

## AGENDA

Eau Claire County  
Committee on Finance and Budget  
Thursday, February 11, 2016 / 4:30 pm

721 Oxford Avenue  
Eau Claire County Courthouse – Room 1273  
Eau Claire, WI 54703

1. Call Meeting to Order
2. Update on Internal Controls Assessment by CliftonLarsonAllen / Discussion
3. Review Table of Contents - County Fiscal Policies / Discussion – Action (pg. 2)
4. Highway Equipment Financing Options / Discussion – Action (follow up from January meeting)
5. Discussion of County Receipting Procedures / Discussion -- Action
6. PACE (Property Assessed Clean Energy) Financing Program / Discussion - Action  
(pg. 3-30)
7. 2016 Budget Wrap Up / Discussion
8. Preliminary Review of 2015 Fiscal Year / Discussion
9. 2017 Budget Calendar Review / Discussion
10. Finance Department Financial Matters / Discussion-Action
  - a. Update on County Sales Tax Report / Discussion (pg. 31)
  - b. County Board Vouchers (if any)
  - c. Line Item Transfers (if any)
11. Committee Review/Approval of Minutes / Discussion – Action
  - January 19, 2016 (pg. 32)
  - January 21, 2016 (pg. 33- 35)
12. Future Agenda Items / Set Next Meeting (March 10, 2016)
13. Adjourn

Post: February 4, 2016

Copy: media, Committee members, Kathryn Schauf, Scott Rasmussen

PLEASE NOTE: Upon reasonable notice, efforts will be made to accommodate the needs of individuals with disabilities through sign language, interpreters or other auxiliary aids. For additional information or to request the service, contact the County ADA Coordinator at 839-4710, (FAX) 839-1669 or 839-4735, tty: use Relay (711) or by writing to the ADA Coordinator, Human Resources, Eau Claire County Courthouse, 721 Oxford Avenue, Eau Claire, WI 54703.

## **Preliminary List of Items for Financial Policies/Procedures Manual**

Accounting-General, County-wide  
Accounts Payable  
Annual Financial Reporting  
Annual Financial Audit  
Annual Cost Allocation Plan  
Budgeting & Capital Planning  
Cash Management and Investing  
Cash Receipts/Accounts Receivable  
Debt Management (done)  
Capital Assets  
Fund Balance (done)  
Payroll Process  
Reporting Requirements  
Revenues  
Month End / Year End  
Unclaimed Checks  
Property tax write-offs  
Collections

4 **- TO CREATE CHAPTER 4.25 OF THE CODE: PROPERTY ASSESSED CLEAN**  
5 **ENERGY FINANCING ORDINANCE -**

6 The County Board of Supervisors of the County of Eau Claire does ordain as follows:

7  
8 **SECTION 1.** That Chapter 4.25 of the code is created to read:

9  
10 Chapter 4.25

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13 PROPERTY ASSESSED CLEAN ENERGY FINANCING

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16 Sections:

- 17
- 18
- 19 4.25.001 Purpose.
- 20 4.25.010 Definitions.
- 21 4.25.020 Statutory authority.
- 22 4.25.030 Annual loan repayments as special charges.
- 23 4.25.040 Wisconsin Pace Commission.
- 24 4.25.050 Loan approval.
- 25 4.25.060 Supplemental agreement.
- 26 4.25.070 Annual installments added to tax rolls.
- 27 4.25.080 Remittance special charges.
- 28 4.25.090 Property tax foreclosure procedures.
- 29 4.25.100 Sale of foreclosed property.
- 30 4.25.110 Distribution of foreclosure proceeds.
- 31 4.25.120 Ordinance electing to proceed under WI Stat. § 75.521, in relation to
- 32 enforcement of collection of tax liens.
- 33
- 34
- 35

36 4.25.001 Purpose. The County finds that renovations or additions to premises located in  
37 the County made to improve energy efficiency, improve water efficiency, and/or use renewable  
38 resource applications, increase property values, stimulate local economic activity, provide local  
39 and global environmental benefits, and promote the general welfare of County residents. The  
40 purpose of this Section is to facilitate loans arranged by property owners or lessees to make such  
41 improvements by treating loan principal and interest, fees, and other charges as special charges  
42 eligible for inclusion on the tax roll for these properties.

43  
44 4.25.010 Definitions.

- 45 A. "Annual installment" means the portion of the PACE loan that is due and payable
- 46 for a particular year under the supplemental agreement.
- 47 B. "Borrower" means the property owner or lessee of the subject property that
- 48 borrows the proceeds of a PACE loan.

1 C. "Default loan balance" means the outstanding balance, whether or not due, of a  
2 PACE loan at the time that the County receives foreclosure proceeds.

3 D. "Foreclosure proceeds" means the proceeds received by the County from the  
4 disposition of a subject property through an *in rem* property tax foreclosure.

5 E. "Loan amount" means the principal, interest, administrative fees (including the  
6 Program Administrator's fees) and other loan charges to be paid by the borrower under the  
7 PACE loan.

8 F. "PACE" means the acronym for property assessed clean energy.

9 G. "PACE default provisions" means:

10 1. The delinquent annual installment(s) due when the County initiates the *in*  
11 *rem* property tax foreclosure on the subject property;

12 2. Any additional annual installment(s) that become due between the time  
13 that the COUNTY initiates *in rem* property tax foreclosure on the subject property and the date  
14 the County receives the foreclosure proceeds;

15 3. Any default interest charges applied to unpaid annual installments  
16 referenced in subs. (i) and (ii) above, as provided in the supplemental agreement; and

17 4. Any default loan balance.

18 H. "PACE lender" means any person that makes a PACE loan, and which may  
19 include an affiliate of the borrower.

20 I. "PACE loan" means a loan made by a PACE lender to a borrower under this  
21 Section for energy efficiency improvements, water efficiency improvements, or renewable  
22 resource applications made to or installed on a subject property.

23 J. "Person" means any individual, association, firm, corporation, partnership,  
24 limited liability company, trust, joint venture or other legal entity, or a political subdivision as  
25 defined in Wis. Stat. § 66.0627.

26 K. "Program Administrator" means the person retained by the Wisconsin PACE  
27 Commission as provided in 4.25.040 B.

28 L. "Subject property" means any premises located in the County on which an energy  
29 efficiency improvements, water efficiency improvements, or renewable resource applications are  
30 being or have been made and financed through an outstanding PACE loan.

31 M. "Supplemental agreement" means a written agreement among a borrower, a  
32 PACE lender and the County, as provided for in 4.25.060.

33 N. "Wisconsin PACE Commission" means the Wisconsin PACE Commission  
34 formed under Wis. Stat. § 66.0301, as amended, by the County and one or more other political  
35 subdivisions as defined in Wis. Stat. § 66.0627, pursuant to a Joint Exercise of Powers  
36 Agreement Relating to the Wisconsin PACE Commission dated [ ], as amended.

37  
38 4.25.020 Statutory authority. This Section is enacted pursuant to Wis. Stat. § 66.0627, as  
39 amended, which authorizes a County to make a loan or enter into an agreement regarding loan  
40 repayments to a 3rd party for owner-arranged or lessee-arranged financing, to an owner or a  
41 lessee of a premises located in the County for making or installing an energy efficiency  
42 improvement, a water efficiency improvement or a renewable resource application to a premises.

43  
44 4.25.030 Annual loan repayments as special charges. The annual installments shall be  
45 considered special charges on the subject property and each year's annual installment shall be  
46 imposed against the subject property as a special charge and any annual installment that is

1 delinquent shall be against the property and placed on the tax roll, as permitted pursuant to Wis.  
2 Stat. § 66.0627, as amended.

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4 4.25.040 Wisconsin Pace Commission.

5 A. Any of the powers and duties of the County under this Section, except for those  
6 under 4.25.070 B. and 4.25.080, may (but are not required to) be delegated to the Wisconsin  
7 PACE Commission.

