

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

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

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

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

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

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

- 58 (a) *Board* shall mean the Pinellas County Board of County
59 Commissioners.
- 60 (b) *County* shall mean Pinellas County, Florida.
- 61 (c) *Eligible Participant* shall mean any residential or non-residential
62 Property owner who voluntarily participates in the PACE Program
63 and satisfies the eligibility requirements set forth in Section 42-447.
- 64 (d) *PACE Act* shall mean Section 163.08, Florida Statutes, as it may be
65 amended from time to time.
- 66 (e) *PACE Administrator* shall mean a for-profit or not-for-profit
67 organization responsible for administering a PACE Program on
68 behalf of and at the discretion of a PACE Local Government
69 consistent with Section 163.08(6), Florida Statutes.
- 70 (f) *PACE Assessment* shall mean the non-ad valorem assessment placed
71 on a property owner’s tax bill as a result of financing obtained
72 pursuant to the PACE Financing Agreement.
- 73 (g) *PACE Contractor* shall mean a contractor authorized by the PACE
74 Local Government to sell, construct or install Qualifying
75 Improvements funded through the PACE Program.
- 76 (h) *PACE Financing Agreement* shall mean the agreement entered into
77 between the Eligible Participant and the PACE Local Government
78 specifying the Qualifying Improvements to be installed at the
79 Property and the terms and conditions for financing those
80 improvements through non-ad valorem assessments levied on the
81 Property.

- 82 (i) *PACE Interlocal* shall mean an agreement entered into between
83 Pinellas County and a PACE Local Government authorizing the
84 PACE Local Government to administer a PACE Program within
85 Pinellas County in accordance with Section 163.01, Florida Statutes,
86 and this Article.
- 87 (j) *PACE Local Government* shall mean a separate legal entity, other
88 than a county or municipality, created pursuant to Section 163.01(7),
89 Florida Statutes. To the extent that a PACE Local Government
90 operates a PACE Program within Pinellas County through a
91 contracted PACE Administrator, the PACE Local Government is
92 responsible for the actions or inactions of the PACE Administrator
93 acting within Pinellas County in furtherance of the PACE Program
94 as if it had taken such action, or failed to take such action, itself.
- 95 (k) *PACE Program or Program* shall mean the Property Assessed
96 Clean Energy program (authorized by Section 163.08, Florida
97 Statutes) within the boundaries of Pinellas County, excepting any
98 municipality that has opted out of the Pinellas County PACE
99 Program, operated by a PACE Local Government pursuant to the
100 terms of this Article.
- 101 (l) *Property* means a residential or non-residential property, located
102 within the jurisdictional boundaries of Pinellas County excepting
103 any municipality that has opted out of the Pinellas County PACE
104 Program.
- 105 (m) *Qualifying Improvements* shall mean those improvements to real
106 property provided for in Section 163.08, Florida Statutes, including,
107 but not limited to, energy conservation and efficiency, renewable
108 energy and wind-resistance improvements.

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

- 110 (a) Section 163.08, Florida Statutes, authorizes local governments
111 defined as a county, a municipality, a dependent special district as
112 defined in Section 189.012, Florida Statutes, or a separate legal entity
113 created pursuant to Section 163.01(7), Florida Statutes, to establish
114 and administer PACE financing programs pursuant to which owners
115 of real property may obtain funding for Qualifying Improvements.
- 116 (b) Several PACE Local Governments have been created and the
117 availability of the voluntary, non-exclusive PACE program offered
118 by the separate PACE Local Governments is able to be utilized by
119 Pinellas County through interlocal agreement without cost,
120 assumption of liability by, or demand upon the credit of Pinellas
121 County.

- 122 (c) Section 163.08(3), Florida Statutes, authorizes a PACE Local
123 Government to levy non-ad valorem assessments to fund Qualifying
124 Improvements.
- 125 (d) It is in the best interests of the citizens of Pinellas County to create
126 a PACE Program through the adoption of an ordinance that sets
127 uniform consumer protections that apply to all PACE Local
128 Governments who implement and manage PACE Programs in
129 Pinellas County excepting any municipality that has opted out of the
130 Pinellas County PACE Program.
- 131 (e) PACE Local Governments shall be authorized to implement the
132 PACE Program through individual PACE Interlocal agreements.
- 133 (f) The installation and operation of Qualifying Improvements not only
134 benefits the affected properties for which the improvements are
135 made, but also provides a public benefit by assisting in fulfilling the
136 goals of the State’s and County’s energy and hurricane mitigation
137 policies.
- 138 (g) The voluntary participation in the PACE Program by property
139 owners will provide an alternative financing option to finance and
140 repay the costs to provide and install Qualifying Improvements to
141 property located within Pinellas County.
- 142 (h) It is within the best interests of the citizens of Pinellas County to
143 have uniform consumer protection regulations that apply to all
144 PACE Local Governments and PACE Administrators who
145 implement and manage PACE Programs in Pinellas County
146 excepting any municipality that has opted out of the Pinellas County
147 PACE Program.

