

**ADMINISTRATION SERVICES AGREEMENT
BY AND BETWEEN FORT BEND COUNTY, TEXAS AND
TEXAS PROPERTY ASSESSED CLEAN ENERGY AUTHORITY**

THIS AGREEMENT is made and entered by and between **FORT BEND COUNTY, TEXAS**, hereinafter referred to as "**County**", and **TEXAS PROPERTY ASSESSED CLEAN ENERGY AUTHORITY**, a Texas non-profit business association, hereinafter referred to as "**Services Provider**" or "**Texas PACE Authority**", to be effective from and after the date as provided herein.

WITNESSETH:

WHEREAS, the County desires to engage the services of a qualified authorized representative to administer a Texas Property Assessed Clean Energy ("PACE") program for the Fort Bend County pursuant to the Property Assessed Clean Energy Act ("PACE Act"), Texas Local Government Code Chapter 399, hereinafter referred to as the "Project"; and

WHEREAS, Services Provider desires to render such services for the County upon the terms and conditions provided herein.

NOW, THEREFORE, for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

I. ENGAGEMENT

The County hereby agrees to retain Services Provider to serve as authorized representative of the County's PACE program and Services Provider agrees to perform such services in accordance with the terms and conditions of this Agreement.

II. SCOPE OF SERVICES

The parties agree that Services Provider shall perform such services as are further described in **Exhibit "A"** hereto (collectively "Scope of Services"). The parties understand and agree that deviations or modifications in the Scope of Services may be authorized from time to time by the County and the Services Provider, but said authorization must be made in writing.

III. TERM OF AGREEMENT

The initial term of this Agreement shall commence upon the complete execution of the Agreement by County and Services Provider and it shall expire on two (2) years thereafter (the "Initial Term"), unless sooner terminated as provided herein. Following the Initial Term, this Agreement shall automatically renew on the same terms and conditions set forth herein for one (1) year terms until this Agreement is terminated as provided herein ("Renewal Term(s)"). This Agreement contemplates administration by Services Provider of agreements between third parties for periods of time exceeding the Initial Term and any Renewal Term. Notwithstanding the expiration or earlier termination of this Agreement, Services Provider shall be permitted to continue administration of any third party agreements under the PACE program commenced prior to expiration or termination of this Agreement, and to recover any compensation due Services Provider for services performed in accordance with Section IV of this Agreement.

IV. COMPENSATION/EXPENSES

Services Provider shall be paid for performance of the Scope of Services in accordance with the compensation schedule set forth in **Exhibit "B"** hereto. Services Provider is entitled to payment in accordance with **Exhibit "B"**; however, County shall have no obligation to pay Services Provider for performance of the Scope of Services. All payments to Services Provider shall be made by participants in the PACE program in accordance with the PACE Act.

V. INDEMNIFICATION

SERVICES PROVIDER AGREES TO INDEMNIFY AND HOLD THE COUNTY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT FROM THE COUNTY TO THE EXTENT ARISING OUT OF OR OCCASIONED BY SERVICES PROVIDER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, VIOLATIONS OF LAW BY SERVICES PROVIDER, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE SERVICES PROVIDER, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE SERVICES PROVIDER IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS AGREEMENT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY TO THE EXTENT RESULTING FROM THE NEGLIGENCE OF THE COUNTY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE COUNTY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

VI. INDEPENDENT CONTRACTOR

Services Provider covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of Fort Bend County; that it shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between County and Services Provider its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between County and Services Provider.

VII. ASSIGNMENT AND SUBLETTING

Services Provider agrees that this Agreement shall not be assigned without the prior written consent of the County, except to an Affiliate of Services Provider. Affiliate shall mean (1) any corporation or other entity controlling, controlled by, or under common control with (directly or indirectly) Services Provider, including, without limitation, any parent corporation controlling

Services Provider or any subsidiary that Services Provider controls; (2) the surviving corporation resulting from the merger or consolidation of Services Provider; or (3) any person or entity which acquires all of the assets of Services Provider as a going concern. Services Provider shall be permitted to enter into subcontracts for performance of portions of the Scope of Services; however, Services Provider shall not subcontract the entirety of the Scope of Services to a single subcontractor without the County's consent. Services Provider further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Services Provider from its full obligations to the County as provided by this Agreement.

VIII. AUDITS AND RECORDS

Services Provider agrees that County or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Services Provider which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Services Provider agrees that County shall have access during normal working hours to all necessary Services Provider's facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. County shall give Services Provider reasonable advance notice of intended audits.

