Resolution supporting Property Assessed Clean Energy (PACE) programs and requesting San Francisco's Congressional representatives to work with the Federal Housing Finance agency to establish standardized underwriting criteria and safeguards to allow for the continuation of PACE.

WHEREAS, The California Legislature has found that (i) energy and water conservation efforts, including the promotion of energy efficiency improvements to residential, commercial, industrial, agricultural, or other real property are necessary to address the issue of global climate change and (ii) a public purpose will be served by a voluntary contractual assessment program that provides the legislative body of any public agency with the authority to finance the installation of distributed generation renewable energy sources and energy or water efficiency improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property (Streets & Highways Code §5898.14); and

WHEREAS, Based on these findings, the California Legislature amended Chapter 29 of Division 7 of the Streets & Highways Code ("Chapter 29") to allow the financing of renewable energy, energy efficiency and water efficiency improvements through the levy of contractual assessments 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, Programs in which taxes and assessments are levied to finance renewable energy, energy efficiency and water efficiency improvements on private property have been established throughout California and the rest of the country, and have come to be known as "Property Assessed Clean Energy" ("PACE") programs; and
WHEREAS, The City and County has consented to the conduct of contractual assessment proceedings within the boundaries of the City and County under Chapter 29 pursuant to its GreenFinanceSF program; and

WHEREAS, In “Recovery Through Retrofit” (October 2009), the White House’s Middle Class Task Force, Council on Environmental Quality recognized the “exciting potential of PACE programs” and stated that “Federal Agencies will work in partnership with state and local governments to establish standardized underwriting criteria and safeguards to protect consumers and minimize financial risks to homeowners and mortgage lenders”; and

WHEREAS, On October 18, 2009, the White House released its “Policy Framework for PACE Financing Programs,” which had “been developed by the White House and the relevant agencies as a policy framework for Property Assessed Clean Energy (PACE) financing programs” and Vice President Joseph Biden announced support “for the use of federal funds for pilot programs of PACE financing to overcome barriers for families who wish to invest in energy efficiency and renewable energy improvements”; and

WHEREAS, On May 7, 2010, the United States Department of Energy, after consultation within the federal government and with other stakeholders, issued its “Guidelines for Pilot PACE Financing Programs” to “help ensure prudent financing practices during the current pilot PACE programs”; and

WHEREAS, On July 6, 2010, only two months after release of the Department of Energy’s Guidelines, the Federal Housing Finance Agency released a Statement in which it declared: “After careful review and over a year of working with federal and state government agencies, the Federal Housing Finance Agency (FHFA) has determined that certain energy retrofit lending programs present significant safety and soundness concerns that must be addressed by Fannie Mae, Freddie Mac and the Federal Home Loan Banks;” and
WHEREAS, In the Statement, the FHFA directed Fannie Mae, Freddie Mac and the Federal Home Loan Banks to undertake certain actions, including, among others, "(a)djusting loan-to-value ratios to reflect the maximum permissible PACE loan amount available to borrowers in PACE jurisdictions"; in other words, the FHFA directed that Fannie Mae, Freddie Mac and the Federal Home Loan Banks treat all properties within a jurisdiction with a PACE program as if they were subject to a PACE tax or assessment, not just those that had actually agreed to a PACE tax or assessment; and

WHEREAS, As a result of the FHFA Statement, and in order to avoid an adverse impact on residential property owners in their jurisdiction, local agencies in California that are operating PACE programs have halted residential financing; and

WHEREAS, For the reasons declared by the California Legislature in Chapter 29 and also because of the importance of PACE to job creation within the City and County, the City and County wishes to declare its support for PACE programs and to ask its Congressional representatives to work with the FHFA, the Department of Energy, the White House and other relevant federal agencies to reverse the FHFA Statement; now, therefore, be it

RESOLVED, That because of the important public policies advanced by PACE, including those identified by the California Legislature as well as the ability of PACE to generate new jobs within the City and County, the Board of Supervisors hereby declares its support for PACE; and, be it

FURTHER RESOLVED, That the Board of Supervisors hereby requests Speaker Pelosi and Senators Boxer and Feinstein to work with the FHFA, the Department of Energy, the White House and other relevant federal agencies to reverse the FHFA Statement with the goal of achieving the exciting potential of PACE and establishing standardized underwriting criteria and safeguards to protect consumers and minimize financial risks to homeowners and mortgage lenders; and, be it

Mayor Newsom; Supervisor Mar, Supervisor Duffy
BOARD OF SUPERVISORS
FURTHER RESOLVED, That the Clerk of the Board is hereby authorized and directed to transmit a certified copy of this resolution to the FHFA and to the offices of Speaker Pelosi and Senators Boxer and Feinstein.
Resolution supporting Property Assessed Clean Energy programs and requesting San Francisco's Congressional representatives to work with the Federal Housing Finance agency to establish standardized underwriting criteria and safeguards to allow for the continuation of Property Assessed Clean Energy programs.

August 03, 2010 Board of Supervisors - ADOPTED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Duffy, Elsbernd, Mar, Maxwell and Mirkarimi

I hereby certify that the foregoing Resolution was ADOPTED on 8/3/2010 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Gavin Newsom
Date Approved

August 12, 2010