



# PACE IN A BOX MODEL RESOLUTION ESTABLISHING A PACE PROGRAM

[NAME] CITY COUNCIL/ [NAME] COUNTY COMMISSIONERS COURT  
[ORDER/RESOLUTION] ESTABLISHING THE [NAME CITY/NAME COUNTY] PACE  
PROGRAM

STATE OF TEXAS                   §  
  §  
[CITY OF NAME/                   §  
COUNTY OF NAME]

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

WHEREAS, the installation or modification by property owners of qualified energy or water saving improvements to commercial, industrial, agricultural, and large multifamily residential real property in [City/County] will further the goals of energy and water conservation without cost to the public;

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

WHEREAS, the [City Council/Commissioners Court] adopted a Resolution of Intent to establish a PACE program for [City/County] on [Date], including a reference to the report on the proposed program prepared as required by Section 399.009 of the PACE Act and made the report available to the public on the [City/County] website and for inspection in the [City/County] office;

WHEREAS, the public hearing required by Section 399.008(a)(2) at which the public could comment on the proposed program, including the report available for public inspection as mentioned above occurred [date and location] for [City/County]; and

WHEREAS, the [City Council/Commissioners Court] will delegate the administration of the [City/County] PACE program to a qualified, non-profit organization (the “authorized Representative”) that can administer the program at no cost to the [City/County]. Transaction



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fees paid by the parties obtaining PACE loans and charitable grants are sufficient revenue streams to support the non-profit organization, and will enable the program to be administered without use of [City/County] resources, will assure the objectives of impartiality and confidentiality of owner information, and will be convenient and advantageous to [City/County];

[FOR CITY PROGRAM: WHEREAS, this Ordinance has the same force and effect as a “Resolution” establishing a PACE program as set forth in Section 399.008(3) of the PACE Act;]

NOW THEREFORE, be it resolved by the [City Council of NAME/Commissioners Court of NAME County] that:

1. Recitals. The recitals to this [Order/Resolution] are true and correct and are incorporated into this [Order/Resolution] for all purposes.
2. Establishment of Program. [City/County] hereby adopts this [Order/Resolution] Establishing the [City/County] PACE Program and finds that financing qualified projects through contractual assessments pursuant to the PACE Act is a valid public purpose and is convenient and advantageous to [City/County] and its citizens. The program will be called [City/County] Property Assessed Clean Energy ([City/County] PACE”) and is herein called “the Program.”
3. Contractual Assessments. [City/County] will, at the property owner’s request, impose contractual assessments on the property to repay PACE financing for qualified energy and water conserving projects available to owners of privately owned commercial, industrial, and large multifamily property.
4. Qualified Projects. The following types of projects are qualified projects for PACE financing that may be subject to such contractual assessments:

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

An assessment may not be imposed to repay the financing of facilities for undeveloped lots or lots undergoing development at the time of the assessment or the purchase or installation of products or devices not permanently fixed to real property.



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5. Region. The boundaries of the entire geographic area within [City/County]'s jurisdiction are included in the boundaries of the region where PACE financing and assessments can occur. [A City region can include its ETJ].
6. Third- Party Financing. Financing for qualified projects under the Program will be provided by qualified third-party lenders chosen by the owners. Such lenders will execute written contracts with the nonprofit administrator to service the debt through assessments, as required by the PACE Act. The contracts will provide for the lenders to determine the financial ability of owners to fulfill the financial obligations to be repaid through assessments, advance the funds to owners on such terms as are agreed between the lenders and the owners for the installation or modification of qualified projects, and service the debt secured by the assessments, directly or through a servicer, by collecting payments from the owners pursuant to financing documents executed between the lenders and the owners. [City/County] will maintain and continue the assessments for the benefit of such lenders and will enforce the assessment lien for the benefit of a lender in the event of a default by an owner. [City/County] will not, at this time, provide financing of any sort for the PACE program.
7. Authorized Representative. A nonprofit organization will be designated as the authorized representative with authority to enter into written contracts with the record owners of real property in [City/County] to impose assessments pursuant to the PACE Act to repay the financing of qualified projects on the owners' property and enter into written contracts with the parties that provide third-party financing for such projects to service the debts through assessments. The [City Administrator/County Judge] or his/her designee will be the liaison with the authorized representative.
8. Enforcement. The [City/County] will enforce the collection of past due assessments and may contract with a qualified law firm to assist in collection efforts.
9. Report. The final report on the [City/County] PACE program, prepared in accordance with Section 399 of the PACE Act is attached and incorporated into this resolution. The [City/County] will post the report on the [City/County] website.
10. Amendment of Program. The [City Council/Commissioners Court] may amend the Program by resolution. However, another public hearing is required before the Program may be amended to provide for [City/County] financing of qualified improvements through assessments.



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Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

[City Council signatures/Commissioners Court signatures]

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County Judge

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Commissioner, Precinct One

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Commissioner, Precinct Two

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Commissioner, Precinct Three

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Commissioner, Precinct Four



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**REPORT REQUIRED BY TEXAS LOCAL GOVERNMENT CODE SECTION 399.009**

**FOR [CITY/COUNTY]**

**PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM**