

# **PACE Workshop**

Fort Bend County  
Commissioners Court

May 18, 2016

# Foreword

As there are many perspectives of the different parties involved in a PACE Financing Program, and the long list of processes, procedures, and details involved, this presentation focuses on the perspective of the local government, the County.

Comprehensive details about all aspects of all parties and model documents can be found in the PACE Program User Guide at:

<http://www.texaspaceauthority.org/Documents/PACE%20User%20Guide%20Version%201.4.pdf?dl=0>

## Contd.....Foreword

Other related links include:

Texas PACE Authority

<http://www.texaspaceauthority.org/>

Keeping PACE in Texas

<http://www.keepingpaceintexas.org/>

PACE in a Box

<http://www.keepingpaceintexas.org/pace-in-a-box/>

Chapter 399/Local Government Code

<http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.399.htm>

PACE Nation

<http://www.pacenation.us/resources/all-programs/>

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- What is PACE? What PACE is not.
- What Gives PACE Legality and Credibility?
- What are the benefits of PACE?
- Who else has PACE?
- What are the steps to create a PACE program?
- What are the roles, costs, and liability of the County government in a PACE program?
- What is the process to initiate PACE operations?
- Sample Project Timeline

# 1. What is PACE?

- '(P)roperty (A)ssessed (C)lean (E)nergy.'
- Voluntary, financing program that enable owners of commercial, industrial, retail, and multi-family residential (with 5+ units) properties, if qualified by satisfying requirements of the lender, PACE Authority, and the local government, to access long term, no down payment loans for water conservation, energy efficiency, and on-site generation.

## Contd....1. What is PACE?

- Basic requirements of project are it must be an existing building; that the annual cost savings realized by the improvements exceed the annual Assessment amount; and that the project costs cannot exceed 20% of the property's current CAD value.
- PACE contains an innovative mechanism where the property owner voluntarily requests that the local government place a series of Annual Assessments (equivalent to the number of years of the loan term) secured with a Senior Lien on the property until the Assessment is paid in full (*Contractural Property Assessment*).

## Contd....1. What is PACE?

- The Assessment is owed to the local government, which agrees to forward the payments to the private lender, or agrees that the payments go directly to the lender.
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## What PACE is Not:

- Not a tax – At the *voluntary* request of a business, PACE is an assessment (bill) on the real property in exchange for something of value (favorable financing).
- Not a financial obligation of the county:
  - No taxpayer dollars or risk to treasury.
  - County and County personnel have immunity.
  - All risk on real property, borrower and lender.
  - Consumer protections for property owners and lenders built into statute and best practices.

## 2. What Gives PACE Legality and Credibility?

- The 2013 Texas PACE statute, SB 385, now the PACE Act, Chapter 399 of the Local Government Code, authorizes municipalities and counties to create a local PACE program and work with private sector lenders and property owners to finance qualified improvements using an optional economic development tool called the *contractual property assessment*.
- 'Keeping PACE in Texas' (KPT) is a non-profit business association organized for the purpose of promoting uniform Property Assessed Clean Energy (PACE) financing "PACE in a Box" programs throughout the State of Texas and is funded by membership dues and grants. No corporate money except as event sponsorships.

- KPT organized a group of more than 130 stakeholders – property owners, lenders, law firms, energy service companies, industry trade associations, local governmental authorities, and others – in a collaboration to create uniform standards, documentation, and best practices for PACE financing programs in Texas. That effort resulted in the publication of a toolkit, known as ‘PACE in a Box.’
- ‘PACE in a Box’ includes detailed process data and models of key documents such as:
  - PACE Owner/County Contract.
  - PACE Lender/County Contract.
  - Mortgagee Consent.
  - Notice of Assessment Lien.
  - Program User Guide.
  - Technical Standards Guide.

- ‘The Texas PACE Authority’ (TPA) was founded as a nonprofit organization in 2015 with the express goal of streamlining the implementation of PACE-funded clean energy projects in Texas using the “PACE in a Box” model. It is funded by grants, and also fees for acting as Program Administrators when asked.
- TPA administrates and oversees creation of PACE programs with local governments and program administrators, who can be the local government or a third party; TPA also can be a third party administrator.
- Except as a role as a program administrator, TPA does not offer any other services to parties involved in PACE financing where private industry can fill the need.

