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ORDINANCE NO. 18-

AN ORDINANCE OF THE COUNTY OF PINELLAS, FLORIDA, AMENDING THE PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM FOR PINELLAS COUNTY; MODIFYING PACE PROGRAM REQUIREMENTS; CORRECTING REFERENCES AND SCRIVENER’S ERRORS ; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Pinellas County previously adopted an ordinance allowing a PACE Program for non-residential properties throughout Pinellas County;

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 a 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 interlocal agreement 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 revised minimum standards and limitations for the operation of any PACE Program within Pinellas County to include and allow a PACE Program for residential properties.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, at its regular meeting assembled this ____ day of _____, 2018, that:

SECTION 1. Article XIV of Chapter 42 of the Code is hereby renumbered, and amended to read as follows:

43 **ARTICLE ~~XIV~~XIII. PROPERTY ASSESSED CLEAN ENERGY (PACE)**
44 **PROGRAM**

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

- 47 (a) *Board* shall mean the Pinellas County Board of County
48 Commissioners.
- 49 (b) *County* shall mean Pinellas County, Florida.
- 50 (c) *Eligible Participant* shall mean any residential or non-residential
51 Property owner who voluntarily participates in the PACE Program
52 and satisfies the eligibility requirements set forth in Section 42-447.
- 53 (d) *PACE Act* shall mean Section 163.08, Florida Statutes, as it may be
54 amended from time to time.
- 55 (e) *PACE Administrator* shall mean a for-profit or not-for-profit
56 organization responsible for administering a PACE Program on
57 behalf of and at the discretion of a PACE Local Government
58 consistent with Section 163.08(6), Florida Statutes.
- 59 (f) *PACE Assessment* shall mean the non-ad valorem assessment placed
60 on a property owner's tax bill as a result of financing obtained
61 pursuant to the PACE Financing Agreement.
- 62 (g) *PACE Contractor* shall mean a contractor authorized by the PACE
63 Local Government to sell, construct or install Qualifying
64 Improvements funded through the PACE Program.
- 65 (h) *PACE Financing Agreement* shall mean the agreement entered into
66 between the Eligible Participant and the PACE Local Government
67 specifying the Qualifying Improvements to be installed at the
68 Property and the terms and conditions for financing those
69 improvements through non-ad valorem assessments levied on the
70 Property.
- 71 (i) *PACE Interlocal* shall mean an agreement entered into between
72 Pinellas County and a PACE Local Government authorizing the
73 PACE Local Government to administer a PACE Program within
74 Pinellas County in accordance with Section 163.01, Florida Statutes,
75 and this Article.
- 76 (j) *PACE Local Government* shall mean a separate legal entity, other
77 than a county or municipality, created pursuant to Section 163.01(7),
78 Florida Statutes. To the extent that a PACE Local Government
79 operates a PACE Program within Pinellas County through a
80 contracted PACE Administrator, the PACE Local Government is

81 responsible for the actions or inactions of the PACE Administrator
82 acting within Pinellas County in furtherance of the PACE Program
83 as if it had taken such action, or failed to take such action, itself.

84 (k) *PACE Program or Program* shall mean the Property Assessed
85 Clean Energy program (authorized by Section 163.08, Florida
86 Statutes) within the boundaries of Pinellas County, excepting any
87 municipality that has opted out of the Pinellas County PACE
88 Program, operated by a PACE Local Government pursuant to the
89 terms of this Article.

90 (l) *Property* means a residential or non-residential property, located
91 within the jurisdictional boundaries of Pinellas County excepting
92 any municipality that has opted out of the Pinellas County PACE
93 Program.

94 (m) *Qualifying Improvements* shall mean those improvements to real
95 property provided for in Section 163.08, Florida Statutes, including,
96 but not limited to, energy conservation and efficiency, renewable
97 energy and wind-resistance improvements.

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

99 (a) Section 163.08, Florida Statutes, authorizes local governments
100 defined as a county, a municipality, a dependent special district as
101 defined in Section 189.012, Florida Statutes, or a separate legal entity
102 created pursuant to Section 163.01(7), Florida Statutes, to establish
103 and administer PACE financing programs pursuant to which owners
104 of real property may obtain funding for Qualifying Improvements.

105 (b) Several PACE Local Governments have been created and the
106 availability of the voluntary, non-exclusive PACE program offered
107 by the separate PACE Local Governments is able to be utilized by
108 Pinellas County through interlocal agreement without cost,
109 assumption of liability by, or demand upon the credit of Pinellas
110 County.

111 (c) Section 163.08(3), Florida Statutes, authorizes a PACE Local
112 Government to levy non-ad valorem assessments to fund Qualifying
113 Improvements.

114 (d) It is in the best interests of the citizens of Pinellas County to create
115 a PACE Program through the adoption of an ordinance that sets
116 uniform consumer protections that apply to all PACE Local
117 Governments who implement and manage PACE Programs in
118 Pinellas County excepting any municipality that has opted out of the
119 Pinellas County PACE Program.

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

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

138 This article shall be known as the “Pinellas County Property Assessed Clean
139 Energy (PACE) Program.”

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

141 PACE Programs have been developed to allow a property owner to voluntarily
142 finance Qualifying Improvements through a non-ad valorem assessment
143 implemented and managed by a PACE Local Government and repaid through
144 collection on the annual property tax bill.

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

- 148 (i) the citizens of Pinellas County are fully apprised of the Program;
149 (ii) PACE Local Governments have developed a responsive complaint
150 process;
151 (iii) Qualifying Improvements meet the statutory goals set forth in
152 Section 163.08, Florida Statutes; and
153 (iv) PACE Contractors meet certain standards of conduct.

154 This Article is intended to add requirements to the provisions of §163.08, Florida
155 Statutes (2017), and other applicable law as it currently exists and should be
156 construed consistently with the PACE Act and any such other applicable law. To
157 the extent that the PACE Act provides for additional or more restrictive
158 requirements not otherwise found in this Article or applicable law, the provisions

159 of the PACE Act must be met. To the extent that this Article provides for more
160 restrictive or additional requirements not found in the PACE Act or any such other
161 applicable law, the provisions of this Article are intended to apply.

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

163 The PACE Program is available to Eligible Participants for projects on non-
164 residential Properties within unincorporated Pinellas County and within Pinellas
165 County municipalities. The PACE Program shall be available to Eligible
166 Participants for residential Properties within unincorporated Pinellas County upon
167 the effective date of this Article, and within Pinellas County municipalities ~~one~~
168 ~~hundred and twentysixty~~ (12060) days after the effective date of this Article,
169 excepting any municipality that has opted out of the Pinellas County PACE
170 Program by the passing of an ordinance in conflict with this Article. For clarity, at
171 any time, any municipality desiring to utilize only a portion of the PACE Program
172 may exempt itself by ordinance from those portions of the PACE Program
173 described in this Article that the municipality does not want to have apply within
174 its jurisdiction.
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177 **Sec. 42-445. PACE Local Governments.**

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179 Upon entering into a PACE Interlocal with Pinellas County, a PACE Local
180 Government shall be authorized to administer a PACE Program pursuant to Section
181 163.08, Florida Statutes, the terms of this Article, as may be amended from time to
182 time, the PACE Interlocal and other regulations adopted by the Board within
183 unincorporated Pinellas County and those municipalities that have not opted out of
184 the Pinellas County PACE Program.

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

- 189 (a) Qualifying Improvements: All Qualifying Improvements shall be
190 properly permitted (where applicable) and must comply with Florida
191 and local codes. PACE Local Governments shall finance only
192 Qualifying Improvements that are permanently affixed to the
193 Property.
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- 195 (b) Licensed Contractors: Any contractor constructing or installing a
196 Qualifying Improvement shall be properly licensed and insured, and
197 authorized by the PACE Local Government as a PACE Contractor.
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- 199 (c) Materials and Improvements: PACE Local Governments shall
200 fund, and PACE Contractors shall construct or install, only
201 Qualifying Improvements. PACE Local Governments shall
202 establish an “Eligible Measures List” that identifies the types and
203 specifications of Qualifying Improvements, using efficiency
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standards for materials and installation established by the U.S. Department of Energy, the U.S. Environmental Protection Agency, or Florida state agencies, or independent third-party expert rating entities, as applicable. Any solar photovoltaic system financed under a PACE Program must have an online monitoring system for maintenance and production monitoring purposes unless the property owner declines the monitoring system in writing. 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 or mandated 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 or required by state or 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 help 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) Where applicable, an estimate of energy and/ or insurance cost savings, 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;

