

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

186



FROM: Executive Office

SUBMITTAL DATE:
September 13, 2012

SUBJECT: Amendment to the Joint Powers Agreement with the Western Riverside Council of Governments (WRCOG) to Permit the Provision of Property Assessed Clean Energy (PACE) Services Statewide.

RECOMMENDED MOTION: That the Board of Supervisors approve the attached amendment to the Joint Powers Agreement with WRCOG to permit the provision of PACE services statewide.

BACKGROUND: WRCOG developed and implemented a PACE Program called the Home Energy Renovation Opportunity (HERO) Program in Western Riverside County. The HERO Program allows for property owners in the county to finance energy efficiency, water conservation, and renewable energy projects, and to pay that financing back through a voluntary assessment on the property owner's tax bill. The HERO Program has both a residential and a commercial component.

Continued on Page 2


Tina Grande, Principal Management Analyst

FORM APPROVED COUNTY COUNSEL

BY: 48 Victor DATE: 9/18/12
MARSHAL VICTOR

Departmental Concurrence

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: 
Debra Cournoyer

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent

Dep't Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.: 3.12 12/8/09, 3.27 4/12/11 | District: All | Agenda Number:

3.9

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

RE: Amendment to the Joint Powers Agreement with WRCOG to Permit the Provision of PACE Services

September 13, 2012

Page 2

Currently, WRCOG's HERO Program (residential component only) has approved nearly \$50 million in financing for projects. Because of the Program's success, WRCOG staff has been examining the possibility of creating a Statewide HERO Program that would allow other jurisdictions in the state to offer HERO to its property owners under a program that would be administered by WRCOG. Jurisdictions that elect to participate in WRCOG's Program would see considerable benefit as they would avoid the costs and considerable time it takes to develop a program from scratch. WRCOG, by providing a turn-key administrative service, would benefit by receiving revenues for the services provided.

On June 4, 2012, the WRCOG Executive Committee directed WRCOG staff to develop the constructs for a Statewide HERO Program and return to the Executive Committee with further recommendations. WRCOG staff is pursuing two options. The first option is to use WRCOG's current Joint Powers Agreement (JPA). The second option is to create new JPA with a member agency. The Executive Office and WRCOG are in discussion regarding the County's potential participation in the new JPA.

Regardless of which option the WRCOG Executive Committee selects, the member jurisdictions need to take formal action to adopt the attached amendment to the JPA, which was approved by the WRCOG Executive Committee on August 6, 2012.

Once the WRCOG JPA has been amended, WRCOG staff and its consulting team can begin marketing the HERO Program to other agencies in the State for their consideration.

1
2 **AMENDMENT TO THE JOINT POWERS AGREEMENT OF**
3 **THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS**
4 **TO PERMIT THE PROVISION OF PACE SERVICES**

5 This Amendment to the Joint Powers Agreement (“Amended Agreement”) is made and entered
6 into on the ___day of _____, 2012, by and between seventeen cities located within Western
7 Riverside County and the County of Riverside (collectively the “Parties”).

8
9 RECITALS

10 WHEREAS, seventeen cities located within Western Riverside County and the County of
11 Riverside have entered into a Joint Powers Agreement on April 1, 1991, and through subsequent
12 amendments thereto (the “JPA”), to form the Western Riverside Council of Governments (“WRCOG”);
13 and

14 WHEREAS, on July 21, 2008, Assembly Bill 811 (“AB 811”) was signed into law to amend
15 Chapter 29 of the Improvement Bond Act of 1911, being Division 7 of the California Streets and
16 Highways Code (“Chapter 29”) to authorize cities, counties, and cities and counties to establish
17 voluntary contractual assessment programs to fund various renewable energy sources and energy
18 efficiency improvements to property, commonly referred to as a Property Assessed Clean Energy
19 (“PACE”) program; and

