

BCC 11-28-17 #49

From: Walsh, J Doyle
Sent: Tuesday, November 28, 2017 11:39 AM
To: Bachteler, James J
Subject: FW: PACE ordinance with provider comments
Attachments: Redline - Pinellas Ordinance (Combined PACE Providers Comments Nov 28 2017).pdf
Importance: High

Fyi

Jordan Doyle Walsh
Office of Commissioner Janet C. Long
Chair, Pinellas Board of County Commissioners
Phone: 727-464-3365

From: Walsh, J Doyle
Sent: Tuesday, November 28, 2017 11:36 AM
To: Long, Janet C <JanetCLong@co.pinellas.fl.us>; Welch, Kenneth <kwelch@co.pinellas.fl.us>; Justice, Charlie <cjustice@co.pinellas.fl.us>; Gerard, Pat <pgerard@co.pinellas.fl.us>; Seel, Karen <kseel@co.pinellas.fl.us>; Eggers, Dave <deggers@co.pinellas.fl.us>; Morrioni, John <jmorrioni@co.pinellas.fl.us>; bccassistants <bccassistants@co.pinellas.fl.us>
Cc: White, Jewel <jwhite@co.pinellas.fl.us>; Crowell, Don S <dcrowell@co.pinellas.fl.us>; Estrada, Sue M <sestrada@co.pinellas.fl.us>; Klug, Della <dklug@co.pinellas.fl.us>; McCaslin, Canaan <mcacaslin@co.pinellas.fl.us>; Lowack, Brian <blowack@co.pinellas.fl.us>
Subject: FW: PACE ordinance with provider comments
Importance: High

Good morning all- please see the message below from Todd Josko re the PACE public hearing item tonight. Each of your offices have hard copies in your mailboxes as well. Thanks,

Jordan Doyle Walsh
Office of Commissioner Janet C. Long
Chair, Pinellas Board of County Commissioners
Phone: 727-464-3365

RECEIVED
BOARD OF
2017 NOV 28 AM 11:50
COMMISSIONERS
PINELLAS COUNTY FLORIDA

From: Todd Josko [mailto:todd@ballardfl.com]
Sent: Tuesday, November 28, 2017 11:20 AM
To: Walsh, J Doyle <dwalsh@co.pinellas.fl.us>
Subject: PACE ordinance with provider comments
Importance: High

Doyle,

Per our conversation, this document reflects the joint comments from Renew Financial, Ygrene, FPPA and Renovate America. The goal of these comments is to update requirements in the ordinance that would make providing PACE financing within Pinellas County prohibitively burdensome to providers, contractors and/or homeowners in the marketplace, while still retaining the key consumer protections needed to help ensure effective PACE offerings for constituents of Pinellas County. We believe our requested changes meet this goal and ask that the County update the ordinance to reflect such comments.

The most critical comments are highlighted in yellow. If the Board is not comfortable adopting these highlighted comments at tonight's hearing, we respectfully request a delay in the adoption of the ordinance to allow us additional time, as needed, to continue working with County staff.

Thank you for your help in this matter. Please feel free to call me on my cell if I can answer any questions or provide additional information.

-Todd



Todd Josko

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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 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

45 to as fully as practicable protect the County and its citizens from potential liabilities associated
46 with operation of a PACE Program by such separate special purpose local governments; 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
58 definitions 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
72 placed on a property owner’s tax bill as a result of financing
73 obtained pursuant to the PACE Financing Agreement.
- 74 (g) *PACE Contractor* shall mean a contractor authorized by the PACE
75 Local Government to sell, construct or install Qualifying
76 Improvements funded through the PACE Program.
- 77 (h) *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

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

83 (i) *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
87 Statutes, and this Article.

88 (j) *PACE Local Government* shall mean a separate legal entity, other
89 than a county or municipality, created pursuant to Section
90 163.01(7), Florida Statutes. To the extent that a PACE Local
91 Government operates a PACE Program within Pinellas County
92 through a contracted PACE Administrator, such term shall include
93 for purposes hereof such PACE Administrator, provided that the
94 PACE Local Government is responsible for the actions or inactions
95 of the PACE Administrator acting within Pinellas County in
96 furtherance of the PACE Program as if it had taken such action, or
97 failed to take such action, itself, and provided further, that nothing
98 herein shall contravene or prohibit PACE Local Governments from
99 obtaining and relying on indemnification from their PACE
100 Administrators with respect to any such actions or omissions.

