

Midway City Council  
16 January 2024  
Regular Meeting

Ordinance 2024-01 /  
C-PACE Energy Assessment

## WRITTEN AGREEMENT

This WRITTEN AGREEMENT (this “Agreement”) is entered into this December \_\_\_\_, 2023 (the “Effective Date”), between MIDWAY CITY, UTAH, a political subdivision and body politic duly organized and existing under the Constitution and laws of the State of Utah (the “Local Entity”) and PETROS PACE FINANCE TITLING TRUST, a Delaware statutory trust (including its designee, successors and assigns, the “Lender”).

### R E C I T A L S:

1. Pursuant to the Commercial Property Assessed Clean Energy Act, Title 11 Chapter 42a, Utah Code Annotated 1953, as amended (the “Act”), the Local Entity’s executive or administrator may authorize the designation of an energy assessment area and the levying of an assessment within such energy assessment area to facilitate the financing of the costs of acquiring, constructing and installing certain energy efficiency upgrades and/or renewable energy systems and related improvements to be owned by one or more property owners and assign to a third-party lender the Local Entity’s rights in its energy assessment lien.

2. The Homestead Group, LLC, a Utah limited liability company (the “Borrower”), as the owner of the real property identified in Exhibit A attached hereto (the “Property”), has requested that the Local Entity designate an energy assessment area, the boundaries of which will be coterminous with the boundaries of the Property, and levy an assessment against the Property to facilitate the financing of the costs of acquiring, constructing and installing certain energy efficiency upgrades and/or renewable energy systems and related improvements (collectively, the “Improvements”) to the Property as authorized under the Act.

3. The undersigned executive or administrator of the Local Entity hereby determines that it is in the best interest of the Local Entity to (a) designate an energy assessment area encompassing the Property and (b) to levy an assessment against the Property benefited by Improvements to the Property to finance the costs of said Improvements.

4. The Borrower has provided the Local Entity an executed Consent of Lienholder to Assessment (the “Waiver and Consent”), a copy of which is attached hereto as Exhibit B from each person or institution holding a lien on the Property.

5. The undersigned executive or administrator of the Local Entity now desires to designate the energy assessment area, to levy said assessments and, pursuant to Section 11-42a-302 of the Act, to assign to the Lender the Local Entity’s rights in the energy assessment lien all in accordance with this Agreement.

NOW, THEREFORE, in consideration of the premises stated herein, the designation of the Energy Assessment Area (as defined below), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree as follows:

Section 1. Requirements for Designation of Energy Assessment Area. Pursuant to Section 11-42a-202 of the Act, the Borrower has provided to the Local Entity:

(a) the written consent from each person or institution holding a lien on the Property (the “Loan”);

(b) evidence that there are no delinquent taxes, special assessments, or water or sewer charges on the Property;

(c) evidence that the Property is not subject to a trust deed or other lien on which there is a recorded notice of default, foreclosure, or delinquency, that has not been cured;

(d) evidence that there are no involuntary liens, including a lien on the Property, or on the proceeds of a contract relating to the Property, for services, labor, or materials furnished in connection with the construction or improvement of the Property; and

(e) the written consent of the Borrower to the Local Entity’s designation of the Energy Assessment Area, levying of the assessment, and creation of the Assessment Lien (as defined below) on the Borrower’s property.

Section 2. Designation of Energy Assessment Area. Pursuant to Section 11-42a-201 of the Act, the Local Entity hereby designates a voluntary energy assessment area that shall be known as the “Marriott Autograph Hotel C-PACE Assessment Area” (the “Energy Assessment Area”). The legal description and tax identification number of the Energy Assessment Area are set forth in Exhibit A attached hereto.

Section 3. Levy of Assessment. Pursuant to Section 11-42a-201 of the Act, the Local Entity hereby authorizes the levy of an assessment against the Property in an aggregate principal amount not to exceed \$45,000,000 (the “Assessment Lien”) which shall bear interest at an interest rate not exceeding 12% per annum and shall mature on or prior to thirty (30) years following the Effective Date hereof. The final terms of the Assessment Lien shall be as set forth in a financing agreement between the Lender and the Borrower (the “Financing Agreement”) and shall be deemed approved by the Local Entity provided that the final aggregate principal amount, the final interest rate and the maturity date of the assessment levied do not exceed the parameters set forth in this Section 3. Per Section 11-42a-204 of the Act, the assessments will not exceed in the aggregate the sum of: (a) the contract price or estimated contract price of the Improvements; (b) overhead costs not to exceed fifteen percent (15%) of the sum of the contract price or estimated contract price; (c) an amount for contingencies of not more than ten percent (10%) of the sum of the contract price or estimated contract price; (d) capitalized interest; and (e) an amount sufficient to fund a reserve fund. If Lender and the Borrower fail to agree to the terms set forth in the Financing Agreement, or do not close the Loan for any other reason, then the Lender’s sole obligation hereunder shall be the release of the Assessment Lien by filing a termination of the Notice of Assessment Interest (as defined below).

Pursuant to Section 11-42a-201(2) of the Act, the Local Entity will, as soon as practicable following the Effective Date hereof, give notice of the execution of this Agreement by posting a copy of this Agreement (i) on the Utah Public Notice website, (ii) on the Local Entity's official website, and (iii) in a public location within the jurisdictional boundaries of the Local Entity for a period of at least twenty-one (21) days.

In addition, pursuant to Section 11-42a-201(4) of the Act, the Lender will cause to be filed with the Wasatch County Recorder a notice of assessment interest (the "Notice of Assessment Interest") with respect to this Agreement, stating that the Local Entity has an assessment interest in the Energy Assessment Area describing the Energy Assessment Area by legal description and tax identification number, and containing any other information required by Section 11-42a-201 of the Act. The Lender shall file the Notice of Assessment Interest within five (5) days after the Effective Date of this Agreement.

Section 4. Assignment of Assessment Lien. Pursuant to Section 11-42a-302 of the Act, the Local Entity hereby assigns to the Lender all its rights and interests in the Assessment Lien, including but not limited to the rights and powers of the Local Entity at law or in equity to enforce the Assessment Lien, including those set forth in Sections 11-42a-303 (other than those set forth in Section 11-42a-303(2) of the Act) and 11-42a-304 of the Act.

Section 5. Requirements for Written Agreement. In connection with the assignment of the Assessment Lien to the Lender as set forth herein and pursuant to Section 11-42a-302(2)(b), the Lender agrees that:

(a) It shall be subject to an audit by the auditor of the State of Utah (the "State") regarding the Assessment Lien;

(b) It shall submit to the Local Entity monthly reports, including information regarding payments received by the Lender in connection with the Assessment Lien;

(c) The Local Entity shall in no event be liable for any actions taken by the Lender in connection with Assessment Lien; and

(d) The Local Entity is not liable to repay the Loan or any other costs in connection with the Assessment Lien, and the repayment of the Loan is not an obligation of the Local Entity or a charge against the Local Entity's general credit or taxing power.

Section 6. Local Entity Approval of Improvements. The Local Entity hereby authorizes and approves the Improvements listed on Exhibit C attached hereto as improvements which may be financed under the Act.

Section 7. Written Agreement. This Agreement shall constitute the written agreement pursuant to Section 11-42a-104 and Section 11-42a-302(1)(b) of the Act.