8 B. The Wisconsin PACE Commission is further authorized to retain a Program  
9 Administrator to act as its agent and administer the PACE program, subject to adherence with  
10 PACE program requirements set forth in this Section and in Wis. Stat. § 66.0627, as amended.

11  
12 4.25.050 Loan approval.

13 A. A prospective borrower applying for a PACE loan shall comply with the loan  
14 application process set forth in the program manual approved by the County.

15 B. The County shall approve the financing arrangements between a borrower and  
16 PACE lender.

17  
18 4.25.060 Supplemental agreement.

19 A. The County, the borrower and the PACE lender shall execute the supplemental  
20 agreement which, without limitation:

21 1. Shall inform the participants that the PACE loan amount shall be imposed  
22 as and considered a special charge, and each year's annual installment may be included on the  
23 property tax roll of the subject property as a special charge and an annual installment that is  
24 delinquent shall be a lien against the subject property pursuant to Wis. Stat. § 66.0627, as  
25 amended;

26 2. Shall recite the amount and the term of the PACE loan;

27 3. Shall provide for the amount, or a method for determining the amount, of  
28 the annual installment due each year;

29 4. Shall provide whether default interest may be applied to unpaid annual  
30 installments;

31 5. Shall require the PACE lender and the borrower to comply with all  
32 federal, state and local lending and disclosure requirements;

33 6. Shall provide for any fees payable to the County and/or Program  
34 Administrator;

35 7. Shall recite that the supplemental agreement is a covenant that runs with  
36 the land;

37 8. May provide for prepayments of annual installments by the borrower with  
38 a resulting reduction in the special charge for the prepayment, subject to any prepayment  
39 premium charged by the PACE lender, if any; and

40 9. May allow for amendment by the parties.

41 B. Prior to executing the supplemental agreement, the owner of the subject property,  
42 if different from the borrower, and any existing mortgage holder(s) on the subject property must  
43 have executed a separate writing acknowledging the borrower's use of PACE financing for the  
44 subject property and the special charge that will be imposed under this Section and its  
45 consequences, including the remedies for collecting the special charge.

46 C. Each PACE loan shall be amortized over the term of the PACE loan as provided  
47 in the supplemental agreement.

48 D. The annual payments of a PACE loan may be payable in installments as  
49 authorized by Wis. Stat. § 66.0627, as amended.

1  
2 4.25.070 Annual installments added to tax rolls.

3 A. Upon the request of the Program Administrator each year's annual installment  
4 may be placed on the tax roll for the subject property as permitted pursuant to Wis. Stat. §  
5 66.0627, as amended.

6 B.  
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8 4.25.080 Remittance of special charges. The County shall promptly remit to the  
9 Wisconsin PACE Commission any payment(s) of any special charge imposed under this Section,  
10 including penalties and charges thereon, it may receive from any taxing district or the County  
11 treasurer pursuant to Wis. Stat. Ch. 74, as amended.  
12

13 4.25.090 Property tax foreclosure procedures.

14 A. The County elects to utilize the provisions of Wis. Stat. § 75.521, as amended, for  
15 the purpose of enforcing tax liens if a subject property owner fails to pay any special charges  
16 imposed on the subject property under this Section as required.

17 B. The County shall begin an in rem property tax foreclosure proceeding on the  
18 subject property at the earliest time allowed under Wisconsin Statutes, unless the County  
19 determines that subject property is a "brownfield" (as defined in Wis. Stat. § 75.106, as  
20 amended) or that in rem property tax foreclosure is not in the best interests of the County due to  
21 the condition of the property or for other reasons.

22 C. If the County has determined that it will not commence an in rem property tax  
23 foreclosure proceeding, then the PACE lender may request that the County, pursuant to Wis.  
24 Stat. § 75.106, as amended, assign the County's right to take judgment against the subject  
25 property, provided that the PACE lender and the County fully comply with all provisions of Wis.  
26 Stat. § 75.106, as amended, concerning the subject property and the PACE lender agrees to pay  
27 the amounts required by Wis. Stat. § 75.36(3)(a)1 and 1m, as amended.  
28

29 4.25.100 Sale of foreclosed property. If the County prevails in an in rem property tax  
30 foreclosure action against a subject property, the County shall diligently proceed to sell the  
31 subject property pursuant to the procedures set forth in Wis. Stat. § 75.69, as amended.  
32

33 4.25.110 Distribution of foreclosure proceeds. The County treasurer shall follow the  
34 procedures set forth in Wis. Stat. § 75.36, as amended, to distribute the proceeds from the sale of  
35 a subject property.  
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37 4.25.120 Ordinance electing to proceed under WI Stat. § 75.521, in relation to  
38 enforcement of collection of tax liens. From and after [INSERT DATE] the County elects to  
39 adopt the provisions of Wis. Stat. § 75.521, as amended, for the purpose of enforcing tax liens in  
40 such County in the cases where the procedure provided by such section is applicable.  
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ADOPTED:

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Committee on Finance & Budget

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

KRZ/yk

ORDINANCE/15-16.135

## Wisconsin PACE Commission Overview

### **What is Property Assessed Clean Energy (PACE)?**

PACE, or property assessed clean energy, is an innovative program that enables property owners to obtain low-cost, long-term loans for energy-efficiency and water conservation improvements. PACE loans help property owners overcome financial barriers that typically discourage investment in water conservation and energy efficiency retrofits to existing properties. Improvements financed using PACE can generate positive cash flow upon completion with no up-front, out-of-pocket cost to property owners.

### **What is the legal authority for PACE in the State of Wisconsin?**

PACE financings are authorized in the State of Wisconsin pursuant to Section 66.0627(8), (the "PACE Statute"). The PACE Statute enables "political subdivisions" (counties, cities, towns and villages) to impose a special charge on real property to secure loans made for energy efficiency, water conservation and renewable energy improvements.

### **What is the Wisconsin PACE Commission Joint Powers Agreement?**

For an individual unit of government, creating a PACE program from the ground up can be time consuming and resource-intensive. Fortunately, local governments have available a more efficient option to collectively administer a single statewide PACE program in a more cost effective manner. Wisconsin counties and municipalities have the option to enter into a joint exercise of powers agreement under Wisconsin Statute § 66.0301 (the "JPA"), by which they agree to form a Wisconsin PACE Commission (the "PACE Commission"). County members agree to adopt a Model PACE Ordinance (discussed below), and to delegate to the PACE Commission the ability to impose PACE special charges according to a single, uniform statewide PACE program in the County members' jurisdiction. Municipal members (cities, villages, and towns) join the PACE Commission, participate in its governance, and agree to support the uniform statewide PACE program.

### **How does the Model PACE Ordinance work?**

County members agree to adopt a Model PACE Ordinance as a condition of joining the PACE Commission. Among other powers, this ordinance authorizes the County to impose a PACE special charge, collect payments for the special charge in installments, place those installments on the tax roll at its discretion, and delegate that authority to the PACE Commission.

### **What powers are given to the Wisconsin PACE Commission?**

Participating Counties and Municipalities will delegate to the PACE Commission the power to administer a PACE program in their jurisdictions, which will include creating PACE program guidelines, PACE Project qualification and general program oversight. County Members will delegate the additional powers to impose special charges as part of PACE Projects and collect the installments for the PACE Project loans. The statewide PACE program is then administered by a third party, Wisconsin nonprofit organization,



responsible for handling day-to-day PACE financing application reviews and approvals, as well as payment collections on behalf of the PACE Commission.

