

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SUNNYVALE CONSENTING TO THE INCLUSION OF
PROPERTIES WITHIN THE CITY'S JURISDICTION IN
THE CALIFORNIA HERO PROGRAM TO FINANCE
DISTRIBUTED GENERATION RENEWABLE ENERGY
SOURCES, ENERGY AND WATER EFFICIENCY
IMPROVEMENTS AND ELECTRIC VEHICLE CHARGING
INFRASTRUCTURE AND APPROVING THE
AMENDMENT TO A CERTAIN JOINT POWERS
AGREEMENT RELATED THERETO**

WHEREAS, the Western Riverside Council of Governments ("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 "Act") and the Joint Power Agreement entered into on April 1, 1991, as amended from time to time (the "Authority JPA"); and

WHEREAS, Authority has established the California HERO Program to provide for the financing of renewable energy distributed generation sources, energy and water efficiency improvements and electric vehicle charging infrastructure (the "Improvements") pursuant to Chapter 29 of the Improvement Bond Act of 1911, being Division 7 of the California Streets and Highways Code ("Chapter 29") within counties and cities throughout the State of California that elect to participate in such program; and

WHEREAS, City of Sunnyvale (the "City") is committed to development of renewable energy sources and energy efficiency improvements, reduction of greenhouse gases, protection of our environment, and reversal of climate change; and

WHEREAS, in Chapter 29, the Legislature has authorized cities and counties to assist property owners in financing the cost of installing Improvements through a voluntary contractual assessment program; and

WHEREAS, installation of such Improvements by property owners within the jurisdictional boundaries of the counties and cities that are participating in the California HERO Program would promote the purposes cited above; and

WHEREAS, the City wishes to provide innovative solutions to its property owners to achieve energy and water efficiency and independence, and in doing so cooperate with Authority in order to efficiently and economically assist property owners the City in financing such Improvements; and

WHEREAS, Authority has established the California HERO Program, which is such a voluntary contractual assessment program, as permitted by the Act, the Authority JPA, originally

made and entered into April 1, 1991, as amended to date, and the Amendment to Joint Powers Agreement Adding the City of Sunnyvale as an Associate Member of the Western Riverside Council of Governments to Permit the Provision of Property Assessed Clean Energy (PACE) Program Services within the City (the "JPA Amendment"), by and between Authority and the City, which has been presented to this meeting and is on file with the City Clerk, to assist property owners within the jurisdiction of the City in financing the cost of installing Improvements; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings; the levy and collection of assessments or any required remedial action in the case of delinquencies in the payment of any assessments or the issuance, sale or administration of any bonds issued in connection with the California HERO Program; and

WHEREAS, California HERO Program has agreed to comply with City's operational requirements for PACE providers as set for the Letter of Agreement Regarding Operational Requirements for Proposed Assessed Clean Energy (PACE) Programs in the City of Sunnyvale executed by Western Riverside Council of Governments dated _____, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. This City Council finds and declares that properties in the City's incorporated area will be benefited by the availability of the California HERO Program to finance the installation of the Improvements.
2. This City Council consents to inclusion in the California HERO Program of all of the properties in the jurisdictional boundaries of the City and to the Improvements, upon the request by and voluntary agreement of owners of such properties, in compliance with the laws, rules and regulations applicable to such program; and to the assumption of jurisdiction thereover by Authority for the purposes thereof.
3. The consent of this City Council constitutes assent to the assumption of jurisdiction by Authority for all purposes of the California HERO Program and authorizes Authority, upon satisfaction of the conditions imposed in this resolution, to take each and every step required for or suitable for financing the Improvements, including the levying, collecting and enforcement of the contractual assessments to finance the Improvements and the issuance and enforcement of bonds to represent such contractual assessments.
4. The City Council hereby finds that adoption of this Resolution is not a "project" under the California Environmental Quality Act ("CEQA"), because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4).
5. This City Council hereby approves the JPA Amendment and authorizes the execution thereof by appropriate City officials.

6. The City Council acknowledges that the Authority has entered into an Agreement for Collaborative Services with the Association of Bay Area Governments, of which the City is a member and pursuant to said agreement, Authority has agreed to defend and indemnify the City as a result of acts or omissions by Authority, its officers, agents or employees. Authority shall acknowledge said obligations in writing before commencing any operations within the City and shall provide appropriate proof of insurance upon request of City staff.
7. City staff is authorized and directed to coordinate with Authority staff to facilitate operation of the California HERO Program within the City, and report back periodically to this City Council on the success of such program.
8. This Resolution shall take effect immediately upon its adoption. The City Clerk is directed to send a certified copy of this resolution to the Secretary of the Authority Executive Committee.

Adopted by the City Council at a regular meeting held on _____, 2017, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM:

City Attorney