



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Text

File #: 22-5128, Version: 1

PROPOSED ORDINANCE

AN ORDINANCE AUTHORIZING THE SALE OF TAXABLE PROPERTY ASSESSED CLEAN ENERGY NOTES OF THE COUNTY; AND OTHER MATTERS RELATED THERETO

WHEREAS, Cook County (the “County”), is a county duly organized and validly existing under the laws of the State of Illinois (the “State”), and is a home rule unit of local government of the State pursuant to the 1970 Constitution of the State (the “Constitution”), and is further authorized pursuant to the Property Assessed Clean Energy Act of Illinois, 50 ILCS 50/1 et seq., as amended (the “PACE Act”) to establish a property assessed clean energy program (the “PACE Program”), create a PACE area (as defined in the PACE Act) and finance and/or refinance energy projects (as defined in the PACE Act) (the “Energy Projects”), and may, under the power granted by Section 6(a) of Article VII of the Constitution, as supplemented by the Local Government Debt Reform Act of the State of Illinois, as amended (the “Debt Reform Act”), and the other Omnibus Bond Acts, as amended, exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to issue limited recourse bonds or notes without referendum in furtherance of essential public and governmental purposes; and

WHEREAS, on the 22nd day of October, 2020, the Board of Commissioners of the County (the “Board”) approved Ordinance No. 20-4202 Establishing a Property Assessed Clean Energy (“PACE”) Program and a PACE Area to Finance and/or Refinance the Acquisition, Construction, Installation, or Modification of Energy Projects; Providing for the Issuance of not to Exceed \$500,000,000 Taxable PACE Revenue Notes (“Notes”) of the County to Finance Projects Pursuant to the County’s PACE Program (the “PACE Program”), Providing for the Payment Of Said Notes, Authorizing the Sale of Said Notes to the Purchaser Thereof; and Other Matters Related Thereto (the “PACE Ordinance”); and

WHEREAS, South Riverside Building, LLC, an Illinois limited liability company (together with its successors and assigns the “Property Owner”) completed an application to participate in the PACE Program in order to finance or refinance certain qualified Energy Projects that benefit certain real property of the Property 300 S. Riverside Plaza, Chicago, Illinois (the “Property”) in the amount of approximately \$43,500,000; and

WHEREAS, the PACE Ordinance requires additional authorization from the Board when a property owner is the beneficiary of Notes in an amount greater than \$5,000,000; and

WHEREAS, the County desires to approve the issuance of Notes (the “300 S. Riverside Plaza Project Notes”) secured not by the credit of the County but rather through voluntary assessments on the benefitted property as described further herein, in support of the 300 S. Riverside Plaza Project in the amount of not to exceed \$43,500,000; and

WHEREAS, the 300 S. Riverside Plaza Project Notes will be repaid through voluntary tax assessments levied on the Property from time to time by the County pursuant to the PACE Act and that certain assessment contract to be entered into between the County and the Property Owner (the “Assessment Contract”), in substantially the form previously approved by the Board as part of the PACE Ordinance; and

WHEREAS, the Assessment Contract establishes the terms of the Property Owner’s participation in the PACE Program and payment of the amounts financed for costs associated with the 300 S. Riverside Plaza Project; and

WHEREAS, the Board does hereby determine that it is advisable and in the best interests of the County to approve the issuance of the 300 S. Riverside Plaza Project Notes; and

WHEREAS, the County desires to amend the PACE Ordinance to amend the definition of “Authorized Officer (s)”; and

WHEREAS, the Board does hereby determine that it is advisable and in the best interests of the County to amend the PACE Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF COOK, ILLINOIS, AS FOLLOWS:

Section 1. Incorporation of the Recitals. The Board hereby finds that all of the recitals contained in the preambles to this Ordinance are true, correct and complete and are hereby incorporated by reference thereto and are made a part hereof.

