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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 a~~ local government² 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~~ interlocal agreement with the Board, the Board intends to as fully as practicable protect the County and its citizens from potential liabilities

45 associated with operation of a PACE Program by such separate special purpose local governments;
46 and

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

49
50 **NOW, THEREFORE**, BE IT ORDAINED BY THE BOARD OF COUNTY
51 COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, at its regular meeting assembled this
52 _____ day of _____, 2017, that:

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

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

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

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

59 (a) *Board* shall mean the Pinellas County Board of County
60 Commissioners.

61 (b) *County* shall mean Pinellas County, Florida.

62 (c) *Eligible Participant* shall mean any residential or non-residential
63 Property owner who voluntarily participates in the PACE Program
64 and satisfies the eligibility requirements set forth in Section 42-447.

65 (d) *PACE Act* shall mean Section 163.08, Florida Statutes, as it may be
66 amended from time to time.

67 (e) *PACE Administrator* shall mean a for-profit or not-for-profit
68 organization responsible for administering a PACE Program on
69 behalf of and at the discretion of a PACE Local Government
70 consistent with Section 163.08(6), Florida Statutes.

71 (f) *PACE Assessment* shall mean the non-ad valorem assessment placed
72 on a property owner’s tax bill as a result of financing obtained
73 pursuant to the PACE Financing Agreement.

74 (g) *PACE Contractor* shall mean a contractor ~~certified-authorized~~ by the
75 PACE Local Government to sell, construct or install Qualifying
76 Improvements funded through the PACE Program.

77 (gh) *PACE Financing Agreement* shall mean the agreement entered into
78 between the Eligible Participant and the PACE Local Government
79 specifying the Qualifying Improvements to be installed at the
80 Property and the terms and conditions for financing those

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81 improvements through non-ad valorem assessments levied on the
82 Property.

83 (hi) *PACE Interlocal* shall mean an agreement entered into between
84 Pinellas County and a PACE Local Government authorizing the
85 PACE Local Government to administer a PACE Program within
86 Pinellas County in accordance with Section 163.01, Florida Statutes,
87 and this Article.

88 (ij) *PACE Local Government* shall mean a separate legal entity, other
89 than a county or municipality, created pursuant to Section 163.01(7),
90 Florida Statutes, ~~and/ or its designated PACE Program~~
91 ~~administrator.~~ To the extent that a PACE Local Government
92 operates a PACE Program within Pinellas County through a
93 contracted PACE Administrator, the PACE Local Government is
94 responsible for the actions or inactions of the PACE Administrator
95 acting within Pinellas County in furtherance of the PACE Program
96 as if it had taken such action, or failed to take such action, itself.

97 (jk) *PACE Program or Program* shall mean the Property Assessed
98 Clean Energy program (authorized by Section 163.08, Florida
99 Statutes) within the boundaries of Pinellas County, excepting any
100 municipality that has opted out of the Pinellas County PACE
101 Program, operated by a PACE Local Government pursuant to the
102 terms of this Article.

103 (kl) *Property* means a residential or ~~commercial-non-residential~~
104 property, located within the jurisdictional boundaries of Pinellas
105 County excepting any municipality that has opted out of the Pinellas
106 County PACE Program.

107 (lm) *Qualifying Improvements* shall mean those improvements to real
108 property provided for in ~~Subsections~~ 163.08(2), (10) & (12), Florida
109 Statutes, including, but not limited to, energy conservation and
110 efficiency, renewable energy and wind-resistance improvements.