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

107 (l) *Property* means a residential or non-residential property, located
108 within the jurisdictional boundaries of Pinellas County excepting
109 any municipality that has opted out of the Pinellas County PACE
110 Program.

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

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

116 (a) Section 163.08, Florida Statutes, authorizes local governments
117 defined as a county, a municipality, a dependent special district as
118 defined in Section 189.012, Florida Statutes, or a separate legal entity
119 created pursuant to Section 163.01(7), Florida Statutes, to establish
120 and administer PACE financing programs pursuant to which owners
121 of real property may obtain funding for Qualifying Improvements.

- 122 (b) Several PACE Local Governments have been created and the
123 availability of the voluntary, non-exclusive PACE program offered
124 by the separate PACE Local Governments is able to be utilized by
125 Pinellas County through interlocal agreement without cost,
126 assumption of liability by, or demand upon the credit of Pinellas
127 County.
- 128 (c) Section 163.08(3), Florida Statutes, authorizes a PACE Local
129 Government to levy non-ad valorem assessments to fund Qualifying
130 Improvements.
- 131 (d) It is in the best interests of the citizens of Pinellas County to create a
132 PACE Program through the adoption of an ordinance that sets
133 uniform consumer protections that apply to all PACE Local
134 Governments who implement and manage PACE Programs in
135 Pinellas County excepting any municipality that has opted out of the
136 Pinellas County PACE Program.
- 137 (e) PACE Local Governments shall be authorized to implement the
138 PACE Program through individual PACE Interlocal agreements.
- 139 (f) The installation and operation of Qualifying Improvements not only
140 benefits the affected properties for which the improvements are
141 made, but also provides a public benefit by assisting in fulfilling the
142 goals of the State's and County's energy and hurricane mitigation
143 policies.
- 144 (g) The voluntary participation in the PACE Program by property
145 owners will provide an alternative financing option to finance and
146 repay the costs to provide and install Qualifying Improvements to
147 property located within Pinellas County.
- 148 (h) It is within the best interests of the citizens of Pinellas County to
149 have uniform consumer protection regulations that apply to all
150 PACE Local Governments and PACE Administrators who
151 implement and manage PACE Programs in Pinellas County
152 excepting any municipality that has opted out of the Pinellas County
153 PACE Program.

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

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

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

158 PACE Programs have been developed to allow a property owner to voluntarily
159 finance Qualifying Improvements through a non-ad valorem assessment

160 implemented and managed by a PACE Local Government and repaid through
161 collection on the annual property tax bill.

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

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

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

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

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

187
188 **Sec. 42-445. PACE Local Governments.**


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


- 200
201 (a) Qualifying Improvements: All Qualifying Improvements shall be
202 properly permitted ([where applicable](#)) and must comply with
203 Florida and local codes. PACE Local Governments shall finance

204 only Qualifying Improvements that are permanently affixed to the
205 Property.

206
207 (b) Licensed Contractors: Any contractor constructing or installing a
208 Qualifying Improvement shall be properly licensed and insured, and
209 authorized by the PACE Local Government as a PACE Contractor.

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211 (c) Materials and Improvements: PACE Local Governments shall
212 fund, and PACE Contractors shall construct or install, only
213 Qualifying Improvements. PACE Local Governments shall
214 establish an “Eligible Measures List” that identifies the types and
215 specifications of Qualifying Improvements, using efficiency
216 standards for materials and installation established by the U.S.
217 Department of Energy, the U.S. Environmental Protection Agency,
218 or Florida state agencies, or independent third-party expert rating
219 entities, as applicable. ~~Any solar photovoltaic system financed~~
220 ~~under a PACE Program must have an online monitoring system for~~
221 ~~maintenance and production monitoring purposes unless the~~
222 ~~property owner declines the monitoring system in writing.~~ The
223 Eligible Measures List shall be regularly updated and made publicly
224 available. ~~The County shall have the right to review and approve~~
225 ~~that list annually to confirm compliance with this Ordinance.~~ 

226
227 (d) Data Security and Consumer Privacy: PACE Local Governments
228 shall take security measures to protect the security and
229 confidentiality of consumer records and information to the extent
230 permitted or mandated by law. In addition, a privacy policy must be
231 in place that complies with state and federal law and, in particular,
232 shall provide a property owner the ability to opt-out of having the
233 property owner’s information shared with third parties, except
234 where expressly permitted or required by state or federal law.

