**Resolution No. \_\_\_\_**

[NAME CITY/NAME COUNTY] RESOLUTION ESTABLISHING A [CITY/COUNTY] PACE PROGRAM

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, Part 13 (the “PACE Act”), which allows the governing body of a local government, including a [City/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 facility as defined in Section 90-4-1302, 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 [City/County] will further the goals of increasing economic efficiency and energy conservation without cost to the public; and

WHEREAS, the [City Council/Commissioners Court] 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 [City Council/Commissioners Court] adopted a Resolution of Intent to establish a PACE program for [City/County] on [Date], including a reference to the MFFA Program Guidelines prepared as required by Section 90-4-1306, MCA, 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, MCA, at which the public could comment on the proposed program, including the MFFA Program Guidelines available for public inspection as mentioned above occurred [date and location] for [City/County]; and

WHEREAS, pursuant to the PACE Act, the [City Council/Commissioners Court] will delegate the administration of the [City/County] PACE program to the Montana Facility Finance Authority (the “MFFA”) (the “Authorized Representative”) that can administer the program at no cost to the [City/County]. Administration by the AUTHORITY 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].

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

Section 1. Establishment of Program. [City/County] hereby adopts this 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] Commercial Property Assessed Capital Enhancement ([City/County] PACE”) and is herein called “the Program.”

Section 2. Assessments. [City/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 facility as defined in Section 90-4-1302, 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:

1. “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.

2. “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 Section 90-4-1302, MCA.

Section 4. District. The boundaries of the entire geographic area within [City/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. [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.

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 [City/County], to provide notice of assessment levies imposed by the [City/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 [City/County] for the purpose of paying debt service due on such third-party financings secured by the assessments. The [City Manager/County Administrator] or his/her designee will be the liaison with the Authorized Representative.

Section 7. 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.

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

Adopted this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.