

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

922



FROM: Executive Office

SUBMITTAL DATE:
 January 15, 2015

SUBJECT: Approval of Implementation Agreement for Provision of Property Assessed Clean Energy (PACE) Program Within Unincorporated Eastern Riverside County, District 4, [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and execute the Implementation Agreement between County of Riverside and Western Riverside Council of Governments for the Provision of Property Assessed Clean Energy (PACE) Program within Unincorporated Eastern Riverside County.

(Background commences on page 2)

Departmental Concurrence

Alex Gann

Alex Gann
 Deputy County Executive Officer

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: N/A	Budget Adjustment: N/A
	For Fiscal Year: 14/15

C.E.O. RECOMMENDATION:

APPROVE

BY: *George A. Johnson*
 George A. Johnson

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.:

District: 4

Agenda Number:

3-3

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

FORM 11: : Approval of Implementation Agreement for Provision of Property Assessed Clean Energy (PACE) Program Within Unincorporated Eastern Riverside County, District 4, [\$0]

DATE: January 15, 2015

PAGE: 2 of 3

BACKGROUND:

Summary (continued)

Assembly Bill (AB) 811 was signed into law on July 21, 2008, and AB 474, effective January 1, 2010, amended Chapter 29 of Part 3 of Division 7 of the Streets & Highways Code of the State of California ("Chapter 29") and authorizes a legislative body to designate an area within which authorized public officials and free and willing property owners may enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources, energy efficiency, and/or water conservation improvements that are permanently fixed to real property, as specified. The financing for these improvements has come to be known as PACE, which stands for Property Assessed Clean Energy.

The HERO Program (for PACE financing) has been very successful in Western Riverside County, since its launch in late 2011; the Program has approved over \$130 million in applications and has funded over \$30 million in projects. To date, 209 jurisdictions in California have approved the HERO Program for their residents. Because of its success, the California HERO Program is now being offered to provide unincorporated areas in eastern Riverside County with a turnkey program that saves significant time, cost and local resources that would otherwise be needed to develop a new local program.

At their December 1, 2014 meeting, the Coachella Valley Association of Governments (CVAG) Executive Committee approved an agreement between CVAG, Renovate America and the Western Riverside Council of Governments to provide for a HERO program for residential property owners in the Coachella and Palo Verde Valleys, including all of eastern Riverside County.

If a property owner chooses to participate in the HERO program, the installed improvements will be financed by the issuance of bonds by a joint powers authority, the Western Riverside Council of Governments (WRCOG). The bonds are secured by a voluntary contractual assessment levied on such owner's property, with no recourse to the local government or other participating jurisdictions. Participation in the program is 100% voluntary. Property owners who wish to participate in the program agree to repay the amount borrowed through the voluntary contractual assessment collected together with their property taxes. This financing is available for eligible improvements on both residential and non-residential properties.

The benefits to the property owner include:

- **Eligibility:** In today's economic environment, alternatives for property owners to finance renewable energy/energy efficiency/water efficiency improvements or electric vehicle charging infrastructure may not be available. As such many property owners do not have financing options available that would provide funding for improvements that lower their utility bills.
- **Savings:** Energy prices continue to rise and selecting in energy efficient, water efficient and renewable energy improvements reduces utility bills.
- **100% voluntary.** Property owners can choose to participate in the program at their discretion. Improvements and properties must meet eligibility criteria in order to qualify for financing.
- **Payment obligation stays with the property.** Under Chapter 29, a voluntary contractual assessment stays with the property upon transfer of ownership. Certain residential conforming mortgage providers will, however, require the assessment be paid off at the time the property is refinanced or sold.
- **Prepayment option.** The property owner can choose to pay off the assessments at any time, subject to applicable prepayment penalties.
- **Customer oriented program.** Part of the success of the program is the prompt customer service. Committed funding partners provide funding promptly upon project completion resulting in both property owner and contactor satisfaction.

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PAGE: 3 of 3

The benefits to the County include:

- Increase local jobs.
- An increase in property values (energy efficient homes and buildings are worth more money).
- An increase in sales, payroll and property tax revenue
- As in conventional assessment financing, the County is not obligated to repay the bonds or to pay any delinquent assessments levied on the participating properties.
- All California HERO Program and assessment administration, bond issuance and bond administration functions are handled by California HERO. Little, if any, County staff time is needed to participate in the California HERO Program.

