

**COLORADO NEW ENERGY  
IMPROVEMENT DISTRICT**

**RESOLUTION NO. 2017-R-AO-X**

**A RESOLUTION OF THE AUTHORIZED OFFICERS OF THE  
COLORADO NEW ENERGY IMPROVEMENT DISTRICT  
APPROVING PROPERTY OWNER'S PROGRAM PRE-  
QUALIFICATION SUBMISSION, APPROVING THE CO-PACE  
ASSESSMENT AND FINANCING AGREEMENT, SETTING A  
PRELIMINARY ASSESSMENT, APPROVING THE  
PREPARATION OF A PRELIMINARY ASSESSMENT ROLL,  
AND SETTING A DATE FOR A PUBLIC HEARING  
REGARDING THE FINAL ASSESSING RESOLUTION AND  
ASSESSMENT ROLL**

**PRELIMINARY ASSESSING RESOLUTION –  
ADDRESS (COUNTY SCHEDULE NO. X)**

WHEREAS, the Colorado New Energy Improvement District (the “District”) was created by the Colorado General Assembly pursuant to C.R.S. §§ 32-20-101 et. seq., as amended (the “CoPACE Act”); and

WHEREAS, the CoPACE Act established a commercial property assessed clean energy program (the “CoPACE Program”), which the District has implemented; and

WHEREAS, the CoPACE Program facilitates private financing for new energy improvements, as that term is defined in the CoPACE Act, to commercial, industrial, multi-family, institutional and agricultural properties by utilizing a statutory local assessment and collection mechanism to provide security for repayment of the private financing; and

WHEREAS, **OWNER NAME**, a Colorado **limited liability company** having an address of **PROPERTY OWNER ADDRESS** (“Property Owner”) has applied to the District for inclusion in the District with respect to that certain real property located at **PROPERTY ADDRESS**, as more fully described on **Exhibit A** to this Resolution (the “Property”); and

WHEREAS, Property Owner seeks to obtain CoPACE Program financing from a Qualified Capital Provider (“Capital Provider”) in an amount up to the amount shown in the preliminary assessment roll attached as **Exhibit B** to this Resolution; and

WHEREAS, the Capital Provider has agreed to provide the financing for the new energy improvements to be constructed on the Property subject to the terms and conditions set forth in that certain CoPACE Assessment and Financing Agreement by and between the Capital Provider, the Property Owner and the District (the “Financing Agreement”), a draft of which is attached as **Exhibit C** to this Resolution; and

WHEREAS, **X** COUNTY, COLORADO (the “County”) has elected by Resolution of the Board of County Commissioners to participate in the CoPACE Program as contemplated by C.R.S. § 32-20-105(3); and

WHEREAS, C.R.S. §32-20-106(3)(a) requires the District to initiate the levy of any special assessment by the adoption of a resolution that: (a) sets the special assessment; (b) approves the preparation of a preliminary special assessment roll; and (c) sets a date for a public hearing regarding the special assessment roll; and

WHEREAS, authority to adopt this Resolution was duly delegated to the Chairman or his designee and the District’s Recording Secretary (together, the “Authorized Officers”) by Resolution No. 2016-R-07; and

WHEREAS, the District is required to provide notice of the public hearing to certain parties in the manner specified in the CoPACE Act, as specifically set forth at C.R.S. § 32-20-106(3)(a) and -106(3)(b); and

WHEREAS, the special assessment of the District may not be finalized until such time as the public hearing required by the CoPACE Act has been held; and

WHEREAS, the Authorized Officers desire to direct District staff to provide notice of the public hearing to the Property Owner, the Capital Provider, and each person or entity of record that has a recorded lien filed against the Property or is otherwise entitled to notice under C.R.S. § 32-20-106(3)(a); and

WHEREAS, the District desires to approve the Financing Agreement in substantially the form attached hereto as **Exhibit C**; and

WHEREAS, following the conclusion of the public hearing required by C.R.S. § 32-20-106(3)(a), the Authorized Officers desire to finalize all steps necessary to cause the special assessment lien to be placed on the Property (the “Assessment Lien”), including proceeding to adopt the resolution required by C.R.S. § 32-20-106(3)(c) (the “Assessing Resolution”), and recording the Assessing Resolution together with a copy of the final assessment roll and the Financing Agreement in the real property records of the County.

**NOW, THEREFORE, BE IT RESOLVED BY THE AUTHORIZED OFFICERS OF THE DISTRICT, ACTING UNDER AUTHORITY DELEGATED TO THE AUTHORIZED OFFICERS PURSUANT TO BOARD RESOLUTION NO. 2016-R-07, AS FOLLOWS:**

**Section 1.** Ratification and Approval of Prior Actions. All actions heretofore taken by the Authorized Officers and the District’s Program Administrator not inconsistent with the provisions of this Resolution or Resolution No. 2016-R-07 are hereby ratified, approved and confirmed.

