

**ORDINANCE NO. 17-**

**AN ORDINANCE OF THE COUNTY OF PINELLAS, FLORIDA, CREATING A PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM FOR PINELLAS COUNTY, TO BE CODIFIED AS ARTICLE XIII OF CHAPTER 42 OF THE PINELLAS COUNTY CODE; PROVIDING FINDINGS OF FACT; PROVIDING A SHORT TITLE; PROVIDING A PURPOSE; PROVIDING DEFINITIONS; PROVIDING PACE PROGRAM BOUNDARIES; PROVIDING FOR PACE LOCAL GOVERNMENTS; PROVIDING FOR PACE PROGRAM STANDARDS; PROVIDING FOR ELIGIBLE PARTICIPANTS; PROVIDING FOR NON-AD VALOREM ASSESSMENTS; PROVIDING FOR PACE PROGRAM ADMINISTRATION; PROVIDING FOR RECORDATION; PROVIDING FOR NOTICE TO PURCHASER; PROVIDING FOR SUSPENSION OR TERMINATION; PROVIDING FOR ENFORCEMENT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, §163.08, Florida Statutes, provides that certain improvements to real properties for energy conservation and efficiency, renewable energy improvements, or wind resistance improvements, may qualify for funding through governmental programs, which allow for the collection of such funding financed by the local government to be voluntarily collected through the non-ad valorem assessment process;

**WHEREAS**, the Pinellas County Charter provides for the exercise of countywide powers by ordinance to the extent they are not inconsistent with municipal ordinances;

**WHEREAS**, §§163.01 and 163.08, Florida Statutes, allow for and contemplate the creation of separate legal entities to act as the “local government” for the purposes of providing such PACE Program funding sources;

**WHEREAS**, several entities have been created within the state which have sought to provide both the sources of such funding to property owners within Pinellas County and all administrative services in providing and collecting such funding;

**WHEREAS**, the Pinellas County Board of County Commissioners is receptive to allowing such special purpose local government entities to operate within Pinellas County provided that certain guidelines are followed for the protection of the property owners and citizens of Pinellas County;

**WHEREAS**, while these special purpose local governments may be permitted to operate a PACE Program within Pinellas County by contract with the Board, the Board intends to as fully as practicable protect the County and its citizens from potential liabilities associated with operation of a PACE Program by such separate special purpose local governments; and

**WHEREAS**, this ordinance will provide minimum standards and limitations for the operation of any PACE Program within Pinellas County.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, at its regular meeting assembled this \_\_\_\_\_ day of \_\_\_\_\_, 2017, that:**

**SECTION 1.** There is hereby created a new Article XIII of Chapter 42 of the Pinellas County Code (the “Code), entitled “Property Assessed Clean Energy (PACE) Program”.

**SECTION 2.** Article XIII of Chapter 42 of the Code is hereby created to read as follows:

**ARTICLE XIV. PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM**

**Sec. 42-440. Definitions.** For the purposes of this Article, the following definitions shall apply:

- (a) *Board* shall mean the Pinellas County Board of County Commissioners.
- (b) *County* shall mean Pinellas County, Florida.
- (c) *Eligible Participant* shall mean any residential or non-residential Property owner who voluntarily participates in the PACE Program and satisfies the eligibility requirements set forth in Section 42-447.
- (d) *PACE Act* shall mean Section 163.08, Florida Statutes.
- (e) *PACE Assessment* shall mean the non-ad valorem assessment placed on a property owner’s tax bill as a result of financing obtained pursuant to the PACE Financing Agreement.
- (f) *PACE Contractor* shall mean a contractor certified by the PACE Local Government to sell, construct or install Qualifying Improvements funded through the PACE Program.
- (g) *PACE Financing Agreement* shall mean the agreement entered into between the Eligible Participant and the PACE Local Government specifying the Qualifying Improvements to be installed at the Property and the terms and conditions for financing those improvements through non-ad valorem assessments levied on the Property.
- (h) *PACE Interlocal* shall mean an agreement entered into between Pinellas County and a PACE Local Government authorizing the PACE Local Government to administer a PACE Program within Pinellas County.