Approval of the Implementation Agreement for Provision of Property Assessed Clean Energy (PACE) Program (Agreement) Within Unincorporated Eastern Riverside County will make the California HERO Program available to owners of property within unincorporated eastern Riverside County to finance renewable energy, energy efficiency and water efficiency improvements and electric vehicle charging infrastructure. The County is a member of CVAG as well as WRCOG, and CVAG has contracted with WRCOG and Renovate America, Inc. to provide the California HERO program to its member agencies, whereby portions of the administration of the California HERO Program in Eastern Riverside County shall be delegated to CVAG.

No fiscal impact to the County's general fund will be incurred by consenting to the inclusion of properties within the County limits in the California HERO Program. All California HERO Program administrative costs are covered through an initial administrative fee included in the property owner's voluntary contractual assessment and an annual administrative fee which is also collected on the property owner's tax bill.

Impact on Citizens and Businesses

Approval and execution of the Agreement will allow residents and businesses in unincorporated eastern Riverside County to participate in the California HERO program.

**IMPLEMENTATION AGREEMENT BETWEEN COUNTY OF RIVERSIDE AND
WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS FOR THE PROVISION OF
PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM WITHIN
UNINCORPORATED EASTERN RIVERSIDE COUNTY**

This Implementation Agreement (“Implementation Agreement”) is made and entered into on the ___ day of _____, 2015, by the County of Riverside (“County”) and the Western Riverside Council of Governments (“WRCOG”) (collectively the “Parties”).

RECITALS

WHEREAS, WRCOG is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the “Joint Exercise of Powers Act”) and the Joint Power Agreement entered into on April 1, 1991, as amended from time to time (the “WRCOG JPA”); and

WHEREAS, Chapter 29 of the Improvement Bond Act of 1911, being Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (“Chapter 29”) authorizes cities, counties, and cities and counties to establish voluntary contractual assessment programs, commonly referred to as a Property Assessed Clean Energy (“PACE”) program, to fund various renewable energy sources, energy and water efficiency improvements, and electric vehicle charging infrastructure (the “Improvements”) that are permanently fixed to residential, commercial, industrial, agricultural or other real property; and

WHEREAS, the County is a signatory to and a member agency under the WRCOG JPA; and

WHEREAS, WRCOG has established a PACE program known as the “California HERO Program” pursuant to Chapter 29 as now enacted or as such legislation may be amended hereafter, which authorizes the implementation of a PACE financing program for cities and county throughout the state; and

WHEREAS, the County desires to allow owners of property within Unincorporated Eastern Riverside County, as defined herein, to participate in the California HERO Program and to allow WRCOG to conduct proceedings under Chapter 29 to finance Improvements to be installed on such properties; and

WHEREAS, Article VIII of the WRCOG JPA permits any WRCOG member agency, when authorized by the Executive Committee, to execute an Implementation Agreement for the purpose of authorizing WRCOG to implement, manage and administer area-wide and regional programs in the interest of the local public welfare; and

WHEREAS, the WRCOG JPA permits WRCOG, when authorized by an Implementation Agreement, to make and enter into such contracts, incur such debts and obligations, assess contributions from the members, and perform such other acts as are necessary to the accomplishment of the purposes of such agreement; and

WHEREAS, WRCOG and County desire to enter into the Implementation Agreement in order to authorize WRCOG to implement and administer the California HERO Program within the Unincorporated Eastern Riverside County on behalf of the County; and

WHEREAS, the Implementation Agreement sets forth the rights, obligations and duties of the County and WRCOG with respect to the implementation of the California HERO Program within the Unincorporated Eastern Riverside County.

MUTUAL UNDERSTANDINGS

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

1. Boundaries of the California HERO Program within County Jurisdiction. County shall determine and notify WRCOG of the boundaries of the area within County's jurisdiction within which contractual assessments may be entered into under the California HERO Program (the "Program Boundaries"). Those boundaries are referred to herein as the "Unincorporated Eastern Riverside County."

2. Determination of Eligible Improvements. WRCOG shall determine the types of distributed generation renewable energy sources, energy efficiency or water conservation improvements, electric vehicle charging infrastructure or such other improvements as may be authorized pursuant to Chapter 29 (the "Eligible Improvements") that will be eligible to be financed under the California HERO Program.

3. Establishment of California HERO Program. WRCOG will undertake such proceedings pursuant to Chapter 29 as shall be legally necessary to enable WRCOG to make contractual financing of Eligible Improvements available to eligible property owners with the California HERO Program Boundaries.

4. Financing the Installation of Eligible Improvements. WRCOG shall develop and implement a plan for the financing of the purchase and installation of the Eligible Improvements under the California HERO Program.