## **Overview of a County Member's Responsibilities as a Member of the Wisconsin PACE Commission**

### **Can a County impose a PACE Special Charge on real property?**

Yes, see above: **What is the legal authority for PACE in the State of Wisconsin?**

### **Who is the PACE Lender?**

The PACE Statute authorizes two sources for financing PACE loans – third-party financing (including banks and other private lenders) and public financing by a political subdivision. There is private capital available for PACE Loans and it is anticipated that this will be the predominant source of financing. Local governments retain the option to make available public funds to fund PACE Loans for qualified PACE Projects, though this will not be a requirement for the Wisconsin PACE Commission.

### **Once a PACE Loan is closed who imposes the PACE Special Charge?**

The PACE Program Administrator will approve PACE transactions pursuant to the Program Guidelines, which guidelines will be subject to approval by the Wisconsin PACE Commission board of directors. The Program Administrator will then record a Supplemental Loan Agreement with the register of deeds in which the subject real property sits. The Supplemental Loan Agreement is a contract between the PACE Commission, the PACE Lender and the Borrower that memorializes for the public record that there is a PACE Loan and Special Charge outstanding against the Borrower's real property, among other terms.

### **How is the annual installment of the PACE Special Charge calculated?**

The annual installment of a PACE Loan is equal to the annual repayment obligation under the terms of the PACE Loan, which amount may include interest and other fees pursuant to a Loan Agreement between the PACE Lender and Borrower. The PACE Loan may have a loan term up to the useful life of the equipment and improvements being financed.

### **Where is the annual installment for the PACE Loan collected?**

The PACE Statute provides for a "direct billing" system in which the PACE Lender may collect payments for the PACE Loan directly from the Borrower without involving the political subdivision that imposed the Special Charge. Following the close of a PACE Loan, the PACE Lender would certify to the Program Administrator the annual PACE installments that are due. The Program Administrator then works with a Servicer to bill for and collect the annual installment payments from the PACE Borrower. Upon each installment payment, the Program Administrator's Servicer would certify that payments have been made and remit the installment payments collected directly to the PACE Lender.

**What happens if the PACE special charge is delinquent?**

The PACE Statute establishes that a delinquent PACE Special Charge becomes a lien on the property, with same priority as a special assessment. Upon a default, the Servicer and PACE Lender would certify the amount of the delinquency to the Program Administrator, who would then work with the appropriate County and municipality to place the amount of the PACE Loan delinquency on the next available tax roll for collection pursuant to the existing Wisconsin statutory tax collection procedures in Wisconsin Statutes Chapters 74 and 75.

**Does the County have to settle the Special Charge with the PACE Lender.**

No. To participate in the program, PACE Lenders recognize that neither the Wisconsin PACE Commission nor its Members have an obligation to settle or reimburse PACE Special Charges to PACE Lenders.

**Does the County have to settle delinquent PACE Special Charges to the municipality?**

No. Since the source of funds for the PACE Loan secured by the Special Charge will be a private third-party, the County will have no basis to settle the PACE Special Charges with the municipality in which the encumbered property is located.

**When is a Tax Certificate issued for a delinquent PACE Special Charge?**

A Tax Certificate for a delinquent PACE Special Charge is issued at the same time that a Tax Certificate would be issued for any other delinquent property taxes. If there are multiple tax delinquencies that would be the subject of a Tax Certificate (which would likely be the case in the event of a PACE Special Charge delinquency), all delinquent amounts would be evidenced by the same Tax Certificate. The redemption period for a special charge Tax Certificate is the same two year redemption period for any other Tax Certificate.

**What does the County have to do if the delinquent PACE Special Charge reaches a tax foreclosure?**

If after the two year redemption period the Special Charge delinquency evidenced by the Tax Certificate is not paid, then the County would be responsible for instituting foreclosure proceedings on the tax certificate, except in the case of a "brownfield" or other concerns with the property leading the County to a good faith determination that it would not be in the County's best interest to foreclose.

**What if the County determines that it will not bring a foreclosure on the property?**

If the County does not bring a foreclosure action against the subject property, then the PACE Lender is authorized by the PACE Ordinance to bring a foreclosure on the PACE Special Charge in place of the County. To assume this authority, the PACE Lender must agree to comply with all of the statutory procedures for a tax foreclosure.

**Why does the PACE Ordinance favor the In REM tax foreclosure process?**

The *in rem* foreclosure procedure is an electable procedure pursuant to Wis. Stat. § 75.521. In addition to uniformity, the PACE Ordinance requires that the County utilize this procedure to foreclose upon a PACE Special Charge because of the statutory presumption Wis. Stat. § 75.521(12) gives to the validity of special charges (as well as all special assessments and taxes) and the liens thereof.

**How does the County sell tax delinquent property?**

The County follows the procedure for the sale of delinquent real estate as laid out in Wis. Stat. § 75.69

**What is the priority of distribution of the proceeds of the sale of the real property from a tax foreclosure sale?**

The County follows the procedure for the distribution of proceeds as laid out in Wis. Stat. § 75.36.

**Following the County's tax foreclosure sale what happens to the outstanding balance of the PACE Loan?**

The PACE Special Charge is foreclosed out. Therefore, the PACE Loan no longer encumbers the real property. The Supplemental Loan Agreement, however, may contain terms which require the County to pay over any surplus proceeds from a foreclosure sale to the PACE Lender, up to the deficiency balance of the PACE Loan.

## PROPERTY ASSESSED CLEAN ENERGY FINANCING ORDINANCE

### “COUNTY” PACE Program

- 1) PURPOSE. The COUNTY finds that 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. 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.
- 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 the COUNTY receives foreclosure proceeds.
  - d. “Foreclosure proceeds” means the proceeds received by the 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:
    - i. The delinquent annual installment(s) due when the COUNTY initiates the *in rem* property tax foreclosure on the subject property;
    - ii. Any additional annual installment(s) that become due between the time that the COUNTY initiates *in rem* property tax foreclosure on the subject property and the date the County receives the foreclosure proceeds;
    - iii. Any default interest charges applied to unpaid annual installments referenced in subs. (i) and (ii) above, as provided in the supplemental agreement; and
    - iv. 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 the COUNTY on which an 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 the COUNTY, as provided for in sub. 7.
  - n. "Wisconsin PACE Commission" means the Wisconsin PACE Commission formed under Sec. 66.0301, Wis. Stat., as amended, by the 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.
- 3) STATUTORY AUTHORITY. This Section is enacted pursuant to Sec. 66.0627, Wis. Stat., as amended, which 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.
- 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 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.
- 5) WISCONSIN PACE COMMISSION.
- a. Any of the powers and duties of the 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.
- 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 the COUNTY.
  - b. The COUNTY shall approve the financing arrangements between a borrower and PACE lender.
- 7) SUPPLEMENTAL AGREEMENT.
- a. The COUNTY, the borrower and the PACE lender shall execute the supplemental agreement which, without limitation:
    - i. 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;
- ii. Shall recite the amount and the term of the PACE loan;
  - iii. Shall provide for the amount, or a method for determining the amount, of the annual installment due each year;
  - iv. Shall provide whether default interest may be applied to unpaid annual installments;
  - v. Shall require the PACE lender and the borrower to comply with all federal, state and local lending and disclosure requirements;
  - vi. Shall provide for any fees payable to the COUNTY and/or Program Administrator;
  - vii. Shall recite that the supplemental agreement is a covenant that runs with the land;
  - viii. 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
  - ix. 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.
- 8) ANNUAL INSTALLMENTS ADDED TO TAX ROLLS. Upon the 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 Sec. 66.0627, Wis. Stat., as amended.
- 9) REMITTANCE OF SPECIAL CHARGES. The COUNTY shall promptly remit to the Wisconsin PACE Commission any payment(s) it receives in respect of any special charge imposed under this Section, including penalties and charges thereon, it may receive from any taxing district or the COUNTY treasurer pursuant to Ch. 74, Wis. Stats., as amended.
- 10) PROPERTY TAX FORFECLURE PROCEDURES.
- a. The 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. The COUNTY shall begin an *in rem* property tax foreclosure proceeding on the subject property at the earliest time allowed under Wisconsin Statutes, unless the 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 COUNTY due to the condition of the property or other reasons.