235
236 (e) Contractor Pricing: Within six months of entering into a PACE
237 Interlocal agreement, PACE Local Governments shall have in place
238 pricing rules and enforcement mechanisms to help ensure  property
239 owners are protected from excessive or unjustified prices and
240 charges of PACE Contractors.

241
242 (f) Estimated Energy Savings Disclosure: PACE Local Governments
243 shall require that PACE Contractors inform Eligible Participants of
244 the following:

- 245
246 1) Where applicable, an estimate of energy and/ or insurance cost
247 savings, including the range of efficiency options if appropriate,
248 to the best of the PACE Contractors’ knowledge and using
249 industry best practices;

- 250 2) Available rebates or incentives;
251 3) The benefits of installing energy efficiency improvements
252 before renewable energy to reduce costs overall;
253 4) The benefits of a full Energy Audit of their property, names or
254 websites of energy audit professionals qualified through the
255 Residential Energy Services Network, Building Performance
256 Institute, Association of Energy Engineers, or other comparable
257 program, and any available incentive programs associated with
258 a Qualifying Improvement;
259 5) That the actual potential energy savings and/ or insurance cost
260 savings will depend on usage patterns, seasonal variation and
261 weather, insurance or utility rates and trends and product
262 specifications;
263 6) That any tax incentives, credits or rebates should be confirmed
264 and discussed with an independent tax professional of the
265 Eligible Participant's choosing if there are any tax questions;
266 and
267 7) Costs of the Energy Audit are eligible for financing as part of the
268 assessment. This Estimated Energy Savings Disclosure
269 requirement shall be included in the ~~"Code of Conduct" and in~~
270 training for agreement between the PACE Local Government
271 and the PACE Contractors.
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273 (g) Notice to Property Owner: Prior to or contemporaneously with
274 entering into a PACE Financing Agreement, PACE Local
275 Governments shall provide the property owner with a written notice
276 disclosing the following items:
277

- 278 1) The total amount of the debt, including interest;
279 2) The maximum annual PACE Assessment and payment term that
280 does not exceed the useful life of the improvements;
281 3) ~~The~~That for residential properties the three-day right to cancel
282 the PACE Financing Agreement;
283 4) That the PACE Assessment will appear on the property owner's
284 tax bill;
285 5) That for residential properties there is no penalty for paying the
286 PACE Assessment early;
287 6) That the PACE Assessment will be collected in the same manner
288 as real estate taxes, that failure to pay the PACE Assessment
289 may cause a tax certificate to be issued against the property, and
290 that failure to pay may result in the loss of property subject to the
291 PACE Assessment, including homestead property, in the same
292 manner as failure to pay property taxes;
293 7) That the installation of Qualifying Improvements and PACE
294 Assessment may or may not affect the overall market value of
295 the Property or energy cost savings;

296 ~~8) That all applicable warranties or guarantees terms are set forth in~~
297 ~~writing, and what materials or labor are not warranted or~~
298 ~~guaranteed for each Qualifying Improvement;~~

299 8) ~~9)~~ That the PACE Assessment may affect the sale or refinance
300 of the property;

301 9) ~~10)~~ That the property owner may be required to pay any PACE
302 assessment in full at the time of refinance or sale of the property;
303 and

304 10) ~~11)~~ That if the property owner is using an escrow or impound
305 account to pay their property taxes, they should contact their
306 lender immediately to ensure that the escrow payments are
307 adjusted correctly and the property owner is aware of and
308 prepared for the increased payment amount.

309
310 The notice shall be signed and dated by the property owner to acknowledge
311 that they understand these conditions. The PACE Local Government shall
312 record, or cause to be recorded, the Notice in the public records as an
313 attachment to the PACE Financing Agreement. The signature page must
314 clearly designate that it relates to the PACE Financing Agreement and
315 Notice to Property Owner acknowledgement. In the alternative, the
316 foregoing notice provisions may be incorporated into the ~~recorded~~
317 financing agreement or recorded summary memorandum of financing
318 agreement, or supporting documentation referenced within such
319 documents, relating to the PACE Assessment.



