

ENROLLED ORDINANCE 176-85

REAUTHORIZATION OF PROPERTY ASSESSED CLEAN ENERGY (PACE) FINANCING LOAN PROGRAM AND PARTICIPATION IN PACE COMMISSION

WHEREAS renovations or additions to premises located in the County made to improve energy efficiency, improve water efficiency, and/or use renewable resource applications, increase property values, stimulate local economic activity, provide local and global environmental benefits, and promote the general welfare of County residents; and

WHEREAS Section 66.0627, Wis. Stats., as amended, authorizes a county to make a loan or enter into an agreement regarding loan repayments to a 3<sup>rd</sup> party for owner-arranged or lessee-arranged financing, to an owner or a lessee of a premises located in the County for making or installing an energy efficiency improvement, a water efficiency improvement or a renewable resource application to a premises; and

WHEREAS the County can facilitate loans arranged by property owners or lessees to make such improvements by treating loan principal and interest, fees, and other charges as special charges eligible for inclusion on the tax roll for these properties; and

WHEREAS such financings are commonly referred to as "Property Assessed Clean Energy" or "PACE" financings; and

WHEREAS through Enrolled Ordinance 172-072 the Waukesha County Board of Supervisors adopted a Property Assessed Clean Energy (PACE) Financing Ordinance that automatically sunset three (3) years after its effective date unless the Board adopted an ordinance for its continuation; and

WHEREAS through Enrolled Ordinance 172-073 the Board authorized the joining of the Wisconsin PACE Commission and execution of a Joint Exercise of Powers Agreement related thereto; and

WHEREAS it is desirable that the County reauthorize the PACE Program and its PACE Financing Ordinance as well as reaffirm its participation in the Wisconsin PACE Commission.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS:

PROPERTY ASSESSED CLEAN ENERGY (PACE) FINANCING ORDINANCE

- (1) TITLE. This Ordinance shall be known as, referred to, and cited as the "PROPERTY ASSESSED CLEAN ENERGY (PACE) FINANCING ORDINANCE" and hereinafter referred to as the "Ordinance."
- (2) DEFINITIONS. In this Ordinance:
  - (a) "Annual installment" means the portion of the PACE loan that is due and payable for a particular year under the supplemental agreement.

2. Shall recite the amount and term of the PACE loan;
  3. Shall provide for the amount, or a method for determining the amount, of the annual installment due each year;
  4. Shall provide whether default interest may be applied to unpaid annual installments;
  5. Shall require the PACE lender and the borrower to comply with all federal, state, and local lending and disclosure requirements;
  6. Shall provide for any fees payable to the County and/or Program Administrator;
  7. Shall recite that the supplemental agreement is a covenant that runs with the land;
  8. May provide for prepayments of annual installments by the borrower with a resulting reduction in the special charge for the prepayment, subject to any prepayment premium charged by the PACE lender, if any; and
  9. May allow for amendment by the parties.
- (b) Prior to executing the supplemental agreement, the owner of the subject property, if different from the borrower, and any existing mortgage holder(s) on the subject property must have executed a separate writing acknowledging the borrower's use of PACE financing for the subject property and the special charge that will be imposed under this Ordinance and its consequences, including the remedies for collecting the special charge.
- (c) Each PACE loan shall be amortized over the term of the PACE loan as provided in the supplemental agreement.
- (d) The annual payments of a PACE loan may be payable in installments as authorized by Section 66.0627, Wis. Stats., as amended.
- (7) ANNUAL INSTALLMENTS ADDED TO TAX ROLLS. Upon request of the Program Administrator the County shall place each year's annual installment on the tax roll for the subject property as permitted pursuant to Section 66.0627, Wis. Stats., as amended.
- (8) REMITTANCE OF SPECIAL CHARGES. The County shall promptly remit to the Wisconsin PACE Commission any payment(s) for a special charge imposed under this Ordinance, including penalties and charges thereon, it may receive from any taxing district or the County treasurer pursuant to Chapter 74 of the Wisconsin Statutes, as amended.
- (9) PROPERTY TAX FORECLOSURE PROCEDURE.