IX. CONTRACT TERMINATION

The parties agree that County shall have the right to terminate this Agreement with or without cause upon thirty (30) days written notice to Services Provider. In the event of such termination, Services Provider shall deliver to County all finished or unfinished documents, data, reports or other items prepared by Services Provider in connection with this Agreement. In the event of termination by County, Services Provider shall be compensated in accordance with Section III of this Agreement with respect to any third party agreements under administration by Services Provider at the time of termination.

X. COMPLETE AGREEMENT

This Agreement, including the Exhibits lettered "A" through "B", constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

XI. MAILING OF NOTICES

Unless instructed otherwise in writing, Services Provider agrees that all notices or communications to County permitted or required under this Agreement shall be addressed to County at the following address:

Fort Bend County Texas
Attn: County Judge
401 Jackson Street, 1st Floor
Richmond, Texas 77469

County agrees that all notices or communications to Services Provider permitted or required under this Agreement shall be addressed to Services Provider at the following address:

Texas Property Assessed Clean Energy Authority
Attn: Director
98 San Jacinto Blvd., Suite 1900
Austin, Texas 78701

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is posted by the sending party.

XII. AUTHORITY TO SIGN

The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto.

XIII. MISCELLANEOUS

A. Authority to Contract:

This Agreement is being entered into pursuant to the PACE Act, Texas Local Government Code Chapter 399 and because no County funds will be expended for the Service Provider's services, the parties do not believe that selection of such an independent third-party authorized representative is subject to the Professional Services Procurement Act or other Texas county purchasing requirements. In the event it is determined that County must conduct a procurement process under the Professional Services Procurement Act or other Texas county purchasing requirements or if County decides to do so, the County may terminate this agreement as set forth herein and conduct a procurement process in order to contract the services of a qualified authorized representative to administer the Fort Bend County Pace Program pursuant to the PACE Act.

B. Paragraph Headings:

The paragraph headings contained herein are for convenience only and are not intended to define or limit the scope of any provision in this Agreement.

C. Agreement Interpretation:

This is a negotiated Agreement, should any part be in dispute, the parties agree that the terms of the Agreement shall not be construed more favorably for either party.

D. Venue/Governing Law:

Each party to this Agreement hereby agrees and acknowledges that venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in Fort Bend County, Texas, and the parties hereto expressly consent and submit to such jurisdiction. Furthermore, except to the extent that this Agreement is governed by the laws of the United States, this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding, however, its choice of law rules.

E. Successors and Assigns:

County and Services Provider and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

F. Severability:

If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the parties shall be construed and enforced in accordance therewith. The parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is the desire and intention of each that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.

G. Non-Appropriation of Funds by County:

County has not appropriated any funds to compensate Services Provider for any services under this Agreement. There are currently no County funds available or authorized for expenditure to finance the costs of Service Provider's services and it is understood that all payments to Services Provider shall be made by participants in the PACE program in accordance with the PACE Act.

H. Effective Date:

This Agreement shall be effective from and after the date of execution by the last signatory hereto as evidenced below.

SIGNED on the date indicated below.

TEXAS PROPERTY ASSESSED CLEAN ENERGY AUTHORITY

DATE: 8/30/16

BY: Charlene Heydinger
Name: Charlene Heydinger
Title: President

FORT BEND COUNTY, TEXAS

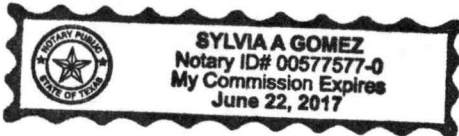
DATE: 9-6-2016

BY: Robert E. Hebert
Name: Robert E. Hebert
Title: County Judge

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 30th day of August, 2016 by Charlene Heydinger, (Authorized representative) President (Title) of **TEXAS PROPERTY ASSESSED CLEAN ENERGY AUTHORITY**, on behalf of said entity.



Sylvia A. Gomez
Notary Public, State of Texas

STATE OF TEXAS

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COUNTY OF FORT BEND

This instrument was acknowledged before me on the 6th day of September, 2016 by **Robert E. Hebert, County Judge** of the **FORT BEND COUNTY, TEXAS**, a Texas political subdivision, on behalf of said county.