- c. If the COUNTY has determined that it will not commence an *in rem* property tax foreclosure proceeding, then the PACE lender may request that the COUNTY, pursuant to Sec. 75.106, Wis. Stat., as amended, assign the COUNTY'S right to take judgment against the subject property, provided that the PACE lender and the 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.

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

12) DISTRIBUTION OF FORECLOSURE PROCEEDS. The 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.

13) ORDINANCE ELECTING TO PROCEED UNDER SEC. 75.521, Wis. Stats., IN RELATION TO THE ENFORCEMENT OF COLLECTION OF TAX LIENS.

- a. [Examine COUNTY'S local ordinances to determine if COUNTY has already adopted Wis. Stat. 75.521 *in rem* foreclosure].
- b. From and after [INSERT DATE] the COUNTY elects to adopt the provisions of Sec. 75.521, Wis. Stat., as amended, for the purpose of enforcing tax liens in such COUNTY in the cases where the procedure provided by such section is applicable.

**JOINT EXERCISE OF POWERS AGREEMENT**

relating to

**WISCONSIN PACE COMMISSION**

a Joint Powers Commission under Section 66.0301 of the Wisconsin Statutes

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**THIS AGREEMENT** (“*Agreement*”), dated as of \_\_\_\_\_, 2016 among the parties hereto (all such parties, except those which have withdrawn as provided herein, being referred to as the “*Members*” and those parties initially executing this Agreement being referred to as the “*Initial Members*”):

**WITNESSETH**

**WHEREAS**, pursuant to Section 66.0301 of the Wisconsin Statutes (as in effect as of the date hereof and as the same may from time to time be amended or supplemented, the “*Joint Powers Law*”), two or more municipalities of the State of Wisconsin (the “*State*”), may by contract create a commission for the joint exercise of any power or duty required or authorized by law; and

**WHEREAS**, each of the Members is a “municipality” as that term is defined in the Joint Powers Law and a political subdivision located in the State; and

**WHEREAS**, each of the Members is empowered by law to promote economic, cultural and community development, including, without limitation, the promotion of opportunities for the creation or retention of employment, the stimulation of economic activity, the increase of the tax base, and the promotion of opportunities for education, cultural improvement and public health, safety and general welfare, which may be accomplished by various means; and

**WHEREAS**, Section 66.0627(8) of the Wisconsin Statutes (as the same may from time to time be amended or supplemented, the “*PACE Statute*”) authorizes a city, a village, a town (a “*Municipality*”) or a county (a “*County*”) in this State to, among other things, make a loan to or otherwise arrange, participate in or facilitate the financing of an energy efficiency improvement, a water efficiency improvement or a renewable resource application to a real property within its jurisdiction and to provide for such financing through the imposition of a special charge against the property benefitted by the energy or water efficiency improvement or renewable resource project; and

**WHEREAS**, such financings are commonly referred to as “Property Assessed Clean Energy” or “PACE” financings; and

**WHEREAS**, the Members have determined that it is in the public interest to provide real property owners, lessees, lenders and other transaction parties (collectively, “*Participants*”) in their respective jurisdictions with access to a uniformly-administered program for PACE financing; and



WHEREAS, each Member has authorized entering into this Agreement by its governing body.

NOW, THEREFORE, the Members, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

**Section 1. Creation.** Pursuant to the Joint Powers Law, there is hereby created a commission to be known as the "**Wisconsin PACE Commission**" (the "*Commission*").

**Section 2. Purpose.** This Agreement is a contract entered into pursuant to the provisions of the Joint Powers Law. The purpose of this Agreement is to establish a joint powers commission for the joint exercise of any power or duty of the Members under applicable law. In particular, the purpose of the Commission is to adopt, implement and administer a uniform program for the qualification for, and approval, granting, administration and collection of, PACE loans (the "*PACE Program*"). Such purposes shall be accomplished in the manner provided in this Agreement.

**Section 3. Effectiveness; Term.** This Agreement shall become effective and be in full force and effect and a legal, valid and binding agreement of each of the Members on the date that the Board shall have received from at least two of the Initial Members an executed counterpart of this Agreement, together with a certified copy of a resolution of the governing body of each such Initial Member approving this Agreement and the execution and delivery hereof. This Agreement shall continue in full force and effect until such time as it is terminated by written instrument executed by all of the Members.

**Section 4. Powers.** The Commission shall have the power, in its own name, to exercise any powers or duties of the Members required or authorized by law and to exercise all additional powers given to a joint powers commission under any law, including, but not limited to, the Joint Powers Law, for any purpose authorized under this Agreement. Such powers shall include the power to make loans or otherwise arrange, participate in or facilitate the financing of energy or water efficiency improvement projects or renewable resource applications as provided in the PACE Statute including, without limitation, the exercise of the power and authority, without further action by the Member, to impose special charges pursuant to the PACE Statute on real property within the Members' jurisdictions. The Commission is hereby authorized to do all acts necessary or convenient for the exercise of such power and authority, including, but not limited to, any or all of the following: (i) to make and enter into contracts; (ii) to employ agents and employees; (iii) to acquire, construct, provide for maintenance and operation of, or maintain and operate, any buildings, works, improvements, equipment or furnishings; (iv) to acquire, hold or dispose of property wherever located; (v) to incur debts, liabilities or obligations; (vi) to receive gifts, contributions and donations of property, funds, services, and other forms of assistance from persons, firms, corporations or any governmental entity; (vii) to sue and be sued in its own name; (viii) to make grants to governmental and nonprofit organizations to accomplish any of its purposes; (ix) to establish and collect fees; and (x) generally to do any and all things necessary or convenient to accomplish its purposes.

**Section 5. Contractors and Subcontractors.** The Commission may enter into a contract with a third-party contractor for the provision of services related to the PACE Program. Such contractor shall be a nonstock corporation organized under Ch. 181 of the Wisconsin Statutes with its principal place of business located in the State of Wisconsin. The participant fee schedule established by the Board (as defined below) shall make provision for reasonable compensation and payment of the expenses of such contractor as may be set forth in the contract. A contractor may subcontract for any of its services to the extent permitted by the contract. The Board is also authorized to hire counsel or other consultants or advisers as it deems necessary in carrying out his functions.

**Section 6. Members' Obligations.** Each Member by its execution hereof acknowledges and agrees that it shall do all things necessary and appropriate in respect of the collection of special charges (or installments thereof), the certification of special charges on the tax rolls, the remittance of special charges collected as directed by the Commission and otherwise as such Member would perform in connection with special charges imposed by it on real property within its jurisdiction; and further shall cooperate with the Commission in respect of the enforcement of the liens of special charges on such properties.

**Section 7. Governance; Administration**

(a) Board of Directors. The Commission shall be governed by a Board of Directors (the "Board"). The Board shall oversee all functions of the Commission under this Agreement and, as such, shall be vested with the powers set forth herein, shall administer this Agreement in accordance with the purposes and functions provided herein and shall otherwise exercise all powers set forth in the Joint Powers Law on the Commission's behalf.

(b) Classes of Directors. The Board shall be divided into two classes known as the "Representative Director Class" and the "Nominee Director Class" consisting of the number of members (each a "Director") serving for the terms as provided in this Section 7. In this Agreement, the term "Board" shall mean the entire Board (comprising all Representative Directors and Nominee Directors) and the term "Director" shall be used to refer generally to either a Representative Director or a Nominee Director).