### 3. What are the benefits of PACE?

- Local Economic Development tool that increases water and energy conservation; creates jobs necessary to do the construction; puts capital into circulation; keeps properties competitive and their tax roll values from deteriorating.
- The term of a PACE assessment may extend up to the projected life of the improvements, not to exceed 20 yrs. resulting in annual utility cost savings that exceed the amount of the annual assessment payment. PACE improvements generate positive cash flow upon completion with no out-of-pocket cost.

## More benefits of PACE.

- Funds previously spent on higher utility expenses can now be utilized in other areas to improve the bottom line performance of the property or ROI to the owner.
- Private sector PACE financing is tax neutral, creates no burden on the County's general fund or borrowing capability.
- The community's "clean city" reputation is improved, attracting workers and families.

## More benefits of PACE.

- Energy-efficient buildings help communities meet clean air goals and requirements and provide healthier environments for their occupants.
- With the application of power generation technologies, properties and operations can be protected from power blackouts or brownouts.
- Increases potential for Business Expansion and Business Retention by offering more competitive facilities within the county.
- Competitive advantage over counties w/o PACE for business relocations, expansions, and retention.

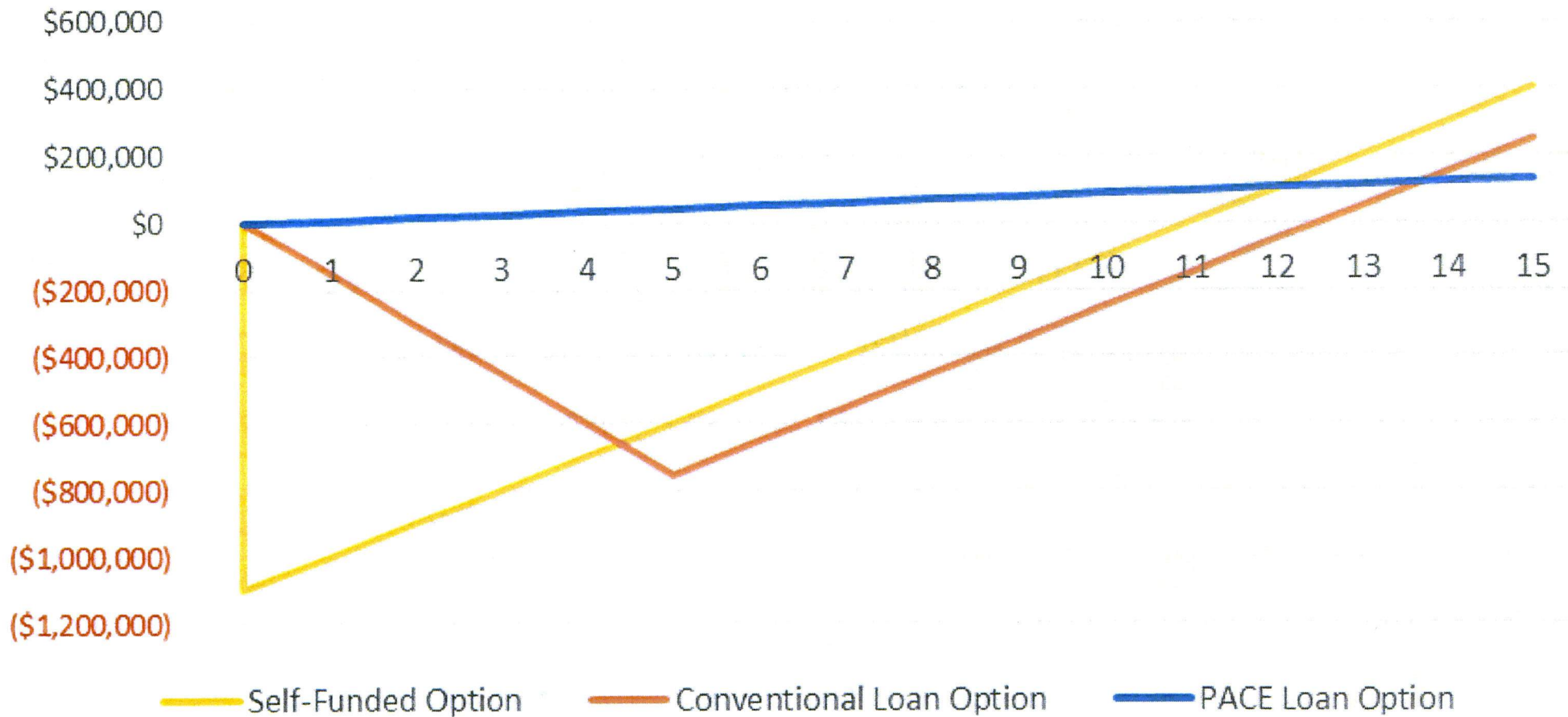
# PACE benefits to the Property Owner.

