

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

229



FROM: Economic Development Agency / Facilities Management

SUBMITTAL DATE:
March 31, 2011

SUBJECT: Resolution No. 2011-094, Revising Resolution No. 2009-353, Consenting to the Addition of Water Efficiency Improvements to Previously Referenced Resolution

RECOMMENDED MOTION: That the Board of Supervisors:

1. Adopt Resolution No. 2011-094, revising resolution 2009-353; and
2. Approve and authorize the Chairman to execute the attached Implementation Agreement to Implement a Contractual Assessment Program to Finance the Installation of Distributed Generation Renewable Energy Sources or Energy or Water Efficiency Improvements.

BACKGROUND: (Commences on Page 2)


Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2010/11

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

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

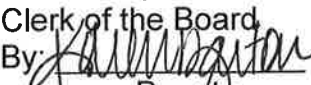
County Executive Office Signature

BY 
Jennifer L. Sargent

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Ashley 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: April 12, 2011
xc: EDA, WRCOG

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

Prev. Agn. Ref.: 3.12 of 12/8/09

District: ALL

Agenda Number: 3.27

FORM APPROVED COUNTY COUNSEL
BY Dale A. Gardner 4/6/11 DATE
Departmental Concurrence

Dept't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

BACKGROUND:

AB 811 was chaptered in July of 2008. It authorizes local governments to establish voluntary contractual assessment programs to fund an array of conservation and renewable energy projects for residential and commercial property owners. This legislation allows cities and counties to provide up-front low interest loans to fund improvements, provided property owners voluntarily agree to a property tax assessment for the loan repayment.

In Western Riverside County, the Western Riverside Council of Governments (WRCOG) has been developing an AB 811 program in partnership with all of its member agencies. On December 8, 2009, the Board of Supervisors adopted Resolution No. 2009-353, agreeing to participate in WRCOG's Contractual Assessment Program.

Subsequent to the adoption of Resolution No. 2009-353, AB 474 was enacted into law and amended Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code to add water efficiency improvements to the improvements authorized to be financed through a contractual assessment program. WRCOG has proposed to add water efficiency improvements to the improvements previously authorized in Resolution No. 2009-353.

In order to implement this program, the county and WRCOG need to enter into the attached Implementation Agreement which outlines more detailed provisions of the program to be offered in the unincorporated areas of Western Riverside County.

Staff recommends approval of the motions listed above.

2
3
4 RESOLUTION NO. 2011-094

5
6 A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE,
7 AMENDING RESOLUTION 2009-353 BY MODIFYING THE COUNTY'S CONSENT TO THE
8 INCLUSION OF PROPERTIES WITHIN THE COUNTY'S UNINCORPORATED AREA IN THE
9 WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS' CONTRACTUAL ASSESSMENT
10 PROGRAM BY CONSENTING TO THE ADDITION OF WATER EFFICIENCY IMPROVEMENTS
11 TO THE IMPROVEMENTS AUTHORIZED TO BE FINANCED THROUGH SUCH PROGRAM

12 WHEREAS, the Board of Supervisors for the County of Riverside did, by the adoption of
13 Resolution No. 2009-353 ("Resolution Granting Consent"), grant its consent to the inclusion of all
14 properties in the unincorporated area with the County in the Western Riverside Council of Governments
15 ("WRCOG") contractual assessment program (the "Program") to assist property owners in financing the
16 cost of installing distributed generation renewable energy sources or making energy efficient
17 improvements that are permanently affixed to their properties; and

18 WHEREAS, WRCOG is proposing to establish and implement the Program pursuant to
19 Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (the "Act"); and

20 WHEREAS, subsequent to the adoption of the Resolution Granting Consent, AB 474 was
21 enacted into law and amended the Act to add water efficiency improvements to the improvements
22 authorized to be financed through a contractual assessment program;

23 WHEREAS, WRCOG has proposed to add water efficiency improvements to the
24 improvements authorized to be financed through the Program; and

25 WHEREAS, the Board has determined that the addition of water efficiency
26 improvements to the improvements authorized to be financed through the WRCOG Program would be in
27 the best interest of the County.
28

