

**HIDALGO COUNTY COMMISSIONERS COURT
RESOLUTION ESTABLISHING THE HIDALGO COUNTY PACE PROGRAM**

**STATE OF TEXAS §
 §
COUNTY OF HIDALGO §**

WHEREAS, the 83RD Regular Session of the Texas Legislature enacted the Property Assessed Clean Energy Act, Texas Local Government Code Chapter 399 (the PACE Act), which 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 energy or water 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 the County of Hidalgo, Texas (County) will further the goals of energy and water conservation without cost to the public;

WHEREAS, the Hidalgo County Commissioners Court (Commissioners Court) finds that third-party financing of energy and water conserving projects through contractual assessments maintained by the 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, the Commissioners Court adopted a Resolution of Intent to establish a PACE program for the County on July 19, 2016, including a reference to the report on the proposed program prepared as required by Section 399.009 of the PACE Act and made the report available to the public on the County website and for inspection in the County Judge's office;

WHEREAS, the public hearing required by Section 399.008(a)(2) at which the public could comment on the proposed program, including the report available for public inspection as mentioned above occurred August 16, 2016 at 9:30 a.m. in the County Commissioners Courtroom, Hidalgo County Courthouse Annex III, 100 E. Cano St., First Floor, Edinburg, Texas 78539;

WHEREAS, the Commissioners Court finds that administration of the program by the Lower Rio Grande Development Council (the Council), which will be compensated by application and administration fees paid by the 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 the County; and

WHEREAS, the PACE program will be administered by the Lower Rio Grande Development Council (Council) as authorized under section 399.008 (d)(2) of the Texas Local Government Code, on behalf of the County of Hidalgo, to enable citizens of the County access PACE using the same processes and documents under one administrator and benefit from simplicity and uniformity throughout the County;

NOW THEREFORE, be it resolved by the Commissioners Court that:

1. Recitals. The recitals to this Resolution are true and correct and are incorporated into this Order for all purposes.
2. Establishment of Program. The County hereby adopts this Resolution Establishing the Hidalgo PACE Program 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 the County and its citizens. The program will be called the Hidalgo Property Assessed Clean Energy (Hidalgo PACE) and is herein called “the Program.”
3. Contractual Assessments. The County will, at the property owner’s request, impose contractual assessments on the property to repay PACE financing for qualified energy and 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 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’s 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 Hidalgo County’s jurisdiction are included in the boundaries of the region where PACE financing and assessments can occur.

6. Third- Party Financing. Financing for qualified projects under the Program will be provided by qualified third-party lenders chosen by the owners. Such lenders will execute written contracts with the Council 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 are 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. The County will maintain and continue the assessments for the benefit of such lenders and will enforce the assessment lien for the benefit of a lender in the event of a default by an owner. The County will not, at this time, provide financing of any sort for the program.
7. Authorized Representative. The Council is designated as the Authorized Representative with authority to enter into written contracts with the record owners of real property in Hidalgo County to impose assessments pursuant to the PACE Act to repay the financing of qualified projects on the owners' property and enter into written contracts with the parties that provide third-party financing for such projects to service the debts through assessments. The County Judge or his designee will be the liaison with the Council in its role as authorized representative.
8. Enforcement. The County will enforce the collection of past due assessments and may contract with a qualified law firm to assist in collection efforts.
9. Report. The final report on the program, prepared in accordance with Section 399 of the Texas Local Government Code is attached and incorporated into this resolution. The County Administrator will post the report on the County website.
10. Amendment of Program. The Commissioners Court may amend the Program by resolution. However, another public hearing is required before the Program may be amended to provide for County financing of qualified improvements through assessments.

Adopted this _____ day of _____, 2016.

Ramon Garcia, Hidalgo County Judge

A.C. Cuellar, Jr.
Commissioner, Precinct One

Eduardo "Eddie" Cantu
Commissioner, Precinct Two

Joe M. Flores
Commissioner, Precinct Three

Joseph Palacios
Commissioner, Precinct Four

Attest:

Arturo Guajardo, Jr.
Hidalgo County Clerk

[INSERT REPORT]