## Example Assumptions:

- Property Type: Commercial Office Building.
- Cost of Proposed energy efficiency project: \$1.1M.
- Projected annual energy and maintenance savings: \$100,000.
- All Cash Payback Term: 11 years (simple payback).
- Conventional Funding available for 5 years, 4.5% yr. 10-20% down payment.
- PACE funding available: 25 yrs., 6.5% yr. Nothing down. Energy prices constant throughout loan term.

## Contd....PACE benefits to the Property Owner R of I and R on I

### Cumulative Cash Flow



## 4. Who Else has PACE?

- 1) Travis County – *April 2015*
- 2) City of Houston – *November 2015*
- 3) Cameron County – *January 2016*
- 4) Willacy County – *January 2016*
- 5) Williamson County – *April 2016*
- 6) City of Dallas – *May 2016*
- 7) *Other counties in the Pipeline: Bexar, Brazos, El Paso, Galveston, Hidalgo, Nueces and Tarrant*
- 8) *PACE program is active and established in the rest of the USA.*

## 5. What are the steps to create a PACE program?

Commissioners Court must:

- Create a Report on how the PACE program will be run and administrated and then post the Report on the county website.
- With the Report, pass a Resolution of Intent to Establish a Program
- Hold a public hearing on the Resolution of Intent to Establish a Program.

## Contd....5. What are the steps to create a PACE program?

### Commissioners Court must:

- Adopt a Resolution Establishing a local PACE program.
- Select an Administrator, either the County or a third party non-profit organization.
- No out of pocket costs, only use of existing resources of County, utilized for 1) thru 6).

# The Report

- Plan for comprehensive program administration and applicable fees, including intent to place Senior Liens and assessments on PACE loan properties.
- Contract with Program Administrator or declare County to be administrator.
- Establish criteria for eligibility in the program.

## Contd....The Report

- Identification of funding sources and underwriting requirements.
- Define application process.
- Assignment of responsibility for reporting, marketing, and education efforts.

# Responsibilities of Program Administrator

- County can choose to administer the program in-house or acquire the assistance of a third-party administrator for all or part of the administrative duties.
- Selection of a third-party as administrator can be accomplished through a Professional Services Contract. An RFP process can be used, but is not required as the county expends no funds for PACE administration. All Administrator expenses are paid by fees charged to program users.

## More Responsibilities of Program Administrator

- Once an administrator is engaged, they must develop and manage the process that a property owner completes before filing an application for PACE financing with the Texas PACE Authority.
- Must develop and manage the program application and process flow from receipt of an application through closing and recording of the lien.

## More Responsibilities of Program Administrator

- Must determine the manner in which the direct assessments on the property are to be collected, reach an agreement with the County on how that is to be done (if a third party administrator) and oversee assessment compliance and reach agreement with the County
- Develop a plan to ensure sufficient capital for private financing; this can be accomplished by providing existing lender network to prospects and continuing to educate and recruit new lenders to the program.

## More Responsibilities of Program Administrator

- Education & outreach, contractor training, etc.
- Validate proposed project compliance with statute and best practices.
- Establish annual appropriate program reporting and analysis and review of administration of the PACE program, including recommendations for any changes in structure and process.

## Administrative Fees

- The Program Administrator can charge two types of fees as part of administration: an application fee; and, an ongoing residual fee.
- These fees cover the basic administrative service to complete a PACE project as well as the ongoing reporting program to local governments that enact a PACE district.

## Contd...Administrative Fees

- The fees may be assessed as:
- A program application fee paid by the property owner requesting to participate in the program expressed as a set amount, a percentage of the amount of the assessment, or in any other manner;
- An additional annual fee being a component of the interest rate on the assessment in the written contract between the local government and the property owner; or
- A combination of both above.

## Contd...Administrative Fees

- PACE General Example.
  - Application Fee:
    - 1% of total project assessment.
    - Initial \$500 to be paid with application to PACE Texas.
    - Balance can be paid as part of loan closing as an origination fee.
- Travis County Example.
  - Application Fee:
    - The greater of \$4,000 or 2% of total assessment.
    - \$500 can be paid with application to Texas PACE.
    - \$750 to be paid at onsite review.
    - Balance to be paid at loan closing.
  - Annual Administration Fee:
    - 0.25% of amount of annual assessment.

