

ORDINANCE NO. 116

AN ORDINANCE OF THE VILLAGE OF GOLF, FLORIDA, ESTABLISHING REQUIREMENTS FOR THE VILLAGE OF GOLF'S PROPERTY ASSESSED CLEAN ENERGY PROGRAM ("PACE"); PROVIDING FOR MULTI-JURISDICTIONAL PACE PROGRAMS IN ORDER TO ALLOW FOR THIRD-PARTY ADMINISTRATORS, EITHER FOR-PROFIT OR NOT-FOR-PROFIT, TO ADMINISTER THE PACE PROGRAM WITHIN THE VILLAGE PURSUANT TO STATE LAW AND THE REQUIREMENTS SET BY THE VILLAGE; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Property Assessed Clean Energy (PACE) is a program which provides upfront capital to property owners to invest in energy-efficient, renewable energy or wind-resistance improvements to their properties; and

WHEREAS, Sec 163.08, *Florida Statutes*, has provided supplemental authority for such improvements through general law and states that the "...Legislature finds that there is a compelling state interest in enabling property owners to voluntarily finance such improvements with local government assistance"; and

WHEREAS, Sec. 163.08, *Florida Statutes*, also authorizes a local government to either levy non-ad valorem assessments in order to fund qualifying improvements or ,alternatively, allows a for-profit entity or a not-for-profit organization to act as a third-party administer for a PACE program on behalf of and at the discretion of the local government such that a financing agreement with the property owner, when recorded, constitutes a lien of equal dignity to county taxes and assessments from the date of recordation; and

WHEREAS, a property owner's participation in such financing agreements is entirely voluntary and the local government shall not incur or be requested to authorize any obligations secured by special assessments associated with qualifying improvements imposed by the third-party administrator; and

WHEREAS, based upon the above facts, the Village Council deems it necessary and to be in the best interests of the health, safety, and welfare of the citizens and residents of the Village of Golf, to adopt the following minimum standards within the Village of Golf such that its residents will be able to finance energy improvements to their properties through non-ad valorem assessments on their tax bills and also allow for PACE programs within the Village which will ultimately promote energy conservation, energy security, and the reduction of greenhouse gases in conformance with the declared public policy of the state.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF GOLF, FLORIDA THAT:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance. These clauses represent the legislative findings of the Village Council. It is the purpose and intent of this Ordinance to promote the health, safety and welfare of the residents of the Village of Golf.

Section 2: This ordinance entitled "REQUIREMENTS FOR VILLAGE OF GOLF PROPERTY ASSESSED CLEAN ENERGY PROGRAMS (PACE)" is hereby adopted and shall hereafter read as follows:

See EXHIBIT A attached hereto and made a part hereof.

Section 3. Severability. If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

Section 4. Conflicts. All ordinances or parts of ordinances, resolutions or part of resolutions in conflict herewith are to the extent of such conflicts hereby repealed.

Section 7. Effective Date. This ordinance shall take effect immediately upon its passage.

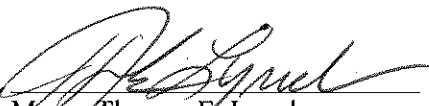
FIRST READING this 14th day of December, 2016.

SECOND, FINAL READING AND PASSAGE this 18th day of January, 2017.

VILLAGE OF GOLF

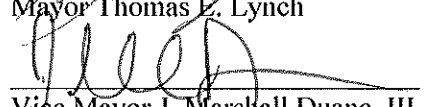
☒
Aye

☐
Nay


Mayor Thomas E. Lynch

☒
Aye

☐
Nay


Vice Mayor J. Marshall Duane, III.

✓
Aye


Nay


✓
Aye

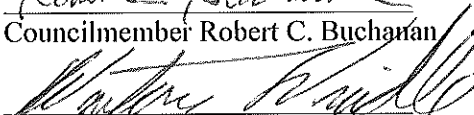
Nay

✓
Aye

Nay

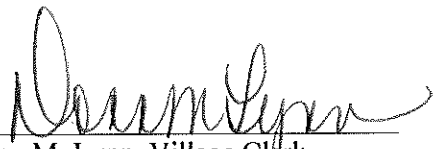

Councilmember Michael E. Botos


Councilmember Robert C. Buchanan


Councilmember Winstone Windle

ATTEST:

(SEAL)


Donn M. Lynn, Village Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY


Bradley W. Biggs, Village Attorney

EXHIBIT "A" TO ORDINANCE NO. 116 ENTITLED:

**REQUIREMENTS FOR VILLAGE OF GOLF
PROPERTY ASSESSED CLEAN ENERGY PROGRAMS (PACE)**

The following requirements are hereby adopted by the Village of Golf and will apply to any Property Assessed Clean Energy Program ("PACE") administered by a PACE third-party administrator pursuant to Sec. 163.08, *Florida Statutes*.

