



# LINCOLN COUNTY MONTANA

## Resolution 2022-11

### CITY OF LIBBY/LINCOLN COUNTY RESOLUTION OF INTENT TO ESTABLISH A CITY OF LIBBY/LINCOLN COUNTY PACE PROGRAM

#### THE BOARD OF COUNTY COMMISSIONERS FOR LINCOLN COUNTY, MONTANA FINDS:

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 of Libby/Lincoln 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 accommodation as defined in § 49-2-305(6), 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 § 90-4-1302(5), MCA; and

WHEREAS, the installation or modification by property owners of qualified Energy Conservation Projects in City of Libby/Lincoln County will further the goals of increasing economic efficiency and energy conservation without cost to the public; and

WHEREAS, the Libby City Council and Lincoln County Board of Commissioners finds that financing Energy Conservation Projects through contractual 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 PACE Act designates the Montana Facility Finance as state-wide administrator of projects utilizing PACE financing; and

WHEREAS, the Libby City Council and Lincoln County Board of 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 of Libby/Lincoln County's jurisdiction as a district within which a designated City of Libby/Lincoln County representative and the record owners of qualified real property may enter into PACE financing arrangements.

300314 BOOK: PF PERM/FILES PAGE: 14860 Pages: 4  
STATE OF MONTANA LINCOLN COUNTY  
RECORDED: 04/20/2022 4:29 KOI: RESOLUTION  
ROBIN A. BENSON CLERK AND RECORDER  
FEE: \$0.00 BY: *Michelle Byrd Deputy*  
FOR: LINCOLN COUNTY BOARD OF COMMISSIONERS 512 CALIFORNIA AVE,



# LINCOLN COUNTY MONTANA

**THEREFORE BE IT RESOLVED** BY THE LIBBY CITY COUNCIL AND  
LINCOLN COUNTY BOARD OF COMMISSIONERS OF LIBBY/LINCOLN COUNTY, MT  
THAT:

Section 1. City of Libby and Lincoln County intends to make contractual assessments to repay PACE financing for qualified Energy Conservation Projects available to owners of a commercial or industrial facility, covered multifamily housing accommodation as defined in § 49-2-305(6), MCA, or agricultural property. The program is to be called City of Libby/Lincoln County Commercial Property Assessed Capital Enhancement “City of Libby/Lincoln County PACE”.

Section 2. The following two 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 § 90-4-1302(4), 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 § 15-24-3102, MCA.

Section 3. The boundaries of the entire geographic area within City of Libby/Lincoln 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 of Libby/Lincoln 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





## LINCOLN COUNTY MONTANA

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 of Libby/Lincoln 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 of Libby/Lincoln 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 of Libby/Lincoln County pursuant to its Montana Commercial Property Assessed Capital Enhancements Program Guidelines available for inspection at [www.lastbestPACE.com](http://www.lastbestPACE.com) hereinafter the "MFFA CPACE Program Guidelines". The MFFA CPACE Program Guidelines are incorporated in this resolution and made a part hereof for all purposes.

Section 6. The Libby City Council and Lincoln County Board of Commissioners will hold a public hearing on the proposed PACE program and report on April 20, 2022 at 10:30am. in the County Commissioners Chambers, 512 California Ave., Libby, Montana.

### **THE BOARD FURTHER RESOLVES:**

1. If a provision of this resolution conflicts with a provision of a previously adopted resolution, this resolution will prevail.
2. This resolution and its various sections, clauses and paragraphs are severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the resolution will not be affected.
3. This resolution will be effective immediately upon adoption, in accordance with § 7-5-123, MCA.
4. This Board directs that this resolution be entered into the minutes and signed by the Chair of the Board in accordance with § 7-5-121, MCA.

END OF RESOLUTION



LINCOLN COUNTY  
MONTANA

Approved as to Form:

Marcia Boris

Marcia Boris, County Attorney

Date presented to the Board 4/20/22 Approved (x) Disapproved ( ) Amended ( )

Adopted this 20<sup>th</sup> day of April, 2022.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Jerry Bennett  
Jerry Bennett, Chair

ATTEST:

Robin A. Benson

Robin A. Benson, Clerk of the Board