**Section 2.** The CoPACE Program Pre-Qualification Submission filed by the Property Owner on file with the District’s Program Administrator (“Application”) is hereby approved. The approval of the Application admits the Property Owner as a member of the District, subject to final approval of the Assessing Resolution, as that term is defined below.

**Section 3.** Public Hearing on Special Assessment. On \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_:\_\_\_\_.m. (“Hearing Date and Time”), the Authorized Officers shall hold a public hearing as required by C.R.S. § 32-20-106(3)(a) and following the conclusion of said hearing shall proceed to adopt the Assessing Resolution in accordance with the applicable provisions of C.R.S. § 32-20-106(3)(c). The public hearing shall be held at the regular business office of the District, or at such location as specifically set forth in the public notice. Public notice of the Hearing Date and Time shall be provided in accordance with the applicable requirements of C.R.S. §§ 32-20-106(3)(a) and -106(3)(b). The Authorized Officers, Property Owner and Capital Provider shall be authorized to make changes or adjustments to the legal description of the Property, the preliminary assessment roll attached as **Exhibit B** to this Resolution, and to the Financing Agreement attached as **Exhibit C** to this Resolution and other documents specifically contemplated by the Financing Agreement at any time up to final adoption of the Assessing Resolution. The Authorized Officers shall not be authorized to take action on any Assessing Resolution for which any complaints or objections have been made or filed by the property owner or lienholder, and which are properly filed in writing on or prior to Hearing Date and Time. The Authorized Officers shall only be authorized to approve the Assessing Resolution if no written complaints or objections are timely filed. In the event that any written complaints or objections are timely filed, the Authorized Officers shall open and continue the public hearing on the amount of the special assessment proposed to be levied to a time and date certain, not to exceed thirty (30) days from the date of the Hearing Date and Time, at which time the Assessing Resolution and the written complaints or objections shall be heard by a quorum of the Board of Directors at a regular or special meeting.

**Section 4.** From and after the date of recording of the Assessing Resolution, the final assessment roll adopted pursuant to C.R.S. § 32-20-107(2), and the Financing Agreement, the special assessment of the District to be set forth in the Assessing Resolution, together with all interest thereon and penalties for default in payment thereof, and associated collection costs, shall constitute a perpetual lien in the amount assessed against the Property (as legally described in the Assessing Resolution), and shall have priority over all other liens except as specifically set forth in C.R.S. § 32-20-107(1)(a).

**Section 5.** The Authorized Officers: (a) approve the Financing Agreement in substantially the form attached hereto as **Exhibit C**; (b) authorizes the Authorized Officers and general counsel to the District to make such changes to the Financing Agreement as may be needed to correct any nonmaterial errors or language that do not increase the obligations of the District; and (c) authorizes the Authorized Officers to execute the Financing Agreement on behalf of the District, together with the Disbursement Agreement and such other documents specifically contemplated by the Financing Agreement to be executed by or for the benefit of the District and otherwise to further the program under the CoPACE Act with respect to the Property.

**Section 6.** The Assessing Resolution and final assessment roll shall be indexed in the real property records of the County in the grantor index under the name of the Property Owner and in the grantee index under the name of the District, and the County Clerk & Recorder shall file copies of the Assessing Resolution and the final assessment roll with the County Assessor and the County Treasurer in accordance with the provisions of C.R.S. § 32-20-107(2).

**Section 7.** The Authorized Officers, the Program Administrator, and all other District consultants are hereby authorized and directed to take all actions necessary or appropriate to effect the provisions of this Resolution.

**Section 8.** No delays, mistakes, errors or irregularities in any act or proceeding related to this setting of the preliminary assessment roll against the Property shall prejudice or invalidate any final special assessment, and the Authorized Officers reserve full authority to remedy any such mistakes, errors or irregularities in the Assessing Resolution or by other subsequent filings, amending acts or proceedings.

**Section 9.** **Severability.** If any section, paragraph, clause or provision of this Resolution shall be judicially determined to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect, impair or invalidate the remaining provisions of this Resolution, the intention being that the various parts hereof are severable.

**Section 10.** **Effective Date.** This Resolution shall take effect immediately upon its approval by the Authorized Officers.

ADOPTED this \_\_\_\_ day of MONTH, 2017.

By: \_\_\_\_\_  
Chair, *authorized pursuant to delegation of authority set forth in Resolution No. 2016-R-07*

ATTEST:

\_\_\_\_\_  
Recording Secretary

Exhibits:

**Exhibit A – Legal Description**  
**Exhibit B – Preliminary Assessment Roll**  
**Exhibit C – Financing and Assessment Agreement**