Section 8. Representations and Warranties of the City. The Local Entity represents and warrants that:

(a) It is a political subdivision and body politic duly organized and validly existing under the Constitution and laws of the State of Utah;

(b) the execution and delivery of this Agreement by the Local Entity does not materially conflict with, violate, or constitute on the part of the Local Entity a material breach or violation of any of the terms and provisions of, or constitute a material default under (i) any existing constitution, law, or administrative rule or regulation, decree, order, or judgment; (ii) any corporate restriction or any bond, debenture, note, mortgage, indenture, agreement, or other instrument to which the Local Entity is party or by which the Local Entity is or may be bound or to which any of the Local Entity's property or assets is or may be subject; or (iii) the creation and governing instruments of the Local Entity;

(c) there is no action, suit, proceeding, inquiry, or investigation at law or in equity, with merit, by or before any court or public board or body to which the Local Entity is a party, or threatened against the Local Entity wherein an unfavorable decision, ruling, or finding would adversely affect the validity or enforceability or the execution and delivery by the Local Entity of this Agreement; and

(d) this Agreement (i) does not conflict with or create a material breach or default under any existing law, regulation, order, or agreement to which the Local Entity is subject, and (ii) after expiration of the 30-day statute of repose (or challenge period) under Section 11-42a-104 of the Act, will be a legal, valid, and binding obligation of the Local Entity enforceable in accordance with its terms, subject only to applicable bankruptcy, insolvency, or other similar laws generally affecting creditors' rights and by the application of equitable principles and by the exercise of judicial discretion in appropriate cases.

Section 9. Representations and Warranties of Lender; Release and Indemnification.

(a) The Lender represents and warrants that:

(i) The Lender is validly organized and existing under the laws of the United States of America;

(ii) Assuming the due authorization, execution and delivery by the Local Entity, this Agreement constitutes a valid and binding obligation of the Lender, enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights and by the application of equitable principles and by the exercise of judicial discretion in appropriate cases;

(iii) The execution and delivery of this Agreement by the Lender does not materially conflict with, violate, or constitute on the part of the Lender a material breach or violation of any of the terms and provisions of, or constitute a material default under (A) any existing constitution, law, or administrative rule or regulation, decree, order, or judgment; (B) any corporate restriction or any bond, debenture, note, mortgage, indenture, agreement, or other instrument to which the Lender is a party or by which the Lender is or may be bound or to which any of the Lender's property or assets is or may be subject; or (C) the creation and governing instruments of the Lender; and

(iv) There is no action, suit, proceeding, inquiry, or investigation at law or in equity, with merit, by or before any court or public board or body to which the Lender is a party, or threatened against the Lender wherein an unfavorable decision, ruling, or finding would adversely affect the validity or enforceability or the execution and delivery by the Lender of this Agreement.

(b) The Lender hereby releases the Local Entity from any possible claim it may have that results from any act or omission of the Local Entity with respect to this Agreement, the financing to which it relates, or the designation of the Energy Assessment Area, the levying of the assessment, or the creation of the Assessment Lien.

(c) The Lender shall indemnify and hold harmless the Local Entity from and against any and all losses, liabilities, penalties, fines, damages, and claims, and all related costs and expenses (including attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties) arising from or in connection with any dispute, claim, demand, action, citation, or legal proceeding (i) arising out of or related to the financing of the Improvements, (b) arising out of or related to the enforcement of the assessment and the Assessment Lien, or (c) resulting from any act or omission of the Lender or any act or omission of the Local Entity related to the foregoing, except to the extent arising out of the Local Entity's gross negligence or willful misconduct.

Section 10. Effective Date. Pursuant to Section 11-42a-201(3)(a) of the Act, this Agreement shall take effect as of the Effective Date.

Section 11. Severability. The invalidity or un-enforceability in particular circumstances of any provision of this Agreement will not extend beyond such provision or circumstances and no other provision hereof will be affected by such invalidity or un-enforceability.

Section 12. Headings. The headings of the sections of this Agreement are inserted for convenience only and will not affect the meaning or interpretation hereof.

Section 13. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their successors and assigns. Lender may assign its rights and

obligations under this Agreement to any person, firm, corporation, partnership (limited or general) or other entity without the prior written consent of the Local Entity.

Section 14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

Section 15. Counterparts. This Agreement may be executed in several counterparts, all or any of which may be treated for all purposes as an original and shall constitute and be one and the same instrument.

[Remainder of Page Intentionally Left Blank; Signature Pages Follow]

IN WITNESS WHEREOF, the Local Entity, by the undersigned, and the Lender have executed this Agreement all as on the date first set forth above.

DATED this December \_\_, 2023.

MIDWAY CITY, UTAH

By: \_\_\_\_\_

Name: Celeste Johnson

Title: Mayor

PETROS PACE FINANCE TITLING  
TRUST, a Delaware statutory trust

By: Petros PACE Finance, LLC,  
a Texas limited liability company,  
it's Attorney-in-Fact

By: \_\_\_\_\_  
Mansoor Ghori, Manager

(Signature Page to Written Agreement – Marriott Autograph Hotel C-PACE)

S-1

EXHIBIT A

Legal Description and Tax Identification Numbers

[To Come]

Tax Identification Number: 00-0006-2104

EXHIBIT B

Consent of Lienholder

EXHIBIT C

C-PACE Improvements to be Financed

[To Come]

WHEN RECORDED, RETURN TO:

Jacob B. Carlton  
Gilmore & Bell, P.C.  
15 West South Temple, Suite 1450  
Salt Lake City, UT 84101

NOTICE OF ASSESSMENT INTEREST

Notice is hereby given that Midway City, Utah, a political subdivision and body politic duly organized and validly existing under the Constitution and laws of the State of Utah (the "City") claims an interest in the properties described on Exhibit A (the "Property") arising out of the requirements of one or more energy assessment areas (the "Assessment Area") and the terms and provisions of a Written Agreement, dated as of December \_\_, 2023 (the "Written Agreement") between the City and Petros PACE Finance Titling Trust, a Delaware statutory trust and its successors and assigns, levying an assessment against certain properties in the Assessment Area.

[The remainder of this page left blank intentionally]

Dated this December \_\_\_\_, 2023.

MIDWAY CITY, UTAH

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF UTAH )

: ss.

COUNTY OF WASATCH )

On December \_\_\_\_, 2023 personally appeared before me, \_\_\_\_\_, who duly acknowledged to me that he/she executed the foregoing instrument on behalf of Midway City, Utah in his/her capacity as \_\_\_\_\_ of Midway City, Utah.

My Commission Expires:  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public  
Residing at: \_\_\_\_\_, Utah

EXHIBIT A

LEGAL DESCRIPTION AND TAX ID NUMBER OF  
PROPERTY TO BE ASSESSED

[To Come]

Tax Identification Number: 00-0006-2104

WHEN RECORDED, RETURN TO:  
Jacob Carlton, Esq.  
Gilmore & Bell, P.C.  
15 West South Temple, Suite 1450  
Salt Lake City, Utah 84101

**ASSIGNMENT OF NOTICE OF ASSESSMENT INTEREST**

This ASSIGNMENT OF NOTICE OF ASSESSMENT INTEREST (this “Assignment”) is dated as of December \_\_, 2023 by Midway City, Utah, a political subdivision and body politic duly organized and validly existing under the Constitution and laws of the State of Utah (“Assignor”) to Petros PACE Finance Titling Trust, a Delaware statutory trust (“Assignee”).

