

EL PASO COUNTY, TEXAS  
COMMISSIONERS COURT RESOLUTION  
ESTABLISHING THE EL PASO 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 third-party financing of energy and water conserving projects through contractual assessments maintained by El Paso County (“PACE financing”) furthers essential government purposes, including but not limited to, economic development, reducing energy consumption and costs, conserving water resources, and reducing greenhouse gas emissions;

WHEREAS, Commissioners Court adopted a Resolution of Intent to establish a PACE program for El Paso County on August 22, 2016, including a reference to its Report on the proposed program prepared as required by Section 399.009 of the PACE Act, and made the Report available to the public for inspection on the County website and at the County downtown office;

WHEREAS, Commissioners Court finds the administration of El Paso County PACE program by a qualified non-profit organization as an independent third-party Authorized Representative, contracted by El Paso County and compensated by application and administration fees paid by participating property owners, will enable the program to be administered without use of County resources, will assure the objectives of impartiality and confidentiality of owner information, and will be convenient and advantageous to El Paso County;

WHEREAS, Commissioners Court also finds that because no County funds will be expended for PACE financing of the Authorized Representative’s services, the selection of such an independent third-party Authorized Representative is not subject to the Professional Services Procurement Act or other county purchasing requirements; and

WHEREAS, Commissioners Court held a public hearing, on August 29, 2016 at 9:30 am during its

regularly scheduled meeting, in County Commissioners Courtroom, 3<sup>rd</sup> Floor, 500 E. San Antonio, El Paso, Texas 79901, at which the public could comment on the proposed program, including the above referenced Report available for public inspection as mentioned above, all as required by Sections 399.008 and 399.009 of the PACE Act.

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

1. Recitals. Recitals to this Resolution are true and correct and are incorporated into this Resolution for all purposes.
2. Establishment of Program. El Paso County hereby adopts this Resolution Establishing El Paso County Property Assessed Clean Energy program (El Paso County PACE) and finds that financing qualified projects through contractual assessments pursuant to the PACE Act is a valid public purpose and is convenient and advantageous to El Paso County and its citizens.
3. Contractual Assessments. El Paso County will, at property owner's request, impose contractual assessments on the property to repay PACE financing for qualified energy or water conserving projects available to owners of privately owned commercial, industrial, and large multifamily property.
4. Qualified Projects. 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. Region. 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. Third Party Financing. 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 the Authorized Representative to service the debt through 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 financing documents executed between the lenders and the owners. 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. Authorized Representative. Commissioners Court will designate Texas Property Assessed Clean Energy Authority (Texas PACE Authority) to act as Authorized Representative with authority to administer the program, enter into written contracts with record owners of real property in El Paso County to impose assessments pursuant to the PACE Act in order to repay the financing for qualified projects on owner's property, and enter into written contracts with parties that provide financing for such projects to service the debts through these assessments. The County Judge or her designee will be the liaison with the Authorized Representative and will monitor this relationship.
8. Enforcement. El Paso County will enforce the collection of past due assessments and may contract with a qualified law firm to assist the County in its collection efforts.
9. Report. The final Report on the El Paso County PACE program, prepared in accordance with Section 399.009 of the PACE Act, is attached and fully incorporated in this Resolution by this reference. The County Chief Administrator will provide this Resolution and the Report for public inspection on El Paso County's Internet website and at its office, 500 E. San Antonio, Suite 301, El Paso, TX 79901.
10. Amendment of Program. Commissioners Court may amend any aspect of the program by resolution. However, another public hearing is required before El Paso County PACE program may be amended to provide El Paso County PACE financing of qualified improvements through assessments.

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

ATTACHMENT:

REPORT REQUIRED BY PACE ACT,  
TEXAS LOCAL GOV'T CODE SECTION 399.009,  
FOR EL PASO COUNTY PACE PROGRAM