- (i) *PACE Local Government* shall mean a separate legal entity, other than a county or municipality, created pursuant to Section 163.01(7), Florida Statutes, and/ or its designated PACE Program administrator.
- (j) *PACE Program or Program* shall mean the Property Assessed Clean Energy program (authorized by Section 163.08, Florida Statutes) within the boundaries of Pinellas County, excepting any municipality that has opted out of the Pinellas County PACE Program, operated by a PACE Local Government pursuant to the terms of this Article.
- (k) *Property* means a residential or commercial property, located within the jurisdictional boundaries of Pinellas County excepting any municipality that has opted out of the Pinellas County PACE Program.
- (l) *Qualifying Improvements* shall mean those improvements to real property provided for in Subsections 163.08(2), (10) & (12), Florida Statutes, including, but not limited to, energy conservation and efficiency, renewable energy and wind-resistance improvements.

**Sec. 42-441. Findings of Fact.**

- (a) Section 163.08, Florida Statutes, authorizes local governments defined as a county, a municipality, a dependent special district as defined in s.189.012, or a separate legal entity created pursuant to s. 163.01(7) to establish and administer financing programs pursuant to which owners of real property may obtain funding for energy conservation and efficiency, renewable energy and wind resistance improvements and repay such funding through voluntary non-ad valorem assessments, levied upon the improved property pursuant to financing agreements between the property owner and the PACE Local Government(s).
- (b) Several PACE Local Governments have been created and the availability of the voluntary, non-exclusive PACE program offered by the separate PACE Local Governments is able to be utilized by Pinellas County by agreement without cost, assumption of liability by, or demand upon the credit of Pinellas County.
- (c) Section 163.08(3), Florida Statutes, authorizes a PACE Local Government to levy non-ad valorem assessments to fund qualifying improvements.
- (d) It is in the best interests of the citizens of Pinellas County to create a PACE Program through the adoption of an ordinance that sets uniform consumer protections that apply to all PACE Local Governments who implement and manage PACE Programs in

Pinellas County excepting any municipality that has opted out of the Pinellas County PACE Program.

- (e) PACE Local Governments shall be authorized to implement the PACE Program through the adoption of individual interlocal agreements.
- (f) The installation and operation of Qualifying Improvements not only benefits the affected properties for which the improvements are made, but also provides a public benefit by assisting in fulfilling the goals of the State's and County's energy and hurricane mitigation policies.
- (g) The voluntary participation in the PACE Program by property owners will provide an alternative financing option to finance and repay the costs to provide and install Qualifying Improvements to property located within Pinellas County.
- (h) It is within the best interests of the citizens of Pinellas County to have uniform consumer protection regulations that apply to all PACE Local Governments who implement and manage PACE Programs in Pinellas County excepting any municipality that has opted out of the Pinellas County PACE Program.

**Sec. 42-442. Short Title.**

This article shall be known as the "Property Assessed Clean Energy (PACE) Program."

**Sec. 42-443. Purpose.**

The PACE Program has been developed to allow a property owner to voluntarily finance energy efficient, renewable energy, or wind resistant improvements through a non-ad valorem assessment implemented and managed by a PACE Local Government and repaid through the annual tax bill. The purpose of this Ordinance is to provide uniform consumer protection regulations for all PACE Local Governments that are authorized to operate within Pinellas County to ensure that: (i) the citizens of Pinellas County are fully apprised of the Program; (ii) PACE Local Governments have developed a responsive complaint process; (iii) that Qualifying Improvements meet the statutory goals set forth in Section 163.08, Florida Statutes; and (iv) that PACE Contractors meet certain standards of conduct.

This Article is intended to add requirements to the provisions of §163.08, Florida Statutes (2016), and other applicable law as it currently exists and should be construed consistently with the PACE Act and any such other applicable law. To the extent that the PACE Act provides for additional or more restrictive requirements not otherwise found in this Article or applicable law, the provisions of the PACE Act must be met. To the extent that this Article provides for more

restrictive or additional requirements not found in the PACE Act or any such other applicable law, the provisions of this Article are intended to apply.

