

RESOLUTION NO. 2020-R16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS OF INTENT TO ESTABLISH A CITY PACE PROGRAM

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 City, to designate an area of the territory of the local government as a region within which an authorized representative of a local government 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; and; and

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

WHEREAS, the City Council 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, the City Council 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's jurisdiction as a region within which a designated City authorized representative and the record owners of qualified real property may enter into PACE financing arrangements:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:

1. The Recitals to this Resolution are true and correct and are incorporated into this Order for all purposes.

2. The City 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. The City intends to make contractual assessments to repay PACE financing for qualified energy or water conserving projects available to owners of commercial, industrial, and large multifamily residential real property. The program is to be called The City Property Assessed Clean Energy Program ("Boerne PACE").

4. 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 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. The boundaries of the entire geographic area within the City's jurisdiction are the boundaries of the region where PACE financing and assessments can occur. [A City PACE program may include its ETJ].

6. 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 the City's authorized 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 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 the City 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. The City will not, at this time, provide financing of any sort for the PACE program.

7. The City intends to enter into an interlocal agreement with the Alamo Area Regional Council of Government, which will serve as the independent third-party Authorized Representative.

8. The City will consult with the County Tax Assessor/Collector for Kendall County.

9. The report on the proposed PACE program prepared as provided by Tex. Local Gov't Code Sec. 399.009, is available for public inspection on the City's Internet website and in the office of the City Manager at 447 N Main, Boerne, TX, 78006 and is incorporated in this resolution and made a part hereof for all purposes.

The City Council will hold a public hearing on the proposed PACE program and report on March 24, 2020 at 6:00 p.m. in the City Council Chambers, 447 N Main, Boerne, TX, 78006.

PASSED and APPROVED on this the ____ day of March, 2020.

APPROVED:

Mayor

ATTEST:

City Secretary