FORM APPROVED COUNTY COUNSEL

BY: *Mary Gardner* DATE: 4/6/11

DATE: 4/6/11
BY: DALE A. GARDNER

1 NOW, THEREFORE, BE IT RESOLVED, FOUND, DETERMINED AND ORDERED
2 by the Board of Supervisors of the County of Riverside assembled in regular session on April 12, 2011
3 that:

4 1. The second Whereas clause on page 1 of Resolution No. 2009-353 (lines
5 12 through 15) is amended to read as follows:

6 "WHEREAS, in Chapter 29 of Part 3 of Division 7 of the California Streets and
7 Highways Code (the 'Act'), the Legislature has authorized cities and counties to assist property
8 owners in financing the cost of installing distributed generation renewable energy sources and
9 water efficiency improvements or making energy improvements or water efficiency
10 improvements that are permanently fixed to their property ('the Improvements') through a
11 contractual assessment program; and"

12 2. Then BE IT RESOLVED, FOUND, DETERMINED AND ORDERED
13 paragraph on page 2 of Resolution No. 2009-353 (lines 12 through 15) is amended to read as
14 follows:

15 "BE IT RESOLVED, FOUND, DETERMINED AND ORDERED by the Board
16 of Supervisors of the County of Riverside, in regular session assembled on December 8, 2009,
17 that is agrees to participate in WRCOG'S Program to assist property owners in financing the cost
18 of installing distributed generation renewable energy sources and water efficiency improvements
19 or making energy efficiency improvements."

20 3. Exhibit A to Resolution No. 2009-353 is deleted in its entirety and
21 Exhibit A attached to this resolution (WRCOG RESOLUTION OF INTENTION Amended
22 March 1, 2010) shall be substituted as Exhibit A to resolution No. 2009-353.

23 4. Except as provided in paragraphs 1-3 above, all other provisions of the
24 Resolution No. 2009-353 shall remain in full force and effect.

25 5. The Clerk of the Board of Supervisors is directed to send a certified copy
26 of this resolution to the Secretary of the WRCOG Executive Committee.

27 6. This Resolution shall be effective immediately upon its adoption.

28 ROLL CALL:

Ayes: Buster, Tavaglione, Stone, Benoit, and Ashley
Nays: None
Absent: None

The foregoing is certified to be a true copy of a
resolution duly adopted by said Board of Super-
visors on the date therein set forth.

KECIA HARPER-IHEM Clerk of said Board

By _____ Deputy
04.12.11 3.27

EXHIBIT A

WRCOG RESOLUTION OF INTENTION
Amended March 1, 2010

Resolution No. 09-10



Western Riverside Council of Governments

County of Riverside • City of Banning • City of Beaumont • City of Calimesa • City of Canyon Lake • City of Corona • City of Hemet • City of Lake Elsinore
City of Menifee • City of Moreno Valley • City of Murrieta • City of Norco • City of Perris • City of Riverside • City of San Jacinto • City of Temecula
City of Wildomar • Eastern Municipal Water District • Western Municipal Water District

WRCOG RESOLUTION OF INTENTION Amended March 1, 2010

RESOLUTION NUMBER 09-10

RESOLUTION OF THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS DECLARING ITS INTENTION TO FINANCE DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES AND ENERGY AND WATER EFFICIENCY IMPROVEMENTS THROUGH THE USE OF VOLUNTARY CONTRACTUAL ASSESSMENTS PURSUANT TO CHAPTER 29 OF PART 3 OF DIVISION 7 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE AND SETTING A PUBLIC HEARING THEREON

WHEREAS, pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (the "Act"), the Joint Powers Agreement of the Western Riverside Council of Governments (WRCOG) originally made and entered into April 1, 1991, as further amended to date, and the Implementation Agreement by and between WRCOG and the affected Member Agencies related to the Program (defined below), WRCOG proposes to establish a voluntary contractual assessment program to assist property owners within the jurisdictional boundaries of WRCOG's member agencies (each, a "Member Agency" and, together, the "Member Agencies") with the cost of installing distributed generation renewable energy sources or making energy or water efficient improvements that are permanently fixed to their property ("Program"); and

WHEREAS, in the opinion of this Executive Committee, property in the Member Agencies would be benefited by including such properties in the Program, subject to the approval/consent of the City Council or Board of any Member Agency; and

