NORTH CAROLINA
C-PACE PROGRAM GUIDELINES AND TOOLKIT

Administered by:

The Economic Development Partnership of North Carolina (EDPNC)

Sponsored and Approved by:

The North Carolina Department of Commerce

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I. Introduction to C-PACE

In 2024, the North Carolina State legislature passed SB 802, with the following purpose:

> "The use of a C-PACE Program creates an additional financing mechanism for property owners to use private funds to finance improvements to their eligible property, thereby driving economic development by creating a diversity of jobs in the resilience and clean energy sectors of the economy. The assessment requires minimal upfront costs and provides a more accessible financial mechanism to fund improvements that will increase the tax value of the affected properties at minimal administrative cost to local governments. C-PACE improvements allow property owners to save on their utility bills because the improvements lead to energy or utility savings and will result in improved indoor air quality or increased resilience, which will increase the ability of communities and local governments to respond to natural disasters and improve public health."

Under North Carolina General Statutes §160A-239.11 et seq. (the "C-PACE Act"), The Economic Development Partnership of North Carolina (EDPNC) is designated to administer a Commercial Property Assessed Capital Expenditure (C-PACE) Program. This Program allows owners of qualifying commercial property to obtain long-term financing from private capital providers for certain qualifying improvements up to 35% of the value of the property. Qualifying Improvements include energy efficiency, renewable energy, resiliency, and water conservation as well as improvements made to address safe drinking water. Similar C-PACE programs are active in over 36 states and have attracted more than $7 billion in private investment for thousands of properties.

Counties and cities in North Carolina may participate in the statewide C-PACE Program to support commercial, industrial, agricultural, and multifamily property owners with access to financing for efficient and resilient building improvements (N.C.G.S. §160A-239.15). Joining the statewide program does not expose a local government to any financial or legal liability (N.C.G.S. §160A-239.16 (a)). Private capital providers and the statewide administrator, EDPNC, will assist interested commercial property owners to apply for C-PACE financing. Local governments that join the C-PACE Program will be reimbursed for actual and reasonable costs associated with executing documents related to C-PACE assessments (N.C.G.S. §160A-239.15a(5)). To cover these costs, EDPNC will collect a $500 administration fee for approved C-PACE projects at time of closing. Except for executing documents necessary for a C-PACE financing, there is no other administrative involvement by the local government. Joining the C-PACE Program is a voluntary 3-step process, with support of EDPNC:

1) Adopt a Resolution of Intent
2) Hold a public hearing
3) Adopt a final Resolution to join the C-PACE Program

A C-PACE assessment is secured by a voluntary senior lien on the property imposed by the local government at the property owner's request and is paid back over time. The security of the C-PACE lien enables capital providers to offer C-PACE financing which spreads the cost of qualifying improvements over the useful life of the measures, a term generally lasting between 20-30 years.

C-PACE liens are junior in priority to all taxes and other governmental liens. Like other assessments, C-PACE financing is non-accelerating, which means only current or past due payments can be collected. In the event of default, only the payments in arrears are due. If the property is sold, the C-PACE repayment obligation transfers automatically to the next owner unless it is fully repaid. No change in the Program or in North Carolina's C-PACE legislation will affect a property owner's eligibility or obligation to pay C-PACE assessments incurred. Local governments are not responsible for collection; duties for billing and collection will be delegated to and handled privately by the capital provider for the project financed (§160A-239.16 (b)).

II. Benefits of C-PACE

For Local Governments: C-PACE is an economic development tool. By making it more affordable for building owners to make major improvements to their buildings, local building stock is enhanced, which drives job creation. Energy and resiliency upgrades retain and attract new businesses by lowering utility costs, and in turn these upgrades generate higher property tax payments for local governments. C-PACE can also support local governments in their efforts to achieve energy and emissions reduction goals. The C-PACE program is structured to be cost-neutral for local governments and requires little-to-no administrative resources.

For Property Owners and Developers: One of the biggest barriers to converting potential projects to completed projects for efficiency and resiliency upgrades are the up-front costs. C-PACE financing typically requires little up-front investment, and qualifying improvements have a direct impact on property value. Energy and water efficiency measures also lower operating costs. C-PACE financing has the following additional benefits:

- Up to 100%, long-term financing. Many owners lack the capital to complete efficiency and resiliency improvements. All direct and indirect hard and soft costs incidental to the qualifying improvements can be included in C-PACE financing applications and are described on p.8.
- Transferrable upon sale. Some owners may need to sell their property before the C-PACE financing is fully repaid. The C-PACE lien and assessment are attached to the property and transfers to the new owner unless the prior owner pays off the assessment.
- Increased cash flow. C-PACE financing may be repaid over the useful life of the improvements, generally between 20-30 years. This is longer than other traditional commercial loans and therefore reduces the installment payments, having a positive effect on cash flow.

