

MEMORANDUM

Agenda Item No. 11(A)(9)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: April 19, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution directing the County Mayor to develop, negotiate and present agreements with Property Assessment Clean Energy (PACE) providers to this Board; establishing policy for the County with respect to Property Assessment Clean Energy; cancelling the request for a competitive solicitation for a Property Assessment Clean Energy program; directing the County Mayor to prepare a report on how to expedite PACE related permits

Resolution No. R-324-16

A substitute was presented and forwarded to the BCC with a favorable recommendation at the 4-12-16 Unincorporated Municipal Service Area Committee. This substitute differs from the original in that it changes the timeframe within which the Mayor would be required to bring negotiated agreements between PACE districts and the County to the Board of County Commissioners for review and approval. The original item would have allowed for 180 days, and this substitute item shortens the timeframe to 90 days.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz and Co-Sponsors Vice Chairman Esteban L. Bovo, Jr., Commissioner Daniella Levine Cava, Commissioner Sally A. Heyman and Commissioner Barbara J. Jordan.



Abigail Price-Williams
County Attorney



APW/smm



MEMORANDUM

(Revised)

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and Members, Board of County Commissioners

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Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's _____, 3/5's _____, unanimous _____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(9)
4-19-16

RESOLUTION NO. R-324-16

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO DEVELOP, NEGOTIATE AND PRESENT AGREEMENTS WITH PROPERTY ASSESSMENT CLEAN ENERGY (PACE) PROVIDERS TO THIS BOARD; ESTABLISHING POLICY FOR THE COUNTY WITH RESPECT TO PROPERTY ASSESSMENT CLEAN ENERGY; CANCELLING THE REQUEST FOR A COMPETITIVE SOLICITATION FOR A PROPERTY ASSESSMENT CLEAN ENERGY PROGRAM; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO PREPARE A REPORT ON HOW TO EXPEDITE PACE RELATED PERMITS

WHEREAS, individual residents of Miami-Dade County may wish to improve energy efficiency, install energy improvements or retrofits, and improve water conservation for commercial and residential properties; and

WHEREAS, one way to facilitate such improvements to real property is through a Property Assessment Clean Energy (PACE) financing program; and

WHEREAS, a PACE financing program is a financing structure by which commercial or residential property owners may voluntarily opt into a special assessment district to receive a loan to finance energy improvements and retrofits, where those loans are repaid through an annual assessment on the property owner's property tax bill; and

WHEREAS, a number of entities created pursuant to Section 163.01(7), Florida Statutes, may be interested in operating turnkey PACE programs within Miami-Dade County, and the County may not need to limit the number of PACE providers operating within the County; and

WHEREAS, having a number of different providers that operate PACE programs in Miami-Dade County may foster competition and provide more choices to property owners; and

WHEREAS, in 2014, this Board approved Resolution No. R-237-14, which directed the County Mayor or County Mayor's designee to develop a solicitation for a turnkey PACE program and present it to this Board for review, but no such solicitation has yet been finalized or presented to the Board; and

WHEREAS, PACE districts that have been created under Section 163.01(7), Florida Statutes, are local governments, and the County could select from those PACE districts and enter into interlocal agreements with the selected districts, without proceeding with a solicitation; and

WHEREAS, such County agreements with PACE districts would include County requirements and protections, as directed by this Board; and

WHEREAS, such County agreements with PACE districts should also require PACE providers to acknowledge, for example, in customer contracts and communications, the County's role in authorizing PACE in the unincorporated areas, while still making clear to consumers that the County is not operating the PACE program; and

WHEREAS, in order to facilitate and encourage the energy improvements, retrofits, and other property improvements made through PACE, this Board may wish to create an expedited permit program, similar to the green expedite program, for property improvements done through PACE,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board hereby cancels the request for a competitive solicitation that was made pursuant to Resolution No. R-237-14.