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

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

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

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

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

- 159 (i) the citizens of Pinellas County are fully apprised of the Program;

- 160 (ii) PACE Local Governments have developed a responsive complaint
- 161 process;
- 162 (iii) Qualifying Improvements meet the statutory goals set forth in
- 163 Section 163.08, Florida Statutes; and
- 164 (iv) PACE Contractors meet certain standards of conduct.

165 This Article is intended to add requirements to the provisions of §163.08, Florida
166 Statutes (2017), and other applicable law as it currently exists and should be
167 construed consistently with the PACE Act and any such other applicable law. To
168 the extent that the PACE Act provides for additional or more restrictive
169 requirements not otherwise found in this Article or applicable law, the provisions
170 of the PACE Act must be met. To the extent that this Article provides for more
171 restrictive or additional requirements not found in the PACE Act or any such other
172 applicable law, the provisions of this Article are intended to apply.

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

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

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

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184 Upon entering into a PACE Interlocal with Pinellas County, a PACE Local
185 Government shall be authorized to administer a PACE Program pursuant to Section
186 163.08, Florida Statutes, the terms of this Article, as may be amended from time to
187 time, the PACE Interlocal and other regulations adopted by the Board within
188 unincorporated Pinellas County and those municipalities that have not opted out of
189 the Pinellas County PACE Program.

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

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- 195 (a) Qualifying Improvements: All Qualifying Improvements shall be
- 196 properly permitted (where applicable) and must comply with Florida
- 197 and local codes. PACE Local Governments shall finance only
- 198 Qualifying Improvements that are permanently affixed to the
- 199 Property.
- 200
- 201 (b) Licensed Contractors: Any contractor constructing or installing a
- 202 Qualifying Improvement shall be properly licensed and insured, and
- 203 authorized by the PACE Local Government as a PACE Contractor.
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- 205 (c) Materials and Improvements: PACE Local Governments shall
206 fund, and PACE Contractors shall construct or install, only
207 Qualifying Improvements. PACE Local Governments shall
208 establish an “Eligible Measures List” that identifies the types and
209 specifications of Qualifying Improvements, using efficiency
210 standards for materials and installation established by the U.S.
211 Department of Energy, the U.S. Environmental Protection Agency,
212 or Florida state agencies, or independent third-party expert rating
213 entities, as applicable. Any solar photovoltaic system financed under
214 a PACE Program must have an online monitoring system for
215 maintenance and production monitoring purposes unless the
216 property owner declines the monitoring system in writing. The
217 Eligible Measures List shall be regularly updated and made publicly
218 available. The County shall have the right to review and approve
219 that list annually.
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- 221 (d) Data Security and Consumer Privacy: PACE Local Governments
222 shall take security measures to protect the security and
223 confidentiality of consumer records and information to the extent
224 permitted or mandated by law. In addition, a privacy policy must be
225 in place that complies with state and federal law and, in particular,
226 shall provide a property owner the ability to opt-out of having the
227 property owner’s information shared with third parties, except
228 where expressly permitted or required by state or federal law.
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- 230 (e) Contractor Pricing: Within six months of entering into a PACE
231 Interlocal agreement, PACE Local Governments shall have in place
232 pricing rules and enforcement mechanisms to ensure property
233 owners are protected from excessive or unjustified prices and
234 charges of PACE Contractors.
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- 236 (f) Estimated Energy Savings Disclosure: PACE Local Governments
237 shall require that PACE Contractors inform Eligible Participants of
238 the following:
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- 240 1) Where applicable, an estimate of energy and/ or insurance cost
241 savings, including the range of efficiency options if appropriate,
242 to the best of the PACE Contractors’ knowledge and using
243 industry best practices;
 - 244 2) Available rebates or incentives;
 - 245 3) The benefits of installing energy efficiency improvements
246 before renewable energy to reduce costs overall;
 - 247 4) The benefits of a full Energy Audit of their property, names or
248 websites of energy audit professionals qualified through the
249 Residential Energy Services Network, Building Performance
250 Institute, Association of Energy Engineers, or other comparable