For Existing Mortgage Holders: C-PACE improvements can enhance property value and typically improve a building's longevity, thereby reducing the risk of property value decline over time. In addition, by reducing utility expenses, C-PACE financing increases property owners' net operating income, improving the stability of their business. C-PACE assessments are non-accelerating, meaning only current or past due annual payments can be collected each year while future payments stay with the property. As such, existing lienholders see their collateral improved without substantial increase in credit risk and with minimal impact on lien priority. C-PACE financing is not permitted without the consent of all existing mortgage holders and, under certain circumstances, the holders of certain other obligations encumbering commercial property.

For Energy Auditors, Architects, Building Engineers, and Contractors: When property owners can access financing for longer terms than are typically available, substantial efficiency and resiliency improvements become more affordable. Energy auditors, architects, engineers, and contractors can suggest C-PACE financing as a way for their clients to implement needed energy or resiliency upgrades that might otherwise be unaffordable. Since the demand for building efficiency and resiliency improvements will increase in a C-PACE-enabled jurisdiction, C-PACE is a powerful business growth catalyst for building professionals like energy auditors and contractors.

III. C-PACE Program Guidelines

These Program Guidelines are established as part of the C-PACE Toolkit, which includes information of the C-PACE Program, approval criteria, and forms necessary for property owners to obtain C-PACE financing.

1. Program Participation

Counties and cities may join the voluntary, statewide C-PACE Program by taking the following actions (N.C.G.S. §160A-239.15). Forms of Resolution of Intent Template *(Exhibit A)* and form of Resolution to Participate in the North Carolina C-PACE Program Template *(Exhibit B)* are provided by EDPNC.

☐ **Adopt a Resolution of Intent** that includes:

(1) Authorization for the C-PACE Program to operate within its jurisdictional boundaries and for EDPNC to provide administrative services

(2) A statement that the local government intends to:

(I) authorize C-PACE financing

(ii) authorize the imposition of C-PACE assessments on qualifying commercial properties benefitting from qualifying improvements to secure repayment of C-PACE financing

(iii) assign the C-PACE lien to the capital provider providing C-PACE financing

(iv) delegate billing, collection, and enforcement duties for the C-PACE assessment and C-PACE lien to capital providers

(3) A statement that the amount of a C-PACE financing and related assessment repayment terms shall be pursuant to the related financing agreement

(4) A statement identifying the local government department or employee that shall, upon receipt of an approved project application for C-PACE financing within its jurisdictional boundaries from the statewide administrator, execute documents related to the C-PACE assessment on behalf of the local government

(5) A statement that the local government shall be reimbursed by the statewide administrator for the actual and reasonable costs associated with the performance of the duties described in (4)

(6) A statement of the time and place for a public hearing on the proposed program

☐ **Conduct a public hearing** on the proposed C-PACE Program

☐ **Adopt a Resolution to join the C-PACE Program** after conducting a public hearing

- If a city wishes to participate in the C-PACE Program, the Resolution shall be effective only with the concurrence of the governing body of the respective county (Template Form provided in *Exhibit C*)

2. Program Administration

The Economic Development Partnership of North Carolina (EDPNC) is the statewide administrator of the North Carolina C-PACE Program, with support from the program sponsor, The North Carolina Department of Commerce. EDPNC will review Project Applications to confirm that they meet requirements of statute. After approving a Project Application, EDPNC will coordinate with the related participating local government for execution of the Assessment Agreement *(Exhibit G)*, Notice of C-PACE Assessment and Lien *(Exhibit H)*, and Assignment of C-PACE Lien and Assessment Agreement *(Exhibit I)*. The Assessment and Notice may be recorded by either EDPNC or the property owner and capital provider in the local government's county register of deeds. Annual reports regarding the C-PACE Program will be submitted by EDPNC to the North Carolina Department of Commerce annually.