KNOW ALL MEN BY THESE PRESENTS, that for value received, Assignor hereby grants, assigns and transfers to Assignee, without recourse or warranty of any kind, express or implied, all of Assignor’s interest under that certain Notice of Assessment Interest, dated as of December \_\_, 2023, by Assignor, recorded on December \_\_, 2023 as Instrument No. \_\_\_\_\_ in the office of the records of Wasatch County, State of Utah (the “Notice of Assessment Interest”), together with the obligations secured by the Notice of Assessment Interest and all other instruments, documents and certificates executed in connection therewith.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the day and year first above written.

“ASSIGNOR”

MIDWAY CITY, UTAH

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF UTAH )

: ss.

COUNTY OF WASATCH )

On December \_\_\_\_, 2023 personally appeared before me, \_\_\_\_\_, who duly acknowledged to me that he/she executed the foregoing instrument on behalf of Midway City, Utah in his/her capacity as \_\_\_\_\_ of Midway City, Utah.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_

Notary Public

Residing at: \_\_\_\_\_, Utah

“ASSIGNEE”

PETROS PACE FINANCE TITLING TRUST, a  
Delaware statutory trust

By: Petros PACE Finance, LLC,  
a Texas limited liability company,  
its Attorney-in-Fact

By: \_\_\_\_\_  
Name: Mansoor Ghori  
Title: Manager

STATE OF \_\_\_\_\_ )  
: ss.  
COUNTY OF \_\_\_\_\_ )

On December \_\_\_, 2023 personally appeared before me, Mansoor Ghori, who duly acknowledged to me that he executed the foregoing instrument on behalf of Petros PACE Finance Titling Trust, a Delaware statutory trust, in his capacity as Manager of Petros PACE Finance, LLC, a Texas limited liability company, its Attorney-in-Fact.

My Commission Expires:  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public  
Residing at: \_\_\_\_\_

EXHIBIT A

LEGAL DESCRIPTION AND TAX ID NUMBER OF  
PROPERTY TO BE ASSESSED

[To Come]

Tax Identification Number: 00-0006-2104



# USER GUIDE

VERSION 2.2  
March 18, 2021

Administered by:

---



## TABLE OF CONTENTS

<b>OVERVIEW</b>	<b>4</b>
<b>HOW TO USE THIS GUIDE</b>	<b>4</b>
<b>PROGRAM OVERVIEW</b>	<b>4</b>
<b>PROGRAM BENEFITS</b>	<b>5</b>
<b>KEY PARTIES TO A C-PACE TRANSACTION</b>	<b>7</b>
<b>KEY STEPS TO A C-PACE TRANSACTION</b>	<b>8</b>
<b>WHO TO CONTACT</b>	<b>10</b>
<b>PROGRAM ADMINISTRATION</b>	<b>11</b>
<b>PROGRAM ADMINISTRATION</b>	<b>11</b>
<b>PROGRAM REQUIREMENTS</b>	<b>11</b>
<b>PARTICIPATION IN REBATE/INCENTIVE PROGRAMS</b>	<b>12</b>
<b>PROGRAM PARTICIPATION FEES</b>	<b>13</b>
<b>ELIGIBILITY (PROPERTY AND PROJECT)</b>	<b>14</b>
<b>ELIGIBLE PROPERTIES</b>	<b>14</b>
<b>ELIGIBLE IMPROVEMENTS</b>	<b>14</b>
<b>NEW CONSTRUCTION</b>	<b>16</b>
<b>NEW CONSTRUCTION METHODOLOGY</b>	<b>18</b>
<b>PROJECT TECHNICAL RECOMMENDATIONS</b>	<b>19</b>
<b>AUDIT RECOMMENDATIONS</b>	<b>19</b>
<b>ENERGY SAVINGS RECOMMENDATIONS</b>	<b>19</b>
<b>POST-CONSTRUCTION COMMISSIONING RECOMMENDATIONS</b>	<b>20</b>
<b>BUILDING OWNER PARTICIPATION AND PROCESS</b>	<b>21</b>
<b>BENEFITS</b>	<b>21</b>
<b>ELIGIBILITY</b>	<b>21</b>
<b>PROCESS</b>	<b>22</b>
<b>NEW CONSTRUCTION DEVELOPER PARTICIPATION AND PROCESS</b>	<b>23</b>
<b>BENEFITS</b>	<b>23</b>
<b>ELIGIBILITY</b>	<b>23</b>
<b>PROCESS</b>	<b>23</b>

<b><u>CONTRACTOR PARTICIPATION AND PROCESS</u></b>	<b>24</b>
BENEFITS	24
ELIGIBILITY	24
PROCESS	24
<b><u>CAPITAL PROVIDER PARTICIPATION AND PROCESS</u></b>	<b>25</b>
BENEFITS	25
ELIGIBILITY	25
PROCESS	25
<b><u>MORTGAGE HOLDER PARTICIPATION AND PROCESS</u></b>	<b>26</b>
BENEFITS	26
PARTICIPATION	26
PROCESS	26
<b><u>GOVERNING BODY PARTICIPATION AND PROCESS</u></b>	<b>27</b>
BENEFITS	27
PARTICIPATION	27
PROCESS	27
<b><u>GENERAL TERMS AND PROVISIONS</u></b>	<b>28</b>
TAXES	28
CHANGES IN THE PROGRAM TERMS; SEVERABILITY	28
DISCLOSURE OF PROPERTY OWNER INFORMATION	28
<b><u>APPENDIX</u></b>	<b>29</b>
KEY DEFINITIONS	29
APPLICATION FORMS	30

# OVERVIEW

## HOW TO USE THIS GUIDE

Welcome to Utah commercial property assessed clean energy (C-PACE). This guide describes how the C-PACE program works and offers recommendations for implementing C-PACE projects. The guide is intended to inform all parties participating in C-PACE—including property owners, commercial real estate developers, energy efficiency and renewable energy contractors, mortgage holders, capital providers, and communities. The first section covers the C-PACE program and operations in detail; you can also refer to the Table of Contents to find the section that is most relevant to you.

**Note that this guide applies to Utah cities and counties that have authorized a C-PACE program per Utah Code Title 11, Chapter 42a (the “C-PACE Act”) and entered a program administration agreement with Sustainable Real Estate Solutions, Inc. (SRS).**

## PROGRAM OVERVIEW

C-PACE helps property owners in Utah access private-sector financing for the installation of building improvements that can reduce energy consumption and can increase the value of their property.

More than 30 states have passed legislation enabling C-PACE, among them Utah, which first passed enabling legislation in 2013. The statute authorized local governments to offer commercial and industrial property owners a unique mechanism for financing energy efficiency, renewable energy, and water efficiency improvements to their buildings. [S.B. Bill 273](#), enacted in March 2017, amends the earlier legislation by expanding the scope of eligible projects and more clearly defining the process of developing and financing projects. The complete statute can be found at [Utah Code Ann. § 11-42a \(2017\)](#) (the “C-PACE Act”).