Luisa Maria Bowers
Notary Public, State of Texas

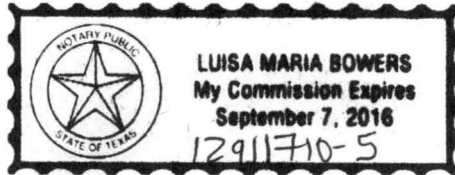


Exhibit "A"
Scope of Services

The Services Provider will perform the following services in the administration of the Fort Bend County PACE Program (the "Program"):

Community Outreach

Establish a Program website and database;

Develop a marketing plan and market PACE financing and promote owner participation in the Program;

Respond to inquiries from property owners, vendors, contractors, consultants, and the general public;

Publish the Technical Standards Manual on the Program website;

List interested, qualified lenders on the Program website or link to another neutral non-profit directory of lenders to enable property owners to identify potential sources of private third-party financing;

Arrange for training of contractors and independent third-party reviewers on how to apply for PACE financing and comply with the PACE-in-a-Box Technical Standards Manual; and

Establish quality assurance measures.

Application and Approval Process

Publish a Project Application Form based on PACE-in-a-Box model application form on the Program website;

Review submitted Application forms for administrative completeness and notify the applicants of any missing information;

Maintain the confidentiality of confidential owner information;

When Applications are complete, make a preliminary determination of eligibility for participation in the Pace Program and issue preliminary letters to owners and lenders indicating whether, subject to verification of all lender underwriting and closing

requirements, the information submitted indicates that the proposed project meets Program requirements;

Require independent third-party verification of expected energy or water savings resulting from a project (provided by engineer retained by applicant), according to the PACE-in-a-Box Technical Standards Manual;

Require independent third-party verification, according to the PACE-in-a-Box Technical Services Manual, that the period of an assessment does not exceed the expected life of the improvements or thoroughly review waiver application and justification (provided by engineer or consultant retained by applicant);

Confirm that the lender has determined, based on underwriting factors established by the lender, that the owner has demonstrated the financial ability to repay the financial obligations to be repaid through assessment;

Require the owner to notify the holder of any mortgage lien on the property of the owner's intention to participate in the Program and obtain the lienholder's written consent prior to the imposition of the PACE assessment;

Review and finalize the terms of every Owner Contract and Lender Contract prior to execution;

Collect and retain owner application fees as compensation for administrative services;

Perform closing verification reviews and schedule assessment transaction closings when all requirements are met;

Coordinate and take part in assessment transaction closings;

Arrange for recordation of a Notice of Contractual Assessment Lien for each approved project in the Official Public Records of the county where the project is located;

Require independent post-closing third-party verification (by engineer or consultant retained by Applicant) that each project was properly completed and is operating as intended; and

Collect and retain administration fees collected by lenders from owners that receive PACE financing

Management and Reporting

Manage communications with lenders regarding assessment servicing, payment, and default;

Upon notification by a lender of an owner's default in payment of an assessment and the lender's compliance with the requirements of the Lender Contract on collection after default, notify the County to enforce the assessment lien in accordance with law and the agreements between the parties;

Receive and store owner reports on energy and water savings;

At the request of property owners, prepare annual notices of assessment to be issued by the County to the owners, stating the total amount of the payments due on each assessment in the coming calendar year according to the Owner Contract and the financing documents;

Determine the amounts of the application and administration fees to be paid by owners;

Report annually to the County on Program usage and the resulting energy and water savings enabled through PACE Assessments.

Exhibit "B"
Compensation and Fees

The Texas PACE Authority shall determine the amounts of the uniform application and administration fees to be paid by property Owners participating in the Program. Such fees will not exceed the fees below:

- An application fee of \$4,000.00 or 2% of the total amount of the assessment, whichever is greater, to be paid as follows:
 - \$500.00 per project at the time of application submittal;
 - the balance of the full remaining application fee at closing; and

- An annual administration fee of 0.25% of the total amount of the assessment, to be paid as a component of the interest rate provided in the Owner Contract and the financing documents. This fee can also be capitalized and paid at closing. If paid to the lender monthly by the property Owner, the lender shall pay this fee to the Texas PACE Authority at the time of each payment by the property Owner in accordance with the financing documents.

- No amounts shall be due by County to the Texas PACE Authority.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
 CERTIFICATION OF FILING**

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
 Texas Property Assessed Clean Energy Authority
 Austin, TX United States

Certificate Number:
 2016-106271

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
 Fort Bend County Texas

Date Filed:
 08/30/2016

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
 PACE Administration
 Administration Services Agreement

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 AFFIDAVIT I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



Charlene Heydinger

 Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Charlene Heydinger, this the 30th day of August, 2016, to certify which, witness my hand and seal of office.

Sylvia A. Gomez Sylvia A. Gomez Notary Public, State of Texas
 Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Texas Property Assessed Clean Energy Authority
 Austin, TX United States

Certificate Number:
 2016-106271

Date Filed:
 08/30/2016

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County Texas

Date Acknowledged:
 09/06/2016

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

PACE Administration
 Administration Services Agreement

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

 Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20_____, to certify which, witness my hand and seal of office.

 Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath