



# TOWN OF APPLE VALLEY

## TOWN COUNCIL STAFF REPORT

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**To:** Honorable Mayor and Town Council **Date:** October 27, 2015

**From:** Jennifer Heim **Item No:** 18  
Special Projects Manager

**Subject:** DISCUSSION TO ADOPT RESOLUTION NO. 2015-35, A RESOLUTION  
CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE  
TERRITORY OF THE TOWN OF APPLE VALLEY IN THE CALIFORNIA  
STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY OPEN  
PACE PROGRAM

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

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### RECOMMENDED ACTION:

That the Town Council adopt Resolution No. 2015-35, consenting to the inclusion of properties with the Town of Apple Valley in the California Statewide Communities Development Authority (CSCDA) Open PACE program.

### SUMMARY:

At the Town Council Meeting of September 22, 2015, the Town Council discussed the recommended adoption of this resolution. After comments were made by the Council and the public on this program, it was the consensus of the Town Council to continue this item to the meeting of October 27, 2015, to provide an opportunity for San Bernardino Associated Governments (SANBAG), the acting facilitator for the Property Assessed Clean Energy (PACE) program, to give a presentation on this matter.

In October 2012, the SANBAG Board of Directors approved a Memorandum of Understanding (MOU) to allow the County and cities/towns to be included in a County-wide PACE program in San Bernardino County. The SANBAG PACE program, known as the "HERO" program, allows property owners to enter into a contractual agreement with SANBAG to finance the installation of eligible renewable energy, energy efficiency, water conservation projects and electric vehicle charging infrastructure (the

“Improvements”). These Improvements are funded by bonds secured by voluntary contractual assessments collected with the property owner’s property taxes.

At the March 26, 2013 Council meeting, the Apple Valley Town Council approved the execution of the MOU with SANBAG enabling Apple Valley property owners to participate in the SANBAG-administered HERO Program.

Since that time, additional PACE programs have been established in California. In the interest of property owners, both SANBAG and the League of California Cities has reviewed and endorsed the CSCDA Open PACE program in order to facilitate a competitive PACE marketplace and provide additional choices to property owners who are considering utilizing PACE financing.

**BACKGROUND:**

The passage of AB 811 in 2008 authorized a legislative body to designate an area within which authorized public officials (including a joint powers authority like CSCDA) and free and willing property owners may enter into voluntary contractual assessments to finance the installation of Improvements affixed to real property. In early 2015, CSCDA, the largest Joint Powers Authority in California, launched its “Open PACE” program under the guidelines of AB 811 on behalf of its member counties and cities.

CSCDA’s Commissioners pre-qualified and appointed two (2) PACE Administrators to manage the Open PACE program in order to provide residential and commercial property owners a choice among prequalified PACE financing providers, creating competition on terms, service and interest rates. The prequalified program administrators operating the following programs are AllianceNRG Program™ 3 and Renewable Funding LLC (administering CaliforniaFIRST).

**FISCAL IMPACT:**

There is no impact to the Town’s general fund. All CSCDA Open PACE administrative costs are covered through an initial administrative fee included in the property owner’s voluntary contractual assessment and an annual administrative fee, which is also collected on the property owner’s tax bill.

**RESOLUTION NO. 2015-35**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE TERRITORY OF THE TOWN IN THE CSCDA OPEN PACE PROGRAMS; AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE TOWN; AND AUTHORIZING RELATED ACTIONS**

**WHEREAS**, the California Statewide Communities Development Authority (the "Authority") is a joint exercise of powers authority, the members of which include numerous cities and counties in the State of California, including the Town of Apple Valley (the "Town"); and

**WHEREAS**, the Authority is implementing Property Assessed Clean Energy (PACE) programs, which it has designated CSCDA Open PACE, consisting of CSCDA Open PACE programs each administered by a separate program administrator (collectively with any successors, assigns, replacements or additions, the "Programs"), to allow the financing or refinancing of renewable energy, energy efficiency, water efficiency and seismic strengthening improvements, electric vehicle charging infrastructure and such other improvements, infrastructure or other work as may be authorized by law from time to time (collectively, the "Improvements") through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code ("Chapter 29") within counties and cities throughout the State of California that consent to the inclusion of properties within their respective territories in the Programs and the issuance of bonds from time to time; and

**WHEREAS**, the program administrators currently active in administering Programs are Alliance NRG and Renewable Funding LLC, and the Authority will notify the Town in advance of any additions or changes; and

**WHEREAS**, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner or owners of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

**WHEREAS**, the Town desires to allow the owners of property ("Participating Property Owners") within its territory to participate in the Programs and to allow the Authority to conduct assessment proceedings under Chapter 29 within its territory and to issue bonds to finance or refinance Improvements; and

**WHEREAS**, the territory within which assessments may be levied for the Programs shall include all of the territory within the Town's official boundaries; and

**WHEREAS**, the Authority will conduct all assessment proceedings under Chapter 29 for the Programs and issue any bonds issued in connection with the Programs; and

**WHEREAS**, the Town will not be responsible for the conduct of any assessment proceedings; the levy of assessments; any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with the Programs.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Apple Valley as follows:

Section 1. This Town Council hereby finds and declares that properties in the territory of the Town will benefit from the availability of the Programs within the territory of the Town and, pursuant thereto, the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 and the issuance of bonds to finance or refinance Improvements.

Section 2. In connection with the Programs, the Town hereby consents to the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 on any property within the territory of the Town and the issuance of bonds to finance or refinance Improvements; provided, that

(1) The Participating Property Owners, who shall be the legal owners of such property, execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and

(2) The Town will not be responsible for the conduct of any assessment proceedings; the levy of assessments; any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with the Programs.

Section 3. The appropriate officials and staff of the Town are hereby authorized and directed to make applications for the Programs available to all property owners who wish to finance or refinance Improvements; provided, that the Authority shall be responsible for providing such applications and related materials at its own expense. The following staff persons, together with any other staff persons chosen by the Town Manager of the Town from time to time, are hereby designated as the contact persons for the Authority in connection with the Programs: Special Projects Manager.

Section 4. The appropriate officials and staff of the Town are hereby authorized and directed to execute and deliver such certificates, requisitions, agreements and related documents as are reasonably required by the Authority to implement the Programs.

Section 5. The Town Council hereby finds that adoption of this Resolution is not a “project” under the California Environmental Quality Act, 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).

Section 6. This Resolution shall take effect immediately upon its adoption. The Town Clerk of the Town is hereby authorized and directed to transmit a certified copy of this Resolution to the Secretary of the Authority at: Secretary of the Board, California Statewide Communities Development Authority, 1400 K Street, Sacramento, CA 95814.

**APPROVED** and **ADOPTED** by the Town Council of the Town of Apple Valley this this 27<sup>th</sup> day of October, 2015.

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Larry Cusack, Mayor

**ATTEST:**

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La Vonda M-Pearson, Town Clerk