- (a) The County elects to utilize the provisions of Section 75.521, Wis. Stats., as amended, for the purpose of enforcing tax liens if a subject property owner fails to pay any special charge imposed on the subject property under this Ordinance as required.
  - (b) The County shall include such subject property in its annual *in rem* property tax foreclosure proceeding, unless the County determines such subject property is a "brownfield" (as defined in Section 75.106, Wis. Stats., as amended) or that including the subject property in the *in rem* property tax foreclosure is not in the best interest of the County due to a condition of the subject property or for any other reason.
  - (c) If the County has determined that it will not include such subject property in its annual *in rem* property tax foreclosure proceeding, or if included, that it does not wish to take judgment on the subject property for any reason, then the PACE lender may request that the County, pursuant to Section 75.106, Wis. Stats., as amended, commence or continue the *in rem* proceeding against the subject property and assign the County's right to take judgment against the subject property to the PACE lender, provided that the PACE lender and the County fully comply with all provisions of Section 75.106, Wis. Stats., as amended, concerning the subject property and the PACE lender agrees to pay the amounts required by Section 75.36(3)(a)1, 1m and 3, as amended.
  - (d) Any assignment to the PACE lender pursuant to Section 75.106, Wis. Stats., as amended, permitted under sub (c) shall include and be conditioned upon an indemnification from the PACE lender that holds the County harmless against any loss, expense, liability or damage that the County may incur as a result of an action under Sections 75.144, 75.521(14a) or 893.25, Wis. Stats., as amended.
- (10) SALE OF FORECLOSED PROPERTY. If the County obtains judgment in an *in rem* property tax foreclosure proceeding against a subject property, the County shall diligently proceed to sell the subject property pursuant to the procedures set forth in Section 75.69, Wis. Stats., as amended, and Chapter 6, Article VI of the Waukesha County Code, as amended.
- (11) DISTRIBUTION OF FORECLOSURE PROCEEDS. The County treasurer shall follow the procedures set forth in Section 75.36, Wis. Stats., as amended, to distribute the proceeds from the sale of a subject property.

BE IT FURTHER ORDAINED that Waukesha County reaffirms its participation in the Wisconsin PACE Commission.

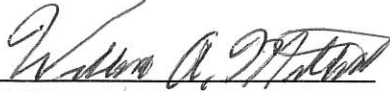
BE IT FURTHER ORDAINED that the Waukesha County Executive or his designee is authorized to execute any document or take any further action as may be necessary to reaffirm participation in the Wisconsin PACE Commission, following review and approval by Waukesha County Corporation Counsel.

BE IT FURTHER ORDAINED that the Waukesha County Executive shall have the power to designate the Waukesha County "Representative Director" to the Board of Directors of the

Wisconsin PACE Commission. Such designation shall be subject to approval by the County Board but said designee shall serve at the sole pleasure of the Waukesha County Executive.

REAUTHORIZATION OF PROPERTY ASSESSED CLEAN ENERGY (PACE) FINANCING LOAN  
PROGRAM AND PARTICIPATION IN PACE COMMISSION

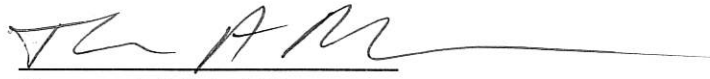
Presented by:  
Land Use, Parks, and Environment Committee



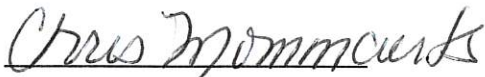
William A. Mitchell, Chair



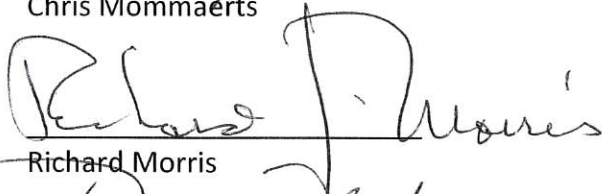
Keith Hammitt



Thomas A. Michalski



Chris Mommaerts



Richard Morris



Thomas J. Schellinger

**Absent**

Steve Whittow

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 12/22/21, Margaret Wartman  
Margaret Wartman, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X

Vetoed: \_\_\_\_\_

Date: 12/22/2021, Paul Farrow  
Paul Farrow, County Executive



VOTING RESULTS

AYE 23


NAY 0

ABSTAIN

ABSENT 2

# Ordinance 176-O-101

Ordinance 176-O-101: Reauthorization of Property As...

 **Passed By Majority Vote**

D1 - Foti	AYE	D14 - Mommaerts	AYE
D2 - Zimmermann	AYE	D15 - Mitchell	AYE
D3 - Morris	AYE	D16 - Crowlev	AYE
D4 - Batzko	AYE	D17 - Paulson	AYE
D5 - Dondlinger	AYE	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Vacant	ABSENT
D7 - LaFontain	AYE	D20 - Schellinger	AYE
D8 - Michalski	AYE	D21 - Gaughan	AYE
D9 - Heinrich	AYE	D22 - Wysocki	AYE
D10 - Swan	AYE	D23 - Hammitt	AYE
D11 - Howard	AYE	D24 - Whitlow	ABSENT
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

December 21 2021 - December 21 2021 06:11:53 PM

