

ELPASO COUNTY, TEXAS
COMMISSIONERS COURT RESOLUTION OF INTENT
TO ESTABLISH A COUNTY PACE PROGRAM

STATE OF TEXAS §
COUNTY OF EL PASO §

WHEREAS, the 83rd Regular Session of the Texas Legislature enacted the Property Assessed Clean Energy Act, Texas Local Government Code Chapter 399 (“PACE Act”), that allows the governing body of a local government, including a county, to designate an area of the territory of the local government as a region within which an authorized local government official and the record owners of commercial, industrial, and large multifamily residential (5 or more dwelling units) real property may enter into written contracts to impose assessments on the property to repay the financing by the owners of permanent improvements fixed to the property intended to decrease water or energy consumption or demand;

WHEREAS, the installation or modification by property owners of qualified energy or water saving improvements to commercial, industrial, agricultural, and large multifamily residential real property in El Paso County will further the goals of energy and water conservation without cost to the public;

WHEREAS, El Paso County Commissioners Court (“Commissioners Court”) finds that financing energy and water conserving projects through contractual assessments (“PACE financing”) furthers essential government purposes, including but not limited to, economic development, reducing energy consumption and costs, and conserving water resources; and

WHEREAS, subject to the public hearing scheduled as provided below, where the public may comment on the proposed program, and the Report issued contemporaneously with this Resolution, Commissioners Court finds it is convenient and advantageous to establish a program under the PACE Act and designate the entire geographic area within the County’s jurisdiction as a region within which a designated County representative and record owners of qualified real property may enter into PACE financing arrangements:

THEREFORE, be it resolved by Commissioners Court of El Paso County, Texas that:

1. The Recitals to this Resolution are true and correct and are incorporated into this Resolution for all purposes.
2. El Paso County hereby adopts this Resolution of Intent and finds that financing qualified projects through contractual assessments pursuant to the PACE Act is a valid public purpose.
3. El Paso County intends to make contractual assessments to repay PACE financing for qualified energy or water conserving projects available to owners of commercial, industrial, agricultural, and large multifamily residential real property. The program is to be called El Paso County Property Assessed Clean Energy (“El Paso County PACE”).

4. The following types of projects are qualified projects for El Paso County PACE financing that may be subject to such contractual assessments: projects that (a) involve the installation or modification of a permanent improvement fixed to privately owned commercial, industrial, or agricultural real property or residential real property with five (5) or more dwelling units, and (b) are intended to decrease energy or water consumption or demand, including a product, device, or interacting group of products or devices on the customer side of the meter that uses energy technology to generate electricity, provide thermal energy, or regulate temperature.

An assessment may not be imposed to repay the financing of facilities for undeveloped lots or lots undergoing development at the time of the assessment or the purchase or installation of products or devices not permanently fixed to real property.

5. The boundaries of the entire geographic area within El Paso County's jurisdiction are the boundaries of the region where El Paso County PACE financing and assessments can occur.
6. Financing for qualified projects under the El Paso County PACE program will be provided by qualified third-party lenders chosen by the owners. Such lenders will execute written contracts with El Paso 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 agreed between the lenders and the owners for the installation or modification of qualified projects, and service the debt secured by the 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 El Paso 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 default by an owner. El Paso County will not, at this time, provide financing of any sort for the El Paso County PACE program.
7. El Paso County will designate a qualified non-profit organization to be the County's Authorized Representative with authority to administer the program and enter into and enforce owner contracts, lender contracts, and property assessments, all under El Paso County PACE and pursuant to the PACE Act.
8. The Report on the proposed El Paso County PACE program prepared as provided by Tex. Local Gov't Code Sec. 399.009, is available for public inspection on El Paso County's Internet website, at the County office located at 500 E. San Antonio, Suite 301, El Paso, TX 79901 and as applicable, at the office of an Authorized Representative. By this reference, the Report is incorporated in this Resolution and made a part hereof for all purposes.
9. Commissioners Court will hold a public hearing on its proposed El Paso County PACE program and Report on August 29, 2016 at 9:30 a.m. in the County Commissioners Courtroom, 3d Floor, at the above referenced address.

Adopted on _____, 2016.

Veronica Escobar, El Paso County Judge

Carlos Leon, Commissioner Precinct 1

David Stout, Commissioner Precinct 2

Vincent Perez, Commissioner Precinct 3

Andrew Haggerty, Commissioner Precinct 4