**Sec. 42-444. PACE Program Boundaries.**

The PACE Program shall be available to Eligible Participants within unincorporated Pinellas County upon the effective date of this Article, and within Pinellas County municipalities one hundred and twenty (120) days after the effective date of this Article, excepting any municipality that has opted out of the Pinellas County PACE Program by the passing of an ordinance in conflict with this Article.

**Sec. 42-445. PACE Local Governments.**

Upon entering into a PACE Interlocal with Pinellas County, a PACE Local Government shall be authorized to administer a PACE Program pursuant to Section 163.08, Florida Statutes, the terms of this Article, as may be amended from time to time, the PACE Interlocal and other regulations adopted by the Board within unincorporated Pinellas County and those municipalities that have not opted out of the Pinellas County PACE Program.

**Sec. 42-446. PACE Program standards.** At a minimum, PACE Local Governments shall comply with each of the following standards and include the following requirements:

- (a) Qualifying Improvements: All Qualifying Improvements shall be properly permitted and must comply with Florida and local codes. PACE Local Governments shall finance only Qualifying Improvements that are permanently affixed to the Property.
- (b) Licensed Contractors: Any contractor constructing or installing a Qualifying Improvement shall be properly licensed and insured, and trained by the PACE Local Government as a PACE Contractor.
- (c) Materials and Improvements: PACE Local Governments shall fund, and PACE Contractors shall construct or install, only Qualifying Improvements. PACE Local Governments shall establish an “Eligible Measures List” that identifies the types and specifications of Qualifying Improvements, using efficiency standards for materials and installation established by the U.S. Department of Energy, the U.S. Environmental Protection Agency, or Florida state agencies, as applicable. If the product falls within an eligible category under ENERGY STAR, the product must be ENERGY STAR Certified. Any solar photovoltaic system installed shall have an online monitoring system for maintenance and production monitoring purposes. The Eligible Measures List shall

be regularly updated and made publicly available. The County shall have the right to review and approve that list annually.

- (d) Data Security and Consumer Privacy: PACE Local Governments shall take security measures to protect the security and confidentiality of consumer records and information to the extent permitted by law. In addition, a privacy policy must be in place that complies with state and federal law and, in particular, shall provide a property owner the ability to opt-out of having the property owner's information shared with third parties, except where expressly permitted by state and federal law.
- (e) Contractor Pricing: Within six months of entering into a PACE Interlocal agreement, PACE Local Governments shall have in place pricing rules and enforcement mechanisms to ensure property owners are protected from excessive or unjustified prices and charges of PACE Contractors.
- (f) Estimated Energy Savings Disclosure: PACE Local Governments shall require that PACE Contractors inform Eligible Participants of the following:
  - 1) Estimate of energy and/ or insurance cost savings and return on investment, including the range of efficiency options if appropriate, to the best of the PACE Contractors' knowledge and using industry best practices;
  - 2) Available rebates or incentives;
  - 3) The benefits of installing energy efficiency improvements before renewable energy to reduce costs overall;
  - 4) The benefits of a full Energy Audit of their property, names of energy audit professionals qualified through the Residential Energy Services Network, Building Performance Institute, Association of Energy Engineers, or other comparable program, and any available incentive programs;
  - 5) That the actual potential energy savings and/ or insurance cost savings will depend on usage patterns, seasonal variation and weather, insurance or utility rates and trends and product specifications;
  - 6) That any tax incentives, credits or rebates should be confirmed and discussed with an independent tax professional of the Eligible Participant's choosing if there are any tax questions; and
  - 7) Costs of the Energy Audit are eligible for financing as part of the assessment. This Estimated Energy Savings Disclosure requirement shall be included in the "Code of Conduct" and in training for PACE Contractors.

