



CITY OF AMESBURY
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AMESBURY CITY CLERK

SPONSORED BY:


C. Kenneth Gray, Mayor

BILL No. 2017-090

An Ordinance Authorizing the City of Amesbury to Participate in the Massachusetts Commercial Property Assessed Clean Energy Program (PACE Massachusetts).

WHEREAS, pursuant to M.G.L. c. 23M (the "PACE Act"), the Commonwealth has established a commercial sustainable energy program known as the Massachusetts Property Assessed Clean Energy Program ("PACE Massachusetts") to provide a financing mechanism to private owners of commercial and industrial properties for certain qualifying commercial energy improvements ("improvements"); and

WHEREAS, pursuant to the PACE Act, PACE Massachusetts is administered by the Massachusetts Development Finance Agency ("MassDevelopment"), in consultation with the Massachusetts Department of Energy Resources; and

WHEREAS, under PACE Massachusetts, the owner of the commercial or industrial property benefitting from the improvements (the "benefitted property") is required to repay the financing through the payment of a betterment assessment (a "PACE betterment assessment") placed on such benefitted property by the municipality in which the benefitted property is located; and

WHEREAS, in order for an owner of commercial or industrial property to participate in PACE Massachusetts, Section 2 of the PACE Act requires that the municipality in which such property is located must elect to participate in PACE Massachusetts; and

WHEREAS, the City of Amesbury (the "Municipality") has determined that it is in the best interest of the Municipality to participate in PACE Massachusetts as a "participating municipality" as provided in the PACE Act to permit the owners of commercial and industrial properties located in the Municipality to access financing for qualifying commercial energy improvements through PACE Massachusetts;

NOW THEREFORE, Be it Ordained by the City Council of the City of Amesbury assembled, and by the authority of the same, as follows:

The City Council of the City of Amesbury (the "Municipality" or the "City"), with the approval of the Mayor, hereby approves the Municipality participating in PACE Massachusetts pursuant to the PACE Act, and authorizes the Mayor to enter into an agreement with MassDevelopment (the "PACE Administration Agreement") pursuant to which the Municipality will agree to (i) levy and record PACE betterment assessments on benefitted properties located in the Municipality, in the amounts determined by MassDevelopment to be sufficient to repay the PACE Massachusetts financings, (ii) assign the PACE betterment assessments and the related liens to MassDevelopment, which MassDevelopment may in turn assign to the providers of the financing of the improvements (each a "capital provider"), as collateral for and the source of repayment of such financings, (iii) bill the owners of the benefitted

properties for the installment payments necessary to repay the PACE betterment assessments, in the amounts determined by MassDevelopment, and (iv) enforce, to the extent required by such agreement, such PACE betterment assessments; such agreement to be in such form as the Mayor may approve as being in the best interest of the Municipality.

The Collector Treasurer of the City or such other City agency as may be designated in such agreement is authorized to levy and record such PACE betterment assessments on behalf of the City without further authorization by the City Council.

Notwithstanding any other provision of law to the contrary, officers and officials of the Municipality, including, without limitation, municipal tax assessors and tax collectors, are not personally liable to MassDevelopment or to any other person for claims, of whatever kind or nature, under or related to PACE Massachusetts, including, without limitation, claims for or related to uncollected PACE betterment assessments. Other than fulfillment of the obligations specified in a PACE Administration Agreement, the Municipality has no liability to the owner of the benefitted property or to any capital provider for or related to improvements financed under PACE Massachusetts.