20 WHEREAS, the Legislative intent of AB 811 is to finance the installation of distributed
21 generation renewable energy sources or energy efficiency improvements that are permanently fixed to
22 residential, commercial, industrial, or other real property; and

23 WHEREAS, Chapter 29 was subsequently amended by the enactment of AB 474 effective
24 January 1, 2010, to enable a PACE program established pursuant to Chapter 29 to finance the
25 installation of water efficiency improvements in addition to the improvements authorized to be financed
26 pursuant to AB 811;

1 WHEREAS, WRCOG is authorized to implement the purposes of Chapter 29 to
2 establish a PACE program pursuant to the provisions of Government Code Section 6502; and

3 WHEREAS, WRCOG has determined that it is within the best interests of the
4 communities that it serves, and the State of California, for WRCOG to provide a PACE
5 program pursuant to Chapter 29 as now enacted or as such legislation may be amended
6 hereafter, including the operation of a PACE financing program within Riverside County as well
7 as outside Riverside County; and

8 WHEREAS, WRCOG desires to allow jurisdictions outside WRCOG's jurisdictional
9 boundaries to participate in WRCOG solely for the purpose of facilitating WRCOG's
10 implementation of PACE programs within their jurisdictional boundaries, but without providing
11 those local jurisdictions any of the rights common to the members within WRCOG's jurisdiction
12 pursuant to the JPA; and

13 WHEREAS, pursuant to Government Code Sections 6500 *et seq.*, the parties to the
14 JPA desire to amend the JPA to allow for the provision of PACE services, including the
15 operation of an PACE financing program within and outside Riverside County.

16
17 MUTUAL UNDERSTANDINGS
18

19 NOW, THEREFORE, for and in consideration of the mutual covenants and conditions
20 hereinafter stated, the Parties hereto agree as follows:

21 Section 1: The last sentence of Section 2.1 of the Agreement shall be amended to read as
22 follows:

23
24 "Only the parties identified in this section and Associate Members
25 approved under section 8.2 of this Agreement, if any, shall be considered
26 contracting parties to this Agreement under Government code Section

1 6502, provided that the rights of any Associate Member under this
2 Agreement shall be limited solely those rights expressly set forth in a
3 PACE Agreement authorized in section 8.2 of this Agreement.”
4

5 Section 2: The heading of Section VIII to the JPA is hereby amended to read as follows:

6 “PACE IMPLEMENTATION AND PARTICIPATION AGREEMENTS;
7 ASSOCIATE MEMBERSHIP.”

8 Section 3: Section 8.2 shall be added to the JPA and shall read as follows:

9
10 8.2 PACE Agreements; Associate Membership.

11 WRCOG shall be empowered to establish and operate one or more
12 Property Assessed Clean Energy (“PACE”) programs pursuant to
13 Chapter 29 of the Improvement Bond Act of 1911, being Division 7 of the
14 California Streets and Highways Code, and to enter into one or more
15 agreements, including without limitation, participation agreements,
16 implementation agreements and joint powers agreements and
17 amendments thereto to fulfill such programs both within and outside the
18 jurisdictional boundaries of WRCOG.

19 WRCOG, acting through its Executive Committee, shall be empowered to
20 establish an “Associate Member” status that provides membership in
21 WRCOG to local jurisdictions that are outside WRCOG’s jurisdictional
22 boundaries but within whose boundaries a PACE program will be
23 established and implemented by WRCOG. Said local jurisdictions shall
24 become Associate Members of WRCOG by adopting one or more
25 agreements (the “PACE Agreement”) on the terms and conditions
26 established by the Executive Committee and consistent with the

1 requirements of the Joint Exercise of Powers Act, being 5 of Division 7,
2 Title 1 of the California Government Code (Sections 6500 et seq.) The
3 rights of Associate Members shall be limited solely to those terms and
4 conditions expressly set forth in the PACE Agreement for the purposes of
5 implementing the PACE program within their jurisdictional boundaries.
6 Except as expressly provided for by the PACE Agreement, Associate
7 Members shall not have any rights otherwise granted to WRCOG's
8 members by this Agreement, including but not limited to the right to vote,
9 right to amend this Agreement, and right to sit on committees or boards
10 established under this Agreement or by action of the Executive Committee
11 or the General Assembly, including, without limitation, the General
12 Assembly and the Executive Committee.