(g) Notice to Property Owner: Prior to or contemporaneously with entering into a PACE Financing Agreement, PACE Local Governments shall provide the property owner with a separate written notice disclosing the following items:

- 1) The total amount of the debt, including interest;
- 2) The maximum annual PACE Assessment and payment term that does not exceed the useful life of the improvements;
- 3) The three-day right to cancel the PACE Financing Agreement;
- 4) That the PACE Assessment will appear on the property owner's tax bill;
- 5) That there is no discount or penalty for paying the PACE Assessment early;
- 6) That the PACE Assessment will be collected in the same manner as real estate taxes, that failure to pay the PACE Assessment may cause a tax certificate to be issued against the property, and that failure to pay may result in the loss of property subject to the PACE Assessment, including homestead property, in the same manner as failure to pay property taxes;
- 7) That the installation of Qualifying Improvements and PACE Assessment may or may not affect the overall market value of the Property or energy cost savings;
- 8) That all applicable warranties or guarantees terms are set forth in writing, and what materials or labor are not warranted or guaranteed;
- 9) That the PACE Assessment may affect the sale or refinance of the property;
- 10) That the property owner may be required to pay any PACE assessment in full at the time of refinance or sale of the property; and
- 11) That if the property owner is using an escrow or impound account to pay their property taxes, they should contact their lender immediately to ensure that the escrow payments are adjusted correctly and the property owner is aware of and prepared for the increased payment amount.

The notice shall be signed and dated by the property owner to acknowledge that they understand these conditions. The PACE Local Government shall record, or cause to be recorded, the Notice signature page in the public records as an attachment to the PACE Financing Agreement. The signature page must clearly designate that it relates to the PACE Financing Agreement and Notice to Property Owner acknowledgement.

(h) PACE Financing Agreement. After achieving compliance with all other mandated steps provided for by law, including but not limited

to receiving a verified copy or other proof of such notice required by §163.08(13), Florida Statutes (2016), the PACE Local Government shall enter into a voluntary written agreement with each Eligible Participant which shall include, at a minimum, the following:

- 1) The full legal description of the property subject to the PACE Assessment.
- 2) The amount of funding to be provided to the Eligible Participant.
- 3) Express voluntary consent by the Eligible Participant to accept the non-ad valorem assessment collection process, set forth in Section 197.3632, Florida Statutes.
- 4) The length of time for the Eligible Participant to repay the non-ad valorem assessment, which shall not exceed 30 years.
- 5) The Eligible Participant shall be responsible for assuring the Qualifying Improvements are completed as reflected in the approved application documents. The Eligible Participant also consents to providing access to the PACE Local Government or its agent to the Property to verify that the Qualifying Improvements have been completed as proposed in the application.
- 6) At the time of a transfer of Property ownership (except a transfer resulting from foreclosure), the past due balances of any non-ad valorem assessment may be due for payment, but future payments may continue as a lien on the Property, if the buyer and their mortgagor, if any, agree. At or before the execution of a contract for the sale and purchase of any Property for which a non-ad valorem assessment for the PACE Program has been levied and has an unpaid balance due, the seller shall give the prospective purchaser a Notice of the lien.
- 7) The risks associated with participating in the PACE Program shall be clearly disclosed in plain language in the written agreement with the Eligible Participant, including risks related to the failure of the Eligible Participant to make payments, the risk that they may not be able to refinance the home or sell the home unless the PACE Assessment is paid off in full first, and the risk of issuance of a tax certificate and loss of the Property pursuant to Chapter 197, Florida Statutes.
- 8) Description of the Qualifying Improvements, their cost, estimated completion date and estimated savings. Statement on potential savings will include a disclosure that actual savings will depend on usage patterns, seasonal variation and weather, utility rates and trends and product specifications.
- 9) Notice of the non-ad valorem assessment shall be recorded in the public records for the Property.



10) The PACE Financing Agreement shall clearly disclose, in plain language, the interest rate to be charged, including points, as well as any and all fees or penalties that may be separately charged to the Eligible Participant, including potential late fees. The subsequent charging or collecting any additional fees that were not specifically disclosed in the written agreement with the property owner shall be prohibited.