WHEREAS, WRCOG is willing to extend the program into the incorporated or unincorporated areas of any Member Agency provided that the governing body of such Member Agency and WRCOG reach agreement on any conditions on operation of the Program requested by such Member Agency, prior to the Program being offered in such jurisdiction;

NOW, THEREFORE, BE IT RESOLVED by the Executive Committee of the Western Riverside Council of Governments as follows:

Section 1. The Executive Committee hereby finds and declares all of the following:

- A. All of the above recitals are true and correct,
- B. Energy conservation efforts, including the promotion of energy efficiency improvements to residential, commercial, industrial, agricultural or other real property, can reduce energy consumption, energy bills, and maximize existing energy production and transmission facilities.
- C. Energy efficiency improvements include improvements that promote water efficiency. The California Energy Commission prepared a staff report in November 2005 regarding California's water-energy relationship. The report states:

"As California continues to struggle with its many critical energy supply and infrastructure challenges, the state must identify and address the points of highest stress. At the top of this list is California's water-energy relationship; water-related energy use consumes 19 percent of the state's electricity, 30 percent of its natural gas, and 88 billion gallons of diesel fuel every year—and this demand is growing . . . , [A] major portion of the solution is closer coordination between the water and energy sectors . . . The state can meet energy and demand reduction goals . . . by simply recognizing the value of the energy saved for each unit of water saved."

The direct relationship between water use and energy use means that improvements to residential, commercial, industrial, agricultural or other real property which promote water efficiency also result in energy efficiency.

D. Water conservation efforts, including the promotion of water efficiency improvements to residential, commercial, industrial, agricultural or other real property, are necessary to address the issue of chronic water shortages in California.

E. The upfront cost of making residential, commercial, industrial, agricultural or other real property more energy or water efficient prevents many property owners from making those improvements. To make those improvements more affordable and to promote the installation of those improvements, the Legislature has authorized an alternative procedure pursuant to the Act for authorizing voluntary contractual assessments to finance the cost of energy or water efficiency improvements.

F. A public purpose will be served by a voluntary contractual assessment program whereby WRCOG is authorized to finance the installation of distributed generation renewable energy sources and energy and water efficiency improvements that are permanently fixed to residential commercial, industrial, agricultural or other real property.

G. Property located in the jurisdictional territory of Member Agencies within WRCOG will benefit from inclusion in the Program; and, subject to the approval/consent of the governing board of any Member Agency, including such property in the Program will serve the public purpose of promoting conservation efforts and addressing the issue of global climate change.

Section 2. The Executive Committee hereby determines that it would be convenient, advantageous and in the public interest to designate the entire area of the Member Agencies as an area within which authorized WRCOG officials and property owners may enter into voluntary contractual assessments pursuant to the Act to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to real property.

Section 3. The Executive Committee hereby declares that while the proposed distributed generation renewable energy sources and energy and water efficiency improvements are of such a character that they directly and peculiarly affect property in the Member Agency jurisdictions within WRCOG and that the purposes sought to be accomplished by establishing a program to finance the installation of such improvements can best be accomplished by a single,

comprehensive program rather than by separate programs administered by each Member Agency. Therefore, WRCOG proposes to make voluntary contractual assessment financing available to the owners of property in any Member Agency to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to real property.

Section 4. The Executive Director of WRCOG (the "Executive Director") shall prepare or direct the preparation of, as part of the report required in Section 8 of this Resolution, and update, as the Executive Director deems necessary, a list of the distributed generation renewable energy sources and energy and water efficiency improvements that may be financed through WRCOG's voluntary contractual assessment financing program. The types of distributed generation renewable energy sources and energy and water efficiency improvements eligible for financing through voluntary contractual assessments include, but are not limited to: high efficiency air conditioning and ventilation systems, high performance windows, high efficiency and tankless water heating equipment, photovoltaic and thermal solar energy systems, cool roof systems, geothermal exchange heat pumps, zoning control and energy management control systems, high efficiency irrigation pumps and controls, natural gas fuel cells, wind and geothermal energy systems, and wall, ceiling and roof insulation upgrades.

Section 5. The area within which voluntary contractual assessments may be entered into pursuant to the Act is all land within the defined boundaries of the Member Agencies of WRCOG.

