



# Weekly Management Report

## December 21, 2018

- 1. Synopsis**      Planning Board Actions of December 10, 2018  
**Community Development Department**
- 2. Memo**            PACE Programs  
**Water and Power Department**

# memorandum

**DATE:** December 11, 2018

**TO:** Ron Davis, City Manager

**FROM:** Fred Ramirez, Assistant Community Development Director   
Patrick Prescott, Community Development Director 

**SUBJECT:** **Planning Board Actions of December 10, 2018**

At the regular meeting of December 10, 2018, the Planning Board discussed the following items:

## Public Hearing

- 1. Project No. 17-0005797 | Development Agreement Extension and Environmental Impact Report| 2233, 2255 N. Ontario St, 3333, 3355, 3377 Empire Ave – Media Studios Project**

The Board was presented with a request for a Fifth Amendment to the Development Agreement for Planned Development 89-7 for the Media Studios Project that included a request for a 10-year DA extension through May 10, 2028. Included as part of the Board's review was the associated Environmental Impact Report, Mitigation Monitoring and Reporting Program and Statement of Overriding Considerations and findings. The Board considered the request to recommend to the City Council approval of the Fifth Amendment to the DA for PD 89-7, which preserves the existing entitlement and to allow for the future build-out of the 160,447 AGSF of office space. As part of the Board's deliberation, which included the requested entitlement and associated environmental assessment, they discussed the possibility of shorter time extensions for the DA (i.e., alternative 5 and 8 year time extensions) in addition to the requested 10-year extension. Subsequent to deliberation, the Board approved the Resolution recommending Council approval of the Project with the 10-year extension period and associated environmental assessment with a 3-2 vote.

Chair Rizzotti, Vice-Chair Eaton, and Ms. Liu voted yes. Mr. Atteukenian and Ms. Hadian were opposed.

## Attendance

Present: Rizzotti, Eaton, Hadian, Liu, Atteukenian.

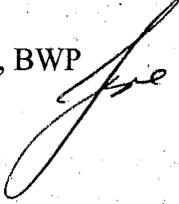
Absent:



# BURBANK WATER AND POWER

## Memorandum

Date: December 18, 2018  
To: Ron Davis, City Manager  
From: Jorge Somoano, General Manager, BWP  
Subject: PACE Programs



### BACKGROUND

Property Assessed Clean Energy (PACE) was established to increase consumer investment in higher-cost energy efficiency upgrades. PACE was enabled by Assembly Bill 811 (AB811) which extended the provisions of the Streets and Highways Code to allow cities and counties to create a benefit assessment district in which property owners may secure financing for certain efficiency improvements and renewable energy projects and repay the loan through an assessment on their property tax bill. The loan is essentially treated as a lien on the property and hence the obligation stays with the property, rather than with the individual.

This type of land-secured financing has been used by cities and counties for a long time to fund improvements on streets, sewer, and utility systems. The difference with this approach is that individual customers would voluntarily participate rather than being required to participate as is typical of other assessment districts. This approach is particularly useful for ensuring the continuation of property improvements when property owners have limited equity and during difficult economic times.

Since AB811 was established two additional pieces of enabling legislation were passed. The first, AB474, also based on the Streets and Highways Code, authorized water conservation improvements to be added to the list of eligible PACE financed improvements. The second, Senate Bill 555 (SB555), amended the Mello-Roos Community Facilities Act to allow the PACE mechanism to be used for financing efficiency improvements. Since these loans are secured with real property, their funding requires that improvements be permanently affixed to the property, but so does the obligation to repay the contractual assessment.

The City Council approved the City of Burbank's participation in Los Angeles County's PACE program in July 2010. Burbank customers have had access to PACE financing through our participation with LA County. The County undertook an extensive process to select third-party residential program providers and, at this time, two programs are authorized, HERO and California FIRST. These providers met the County's requirements, including comprehensive consumer protections.

