

City of Houston, Texas Ordinance No. _____

AN ORDINANCE ESTABLISHING A PROGRAM UNDER THE TEXAS PROPERTY ASSESSED CLEAN ENERGY (“PACE”) ACT OF 2013 FOR THE CITY OF HOUSTON AND ITS EXTRATERRITORIAL JURISDICTION, AS PROVIDED BY TEXAS LOCAL GOVERNMENT CODE CHAPTER 399; AND DECLARING AN EMERGENCY.

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WHEREAS, the 83rd Regular Session of the Texas Legislature enacted the Property Assessed Clean Energy Act, Texas Local Government Code Chapter 399 (the “PACE Act”), which allows the governing body of a local government, including a municipality, to designate an area of the territory of the local government as a region within which an authorized representative of the local government and the record owners of commercial, industrial, and multifamily residential (5 or more dwelling units) real property may enter into written contracts to impose assessments on the property to repay the property owner’s financing of permanent improvements fixed to the property intended to decrease water or energy consumption or demand;

WHEREAS, the installation or modification by property owners of qualified energy or water saving improvements to commercial, industrial, and multifamily residential real property in Houston and its extraterritorial jurisdiction (“ETJ”) furthers the goals of energy and water conservation without cost to the public or municipality;

WHEREAS, the City Council finds that third-party financing of energy and water conserving projects through contractual assessments imposed by the City (“PACE financing”) furthers essential government purposes, including but not limited to, economic development, reducing energy consumption and costs, conserving water resources, and reducing greenhouse gas emissions;

WHEREAS, the City Council adopted an Ordinance of Intent to establish a Houston Property Assessed Clean Energy (“Houston PACE”) program on October 14, 2015, in accordance with Section 399.008(a)(1) of the PACE Act, and such Ordinance No. 2015-996 included a reference to the report on the proposed program prepared as required by Section 399.009 of the PACE Act, identifying the locations where the report is available for public inspection, and the time and place for a public hearing on the proposed Houston PACE program;

WHEREAS, the City Council held a public hearing on Wednesday, October 21, 2015, at 2:00 p.m., before the Quality of Life Committee in Council Chambers, 901 Bagby St., 2nd Floor,

Houston, Texas 77002, at which the public could and did comment on the proposed Houston PACE program including the draft report available for inspection as mentioned above;

WHEREAS, the City Council finds that it is convenient and advantageous to establish a program under the PACE Act, that such program serves a valid public purpose, and designates the entire geographic area within Houston's city limits and its ETJ as a region within which an authorized representative of the City and the record owners of qualified real property may enter into PACE financing arrangements; and

WHEREAS, this Ordinance has the full force and effect as a "Resolution" of establishing a program as set forth in Section 399.008(3) of the PACE Act.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. The City Council of the City of Houston, Texas, hereby adopts findings set out in the preamble, including finding that financing qualified projects through contractual assessments is a valid public purpose, and hereby adopts the Houston PACE program as set forth in this Ordinance and in the attached Final Report.

Section 2. Houston will, at the property owner's request, impose contractual assessments on the property to repay PACE financing for qualified energy or water conserving projects available to owners of commercial, industrial, and multifamily residential real property. The program is to be called Houston Property Assessed Clean Energy or Houston PACE program.

Section 3. The following types of projects are qualified for PACE financing under the Houston PACE program:

Projects that (a) involve the installation or modification of a permanent improvement fixed to privately owned commercial, industrial, or multifamily residential real property with five (5) or more dwelling units, and (b) are intended to decrease energy or water consumption or demand, including a product, device, or interacting group of products or devices on the customer's side of the meter that uses energy technology to generate electricity, provide thermal energy, or regulate temperature.

The Houston PACE program shall not be used for financing of facilities for undeveloped lots or lots undergoing development at the time of the assessment or the purchase or installation of products or devices not permanently fixed to real property. Improvements to undeveloped land in Houston and its ETJ are ineligible.

Section 4. The boundaries of the entire geographic area within Houston's jurisdiction, including its ETJ, are the boundaries of the region for PACE financing under the Houston PACE program.

Section 5. Financing for qualified projects under Houston PACE shall be provided by qualified third-party lenders chosen by the property owners. Such lenders shall execute written contracts with Houston to service the assessments, as required by the PACE Act. The contracts will provide for the lenders to determine the financial ability of owners to fulfill the financial obligations to be repaid through assessments, advance the funds to owners on such terms as are agreed between the lenders and the owners for the installation or modification of qualified projects, and service the debt secured by the assessments, directly or through a servicer, by collecting payments from the owners pursuant to contracts executed between the lenders and the owners. The lender contracts will provide that the City of Houston will maintain and continue the assessments for the benefit of such lenders and enforce the assessment lien for the benefit of a lender in the event of a default by an owner. The City of Houston will not provide financing of any sort for Houston PACE.

Section 6. The Director of Administration and Regulatory Affairs Department (“Director”) may elect to manage Houston PACE with City employees or may contract with a qualified non-profit organization to be the authorized representative of the City..

Section 7. The City Attorney is designated as the appropriate official and the appropriate assessor-collector for purposes of collecting the proposed contractual assessments and enforcing Houston PACE. The City Attorney may contract with a qualified law firm to assist in its collection efforts.

Section 8. The Final Report on the proposed Houston PACE, prepared in accordance with Tex. Local Gov’t Code Sec. 399.009, is attached and incorporated into this Ordinance. The Director shall make the Final Report available to the public on the City’s website.

Section 9. The Director may amend any aspect of the Houston PACE program after holding another public hearing, unless the change requires the expenditure of public funds, in which case the City Council must approve the change and appropriate the funds.

Section 10. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five (5) days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Charter of the City of Houston, Texas.

PASSED AND ADOPTED this ____ day of _____, 20____.

APPROVED this ____ day of _____, 20____.

Mayor of the City of Houston, Texas

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is _____.

City Secretary

(Prepared by Legal Dept. _____)

(10/26/15 JPC/jpc) Senior Assistant City Attorney

(Requested by Laura Spanjian, Director, Mayor's Office of Sustainability)

(Requested by Tina Paez, Director, Department of Administration and Regulatory Affairs)

(L.D. File No. 042-1500068-001)