Section 2. It is the intent of this Board to enter into agreements with multiple PACE providers so as to foster competition and create more choices for property owners. The County Mayor or County Mayor's designee is hereby directed to develop and negotiate proposed

agreements between the County and PACE districts, specifically entities created pursuant to Section 163.01(7), Florida Statutes, who may wish to operate turnkey PACE programs within Miami-Dade County (referred to herein as “PACE districts” or “PACE providers”). The County Mayor or County Mayor’s designee shall bring such proposed agreements, together with the County Mayor or County Mayor’s designee’s recommendations as to PACE districts, to this Board for review and approval. In making such recommendations, the County Mayor or County Mayor’s designee shall consider and address the experience and expertise of the PACE districts, including the experience and expertise of the PACE districts’ direct affiliates, if applicable. The County Mayor or County Mayor’s designee shall bring negotiated agreements between the County and PACE districts to this Board expeditiously so that this Board may consider and approve the agreements within >>90<<¹ ~~[[180]]~~ days of the effective date of this resolution.

Section 3. The agreements between Miami-Dade County and PACE districts shall require, at a minimum:

- (a) Compliance with Miami-Dade County and Florida laws related to PACE programs;
- (b) The County’s standard indemnification clause by which the PACE provider agrees to indemnify the County;
- (c) A commitment and disclosure by the PACE provider that outlines what each particular PACE provider will do, including but not limited to how PACE assessments will be collected and if they will be converted into other financial vehicles, in the event that Florida’s PACE statute is struck down by a court or if the PACE assessments are determined by a court to not be special assessments;

¹ The differences between the substitute and the original item are indicated as follows: Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted, words underscored and/or >>double arrowed<< are added.

(d) If the PACE provider may issue bonds, a requirement that the bond disclosure include language, to be approved by the County Attorney's Office, which advises that PACE programs are new and relatively untested, and that there may be certain attendant risks to bondholders;

(e) Provisions which would allow for the termination of the agreement under certain circumstances; and

(f) Requirements that the PACE provider work with County staff to develop appropriate measures and mechanisms to provide timely information to the County regarding the PACE provider's work pursuant to its agreement with the County. At a minimum, the PACE provider shall provide quarterly reports to the County with the following information:

(i) The dates of the reporting period.

(ii) A list of PACE projects started and/or completed during the quarter, separated by building type (e.g., office, retail, multifamily, single family) and by sector type (e.g., commercial, industrial, residential). The report shall include the following information about each PACE project identified: (1) the qualifying improvements made to the property; (2) if an energy audit is performed, the energy baseline of each PACE project, conducted by a third party; and the projected energy savings and/or the amount of potential renewable energy to be generated by the PACE project; (3) start date and completion date for each PACE project; (4) if an energy audit is performed, financial information about each PACE project such as cost per kWh generated/saved; and (5) any other resource saving, such as water savings, achieved by the PACE project.

(iii) Number of applications declined during the reporting period and why each was declined.

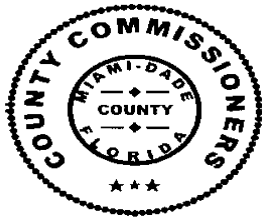
(iv) Jobs created for the reporting period, including local versus non-local jobs and permanent versus temporary jobs.

Section 4. The County Mayor or County Mayor's designee shall prepare a report with recommendations from the County Mayor or County Mayor's designee on how PACE-related building permits can be expedited, similar to the green expedite program that the County already offers, and shall provide this report to the Board within 90 days of the effective date of this resolution and place the completed report on an agenda of the Board pursuant to Ordinance No. 14-65. This report shall also include the Mayor's recommendation for how Miami-Dade County should be acknowledged or referenced in the PACE provider's promotional materials and contracts with consumers, so as to acknowledge the County's role but still making clear that the particular PACE program and consumer contract is with a non-County entity.

The Prime Sponsor of the foregoing resolution is Commissioner Jose "Pepe" Diaz and the Co-Sponsors are Vice Chairman Esteban L. Bovo, Jr., Commissioner Daniella Levine Cava, Commissioner Sally A. Heyman and Commissioner Barbara J. Jordan. It was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Javier D. Souto** and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	aye		
Esteban L. Bovo, Jr., Vice Chairman	aye		
Bruno A. Barreiro	aye	Daniella Levine Cava	aye
Jose "Pepe" Diaz	absent	Audrey M. Edmonson	aye
Sally A. Heyman	absent	Barbara J. Jordan	aye
Dennis C. Moss	absent	Rebeca Sosa	aye
Sen. Javier D. Souto	aye	Xavier L. Suarez	aye
Juan C. Zapata	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 19th day of April, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: ***Christopher Agrippa***
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Abbie Schwaderer-Raurell