- (i) The PACE Local Government shall record, or cause to be recorded, the following notice in the public records within five (5) days after execution of the PACE Financing Agreement, along with appropriate PACE Local Government contact information for property owner inquiries:

QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY, RENEWABLE ENERGY, OR WIND RESISTANCE. This property is located within the jurisdiction of a PACE Local Government that has placed an assessment on the property pursuant to Section 163.08, Florida Statutes. The assessment is for a Qualifying Improvement to the property relating to energy efficiency, renewable energy or wind resistance, and is not based on the value of property. You are encouraged to contact the county property appraiser's office to learn more about this and other assessments that may be provided by law.

- (j) No Prepayment Penalties. No prepayment penalties may be charged or allowed. The PACE Local Government shall provide a mechanism for re-amortization of PACE assessments to account for partial pre-payment, particularly for application of tax credits, rebates, or other incentives.
- (k) Financing. The PACE Local Government may offer only fixed simple interest rates and payments that fully amortize the obligation. Variable or negative amortization financing terms are not permitted. Capitalized interest included in the original balance of PACE financing does not constitute negative amortization.
- (l) Project Completion. The PACE Local Government shall require compliance with each of the following conditions prior to the issuance of any payment to a PACE Contractor for which a property will be assessed:

- 1) PACE Contractor has certified in writing that any necessary permits have been obtained and any necessary inspections have been completed to close out any such permits;
  - 2) Verification that the Qualifying Improvements have been constructed or installed; and
  - 3) The property owner and the PACE Contractor have signed a certificate of completion that all improvements have been installed to the property owner's satisfaction.
- (m) Lender notification. The PACE Local Government shall ensure that the property owner provides notice to the holders or loan servicers of any existing mortgages encumbering or otherwise secured by the property of the owner's intent to enter into a PACE Assessment that, at a minimum satisfies the requirements of Section 163.08(13), Florida Statutes (2016).
- (n) PACE Contractor Management. Each PACE Local Governments shall:
- 1) To the extent available, recruit and enroll local contractors as PACE Contractors;
  - 2) Conduct local recruitment efforts;
  - 3) Establish a "Code of Conduct" that sets standards for PACE Contractors such as licensing, advertising and marketing, accurate representation of the program, and consumer protections.
  - 4) Have and shall strictly enforce anti-kickback policies and procedures that prohibit direct financial or other monetary incentives to PACE Contractors in exchange for or related to such PACE Contractor being awarded work under a PACE Program, excepting payment for the PACE Contractor's installation of eligible improvements.
  - 5) Train all PACE program contractors on the regulations related to the PACE program and the Code of Conduct;
  - 6) Ensure that all PACE Contractors hold necessary licenses and insurance;
  - 7) Confirm PACE Contractor qualifications at least annually and as necessary based upon consumer complaints or other indications of lack of compliance; and
  - 8) Remove PACE Contractors from the PACE program who no longer meet program criteria; have not met program requirements or failure to resolve consumer complaints.
- (o) Customer Service: PACE Local Governments shall provide a high level of customer service, including:

- 1) Access to customer service representatives by email and phone during normal business hours;
- 2) A detailed website with specific reference to the Pinellas County PACE Program;
- 3) A transparent customer feedback and complaint process with quick response and resolution by both the PACE Contractor and the PACE Local Government.
  - a) A document outlining complaint process shall be clearly available on the PACE Local Government website and provided to customers.
  - b) The document shall make clear that Pinellas County is not operating or administering the PACE Program in any way and that all concerns about the Program should be addressed directly to the PACE Local Government, with clear contact information provided.
  - c) All complaints and resolutions shall be logged, with the following information at a minimum: date and time of complaint, customer and PACE Contractor information, details of complaint, when and what actions were taken by both the PACE Local Government and the PACE Contractor, and final resolution.
  - d) All disputes and complaints shall be investigated, and resolved in a timely manner. Reports shall be provided to Pinellas County upon request and a summary provided annually.