Since then, through the practices and implementation of various PACE programs, questions have arisen about the practices of such programs. As a result, changes have occurred in California to

further the protection to consumers. In 2016, AB 2693 (Dababneh), Chapter 618, Statutes of 2016, established a number of consumer notice requirements and sought to tighten financing standards for PACE assessments for residential properties. AB 2693 prohibits a local agency from allowing a homeowner to participate in PACE, unless the homeowner is provided both the right to cancel and a financing estimate and disclosure document. The financing estimate and disclosure must include specified information, including product costs, financing costs, additional information to use to compare to other financing options, and a number of statements that require the homeowner to initial. AB 2693 applies to all PACE programs, regardless of whether local agencies use a PACE administrator, for residential properties with four or fewer units.

In 2017, SB 242 (Skinner), established requirements for third-party program administrators of PACE programs, including an oral confirmation of key terms of an assessment contract with a property owner, prohibits program administrators from engaging in a number of activities, requires program administrators to biannually report to a public agency, and establishes requirements around home improvement contracts.

In 2017, AB 1284 (Dababneh) requires lenders to make a "reasonable good faith effort" to ensure borrowers can repay their loans based on income, assets and current debt obligations. It sets new standards for how contractors are trained about PACE, how they can market PACE and establishes a three-day right to cancel. AB 1284 also establishes the California Department of Business Oversight to have regulatory authority over PACE providers and serve as a watchdog for consumers.

In spite of these protections, delinquencies due to PACE may be increasing. According to a Wall Street Journal article published August 15, 2017 ("More Borrowers Are Defaulting on Their Green PACE Loans"), a Wall Street Journal analysis using tax data from 40 California counties found the number of PACE assessment delinquencies has grown by nearly 450 percent in the last year.

These legislative adjustments, which have not yet been fully implemented, should help mitigate the potential negative impact of the program from a consumer perspective; some of the requirements start in 2019.

## **DISCUSSION**

Through LA County, the HERO program has completed projects at nearly 200 Burbank homes since May 2015. Of the more than 500 measures that have been installed, the majority – nearly 80 percent – have been for energy-related measures, with 15 percent for solar-related measures, and the remainder for water-related measures. At this time, project data from California FIRST and LA County's commercial program has not been provided to BWP.

Over the past several years, several new PACE programs have been developed. Rather than relying on individual cities funding the loans via their General Fund or by selling bonds, these programs work through established Joint Powers Authorities (JPAs). The JPAs issue the bonds and the PACE program providers do the rest. While PACE offers a unique repayment

opportunity, since inception, the interest rate for money acquired through a PACE program has been relatively high: between 6 and 9 percent.

Given the many changes in regulation and LA County providers' lack of responsiveness to BWP on reporting, it may be time to take look at modifying Burbank's participation in PACE with LA County. Known programs at this time include:

<b>PACE PROGRAM PROVIDER</b>	<b>AUTHORITY/JPA</b>
E3 BlueFlame Structured Finance Associates	CMFA (CA Municipal Finance Authority)
Ygrene	GSF/CHFA (Golden State Finance/CA Home Finance Authority)
California FIRST Spruce Finance, Inc. Alliance NRG PACE Funding	CSCDA (CA Statewide Communities Development Authority)
HERO	WRCOG (West Riverside Council of Governments)
Figtree	CEDA (CA Enterprise Development Authority)
HERO California FIRST	LA County

**RECOMMENDATION**

The value of the PACE program since 2010 has diminished, but it may still provide some value. However, it is important to note that neither BWP nor the City of Burbank have had any direct request from residents or businesses, the ostensible beneficiaries, about any specific request to modify our participation in PACE. BWP proposes to stay the course with the existing program, but will evaluate our existing relationship with LA County and determine if other programs may be of better value to our community. We believe it would be best to stay with one entity, if any, but are unsure of whether it should still be with LA County. However, since we are short staff with our Conservation group, the process of vetting out our relationship with LA County and investigating the value of other PACE programs may be delayed for 12 months. It could be that a larger, and more competitive and responsive PACE program may tie in well with Burbank's effort to further conservation measures. The valuation will need to include provisions to ensure contractors do not bypass some of the free or low cost energy conservation measures that we currently offer, such as attic insulation.