



# Resolution

STATE OF TEXAS

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COMMISSIONERS' COURT

COUNTY OF JEFFERSON

OF JEFFERSON COUNTY, TX

BE IT REMEMBERED at a meeting of Commissioners' Court of Jefferson County, Texas, held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, on motion made by \_\_\_\_\_, Commissioner of Precinct No. \_\_\_\_\_ and seconded by \_\_\_\_\_, Commissioner of Precinct No. \_\_\_\_\_, the following Resolution was adopted:

## **RESOLUTION TO AMEND THE PACE PROGRAM IN JEFFERSON COUNTY**

WHEREAS, the 83rd 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 with in 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 Jefferson County will further the goals of energy and water conservation without cost to the public;

WHEREAS, the Commissioners Court finds that third-party financing of energy and water conserving projects through contractual assessments maintained by Jefferson 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 Commissioners Court adopted a Resolution of Intent to establish a PACE program for Jefferson County on February 27, 2017, 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 Jefferson County website and for inspection in the County office;

WHEREAS, The Commissioners Court finds that the administration of the PACE program by one or more qualified nonprofit organizations or registered municipal advisory firms as independent third-party Authorized Representatives contracted by Jefferson County and compensated by application and administration fees paid by the participating property owners, will enable the program to be administered without use of County resources, will assure the objectives of impartiality and confidentiality of owner information , and will be convenient and advantageous to Jefferson County; and

WHEREAS, the Commissioners Court also finds that because no County funds will be expended for PACE financing of the Authorized Representative's services, the selection of such an independent third-party Authorized Representative is not subject to the Professional Services Procurement Act or other County purchasing requirements; and

WHEREAS, the Commissioners Court held a public hearing on March 20, 2017 at 1:30 p.m. in the County Commissioners Courtroom, Jefferson County Courthouse, 1149 Pearl Street, Beaumont, TX 77701, at which the public hearing could comment on the proposed program, including the report available for public inspection as mentioned above and as required by Section 399.008(a)(2): and

WHEREAS, the Commissioners Court adopted a Resolution to establish a PACE program for Jefferson County on March 20, 2017, including a reference to the report on the proposed program prepared as required by Section 399.008(a)(3) of the PACE Act and made the report available to the public on the Jefferson County website and for inspection in the County office; and

WHEREAS, the Commissioners Court held a public hearing on \_\_\_\_\_, 2018 at its regular meeting of

Commissioners Court beginning at \_\_\_\_\_, in the County Commissioners Courtroom, Jefferson County Courthouse, 1149 Pearl Street, Beaumont, TX 77701, at which the public hearing could comment on the proposed program, including the amended report ("Amended Report") available for public inspection as mentioned above and as required by Section 399.008(a)(3):

NOW THEREFORE, BE IT RESOLVED by the Commissioners Court of Jefferson County that:

1. Recitals. The recitals to this Resolution are true; and correct and are incorporated into this resolution for all purposes.
2. Amendment of Program. Jefferson County hereby amends the Jefferson County Property Assessed Clean Energy Program ("Jefferson County PACE") to incorporate and approve the amendments set forth in the Amended Report and the other amendments set forth herein, herein called "the 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 Jefferson County and its citizens. Except as amended by this Resolution or as amended by the Amended Report, the Program is ratified and affirmed in all respects.
3. Contractual Assessments. Jefferson 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.

5. Region. The boundaries of the entire geographic area within Jefferson County's jurisdiction are included in the boundaries of the region where PACE financing and assessments can occur.
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 Authorized Representative 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. Jefferson 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. Jefferson County will not, at this time, provide financing of any sort for the Jefferson County PACE program. Lenders must agree that, in the event of non-payment (or insufficient payment) of any non-PACE ad valorem taxes for a tax year, if any PACE assessment payments are received by lenders with respect to that same tax year, the PACE assessments will be subordinated to the payment of the non-PACE ad valorem taxes; accordingly, in such event, capital provider must agree to remit to the County any PACE assessments received with respect to such tax year in an amount up to the amount of any such non-payment. Jefferson County will not provide financing under the Program.
7. Authorized Representatives. The Commissioners Court will designate one or more non-profit organizations or registered municipal advisor firms to act as the Authorized

Representatives with authority to enter into written contracts with the record owners of real property in Jefferson 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 Jefferson County Judge or his designee will be the liaison with the Authorized Representatives.

8. Enforcement. The 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 Amended Report on the PACE program, prepared in accordance with Section 399 of the Texas Local Government Code is attached and incorporated into this resolution. The County will post the Resolution to Amend the PACE Program and Amended Report on the County website and make it available for public inspection at [ADDRESS].
10. Additional Amendment of Program. The Commissioners Court may further amend the Jefferson County PACE Program by resolution. However, another public hearing is required before the Program may be amended to provide for County financing of qualified improvements through assessments.

FINAL REPORT attached as Exhibit "A"

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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Jeff Branick, County Judge

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Eddie Arnold  
Commissioner, Precinct 1

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Brent A. Weaver  
Commissioner, Precinct 2

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Michael Shane Sinegal  
Commissioner, Precinct 3

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Everette "Bo" Alfred  
Commissioner, Precinct 4