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- 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 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 penalty for paying the PACE Assessment early;
- ~~5)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;
- ~~6)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;
- ~~7)8)~~ That all applicable warranties or guarantees terms are set forth in writing, and what materials or labor are not warrantied or guaranteed for each Qualifying Improvement;
- ~~8)9)~~ That the PACE Assessment may affect the sale or refinance of the property;
- ~~9)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
- ~~10)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

296 adjusted correctly and the property owner is aware of and
297 prepared for the increased payment amount.
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299 The notice shall be signed and dated by the property owner to acknowledge
300 that they understand these conditions. The PACE Local Government shall
301 record, or cause to be recorded, the Notice in the public records as an
302 attachment to the PACE Financing Agreement. The signature page must
303 clearly designate that it relates to the PACE Financing Agreement and
304 Notice to Property Owner acknowledgement. In the alternative, the
305 foregoing notice provisions may be incorporated into the recorded financing
306 agreement or summary memorandum of financing agreement relating to the
307 PACE Assessment.
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309 (h) PACE Financing Agreement. After achieving compliance with all
310 other mandated steps provided for by law, including but not limited
311 to receiving a verified copy or other proof of such notice required
312 by §163.08(13), Florida Statutes (2016), the PACE Local
313 Government shall enter into a voluntary written agreement with
314 each Eligible Participant. Such agreement, or supporting
315 documentation referenced within such agreement and attached
316 thereto, must include, at a minimum, the following:
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- 318 1) The full legal description of the property subject to the PACE
319 Assessment.
- 320 2) The amount of funding to be provided to the Eligible Participant.
- 321 3) Express voluntary consent by the Eligible Participant to accept
322 the non-ad valorem assessment collection process, set forth in
323 Section 197.3632, Florida Statutes.
- 324 4) The length of time for the Eligible Participant to pay the non-ad
325 valorem assessment, which shall not exceed the expected life of
326 the most costly Qualifying Improvement(s) funded by the PACE
327 Program, or 30 years, whichever is less.
- 328 5) The Eligible Participant shall be responsible for verifying that
329 the Qualifying Improvements are completed as reflected in the
330 approved application documents. The Eligible Participant also
331 consents to providing access to the PACE Local Government or
332 its agent to the Property to verify that the Qualifying
333 Improvements have been completed as proposed in the
334 application.
- 335 6) At or before the execution of a contract for the sale and purchase
336 of any Property for which a non-ad valorem assessment for the
337 PACE Program has been levied and has an unpaid balance due,
338 the seller shall give the prospective purchaser a notice of the lien
339 in accordance with 163.08(14), Florida Statutes.
- 340 7) The risks associated with participating in the PACE Program
341 shall be clearly disclosed in plain language in the written

342 agreement with the Eligible Participant, including risks related
343 to the failure of the Eligible Participant to make payments, the
344 risk that they may not be able to refinance the property or sell
345 the property unless the PACE Assessment is paid off in full first,
346 and the risk of issuance of a tax certificate and loss of the
347 Property pursuant to Chapter 197, Florida Statutes.

348 8) Description of the Qualifying Improvements, their cost, and
349 estimated completion date.

350 9) Notice of the non-ad valorem assessment shall be recorded in
351 the public records for the Property.

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

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

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

379
380 (j) No Prepayment Penalties on Residential Properties. The PACE
381 Program shall not charge or impose a prepayment penalty on
382 residential property.

