

PROPOSED

ORDINANCE NO.

1 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD
2 COUNTY, FLORIDA, PERTAINING TO THE PROPERTY ASSESSED CLEAN ENERGY
3 (“PACE”) PROGRAM IN BROWARD COUNTY; AMENDING VARIOUS SECTIONS OF
4 CHAPTER 20, ARTICLE VII, DIVISION 8 OF THE BROWARD COUNTY CODE OF
5 ORDINANCES (“CODE”) REGARDING THE BROWARD PACE ACT; AND PROVIDING
6 FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

7 (Sponsored by Senator Steve Geller)
8

9 WHEREAS, the Florida Legislature substantially amended state law regulating the
10 provision of financing of property assessed clean energy (“PACE”) qualifying
11 improvements to real property during the 2024 Legislative Session;

12 WHEREAS, on October 8, 2024, the Board of County Commissioners of Broward
13 County, Florida (“Board”), enacted Ordinance No. 2024-38, the Broward PACE Act, and
14 Resolution No. 2024-469, to consolidate, strengthen, and update requirements for
15 voluntary financing of certain qualifying improvements to real property within Broward
16 County through non-ad valorem assessments on such real property by PACE program
17 administrators (collectively, “PACE financing”);

18 WHEREAS, continued meetings between County staff, the County Attorney’s
19 Office, the County Auditor’s Office, and PACE industry stakeholders resulted in additional
20 proposed amendments to the Broward PACE Act to require that qualifying improvement
21 contractors make certain attestations regarding pricing and price due diligence to the

22 PACE program administrator and/or third-party administrator offering the PACE financing;
23 and

24 WHEREAS, the Board finds it appropriate at this time to amend the Broward PACE
25 Act as set forth herein,

26 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
27 BROWARD COUNTY, FLORIDA:

28 Section 1. Section 20-176.136 of the Broward County Code of Ordinances is
29 hereby amended to read as follows:

30 **Sec. 20-176.136. Additional Requirements for Residential Property.**

31 . . .

32 (c) *Price due diligence.* Before entering into a financing agreement for a
33 qualifying improvement to residential property, program administrators and/or third-party
34 administrators shall require contractors to ~~attest~~ submit an attestation to the program
35 administrator and/or the third-party administrator, on a form prescribed by the program
36 administrator or the third-party administrator, that:

37 (1) ~~¶~~The contractor's prices for services, materials, and products for the
38 qualifying improvement project do not exceed ~~one hundred twenty-five~~
39 ~~percent (125%)~~ of the average market price in the tricounty area, consisting
40 of Broward, Miami-Dade, and Palm Beach counties, for the same services,
41 materials, and products, ~~and the program administrators and/or third-party~~
42 ~~administrators shall conduct~~ as documented by the contractor's appropriate
43 due diligence using either the ~~program administrator's and/or the third-party~~
44 ~~administrator's~~ contractor's internal construction cost estimates or industry-

45 accepted sources for construction costs estimates, such as the RSMeans
46 or Xactimate construction cost database, ~~to confirm, in a writing they~~
47 ~~maintain, the accuracy of the contractor's attestation; and~~

48 (2) The prices for any qualifying improvements financed under
49 Section 163.081, Florida Statutes, are the same prices that the contractor
50 would otherwise provide if the qualifying improvements were not being
51 financed through a financing agreement.

52 The program administrator and/or the third-party administrator must retain the submitted
53 attestation for at least three (3) years.

54 . . .

55 Section 2. Severability.

56 If any portion of this Ordinance is determined by any court to be invalid, the invalid
57 portion will be stricken, and such striking will not affect the validity of the remainder of this
58 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
59 legally applied to any individual, group, entity, property, or circumstance, such
60 determination will not affect the applicability of this Ordinance to any other individual,
61 group, entity, property, or circumstance.

62 Section 3. Inclusion in the Broward County Code of Ordinances.

63 It is the intention of the Board of County Commissioners that the provisions of this
64 Ordinance become part of the Broward County Code of Ordinances as of the effective
65 date. The sections of this Ordinance may be renumbered or relettered and the word
66 "ordinance" may be changed to "section," "article," or such other appropriate word or
67 phrase to the extent necessary to accomplish such intention.

68 Section 4. Effective Date.

69 This Ordinance is effective as of the date provided by law.

ENACTED

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FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By: /s/ Jennifer D. Brown 01/15/2025
Jennifer D. Brown (date)
Senior Assistant County Attorney

By: /s/ Michael C. Owens 01/15/2025
Michael C. Owens (date)
Senior Assistant County Attorney

JDB/gmb
Contractor Due Diligence Ordinance Amendment
01/15/2025
#1139225.2

Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.