Figtree may agree to modify the Program Fees for any financing. The Chair of the Authority shall have the authority to modify the Program Fees approved in this Agreement for any financing on behalf of the Authority.

(a) **Figtree PACE Cost of Issuance Fees** (the “Cost of Issuance Fee”). The Cost of Issuance Fee is the closing fee charged to the property owner in an amount equal to 4% of the total principal amount of the a Bond being issued and shall be payable by the property owner concurrently with the closing of the issuance of the Bond. The Cost of Issuance Fee may be reduced to no less than 2% at the election of Figtree as a result of negotiations with the relevant property owner, based on Figtree’s good faith evaluation of the size, complexity and credit quality of the particular project. The Cost of Issuance Fee shall be collected by the Indenture trustee and deposited in the Cost of Issuance Fund under the Indenture.

(b) Figtree will prepare a requisition for signature by the Authority for the disbursement of funds from the Cost of Issuance Fund for the purpose of paying the bond issuance closing costs such as trustee fees, underwriter or placement agent fees, bond counsel fees, the California Debt and Investment Advisory Commission fee, the Authority issuance fees (described below), and other incidental fees and costs (collectively, “Closing Costs”). The sum of the Cost of Issuance Fee less the Closing Costs for a Bond will be payable to Figtree as part of its compensation for the Services. Part of the Services to be provided by Figtree is to arrange for the services giving rise to such bond issuance closing costs to be performed. Bond issuance closing costs to be paid from the Cost of Issuance Fee will not be incurred by the Authority without the prior consent of Figtree. The Authority agrees that, during the Term, it shall not modify the Indenture with respect to the application of the Cost of Issuance Fee without the prior written consent of Figtree.

The Authority shall be paid an issuance fee from the Cost of Issuance Fee collected at the time of each PACE bond issuance by the Indenture trustee in an amount equal to 0.25% of the principal amount of the Bonds issued at the time of each issuance.

(c) **Program Administration Fee** (the “Administration Fee”). An Administration Fee equal to 0.60% per annum of the outstanding principal amount of the Bonds related to projects originated by Figtree shall be payable to Figtree, to the extent collected from each property owner and received by the trustee, on each March 2<sup>nd</sup> and September 2<sup>nd</sup> (or other dates as specified in the Indenture) following the collections of the assessment installments by the Indenture trustee. The Administration Fee is fully earned by Figtree for each property financed upon the closing of the financing with respect to such property and shall be disbursed to Figtree by the Indenture trustee over the term of the financing. The Administration Fee applicable to projects originated by Figtree shall continue to be payable to Figtree, to the extent collected from the property owner and received by the trustee, following termination of this Agreement. Figtree will have the full legal right to the Administration Fee which can be pledged, capitalized, assigned or transferred at the discretion of Figtree.

(d) **Annual Cost Recovery Fees** (the “Cost Recovery Fee”). The Cost Recovery Fee is a fee charged to a property owner annually and is calculated in the amount of 3% of the annual PACE assessment. In no event shall the Cost Recovery Fee exceed 5% of the annual PACE assessment or the maximum amount permitted by law. The Cost Recovery Fee may be reduced to no less than 1% at the election of Figtree as a result of negotiations with the relevant property owner, based on Figtree’s good faith evaluation of the size, complexity and credit quality of the particular project.

The Cost Recovery Fee is collected by the Indenture trustee along with the semi-annual assessment installments and, will be apportioned to the Parties as follows: first, to the Authority, a fee in the amount of 0.75% of the annual PACE assessment collected, and second, the remainder to Figtree. The Cost Recovery Fee will be disbursed to the Authority and Figtree by the trustee on each March 2<sup>nd</sup> and September 2<sup>nd</sup> (or other dates as specified in the Indenture) over the term of the assessment.

(e) **Extraordinary Expenses.** Extraordinary expenses incurred by the Authority with respect to the Program or the Bonds applicable to projects originated by Figtree shall be payable by Figtree upon invoice by the Authority.



## EXHIBIT C

### INSURANCE REQUIREMENTS

Figtree shall maintain insurance policies issued by an insurance company or companies authorized to do business in the State of California and that maintain during the term of the policy a "General Policyholders Rating" of at least "A+," as set forth in the then most current edition of "*Bests Insurance Guide*," as follows:

(a) ***Commercial General Liability Insurance.*** Figtree and each of its subcontractors shall maintain comprehensive commercial general liability insurance providing coverage for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than \$1,000,000 per occurrence.

(b) ***Automobile Insurance.*** Figtree and each of its subcontractors shall maintain comprehensive automobile liability insurance of not less than \$100,000.00 combined single limit per occurrence for each vehicle leased or owned by Figtree or its subcontractors and used in performing work under this Agreement.

(c) ***Workers' Compensation Insurance.*** Figtree and each of its subcontractors shall maintain workers' compensation insurance with statutory limits and Employer's liability insurance with limits of not less than \$1,000,000 for all workers under Figtree's and/or subcontractor's employment performing work under this Agreement.

(d) ***Professional Liability (Errors and Omissions) Coverage.*** Figtree and each of its subcontractors shall maintain an insurance policy covering liability for errors and omissions of Figtree in performing the Scope of Services of this Agreement in an amount of not less than \$1,000,000.00.

Concurrent with the execution of this Agreement and prior to the commencement of any work by Figtree, Figtree shall deliver to the Authority copies of policies or certificates evidencing the existence of the insurance coverage required herein, which coverage shall remain in full force and effect continuously throughout the term of this Agreement. Each policy of insurance that Figtree purchases in satisfaction of the insurance requirements of this Agreement shall name the Authority as an additional insured and shall provide that the policy may not be cancelled, terminated or modified, except upon 30 days' prior written notice to the Authority.