383
384 (k) Financing. The PACE Local Government may offer only fixed
385 simple interest rates and payments that fully amortize the obligation.
386 Variable or negative amortization financing terms are not permitted.

387 Capitalized interest included in the original balance of PACE
388 financing does not constitute negative amortization.
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391 ~~(k)~~(l) Project Completion. The PACE Local Government shall require
392 compliance with each of the following conditions prior to the
393 issuance of any final payment to a PACE Contractor for which a
394 property will be assessed:
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- 396 1) PACE Contractor and Property owner ~~has~~have certified in
397 writing that any necessary permits have been obtained and any
398 necessary inspections have been successfully completed
399 sufficient to allow the close out of any such permits;
- 400 2) Verification that the Qualifying Improvements have been
401 constructed or installed; and
- 402 3) The property owner and the PACE Contractor have signed a
403 certificate of completion that all improvements have been
404 installed to the property owner's satisfaction.
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406 ~~(l)~~(m) Lender notification. The PACE Local Government shall ensure that
407 the property owner provides notice to the holders or loan servicers
408 of any existing mortgages encumbering or otherwise secured by the
409 property of the owner's intent to enter into a PACE Assessment
410 that, at a minimum satisfies the requirements of Section 163.08(13),
411 Florida Statutes (2017).
412

413 ~~(m)~~(n) PACE Contractor Management. Each PACE Local Governments
414 shall:
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- 417 1) To the extent possible, conduct outreach to and enroll local
418 contractors as PACE Contractors;
- 419 2) Establish a "Code of Conduct" that sets standards for PACE
420 Contractors such as licensing, advertising and marketing,
421 accurate representation of the program, and consumer
422 protections.
- 423 3) Have and shall strictly enforce anti-kickback policies and
424 procedures that, other than joint marketing efforts of a PACE
425 Program with a Contractor, prohibit direct or indirect financial
426 or other monetary incentives to PACE Contractors in exchange
427 for or related to such PACE Contractor being awarded work
428 under a PACE Program, excepting payment for the PACE
429 Contractor's construction or installation of eligible
430 improvements.
- 431 4) Train all PACE Contractors on the regulations related to the
432 PACE ~~P~~rogram and the Code of Conduct;

- 433 5) Ensure that all PACE Contractors hold necessary licenses and
434 insurance;
435 6) Confirm PACE Contractor qualifications at least annually and
436 as necessary based upon consumer complaints or other
437 indications of lack of compliance; and
438 7) Remove PACE Contractors from the PACE Program who no
439 longer meet program criteria; have not met program
440 requirements, or fail to resolve consumer complaints.

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442 ~~(n)~~(o) Customer Service: PACE Local Governments or their PACE
443 Administrators shall provide customer service, including:
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- 445 1) Access to customer service representatives by email and phone
446 during normal business hours (not less than 9 a.m. to 5 p.m.
447 Monday through Friday excluding holidays);
448 2) A detailed website with specific reference to the Pinellas County
449 PACE Program;
450 3) A transparent customer feedback and complaint process with
451 quick response and resolution by both the PACE Contractor and
452 the PACE Local Government or PACE Administrator as
453 applicable.
454
455 a) A document outlining complaint process shall be clearly
456 available on the PACE Local Government or PACE
457 Administrator’s website and provided to customers.
458 b) The document shall make clear that Pinellas County is
459 not operating or administering the PACE Program in any
460 way and that all concerns about the Program should be
461 addressed directly to the PACE Local Government, with
462 clear contact information provided.
463 c) All complaints and resolutions shall be logged, with the
464 following information at a minimum: date and time of
465 complaint, customer and PACE Contractor information,
466 details of complaint, when and what actions were taken
467 by both the PACE Local Government or PACE
468 Administrator, and the PACE Contractor, and final
469 resolution.
470 d) All disputes and complaints shall be investigated, and
471 resolved in a timely manner. Reports of the number of
472 complaints received, time until resolution of each
473 complaint, and method of resolution of each complaint
474 shall be provided to Pinellas County annually.