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

112 (a) Section 163.08, Florida Statutes, authorizes local governments
113 defined as a county, a municipality, a dependent special district as
114 defined in ~~Sections-~~189.012, Florida Statutes, or a separate legal
115 entity created pursuant to ~~sSection-~~ 163.01(7), Florida Statutes, to
116 establish and administer PACE financing programs pursuant to
117 which owners of real property may obtain funding for energy
118 conservation and efficiency, renewable energy and wind resistance
119 improvements and repay such funding through voluntary non ad
120 valorem assessments, levied upon the improved property pursuant

121 ~~to financing agreements between the property owner and the PACE~~
122 ~~Local Government(s) Qualifying Improvements).~~

123 (b) Several PACE Local Governments have been created and the
124 availability of the voluntary, non-exclusive PACE program offered
125 by the separate PACE Local Governments is able to be utilized by
126 Pinellas County ~~by-through~~ interlocal agreement without cost,
127 assumption of liability by, or demand upon the credit of Pinellas
128 County.

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129 (c) Section 163.08(3), Florida Statutes, authorizes a PACE Local
130 Government to levy non-ad valorem assessments to fund ~~qualifying~~
131 ~~Qualifying improvements~~ Improvements.

132 (d) It is in the best interests of the citizens of Pinellas County to create
133 a PACE Program through the adoption of an ordinance that sets
134 uniform consumer protections that apply to all PACE Local
135 Governments who implement and manage PACE Programs in
136 Pinellas County excepting any municipality that has opted out of the
137 Pinellas County PACE Program.

138 (e) PACE Local Governments shall be authorized to implement the
139 PACE Program through ~~the adoption of~~ individual PACE ~~in~~ Interlocal
140 agreements.

141 (f) The installation and operation of Qualifying Improvements not only
142 benefits the affected properties for which the improvements are
143 made, but also provides a public benefit by assisting in fulfilling the
144 goals of the State's and County's energy and hurricane mitigation
145 policies.

146 (g) The voluntary participation in the PACE Program by property
147 owners will provide an alternative financing option to finance and
148 repay the costs to provide and install Qualifying Improvements to
149 property located within Pinellas County.

150 (h) It is within the best interests of the citizens of Pinellas County to
151 have uniform consumer protection regulations that apply to all
152 PACE Local Governments and PACE Administrators who
153 implement and manage PACE Programs in Pinellas County
154 excepting any municipality that has opted out of the Pinellas County
155 PACE Program.

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

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

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

160 ~~The~~ PACE Programs ~~has~~ ~~have~~ been developed to allow a property owner to
161 voluntarily finance Qualifying Improvements ~~energy efficient, renewable energy,~~
162 ~~or wind resistant improvements~~ through a non-ad valorem assessment implemented
163 and managed by a PACE Local Government and ~~repaid~~ through collection on the
164 annual property tax bill.

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165 The purpose of this Ordinance is to provide uniform consumer protection
166 regulations for all PACE Local Governments that are authorized to operate within
167 Pinellas County to ensure that:

- 168 (i) ~~(i)~~ the citizens of Pinellas County are fully apprised of the Program;
169 (ii) ~~(ii)~~ PACE Local Governments have developed a responsive
170 complaint process; ~~(iii)~~
171 (iii) ~~that~~ Qualifying Improvements meet the statutory goals set forth in
172 Section 163.08, Florida Statutes; and
173 (iv) ~~(iv) that~~ PACE Contractors meet certain standards of conduct.

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174 This Article is intended to add requirements to the provisions of §163.08, Florida
175 Statutes (20162017), and other applicable law as it currently exists and should be
176 construed consistently with the PACE Act and any such other applicable law. To
177 the extent that the PACE Act provides for additional or more restrictive
178 requirements not otherwise found in this Article or applicable law, the provisions
179 of the PACE Act must be met. To the extent that this Article provides for more
180 restrictive or additional requirements not found in the PACE Act or any such other
181 applicable law, the provisions of this Article are intended to apply.

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

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

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

190 Upon entering into a PACE Interlocal with Pinellas County, a PACE Local
191 Government shall be authorized to administer a PACE Program pursuant to Section
192 163.08, Florida Statutes, the terms of this Article, as may be amended from time to
193 time, the PACE Interlocal and other regulations adopted by the Board within
194 unincorporated Pinellas County and those municipalities that have not opted out of
195 the Pinellas County PACE Program.