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321 (h) PACE Financing Agreement. After achieving compliance with all
322 other mandated steps provided for by law, including but not limited
323 to receiving a verified copy or other proof of such notice required by
324 §163.08(13), Florida Statutes (2016), the PACE Local Government
325 shall enter into a voluntary written agreement with each Eligible
326 Participant. Such agreement, or supporting documentation
327 referenced within such agreement and attached thereto, must
328 include, at a minimum, the following:

- 329 1) The full legal description of the property subject to the PACE
330 Assessment.
- 331 2) The amount of funding to be provided to the Eligible
332 Participant.
- 333 3) Express voluntary consent by the Eligible Participant to accept
334 the non-ad valorem assessment collection process, set forth in
335 Section 197.3632, Florida Statutes.
- 336 4) The length of time for the Eligible Participant to pay the non-ad
337 valorem assessment, which shall not exceed the expected life of
338 the most costly Qualifying Improvement(s) funded by the PACE
339 Program, or 30 years, whichever is less.

- 341 5) The Eligible Participant shall be responsible for verifying that
342 the Qualifying Improvements are completed as reflected in the
343 approved application documents. The Eligible Participant also
344 consents to providing access to the PACE Local Government or
345 its agent to the Property to verify that the Qualifying
346 Improvements have been completed as proposed in the
347 application.
348 6) At or before the execution of a contract for the sale and purchase
349 of any Property for which a non-ad valorem assessment for the
350 PACE Program has been levied and has an unpaid balance due,
351 the seller shall give the prospective purchaser a notice of the lien
352 in accordance with 163.08(14), Florida Statutes.
353 7) The risks associated with participating in the PACE Program
354 shall be clearly disclosed in plain language in the written
355 agreement with the Eligible Participant, or supporting
356 documentation referenced within such agreement, including
357 risks related to the failure of the Eligible Participant to make
358 payments, the risk that they may not be able to refinance the
359 home or sell the home unless the PACE Assessment is paid off
360 in full first, and the risk of issuance of a tax certificate and loss
361 of the Property pursuant to Chapter 197, Florida Statutes.
362 8) Description of the Qualifying Improvements, their cost, and
363 estimated completion date.
364 9) Notice of the non-ad valorem assessment shall be recorded in
365 the public records for the Property.
366 10) The PACE Financing Agreement shall clearly disclose, in plain
367 language, the interest rate to be charged, including points, as
368 well as any and all fees or penalties that may be separately
369 charged to the Eligible Participant, including potential late fees.
370 The subsequent charging or collecting any additional fees that
371 were not specifically disclosed in the written agreement with the
372 property owner shall be prohibited.

- 373
374 (i) The PACE Local Government shall record, or cause to be recorded,
375 the following notice, or provide such notice in supporting
376 documentation referenced within a recorded document, if public
377 records within five (5) days after execution of the PACE Financing
378 Agreement, along with appropriate PACE Local Government
379 contact information for property owner inquiries:
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381 QUALIFYING IMPROVEMENTS FOR ENERGY
382 EFFICIENCY, RENEWABLE ENERGY, OR
383 WIND RESISTANCE. This property is located
384 within the jurisdiction of a PACE Local Government
385 that has placed an assessment on the property
386 pursuant to Section 163.08, Florida Statutes. The

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assessment is for a Qualifying Improvement to the property relating to energy efficiency, renewable energy or wind resistance, and is not based on the value of property. You are encouraged to contact the county property appraiser's office to learn more about this and other assessments that may be provided by law.