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476 ~~(o)~~(p) Marketing and Communications:
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- 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) 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;
 - c) does not involve a financial obligation by the property owner; or
 - d) is a form of public assistance.

~~(p)~~(q) Protected Classes. No PACE Local Government, PACE Administrator, nor PACE Contractor shall 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.

~~(q)~~(r) Metrics Reporting: After not more than one year from the date of adoption of this ordinance, 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:

1. Dates of the reporting period;
2. List of PACE projects (including municipal jurisdiction, financed amount, interest rate, assessment duration, and project description) started during the reporting period, separated by building type (e.g., single family, multifamily, retail, office, industrial, etc.);
3. List of PACE projects (including municipal jurisdiction) completed during the reporting period, separated by building type project (e.g., single family, multifamily, retail, office, industrial, etc.), specify: (1) the qualifying improvements made; (2) project start date and completion date; (3) the projected energy savings and/or amount of potential renewable energy to be generated; (4) financial information such as cost per kilowatt hour saved/generated associated with the projected energy savings and/or amount of potential

- 524 renewable energy to be generated; (5) other resource savings
525 if data is available; and (6) energy audits performed detailing
526 the audit results, if applicable to the project;
- 527 4. Number of actual or estimated jobs created during the
528 reporting period, including, if available, local versus non-
529 local jobs and permanent versus temporary jobs;
 - 530 5. Number of applications declined during the reporting period;
 - 531 6. Unresolved complaints and/or contractor issues and status;
 - 532 7. PACE assessment defaults and tax certificates issued on
533 Properties subject to PACE Assessment (updated annually);
534 and
 - 535 8. All data included in the reports must be developed and
536 collected using standardized and verified principles and
537 methodologies for the industry. The methodologies and
538 supporting assumptions and/or sources must be made
539 available to the County by the PACE Local Government. It
540 is the responsibility of the PACE Local Government to test
541 and verify the data collection and reporting methods and
542 models used. All reports shall include only aggregate data,
543 excluding any nonpublic personal information.

544
545 (+)(s) Amendments. County reserves the right to amend this ordinance to
546 revise PACE Program standards. It is the obligation of the PACE
547 Local Governments to remain abreast of and comply with all
548 changes in applicable law, including changes to this ordinance made
549 at public hearings.

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551 (+)(t) Reporting. PACE Local Governments will respond to County
552 requests for information on the PACE Program in a timely manner
553 and shall provide sufficient documentation as requested by the
554 County to ensure that the requirements of this Article and the State
555 statutes are being met. The PACE Local Government shall retain
556 sufficient books and records demonstrating compliance with the
557 Agreement and State and County requirements for a minimum
558 period of seven years from the initial date of each non-ad valorem
559 assessment, and shall allow County representatives access to such
560 books and records upon request.

561
562 (u) Additional Program standards for residential properties: PACE
563 Local Governments that finance PACE Qualifying Improvements
564 on residential properties within Pinellas County shall, at a minimum,
565 comply with at least one (1) of the following additional standards
566 for projects affecting residential properties with four (4) residential
567 units or fewer:

- 569 1) Financing limits: PACE Local Governments shall ensure that
 570 all mortgage-related debt on the underlying Property does not
 571 exceed 90% of the Property's fair market value (as determined
 572 by the Pinellas County Property Appraiser, by a credentialed
 573 commercial or residential property appraiser, or by an automated
 574 valuation service or model from a reputable third party) and that
 575 the total mortgage-related debt of the Property plus the PACE
 576 program financing does not exceed the fair market value of the
 577 Property prior to the Qualifying Improvements; or
 578 2) Mortgage Holder Consent or Escrow: PACE Local
 579 Governments shall verify that each prior mortgage or financing
 580 instrument holder has consented to any proposed Financing
 581 Agreement and PACE Assessment, or that the prior mortgage or
 582 financing instrument holder or loan servicer has consented to
 583 escrow sufficient funds to ensure payment of the annual
 584 assessment with each year's tax bill; or
 585 3) Insurance or Energy Savings: PACE Local Governments shall
 586 verify that the total cost of the PACE Assessment is equal to or
 587 less than the projected savings to the property owner based upon
 588 the projected energy savings in a written statement from a
 589 Certified Energy Auditor, certified by the Association of Energy
 590 Engineers, the Residential Energy Services Network, or the
 591 Building Performance Institute, or the projected insurance
 592 savings in a written statement from the property owner's insurer.

