

**NOTICE OF CONTRACTUAL ASSESSMENT LIEN
PURSUANT TO
PROPERTY ASSESSED CLEAN ENERGY ACT**

STATE OF TEXAS §
COUNTY OF EL PASO §

RECITALS

A. The Property Assessed Clean Energy Act (“**PACE Act**”), Texas Local Government Code Chapter 399, authorizes the governing body of a local government to establish a program and designate a region within the local government’s jurisdiction within which an authorized representative of the local government may enter into written contracts with the record owners of commercial, industrial, agricultural, and large multifamily residential (5 or more dwelling units) real property to impose assessments on the property to finance the cost of permanent improvements fixed to the property intended to decrease water or energy consumption or demand. Unless otherwise expressly provided herein, all terms used herein have the same meanings ascribed to them in the PACE Act.

B. El Paso County, Texas (“**Local Government**”) has established a program (“**El Paso County PACE**”) under the PACE Act and pursuant to a Resolution dated August 29, 2016, adopted by Commissioners Court; has designated Texas PACE Authority, a qualified non-profit organization, to be its Authorized Representative authorized to administer the program and enter into and enforce the assessment, owner contract, and lender contract described herein; and has designated the entire territory within El Paso County’s jurisdiction as a region (“**Region**”) within which the Authorized Representative and the record owners of such real property may enter into written contracts to impose assessments to repay the financing by owners of qualified improvements on the owner’s property pursuant to El Paso County PACE.

C. _____ (“**Property Owner**”) is the legal and record owner of the qualified “real property,” as defined in Section 399.002 of the PACE Act, within the Region located at _____, _____, Texas, and more fully described in Exhibit A attached hereto and made a part hereof (“**Property**”).

D. Property Owner has applied to Local Government to participate in El Paso County PACE by installing or modifying on the Property certain permanent improvements described in Exhibit B attached hereto and made a part hereof, which are intended to decrease water or energy consumption or demand, and are or will be fixed to the Property as qualified improvements, as defined in Section 399.002 of the PACE Act (“**Qualified Improvements**”). The installation or modification of such Qualified Improvements on the Property will be a “qualified project” as defined in Section 399.002 of the PACE Act. Property Owner has entered into a written contract (“**County Owner Contract**”) with Local Government, through its Authorized Representative, pursuant to the PACE Act and El Paso County PACE and has voluntarily requested Local Government impose an assessment on the Property to repay the financing of such Qualified Improvements.

E. The financing of such Qualified Improvements will be provided to Property Owner by _____ (“**Lender**”), an Eligible Lender selected by Property Owner, pursuant to a written contract (“**County Lender Contract**”) executed by Lender and Local Government, through its Authorized Representative, as required by Section 399.006(c) of the PACE Act and by El Paso County PACE program. Lender has agreed to service the debt secured by the assessment.

THEREFORE, Local Government hereby gives notice to the public pursuant to Section 399.013 of the PACE Act that it has imposed an assessment on the Property in the amount of \$_____, as set forth on Exhibit C attached hereto, which together with all interest, fees, penalties, costs and other sums due under and/or authorized by the PACE Act, El Paso County PACE program, and the financing documents between Property Owner and Lender (“**Financing Documents**”), is herein referred to as the “**Assessment.**”

Pursuant to Section 399.014 of the PACE Act,

1. The Assessment, including interest and any penalties, costs, or fees accrued thereon,
 - (i) is a first and prior lien on the Property from the date that this Notice of Contractual Assessment Lien is recorded in the official Public Records of El Paso County, Texas, until such Assessment, interest, penalties, costs, and fees are paid in full; and
 - (ii) such lien has the same priority status as a lien for any other ad valorem tax, pursuant to Section 399.014(a)(2) of the PACE Act.
2. The lien created by the Assessment runs with the land, and according to Section 399.014(b) of the PACE Act, any portion of the Assessment that has not yet become due is not eliminated by foreclosure of: (i) a property tax lien or (ii) the lien for any past due portion of the Assessment. In the event of a sale or transfer of the Property by Property Owner (including, without limitation, a foreclosure sale for a past due portion of the Assessment), the obligations under the Financing Documents (including, without limitation, the portion of the Assessment that has not yet become due) will be transferred to the succeeding owner without recourse on Local Government or its Authorized Representative and with recourse on Property Owner only for any unpaid installments of the Assessment that became due during Property Owner’s period of ownership.
3. After this Notice of Contractual Assessment Lien is recorded in the real property records of the county in which the Property is located as provided under Section 399.013 of the PACE Act, the lien created by the Assessment may not be contested on the basis that the improvement is not a “qualified improvement” or the Project is not a “qualified project,” as such terms are defined in Section 399.002 of the PACE Act.

EXECUTED on _____, 20__.

EL PASO COUNTY, TEXAS
the LOCAL GOVERNMENT:

By: _____

Name: _____

Title: _____

AUTHORIZED REPRESENTATIVE
Pursuant to Tex. Local Gov't Code §399.006(b)

ACKNOWLEDGEMENT

STATE OF TEXAS §
COUNTY OF EL PASO §

This Notice of Contractual Assessment Lien Pursuant to PACE Act was acknowledged before me on _____, 20__ by _____, _____, on behalf of EL Paso County, Texas.

_____ (print name)

NOTARY PUBLIC, STATE OF TEXAS

EXHIBIT A

PROPERTY DESCRIPTION

EXHIBIT B

QUALIFIED IMPROVEMENTS