- (j) No Prepayment Penalties on Residential Properties. The PACE Program shall not charge or impose a prepayment penalty on residential property.
- (k) Financing. The PACE Local Government may offer only fixed simple interest rates and payments that fully amortize the obligation. Variable or negative amortization financing terms are not permitted. Capitalized interest included in the original balance of PACE financing does not constitute negative amortization.
- (l) Project Completion. The PACE Local Government shall require compliance with each of the following conditions prior to the issuance of any payment to a PACE Contractor for which a property will be assessed:
 - 1) PACE Contractor and Property owner has certified in writing that any necessary permits have been, or will be, obtained any necessary inspections have been completed to close out any such permits;
 - 2) Verification that the Qualifying Improvements have been constructed or installed; and
 - 3) The property owner and the PACE Contractor have signed a certificate of completion that all improvements have been installed to the property owner's satisfaction.
- (m) Lender notification. The PACE Local Government shall ensure that the property owner provides notice to the holders or loan servicers of any existing mortgages encumbering or otherwise secured by the property of the owner's intent to enter into a PACE Assessment that, at a minimum satisfies the requirements of Section 163.08(13), Florida Statutes (2017).
- (n) PACE Contractor Management. Each PACE Local Governments shall:
 - 1) To the extent possible, conduct outreach to and enroll local contractors as PACE Contractors;
 - 2) Establish a "Code of Conduct" that sets standards for PACE Contractors such as licensing, advertising and marketing,

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accurate representation of the program, and consumer protections.

- 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.
- 4) Train all PACE Contractors on the regulations related to the PACE program and the Code of Conduct;
- 5) ~~Ensure~~Require that all PACE Contractors hold necessary licenses and insurance;
- 6) Require that PACE Contractors meet state law requirements with respect to warranties, materials and labor;
- 7) ~~6)~~ Confirm PACE Contractor qualifications at least annually and as necessary based upon consumer complaints or other indications of lack of compliance with the terms of the agreement entered into with the PACE Contractor; and
- 8) ~~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 intended to obtain a 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,

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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, 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.

(q) Protected Classes. No PACE Local Government, nor its 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.

(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

525 project description) started during the reporting period,
526 separated by building type (e.g., single family, multifamily,
527 retail, office, industrial, etc.);
528 3. List of PACE projects (including municipal jurisdiction)
529 completed during the reporting period, separated by building
530 type project (e.g., single family, multifamily, retail, office,
531 industrial, etc.), specify: (1) the qualifying improvements
532 made; (2) project start date and completion date; (3) the
533 projected energy savings and/or amount of potential
534 renewable energy to be generated; (4) financial information
535 such as potential cost per kilowatt hour saved/generated; (5)
536 other resource savings if data is available; and (6) energy
537 audits performed detailing the audit results, if applicable to
538 the project;
539 4. Number of actual or estimated jobs created during the
540 reporting period, including, if available, local versus
541 non-local jobs and permanent versus temporary jobs;
542 5. Number of applications declined during the reporting
543 period;
544 6. Unresolved complaints and/or contractor issues and status;
545 7. PACE assessment defaults and tax certificates issued on
546 Properties subject to PACE Assessment (updated annually);
547 and
548 8. All data included in the reports must be developed and
549 collected using standardized and verified principles and
550 methodologies for the industry. The methodologies and
551 supporting assumptions and/or sources must be made
552 available to the County by the PACE Local Government. It
553 is the responsibility of the PACE Local Government to test
554 and verify the data collection and reporting methods and
555 models used. All Notwithstanding the reporting
556 requirements provided in this Section, all reports shall
557 include only aggregate data, excluding any nonpublic
558 personal information.

559
560 (s) Amendments. County reserves the right to amend this ordinance to
561 revise PACE Program standards. It is the obligation of the PACE
562 Local Governments to remain abreast of and comply with all
563 changes in applicable law, including changes to this ordinance made
564 at public hearings; provided that, County will use good faith
565 reasonable efforts to provide PACE Local Governments with prior
566 notice of such changes and such changes will only apply to new
567 applications initiated after such changes became effective. 

568
569 (t) Reporting. PACE Local Governments will respond to County
570 requests for information on the PACE Program in a timely manner

571 and shall provide sufficient documentation as requested by the
572 County to ensure that the requirements of this Article and the State
573 statutes are being met. The PACE Local Government shall retain
574 sufficient books and records demonstrating compliance with the
575 Agreement and State and County requirements for a minimum
576 period of seven years from the initial date of each non-ad valorem
577 assessment, and shall allow County representatives access to such
578 books and records upon request.