- 251 program, and any available incentive programs associated with
252 a Qualifying Improvement;
- 253 5) That the actual potential energy savings and/ or insurance cost
254 savings will depend on usage patterns, seasonal variation and
255 weather, insurance or utility rates and trends and product
256 specifications;
- 257 6) That any tax incentives, credits or rebates should be confirmed
258 and discussed with an independent tax professional of the
259 Eligible Participant’s choosing if there are any tax questions;
260 and
- 261 7) Costs of the Energy Audit are eligible for financing as part of
262 the assessment. This Estimated Energy Savings Disclosure
263 requirement shall be included in the “Code of Conduct” and in
264 training for PACE Contractors.
- 265
- 266 (g) Notice to Property Owner: Prior to or contemporaneously with
267 entering into a PACE Financing Agreement, PACE Local
268 Governments shall provide the property owner with a written notice
269 disclosing the following items:
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- 271 1) The total amount of the debt, including interest;
- 272 2) The maximum annual PACE Assessment and payment term that
273 does not exceed the useful life of the improvements;
- 274 3) The three-day right to cancel the PACE Financing Agreement;
- 275 4) That the PACE Assessment will appear on the property owner’s
276 tax bill;
- 277 5) That for residential properties there is no penalty for paying the
278 PACE Assessment early;
- 279 6) That the PACE Assessment will be collected in the same manner
280 as real estate taxes, that failure to pay the PACE Assessment
281 may cause a tax certificate to be issued against the property, and
282 that failure to pay may result in the loss of property subject to
283 the PACE Assessment, including homestead property, in the
284 same manner as failure to pay property taxes;
- 285 7) That the installation of Qualifying Improvements and PACE
286 Assessment may or may not affect the overall market value of
287 the Property or energy cost savings;
- 288 8) That all applicable warranties or guarantees terms are set forth
289 in writing, and what materials or labor are not warrantied or
290 guaranteed for each Qualifying Improvement;
- 291 9) That the PACE Assessment may affect the sale or refinance of
292 the property;
- 293 10) That the property owner may be required to pay any PACE
294 assessment in full at the time of refinance or sale of the property;
295 and

296 11) That if the property owner is using an escrow or impound
297 account to pay their property taxes, they should contact their
298 lender immediately to ensure that the escrow payments are
299 adjusted correctly and the property owner is aware of and
300 prepared for the increased payment amount.
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302 The notice shall be signed and dated by the property owner to acknowledge
303 that they understand these conditions. The PACE Local Government shall
304 record, or cause to be recorded, the Notice in the public records as an
305 attachment to the PACE Financing Agreement. The signature page must
306 clearly designate that it relates to the PACE Financing Agreement and
307 Notice to Property Owner acknowledgement. In the alternative, the
308 foregoing notice provisions may be incorporated into the recorded financing
309 agreement or summary memorandum of financing agreement relating to the
310 PACE Assessment.
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312 (h) PACE Financing Agreement. After achieving compliance with all
313 other mandated steps provided for by law, including but not limited
314 to receiving a verified copy or other proof of such notice required
315 by §163.08(13), Florida Statutes (2016), the PACE Local
316 Government shall enter into a voluntary written agreement with
317 each Eligible Participant. Such agreement, or supporting
318 documentation referenced within such agreement and attached
319 thereto, must include, at a minimum, the following:
320

- 321 1) The full legal description of the property subject to the PACE
322 Assessment.
- 323 2) The amount of funding to be provided to the Eligible Participant.
- 324 3) Express voluntary consent by the Eligible Participant to accept
325 the non-ad valorem assessment collection process, set forth in
326 Section 197.3632, Florida Statutes.
- 327 4) The length of time for the Eligible Participant to pay the non-ad
328 valorem assessment, which shall not exceed the expected life of
329 the most costly Qualifying Improvement(s) funded by the PACE
330 Program, or 30 years, whichever is less.
- 331 5) The Eligible Participant shall be responsible for verifying that
332 the Qualifying Improvements are completed as reflected in the
333 approved application documents. The Eligible Participant also
334 consents to providing access to the PACE Local Government or
335 its agent to the Property to verify that the Qualifying
336 Improvements have been completed as proposed in the
337 application.
- 338 6) At or before the execution of a contract for the sale and purchase
339 of any Property for which a non-ad valorem assessment for the
340 PACE Program has been levied and has an unpaid balance due,

341 the seller shall give the prospective purchaser a notice of the lien
342 in accordance with 163.08(14), Florida Statutes.