Section 6. No voluntary contractual assessment will be levied on a parcel situated within a Member Agency area and no assessment contract will be entered into with the owner(s) of any such parcel unless and until (1) the City Council or Board of such Member Agency has, prior to the adoption of this resolution of intention, adopted a resolution consenting to inclusion of parcels within such Member Agency in the voluntary contractual assessment program and authorizing WRCOG to levy assessments, to impose the voluntary contractual assessment liens and to finance the eligible improvement on such parcels; and (2) the City Council or Board of such Member Agency has entered into an agreement with addressing any conditions such Member Agency wishes to impose on participating properties in its jurisdiction.

Section 7. The proposed arrangements for financing the voluntary contractual assessment financing program are briefly described as follows: WRCOG may issue bonds, notes, receive lines of credit, and enter into other financing instruments or relationships pursuant to the Act, the principal and interest of which would be repaid by voluntary contractual assessments. Alternatively or in the interim, WRCOG, may advance its own funds to finance work, or enter into agreements with other public entities, including but not limited to the Member Agencies within WRCOG to advance their funds to WRCOG to finance work. Such advances shall be repaid through voluntary contractual assessments and WRCOG may sell bonds or other forms of indebtedness to reimburse such advances. The proposed financing arrangements may include the lease-purchase of public facilities pursuant to a lease or other contractual arrangement with a public financing authority or non profit entity or other financing elements as may be determined necessary or useful to the financing of the voluntary contractual assessment program.

In the event improvement bonds will be issued pursuant to Streets and Highways Code Section 5898.28 to represent assessments, all of the following will apply to the extent not in conflict with the Act:

- (a) Provision is hereby made for the issuance of improvement bonds, in one or more series;
- (b) Notice is hereby given that serial bonds or term bonds or both to represent unpaid assessments, and to bear interest at the rate of not to exceed 12 percent per year, or such other amount authorized by law, payable semiannually, shall be issued hereunder in one or more series in the manner provided by the Division 10 (to the extent not in conflict with the Act), and the last installment of bonds shall mature a maximum of 39 years from the second day of September next succeeding 12 months from their date.
- (c) WRCOG hereby determines and declares that WRCOG shall not obligate itself to advance available funds from WRCOG treasury to cure any deficiency which may occur in the bond redemption fund.
- (d) WRCOG hereby determines that the principal amount of bonds maturing or becoming subject to mandatory prior redemption each year shall be other than an amount equal to an even annual proportion of the aggregate principal amount of the bonds, and the amount of principal maturing or becoming subject to mandatory prior redemption in each year plus the amount of interest payable in that year shall be an aggregate amount that is substantially equal each year, except for the moneys falling due on the first maturity or mandatory prior redemption date of the bonds which shall be adjusted to reflect the amount of interest earned from the date when the bonds bear interest to the date when the first interest is payable on the bonds.
- (e) With respect to the procedures for the collection of assessments and the advance retirement of bonds, WRCOG proposes to proceed under the provisions of Part 11.1 of Division 10 (commencing with Section 8760 of the Streets and Highways Code).

WRCOG shall determine the creditworthiness of a property owner to participate in the financing of authorized improvements based upon criteria to be developed by the Executive Director in consultation with WRCOG's financing team.

Section 8. The Executive Committee hereby directs the Executive Director to prepare, or direct the preparation of, and file with the Executive Committee a report pursuant to Section 5898.22 of the California Streets and Highways Code at or before the time of the public hearing described in Section 9 hereof (the "Report"). The Report shall contain all of the following:

- (a) A map showing the boundaries of the territory within which voluntary contractual assessments are proposed to be offered.
- (b) A draft contract specifying the terms and conditions that would be

agreed to by a property owner within the voluntary contractual assessment area and WRCOG.