593
 594 **Sec. 42-447. Eligible Participants.** In order to be an Eligible Participant, a
 595 Property owner (or Property) must meet the criteria listed below. The PACE Local
 596 Government is responsible for verifying that all of these conditions are met.

- 597
 598 (a) Be the legal owner of the Property and provide proof of ownership
 599 in the application for the PACE Program;
 600
 601 (b) Property must be within the PACE Program boundaries, as defined
 602 in Section 42-444;
 603
 604 (c) All property taxes and any other assessments levied on the same bill
 605 as property taxes are paid and have not been delinquent for the
 606 preceding three (3) years or the Property owner's period of
 607 ownership, whichever is less;
 608
 609 (d) Property owner must be current on any mortgage on the subject
 610 ~~P~~property;
 611
 612 (e) Property owner cannot be in bankruptcy nor can the Property be an
 613 asset in any bankruptcy proceeding;
 614

- 615 (f) Property cannot have any federal income tax lien, judgment lien or
616 similar involuntary lien, including construction liens, encumbering
617 it; and
618
619 (g) No notices of default or other evidence of property-based debt
620 delinquency on the Property have been recorded during the
621 preceding three (3) years or the property owner's period of
622 ownership, whichever is less.
623

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

625 Pursuant to Section 163.08, Florida Statutes, the PACE Local Government is
626 authorized to impose non ad-valorem assessments on Property to secure the
627 repayment of the costs incurred by an Eligible Participant to pay for Qualified
628 Improvement(s), which shall be collected pursuant to Section 197.3632, Florida
629 Statutes, or any successor Section. Notwithstanding Section 197.3632(8)(a),
630 Florida Statutes, the assessments shall not be subject to discount for early payment
631 and shall not require notice and adoption as set forth in Section 197.3632(4), Florida
632 Statutes. Pursuant to Chapter 197, Florida Statutes, non-ad valorem assessments
633 levied pursuant to this Article shall remain liens, coequal with the lien of all state,
634 County, district and municipal taxes, superior in dignity to all other liens, titles and
635 claims, until paid.

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

637
638 The PACE Program shall be administered pursuant to Section 163.08, Florida
639 Statutes, this Article and any additional regulations adopted by the Board.
640

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

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

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

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

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

656
657 In the event any PACE Local Government fails to abide by the provisions of this
658 Ordinance and the PACE Interlocal, following sixty day notice to cure, the Board
659 of County Commissioners in its sole discretion, may suspend or terminate the
660 Interlocal agreement and the PACE Local Government shall have no authority to
661 continue with any new projects within Pinellas County. Notwithstanding termination
662 of the Interlocal agreement, however, property owners whose applications were
663 approved prior to the termination date, and who received funding through the PACE
664 Program, shall continue to be a part of the PACE Program, for the sole purpose of
665 paying their outstanding assessment payments, until such time that all outstanding
666 assessment payments have been satisfied.

667
668 **Sec. 42-453. Enforcement**

669 This Ordinance is enforceable by all means provided by law.
670

671
672 **SECTION 2. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this
673 article, amendment or the particular application thereof, shall be held invalid by any court,
674 administrative agency, or other body with appropriate jurisdiction, the remaining section,
675 subsection, sentence, clause or phrase and application shall not be affected thereby.

676
677 **SECTION 3. INCLUSION IN THE CODE.** The provisions of this Ordinance shall be included
678 and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be
679 appropriately renumbered to conform to the uniform numbering system of the Pinellas County
680 Code.

681
682 **SECTION 4. FILING OF ORDINANCE; EFFECTIVE DATE.** Pursuant to Section 125.66,
683 Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by
684 the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board
685 of County Commissioners, and shall become effective upon filing with the Department of State.