- 343 7) The risks associated with participating in the PACE Program
344 shall be clearly disclosed in plain language in the written
345 agreement with the Eligible Participant, including risks related
346 to the failure of the Eligible Participant to make payments, the
347 risk that they may not be able to refinance the home or sell the
348 home unless the PACE Assessment is paid off in full first, and
349 the risk of issuance of a tax certificate and loss of the Property
350 pursuant to Chapter 197, Florida Statutes.
- 351 8) Description of the Qualifying Improvements, their cost, and
352 estimated completion date.
- 353 9) Notice of the non-ad valorem assessment shall be recorded in
354 the public records for the Property.
- 355 10) The PACE Financing Agreement shall clearly disclose, in plain
356 language, the interest rate to be charged, including points, as
357 well as any and all fees or penalties that may be separately
358 charged to the Eligible Participant, including potential late fees.
359 The subsequent charging or collecting any additional fees that
360 were not specifically disclosed in the written agreement with the
361 property owner shall be prohibited.

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

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

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- 383 (j) No Prepayment Penalties on Residential Properties. The PACE
384 Program shall not charge or impose a prepayment penalty on
385 residential property.

- 387 (k) Financing. The PACE Local Government may offer only fixed
388 simple interest rates and payments that fully amortize the obligation.
389 Variable or negative amortization financing terms are not permitted.
390 Capitalized interest included in the original balance of PACE
391 financing does not constitute negative amortization.
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- 393 (l) Project Completion. The PACE Local Government shall require
394 compliance with each of the following conditions prior to the
395 issuance of any payment to a PACE Contractor for which a property
396 will be assessed:
397 1) PACE Contractor and Property owner has certified in writing
398 that any necessary permits have been obtained and any
399 necessary inspections have been completed to close out any such
400 permits;
401 2) Verification that the Qualifying Improvements have been
402 constructed or installed; and
403 3) The property owner and the PACE Contractor have signed a
404 certificate of completion that all improvements have been
405 installed to the property owner's satisfaction.
406
- 407 (m) Lender notification. The PACE Local Government shall ensure that
408 the property owner provides notice to the holders or loan servicers
409 of any existing mortgages encumbering or otherwise secured by the
410 property of the owner's intent to enter into a PACE Assessment
411 that, at a minimum satisfies the requirements of Section 163.08(13),
412 Florida Statutes (2017).
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- 414 (n) PACE Contractor Management. Each PACE Local Governments
415 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 prohibit direct or indirect financial or other
425 monetary incentives to PACE Contractors in exchange for or
426 related to such PACE Contractor being awarded work under a
427 PACE Program, excepting payment for the PACE Contractor's
428 construction or installation of eligible improvements.
429 4) Train all PACE Contractors on the regulations related to the
430 PACE program and the Code of Conduct;
431 5) Ensure that all PACE Contractors hold necessary licenses and
432 insurance;

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- 6) Confirm PACE Contractor qualifications at least annually and as necessary based upon consumer complaints or other indications of lack of compliance; and
- 7) Remove PACE Contractors from the PACE Program who no longer meet program criteria; have not met program requirements, or fail to resolve consumer complaints.

(o) Customer Service: PACE Local Governments or their PACE Administrators shall provide 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;
- 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 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,

479 incomplete or are inconsistent with the PACE Local
480 Government's purpose are prohibited.

481 2) Neither PACE Local Governments nor their PACE
482 Administrators or PACE Contractors, shall use facsimiles of the
483 County, city, Property Appraiser, or Tax Collector logos in their
484 marketing materials. Marketing materials shall NOT state that
485 PACE:

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- 487 a) is a free program;
- 488 b) is a county or city program;
- 489 c) does not involve a financial obligation by the property
490 owner; or
- 491 d) is a form of public assistance.
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493 (q) Protected Classes. No PACE Local Government, PACE
494 Administrator, nor PACE Contractor shall discriminate against
495 individuals on the basis of race, color, ancestry, disability, national
496 origin, religion, age, familial status, marital status, sex, gender,
497 sexual orientation, gender identity and expression, or genetic
498 information.