(a) *Definitions.* For purposes of this Section, the following words and phrases shall have the following meanings:

- (1) *Financing Agreement* shall mean the financing agreement or the summary memorandum of such agreement required to be recorded in the public records pursuant to the *PACE Statute*.
- (2) *PACE assessment* shall mean the non-ad valorem assessment placed on a property owner's tax bill as a result of financing obtained under the *PACE Statute*.
- (3) *PACE local government* shall mean a local government (as defined in the *PACE Statute*) that has taken all required actions to fund PACE improvements, and also any person or entity acting on that local government's behalf pursuant to an interlocal agreement authorized by Sec. 163.01(7), *Florida Statutes*.
- (4) *PACE Statute* shall mean Section 163.08, *Florida Statutes*, which establishes Florida's PACE program authority for improvements to real property.

(b) In addition to any disclosure requirements in the *PACE Statute*, *PACE local governments* that extend financing pursuant to the *PACE Statute* and levy a non-ad valorem assessment to fund the PACE improvements shall present to the property owner a separate, written notice disclosing the following elements ("Notice"):

- (1) The full legal description of the property subject to the PACE assessment;
- (2) The total amount of the debt, including amount financed, fees, fixed interest rate, capitalized interest and the effective rate of the interest charged [APR];
- (3) The repayment process, amounts and a schedule that fully amortizes the amount financed including the maximum annual *PACE assessment*;
- (4) That the *PACE assessment* will appear on the property owner's tax bill;
- (5) That there is no discount for paying the *PACE assessment* early;
- (6) The nature of the lien recorded and that the *PACE assessment* will be collected in the same manner as real estate taxes, along with the fact that

failure to pay the *PACE assessment* may cause a tax certificate to be issued against the property;

(7) 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;

(8) The specific improvements to be installed and the fact that the property improvements and *PACE assessment* may or may not affect the overall value of the property;

(9) A term that does not exceed the useful life of the majority of the improvements;

(10) The 3-day right to cancel the financing; and

(11) FHFA policy toward PACE.

(c) The Notice must be delivered to the property owner by the *PACE local government*, and must be signed and dated by the property owner prior to or contemporaneously with the property owner's signing of any legally enforceable documents obligating the property owner to participate in the PACE program or to repay financing obtained pursuant to a financing agreement or the *PACE Statute*.

(d) The *PACE local government* shall record, or cause to be recorded, the signed Notice in the public records as an attachment to the Financing Agreement, which must also be recorded pursuant to the *PACE Statute*.

(e) *Eligible Properties.* PACE Programs may finance improvements on residential properties (4 units or less) that meet the following criteria: (i) All mortgage-related debt on the Property may not exceed 90% of the Property's fair market value (FMV); (ii) The financing may not exceed twenty percent (20%) of the just value of the property consistent with the *PACE Statute*; and (iii) The total mortgage-related debt on the underlying Property plus program financing may not exceed the FMV of the Property. PACE programs may also be utilized to finance improvements on commercial, industrial, agricultural, multi-family residential properties of 5 or more units, and other non-residential properties.

(f) *Eligible Improvements.* The Program will only finance energy efficiency and renewable energy improvements that are permanently affixed to the property. All improvements and products must meet standards established by the U.S. Department of Energy, the U.S. Environmental Protection Agency, or Florida state agencies. All improvements must comply with the *PACE Statute* for energy efficiency, renewable energy and wind resistance.

(g) *Complaints and Dispute Resolution.* The Program must receive, manage,

track, timely resolve, and report on all inquiries and complaints from property owners. In addition, the Program must investigate and mediate disputes between property owners and contractors.

(h) *Data Security.* The Program is responsible for taking security measures that protect the security and confidentiality of consumer records and information in proportion to the sensitivity of the information.

(i) *Consumer Privacy.* The Program must develop and maintain a privacy policy that complies with state and federal law (e.g., the Gramm Leach Bliley Act) and, in particular, prohibits sharing with third parties personal identifying information of property owners without the property owner's express authorization except where expressly permitted by state and federal law.

(j) *Marketing and Communications.* The Program prohibits marketing practices that are or could appear to be unfair, deceptive, abusive, and/or misleading, that violate laws or regulations, that provide tax advice, that are inappropriate, incomplete or are inconsistent with the Program's purpose.

(k) *Protected Classes.* The Program must develop and implement a program that validates elder homeowner (i.e., homeowners over 64 years old) understanding of the eligible improvement project for which they are seeking Program financing, including the terms of such financing.

(l) *Contractor Management.* The Program must ensure that contractors are licensed by the appropriate State and Local agencies; and that they are insured and bonded. Additionally, contractors must agree to follow program marketing guidelines, and act in good faith to timely resolve property owner complaints.

(m) *Maximum Financing Amounts.* The Program will establish Maximum Financing Amounts for every project type. The Program will establish pricing rules to ensure that consumers are protected from excessive charges.

(n) *Reporting.* The Program will report on a quarterly basis to its local government partners on the number of applications submitted, projects completed, energy saved, and jobs created as a result of the Program.

(o) *Closing and Funding.* The Program requires that the property owner and the contractor sign a certificate of completion prior to providing funding to the contractor for the project. The Program also requires that any necessary permits are pulled and verified prior to funding. The Program will conduct a randomized onsite inspection protocol to verify that the appropriate financed products have been installed.