EDPNC will:

- Accept C-PACE Project Applications from property owners and capital providers, with application fee
- Review Project Applications to determine compliance with the C-PACE Act
- Communicate to applicants the approval, conditional approval, or disapproval or their Project Application
- If a Project Application is approved, submit relevant closing documents to the local government for execution
- Record the Assessment Agreement and Notice of Assignment of C-PACE Lien, or delegate recording to the property owner and their capital provider
- Collect a processing fee and administration fee at closing of the C-PACE financing
- Submit an annual report to the North Carolina Department of Commerce

3. Program Fees

To offset the actual and reasonable costs of administering the C-PACE Program, as required by the C-PACE Act, EDPNC will collect a $750 application fee with each Project Application. For each approved Project Application, EDPNC will collect at closing of the C-PACE financing:

1. A processing fee equal to 1% of the total amount financed, not to exceed $25,000 (N.C.G.S. §160A-239.14(2b)).
2. A $500 administration fee to reimburse local governments for costs associated with their duties under the C-PACE Act (N.C.G.S. §160A-239.15a(5)).

These fees will be included in the C-PACE assessment and financing, to be paid by the property owner.

4. Government Has No Liability or Financial Responsibility

Neither the State nor any participating local government, its officers, or employees shall be personally liable for any actions taken pursuant to the C-PACE Act. Per the Act, the State nor any local government may use public funds to finance or repay C-PACE assessments, and all financing is obtained by commercial property owners from private-sector capital providers, including costs for program administration. A local government shall not be financially or legally liable or responsible for any assessment and lien imposed within its jurisdiction under the program. Neither the State nor any local government shall use public funds to fund or repay any C-PACE assessment. A local government shall not pledge, offer, or encumber its full faith and credit for any lien amount through a C-PACE Program.

5. Project Eligibility

This section outlines the roles and responsibilities of a C-PACE transaction and includes descriptions of project and participant eligibility requirements:

Capital providers may be any private entity, including its designee, successor, and assigns, that makes or funds C-PACE financing, including refinancing. Capital providers may submit their information to EDPNC to be listed as a prospective lender for C-PACE projects on the program website.

Property owner means the holder of title in fee simple to qualifying commercial property. The title to the qualifying commercial property may not be in dispute. The property owner must be current on all mortgage and property tax payments and cannot be insolvent or in bankruptcy proceedings. These requirements will be verified using the Checklist and Property Owner Certification *(Exhibit E)*

Property owners may receive funding for their qualifying improvements only from capital providers pursuant to a Financing Agreement negotiated between the property owner and capital provider. Neither the statewide administrator, the local government, nor program sponsor are party to this agreement. In the Financing Agreement, the property owner agrees to repay a capital provider for the C-PACE financing provided, including, but not limited to, any finance charges, fees, debt servicing, accrual of interest and penalties, and any terms relating to the treatment of prepayment and partial payment, and the billing, collection, and enforcement of the C-PACE financing. The financing agreement between the capital provider and the property owner shall be negotiated by the parties, including all terms and conditions of repayment, including interest, penalties, and prepayment.

Property owners are authorized to obtain C-PACE financing to:

(1) Directly purchase the related equipment and materials for the installation or modification of a qualifying improvement.
(2) Contract directly, including through lease, power purchase agreement, or other service contract, for the related equipment and materials used in the installation or modification of a qualifying improvement.

Qualifying commercial property means any privately-owned commercial, industrial, agricultural, or multi-family real property with five (5) or more dwelling units. This includes properties owned by nonprofit, charitable, or religious organizations. C-PACE financing may be provided to qualifying commercial properties for:

- The acquisition, construction (including new construction), adaptive reuse, lease, installation, or modification of qualifying improvements
- The refinancing of existing properties or new construction that have had qualifying improvements installed for no more than three (3) years prior to the date of Project Application. Exceptions will be approved by EDPNC on a case-by-case basis.

Qualifying improvements mean permanently affixed improvements on qualifying commercial property as part of construction or renovation, including one or more of the following:

- Energy efficiency measure - equipment, component, or program change that reduces energy use and that meets or exceeds then-existing State and Federal building codes and efficiency standards or conservation codes. This includes, but is not limited to, energy produced from a combined heat and power system that uses nonrenewable energy resources. Examples of eligible measures may also include, but are not limited to: air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; building modification to increase the use of daylight; window replacement; windows; energy controls or energy recovery systems; installation of electric vehicle charging equipment; installation of efficient lighting equipment; installations necessary for electrical connectivity; construction materials that use less carbon or have fewer emissions than comparable materials designed to serve the same purpose; or any other improvements necessary to achieve a sustainable building rating or compliance with a national model green building code.