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500 (r) Metrics Reporting: After not more than one year from the date of
501 adoption of this ordinance, PACE Local Governments shall track
502 Program metrics and report those metrics to Pinellas County and any
503 participating municipalities, by jurisdiction and in total, at least
504 quarterly, in spreadsheet format or another electronic format agreed
505 upon by Pinellas County. Those metrics shall include, at a
506 minimum:

- 507 1. Dates of the reporting period;
- 508 2. List of PACE projects (including municipal jurisdiction,
509 financed amount, interest rate, assessment duration, and
510 project description) started during the reporting period,
511 separated by building type (e.g., single family, multifamily,
512 retail, office, industrial, etc.);
- 513 3. List of PACE projects (including municipal jurisdiction)
514 completed during the reporting period, separated by building
515 type project (e.g., single family, multifamily, retail, office,
516 industrial, etc.), specify: (1) the qualifying improvements
517 made; (2) project start date and completion date; (3) the
518 projected energy savings and/or amount of potential
519 renewable energy to be generated; (4) financial information
520 such as cost per kilowatt hour saved/generated associated
521 with the projected energy savings and/or amount of potential
522 renewable energy to be generated; (5) other resource savings
523 if data is available; and (6) energy audits performed detailing
524 the audit results, if applicable to the project;

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4. Number of actual or estimated jobs created during the reporting period, including, if available, local versus non-local jobs and permanent versus temporary jobs;
 5. Number of applications declined during the reporting period;
 6. Unresolved complaints and/or contractor issues and status;
 7. PACE assessment defaults and tax certificates issued on Properties subject to PACE Assessment (updated annually); and
 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.
- 543 (s) Amendments. County reserves the right to amend this ordinance to
544 revise PACE Program standards. It is the obligation of the PACE
545 Local Governments to remain abreast of and comply with all
546 changes in applicable law, including changes to this ordinance made
547 at public hearings.
548
- 549 (t) Reporting. PACE Local Governments will respond to County
550 requests for information on the PACE Program in a timely manner
551 and shall provide sufficient documentation as requested by the
552 County to ensure that the requirements of this Article and the State
553 statutes are being met. The PACE Local Government shall retain
554 sufficient books and records demonstrating compliance with the
555 Agreement and State and County requirements for a minimum
556 period of seven years from the initial date of each non-ad valorem
557 assessment, and shall allow County representatives access to such
558 books and records upon request.
559
- 560 (u) Additional Program standards for residential properties: PACE
561 Local Governments that finance PACE Qualifying Improvements
562 on residential properties within Pinellas County shall, at a minimum,
563 comply with at least one (1) of the following additional standards
564 for projects affecting residential properties with four (4) residential
565 units or fewer:
566
- 1) Financing limits: PACE Local Governments shall ensure that
567 all mortgage-related debt on the underlying property does not
568 exceed 90% of the Property's fair market value (as determined
569 by the Pinellas County Property Appraiser, by a credentialed
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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 Property plus the PACE program financing does not exceed the fair market value of the Property prior to the improvements; 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

617 (g) No notices of default or other evidence of property-based debt
618 delinquency on the Property have been recorded during the
619 preceding three (3) years or the property owner's period of
620 ownership, whichever is less.

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Section 42-448. Non-ad valorem Assessments.

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

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Sec. 42-449. PACE Program Administration.

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

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Sec. 42-450. Recordation.

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

647

Sec. 42-451. Notice to Purchaser.

648 (a) Property owner must comply with Section 163.08(14) regarding
649 providing a written disclosure statement to a prospective purchaser.

650 (b) Failure to provide the notice referenced above to a purchaser of the
651 Property shall have no effect on either the validity of any PACE
652 Assessment or any obligation of a Property owner.

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654

Sec. 42-452. Suspension or Termination.

655 In the event any PACE Local Government fails to abide by the provisions of this
656 Ordinance and the PACE Interlocal, following sixty day notice to cure, the Board
657 of County Commissioners in its sole discretion, may suspend or terminate the

658 Interlocal agreement and the PACE Local Government shall have no authority to
659 continue with any new projects within Pinellas County. Notwithstanding termination
660 of the Interlocal agreement, however, property owners whose applications were
661 approved prior to the termination date, and who received funding through the PACE
662 Program, shall continue to be a part of the PACE Program, for the sole purpose of
663 paying their outstanding assessment payments, until such time that all outstanding
664 assessment payments have been satisfied.

665
666 **Sec. 42-453. Enforcement**


667 This Ordinance is enforceable by all means provided by law.
668

669
670 **SECTION 3. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this
671 article, amendment or the particular application thereof, shall be held invalid by any court,
672 administrative agency, or other body with appropriate jurisdiction, the remaining section,
673 subsection, sentence, clause or phrase and application shall not be affected thereby.
674

675 **SECTION 4. INCLUSION IN THE CODE.** The provisions of this Ordinance shall be included
676 and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be
677 appropriately renumbered to conform to the uniform numbering system of the Pinellas County
678 Code.
679

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

By: 

Office of the County Attorney