(1) *Representative Directors.* The number of Representative Directors shall correspond to the number of Members of the Commission from time to time. Each Member of the Commission shall designate, by name or *ex officio*, one public official to serve as its representative on the Board. The term "public official" means an individual who holds a local public office, as that term is defined in Section 19.42(7w) of the Wisconsin Statutes, for the Member of the Commission designating him or her as its Representative Director. Each Representative Director shall serve at the pleasure of the Member designating him or her to such position; *provided*, that a Representative Director shall be deemed to have resigned upon withdrawal from the Commission of the Member designating him or her to such position. A majority of the Directors shall at all times be Representative Directors ex-

cept that such requirement shall not apply until the Commission has at least four (4) Members.

(2) *Nominee Directors.*

(i) The number of Nominee Directors shall initially be three (3), nominated one each by the Wisconsin Counties Association, the League of Wisconsin Municipalities and the Green Tier Legacy Communities (the “*Supporting Organizations*”). Thereafter, so as to insure that at all times Representative Directors comprise a majority of the Board, at such time as the Commission has at least seven (7) Members, the number of Nominee Directors shall be increased to six (6) and at such time as the Commission has at least ten (10) Members, the number of Nominee Directors shall be increased to nine (9), in each case with the additional directors nominated by the Sponsoring Organizations as provided above.

(ii) Nominee Directors may but need not be public officials.

(iii) Each Nominee Director shall serve for an initial term expiring at the first annual Board meeting held after December 31, 2016. The successors to such Nominee Directors shall be selected by majority vote of the entire Board consistent with a nomination process to be established by the Board. Thereafter, Nominee Directors shall serve staggered three (3) year terms expiring at the Annual Board Meeting in every third year or until their respective successors are appointed. Any appointment to fill an unexpired term, however, shall be for the remainder of such unexpired term. The term of office specified herein shall be applicable unless the term of office of a Nominee Director is terminated as hereinafter provided, and provided that the term of any Nominee Director shall not expire until a successor thereto has been appointed as provided herein.

(iv) The number of Nominee Directors may be increased or decreased by resolution adopted by the Board from time to time, *provided*, that any decrease in the number of Nominee Directors shall not decrease the term of any current director at the time of such decrease.

(v) A Nominee Director may be removed and replaced at any time by a majority vote of the Board.

(3) *Executive Committee.* The Board shall by resolution create an Executive Committee which shall be charged with carrying out the supervisory functions of the Board in such manner as the Board so directs. A majority of the members of the Executive Committee shall be Representative Directors.

(4) *Expenses.* Directors shall be entitled to reimbursement for any actual and necessary expenses incurred in connection with serving as a Director, if the Board shall determine that such expenses shall be reimbursed and there are unencumbered funds available for such purpose. The Board may establish a per diem and/or expense reimbursement policy by resolution.

(c) Meetings of the Board.

(1) *Meetings Generally.* All meetings of the Board, including, without limitation, regular, adjourned regular, special, and adjourned special meetings shall be called, noticed, held and conducted in accordance with the provisions of the Wisconsin Open Meetings Law, Wis. Stat. § 19.81 *et seq.* (the “Open Meetings Law”). To the extent permitted by the Open Meetings Law, Board meetings may be held by telephone conference or other remote access technology as approved by the Board. A director shall be “present” at any regular or special meeting if he or she participates in person or telephone conference or other remote access technology as approved by the Board.

(2) *Proxy Voting.* Directors may not vote by proxy.

(3) *Regular Meetings.* The Board shall from time to time establish a schedule for its regular meetings; *provided, however,* it shall hold at least one regular meeting each year. The date, hour and place of the holding of regular meetings shall be fixed by resolution of the Board.

(4) *Special Meetings.* Special meetings of the Board may be called in accordance with the provisions of the Open Meetings Law. The date, hour and place of the holding of special meetings shall be fixed by resolution of the Board

(5) *Minutes.* The Secretary of the Commission shall cause to be kept minutes of the regular, adjourned regular, special, and adjourned special meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director.

(6) *Quorum and Voting, Generally.* Except as provided in Sub. 6, below: (i) a majority of the Directors shall constitute a quorum for the transaction of business; (ii) Representative Directors and Nominee Directors shall vote as a single class on all matters to come to a vote of the Board; and (iii) no action may be taken by the Board except upon the affirmative vote of a majority of the Directors present (or, with respect to any matter, such greater number as may be provided by the By-Laws or resolution of the Board), except that less than a quorum may adjourn a meeting to another time and place.

(7) *Special Quorum and Voting Requirements.* With respect to any vote to approve the imposition of a special charge on real property pursuant to the PACE Statute, the following shall apply:

(i) A quorum with respect to such vote shall exist only if (A) a majority of the Directors are present, and (B) a majority of the Directors who are present are Representative Directors.

(ii) No imposition of a special charge on real property shall be approved except upon the affirmative vote of (A) a majority of the Directors present and (B) a majority of the Representative Directors present.

(d) Officers; Duties; Official Bonds. The officers of the Commission shall be the Chair, Vice-Chair, Secretary and Treasurer, such officers to be elected by the Board from among the Directors, each to serve until such officer is re-elected or a successor to such office is elected by the Board. Each officer shall have the following general duties and responsibilities in addition to any further specific duties and responsibilities set forth herein, in the By-Laws or by resolution of the Board.

(1) The Chair shall be the chief executive officer of the Commission and shall be responsible for the calling of, and shall preside at, meetings of the Board.

(2) The Vice-Chair shall exercise the duties and functions of the Chair in the Chair's absence.

(3) The Secretary shall cause to be kept minutes of the regular, adjourned regular, special, and adjourned special meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director.

(4) The Treasurer shall be the depository of the Commission to have custody of all money of the Commission, from whatever source derived and shall have the powers, duties and responsibilities specified in by-laws or by resolution, and is designated as the public officer or person who has charge of, handles, or has access to any property of the Commission.

(e) Committees; Officers and Employees. The Board shall have the power to appoint such other committees, officers and employees as it may deem necessary.

(f) Delegation of Authority. The Board shall have the power, by resolution, to the extent permitted by the Joint Powers Law or any other applicable law, to delegate any of its functions to one or more of the Directors or officers, employees, administrators or agents of the Commission (including, without limitation, the contactor and any counsel or consultant hired or appointed pursuant to Section 5) and to cause any of said Directors, officers, employees or agents to take any actions and execute any documents or instruments for and in the name and on behalf of the Board or the Commission.

(g) By-Laws. The Commission may adopt, from time to time, by resolution of the Board such by-laws for the conduct of its meetings and affairs as the Board may determine to be necessary or convenient.

**Section 8. Fiscal Year.** The Commission's fiscal year shall be the period from January 1 to and including the following December 31, except for the first fiscal year which shall be the period from the date of this Agreement to December 31, 2016.

**Section 9. Disposition of Assets.** At the end of the term hereof or upon the earlier termination of this Agreement as set forth in Section 3, after payment of all expenses and liabilities of the Commission and provision for the continuing administration of all PACE financings that have been completed and are outstanding at the time of such termination, all property of the Commission both real and personal shall automatically vest in the Members in the manner and amount determined by the Board in its sole discretion and shall thereafter remain the sole property of the Members; *provided, however*, that any surplus money on hand shall be returned in proportion to any contributions made by the Members and not previously repaid.

**Section 10. Accounts and Reports; Audits.** All funds of the Commission shall be strictly accounted for. The Commission shall establish and maintain such funds and accounts as may be required by good accounting practice. The books and records of the Commission shall be open to inspection at all times by each Member. The Treasurer of the Commission shall cause an annual audit to be made of the books of accounts and financial records of the Commission by a certified public accountant or public accountant. Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section 10, shall be borne by the Commission and shall be a charge against any unencumbered funds of the Commission available for that purpose.

**Section 11. Funds.** The Treasurer shall receive, have the custody of and disburse Commission funds pursuant to the accounting procedures developed under Section 10, and shall make the disbursements required by this Agreement or otherwise necessary to carry out any of the provisions of purposes of this Agreement.

