



Office of the City Manager

## INFORMATION CALENDAR

June 3, 2014

To: Honorable Mayor and Members of the City Council  
 From:  Christine Daniel, City Manager  
 Submitted by: Eric Angstadt, Director, Planning and Development  
 Subject: Status of Property Assessed Clean Energy (PACE) Loan Programs

### INTRODUCTION

Earlier this year, the State of California established the Property Assessed Clean Energy (PACE) Loss Reserve Program which attenuates the risk of potential sanctions from the Federal Housing Finance Agency (FHFA) with respect to borrowers with residential PACE loans and communities that allow residential PACE loans. PACE programs provide financing for renewable energy installations, energy and water efficiency improvements and electric vehicle charging infrastructure on private properties. Property owners repay the cost of the financing on their property tax bills.

The new reserve program will cover existing BerkeleyFIRST PACE clients and will enable the issuance of new residential PACE loans in Berkeley.

### CURRENT SITUATION AND ITS EFFECTS

In response to the threat of potential sanctions from the Federal Housing Finance Agency, the State of California recently established the PACE Loss Reserve Program which will underwrite residential loans from participating PACE providers. The Program would compensate first mortgage lenders for losses attributable to PACE loans. Although the FHFA has not acknowledged that the Loss Reserve Program would remove the threat of sanctions, the program is designed to attenuate the concerns expressed by the FHFA. Under the program regulations, existing PACE loans may be covered under the program at no cost.

The City plans to enroll existing BerkeleyFIRST clients in the PACE Loss Reserve Program.

The establishment of the program also resulted in a decision by the California Statewide Communities Development Authority (CSCDA) to reestablish the California FIRST residential PACE program, which is already authorized to serve Berkeley (<http://californiafirst.org/>). It is expected that California FIRST loans will be available to owners of one-to-four unit residential buildings this summer. Interest rates are expected to range from approximately 5.85% to 8.15% for 5 and 20 year loans, respectively.

Further, staff recommends that the City authorize a second PACE provider, the HERO program, under the direction of the West Riverside Council of Governments (<http://www.heroprogram.com/LocalLeaders>). See the June 3, 2014 companion item entitled HERO Property Assessed Clean Energy Program on this subject.

### BACKGROUND

The City pioneered PACE programs with the launch of the BerkeleyFIRST pilot program in 2008.

On December 15, 2009, following completion of the pilot, the City authorized participation in the California FIRST program, which is under the direction of the CSCDA, a joint powers authority of which the City is a member. The CSCDA is governed by a commission appointed by the Supervisory Association of California and the League of California Cities.

In July 2010, before California FIRST issued any loans, the FHFA issued a statement to lenders that could put borrowers and potential borrowers at risk; in response, the CSCDA suspended the California FIRST residential program. Other PACE programs, including Sonoma County and the HERO program, provided PACE financing to residential properties in their jurisdictions despite the threat of FHFA sanctions.

The FHFA statement could potentially result in properties with PACE loans being declared in default of their mortgages, and “redlining” of communities that authorize PACE programs. Specifically the FHFA could cause properties with PACE liens to be in default of their mortgages and could result in banks adjusting loan-to-value ratios to reflect the maximum permissible PACE amount available to borrowers in PACE jurisdictions. The FHFA was concerned that PACE tax and assessment liens, which are in a superior position to mortgages (i.e., in the event of foreclosure, they are paid before the mortgages are paid), could put lenders at risk.

In response the State passed SB 97 (2013) and promulgated regulations for a PACE Loan Loss Reserve Fund to attenuate the potential of FHFA sanctions. Although the FHFA has not acknowledged that the Loss Reserve Program would remove the threat of sanctions, the threat of such sanctions is no longer considered to be a significant risk.

### ENVIRONMENTAL SUSTAINABILITY

Participation in PACE programs directly supports the City’s climate action goals by stimulating investments that will reduce carbon emissions and reduce water consumption.

### POSSIBLE FUTURE ACTION

As noted above, staff plan to submit an application to the PACE Loss Reserve Program on behalf of existing BerkeleyFIRST PACE clients. Staff also recommend that the City authorize the HERO PACE program (see companion item on the June 3, 2014 agenda). Staff will provide outreach for the California FIRST and HERO PACE programs.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The financial impacts will be relatively small and will be limited to existing staff time to post information about the program on the City's website and monitor uptake.

CONTACT PERSON

Neal De Snoo, Energy Program Manager, Planning and Development, 510-981-7439