(p) Marketing and Communications:

- 1) Marketing practices for a PACE Local Government that are or could appear to be unfair, deceptive, abusive, or misleading, or that violate applicable laws or regulations, that are inappropriate, incomplete or are inconsistent with the PACE Local Government's purpose are prohibited.
- 2) Each PACE Local Government must comply with the provisions of the Federal Truth in Lending Act and agree to voluntarily comply with the provisions of that Act whether legally bound to do so or not.
- 3) Neither PACE Local Governments nor their PACE Contractors, shall use facsimiles of the County, city, Property Appraiser, or Tax Collector logos in their marketing materials. Marketing materials shall NOT state that PACE:
  - a) is a free program;
  - b) is a county or city program;

- c) does not involve a financial obligation by the property owner; or
  - d) is a form of public assistance.
  
- (q) Protected Classes. The PACE Local Government shall not discriminate against individuals on the basis of race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information.
  
- (r) Metrics Reporting: PACE Local Governments shall track Program metrics and report those metrics to Pinellas County and any participating municipalities, by jurisdiction and in total, at least quarterly, in spreadsheet format or another electronic format agreed upon by Pinellas County. Those metrics shall include, at a minimum, the total number and value of projects approved and completed in that reporting period and a running total of the projects approved and completed since the beginning of the Program, and the following, to the extent allowed by law:
  - 1) Name, address, contact information and sector type (commercial, industrial or residential) for participants;
  - 2) Defaults or delinquencies;
  - 3) Project description including qualifying improvement made, completion dates, contractor information, financed value, assessment amount, assessment duration, and total cost;
  - 4) Estimated baseline energy use, and estimated annual savings of energy use, energy cost and insurance cost; whether ENERGY STAR certified materials were used, if appropriate; solar capacity installed with expected annual renewable energy generation; any other resource saving metrics;
  - 5) Actual energy use, energy cost and insurance cost savings per projects (collecting and comparing energy usage and cost data and insurance cost data from the participant or through a utility information release form and data provided by the utility);
  - 6) Audits performed, detailing the audit results, if property owner chose to include an audit in the financing;
  - 7) Number of actual or estimated jobs created during the reporting period;
  - 8) Record of complaints and resolution. County reserves the right to review the material used to prepare the reports and to contact customers or contractors directly to verify experiences. If the PACE Local Government does not currently have the ability to provide reports that contain this minimum reporting information, it should modify its data collection and maintenance procedures and systems within one year in order to

comply. Pinellas County reserves the right to publish reports on program progress and results and PACE Local Government compliance.

- (s) Amendments. County reserves the right to amend this ordinance to revise PACE Program standards.
- (t) Reporting. PACE Local Governments will respond to County requests for information on the PACE Program in a timely manner and shall provide sufficient documentation as requested by the County to ensure that the requirements of this Article and the State statutes are being met. The PACE Local Government shall retain sufficient books and records demonstrating compliance with the Agreement and State and County requirements for a minimum period of seven years from the initial date of each non-ad valorem assessment, and shall allow County representatives access to such books and records upon request.
- (u) Additional Program standards for residential properties: PACE Local Governments that finance PACE Qualifying Improvements on residential properties within Pinellas County shall, at a minimum, comply with at least one (1) of the following additional standards for projects affecting residential properties with four (4) residential units or fewer:
  - 1) Financing limits: PACE Local Governments shall ensure that the total amount of any annual property taxes and assessments do not exceed five percent (5%) of the Property's just value, determined at the time financing is approved and ensure that the total amount of annual PACE Assessments do not exceed four percent (4%) of the total annual gross income of the Property owner in the prior calendar or fiscal year, based upon an affidavit or attestation by the Property owner of the owner's total annual gross income. Just value shall be that value determined by the Pinellas County Property Appraiser. In no event shall the total amount of any non-ad valorem assessment for a property exceed 20 percent of the just value of the property as determined by the county property appraiser, without the consent of the holder or loan servicer of any mortgage encumbering or otherwise secured by the property; or
  - 2) Mortgage Holder Consent or Escrow: PACE Local Governments shall verify that each prior mortgage or financing instrument holder has consented to any proposed Financing Agreement and PACE Assessment, or that the prior mortgage or financing instrument holder or loan servicer has consented to

escrow sufficient funds to ensure payment of the annual assessment with each year's tax bill; or

- 3) Insurance or Energy Savings: PACE Local Governments shall verify that the total cost of the PACE Assessment is equal to or less than the projected savings to the property owner based upon the projected energy savings in a written statement from a Certified Energy Auditor, certified by the Association of Energy Engineers, the Residential Energy Services Network, or the Building Performance Institute, or the projected insurance savings in a written statement from the property owner's insurer.