**Section 12. Notices.** Notices and other communications hereunder to the Members shall be sufficient if delivered to the clerk of the governing body of each Member.

**Section 13. Additional Members; Withdrawal of Members.**

(a) Counties. Any County in this State may be added as a party to this Agreement and become a Member upon: (i) the filing by such County with the Commission an executed counterpart of this Agreement, together with a certified copy of the resolution of the governing body of such County approving this Agreement and the execution and delivery hereof; (ii) adoption by the County of the Model PACE Ordinance in accordance with Section 14(a) hereof and a certified copy of the resolution adopting same; and (iii) adoption of a resolution of the Board approving the addition of such County as a Member. Upon satisfaction

of such conditions, the Board shall file such executed counterpart of this Agreement as an amendment hereto, effective upon such filing.

(b) Municipalities. Any Municipality in this State may be added as a party to this Agreement and become a Member upon: (i) the filing by such Municipality with the Commission an executed counterpart of this Agreement, together with a certified copy of the resolution of the governing body of such Municipality approving this Agreement and the execution and delivery hereof; and (ii) adoption of a resolution of the Board approving the addition of such Municipality as a Member. Upon satisfaction of such conditions, the Board shall file such executed counterpart of this Agreement as an amendment hereto, effective upon such filing.

(c) Withdrawal. A Member may withdraw from this Agreement upon written notice to the Board; *provided, however*, that no such withdrawal shall reduce the number of Members to fewer than two (2). Any such withdrawal shall be effective only upon receipt of the notice of withdrawal by the Secretary which shall acknowledge receipt of such notice of withdrawal in writing and shall file such notice as an amendment to this Agreement effective upon such filing. Withdrawal by a Member shall not affect any outstanding PACE loans within such Member's jurisdiction or the Member's obligations, if any, with respect to the certification, collection and remittance of special charges in accordance with the PACE Program, nor shall withdrawal entitle any former Member to impose a tax, fee or charge prohibited to the remaining Members under Section 17.

#### **Section 14. Model PACE Ordinance for County Members.**

(a) As a condition to membership in the Commission, each County Member shall have adopted an ordinance (the "Model PACE Ordinance") in substantially the form, and substantively to the effect, set forth in EXHIBIT A to this Agreement.

(b) As a condition to continued membership in the Commission, a County Member shall not have repealed its Model PACE Ordinance or amended its Model PACE Ordinance unless such amendment has been submitted to and approved by the Board (a "Conforming Amendment") prior to its adoption. The Board shall not unreasonably withhold approval of such an amendment but shall not approve any amendment to a County Member's Model PACE Ordinance that, in the opinion of the Board, would frustrate or unreasonably interfere with the uniform application and administration of the PACE Program. Approvals or non-approvals by the Board shall be final and conclusive.

(c) The repeal of or adoption of an amendment (other than a Conforming Amendment) to a County Member's Model PACE Ordinance shall be deemed to be a voluntary withdrawal by such County Member with the effects set forth in Section 13(c).

**Section 15. Indemnification.** To the fullest extent permitted by law, the Board shall cause the Commission to indemnify any person who is or was a Director or an officer, employee of other agent of the Commission, and who was or is a party or is threatened to be

made a party to a proceeding by reason of the fact that such person is or was such a Director or an officer, employee or other agent of the Commission, against expenses, including attorneys' fees, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith in a manner such person reasonably believed to be in the best interests of the Commission and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful and, in the case of an action by or in the right of the Commission, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. The Board may purchase a policy or policies of insurance in furtherance of any indemnification obligation created.

**Section 16. Contributions and Advances.** Contributions or advances of public funds and of the use of personnel, equipment or property may be made to the Commission by Members for any of the purposes of this Agreement. Payment of public funds may be made to defray the cost of any such contribution or advance. Any such advance may be made subject to repayment, and in such case shall be repaid, in the manner agreed upon by the Commission and the Member making such advance at the time of such advance. It is mutually understood and agreed to that no Member has any obligation to make advances or contributions to the Commission to provide for the costs and expenses of administration of the Commission or otherwise, even though any Member may do so.

**Section 17. Prohibition on Charges.** No Member may impose upon or demand or collect from any Participant any tax, fee, charge or other remuneration as a condition to a Participant's obtaining PACE financing through or with the assistance of the Commission, except that Members may be permitted to do so pursuant to a uniform participant fee schedule established from time to time by the Board as part of the PACE Program.

**Section 18. Immunities.** To the fullest extent permitted by law, all of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, and other benefits which apply to the activity of officers, agents or employees of Members when performing their respective functions, shall apply to the same degree and extent to the Directors, officers, employees, agents or other representatives of the Commission while engaged in the performance of any of their functions or duties under this Agreement.

**Section 19. Amendments.**

(a) Amendments to the Agreement may be proposed by the Board or by any two Members. Except as provided in Section 13 and in Subsection (c), below, this Agreement shall not be amended, modified, or altered, without the affirmative approval of the Board and the affirmative written consent of each of the Members; *provided*, that if the number of Members exceeds ten (10) in number, this Agreement may also be amended with the affirmative approval of the Board and negative consent of each Member. To obtain the negative consent of the Members, the following procedure shall be followed: (i) the Commission shall provide each Member with a notice at least sixty (60) days prior to the date such proposed



amendment is to become effective explaining the nature of such proposed amendment and this negative consent procedure; (ii) the Commission shall provide each Member who did not respond a reminder notice at least thirty (30) days prior to the date such proposed amendment is to become effective; and (iii) if no Member objects to the proposed amendment in writing within sixty (60) days after the initial notice, the proposed amendment shall become effective with respect to all Members. No amendment may impose a direct financial obligation on any Member without that Member's affirmative written consent.

(b) The Board may, without the consent of the Members, amend this Agreement if, in its reasonable opinion and upon the advice of counsel, if deemed appropriate, upon which advice the Board may rely, such amendment is technical or clarifying in nature and does not substantively affect the rights and responsibilities of the Members. Notice of such amendment shall be provided to the Members at least twenty (20) but not more than sixty (60) days prior to the date such proposed amendment is to become effective explaining the nature of such proposed amendment and, upon the written request of any two (2) Members, the Board shall submit the proposed amendment for ratification by the Members in accordance with the procedure otherwise set forth in this Section 19.

**Section 20. Partial Invalidity.** If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

**Section 21. Successors.** This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no Member may assign any right or obligation hereunder without the consent of the other Members.

**Section 22. Miscellaneous.**

(a) This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(b) The Section headings herein are for convenience only and are not to be construed as modifying or governing the language in the Section referred to.

(c) Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

(d) This Agreement shall be governed under the laws of the State of Wisconsin.

(e) Any future amendments to the Joint Powers Laws shall be automatically incorporated into the terms of this Agreement and any terms of this Agreement inconsistent with future amendments to the Joint Exercise of Powers Laws shall, only to the extent necessary, be reformed in a manner consistent with the amendments.

(f) This Agreement is the complete and exclusive statement of the agreement among the Members, which supersedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between and among the Members relating to the subject matter of this Agreement.

*[SIGNATURES ON FOLLOWING PAGE]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their duly authorized representatives as of the day and year first above written.

