

## **Ordinance No. 600.29**

### **IOWA COUNTY PROPERTY ASSESSED CLEAN ENERGY (“PACE”) FINANCING ORDINANCE**

Iowa County, by its duly elected Board of Supervisors, wishing to establish a framework for the provision of Property Assessed Clean Energy (“PACE”) financing in Iowa County, does hereby ordain:

#### **Chapter 1. Property Assessed Clean Energy (“PACE”) financing**

**SECTION 1. PURPOSE.** Iowa County finds that renovations or additions to premises located in Iowa 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 Iowa County residents. The purpose of this Section is to 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.

**SECTION 2. DEFINITIONS.** In this section:

- a. **“Annual installment”** means the portion of the PACE loan that is due and payable for a particular year under the supplemental agreement.
- b. **“Borrower”** means the property owner or lessee of the subject property that borrows the proceeds of a PACE loan.
- c. **“Default loan balance”** means the outstanding balance, whether or not due, of a PACE loan at the time that Iowa County receives foreclosure proceeds.
- d. **“Foreclosure proceeds”** means the proceeds received by Iowa County from the disposition of a subject property through an *in rem* property tax foreclosure.
- e. **“Loan amount”** means the principal, interest, administrative fees (including the Program Administrator’s fees) and other loan charges to be paid by the borrower under the PACE loan.
- f. **“PACE”** means the acronym for property assessed clean energy.
- g. **“PACE default provisions”** means:
  1. The delinquent annual installment(s) due when Iowa County initiates the *in rem* property tax foreclosure on the subject property;

2. Any additional annual installment(s) that become due between the time that Iowa County initiates *in rem* property tax foreclosure on the subject property and the date Iowa County receives the foreclosure proceeds;
  3. Any default interest charges applied to unpaid annual installments referenced in subs. (i) and (ii) above, as provided in the supplemental agreement; and
  4. Any default loan balance.
- h. **“PACE lender”** means any person that makes a PACE loan, and which may include an affiliate of the borrower.
  - i. **“PACE loan”** means a loan made by a PACE lender to a borrower under this Section for energy efficiency improvements, water efficiency improvements, or renewable resource applications made to or installed on a subject property.
  - j. **“Person”** means any individual, association, firm, corporation, partnership, limited liability company, trust, joint venture or other legal entity, or a political subdivision as defined in Sec. 66.0627, Wis. Stat.
  - k. **“Program Administrator”** means the person retained by the Wisconsin PACE Commission as provided in sub. 5(b).
  - l. **“Subject property”** means any premises located in Iowa County on which energy efficiency improvements, water efficiency improvements, or renewable resource applications are being or have been made and financed through an outstanding PACE loan.
  - m. **“Supplemental agreement”** means a written agreement among a borrower, a PACE lender and Iowa County, as provided for in Section 7.
  - n. **“Wisconsin PACE Commission”** means the Wisconsin PACE Commission formed under Sec. 66.0301, Wis. Stat., as amended, by Iowa County and one or more other political subdivisions as defined in Sec. 66.0627, Wis. Stat., pursuant to a Joint Exercise of Powers Agreement relating to the Wisconsin PACE Commission dated \_\_\_\_\_, as amended.

**SECTION 3. STATUTORY AUTHORITY.** This Section is enacted pursuant to Sec. 66.0627, Wis. Stat., as amended, which authorizes Iowa County to make a loan or enter into an agreement regarding loan repayments to a 3rd party for owner-arranged or lessee-arranged financing, with an owner or a lessee of a premises located in Iowa County for making or installing an energy efficiency improvement, a water efficiency improvement or a renewable resource application to a premises.

**SECTION 4. PACE LOANS AS SPECIAL CHARGES; DELINQUENT AMOUNTS AS LIENS.** Any PACE loan made and secured pursuant to this Section shall be

considered a special charge on the subject property. Any annual installment or portion of a PACE loan made and secured pursuant to this Section that becomes delinquent according to the terms of the PACE loan shall be a lien against the subject property and placed on the tax roll, as permitted pursuant to Sec. 66.0627, Wis. Stat., as amended.