C-PACE financing can be provided by capital providers in an open market that provides property owners with competitive, private financing. The financing is secured through a voluntary energy assessment lien levied against the owner’s property<sup>1</sup> and repaid to the capital provider. The financing term is typically based on the useful life of the improvements and can extend up to 30 years. Because the long-term financing can cover up to 100 percent of a building’s modernization project cost and often requires no money down, C-PACE can assist property owners in making substantial upgrades to their buildings. The project’s energy savings may outweigh the C-PACE payments, which creates positive cash flow for the property owner, whose upgraded building may be more valuable after a C-PACE project.

---

<sup>1</sup> Utah Code 11-42a-301

In Utah, and many other states, C-PACE is also available to real estate developers who design and construct buildings that use equipment that is more energy efficient than what is required by building code. The financing may help developers fill gaps in their financing plan.

## PROGRAM BENEFITS

C-PACE offers multiple benefits to a broad range of stakeholders, including property owners and developers, contractors, capital providers, mortgage holders, and communities.

### Property Owners

C-PACE can help property owners reduce their operating costs, improve the value and market competitiveness of their asset, meet energy performance goals, and increase the cash flow from their building. C-PACE does this in several ways:

#### Up to 100% Financing

Many owners lack the capital they need to pay for beneficial improvements. C-PACE can solve this problem by providing up to 100 percent,<sup>2</sup> long-term (up to 30 years)<sup>3</sup> financing for eligible improvements. Actual or estimated overhead costs can be included in the financing.<sup>4</sup>

#### Long-term Financing

While commercial real estate lenders typically provide five to 10-year financing, the longer-term (up to 30 years), fully amortized nature of C-PACE financing can allow building owners to pursue more capital-intensive, comprehensive upgrades. The maximum term is typically set at the weighted average useful life of the improvements. The energy cost savings that result from the improvements may cover all or a portion of the C-PACE payments.

---

<sup>2</sup> Utah Code 11-42a-102

<sup>3</sup> Utah Code 11-42a-205

<sup>4</sup> Utah Code 11-42a-102

<b>No Personal Guarantee</b>	C-PACE is property-based financing secured by an assessment (lien) on the property. As a result, C-PACE capital providers typically do not require the property owner to provide a personal guarantee.
<b>Transfers Upon Sale</b>	Property owners who sell their property before the assessment is repaid can transfer the repayment obligation to the next owner. <sup>5</sup>
<b>Cost Recovery</b>	C-PACE can help solve the split incentive or misalignment of incentives that arise between owners and tenants. Owners may be less likely to undertake comprehensive improvements when their tenants receive the financial benefits, such as lower utility bills. Under some leases, the C-PACE structure may enable an owner to pass the benefit assessment on to the tenants, potentially solving the split incentive. Property owners are encouraged to consult with their attorney or accountant on this matter.

## Developers

Developers or owners planning new construction projects can use C-PACE financing to fill gaps in their financing plan, provided they design their building to exceed the current international energy conservation code (2018 IECC, ASHRAE 90.1-2016) by at least 5 percent. See the new construction section for further details.

## Contractors

C-PACE enables a property owner to access up to 100 percent financing<sup>6</sup> for existing buildings to cover the costs related to the financed eligible improvements. Finance terms (up to 30 years)<sup>7</sup> are typically based on the weighted average useful life of the improvements, thereby making eligible energy efficiency, water conservation, renewable energy projects and seismic upgrades affordable. This means contractors may be able to close more projects and expand their business.

## Capital Providers

C-PACE projects are secured by a benefit assessment (known as an “energy assessment lien” in Utah). Like all public benefit assessments, the energy assessment lien sits in a senior position to other encumbrances on the property, and has the same priority as, but is separate and distinct from, a lien for general property taxes.<sup>8</sup> As a result, C-PACE program participating capital providers may receive secure financing opportunities.

---

<sup>5</sup> Utah Code 11-42a-301

<sup>6</sup> Utah Code 11-42a-102

<sup>7</sup> Utah Code 11-42a-205

<sup>8</sup> Utah Code 11-42a-301

## Mortgage Holders

The C-PACE program encourages the development of projects that generate energy cost savings that exceed the repayment obligation of the project. While this is not mandatory, such projects can result in increased net operating income, increased debt coverage ratio, increased value, and a greater return on investment.

In the event of a default, the assessment does not accelerate, only the amount in arrears is due.<sup>9</sup>

In Utah, energy assessments can only be placed with the consent of the person or institution holding a lien on the property.<sup>10</sup> [View a list of financial institutions that have granted consent to C-PACE](#) projects nationwide.

## Communities

C-PACE projects can benefit cities and counties in multiple ways. Thanks to C-PACE, local governments may enjoy new investment, more job opportunities for its citizens, greater energy savings, and improved air quality—all financed with private capital, and not taxpayer dollars.

## KEY PARTIES TO A C-PACE TRANSACTION

There are multiple parties to a C-PACE transaction; each plays a distinct role in the process. They include:

<b>Property Owner</b>	The legal owner of the participating property upon which the eligible improvements will be installed.
<b>Program Administrator</b>	Sustainable Real Estate Solutions, Inc. (SRS) administers C-PACE programs for select Utah cities and counties. <sup>11</sup>
<b>Capital Provider</b>	Capital providers, i.e., third-party lenders, include trust companies, savings banks, savings and loan associations, banks, credit unions, and any other entities that provide financing to property owners for eligible improvements under C-PACE.

---

<sup>9</sup> Utah Code 11-42a-303

<sup>10</sup> Utah Code 11-42a-202

<sup>11</sup> Utah Code 11-42a-103

Capital providers are responsible for underwriting each C-PACE financing transaction to determine whether to invest in the project. If they choose to invest, the capital provider will enter into a financing agreement with the property owner. The program administrator will maintain a list of participating capital providers.

**Contractor**

The licensed contractor that performs the work required for the design and installation/construction of the eligible improvements. The program administrator maintains a list of contractors that have completed C-PACE program training.

**Mortgage Holder**

The holder of any existing mortgage on the property under consideration for C-PACE. Written consent must be obtained from each person or institution holding a lien, e.g., mortgage, on the property prior to C-PACE finance closing.<sup>12</sup>

**Governing Body**

A local entity that may authorize SRS to administer C-PACE projects in their jurisdiction.

## KEY STEPS TO A C-PACE TRANSACTION

### 1. Application/Eligibility Determination

An interested property owner or a representative of the property owner may submit an application to the program administrator. Prior to applying, the applicant should ensure that the property is located in a jurisdiction that has authorized the program.

The program administrator will review the material and determine whether the property owner and project are eligible, subject to project technical review, for C-PACE financing.

### 2. Project Scoping

It is recommended that an energy audit/renewable energy feasibility study, consistent with the best practices outlined in the Technical Standards section of this User Guide, be prepared for each project.

### 3. Mortgage Holder Consent

Written consent must be obtained from each person or institution holding a lien, e.g.,

---

<sup>12</sup> Utah Code 11-42a-202

mortgage/deed of trust, on the property. Such consent must be submitted to the program administrator to facilitate the levy of the energy assessment lien with the governing body clerk and recorder, and the assignment of such lien to the capital provider.

#### 4. Underwriting/Approval

Within the parameters of the C-PACE program guidelines, capital providers establish the financing terms and conditions, financial underwriting standards, and make their own determination about whether to invest in a specific project. Once the underwriting process is complete, the capital provider may issue a conditional approval or financing commitment letter outlining the terms of the financing, including any conditions of closing. **Note a one-time program administration fee, equal to 3 percent of the finance amount, not to exceed \$90,000 per project, is applied to each financed project. The program administrator will provide an invoice for the fee to the capital provider.**

#### 5. Closing

Once all statutory requirements have been met, the capital provider will prepare documents for closing the transaction. The property owner and the capital provider will enter into a financing agreement that contains the financing terms and conditions that will govern the transaction.