- Resiliency measure - equipment, component, or program change including, but not limited to, storm retrofits, flood mitigation, stormwater management (including but not limited to green and gray infrastructure), wind resistance, indoor air quality improvement, electric vehicle charging station, backup energy generators enrolled in an electric public utility

demand response program, energy storage, and microgrids and other resilience projects as approved by the program administrator or sponsor. Examples of eligible measures may also include, but are not limited to: repairing, replacing, improving, or constructing a roof, including improvements that strengthen the roof deck attachment; creating a secondary water barrier to prevent water intrusion; installing wind-resistant shingles or gable-end bracing; and reinforcing roof-to-wall connections.

- Renewable energy measure - equipment, component, or program change that utilizes a renewable energy resource. Applicable renewable resources include: solar electric, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy; biomass including agricultural waste, animal waste, wood waste, spent pulping liquors, combustible residues, combustible liquids, combustible gases, energy crops, or landfill methane; waste heat derived from a renewable energy resource and used to produce electricity or useful, measurable thermal energy at a retail electric customer's facility; or hydrogen derived from a renewable energy resource. Renewable energy resources do not include peat, a fossil fuel, or nuclear energy resource.

- Water conservation measure - equipment, component, or program change to decrease water consumption or demand, either indoor or outdoor. This also includes measures to address safe drinking water.

On the Certificate of Qualifying Improvements, a licensed engineer or authorized representative of a licensed engineering firm will certify that qualifying improvements meet the following requirements on the form of Certificate of Qualifying Improvements *(Exhibit D).*

- All Buildings: Certification that all available electric public utility energy efficiency and demand response programs available to property owners, and any of their tenants, have been evaluated.

- Improvements to Existing Buildings:
    1. For renewable energy, energy efficiency, or water conservation measures, an energy analysis stating that the proposed qualifying improvements will result in:
        a. more efficient use or conservation of energy that meets or exceeds then-existing State and federal building codes and efficiency standards or conservation codes
        b. more efficient use or conservation of water
        c. the reduction of greenhouse gas emissions
        d. the addition of renewable sources of energy or water

    2. For resilience measures, certification that the qualifying improvements will result in improved resilience.

- New Construction: certification that the proposed qualifying improvements will allow the project to exceed the energy or water efficiency requirements of the current State building code (or an equivalent standard), or in the case of a resiliency measure, achieve compliance with a national model resiliency standard (or equivalent standard).
    - At time of publication of these guidelines, national standards for resiliency are led by the U.S. Green Building Council. EDPNC will consider improvements that could apply for least 1 point on the LEED Climate Resilience Screening Tool as eligible. Certification by LEED for Cities, SITES, and PEER will also qualify

related measures. More information can be found here: https://www.usgbc.org/about/priorities/resilience.
    - EDPNC or Department of Commerce will review measures that qualify under other national models for resiliency standards on a case-by-case basis.

Financing for C-PACE assessments may include, but are not limited to:

- *Hard costs:* all costs related to direct installation and construction contracts, including materials, labor, and overhead associated with the qualifying improvements. Costs ancillary to the direct installation and construction contracts for improvements, such as changes to interior walls or ceilings to accommodate new piping or ducting, remediation of asbestos or mold, or other related costs, are also included.
- *Soft costs:* indirect costs that are not considered direct construction costs but are necessary to complete the qualifying improvements. Examples include but are not limited to:
    - Project management
    - Application and closing fees (e.g., program administrator fees)
    - Title reports and credit checks
    - Financial services (e.g., capital provider fee, project developer fee)
    - Legal services (e.g., property owner legal, capital provider legal)
    - Recording taxes and fees, and escrow disbursement fees
    - Architectural and engineering costs related to the qualifying improvements
    - Consulting reports (e.g., technical review, energy audit, commissioning reports, measurement and verification, feasibility studies, financial projections, surveys)
    - Due diligence reports (e.g., appraisal, environmental, physical condition assessments)
    - Inspection fees
    - Energy savings performance guaranty or insurance
    - Building accreditation(s)
    - Permitting fees
    - Interest reserves
    - Capitalized interest, in an amount determined by the owner of the commercial property and the capital provider
- Any other fees or costs incurred by the property owner incident to the installation, modification, or improvement on a specific or pro rata basis, as determined by the program administrator

The term of C-PACE financing, excluding any capitalized interest or interest only periods, may not exceed the weighted average useful life of qualifying improvements and begins from first repayment. Installments for repayment of the assessment do not need to be equal. The total C-PACE financing amount shall not exceed 35% of the property's expected stabilized value with the proposed qualifying improvements installed (N.C.G.S. §160A-239.18(c)).

6. Application and Closing Process

The Program has adopted the following documents as part of the Project Application:

- Certificate of Qualifying Improvements *(Exhibit D)*
- Checklist and Property Owner Certification *(Exhibit E)*
- Form of Lienholder Consent *(Exhibit F)*
    - If not available at time of application, Lienholder Consent may be delivered at close and EDPNC will issue conditional approval if all other requirements are met.