#### **SECTION 5. WISCONSIN PACE COMMISSION.**

- a. Any of the powers and duties of Iowa County under this Section, except for those under sub. 9, may (but are not required to) be delegated to the Wisconsin PACE Commission.
- b. The Wisconsin PACE Commission is further authorized to retain a Program Administrator to act as its agent and administer the PACE program, subject to adherence with PACE program requirements consistent with this Section and Sec. 66.0627, Wis. Stat., as amended.

#### **SECTION 6. LOAN APPROVAL.**

- a. A prospective borrower applying for a PACE loan shall comply with the loan application process set forth in the program manual approved by Iowa County.
- b. Iowa County shall approve the financing arrangements between a borrower and PACE lender.

#### **SECTION 7. SUPPLEMENTAL AGREEMENT.**

- a. Iowa County, the borrower, and the PACE lender shall execute the supplemental agreement which, without limitation:
  1. Shall inform the participants that the PACE loan amount shall be imposed as and considered a special charge, and each year's annual installment may be included on the property tax roll of the subject property as a special charge and an annual installment that is delinquent shall be a lien against the subject property pursuant to Sec. 66.0627, Wis. Stats., as amended;
  2. Shall recite the amount and the 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 Iowa 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 Section 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 Sec. 66.0627, Wis. Stat., as amended.

**SECTION 8. ANNUAL INSTALLMENTS ADDED TO TAX ROLLS.** Upon the request of the Program Administrator, Iowa County shall place each year's annual installment on the tax roll for the subject property as permitted pursuant to Sec. 66.0627, Wis. Stat., as amended.

**SECTION 9. REMITTANCE OF SPECIAL CHARGES.** Iowa County shall promptly remit to the Wisconsin PACE Commission any payment(s) for a special charge imposed under this Section, including penalties, interest and charges thereon, it may receive from any taxing district or Iowa County Treasurer pursuant to Ch. 74, Wis. Stats., as amended.

**SECTION 10. PROPERTY TAX FORFECLURE PROCEDURES.**

- a. Iowa County elects to utilize the provisions of Sec. 75.521, Wis. Stat., as amended, for the purpose of enforcing tax liens if a subject property owner fails to pay any special charges imposed on the subject property under this Section as required;
- b. Iowa County shall begin an *in rem* property tax foreclosure proceeding on the subject property at the earliest time allowed under Wisconsin Statutes, unless Iowa County determines that subject property is a "brownfield" (as defined in Sec. 75.106, Wis. Stat., as amended) or that *in rem* property tax foreclosure is not in the best interests of the Iowa County due to the condition of the property or other reasons.

- c. If Iowa County has determined that it will not commence an *in rem* property tax foreclosure proceeding, then the PACE lender may request that Iowa County, pursuant to Sec. 75.106, Wis. Stat., as amended, assign Iowa County's right to take judgment against the subject property, provided that the PACE lender and Iowa County fully comply with all provisions of Sec. 75.106, Wis. Stat., as amended, concerning the subject property and the PACE lender agrees to pay the amounts required by Sec. 75.36(3)(a)1 and 1m, Wis. Stat., as amended.

**SECTION 11. SALE OF FORECLOSED PROPERTY.** If Iowa County prevails in an *in rem* property tax foreclosure action against a subject property, Iowa County shall diligently proceed to sell the subject property pursuant to the procedures set forth in Sec. 75.69, Wis. Stat., as amended.

**SECTION 12. DISTRIBUTION OF FORECLOSURE PROCEEDS.** The Iowa County Treasurer shall follow the procedures set forth in Sec. 75.36, Wis. Stat., as amended, to distribute the proceeds from the sale of a subject property.

**SECTION 13. ORDINANCE ELECTING TO PROCEED UNDER SEC. 75.521, WIS. STATS., IN RELATION TO THE ENFORCEMENT OF COLLECTION OF TAX LIENS ON PACE ENCUMBERED PROPERTIES.** From and after January 1, 2017, Iowa County elects to adopt the provisions of Sec. 75.521, Wis. Stat., as amended, for the purpose of enforcing tax liens on PACE encumbered properties in Iowa County in the cases where the procedure provided by such section is applicable. Iowa County expressly reserves the right to proceed under the tax deed provisions of Secs. 75.12, 75.14, and 75.16, as amended, for all other tax delinquent properties within Iowa County.