**Sec. 42-447. Eligible Participants.** In order to be an Eligible Participant, a property owner (or property) must meet the criteria listed below. The PACE Local Government is responsible for verifying that all of these conditions are met.

- (a) Be the legal owner of the Property and provide proof of ownership in the application for the PACE Program;
- (b) Property must be within the PACE Program boundaries, as defined in Section 42-444;
- (c) All property taxes and any other assessments levied on the same bill as property taxes are paid and have not been delinquent for the preceding three (3) years or the Property owner's period of ownership, whichever is less;
- (d) Property owner must be current on any mortgage on the subject property;
- (e) Property owner cannot be in bankruptcy nor can the Property be an asset in any bankruptcy proceeding;
- (f) Property cannot have any federal income tax lien, judgment lien or similar involuntary lien, including construction liens, encumbering it; and
- (g) There is no pending Notice of Default on the property and no more than one recorded Notice of Default during the preceding two (2) years or the property owner's period of ownership, whichever is less;

**Section 42-448. Non-ad valorem Assessments.**

Pursuant to Section 163.08, Florida Statutes, the PACE Local Government is authorized to impose non ad-valorem assessments on Property to secure the repayment of any loan by an Eligible Participant to pay for Qualified Improvement(s), which shall be collected pursuant to Section 197.3632, Florida

Statutes, or any successor Section. Notwithstanding Section 197.3632(8)(a), the assessments shall not be subject to discount for early payment and shall not require notice and adoption as set forth in Section 197.3632(4). Pursuant to Chapter 197, Florida Statutes, non-ad valorem assessments levied pursuant to this Article shall remain liens, coequal with the lien of all state, County, district and municipal taxes, superior in dignity to all other liens, titles and claims, until paid.

**Sec. 42-449. PACE Program Administration.**

The PACE Program shall be administered pursuant to Section 163.08, Florida Statutes, this Article and any additional regulations adopted by the Board.

**Sec. 42-450. Recordation.**

Any financing agreement entered into or a summary memorandum of such agreement between the Eligible Participant and the PACE Local Government shall be recorded in the public records of the County within five (5) days after execution of the agreement. The recorded agreement or summary memorandum of such agreement shall provide constructive notice that the assessment to be levied on the Property constitutes a lien of equal dignity to County taxes and assessments from the date of recordation.

**Sec. 42-451. Notice to Purchaser.**

- (a) Property owner must comply with Section 163.08(14) regarding providing a written disclosure statement to a prospective purchaser.
- (b) Failure to provide the notice referenced above to a purchaser of the Property shall have no effect on either the validity of any PACE Assessment or any obligation of a Property owner.

**Sec. 42-452. Suspension or Termination.**

In the event any PACE Local Government fails to abide by the provisions of this Ordinance and the PACE Interlocal, following sixty day notice to cure, the Board of County Commissioners in its sole discretion, may suspend or terminate the Interlocal agreement and the PACE Local Government shall have no authority to continue with any new projects within Pinellas County. Notwithstanding termination of the Interlocal agreement, however, property owners whose applications were approved prior to the termination date, and who received funding through the PACE Program, shall continue to be a part of the PACE Program, for the sole purpose of paying their outstanding assessment payments, until such time that all outstanding assessment payments have been satisfied.

**Sec. 42-453. Enforcement**

This Ordinance is enforceable by all means provided by law.

**SECTION 3. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this article, amendment or the particular application thereof, shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentence, clause or phrase and application shall not be affected thereby.

**SECTION 4. INCLUSION IN THE CODE.** The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

**SECTION 5. FILING OF ORDINANCE; EFFECTIVE DATE.** Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners, and shall become effective upon filing with the Department of State.

APPROVED AS TO FORM

By:



\_\_\_\_\_  
Office of the County Attorney