#### 6. Levying an Assessment and Assignment

Once the program administrator has received the executed documents from the capital provider and has confirmed that all closing conditions have been met, they will collaborate with the local government and the capital provider to facilitate the levying of the energy assessment in the land records of the governing body, as well as the assignment of the assessment lien to the capital provider.

#### 7. Construction/Disbursement

The capital provider is responsible for managing disbursements of C-PACE financing during construction per the terms of the financing agreement. The property owner should refer to that agreement to determine the capital provider's requirements for periodic inspections, progress payments, and change orders.

#### 8. Construction Closeout

The property owner should review the financing agreement to determine the process the capital provider will require to close out the construction phase of the project and move it to the permanent financing stage. This process may include an amendment to the energy assessment to account for any adjustments to the principal amount of the energy assessment associated with capitalization of construction interest or any other cost adjustments incurred during construction of the project. If so, the capital provider will prepare an amendment and restatement of assessment payment schedule for

execution and recording with the county recorder.

#### **9. Servicing/Repayment**

Upon assignment of the energy assessment lien to the capital provider, the property owner will make the C-PACE assessment payments directly to the capital provider pursuant to the financing agreement. The capital provider shall be responsible, subject to and in accordance with the terms of the financing agreement, for all billing, collection, enforcement, and administrative duties in respect of the loan, the assessment payments, and the lien.

#### **10. Release and Discharge of the Energy Assessment**

Upon the full payment of the energy assessment lien, the capital provider shall file a release and discharge of the energy assessment lien on the property with the county recorder's office.

### **WHO TO CONTACT**

Theddi W. Chappell, CRE, MAI, FRICS, AAPI and LEED AP  
C-PACE Program Director  
(435) 901-1394  
[TChappell@PACEworx.com](mailto:TChappell@PACEworx.com)

# PROGRAM ADMINISTRATION

## PROGRAM ADMINISTRATION

Sustainable Real Estate Solutions, Inc. (SRS) is program administrator for select Utah cities and counties that have authorized SRS to administer their C-PACE program. Contact SRS for further information on participating jurisdictions.

## PROGRAM REQUIREMENTS

This section outlines the guidelines that govern participants in the C-PACE program. All participants agree to adhere to the terms and conditions of the C-PACE program requirements.

<b>Service Area</b>	Subject to local governing body participation in the C-PACE program
<b>Eligible Property</b>	Qualified commercial or industrial real property
<b>Eligible Applicant</b>	An owner of eligible commercial or industrial real property
<b>Security</b>	The financing is evidenced by a financing agreement and is secured by an energy assessment and energy assessment lien that is recorded in the county land records against the qualified real property. The energy assessment lien has priority over all other liens recorded against the property, and has the same priority as, but is separate and distinct from, property taxes.
<b>Credit Standards</b>	The property owner must be current and in good standing on all debt owed to Utah; current on all real property taxes, special assessments, and water sewer charges on the property; have no recorded notice of default, foreclosure, or delinquency on any trust deed or other lien on the property that has not been cured, and have no outstanding involuntary liens, including a lien on real property, or on the proceeds of a contract relating to real property, for services, labor, or materials furnished in connection with the construction or improvement of the property. <sup>13</sup>
<b>Eligible Improvements</b>	Eligible improvements include upgrades that are permanently affixed to commercial or industrial real property. Energy efficiency improvements must be designed to reduce energy or water consumption, and can include improvements to building envelope, insulation, heating, ventilation and air conditioning systems, lighting, energy recovery

---

<sup>13</sup> Utah Code 11-42a-202

systems, water conservation and rain catchment systems, and hot water systems. Parking automation, vertical transport devices, seismic upgrades, and renewable energy systems (e.g., solar photovoltaic systems, solar thermal, wind, geothermal, micro hydro, biofuel systems) are also eligible.<sup>14</sup>

**Eligible Costs** Eligible costs include the actual or estimated costs to be incurred in connection with an energy assessment, including appraisals, legal, filing and facilitation fees, underwriting fees, placement and recording fees, escrow fees, and other incidental costs.

**Maximum Term** The maximum finance term is typically based on the weighted average useful life of eligible improvements, not to exceed 30 years.

**Payment and Servicing** The property owner remits the C-PACE assessment payments to the capital provider according to the terms of the financing agreement.

**Evidence of Ownership** A current title report is required prior to closing to show evidence of ownership and all encumbrances recorded against the property.

**Mortgage Holder Consent** Where there is an existing mortgage or deed of trust recorded against the property, the mortgage holder must be given written notification that the property owner intends to enter into a C-PACE financing agreement, which cannot proceed without the written consent of the mortgage holder.

## **PARTICIPATION IN REBATE/INCENTIVE PROGRAMS**

Although not required, the C-PACE program encourages property owners to pursue all available federal investment tax credits, utility rebates, and incentive programs in conjunction with C-PACE financing. Rebates and incentive programs may provide participants with cash payments or tax credits for implementing eligible energy and water improvements, thereby reducing overall project costs and the total amount the owner will need to finance.

---

<sup>14</sup> Renewable energy systems are limited to 2 megawatts for existing customers in the public electrical utility service area.

## **PROGRAM PARTICIPATION FEES**

C-PACE program administration is designed to be self-sustaining. The project fees charged to participants are intended to cover the operating costs associated with administering the program.

A one-time program administration fee, equal to 3 percent of the project finance amount, not to exceed \$90,000 per project, is applied to each financed project. This fee is typically included in the total financed amount and is due only if a project is successfully financed.

# ELIGIBILITY (PROPERTY AND PROJECT)

## ELIGIBLE PROPERTIES

Properties eligible for C-PACE financing must meet two requirements. They must:

- Be located in a governing body that has authorized C-PACE in their jurisdiction.
- Have one of the following uses:
  - Commercial
  - Mining
  - Agricultural
  - Industrial
  - Manufacturing
  - Trade
  - Professional
  - Private or public club
  - Lodge
  - Business
  - A similar purpose
  - Dwelling purposes; and contains more than four rental units.<sup>15</sup>

New construction is also eligible. See requirements on the next page.

## ELIGIBLE IMPROVEMENTS

Improvements that are eligible for C-PACE financing must be permanently affixed to the commercial or industrial property. Examples include, but are not limited to:

- Automated building controls (such as BMS and EMS)
- Automated parking systems or parking that reduces land use
- Battery storage
- Boilers, chillers, and furnaces
- Building envelope (such as insulation, glazing, windows)
- Combined heat and power (CHP) systems
- EV chargers
- Geothermal systems
- High-efficiency lighting
- Hot water systems
- HVAC upgrades
- Hydroelectric systems
- Roof replacement that improves energy efficiency (such as reflective/cool roof, enhanced insulation)

---

<sup>15</sup> Utah State Code 11-42a-102

- Seismic resiliency upgrades
- Small wind systems
- Solar PV (roof upgrade/replacement for rooftop systems is also eligible)
- Solar thermal
- Variable speed drives on motors, pumps, and fans
- Vertical transport devices (such as energy efficient elevators and escalators)
- Water efficient fixtures (such as low-flow faucets and toilets)

In addition, the cost of improvements that are directly related to the installation of eligible improvements may be eligible, e.g., roof upgrades to support a roof-mounted solar PV installation.