- (c) A statement of WRCOG policies concerning voluntary contractual assessments including all of the following:
 - (i) Identification of types of facilities, distributed generation renewable energy sources, or energy or water efficiency improvements that may be financed through the use of voluntary contractual assessments;
 - (ii) Identification of WRCOG official authorized to enter into voluntary contractual assessments on behalf of WRCOG,
 - (iii) A maximum aggregate dollar amount of voluntary contractual assessments; and
 - (iv) A method for setting requests from property owners for financing through voluntary contractual assessments in priority order in the event that requests appear likely to exceed the authorization amount.
- (d) A plan for raising a capital amount required to pay for work performed pursuant to voluntary contractual assessments. The plan may include amounts to be advanced by WRCOG through funds available to from any source. The plan may include the sale of a bond or bonds or other financing relationship pursuant to Streets and Highways Code Section 5898.28. The plan shall include a statement of or method for determining the interest rate and time period during which contracting property owners would pay any assessment. The plan shall provide for any reserve fund or funds. The plan shall provide for the apportionment of all or any portion of the costs incidental to financing, administration, and collection of the voluntary contractual assessment program among the consenting property owners and WRCOG,

Section 9. The Executive Committee shall supplement this resolution by the adoption of a resolution to call a public hearing to be held on a date and time to be set forth in such resolution in the First Floor Board Chambers, County of Riverside Administrative Center, 4080 Lemon Street, Riverside, California, on the proposed Report and the Program. At the public hearing all interested persons may appear and hear and be heard and object to or inquire about the proposed Program or any of its particulars.

Such supplemental resolution shall direct the Secretary of the Executive Committee is hereby directed to provide notice of the public hearing by publishing this Resolution once a week for two weeks, pursuant to Section 6066 of the California Government Code, and the first publication shall occur not later than 20 days before the date of such hearing.

Section 10. The voluntary contractual assessments levied pursuant to the Act, and the interest and any penalties thereon, shall constitute a lien against the lots and parcels of and on which they are made, until they are paid. The voluntary

contractual assessments shall be collected in the same manner and at the same time as the general taxes of WRCOG on real property are payable and shall be subject to the same penalties, remedies and lien priorities in the event of delinquency and default. As a cumulative remedy, if any voluntary contractual assessment or installment thereof, or of any interest thereon, together with any penalties, costs, fees and other accrued charges are not paid when due, the Executive Committee may order that the same be collected by an action brought in superior court to foreclose the lien thereof as provided in Division 10 of the California Streets and Highways Code,

Section 11. The Executive Committee hereby directs the Executive Director to determine and discuss in the Report what additional fees, if any, will be charged, annually, by the Auditor Controller's office for incorporating the proposed voluntary contractual assessments on the tax roll.

Section 12. Pursuant to Section 5898.24(b) of the Act, the Executive Committee hereby orders the Executive Director to cause written notice of the proposed voluntary contractual assessment program within WRCOG to be provided to all water and electric providers within the boundaries of WRCOG not less than 60 days prior to the adoption of the resolution approving the Report.

Section 13. Pursuant to Section 5898.24(c)(1) of the Act, the Executive Committee hereby designates the Executive Director, or his or her designee, as the responsible official for annually preparing the current roll of voluntary assessment obligations by assessor's parcel number on property subject to a voluntary contractual assessment.

Section 14. Pursuant to Section 5898.24(c)(2), the Executive Committee hereby appoints the Executive Director, or his or her designee, to establish procedures to promptly respond to inquiries concerning current or future estimated liability for a voluntary contractual assessment.

Section 15. This resolution shall take effect immediately upon its adoption and shall supersede and replace Resolution Number 07-10.


PASSED AND ADOPTED at a Meeting of the Executive Committee of the Western Riverside Council of Governments held this 1st day of March, 2010.


Robin Lowe, Chair
WRCOG Executive Committee

AYES: 20

NOES: 0

ABSENT: 2


Rick Bishop, Secretary
WRCOG Executive Committee

ABSTAIN: 0

CLERK'S COPY

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

1 Thank you.

IMPLEMENTATION AGREEMENT

**BETWEEN THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS
AND THE COUNTY OF RIVERSIDE TO IMPLEMENT A CONTRACTUAL
ASSESSMENT PROGRAM TO FINANCE THE INSTALLATION OF
DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES
OR ENERGY OR WATER EFFICIENCY IMPROVEMENTS**

2
3
4
5
6
7
8 This Implementation Agreement ("Agreement") is entered into as of April 12,
9 2011 between the WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS
10 ("WRCOG"), a joint powers authority formed under Government Code sections 6500 et
11 seq., and the COUNTY OF RIVERSIDE ("Member Agency"), a public agency formed
12 under the laws of the State of California. WRCOG and the Member Agency are
13 sometimes collectively referred to in this Agreement as the "Parties" or individually as a
14 "Party."