5. Ongoing Administration. WRCOG shall be responsible for the ongoing administration of the California HERO Program, including but not limited to producing education plans to raise public awareness of the California HERO Program, soliciting, reviewing and approving applications from residential and commercial property owners participating in the California HERO Program, establishing contracts for residential, commercial and other property owners participating in such program, establishing and collecting assessments due under the California HERO Program, adopting and implementing any rules or regulations for the PACE program, and providing reports as required by Chapter 29.

The County will not be responsible for the conduct of any proceedings required to be taken under Chapter 29; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Bonds or any other bonds issued in connection with the California HERO Program.

6. Phased Implementation. The Parties recognize and agree that implementation of the California HERO Program as a whole can and may be phased as additional other cities and counties execute similar agreements. The County entering into this Implementation Agreement will obtain the benefits of and incur the obligations imposed by this Implementation Agreement in its jurisdictional area, irrespective of whether cities or counties enter into similar agreements.

7. No Impact on WRCOG Western County PACE Program. This Implementation Agreement shall not impact the WRCOG PACE Program provided in Western Riverside County under Implementation Agreement (the "Western County Program").

8. Term. The term of this Implementation Agreement shall be for twenty (20) years unless modified or extended pursuant to this Agreement.

9. Termination. Either WRCOG or the County may terminate from this Implementation Agreement upon six (6) months written notice to the other party to the address noted herein. Termination from this Agreement shall not impact the County's participation in the Western County Program or any proceedings previously completed under this Implementation Agreement.

10. Environmental Review. WRCOG shall be the lead agency under the California Environmental Quality Act for any environmental review that may be required in implementing or administering the California HERO Program under this Implementation Agreement.

11. Cooperative Effort. County shall cooperate with WRCOG by providing information and other assistance in order for WRCOG to meet its obligations hereunder. County recognizes that one of its responsibilities related to the California HERO Program will include any permitting or inspection requirements as established by the County.

12. Notice. Any and all communications and/or notices in connection with this Agreement shall be either hand-delivered or sent by United States first class mail, postage prepaid, and addressed as follows:

WRCOG:

Western Riverside Council of Governments
4080 Lemon Street, 3rd Floor. MS1032
Riverside, CA 92501-3609
Att: Executive Director

COUNTY:

Riverside County Executive Office
4080 Lemon Street, 4th Floor
Riverside, CA 92501
Att: Alex Gann, Deputy County Executive Officer

13. Entire Agreement. This Implementation Agreement constitutes the entire agreement among the Parties pertaining to the subject matter hereof. This Implementation Agreement supersedes any and all other agreements, either oral or in writing, among the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by the other Party or anyone acting on behalf of the other Party that is not embodied herein.

14. Successors and Assigns. This Implementation Agreement and each of its covenants and conditions shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns. A Party may only assign or transfer its rights and obligations under this Agreement with prior written approval of the other Party, which approval shall not be unreasonably withheld.

15. Attorney's Fees. If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Implementation Agreement, each Party to the litigation shall bear its own attorney's fees and costs.

16. Governing Law. This Implementation Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. No Third Party Beneficiaries. This Implementation Agreement shall not create any right or interest in the public, or any member thereof, as a third party beneficiary hereof, nor shall it authorize anyone not a Party to this Implementation Agreement to maintain a suit for personal injuries or property damages under the provisions of this Implementation Agreement. The duties, obligations, and responsibilities of the Parties to this Implementation Agreement with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

18. Severability. In the event one or more of the provisions contained in this Implementation Agreement is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this Implementation Agreement and the remaining parts of this Implementation Agreement shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this Implementation Agreement.

19. Headings. The paragraph headings used in this Implementation Agreement are for the convenience of the Parties and are not intended to be used as an aid to interpretation.

20. Amendment. This Implementation Agreement may be modified or amended by the Parties at any time. Such modifications or amendments must be mutually agreed upon and executed in writing by both Parties. Verbal modifications or amendments to this Implementation Agreement shall be of no effect.

21. Effective Date. This Implementation Agreement shall become effective upon the execution thereof by the Parties hereto.

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

DATED: _____

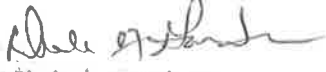
COUNTY OF RIVERSIDE

**WESTERN REGIONAL COUNCIL
OF GOVERNMENTS**

By: _____
Supervisor Marion Ashley,
Chairman, Board of Supervisors

By: _____
Executive Director

APPROVED AS TO FORM:

By: 

Gregory P. Priamos, County Counsel