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

[NAME CITY/NAME COUNTY] RESOLUTION OF INTENT TO ESTABLISH A [CITY/COUNTY] PACE PROGRAM

WHEREAS, the 67th and 69th Regular Sessions of the Montana Legislature enacted and amended 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 and Public Safety and Resiliency Improvement Projects (“C-PACE Projects”) as defined in Section 90-4-1302, MCA, as the same may be amended from time to time; and

WHEREAS, the intent of the [City Council/County Commissioners] is that eligible C-PACE Projects shall also include any projects that shall become eligible under future amendments of the PACE Act; and

WHEREAS, the installation or modification by property owners of qualified C-PACE Projects in [City/County] will further the goals of increasing economic efficiency, energy conservation, public safety, and resiliency without cost to the public; and

WHEREAS, the [City Council/County Commissioners] finds that financing C-PACE Projects through contractual assessments (“PACE financing”) furthers essential government purposes, including but not limited to, economic development, reducing energy consumption and costs, conserving natural resources, and providing public safety and resiliency improvements; and

WHEREAS, the PACE Act designates the Montana Facility Finance Authority as state-wide administrator of projects utilizing PACE financing; and

WHEREAS, the [City Council/County Commissioners], subject to the public hearing scheduled as provided below, at which the public may comment on the proposed program and the report issued contemporaneously with this resolution, finds that it is convenient and advantageous to establish a program under the PACE Act and designate the entire geographic area within the [City/County]’s jurisdiction as a district within which a designated [City/County] representative and the record owners of qualified real property may enter into PACE financing arrangements.

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

Section 1. [City/County] intends to make contractual assessments to repay PACE financing for qualified C-PACE Projects available to owners of a commercial or industrial facility, covered multifamily housing facility as defined in Section 90-4-1302, MCA, or agricultural property. The program is to be called [City/County] Commercial Property Assessed Capital Enhancement (“[City/County] PACE”).

Section 2. The following three types of projects are qualified projects for PACE financing that may be subject to such contractual 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 refence 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.
3. (Effective October 1, 2025) “Public safety and resiliency improvement project”: means one or more fixed installations or modifications to eligible commercial real estate property that are designed to improve a public’s safety or resilience by improving the eligible real property’s:

a. structural integrity for seismic events;

b. indoor air quality;

c. durability to resist wind, fire, and flooding;

d. ability to withstand an electric power outage;

e. stormwater control measures, including structural and nonstructural measures to mitigate stormwater runoff; and

f. firearm storage infrastructure for use by the public pursuant to a firearm hold agreement as provided in Section 27-1-748, MCA

Section 3. The boundaries of the entire geographic area within [City/County]’s jurisdiction are the boundaries of the district where PACE financing and assessments can occur.

Section 4. Financing for qualified projects under the PACE program will be provided by qualified third-party lenders chosen by the owners. Such lenders will execute written contracts with [City/County]’s representative to service the 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 contracts executed between the lenders and the owners. The lender contracts will provide that [City/County] will maintain and continue the assessments for the benefit of such lenders and 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 5. The Montana Facility Finance Authority will serve as an independent third- party Program Administrator on the behalf of [City/County] pursuant to its Montana Commercial Property Assessed Capital Enhancements Program Guidelines available for inspection at www.LastBestPACE.com (hereinafter the “C-PACE Program Guidelines”). The C-PACE Program Guidelines are incorporated in this resolution and made a part hereof for all purposes.

Section 6. The [City Council/County Commissioners] will hold a public hearing on the proposed PACE program and report on [date] at [time] [a.m./p.m.] in the [City Council Room/County Commissioners Room], [address].

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