196 **Sec. 42-446. PACE Program standards.** At a minimum, PACE Local
197 Governments shall comply with each of the following standards and include the
198 following requirements:
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- 204 (a) Qualifying Improvements: All Qualifying Improvements shall be
 205 properly permitted and must comply with Florida and local codes.
 206 PACE Local Governments shall finance only Qualifying
 207 Improvements that are permanently affixed to the Property.
 208
- 209 (b) Licensed Contractors: Any contractor constructing or installing a
 210 Qualifying Improvement shall be properly licensed and insured, and
 211 ~~trained-certified~~authorized by the PACE Local Government as a
 212 PACE Contractor.
 213
- 214 (c) Materials and Improvements: PACE Local Governments shall
 215 fund, and PACE Contractors shall construct or install, only
 216 Qualifying Improvements. PACE Local Governments shall
 217 establish an “Eligible Measures List” that identifies the types and
 218 specifications of Qualifying Improvements, using efficiency
 219 standards for materials and installation established by the U.S.
 220 Department of Energy, the U.S. Environmental Protection Agency,
 221 or Florida state agencies, or independent third-party expert rating
 222 entities, as applicable. ~~If the product falls within an eligible category~~
 223 ~~under ENERGY STAR, the product must be ENERGY STAR~~
 224 ~~Certified-compliant or another third party national industry rating~~
 225 ~~entity.~~ Any solar photovoltaic system installed shall be financed under
 226 a PACE Program must have an online monitoring system for
 227 maintenance and production monitoring purposes unless the
 228 property owner declines the monitoring system in writing. ~~The~~
 229 Eligible Measures List shall be regularly updated and made publicly
 230 available. The County shall have the right to review and approve
 231 that list annually.
 232
- 233 (d) Data Security and Consumer Privacy: PACE Local Governments
 234 shall take security measures to protect the security and
 235 confidentiality of consumer records and information to the extent
 236 permitted or mandated by law. In addition, a privacy policy must be
 237 in place that complies with state and federal law and, in particular,
 238 shall provide a property owner the ability to opt-out of having the
 239 property owner’s information shared with third parties, except
 240 where expressly permitted or required by state ~~and~~or federal law.
 241
- 242 (e) Contractor Pricing: Within six months of entering into a PACE
 243 Interlocal agreement, PACE Local Governments shall have in place
 244 pricing rules and enforcement mechanisms to ensure property
 245 owners are protected from excessive or unjustified prices and
 246 charges of PACE Contractors.
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(f) Estimated Energy Savings Disclosure: PACE Local Governments shall require that PACE Contractors inform Eligible Participants of the following:

- 1) Where applicable, an eEstimate 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 or websites 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 associated with a Qualifying Improvement;
- 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.

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(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 for residential properties 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

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- 294 that failure to pay may result in the loss of property subject to
295 the PACE Assessment, including homestead property, in the
296 same manner as failure to pay property taxes;
297 7) That the installation of Qualifying Improvements and PACE
298 Assessment may or may not affect the overall market value of
299 the Property or energy cost savings;
300 8) That all applicable warranties or guarantees terms are set forth
301 in writing, and what materials or labor are not warranted or
302 guaranteed for each Qualifying Improvement;
303 9) That the PACE Assessment may affect the sale or refinance of
304 the property;
305 10) ~~That some mortgage purchasers including have given direction~~
306 ~~that they~~ the property owner may be required to pay any PACE
307 assessment in full at the time of refinance or sale of the property;
308 and
309 11) That if the property owner is using an escrow or impound
310 account to pay their property taxes, they should contact their
311 lender immediately to ensure that the escrow payments are
312 adjusted correctly and the property owner is aware of and
313 prepared for the increased payment amount.
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Commented [CDS4]: Full deleted text was: some mortgage purchasers currently including the two residential underwriters that buy the majority of mortgages in Florida, Federal Home Loan Mortgage Corporation (Freddie Mac) and Federal National Mortgage Association (Fannie Mae), have given direction that they will not buy mortgages of properties subject to a PACE Assessment, and therefore