## 6. What are the roles, costs, and liabilities of county government in a PACE program?

- Create the Program.
- Select the Program Administrator.
- File Notice of Annual PACE Assessment Lien when loan closes/funds.
  - After loan closes, Texas PACE will walk the documents to the County Clerk's office for recording.
- Send Notice of Annual PACE Assessment lien out to borrowers.
- No other action required by county unless assessment payments become delinquent or Assessment satisfied.

## More about the role of the County

- In the event an annual assessment payment become delinquent, the Lender notifies the Tax-Assessor Collector who then initiates the same process as on any delinquent taxes with a collections law firm.
- All statutory penalties, interest on delinquent taxes, and fees remain owing to the County.
- All contractual agreements with the collections firm remain the same.
- All risk is on the real property, borrower, and lender.

## 7. What is the process to start and complete a PACE financing operation?

- Property Owner:
  - Decides on a Project
  - Selects a Contractor
  - Property Owner files application on-line.
  - Obtains Existing Mortgagee Consent
- “Before” Technical Analysis; Project reviewed by independent 3<sup>rd</sup> party engineer (ITPR) utilizing Investor Confidence Project/Energy Performance Protocols.

## **Contd.--What is the process to start and complete aPACE financing operation?**

- The ICP EPP contain processes for bringing together all aspects of project implementation from establishing a baseline and audit.
- Created and continuously reviewed by a large stakeholder community of industry experts, TPA relies on the EPP because they are the result of a nationwide effort to standardize the technical review of energy efficiency projects to bring uniformity and reliability on a national scale.
- The EPP help ensure that conservation measures are evaluated consistently throughout the state and create a national standard for lender review of PACE projects.

## **Contd.--What is the process to start and complete aPACE financing operation?**

- Property owner completes financing terms with private sector Lender.
- PACE Authority reviews ITPR report and Lender's underwriting.
- Program Administrator and Property Owner sign contract:
  - Property Owner promises to pay assessment to County and requests Senior Lien on property.

## **Contd.--What is the process to start and complete aPACE financing operation?**

- Program Administrator and Lender sign contract.
- Under contract, Lender:
  - Receives rights to stream of assessment payments due to County.
  - Agrees to collect payments from Property Owner on behalf of the County.
  - Receives benefit of County collection process in event of delinquency or default.
- Loan closes.

## Contd.--What is the process to start and complete a PACE financing operation?

- Senior Lien for Assessment is filed and Notice sent to Property Owner/Borrower.
- Construction begins.
- Construction completed.
- “After” verification is performed by same ITP that construction is completed as proposed.
- Property Owner begins making payments on annual assessment.

## **Contd.--What is the process to start and complete a PACE financing operation?**

- 1)** If assessment payments become delinquent, Lender notifies County who then initiates existing notice of default and collection process.
- 2)** When final annual assessment is satisfied, County removes Senior Lien.

## **SAMPLE PROJECT TIMELINE – Typical 6 Mos.**

In general, project speed will be driven by the diligence of the contractor and energy engineer, not the administrator.

Property Owner: PO      Contractor: CTR

Administrator: TPA      Lender: LND

Third Party Reviewer: ITPR

1/1 Begin Data Collection/Baseline: CTR.

1/15 Begin Energy/Water modeling: CTR.

2/15 Begin Project Pre-design and underwriting:

PO/CTR/LND;

Application Submittal in conjunction with Lender: LND

3/1 All documents are submitted, including Pro Forma model (see Required Documentation Checklist): PO

3/10 Pre-Qualification Letter to Property Owner: TPA  
Mortgagee Consent Letter to Property Owner: TPA

3/15 Engage ITPR PO Detailed Engineering Begins CTR

4/1 ITPR Review Complete – Certificate submitted:  
TPA/ITPR

Lender Underwriting Complete LND

4/5 Mortgagee Consent Letter Returned: PO  
Final Application Approval/Notice to Proceed to Closing:  
TPA

4/10 Closing: TPA/PO/LND

Contracts with County signed: TPA/PO/LND

Assessment Lien filed, verification sent, Notice to Proceed with Construction sent to Property Owner: TPA

4/11 Project Construction commences: PO/CTR

6/1 Construction Complete: PO/CTR ITPR

Installation Verification – Certificate submitted: TPA/ITPR

6/10 Completion Certificates Issued to County and Lender: TPA