

Local Government Resolution Establishing a PACE District

WHEREAS, The 67th Regular Session of the Montana Legislature enacted the Commercial Property Assessed Capital Enhancement Act of Montana, Montana Code Annotated, Title 90, Chapter 4 (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 district within which an authorized local government official and the record owners of a privately owned commercial or industrial facility, covered multifamily housing accommodation as defined in 49-2-305(6), MCA, or agricultural property may enter into written contracts to impose assessments on the property to repay the financing by the owners of Energy Conservation Projects as defined in Section 90-4-1302, MCA; and

WHEREAS, the installation or modification by property owners of qualified Energy Conservation Projects in Fergus County will further the goals of increasing economic efficiency and energy conservation without cost to the public; and

WHEREAS, the Fergus County Commissioners finds that financing Energy Conservation Projects through contractually agreed to special assessments (“PACE financing”) furthers essential government purposes, including but not limited to, economic development, reducing energy consumption and costs, and conserving natural resources; and

WHEREAS, the Fergus County Commissioners adopted a Resolution of Intent to establish a PACE program for Fergus County on August 10, 2023 including a reference to the MFFA Program Guidelines prepared as required by Section 90-4-1306 of the PACE Act and made the report available to the public via a link to the MFFA website;

WHEREAS, the public hearing required by Section 90-4-1306 of the PACE Act at which the public could comment on the proposed program, including the MFFA Program Guidelines available for public inspection as mentioned above occurred August 10, 2023 for Fergus County; and

WHEREAS, pursuant to the PACE Act, the Fergus County Commissioners will delegate the administration of the Fergus County PACE program to the Montana Facility Finance Authority (the “MFFA”) (the “Authorized Representative”) that can administer the program at no cost to the Fergus County Administration by the AUTHORITY will enable the program to be administered without use of Fergus County resources, will assure the objectives of impartiality and confidentiality of owner information, and will be convenient and advantageous to Fergus County.

NOW THEREFORE, be it resolved by the Commissioners of Fergus County that:

Section 1. Establishment of Program. Fergus County hereby adopts this Resolution Establishing the Fergus 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 Fergus County and its citizens. The program will be called Fergus County Commercial Property Assessed Capital Enhancement (Fergus County PACE”) and is herein called “the Program.”

Section 2. Assessments. Fergus County will, at the property owner's request, impose contractually agreed to special assessments on the property to repay, in equal semi-annual installments PACE financing for Energy Conservation Projects available to the record owners of a privately owned commercial or industrial facility, covered multifamily housing accommodation as defined in 49-2-305(6), MCA, or agricultural property.

Section 3. Qualified Projects. The following two types of projects are qualified Energy Conservation Projects for PACE financing that may be subject to such assessments:

- a) "Energy conservation measures": means a permanent cost-effective energy improvement fixed to real property, including new construction, and intended to decrease energy or water consumption and 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. The exemplary list of energy conservation measures codified at Section 90-4-1302 MCA, is incorporated by reference herein.
- b) "Renewable Energy System": means a fixture, product, device, or interacting group of fixtures, products, or devices on the customer's side of the meter that uses one or more forms of renewable energy to generate electricity or to reduce the use of nonrenewable energy. The term includes a biomass stove but does not include an incinerator or a digester. "Renewable energy" has the meaning provided in 15-24-3102, MCA.

Section 4. District. The boundaries of the entire geographic area within Fergus County's jurisdiction are included in the boundaries of the district where PACE financing and assessments can occur.

Section 5. 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 Authority 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. Fergus 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. Fergus County will not, provide financing of any sort for the PACE program.

Section 6. Authorized Representative. The Authority will be designated as the Authorized Representative with authority to enter into written contracts with the record owners of real property in Fergus County, to provide notice of assessment levies imposed by the Fergus County to the County assessor pursuant to the PACE Act to repay the financing of qualified projects on the owners' property, enter into written contracts with the parties that provide third-party financing for such projects to service the debts through assessments, and to receive assessment funds from the County for the purpose of paying debt service due on such third-party financings secured by the assessments.

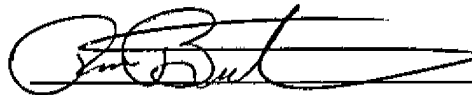
The Fergus County Treasurer or his/her designee will be the liaison with the Authorized Representative.

Section 7. Enforcement. The Fergus County Treasurer will enforce the collection of past due assessments and may contract with a qualified law firm to assist in collection efforts.

Section 8. Amendment of Program. The Fergus County Commissioners may amend the Program by resolution adopted after public comment at a properly noticed regular public meeting.

PASSED AND APPROVED this 11 day of September 2023.

BOARD OF COMMISSIONERS:



ROSS BUTCHER

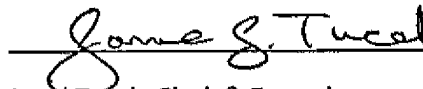


JENNIFER SAUNDERS



CARL SEILSTAD

ATTEST:



Janet Tucek, Clerk & Recorder

