

Open Letter to Texas Counties and Municipalities regarding the Texas Commercial and Industrial PACE program, chapter 399 of the Local Government Code

March 5, 2018

As capital providers participating in local Texas PACE programs across the state, we are joining together to strongly encourage all Texas local governments to adopt the “PACE in a Box” model program and consider selecting the Texas PACE Authority (TPA) to administer that program. We believe that local governments will see a strong benefit from this small-government, flexible, free-market program, which is accessible to all stakeholders. Combined, we have invested more than \$35 million into over a dozen PACE transactions in Texas and are optimistic that with your participation, the successful Texas “PACE in a Box” program will continue to expand statewide.

Texas’s Commercial PACE law allows a commercial or industrial property owner to pay for building improvements that save energy or water expenses with long-term, fixed-rate financing from a private capital provider. The financing is repaid through a special assessment, which by law is levied by the county or municipality where the property is located. The PACE in a Box program primarily consists of two components that are critical to its success:

- A set of standard document templates utilized by all participants, including: 1) an ordinance a county can adopt to enable PACE in its jurisdiction; and 2) contracts entered into by counties, property owners, and capital providers setting forth the terms of the PACE assessment and the limited role of the county in enforcement; and
- Program Guidelines that describe what properties and projects are eligible for PACE financing and the documents that should be collected to demonstrate eligibility.

PACE in a Box has been voluntarily adopted by every local government that has established a PACE program in Texas, with all programs administered by the nonprofit TPA. The PACE in a BOX program itself was designed by a broad group of stakeholders, including several of the signatories to this letter. Over 130 volunteer stakeholders divided into five working groups, taking over a year to develop a small-government, flexible free-market program with significant underwriting and technical protections. Many of us are working around the nation to encourage other states to adopt legislation and programs that incorporate these fundamentals like the TPA Program.

We commend TPA’s leadership for creating and running an exemplary low-cost, efficient and thoughtful PACE program. We appreciate the advantages of a single-administrator model when it operates, as TPA does, according to the principles outlined in the ***Elements of a Well-Designed C-PACE Statute and Program to Attract Private Capital and Foster Greater Transaction Volumes*** (<http://pacenation.us/wp-content/uploads/2018/01/Well-Designed-CPACE-Programs-1-25-18.pdf>). TPA has not strayed from these general principles, and we encourage local governments to follow the same:

- **Statewide Consistency:** The consistent application of PACE in a Box is essential to promoting scalability of the PACE market, lowering transaction costs, and unlocking new sources of investment, which ultimately lower the cost of PACE financing to local property owners.
- **Transparency:** TPA does not compete with the market it is charged to oversee by offering services already available in the marketplace, nor does TPA disadvantage any qualified capital provider. The administrator should not be allowed to charge additional fees to capital providers or property owners for services provided by the private sector, or that are otherwise outside of the scope of what the administrator must do on behalf of the local government. For example, deal sourcing, loan servicing, private capital placement, and independent third-party engineering review are all services readily available in the private sector. We believe the property owners, not the government-selected administrator, should decide which services they desire, and property owners should be free to work with the service providers they choose.
- **Fair and Level Playing Field:** The PACE program administrator should provide access and do business with all stakeholders in an impartial manner. The administrator should not favor or direct property owners to specific capital providers. Nor should administrators restrict the program to certain capital providers or charge unnecessary fees for capital providers to participate.
- **Low Cost:** TPA's fees are among the lowest in the nation and are sustainable only because of grant funding from well-respected foundations. We support TPA's commitment to reduce its fees as the volume of PACE projects becomes large enough for TPA to become financially self-sufficient without grant support.
- **Public Service Orientation:** The Texas PACE in a Box is a public service that local governments can offer to their communities, and the program administration is part of that public service. We appreciate that the TPA's functions are limited to making sure that PACE projects meet the statutory and program requirements and to providing outreach, education, and training to stakeholders. We value TPA's effort to make Texas PACE in a Box available to small business, nonprofits, border communities, minority- and women-owned businesses, and other underserved communities such as rural areas and the agriculture industrial sectors.
- **Independent Third-Party Review of Anticipated Energy and Water Savings:** The Texas statute requires an independent third-party review of the proposed project to confirm energy savings at the beginning and conclusion of a PACE project. The PACE in a Box program includes a robust technical standards manual to guide licensed engineers in this process. The value of applying consistent standards throughout the state is significant. Texas is the only state that tracks and measures these savings with a state-

wide data tool: <http://pace.harcresearch.org>. Only through a uniform application of technical standards can this data be accurately measured and trusted.

- **Continuous Improvement:** In June 2017 the TPA asked all stakeholders for programmatic feedback on its performance. This process enabled the program to continue to reflect a balance of stakeholder interests, including those of local governments. Because the Texas PACE in a Box program is a local adoption model, variations in the template documents have occurred. We applaud the TPA's efforts to engage in an ongoing, collaborative effort to bring the project documents to uniformity, drawing on improvements identified through the experience of completing PACE projects in Texas. We appreciate this effort to embrace new best practices as they become evident, so that TPA's administration of the program is of highest value to property owners. These efforts show TPA's ongoing efforts to evolve around the interests of diverse stakeholders while representing and protecting the interest of counties and municipalities that have enabled this program to exist in their jurisdictions.

We believe the Texas PACE program is among the most attractive in the nation due to the TPA's commitment to these principles. We look forward to increasing our resource allocation to Texas and investing in many more PACE projects in the state using the TPA's PACE in a Box program, and we encourage your support of TPA's work.

Sincerely,