315 The notice shall be signed and dated by the property owner to acknowledge
316 that they understand these conditions. The PACE Local Government shall
317 record, or cause to be recorded, the Notice ~~signature page~~ in the public
318 records as an attachment to the PACE Financing Agreement. The signature
319 page must clearly designate that it relates to the PACE Financing
320 Agreement and Notice to Property Owner acknowledgement. In the
321 alternative, the foregoing notice provisions may be incorporated into the
322 recorded financing agreement or summary memorandum of financing
323 agreement relating to the PACE Assessment.
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- 325 (h) PACE Financing Agreement. After achieving compliance with all
326 other mandated steps provided for by law, including but not limited
327 to receiving a verified copy or other proof of such notice required
328 by §163.08(13), Florida Statutes (2016), the PACE Local
329 Government shall enter into a voluntary written agreement with
330 each Eligible Participant. Such agreement, or supporting
331 documentation referenced within such agreement and attached
332 thereto, which must shall include, at a minimum, the following:
333
334 1) The full legal description of the property subject to the PACE
335 Assessment.
336 2) The amount of funding to be provided to the Eligible Participant.
337 3) Express voluntary consent by the Eligible Participant to accept
338 the non-ad valorem assessment collection process, set forth in
339 Section 197.3632, Florida Statutes.

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- 4) The length of time for the Eligible Participant to repay the non-ad valorem assessment, which shall not exceed the expected life of the most costly Qualifying Improvement(s) funded by the PACE Program, or 30 years, whichever is less.
 - 5) The Eligible Participant shall be responsible for assuring verifying that 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 nNotice of the lien in accordance with 163.08(14), Florida Statutes.
 - 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, and estimated completion date, and estimated savings. ~~Any Sstatement 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

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386 execution of the PACE Financing Agreement, along with
387 appropriate PACE Local Government contact information for
388 property owner inquiries:

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390 QUALIFYING IMPROVEMENTS FOR ENERGY
391 EFFICIENCY, RENEWABLE ENERGY, OR
392 WIND RESISTANCE. This property is located
393 within the jurisdiction of a PACE Local Government
394 that has placed an assessment on the property
395 pursuant to Section 163.08, Florida Statutes. The
396 assessment is for a Qualifying Improvement to the
397 property relating to energy efficiency, renewable
398 energy or wind resistance, and is not based on the
399 value of property. You are encouraged to contact the
400 county property appraiser's office to learn more
401 about this and other assessments that may be
402 provided by law.
403

404 ~~(j) No Prepayment Penalties on Residential Properties. The PACE
405 Program shall not charge or impose a prepayment penalty on
406 residential property.~~

407 ~~(j) No prepayment penalties may be charged or allowed. The
408 PACE Local Government shall provide a mechanism for re-
409 amortization of PACE assessments to account for partial pre-
410 payment, particularly for application of tax credits, rebates, or other
411 incentives.~~

412
413 (k) Financing. The PACE Local Government may offer only fixed
414 simple interest rates and payments that fully amortize the obligation.
415 Variable or negative amortization financing terms are not permitted.
416 Capitalized interest included in the original balance of PACE
417 financing does not constitute negative amortization.

418
419 (l) Project Completion. The PACE Local Government shall require
420 compliance with each of the following conditions prior to the
421 issuance of any payment to a PACE Contractor for which a property
422 will be assessed:

- 423 1) PACE Contractor and Property owner has certified in writing
424 that any necessary permits have been obtained and any
425 necessary inspections have been completed to close out any such
426 permits;
427 2) Verification that the Qualifying Improvements have been
428 constructed or installed; and
429 3) The property owner and the PACE Contractor have signed a
430 certificate of completion that all improvements have been
431 installed to the property owner's satisfaction.

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- (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~~2017).

- (n) PACE Contractor Management. Each PACE Local Governments shall:
 - 1) To the extent ~~available possible~~, conduct outreach to recruit and enroll local contractors as PACE Contractors;
 - ~~2) Conduct local recruitment efforts;~~
 - ~~3)2)~~ 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)3)~~ Have and shall strictly enforce anti-kickback policies and procedures that prohibit direct or indirect 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 construction or installation of eligible improvements.
 - ~~5)4)~~ Train all PACE ~~program contractors~~Contractors on the regulations related to the PACE program and the Code of Conduct;
 - ~~6)5)~~ Ensure that all PACE Contractors hold necessary licenses and insurance;
 - ~~7)6)~~ Confirm PACE Contractor qualifications at least annually and as necessary based upon consumer complaints or other indications of lack of compliance; and
 - ~~8)7)~~ Remove PACE Contractors from the PACE ~~p~~Program who no longer meet program criteria; have not met program requirements, or failure to resolve consumer complaints.

- (o) Customer Service: PACE Local Governments or their PACE Administrators shall provide ~~a high level of~~ customer service, including:
 - 1) Access to customer service representatives by email and phone during normal business hours (not less than 9 a.m. to 5 p.m. Monday through Friday excluding holidays);
 - 2) A detailed website with specific reference to the Pinellas County PACE Program;

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- 3) A transparent customer feedback and complaint process with quick response and resolution by both the PACE Contractor and the PACE Local Government or PACE Administrator as applicable.
- a) A document outlining complaint process shall be clearly available on the PACE Local Government or PACE Administrator's 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 or PACE Administrator, and the PACE Contractor, and final resolution.
 - d) All disputes and complaints shall be investigated, and resolved in a timely manner. Reports of the number of complaints received, time until resolution of each complaint, and method of resolution of each complaint shall be provided to Pinellas County ~~upon request and a summary provided~~ annually.

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(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)2)~~ Neither PACE Local Governments nor their PACE Administrators or 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;

- 523 c) does not involve a financial obligation by the property
524 owner; or
525 d) is a form of public assistance.

526
527 (q) Protected Classes. ~~The No~~ PACE Local Government, PACE
528 Administrator, nor PACE Contractor shall ~~not~~ discriminate against
529 individuals on the basis of race, color, ancestry, disability, national
530 origin, religion, age, familial status, marital status, sex, gender,
531 sexual orientation, gender identity and expression, or genetic
532 information.

533
534 (r) Metrics Reporting: After not more than one year from the date of
535 adoption of this ordinance, PACE Local Governments shall track
536 Program metrics and report those metrics to Pinellas County and any
537 participating municipalities, by jurisdiction and in total, at least
538 quarterly, in spreadsheet format or another electronic format agreed
539 upon by Pinellas County. Those metrics shall include, at a
540 minimum:

- 541 ~~1. (a)~~ Dates of the reporting period;
542 1.
543 ~~2. (b)~~ List of PACE projects (including municipal jurisdiction,
544 financed amount, interest rate, assessment duration, and
545 project description) started during the reporting period,
546 separated by building type (e.g., single family, multifamily,
547 retail, office, industrial, etc.);
548 2.
549 ~~(e)~~ List of PACE projects (including municipal jurisdiction)
550 completed during the reporting period, separated by building
551 type project (e.g., single family, multifamily, retail, office,
552 industrial, etc.), specify: (1) the qualifying improvements
553 made; (2) project start date and completion date; (3) the
554 projected energy savings and/or amount of potential
555 renewable energy to be generated; (4) financial information
556 such as cost per kilowatt hour saved/generated; (5) other
557 resource savings if data is available; and (6) energy audits
558 performed detailing the audit results, if applicable to the
559 project;
560 3. (d)
561 ~~3.~~ Number of actual or estimated jobs created during the
562 reporting period, including local versus non-local jobs and
563 permanent versus temporary jobs;
564 4.
565 ~~(e)~~ Number of applications declined during the reporting
566 period;
567 5. (f)
568 ~~(g)~~ Unresolved complaints and/or contractor issues and status;

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~~6. (g)
— PACE assessment defaults and delinquencies tax certificates issued on Properties subject to PACE Assessment (updated annually); and~~

~~7. (h)
8. All data included in the reports must be developed and collected using standardized and verified principles and methodologies for the industry. The methodologies and supporting assumptions and/or sources must be made available to the County by the PACE Local Government. It is the responsibility of the PACE Local Government to test and verify the data collection and reporting methods and models used. All reports shall include only aggregate data, excluding any nonpublic personal information.~~

~~(r) —, 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:~~

- ~~(s) —~~
- ~~(t) — Name, address, contact information and sector type (commercial, industrial or residential) for participants;~~
- ~~(u) — Defaults or delinquencies;~~
- ~~(v) — Project description including qualifying improvement made, completion dates, contractor information, financed value, assessment amount, assessment duration, and total cost;~~
- ~~(w) — 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;~~
- ~~(x) — 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);~~
- ~~(y) — Audits performed, detailing the audit results, if property owner chose to include an audit in the financing;~~
- ~~(z) — Number of actual or estimated jobs created during the reporting period;~~
- ~~(aa) — 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.~~

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

~~(bb)(s)~~ Amendments. County reserves the right to amend this ordinance to revise PACE Program standards. It is the obligation of the PACE Local Governments to remain abreast of and comply with all changes in applicable law, including changes to this ordinance made at public hearings.

~~(ee)(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.

~~(dd)(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 all mortgage-related debt on the underlying property does not exceed 90% of the ~~P~~property's fair market value~~Just Value~~ (as determined by the Pinellas County Property Appraiser, by a credentialed commercial or residential property appraiser, or by an automated valuation service or model from a reputable third party) and that the total mortgage-related debt of the underlying Pproperty plus the PACE program financing does not exceed the ~~Just Value~~fair market value of the Pproperty prior to the improvements. ~~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~~

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- Commented [GG7]: Consider fmv and approach as well as limitation to 100% of original fmv. Pre-improvement.
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660 ~~valorem assessment for a property exceed 20 percent of the just~~
661 ~~value of the property as determined by the county property~~
662 ~~appraiser, without the consent of the holder or loan servicer of~~
663 ~~any mortgage encumbering or otherwise secured by the~~
664 ~~property; or~~
665 2) Mortgage Holder Consent or Escrow: PACE Local
666 Governments shall verify that each prior mortgage or financing
667 instrument holder has consented to any proposed Financing
668 Agreement and PACE Assessment, or that the prior mortgage or
669 financing instrument holder or loan servicer has consented to
670 escrow sufficient funds to ensure payment of the annual
671 assessment with each year's tax bill; or
672 3) Insurance or Energy Savings: PACE Local Governments shall
673 verify that the total cost of the PACE Assessment is equal to or
674 less than the projected savings to the property owner based upon
675 the projected energy savings in a written statement from a
676 Certified Energy Auditor, certified by the Association of Energy
677 Engineers, the Residential Energy Services Network, or the
678 Building Performance Institute, or the projected insurance
679 savings in a written statement from the property owner's insurer.
680

681 **Sec. 42-447. Eligible Participants.** In order to be an Eligible Participant, a
682 ~~property-Property~~ owner (or ~~P~~property) must meet the criteria listed below. The
683 PACE Local Government is responsible for verifying that all of these conditions
684 are met.
685

- 686 (a) Be the legal owner of the Property and provide proof of ownership
687 in the application for the PACE Program;
- 688 (b) Property must be within the PACE Program boundaries, as defined
689 in Section 42-444;
- 690 (c) All property taxes and any other assessments levied on the same bill
691 as property taxes are paid and have not been delinquent for the
692 preceding three (3) years or the Property owner's period of
693 ownership, whichever is less;
- 694 (d) Property owner must be current on any mortgage on the subject
695 property;
- 696 (e) Property owner cannot be in bankruptcy nor can the Property be an
697 asset in any bankruptcy proceeding;
- 698 (f) Property cannot have any federal income tax lien, judgment lien or
699 similar involuntary lien, including construction liens, encumbering
700 it; and
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- 706
707 (g) There is no pending Notice of Default on the property and no more
708 than one recorded Notice of Default during the preceding ~~two~~three
709 (~~2~~3) years or the property owner's period of ownership, whichever
710 is less.†

711
712 **Section 42-448. Non-ad valorem Assessments.**

713 Pursuant to Section 163.08, Florida Statutes, the PACE Local Government is
714 authorized to impose non ad-valorem assessments on Property to secure the
715 repayment of ~~any loan~~the costs incurred by an Eligible Participant to pay for
716 Qualified Improvement(s), which shall be collected pursuant to Section 197.3632,
717 Florida Statutes, or any successor Section. Notwithstanding Section
718 197.3632(8)(a), Florida Statutes, the assessments shall not be subject to discount
719 for early payment and shall not require notice and adoption as set forth in Section
720 197.3632(4), Florida Statutes. Pursuant to Chapter 197, Florida Statutes, non-ad
721 valorem assessments levied pursuant to this Article shall remain liens, coequal with
722 the lien of all state, County, district and municipal taxes, superior in dignity to all
723 other liens, titles and claims, until paid.

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

725
726 The PACE Program shall be administered pursuant to Section 163.08, Florida
727 Statutes, this Article and any additional regulations adopted by the Board.

728
729 **Sec. 42-450. Recordation.**

730 Any financing agreement entered into or a summary memorandum of such agreement
731 between the Eligible Participant and the PACE Local Government shall be recorded
732 in the public records of the County within five (5) days after execution of the
733 agreement pursuant to Section 163.08(8), Florida Statutes. The recorded agreement or
734 summary memorandum of such agreement shall provide constructive notice that
735 the assessment to be levied on the Property constitutes a lien of equal dignity to
736 County taxes and assessments from the date of recordation.

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

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

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

744
745 In the event any PACE Local Government fails to abide by the provisions of this
746 Ordinance and the PACE Interlocal, following sixty day notice to cure, the Board

747 of County Commissioners in its sole discretion, may suspend or terminate the
748 Interlocal agreement and the PACE Local Government shall have no authority to
749 continue with any new projects within Pinellas County. Notwithstanding termination
750 of the Interlocal agreement, however, property owners whose applications were
751 approved prior to the termination date, and who received funding through the PACE
752 Program, shall continue to be a part of the PACE Program, for the sole purpose of
753 paying their outstanding assessment payments, until such time that all outstanding
754 assessment payments have been satisfied.

755
756 **Sec. 42-453. Enforcement**

757 This Ordinance is enforceable by all means provided by law.

758
759 **SECTION 3. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this
760 article, amendment or the particular application thereof, shall be held invalid by any court,
761 administrative agency, or other body with appropriate jurisdiction, the remaining section,
762 subsection, sentence, clause or phrase and application shall not be affected thereby.

763
764 **SECTION 4. INCLUSION IN THE CODE.** The provisions of this Ordinance shall be included
765 and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be
766 appropriately renumbered to conform to the uniform numbering system of the Pinellas County
767 Code.

768
769 **SECTION 5. FILING OF ORDINANCE; EFFECTIVE DATE.** Pursuant to Section 125.66,
770 Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by
771 the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board
772 of County Commissioners, and shall become effective upon filing with the Department of State.

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