This list is not all-inclusive and may change over time. For an expanded list of improvements, see Utah Code 11-42a-102.

## NEW CONSTRUCTION

In addition to existing building retrofits, C-PACE can be applied to new construction projects in Utah. The C-PACE financing structure can unlock capital to enable a property owner or developer to achieve higher building performance (on a utilities consumption basis)—improvements that are often “value engineered” out of a project—and may also help the developer fill gaps in their financing plan. Moreover, C-PACE new construction financing may reduce the developer’s equity contribution or the need for mezzanine financing, thereby reducing the project’s weighted average cost of capital.

Unlike retrofits to existing properties where the savings from qualifying energy improvements can be demonstrated by referencing pre-improvement baseline utilities, e.g., electricity and fuels, consumption data, new construction has no baseline against which to measure improvements.<sup>16</sup> Thus, the C-PACE program has designed a separate, performance-based process for new construction projects.

To qualify, applicants are required to provide total project construction costs by trade component, so the C-PACE program administrator can evaluate the total eligible construction cost (TECC). The TECC includes all hard and soft costs associated with construction and excludes the cost to purchase the land itself, as well as any components that are not permanently attached<sup>17</sup> to the building.

Given the lack of a pre-improvement energy baseline against which to measure energy savings and the difficulty of isolating and assigning portions of the new construction costs to particular energy savings, the traditional methodology of comparing existing building utility consumption to expected savings following an improvement is not applicable. Therefore, an alternative method for new construction projects will apply for determining the maximum amount of C-PACE financing. Financing is based on the level of energy performance as compared to code requirements the building is designed to achieve.

Effective July 1, 2019 the Utah state legislature adopted the international energy conservation code for commercial buildings (IECC 2018/ASHRAE 90.1-2016). New construction projects that demonstrate As Designed Modeled Energy Performance (EUI) that exceeds IECC 2018/ASHRAE 90.1-2016 by at least 5 percent qualify for C-PACE financing in an amount up to 20 percent of the TECC. Applicants are required to provide supporting documentation including an itemized construction budget, dynamic building simulations, e.g., from whole-building modeling tools such as eQUEST, EnergyPlus, OpenStudio, representing “As Designed” case and IECC 2018 compliant case. The energy performance delta between the two simulations should demonstrate at least 5 percent exceedance by the “As Designed” case above IECC 2018 energy performance.

If the design includes a renewable energy system such as solar PV, the solar PV system’s impact on building energy performance is excluded from the aforementioned energy savings analysis. Such systems will be evaluated separately with 100% of the eligible renewable energy system cost added to the C-PACE financing amount previously determined. The maximum C-PACE financing amount eligible for a project will be determined by the program administrator after a review of the As Designed Modeled Energy Performance (EUI) and Code Compliant Modeled Energy Baseline (EUI) data submitted to confirm the exceedance above energy code compliance.

---

<sup>16</sup>This is also the case where an abandoned building is being rehabilitated or a building is being fundamentally repurposed. Consequently, such rehabilitation or repurposing can be treated the same as new construction for the purposes of C-PACE.

<sup>17</sup> Items such as shading devices, furniture, fire extinguishers, parking lot paving, etc.

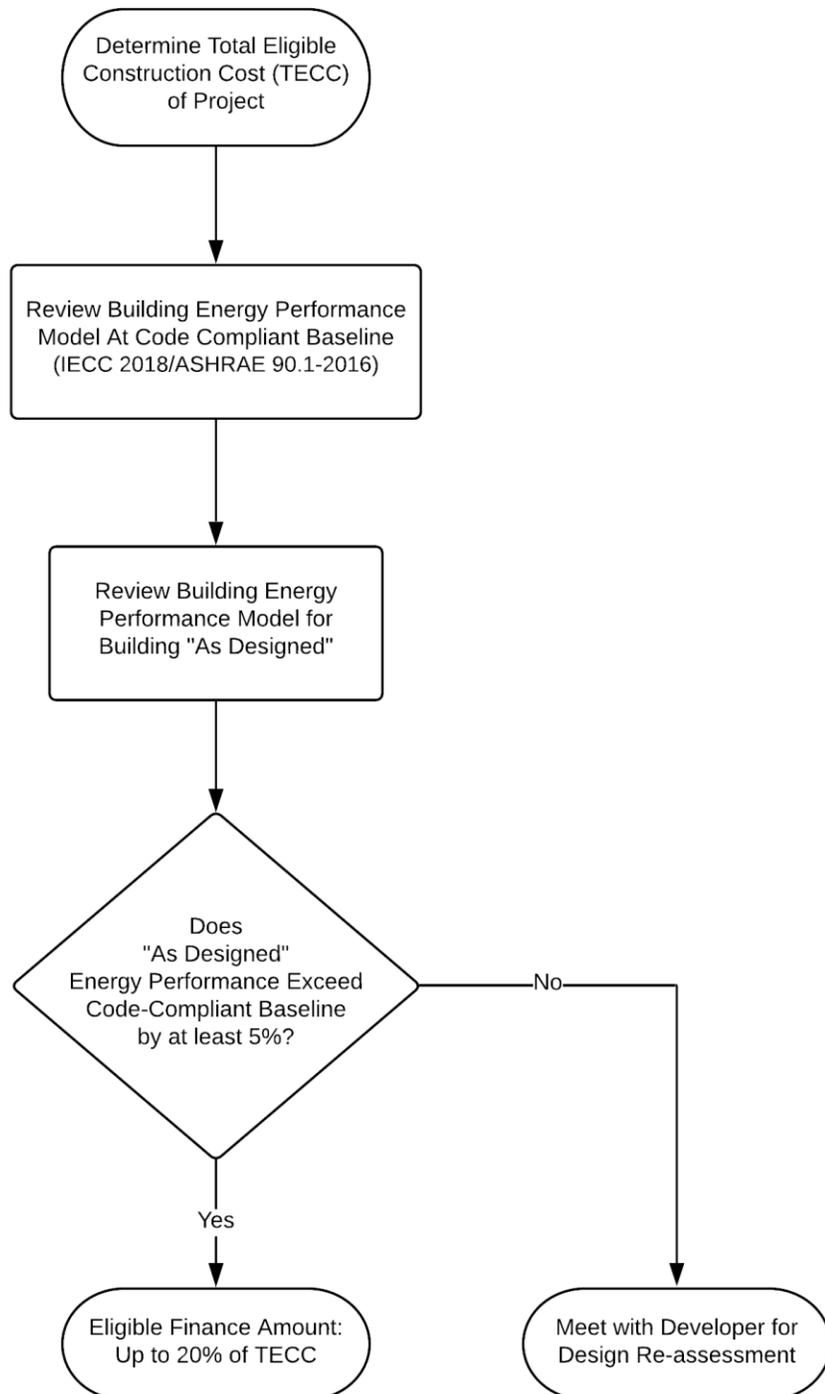
Based on this analysis, the building owner and capital provider will determine the C-PACE financing amount for each project (up to the maximum financing amount determined to be eligible). If needed, the program administrator can advise and provide guidance to the capital provider and building owner.