RECITALS

15
16 **WHEREAS**, various cities within Riverside County and the County of Riverside
17 entered into a Joint Powers Agreement on April 1, 1991, as amended from time to time,
18 to create WRCOG ("JPA"); and

19 **WHEREAS**, Member Agency is a signatory to the JPA; and

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

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

28 **WHEREAS**, on June 30, 2008, the State Legislature enacted Assembly Bill 811

2011-4-107092 1

APR 12 2011 3.27

1 to amend Chapter 29 of Part 3 of Division 7 of the California Streets and Highways
2 Code (commencing with Section 5898.12) ("Chapter 29") to permit cities and counties to
3 assist property owners who desire to undertake energy-efficient improvements, such as
4 high-efficiency air conditioners, or install renewable energy projects, such as solar
5 panels; and

6 **WHEREAS**, on September 10, 2009, the State Legislature, intending to address
7 chronic water needs throughout California by permitting voluntary individual efforts to
8 improve water efficiency, enacted Assembly Bill No. 474, which became effective on
9 January 1, 2010, to further amend Chapter 29 to authorize Chapter 29 to be used to
10 finance the installation of water efficiency improvements that are permanently fixed to
11 residential, commercial, industrial, agricultural, or other real property, including but not
12 limited to, recycled water connections, synthetic turf, cisterns for storm water recovery,
13 and permeable pavement; and

14 **WHEREAS**, WRCOG member agencies have the common power to implement
15 and administer contractual assessment programs pursuant to Chapter 29 (the
16 "Program") to finance installation of distributed generation renewable energy sources or
17 energy or water efficiency improvements within their jurisdictions; and

18 **WHEREAS**, WRCOG and Member Agency desire to enter into this Agreement in
19 order to authorize WRCOG to implement and administer the Program on behalf of
20 Member Agency; and

21 **WHEREAS**, the Executive Committee has authorized the Member Agency to
22 enter into this Agreement.

23 **NOW, THEREFORE**, the Parties hereby understand and agree as follows:

24 **AGREEMENT**

25 **Section 1: Establishing the Program**

26 WRCOG will undertake proceedings pursuant to AB 811 to establish the
27 Program to make contractual assessment financing available to eligible property owners
28 within the jurisdictional boundary of Member Agency.

1 **Section 2: Establishing Eligible Improvements**

2 WRCOG shall identify the kinds of distributed generation renewable
3 energy sources or energy or water efficiency improvements that may be financed
4 (“Eligible Improvements”) under the Program.

5 **Section 3: Boundary of Program**

6 WRCOG, in coordination with Member Agency, shall describe the
7 boundaries of the area within which contractual assessments under the Program may
8 be entered into, which may include the entire jurisdictional area of Member Agency or a
9 lesser portion thereof.

10 **Section 4: Financing the Installation of Eligible Improvements**

11 WRCOG shall develop and implement a plan for the financing of the
12 purchase and installation of the Eligible Improvements under the Program.

13 **Section 5: Ongoing Administration**

14 WRCOG shall be responsible for the ongoing administration of the
15 Program, including but not limited to producing education plans to raise public
16 awareness of the Program, soliciting, reviewing and approving applications from
17 residential and commercial property owners participating in the Program, establishing
18 contracts for residential and commercial property owners participating in Program,
19 establishing and collecting assessments due under the Program, and providing reports
20 as required by Chapter 29. The Program will be administered in accordance with
21 WRCOG JPA.

22 **Section 6: Phased Implementation**

23 The Parties recognize and agree that implementation of the Program as a
24 whole can and may be phased as other WRCOG member agencies execute similar
25 Implementation Agreements. The Member Agency entering into this Agreement will
26 obtain the benefits of and incur the obligations imposed by this Agreement in its
27 jurisdictional area, irrespective of whether other WRCOG member agencies enter into
28 similar Implementation Agreements.