579
580 (u) Additional Program standards for residential properties: PACE
581 Local Governments that finance PACE Qualifying Improvements
582 on residential properties within Pinellas County shall, at a
583 minimum, comply with at least one (1) of the following additional
584 standards for projects affecting residential properties with four (4)
585 residential units or fewer:

- 586
587 1) Financing limits: PACE Local Governments shall ensure that
588 all mortgage-related debt on the underlying property does not
589 exceed 90% of the Property's fair market value (as determined
590 by the Pinellas County Property Appraiser, by a credentialed
591 commercial or residential property appraiser, or by an
592 automated valuation service or model from a reputable third
593 party) and that the total mortgage-related debt of the Property
594 plus the PACE program financing does not exceed the fair
595 market value of the Property prior to the improvements. ; or
596 2) Mortgage Holder Consent or Escrow: PACE Local
597 Governments shall verify that each prior mortgage or financing
598 instrument holder has consented to any proposed Financing
599 Agreement and PACE Assessment, or that the prior mortgage or
600 financing instrument holder or loan servicer has consented to
601 escrow sufficient funds to ensure payment of the annual
602 assessment with each year's tax bill; or
603 3) Insurance or Energy Savings: PACE Local Governments shall
604 verify that the total cost of the PACE Assessment is equal to or
605 less than the projected savings to the property owner based upon
606 the projected energy savings in a written statement from a
607 Certified Energy Auditor, certified by the Association of Energy
608 Engineers, the Residential Energy Services Network, or the
609 Building Performance Institute, or the projected insurance
610 savings in a written statement from the property owner's insurer.

611
612 **Sec. 42-447. Eligible Participants.** In order to be an Eligible Participant, a
613 Property owner (or Property) must meet the criteria listed below. The PACE Local
614 Government is responsible for verifying that all of these conditions are met.
615

- 616 (a) Be the legal owner of the Property and provide proof of ownership
- 617 in the application for the PACE Program;
- 618
- 619 (b) Property must be within the PACE Program boundaries, as defined
- 620 in Section 42-444;
- 621
- 622 (c) All property taxes and any other assessments levied on the same bill
- 623 as property taxes are paid and have not been delinquent for the
- 624 preceding three (3) years or the Property owner's period of
- 625 ownership, whichever is less;
- 626
- 627 (d) Property owner must be current on any mortgage on the subject
- 628 property;
- 629
- 630 (e) Property owner cannot be in bankruptcy nor can the Property be an
- 631 asset in any bankruptcy proceeding;
- 632
- 633 (f) Property cannot have any federal income tax lien, judgment lien or
- 634 similar involuntary lien, including construction liens, encumbering
- 635 it; and
- 636
- 637 (g) There is no pending recorded Notice of Default on the property and
- 638 no more than one recorded Notice of Default during the preceding
- 639 three (3) years or the property owner's period of ownership,
- 640 whichever is less.

Section 42-448. Non-ad valorem Assessments.

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

Sec. 42-449. PACE Program Administration.

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

Sec. 42-450. Recordation.

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

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

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

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

674
675 In the event any PACE Local Government fails to abide by the provisions of this
676 Ordinance and the PACE Interlocal, following sixty day notice to cure, the Board
677 of County Commissioners in its sole discretion, may suspend or terminate the
678 Interlocal agreement and the PACE Local Government shall have no authority to
679 continue with any new projects within Pinellas County. Notwithstanding
680 termination of the Interlocal agreement, however, property owners whose applications
681 were approved prior to the termination date, and who received funding through the
682 PACE Program, shall continue to be a part of the PACE Program, for the sole purpose
683 of paying their outstanding assessment payments, until such time that all outstanding
684 assessment payments have been satisfied.

685
686 **Sec. 42-453. Enforcement**

687
688 This Ordinance is enforceable by all means provided by law.

689
690 **SECTION 3. SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this
691 article, amendment or the particular application thereof, shall be held invalid by any court,
692 administrative agency, or other body with appropriate jurisdiction, the remaining section,
693 subsection, sentence, clause or phrase and application shall not be affected thereby.

694
695 **SECTION 4. INCLUSION IN THE CODE.** The provisions of this Ordinance shall be included
696 and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be
697 appropriately renumbered to conform to the uniform numbering system of the Pinellas County
698 Code.

699
700 **SECTION 5. FILING OF ORDINANCE; EFFECTIVE DATE.** Pursuant to Section 125.66,
701 Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by
702 the Clerk of the Board of County Commissioners within ten (10) days after enactment by the

703 Board of County Commissioners, and shall become effective upon filing with the Department of
704 State.
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706
707
708

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