

**EXHIBIT A**  
**[attach Amendment to Joint Exercise of Powers Agreement]**

**AMENDMENT TO THE JOINT POWERS AGREEMENT  
ADDING COUNTY OF CONTRA COSTA AS  
AN ASSOCIATE MEMBER OF THE  
WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS  
TO PERMIT THE PROVISION OF PROPERTY ASSESSED CLEAN ENERGY  
(PACE) PROGRAM SERVICES WITH SUCH COUNTY**

This Amendment to the Joint Powers Agreement (“JPA Amendment”) is made and entered into on the \_\_\_ day of November, 2015, by County of Contra Costa (“County”) and the Western Riverside Council of Governments (“Authority”) (collectively the “Parties”).

**RECITALS**

WHEREAS, Authority 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 “Authority JPA”); and

WHEREAS, as of October 1, 2012, Authority had 18 member entities (the “Regular Members”).

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

WHEREAS, County desires to allow owners of property within its jurisdiction to participate in the California HERO Program and to allow Authority to conduct proceedings under Chapter 29 to finance Improvements to be installed on such properties; and

WHEREAS, this JPA Amendment will permit County to become an associate member of Authority and to participate in California HERO Program for the purpose of facilitating the implementation of such program within the jurisdiction of County; and

WHEREAS, pursuant to Government Code sections 6500 et seq., the Parties are approving this JPA Agreement to allow for the provision of PACE services, including the operation of a PACE financing program, within the unincorporated territory of County; and

WHEREAS, the JPA Amendment sets forth the rights, obligations and duties of County and Authority with respect to the implementation of the California HERO Program within the unincorporated territory of County.

### **MUTUAL UNDERSTANDINGS**

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

#### **JPA Amendment.**

The Authority JPA. County agrees to the terms and conditions of the Authority JPA, attached.

Associate Membership. By adoption of this JPA Amendment, County shall become Associate Member of Authority on the terms and conditions set forth herein and the Authority JPA and consistent with the requirements of the Joint Exercise of Powers Act. The rights and obligations of County as an Associate Member are limited solely to those terms and conditions expressly set forth in this JPA Amendment for the purposes of implementing the California HERO Program within the unincorporated territory of County. Except as expressly provided for by the this JPA Amendment, County shall not have any rights otherwise granted to Authority's Regular Members by the Authority JPA, including but not limited to the right to vote on matters before the Executive Committee or the General Assembly, right to amend or vote on amendments to the Authority JPA, and right to sit on committees or boards established under the Authority JPA or by action of the Executive Committee or the General Assembly, including, without limitation, the General Assembly and the Executive Committee. County shall not be considered a member for purposes of Section 9.1 of the Authority JPA.

Rights of Authority. This JPA Amendment shall not be interpreted as limiting or restricting the rights of Authority under the Authority JPA. Nothing in this JPA Amendment is intended to alter or modify Authority Transportation Uniform Mitigation Fee (TUMF) Program, the PACE Program administered by Authority within the jurisdictions of its Regular Members, or any other programs administered now or in the future by Authority, all as currently structured or subsequently amended.

## **Implementation of California HERO Program within County Jurisdiction.**

Boundaries of the California HERO Program within County Jurisdiction. County shall determine and notify Authority of the boundaries of the unincorporated territory within County's jurisdiction within which contractual assessments may be entered into under the California HERO Program (the "Program Boundaries"), which boundaries may include the entire unincorporated territory of County or a lesser portion thereof.

Determination of Eligible Improvements. Authority 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.

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

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

Ongoing Administration. Authority 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.

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.

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. County entering into this JPA Amendment will obtain the benefits of and incur the obligations imposed by this JPA Amendment in its jurisdictional area, irrespective of whether cities or counties enter into similar agreements.

**Miscellaneous Provisions.**

Withdrawal. County or Authority may withdraw from this JPA Amendment upon six (6) months written notice to the other party; provided, however, there is no outstanding indebtedness of Authority within County. The provisions of Section 6.2 of the Authority JPA shall not apply to County under this JPA Amendment.

Mutual Indemnification and Liability. Authority and County shall mutually defend, indemnify and hold the other party and its directors, officials, officers, employees and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of the willful misconduct or negligent acts, errors or omissions of the indemnifying party or its directors, officials, officers, employees and agents in connection with the California HERO Program administered under this JPA Amendment, including without limitation the payment of expert witness fees and attorneys fees and other related costs and expenses, but excluding payment of consequential damages. Without limiting the foregoing, Section 5.2 of the Authority JPA shall not apply to this JPA Amendment. In no event shall any of Authority's Regular Members or their officials, officers or employees be held directly liable for any damages or liability resulting out of this JPA Amendment.

Environmental Review. Authority shall be the lead agency under the California Environmental Quality Act for any environmental review that may required in implementing or administering the California HERO Program under this JPA Amendment.

Cooperative Effort. County shall cooperate with Authority by providing information and other assistance in order for Authority 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 County.

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

Authority:

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

County:

Contra Costa County Conservation & Development Department  
30 Muir Road  
Martinez, CA 94553

Entire Agreement. This JPA Amendment, together with the Authority JPA, constitutes the entire agreement among the Parties pertaining to the subject matter hereof. This JPA Amendment 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.

Successors and Assigns. This JPA Amendment 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 JPA Amendment with prior written approval of the other Party, which approval shall not be unreasonably withheld.

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 Agreement, each Party to the litigation shall bear its own attorney's fees and costs.

Governing Law. This JPA Amendment shall be governed by and construed in accordance with the laws of the State of California, as applicable.

No Third Party Beneficiaries. This JPA Amendment 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 JPA Amendment to maintain a suit for personal injuries or property damages under the provisions of this JPA Amendment. The duties, obligations, and responsibilities of the Parties to this JPA Amendment with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

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

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

Amendment. This JPA Amendment 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 JPA Amendment shall be of no effect.

Effective Date. This JPA Amendment shall become effective upon the execution thereof by the Parties hereto.

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

**[SIGNATURES ON FOLLOWING PAGES]**