PARTICIPATION IN THE CALIFORNIA HERO PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM

RECOMMENDATION

It is recommended that the City Council adopt a resolution related to the City’s participation in the California HERO Property Assessed Clean Energy (PACE) Program:

1. Approving an Amendment to the Western Riverside Council of Governments Joint Powers Agreement (Exhibit 1 to the Resolution) to add the City of Stockton as an Associate Member;

2. Authorizing the Western Riverside Council of Governments to conduct contractual assessment proceedings and levy contractual assessments within Stockton City boundaries, and authorizing related actions; and

3. Authorizing the City Manager, or his designee, to execute all documents and take any actions necessary and appropriate to carry out the intent of this resolution.

Summary

This agenda item requests authorization for the City to participate in the California HERO PACE Program. The California HERO Program (HERO Program) provides a mechanism for property owners to finance the purchase and installation of renewable energy, energy and water efficiency improvements, and electric vehicle charging infrastructure improvements to their properties with no up-front costs.

In August 2013, the City Council authorized the City to participate in Figtree PACE, a similar program focused on commercial properties. The HERO Program is intended for residential properties and has been very successful in Western Riverside County. Since its launch in late 2011, the Program has funded and completed $188 million in projects, with another $280 million preliminarily approved. Because of its success, the HERO Program is now being offered and utilized to provide additional California cities and counties with a turnkey program that saves significant time, cost, and local resources that would otherwise be needed to develop a new local program. In order to participate in the HERO Program, the City must become an Associate Member of the Western Riverside Council of Governments (WRCOG).

DISCUSSION

Background

In July 2008, the Governor signed AB 811 into law, which took effect immediately. AB 811 authorizes
cities and counties to establish programs to enter into contractual assessment agreements with
property owners to finance the installation of distributed generation renewable energy sources or
energy efficiency improvements that are permanently fixed to real property. An AB 811 program
allows municipalities to make assessment financing available to property owners for the purchase
and installation of such improvements. Property owners repay the financing through an assessment
on their property. The assessments are recorded as a lien against the subject property, entered in the
county tax roll, and are collected on the property owner’s tax bills at the same time and in the same
manner as property taxes.

On August 27, 2013, the City Council approved Resolution 2013-08-27-1201-01 (Attachment A) and
Resolution 2013-08-27-1201-02 (Attachment B), which authorized the City to join the Figtree PACE
program for commercial properties. However, while there is a residential component to the Figtree
program, only limited properties qualify since only residential properties with either a jumbo loan
(defined as loans above the conforming loan limit identified by the Federal Housing Finance Agency
within specific geographic areas; the loan limit for a single-family home in San Joaquin County for
2014 is $417,000) or properties with no mortgage lien can apply under the Figtree program.

The HERO Program, however, has a strong residential component. Since its launch in late 2011, the
HERO Program has approved over $538 million in applications and has funded over $131 million in
projects. Although it started in Western Riverside County, the Program’s success has led to it being
widely-used throughout the state. The HERO Program’s interest rates and program guidelines are
similar to other PACE programs found throughout the state. Examples of municipalities who have
approved the implementation of the HERO Program include the cities of Citrus Heights, San Jose,
Turlock, Fresno, and Modesto, as well as Kern and Merced County.

Present Situation

The HERO Program is being offered to allow property owners within the City to finance renewable
energy, energy and water efficiency improvements, and electric vehicle charging infrastructure on
their property. If a property owner chooses to participate, the installed improvements will be financed
by the issuance of bonds by a joint powers authority, WRCOG. The bonds are secured by a voluntary
contractual assessment levied on the owner’s property, with no recourse to the local government or
other participating jurisdictions. Participation in the program is 100% voluntary, although the
improvements and properties must meet eligibility criteria in order to qualify for financing. Property
owners who wish to participate in the program agree to repay the amount borrowed through the
voluntary contractual assessment collected along with their property taxes.

The assessments are paid on the County property tax bill. If the owner sells the property, the
repayment obligation remains with the property and does not need to be paid off at the time of
escrow closing. However, certain mortgage providers - such as Fannie Mae and Freddie Mac - may
require that the assessment be paid off at the time the property is refinanced or sold, because they
do not purchase properties with PACE liens on them. Some lenders have concerns with PACE
assessments being the superior lien (with the lender’s lien being subordinate). In order to ease these
concerns, the California Office of Administrative Law approved a $10 million dollar loss reserve
program that will reimburse the lender for the PACE payments made while in possession of the
property during foreclosure. The property taxes for properties in the City that do not choose to
participate will not be affected by the Program.
The benefits to property owners include:

- In today’s economic environment, options for property owners to finance renewable energy improvements, energy and water efficiency improvements, or electric vehicle charging infrastructure may not be widely available, if at all. As such, many property owners do not have financing options available to provide funding for these types of improvements.

- Energy prices continue to rise and installation of these improvements reduces utility bills and results in fuel savings.

- The payment obligation stays with the property. Under Chapter 29 of the Streets & Highways Code of the State of California, 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.

- The property owner can choose to pay off the assessments at any time, subject to applicable prepayment penalties.

- 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 contractor satisfaction.

The benefits to the City include:

- Creates energy efficient retrofit, construction, and engineering jobs.

- Potential increase in property values, as energy efficient homes are typically worth more money.

- A potential increase in sales and property tax revenues.

- As in conventional assessment financing, the City is not obligated to repay the bonds or to pay any delinquent assessments levied on the participating properties.

- All HERO Program and assessment administration, bond issuance, and bond administration functions are handled by California HERO. Little City staff time is needed to participate in the Program.

- By leveraging the already successful HERO Program, the City can offer financing to property owners more quickly, easily, and much less expensively than with the establishment of a new local program.

The indebtedness will be issued by WRCOG and secured solely by the assessment revenues from the property liens so the City’s revenues and funds will not be pledged to the repayment of the bonds. All ongoing administration and coordination will be managed by WRCOG. The City can assist in marketing the HERO Program to property owners, though it is not required to do so.
The HERO Program is not an exclusive obligation so the City retains the ability to participate in any future PACE programs that may be developed.

FINANCIAL SUMMARY

There is no negative financial impact to the City of Stockton associated with the participation in the HERO Program and associated membership with the Western Riverside Council of Governments.

Attachment B - Council Resolution 2013-08-27-1201-02