The following table provides case examples of C-PACE eligible financing amounts:

Example: Assume Total Eligible Construction Cost (TECC) is \$10 million				
	Case 1	Case 2	Case 3	Case 4
% exceeding current energy code	5%	12%	18%	3%
% TECC selected (up to max. of 20%)	10%	20%	20%	N/A
C-PACE Eligible Finance Amount	\$1 million	\$2 million	\$2 million	\$0

The following flowchart illustrates the new construction methodology:

## NEW CONSTRUCTION METHODOLOGY



TECC = Total Eligible Construction Cost

# PROJECT TECHNICAL RECOMMENDATIONS

## AUDIT RECOMMENDATIONS

The C-PACE program encourages the performance of an energy audit, water audit, or other analysis that assesses the expected energy and/or water cost savings of the improvements over their useful life. An ASHRAE Level II audit or comparable analysis is recommended. Individual capital providers may require a specific audit as part of their underwriting criteria. For renewable energy improvements, the performance of a Renewable Energy Feasibility Study (REFS) is recommended.

Failure to obtain an energy audit, water audit, or other analysis and implement the findings imposes multiple risks to the building owner. First, the building owner may face lower cash flows due to smaller energy savings. This lowered cash flow reduces the building owner's ability to repay the C-PACE assessment. Best practices nationally show that C-PACE projects should maximize energy savings in order to repay the C-PACE assessment and even generate positive cash flow.

Project applicants are responsible for all costs and fees incurred to complete the C-PACE project application, including costs associated with an audit and/or a REFS. While such costs are typically included in the project financing, in cases where the project does not move forward, the applicant will be responsible for any payments due to contractors or other third parties engaged by the owner, where applicable.

It is recommended that the REFS be performed by an experienced renewable energy professional with detailed knowledge of the renewable energy system under consideration, including technical and design issues, resource assessment, relevant policies and incentives, utility tariffs and interconnections issues, other evaluations (where necessary), and project funding mechanisms.

## ENERGY SAVINGS RECOMMENDATIONS

Under the C-PACE Act, there is no statutory requirement that the projects generate positive cash flow based on energy savings. While the statute does not require any demonstration of the savings-to-investment ratio (SIR), the C-PACE program encourages property owners to bring forward projects with SIRs greater than 1.0 because:

- Capital providers look favorably on projects that show positive cash flow over their lifetime,
- Mortgage holders are more likely to consent to the imposition of an energy assessment for the projects that show positive cash flow, and
- In general, the higher the SIR, the greater the demonstrated environmental benefits, e.g., CO<sub>2</sub> emissions reduction, of the project, which helps to promote the goals of C-PACE.

The SIR is calculated as the ratio of the total projected energy and water utility cost savings over the effective useful life of each improvement, divided by the total cost of those improvements, including all fees and interest charges.

For new construction, the energy savings is calculated as the incremental energy savings gained above the determined minimum requirement (energy consumption at current building energy code) as specified in the new construction (developer) section of this document.

## **POST-CONSTRUCTION COMMISSIONING RECOMMENDATIONS**

The C-PACE program encourages that a post-construction commissioning report be provided by the contractor upon project completion. The post-construction commissioning report can be performed by either a third party or the party performing the original installation of funded improvements. The report is recommended to contain, at a minimum:

- A statement that systems have been completed in accordance with the contract documents, and that the systems are performing as expected,
- Identification and discussion of any substitutions, compromises, or variances between the final design intent, contract documents, and as-built conditions,
- A description of the components and systems that exceed the owner's project requirements and those which do not meet the requirements and why, and
- A summary of all issues resolved and unresolved and any recommendations for resolution.

## BUILDING OWNER PARTICIPATION AND PROCESS

C-PACE is an innovative financing approach that provides owners of eligible properties with financing for the installation of eligible improvements. By providing up to 100 percent, long-term financing for qualified upgrades, the program can help building owners lower their operating costs and improve the value of their asset.

### BENEFITS

Many building owners may lack capital to pay for eligible improvements, which means many beneficial projects never get off the ground. C-PACE can enable building owners' access to affordable, long-term capital at competitive rates. C-PACE financing:

- Requires no upfront, out-of-pocket costs,
- Provides long-term financing (up to 30 years),
- Typically requires no personal guarantees,
- Typically lowers energy costs,
- May generate positive cash flow, and
- Can transfer to the next owner if the building is sold.

### ELIGIBILITY

Commercial or industrial real property, located within a governing body that has authorized C-PACE in their jurisdiction, may be eligible under the program, whether such buildings are existing, under construction or to be constructed, if used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

- Commercial
- Mining
- Agricultural
- Industrial
- Manufacturing
- Trade
- Professional
- Private or public club
- Lodge
- Business
- A similar purpose
- Dwelling purposes; and contains more than four rental units.

## PROCESS

To get started, property owners can work with a contractor or project developer of their choosing to discuss the eligible improvements that would be beneficial. Building owners who do not have a contractor in mind can [view a list of contractors](#) on the program website who have completed C-PACE training.

Next, the contractor and property owner work together to determine the optimal project that meets the property and owner needs.

Upon confirmation of the final project scenario, the program administrator will collaborate with the building owner and the contractor on next steps, which include obtaining mortgage holder consent and selecting a capital provider.

Once that is done, the capital provider will facilitate the finance closing. The program administrator will then collaborate with the governing body and the capital provider to levy and assign the energy assessment lien to the capital provider. The capital provider, according to the terms of the financing agreement, will then commence funds disbursement and construction begins.

## **NEW CONSTRUCTION DEVELOPER PARTICIPATION AND PROCESS**

New construction projects present another opportunity for C-PACE financing. The C-PACE new construction financing structure can unlock capital to enable a property owner or developer to achieve higher building performance—improvements that are often value-engineered out of a project. Moreover, C-PACE new construction financing may reduce the developer’s equity contribution or the need for mezzanine financing, thereby reducing the project’s weighted average cost of capital.

### **BENEFITS**

Property owners and developers can use C-PACE new construction financing to fill gaps in their financing plan. Developers may qualify for up to 20 percent of the total eligible construction cost provided the new building is designed to exceed the 2018 international energy conservation code (IECC)/ASHRAE 90.1-2016 by at least 5 percent.

### **ELIGIBILITY**

Owners planning new eligible building construction projects can take advantage of C-PACE financing. Such new construction projects must be designed to exceed the current energy code by at least 5 percent.

### **PROCESS**

Applicants are encouraged to itemize total project construction costs by trade component to evaluate the total eligible construction cost (TECC). TECC includes all direct and indirect costs of materials, labor, and soft costs related to the design, installation, and construction of the new structure. Soft costs may include, for example, architecture and engineering fees, energy modeling costs, surveys, and financing costs. Examples of excluded costs include land acquisition costs, off-site improvements, site permitting, environmental testing and remediation, and equipment not permanently installed on the property.

The applications that confirm that the building will be designed to exceed the current energy code for commercial buildings in Utah, IECC 2018, ASHRAE 90.1-2016, by at least 5 percent, will be eligible for up to 20 percent of the TECC. See the new construction section above for further details.

# CONTRACTOR PARTICIPATION AND PROCESS

## BENEFITS

Many building owners lack the capital they need to pay for beneficial improvements, which means many of the projects that contractors propose never get off the ground. C-PACE financing can benefit contractors by helping them close more deals, including multi-measure projects that, without C-PACE, the owner may not be able to fund.