The Program has adopted the following form documents which shall be part of the closing of any C-PACE transaction. A property owner and capital provider may adapt the forms to the needs of their particular transaction but must not modify or omit any material substantive terms contained in the forms, unless as otherwise approved by EDPNC.

- Assessment Agreement *(Exhibit G)*
- Notice of C-PACE Assessment and Lien *(Exhibit H)*
- Assignment of C-PACE Lien and Assessment Agreement *(Exhibit I)*

After a local government has joined the North Carolina C-PACE Program, a property owner begins the process of obtaining financing by connecting with a capital provider. The capital provider will work with the property owner to collect several diligence items. Once all the items have been received, reviewed, and approved by the capital provider, the parties will settle on the assessment terms and begin the application and closing process. This process will generally take the following steps:

(1) The capital provider works with the property owner to prepare the Project Application documents including the Checklist and Property Owner Certification, Certificate of Qualifying Improvements, and Lienholder Consent. Applicants should review the Checklist and Property Owner Certification to ensure the types of information that the administrator will rely upon to verify compliance with the C-PACE Act are present in the completed Project Application.

(2) EDPNC will have 15 (fifteen) business days to review and approve the Project Application.
   - If the Project Application is approved, the approval will be communicated in writing to the applicant, capital provider, and local government. The Project Application may be conditionally approved if Lienholder Consent is not yet available, but all other requirements have been satisfied. Conditional approval will be treated the same as an approval, with exceptions noted below. EDPNC's application review process is confined to confirming that the Project Application conforms to these guidelines. Approval does not constitute endorsement of any representations that may be made with regard to the operation and any savings associated with the Qualifying Improvements.
   - Incomplete Project Applications will be returned to the applicant with notice about which items were not provided or are insufficient or inaccurate on their face.

(3) Upon receipt of approval, the capital provider will finalize drafts of the closing documents, including the Assessment Agreement, Notice of C-PACE Assessment, and Assignment of C-PACE Lien. At or before closing, the applicant's designated and authorized official may execute closing documents. If the Project Application received conditional approval, the closing documents executed by EDPNC and the local government may not be released from escrow unless and until all lender consents have been received and executed in accordance with the C-PACE Act.

(4) At closing and upon execution by the local government, EDPNC or the capital provider will record the Assessment Agreement, Notice of C-PACE Assessment, and the Assignment of C-PACE Lien in the office of the register of deeds in the county in which the property is located. Upon confirmation of recordation, the capital provider will disburse funds in accordance with the Financing Agreement.

(5) Per the Assessment Agreement and in accordance with the Financing Agreement, the property owner makes payments over the assessment term.

7. Billing, Collection, and Enforcement

Billing, collection and enforcement of C-PACE assessments and C-PACE liens will be the sole responsibility of capital providers. Delinquent assessment payments shall incur interest and penalties as specified in the Financing Agreement and shall be paid in accordance with the amortization schedule. Capital providers will enforce delinquent assessment payments in the same manner as foreclosure of a deed of trust. C-PACE assessment payments not yet billed or due may not be accelerated or extinguished by foreclosure of the delinquent assessment payment or payments.

Outstanding or delinquent State, local, or federal taxes or liens at the time of the foreclosure proceeding will be satisfied first, but the C-PACE lien shall be superior to all other liens on the property from the date on which the Notice of the C-PACE Assessment was recorded and until the assessment, interest, penalties, and charges accrued or accruing are paid.

8. Consent from Mortgage and Lien Holder(s) Required

Before entering into an Assessment Agreement, the property owner must submit to the statewide administrator, EDPNC, a written statement by each holder of a mortgage, deed of trust, or other lien securing indebtedness on the property regarding their consent to placement of the C-PACE Assessment. Each consenter must also attest that placement of the assessment does not constitute an event of default under the terms of the mortgage, deed of trust, or other indebtedness secured by the lien.

If lienholder consent is not available at time of Project Application, EDPNC may issue conditional approval if all other requirements are met. In this case, lienholder consents are executed at closing, the signatures of the local government will be held in escrow and will not be released until the consents are obtained. Capital Providers may provide their own form of consent that conforms to the C-PACE Act.

Exhibits Attached

A. Resolution of Intent Template
B. Resolution to Join C-PACE Program Template
C. Resolution Concurring in Municipality Joining C-PACE Program Template
D. Certificate of Qualifying Improvements
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