

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

186



**FROM:** Executive Office

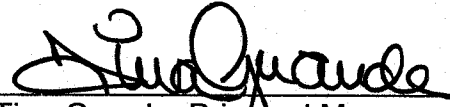
**SUBMITTAL DATE:**  
September 13, 2012

**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

**FINANCIAL  
DATA**

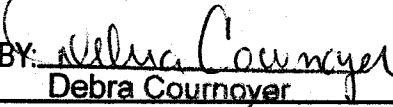
|                               |        |                         |     |
|-------------------------------|--------|-------------------------|-----|
| Current F.Y. Total Cost:      | \$ N/A | In Current Year Budget: | N/A |
| Current F.Y. Net County Cost: | \$ N/A | Budget Adjustment:      | N/A |
| 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

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Tavaglione, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley  
Nays: None  
Absent: None  
Date: September 25, 2012  
xc: E.O., WRCOG

Kecia Harper-Ihem  
Clerk of the Board  
By:   
Deputy

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

3.9

ATTACHMENTS FILED

FORM APPROVED COUNTY COUNSEL

DATE: 9/18/12

BY: MARSHAL VICTOR

Departmental Concurrence

☒ Policy

☐ Consent

☒ Policy

☐ Consent

Dep't Recomm.:

Per Exec. Ofc.:

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.

**CLERK'S COPY**

to Riverside County Clerk of the Board, Stop 1010  
Post Office Box 1147, Riverside, Ca 92502-1147  
Thank you.

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

This Amendment to the Joint Powers Agreement ("Amended Agreement") is made and entered into on the \_\_\_\_ day of \_\_\_\_\_, 2012, by and between seventeen cities located within Western Riverside County and the County of Riverside (collectively the "Parties").

**RECITALS**

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

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

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

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

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

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

"PACE IMPLEMENTATION AND PARTICIPATION AGREEMENTS;  
ASSOCIATE MEMBERSHIP."

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

8.2 PACE Agreements; Associate Membership.

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

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

**SIGNATURE PAGE TO THE  
AMENDMENT TO THE JOINT POWERS AGREEMENT OF  
THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS  
TO PERMIT THE PROVISION OF PACE SERVICES**

**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: \_\_\_\_\_

18  
19 ATTEST:

20 City Clerk  
21 City of Jurupa Valley

CITY OF JURUPA VALLEY

22 By: \_\_\_\_\_

By \_\_\_\_\_  
Mayor

23 Dated: \_\_\_\_\_

1 ATTEST:  
2 City Clerk  
3 City of Lake Elsinore  
4 By: \_\_\_\_\_  
5 Dated: \_\_\_\_\_  
6

CITY OF LAKE ELSINORE

By \_\_\_\_\_  
Mayor

7 ATTEST:  
8 City Clerk  
9 City of Menifee  
10 By: \_\_\_\_\_  
11 Dated: \_\_\_\_\_  
12

CITY OF MENIFEE

By \_\_\_\_\_  
Mayor

13 ATTEST:  
14 City Clerk  
15 City of Moreno Valley  
16 By: \_\_\_\_\_  
17 Dated: \_\_\_\_\_  
18

CITY OF MORENO VALLEY

By \_\_\_\_\_  
Mayor

19 ATTEST:  
20 City Clerk  
21 City of Murrieta  
22 By: \_\_\_\_\_  
23 Dated: \_\_\_\_\_  
24  
25  
26

CITY OF MURRIETA

By \_\_\_\_\_  
Mayor

1 ATTEST:

2 City Clerk  
3 City of Norco

CITY OF NORCO

4 By: \_\_\_\_\_

By \_\_\_\_\_  
Mayor

5 Dated: \_\_\_\_\_

6  
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: \_\_\_\_\_

24

25

26

1 ATTEST:

2 City Clerk  
3 City of Temecula

4 By: \_\_\_\_\_

5 Dated: \_\_\_\_\_

6  
7 ATTEST:

8 City Clerk  
9 City of Wildomar

10 By: \_\_\_\_\_

11 Dated: \_\_\_\_\_

12  
13 ATTEST:

14 *Kecia Harper-Them*  
15 Clerk of the Board  
16 County of Riverside

17 By: *K. Thompson* Deputy  
18  
19

20 Dated: SEP 25 2012

CITY OF TEMECULA

By \_\_\_\_\_  
Mayor

CITY OF WILDOMAR

By \_\_\_\_\_  
Mayor

COUNTY OF RIVERSIDE

By *[Signature]*  
Chairman of the Board of Supervisors  
JOHN TAVAGLIONE

FORM APPROVED COUNTY COUNSEL  
BY: *[Signature]* 9/18/12  
MARSHAL VICTOR DATE