On behalf of _____ COUNTY / CITY / VILLAGE / TOWN:  By: _____ Its: _____	On behalf of _____ COUNTY / CITY / VILLAGE / TOWN:  By: _____ Its: _____
On behalf of _____ COUNTY / CITY / VILLAGE / TOWN:  By: _____ Its: _____	On behalf of _____ COUNTY / CITY / VILLAGE / TOWN:  By: _____ Its: _____
On behalf of _____ COUNTY / CITY / VILLAGE / TOWN:  By: _____ Its: _____	On behalf of _____ COUNTY / CITY / VILLAGE / TOWN:  By: _____ Its: _____

**Joint Exercise of Powers Agreement**

**relating to**

**WISCONSIN PACE COMMISSION**

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**EXHIBIT A**  
**Model Pace Ordinance**

RESOLUTION NO. \_\_\_\_\_

TO THE HONORABLE BOARD OF SUPERVISORS OF \_\_\_\_\_ COUNTY,

WISCONSIN

MEMBERS,

**WHEREAS**, pursuant to Wis. Stat. § 66.0301, two or more municipalities of the State of Wisconsin, may by contract create a commission for the joint exercise of any power or duty required or authorized by law; and

**WHEREAS**, \_\_\_\_\_ County is a “municipality” as that term is defined in Wis. Stat. § 66.0301 and a political subdivision located in the State; and

**WHEREAS**, \_\_\_\_\_ County is empowered by law to promote economic, cultural and community development, including, without limitation, the promotion of opportunities for the creation or retention of employment, the stimulation of economic activity, the increase of the tax base, and the promotion of opportunities for education, cultural improvement and public health, safety and general welfare, which may be accomplished by various means; and

**WHEREAS**, Wis. Stat. § 66.0627(8) authorizes a city, a village, a town and a county in this State to, among other things, make a loan to or otherwise arrange, participate in or facilitate the financing of an energy improvement, a water efficiency improvement or a renewable resource application to a real property within its jurisdiction and to provide for such financing through the imposition of a special charge against the property benefitted by the energy or water efficiency improvement or renewable resource project; and

**WHEREAS**, such financings are commonly referred to as “Property Assessed Clean Energy” or “PACE” financings; and

**WHEREAS**, \_\_\_\_\_ County has determined that it is in the public interest to provide real property owners, lessees, lenders and other transaction parties in \_\_\_\_\_ County with access to a uniformly-administered program for PACE financing; and

**WHEREAS**, \_\_\_\_\_ County and other counties, with the support and counsel of the Wisconsin Counties Association, League of Wisconsin Municipalities, Green Tier Legacy Communities and other stakeholders, have studied the possibility of creating a commission pursuant to Wis. Stat. § 66.0301 to be known as the Wisconsin PACE Commission (“Commission”); and

**WHEREAS**, the Wisconsin PACE Commission would be formed and operated in accordance with a Joint Exercise of Powers Agreement Relating to Wisconsin PACE Commission (“Commission Agreement”) of which a substantially final draft is attached to this Resolution; and

**WHEREAS**, it is in \_\_\_\_\_ County’s best interests to join the Wisconsin PACE Commission and authorize the execution of the Commission Agreement; and

**WHEREAS**, in accordance with Wis. Stat. § 66.0627 and the provisions of the Commission Agreement, \_\_\_\_\_ County must adopt an Ordinance relating to the administration of PACE financings in \_\_\_\_\_ County and throughout the State (“PACE Ordinance”); and

**WHEREAS**, attached to this Resolution is proposed Ordinance No. \_\_\_\_\_, which will be considered at the same meeting at which this Resolution is being considered (“PACE Ordinance”); and

**WHEREAS**, adoption of the PACE Ordinance is a necessary condition to \_\_\_\_\_ County entering into the Commission Agreement; and

**WHEREAS**, it is the intent of this Resolution to authorize \_\_\_\_\_ County to become a member of the Commission and authorize a duly-appointed representative of \_\_\_\_\_ County to finalize and execute the final Commission Agreement in substantially the form of the draft Commission Agreement attached to this Resolution;

**SO, NOW, THEREFORE, BE IT RESOLVED:**

That the \_\_\_\_\_ County Board of Supervisors hereby approves the draft Commission Agreement, a copy of which is attached to this Resolution, and authorizes and directs the \_\_\_\_\_ County Board Chair to sign such document after receipt of preliminary approval from the other participating municipalities, approval from the \_\_\_\_\_ County official duly-appointed to approve the final form of the Commission Agreement and approval of the \_\_\_\_\_ County Corporation Counsel; and

**BE IT FURTHER RESOLVED:**

That the Chair of the \_\_\_\_\_ County Board of Supervisors [or County Executive] is hereby directed to appoint a board supervisor [or County Executive] to act as \_\_\_\_\_ County’s official representative in relation to the final approval of the form of the Commission Agreement and to otherwise take all action necessary to effectuate the intent of this Resolution; and

**AND BE IT FINALLY RESOLVED:**

That \_\_\_\_\_ is designated as the \_\_\_\_\_ County “Representative Director” of the Board of Directors of the Commission in accordance with the Commission Agreement, he or she to serve at the pleasure of the \_\_\_\_\_ County Board of Supervisors

All of which is respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

[COMMITTEE]

\*\*[FISCAL NOTE]

## Eau Claire County Sales Tax Collections

<u>Month</u>										<u>Variance</u>
	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>From 2014</u>	
January	\$ 712,769	\$ 563,038	\$ 605,382	\$ 649,869	\$ 613,413	\$ 637,758	\$ 633,370	\$ 655,343	\$ 21,973	
February	567,975	518,319	638,455	602,909	563,535	532,904	689,925	843,563	\$ 153,638	
March	620,370	636,257	538,909	561,038	783,032	834,428	852,142	864,937	\$ 12,795	
April	615,402	623,482	711,305	797,429	741,448	606,312	641,812	719,623	\$ 77,811	
May	653,936	624,232	663,464	567,787	549,895	783,189	856,800	854,993	\$ (1,807)	
June	763,310	573,694	476,205	707,990	872,811	924,281	935,972	835,827	\$ (100,145)	
July	646,194	686,636	741,830	751,169	783,644	655,631	764,686	1,031,180	\$ 266,494	
August	749,229	665,741	663,893	616,376	785,490	823,653	1,004,488	957,996	\$ (46,492)	
September	700,371	634,987	631,589	804,241	788,958	805,689	725,272	753,988	\$ 28,716	
October	607,962	701,541	642,499	705,976	669,856	655,379	830,917	968,167	\$ 137,250	
November	692,960	631,616	728,502	630,916	799,401	872,360	934,158	868,976	\$ (65,182)	
December	697,019	562,547	692,239	844,605	817,298	774,289	707,471			
Add'l Rec'd	-	-	-	-	-	-	-	-	-	
<b>Total</b>	<b>\$ 8,027,497</b>	<b>\$ 7,422,090</b>	<b>\$ 7,734,272</b>	<b>\$ 8,240,305</b>	<b>\$ 8,768,781</b>	<b>\$ 8,905,873</b>	<b>\$ 9,577,013</b>	<b>\$ 9,354,593</b>	<b>\$ 485,051</b>	
<b>Budgeted</b>	<b>\$ 8,175,000</b>	<b>\$ 8,175,000</b>	<b>\$ 7,675,000</b>	<b>\$ 7,675,000</b>	<b>\$ 7,800,000</b>	<b>\$ 8,060,000</b>	<b>\$ 8,586,000</b>	<b>\$ 8,950,000</b>		
<b>Excess (Short)</b>	<b>\$ (147,503)</b>	<b>\$ (752,910)</b>	<b>\$ 59,272</b>	<b>\$ 565,305</b>	<b>\$ 968,781</b>	<b>\$ 845,873</b>	<b>\$ 991,013</b>	<b>\$ 10,062,064</b>	<b>ESTIMATED</b>	
		2009 Shortfall	2010 Surplus	2011 Surplus	2012 Surplus	2013 Surplus	2014 Surplus			
<b>Total County Taxable Sales</b>	<b>\$ 1,605,499,400</b>	<b>\$ 1,484,418,000</b>	<b>\$ 1,546,854,400</b>	<b>\$ 1,648,061,000</b>	<b>\$ 1,753,756,200</b>	<b>\$ 1,781,174,600</b>	<b>\$ 1,915,402,600</b>	<b>\$ 1,870,918,600</b>		
<b>Monthly Avg</b>	<b>\$ 668,958</b>	<b>\$ 618,508</b>	<b>\$ 644,523</b>	<b>\$ 686,692</b>	<b>\$ 730,732</b>	<b>\$ 742,156</b>	<b>\$ 798,084</b>	<b>\$ 850,418</b>		
						\$ 8,905,873	\$ 9,577,013	\$ 10,205,011		

**MINUTES**

Eau Claire County  
Committee on Finance and Budget  
Tuesday, January 19, 2016 / 6 pm

721 Oxford Avenue  
Eau Claire County Courthouse – Room 1301  
Eau Claire, WI 54703

**Members present:** Supervisors Stella Pagonis, Nick Smiar, Jim Dunning and Mike Conlin  
**Members excused:** Supervisor Robin Leary

**Staff present:** Kathryn Schauf, County Administrator; Scott Rasmussen, Finance Director; Frank Draxler, Purchasing & Central Services Director

**Others present:** Supervisors Gary Gibson and Mark Olsen  
Meeting was called to order at 6 pm by Chairperson Stella Pagonis.