1 **Section 7: Term**

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

4 **Section 8: Termination**

5 Upon ninety (90) days written notice, either Party may terminate this
6 Agreement. Termination shall not relieve the Party of its proportionate share of any
7 debts or other liabilities incurred under this Agreement prior to the effective date of the
8 Party's notice of termination.

9 **Section 9: Environmental Review**

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

13 **Section 10: Cooperative Effort**

14 Member Agency shall cooperate with WRCOG by providing information
15 and other assistance in order for WRCOG to meet its obligations hereunder. Member
16 Agency recognizes that one of its responsibilities related to the Program will include any
17 permitting or inspection requirements as established by the Member Agency.

18 **Section 11: Miscellaneous Provisions**

19 11.1 Notice. Any and all communications and/or notices in connection
20 with this Agreement shall be either hand-delivered or sent by United States first class
21 mail, postage prepaid, and addressed as follows:

22
23 WRCOG:
24 Western Riverside Council of Governments
25 4080 Lemon Street, 3rd Floor. MS1032
26 Riverside, CA 92501-3609
27 Att: Executive Director
28

1 COUNTY OF RIVERSIDE:
2 3403 Tenth Street, 5th Floor
3 Riverside, CA 92501
4 Att: Lisa Brandl
5

6 11.2 Entire Agreement. This Agreement, together with the JPA and
7 WRCOG By-laws, constitutes the entire agreement among the Parties. This Agreement
8 supersedes any and all other agreements, either oral or in writing, among the Parties
9 with respect to the subject matter hereof and contains all of the covenants and
10 agreements among them with respect to said matters, and each Party acknowledges
11 that no representation, inducement, promise of agreement, oral or otherwise, has been
12 made by the other Party or anyone acting on behalf of the other Party that is not
13 embodied herein.

14 11.3 Successors and Assigns. This Agreement and each of its
15 covenants and conditions shall be binding on and shall inure to the benefit of the Parties
16 and their respective successors and assigns. A Party may only assign or transfer its
17 rights and obligations under this Agreement with prior written approval of the other
18 Party, which approval shall not be unreasonably withheld.

19 11.4 Attorney's Fees. If any action at law or equity, including any action
20 for declaratory relief is brought to enforce or interpret the provisions of this Agreement,
21 each Party to the litigation shall bear its own attorney's fees and costs.

22 11.5 Governing Law. This Agreement shall be governed by and
23 construed in accordance with the laws of the State of California, as applicable.

24 11.6 No Third Party Beneficiaries. This Agreement shall not create any
25 right or interest in the public, or any member thereof, as a third party beneficiary hereof,
26 nor shall it authorize anyone not a Party to this Agreement to maintain a suit for
27 personal injuries or property damages under the provisions of this Agreement. The
28 duties, obligations, and responsibilities of the Parties to this Agreement with respect to

1 third party beneficiaries shall remain as imposed under existing state and federal law.

2 11.7 Severability. In the event one or more of the provisions contained
3 in this Agreement is held invalid, illegal or unenforceable by any court of competent
4 jurisdiction, such portion shall be deemed severed from this Agreement and the
5 remaining parts of this Agreement shall remain in full force and effect as though such
6 invalid, illegal, or unenforceable portion had never been a part of this Agreement.

7 11.8 Headings. The paragraph headings used in this Agreement are for
8 the convenience of the Parties and are not intended to be used as an aid to
9 interpretation.

10 11.9 Amendment. This Agreement may be modified or amended by the
11 Parties at any time. Such modifications or amendments must be mutually agreed upon
12 and executed in writing by both Parties. Verbal modifications or amendments to this
13 Agreement shall be of no effect.

14 IN WITNESS WHEREOF, THE PARTIES HERETO have executed this
15 Agreement to be in effect as of the date last signed below.

16
17 **WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS**

18
19 By: Kelly A. Bennett
20 Executive Committee Chair
21

Date: 4-13-2011

22 **COUNTY OF RIVERSIDE**


23
24 By: Bob Buster
25 Bob Buster
26 Chairman, Board of Supervisors
27
28

Date: APR 12 2011

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

APPROVED AS TO FORM:


PAMELA J. WALLS
County Counsel

By: 
Dale A. Gardner
Deputy

Date: _____

ATTEST:

KECIA HARPER-IHEM
Clerk of the Board

By: 
Deputy

Date: APR 12 2011