



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** May 08, 2018
From: Douglas B. Robertson, Town Manager **Item No:** 13
Subject: PACE PROGRAM UPDATE

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

That the Town Council provide direction to Staff.

SUMMARY:

At the 3/13/18 Town Council meeting, after a PACE program presentation by Dustin Reilich of Renovate America, the Town Council suggested that a future item be presented to discuss this program.

BACKGROUND:

At the 3/26/13 Town Council meeting, the Town Council approved the execution of a Memorandum of Understanding with SANBAG (now known as SBCTA) for a Countywide Property Assessed Clean Energy Program (PACE) known as the HERO program. The HERO program allowed for property owners to enter into contractual agreements with SANBAG to finance the installation of eligible renewable energy, energy efficiency, electric vehicle charging infrastructure and water conservation improvements. These improvements were funded by bonds secured by voluntary contractual assessments collected with the property owner's property taxes.

At the 9/22/15 Town Council meeting, Staff brought forth a report recommending that the Town Council adopt Resolution 2015-35 to add the Town to a second PACE program – the California Statewide Communities Development Authority (CSDCA) Open PACE Program. The staff report was pulled from the consent agenda for discussion. It was the consensus of the Town Council to continue the item to the next meeting (10/27/15) to allow a presentation by SANBAG.

At the 10/27/15 Town Council meeting, the CSDCA Open PACE Program staff report and Resolution 2015-35 was brought forth under Business of the Council with Duane Baker of SANBAG giving a presentation on PACE programs. He discussed the additional disclosure information being provided to residents in order to educate them on the

advantages and disadvantages of PACE programs. Public comment ensued as did much discussion. Town Council Member Nassif motioned for adoption; however motion died for lack of a second. Mayor Pro Tem Stanton recommended the item be continued for a minimum of three (3) months to allow concerns expressed by all parties to be resolved. After additional discussion, it was the consensus of the Town Council to table the item until the beginning of 2016. However, the Town Council did not express the desire to revisit the issue after the October 27, 2015 meeting.

On 4/5/17, the SANBAG Council of Governments Board did not renew contracts with the administrators of the HERO PACE Program, thereby terminating the MOU with cities. The Town has not participated in any PACE programs since that time.

At the 3/13/18 Town Council meeting, Dustin Reilich, Senior Director of Market Development with Renovate America (the home-improvement financing company who created the HERO program), gave a presentation on the new PACE program consumer protection laws enacted in 2017: AB 1284, (Dabbeneh). California Financing Law: Property Assessed Clean Energy program: program administrators; and SB 242, (Skinner). Property Assessed Clean Energy program: program administrator.

In summary, the legislation:

- Requires PACE program administrators (the dozen or so companies that arrange PACE financing) to be licensed by the California Department of Business Oversight (DBO).
- Requires PACE program administrators to supervise PACE solicitors and solicitor agents.
- Authorizes the DBO to conduct investigations and examinations, and bring enforcement actions – including suspensions or banishments from the industry – against PACE administrators, solicitors and solicitor agents.
- Requires program administrators to determine that a property owner has a reasonable ability to pay the annual obligations of a PACE contract.
- Prohibits program administrators from making materially false or misleading statements or representations to a property owner about the terms or conditions of a PACE contract.
- Requires PACE solicitors and solicitor agents to be licensed by, or registered with, the Contractors State Licensing Board, unless otherwise exempt.
- Prohibits PACE solicitors and solicitor agents from offering a PACE contract that omits terms, conditions or disclosures required by law.
- Prohibits a program administrator from approving an assessment contract if a property has outstanding liens of more than \$1,000, if the property owner has

been subject to a bankruptcy hearing in the past seven years or if the property owner is behind on his or her mortgage payments.

Most of the consumer protections required of PACE program administrators, solicitors and solicitor agents took effect on April 1, 2018. The licensing and DBO regulatory authority take effect on Jan. 1, 2019.

In addition to the presentation by Mr. Reilich of Renovate America, over the past several weeks, Town Staff has been contacted by representatives from Ygrene Energy Fund, Renew Financial, Capitol Core Group and Dividend Finance, all interested in becoming future PACE program providers for the Town of Apple Valley.

On 4/12/18, a group of Los Angeles County homeowners filed two class-action lawsuits, alleging that Renovate America and Renew Financial (companies that the County of Los Angeles contracted with to operate the PACE program) failed to implement basic consumer protections, burdening low and moderate income homeowners with home improvement loans that they cannot afford to repay. The lawsuit alleges LA County is complicit in failures of the PACE program, leaving thousands of low-income, elderly, and non-English-speaking residents exposed to predatory lending practices. The plaintiffs allege they were misled and financially harmed through their participation in the program.

Although these new lawsuits have received much attention, they concern loans funded prior to the new consumer protections mandated by AB 1284 and SB 242.

FISCAL IMPACT: N/A