**Lake Altoona Dam Repairs / Discussion – Action**

Cost difference was due to the low bid having minimum overhead (no crane). Frank Draxler stated that a positive background check was completed. This project is totally structural and not all of the concrete is exposed. Possibly use an underwater camera in the future to see if there are additional projects that need to be done. At this point, the dam cannot be lowered any more.

Committee asked where the \$38,250 (county's portion) would be taken from. County Administrator Schauf stated that it is too early in the season to forgo projects. Parks and Forest Director, Josh Pedersen, is fairly confident that repairs can be fixed under the Parks and Forest capital budget. Other alternatives are the use of contingency and increased timber revenues.

Motion by Supervisor Conlin to award the bid for Lake Altoona Dam Repair (Phase 2) for the Eau Claire County Parks and Forest Department to IEI General Contractors for \$51,000. Motion carried 4-0.


**Proposed Resolution / "Supporting the Strengthening of Internal Controls and Allocating \$50,000 of Contingency" / Discussion - Action**

A portion of work has commenced with CliftonLarsonAllen (CLA). Currently, narrow construction and expand as needed to address internal controls in key areas. Working with County Treasurer and Clerk of Courts on cash handling procedures. An additional \$50,000 in funding will only be utilized after the initial assessment as needed. It was noted that CLA was chosen due to their experience with internal controls. Supervisor Conlin is concerned about other financial procedures such as writing checks, etc. Finance Director responded and stated that at this point, cash handling is vulnerable. Staff need a better understanding of the current cash handling process. The timeline for reporting is expected in March. At that time CLA will meet with the county board to share a report.

Motion by Supervisor Dunning to approve of resolution (File No. 15-16/116) to allocate \$50,000 of contingency to support the strengthening of internal controls. Motion carried.

Committee adjourned at 6:56 pm.

Respectfully submitted,

  
Sharon Rasmussen, Committee Clerk



**MINUTES**

Eau Claire County  
Committee on Finance and Budget  
Thursday, January 21, 2016 / 5 pm

721 Oxford Avenue  
Eau Claire County Courthouse – Room 1273  
Eau Claire, WI 54703

Members present: Supervisors Stella Pagonis, Mike Conlin, Nick Smiar, Jim Dunning, Robin Leary

Staff: Kathryn Schauf, County Administrator; Scott Rasmussen, Finance Director; Jon Johnson, Highway Commissioner; Rich Walthers, Highway Department; Janet Loomis, County Clerk; Sharon Rasmusson, Administration

Chairperson Stella Pagonis called the Committee meeting to order at 5 pm.

**Approval of Taking Tax Deed Property Having Delinquent Special Assessments / Discussion – Action**

Janet Loomis, County Clerk, reviewed with the committee six parcels that are eligible for the county to begin the process of taking on tax deed. All parcels have delinquent special assessments in excess of \$250. Parcels are as follows:

Computer #221-14-0147, City of Eau Claire	Owner: Jessica Whiteside; 703 Gilbert St.
Computer #221-04-0241, City of Eau Claire	Owner: Che Nunnery; 305 Minnesota St.
Computer #126-1039-02-00, Village of Fairchild	Owner: George Mann; 231,233 & 235 N. Front St.,
Computer #221-10-1433, City of Eau Claire	Owner: Chad & Princess Christopher; 2731 Morningside Dr.
Computer #221-09-1155, City of Eau Claire	Owner: Tammy Hays; 1808 Vine St.
Computer #221-10-0024, City of Eau Claire	Owner: Elmer Steinmetz, 1501 E. Madison St.

Motion by Supervisor Leary to approve of starting the tax deed process on the above named properties. Motion carried.

**Proposed Resolution (File #15-16/121) “Awarding Bid for Sale of Tax Deed Property to Orvin & Pamela Bystol for the Sum of \$5,000; Directing Corporation Counsel to Prepare Quit Claim Deed on the Described Property; Directing the County Clerk to Execute Said Quit Claim Deed on Behalf of Eau Claire County” / Discussion - Action**

Motion by Supervisor Dunning to award the bid for sale of tax deed property to Orvin & Pamela Bystol for the sum of \$5,000. Motion carried.

**Proposed Resolution (File #15-16/122) “Disallowing the Claim of Steven J. Durham Filed on December 29, 2015 Against Eau Claire County; Directing the County Clerk to Notify the Claimant of Said Disallowance” / Discussion – Action**

Motion by Supervisor Smiar to disallow the claim of Steven J. Durham. Motion carried.

### **Review 2014 Auditor Management Letter / Discussion – Action**

Scott Rasmussen, Finance Director, provided a summary of internal control issues be addressed as mentioned in the 2014 audit. Discussion only.

### **Internal Controls Assessments - CliftonLarsonAllen / Discussion**

Next meeting.

### **Review Contents - County Fiscal Policies / Discussion – Action**

Next meeting.

### **Highway Equipment Financing Options / Discussion – Action**

Jon Johnson, Highway Commissioner and Rich Walters were present and reviewed with the committee ways to modify the way equipment is acquired (leasing vs. buying). With funding available in the 2016 budget, Highway Department is able to lease 11 vehicles per year (total of \$725,000). Johnson stated that the life cycle cost to operate per unit is less than if the equipment was owned. Recommendation by Highway Commissioner is to lease for 7 years.

Downside to leasing is the interest cost. Beyond the 10 year mark of ownership (lease or own), costs go up. Finance Director recommends a five year plan for this project. This would be a fixed lease for the term. Can't borrow money to lease equipment.

Heavy equipment (grader and paver) - Highway Commissioner expressed interest in participating in a lease program on the grader (\$197,000) and paver (\$348,000). County Administrator would like a report to show the progress on how this is going. Motion by Supervisor Nick Smiar to allow the Highway Department to finance/lease equipment. Motion carried.

### **2016 Budget Wrap Up / Discussion**

Next meeting.

### **Preliminary Review of 2015 Fiscal Year**

Next meeting.

### **Line Item Transfer Requests / Discussion – Action**

No line item transfer requests submitted.

### **Update on County Sales Tax Report / Discussion**

Committee reviewed updated county sales tax report. Discussion only.

### **County Board Chair Vouchers (if any) / Discussion – Action**

No vouchers submitted.

### **Future Agenda Items / Set Next Meeting (February 11, 2016)**

\*Internal Controls Assessments - CliftonLarsonAllen / Discussion

\*Review Contents - County Fiscal Policies / Discussion – Action

\*Leasing option – Highway to come back (possibly)

**Review/Approval of Committee Minutes (December 10, 2015)**

Motion by Supervisor Smiar to approve of the December 10, 2015 minutes as written.  
Motion carried.

Committee adjourned at 7:05 pm.

Respectfully submitted,

A handwritten signature in cursive script that reads "Sharon Rasmusson".

Sharon Rasmusson  
Committee Clerk