## ELIGIBILITY

Contractors who complete C-PACE training provided by SRS can have their firm listed on the program website.

Note that by providing a list of contractors that have attended C-PACE training on its website, the C-PACE program is not recommending or endorsing any specific contractor or warranting the reliability of any such installer.

Moreover, property owners can select the contractor of their choice. The C-PACE program advises property owners to use contractors who hold all applicable state and local licenses.

## PROCESS

Contractors are encouraged to engage property owners to:

- Discuss the benefits of a C-PACE project,
- Perform preliminary project scoping,
- Prepare proposals and review them with the building owner,
- Develop and optimize project scenarios, and
- Install eligible improvements.

[View a list](#) of contractors that have completed C-PACE training.

## CAPITAL PROVIDER PARTICIPATION AND PROCESS

C-PACE is an innovative, voluntary financing program that can enable property owners to modernize eligible buildings by installing eligible improvements. Funding is provided by third-party capital providers (CP).

### BENEFITS

C-PACE is a secure investment secured by an energy assessment lien, which like all public benefit assessments, sits in a senior position to other encumbrances on the property, and has the same priority as a property tax lien. As a result, capital providers who work with the C-PACE program may receive attractive project financing opportunities.

### ELIGIBILITY

The C-PACE program seeks to stimulate financing opportunities through an open-market project financing model. For this reason, the C-PACE program is open to all capital providers. Participating CPs can have their firm listed on the program website.

Note that by providing a listing of CPs on its website, the C-PACE program is not recommending or endorsing any specific CP. Moreover, property owners can select the CP of their choice to fund their project.

### PROCESS

Capital providers interested in financing eligible projects in the C-PACE District are encouraged to download, complete, and return the [Capital Provider Application](#), found on the C-PACE program website, to the program administrator.

## MORTGAGE HOLDER PARTICIPATION AND PROCESS

C-PACE is an innovative, voluntary financing program that can enable borrowers to modernize their building by installing eligible improvements funded with affordable, long-term financing.

### BENEFITS

Well-designed C-PACE projects can generate cost savings that may, over the finance term, equal or exceed the total finance cost. Owners of such buildings may experience improved net operating income, increased value, and a positive return on their investment.

In such scenarios the building owner's increased cash flow may result in the mortgage holder's loan being more secure, and the property may be more attractive to current and potential tenants and buyers. In addition, the assessment does not accelerate. In the event of a default, only the amount of the assessment in arrears is due.

### PARTICIPATION

C-PACE can provide up to 100 percent financing to owners of new and existing buildings, located in governing bodies participating in the C-PACE program, who are looking to modernize and improve the value of their eligible building. The financing, which is based on the estimated useful life of the improvements—up to 30 years—is secured by a special assessment lien, known in Utah as an energy assessment lien that is levied against the property.

The energy assessment lien is senior to all commercial mortgages and deeds of trust and is equal (*pari passu*) in priority to a property tax lien and senior to other special assessments or mortgages on the property. Because of this, any C-PACE project requires property owners to obtain the written consent of all holders of mortgages or deeds of trust on the property prior to securing C-PACE financing.

### PROCESS

A property owner who wishes to pursue C-PACE financing may seek a meeting with the mortgage holder. At the meeting, the owner, supported by the program administration where needed, will describe the program's requirements, and answer the mortgage holder's questions. Assuming all parties agree that a particular project is worth pursuing, the project will proceed to development and underwriting. As part of the underwriting process, the owner will provide a summary of the project's key assumptions, e.g., financial metrics and projected cash flows to facilitate the mortgage holder's due diligence.

## **GOVERNING BODY PARTICIPATION AND PROCESS**

C-PACE is a voluntary financing program that can enable property owners to modernize their building by installing eligible improvements funded with affordable, long-term financing.

### **BENEFITS**

C-PACE can benefit a governing body's economy by stimulating new investment, creating job opportunities, enabling energy savings, and improving air quality.

Nationwide, more than 30 states have PACE-enabling legislation, and several others are considering it.

### **PARTICIPATION**

Governing bodies can authorize their C-PACE program per Utah Code Title 11, Chapter 42a (the "C-PACE Act") and enter a C-PACE program administration agreement with SRS.

### **PROCESS**

Governing bodies who wish to authorize SRS to administer projects in their C-PACE program can contact SRS for a copy of the C-PACE program administration agreement.

## **GENERAL TERMS AND PROVISIONS**

### **TAXES**

Property owners are solely responsible for any local, state, or federal tax consequences of their participation in the C-PACE program.

### **CHANGES IN THE PROGRAM TERMS; SEVERABILITY**

The C-PACE program reserves the right to change this User Guide and the terms and provisions set forth within at any time without notice. The financing agreement executed between the property owner and the capital provider establishes the property owner's rights. This guide is only a reference document.

### **DISCLOSURE OF PROPERTY OWNER INFORMATION**

The C-PACE program reserves the right to collect, use, and reuse data or information gathered from the C-PACE program for any purpose including but not limited to use in print, on the internet, and all other forms of media. Owner also hereby releases the C-PACE program and its administrator, agents and employees from all claims, demands, and liabilities whatsoever in connection with the above.

C-PACE program participating governing bodies are subject to the Government Records Access and Management Act, Utah Code §§ 63G-2-101 to 901 (GRAMA) Accordingly, certain records within possession or control, including without limitation, these standard terms and conditions, may be subject to public disclosure. Pursuant to section 63G-2-309 of GRAMA, any confidential information provided by the property owner to the C-PACE program that the owner believes should be protected from public disclosure, must be accompanied by a written claim of confidentiality and a concise statement of reasons supporting such a claim.

# APPENDIX

## KEY DEFINITIONS

<b>Energy Assessment Lien</b>	The lien that is recorded against the property and establishes the voluntary benefit assessment and secures repayment of the C-PACE financing.
<b>Capital Provider</b>	The entity that will finance the eligible improvements.
<b>C-PACE Project</b>	Eligible improvements made to qualified commercial or industrial real property, whether financed entirely by C-PACE or through incentives or other sources in combination with C-PACE financing.
<b>Building Improvements</b>	Energy and/or water efficiency, parking automation, electric vehicle charging, seismic upgrades, vertical transport devices, or renewable energy improvements made to qualified commercial or industrial real property. <a href="#">View a list on the C-PACE website.</a>
<b>Qualified Real Property</b>	Commercial, mining, agricultural, industrial, manufacturing, trade, professional, public/private club, lodge, business, similar purpose properties, and multifamily properties with five or more dwelling units located in participating C-PACE governing bodies that can benefit from eligible improvements.
<b>Program Administrator</b>	Sustainable Real Estate Solutions, Inc. (SRS) administers C-PACE programs for select Utah governing bodies that have authorized C-PACE in their jurisdictions.
<b>Property Owner</b>	The legal owner(s) of the qualified commercial or industrial real property (including nonprofit owners).
<b>Contractor</b>	The contractor that performs the work required for the installation/construction of the eligible improvements.

## APPLICATION FORMS

SEE [RESOURCES SECTION](#) OF THE C-PACE Program WEBSITE.

C-PACE STATE CODE [[THE “C-PACE ACT”](#)]

C-PACE LEGISLATION [[S.B. 273 ENERGY DEVELOPMENT AMENDMENTS](#)]