13 Section 4: This amendment is to become effective in accordance with Section 9.1 of the
14 JPA.

15
16 Section 5: All other provisions and terms of the JPA are to remain unchanged.

17
18 Section 6: This Amendment may be executed in counterparts.

19
20 IN WITNESS WHEREOF, the Parties hereto have caused this Amended Agreement to be
21 executed and attested by their officers thereunto duly authorized as of the date first above
22 written.

23
24 [SIGNATURES ON FOLLOWING PAGES]
25
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**SIGNATURE PAGE TO THE
AMENDMENT TO THE JOINT POWERS AGREEMENT OF
THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS
TO PERMIT THE PROVISION OF PACE SERVICES**

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ATTEST:

City Clerk
City of Banning

CITY OF BANNING

By: _____

By _____
Mayor

Dated: _____

ATTEST:

City Clerk
City of Calimesa

CITY OF CALIMESA

By: _____

By _____
Mayor

Dated: _____

ATTEST:

City Clerk
City of Canyon Lake

CITY OF CANYON LAKE

By: _____

By _____
Mayor

Dated: _____

1 ATTEST:

2 City Clerk
3 City of Corona

CITY OF CORONA

4 By: _____

By _____
Mayor

5 Dated: _____

6

7 ATTEST:

8 City Clerk
9 City of Eastvale

CITY OF EASTVALE

10 By: _____

By _____
Mayor

11 Dated: _____

12

13 ATTEST:

14 City Clerk
15 City of Hemet

CITY OF HEMET

16 By: _____

By _____
Mayor

17 Dated: _____

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19 ATTEST:

20 City Clerk
21 City of Jurupa Valley

CITY OF JURUPA VALLEY

22 By: _____

By _____
Mayor

23 Dated: _____

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ATTEST:
City Clerk
City of Lake Elsinore

CITY OF LAKE ELSINORE

By: _____

By _____
Mayor

Dated: _____

ATTEST:
City Clerk
City of Menifee

CITY OF MENIFEE

By: _____

By _____
Mayor

Dated: _____

ATTEST:
City Clerk
City of Moreno Valley

CITY OF MORENO VALLEY

By: _____

By _____
Mayor

Dated: _____

ATTEST:
City Clerk
City of Murrieta

CITY OF MURRIETA

By: _____

By _____
Mayor

Dated: _____

1 ATTEST:

2 City Clerk
3 City of Norco

CITY OF NORCO

4 By: _____

By _____
Mayor

5 Dated: _____

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7 ATTEST:

8 City Clerk
9 City of Perris

CITY OF PERRIS

10 By: _____

By _____
Mayor

11 Dated: _____

12

13 ATTEST:

14 City Clerk
15 City of Riverside

CITY OF RIVERSIDE

16 By: _____

By _____
Mayor

17 Dated: _____

18

19 ATTEST:

20 City Clerk
21 City of San Jacinto

CITY OF SAN JACINTO

22 By: _____

By _____
Mayor

23 Dated: _____

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ATTEST:
City Clerk
City of Temecula

By: _____

Dated: _____

CITY OF TEMECULA

By _____
Mayor

ATTEST:
City Clerk
City of Wildomar

By: _____

Dated: _____

CITY OF WILDOMAR

By _____
Mayor

ATTEST:
Clerk of the Board
County of Riverside

By: _____

Dated: _____

COUNTY OF RIVERSIDE

By _____
Chairman of the Board of Supervisors

FORM APPROVED COUNTY COUNSEL
BY: Marshall Victor 9/18/12
MARSHAL VICTOR DATE