Section 2. Public Purpose. The Board finds it is necessary and in the best interests of the County to facilitate capital in furtherance of the PACE Program and issue the 300 S. Riverside Plaza Project Notes, in the form attached hereto as Exhibit A and amend the PACE Ordinance. It is hereby found and determined that such issuance of Notes and such amendment of the PACE Ordinance are advisable for the public health, safety, welfare and convenience, is for a proper public purpose or purposes, is in the public interest, and is authorized pursuant to the PACE Ordinance, the PACE Act, the Counties Code of the State of Illinois, and the Local Government Debt Reform Act; and as further supplemented and, where necessary, superseded by the County’s home rule powers under Section 6 of Article VII of the 1970 Constitution of the State of Illinois, and these findings and determinations shall be deemed conclusive.

Section 3. Approval of Issuance of 300 S. Riverside Plaza Project Notes. The Board hereby authorizes that there be borrowed for and on behalf of the County the 300 S. Riverside Plaza Project Notes in an aggregate principal amount of not to exceed \$43,500,000 for costs associated with the 300 S. Riverside Plaza Project. The 300 S. Riverside Plaza Project Notes shall be non-recourse to the County and secured solely by payments received by the County under and pursuant to the terms of the Assessment Contract, in the form attached hereto as Exhibit B. The County shall make principal payments on the 300 S. Riverside Plaza Project Notes, together with applicable interest, fees, penalties, indemnities and other amounts payable to the Registered Owner (as defined in the PACE Ordinance) under the Assessment Contract, in the amounts and on the dates set forth in the Note Notification (as defined in the PACE Ordinance). Such County payments shall be made solely from the revenues received by the County under the Assessment Contract. Upon the sale of the 300 S. Riverside Plaza Project Notes, the Authorized Officers (as defined in the PACE Ordinance) shall prepare a Note Notification, which shall include the pertinent details of sale of such 300 S. Riverside Plaza Project Notes as provided in the PACE Ordinance.

Section 4. Amending of the PACE Ordinance - Definition of Authorized Officers. The definition of “Authorized Officers” (each an “Authorized Officer”) is hereby amended to mean “any one of the County Board President, Chief Financial Officer, County Treasurer, County Clerk, Chief of the Bureau of Economic Development, Director of Department of Planning and Development, Director of Department of Environment and Sustainability, or their designee.” Each Authorized Officer set forth above may take any of the actions permitted to be taken by an Authorized Officer as described in the PACE Ordinance.”

Section 5. No Conflicts; Further Acts of the County. It is hereby found that no person holding any office of the County either by election or appointment, is in any manner financially interested, either directly, in his or her own name, or indirectly, in the name of any other person, association, trust or corporation, in the transactions contemplated hereby.

Section 6. Additional Ordinances. The Board may adopt additional ordinances or proceedings supplementing or amending this Ordinance. This Ordinance and the PACE Ordinance, together with such additional ordinances or proceedings, shall constitute complete authority for the County to make the property assessments described herein and in the PACE Ordinance and for the County to issue the 300 S. Riverside Plaza Project Notes, all in accordance with applicable law.

Section 7. No Public Hearing; Program Established. The Board hereby finds that no public hearing shall be required in connection with the issuance of the 300 S. Riverside Plaza Project Notes or with the amendment of the PACE Ordinance.

Section 8. Enactment. No provision of the County Code of the County (the “County Code”) or violation of any provision of the County Code shall be deemed to impair the validity of this Ordinance or the instruments authorized by this Ordinance or to impair the security for or payment of the instruments authorized by this Ordinance; provided further, however, that the foregoing shall not be deemed to affect the availability of any other remedy or penalty for any violation of any provision of the County Code.

Section 9. Affirmation of Ordinance No. 20-4202. Except as specifically amended by this Ordinance, the terms of the PACE Ordinance shall remain in full force and effect, and all actions previously taken thereunder are hereby ratified and affirmed.

Section 10. Severability. The provisions of this Ordinance are hereby declared to be separable and if any section, paragraph, clause or provision of this Ordinance shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect any of the other provisions of this Ordinance.

Section 11. Repealer and Effective Date. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed and this Ordinance shall be in full force and effect forthwith upon its adoption.

A copy of this Ordinance shall be published on the County’s Legistar website.

Effective date: This ordinance shall be in effect immediately upon its passage and approval (or give specific date)