



Efficiency Maine C-PACE Program Municipality Participation Guide

C-PACE Program Benefits

Why a Municipality Should Consider Participating

- Commercial PACE (C-PACE) means commercial property assessed clean energy. C-PACE is an economic development tool for municipalities. Energy-efficient buildings create a more competitive environment for retaining and attracting new businesses by lowering energy costs. Energy upgrades also create jobs and reduce greenhouse gases and other pollutants.
- *Many owners lack capital to implement energy improvements.* C-PACE provides up to 100% up-front, long-term financing to commercial property owners for Energy Savings Improvements. The costs of energy audits, construction, commissioning and post-construction performance measurement and verification (M&V) can be wrapped into C-PACE financing.
- C-PACE stimulates the implementation of energy savings improvements with 100% private market capital and requires no investment from the Municipality.
- *Owners often want to sell the building before an energy upgrade loan is repaid.* The C-PACE assessment obligation is attached to the property and can transfer to the new owner. Payments do not accelerate in case of sale or default.
- The C-PACE program requires that the estimated cost savings from Energy Savings Improvements equal or exceed the up-front investment and financing costs, leading the expected cash flow to be positive over the useful life of the improvements.
- As a property tax assessment, where permissible under lease agreements, C-PACE payments – together with the energy cost savings associated with the improvements – may be passed along to tenants.
- C-PACE has created a secured, clean energy financing product for Capital Providers. The security comes from the C-PACE Lien on a property. The lien, like property tax assessments, sits in a senior position to other encumbrances on the property, including mortgage debt and liens (other than Municipal Liens). The security provided by the tax assessment results in several compelling features, including longer-term financing and transferability of the repayment obligations to subsequent owners of the property.
- C-PACE financing strengthens the business case for investment in longer payback and deeper building retrofits beyond what may be possible with traditional financing.

Municipality Participation

Municipality Options for Participation

Maine Municipalities have two options for participation in the C-PACE Program.

A Municipality can:

- (1) Establish its own C-PACE program and administer the functions of the C-PACE Program itself; or,
- (2) Participate in the Efficiency Maine Trust C-PACE Program and enter into a contract with the Trust to administer certain functions of the C-PACE Program for the Municipality.

In option 1, Municipalities would have more control over the program design within their municipality, but they would be subject to significantly greater administrative burden, including developing and implementing their own program guidelines, recruiting and registering Capital Providers, accepting project applications and reviewing and approving projects for adherence to the rules and regulations. Municipality-based programs are typically less successful in large part to the unwillingness of Capital Providers to participate in smaller market size C-PACE programs.

In option 2, Municipalities are relieved of the majority of administrative burdens while still able to stimulate the adoption of energy savings improvements for commercial properties within their communities.

Under both options 1 and 2, Municipalities wishing to participate in the C-PACE Program must adopt a C-PACE Ordinance as required by the Maine C-PACE Act. The Trust has developed a model C-PACE Ordinance. A municipality that wishes to exercise option 2 must also enter into a C-PACE Municipality Participation Agreement with the Trust that establishes the Trust as the Municipality's C-PACE Program Administrator for certain designated functions. A Maine municipality that adopts a C-PACE Ordinance not materially different from the Trust's model C-PACE Ordinance and executes a C-PACE Municipality Participation Agreement with the Trust is a "Participating Municipality." A commercial property must be located in a Participating Municipality in order to be eligible for C-PACE financing through the Efficiency Maine C-PACE Program.

Municipalities interested in becoming a Participating Municipality under the Efficiency Maine Trust C-PACE program should closely review the following documents from the **C-PACE Program Guidelines** (available at Efficiencymaine.com/C-PACE):

- **Appendix B: Model C-PACE Ordinance**
- **Appendix C: C-PACE Municipality Participation Agreement**
- **Appendix D: C-PACE Assessment Agreement**

Participating Municipality Responsibilities

Responsibilities of the Municipality within the Efficiency Maine Trust C-PACE Program

The responsibilities below represent option 2 above. Option 1 would contain significantly greater municipality responsibilities. The below identified responsibilities have been simplified for understanding and further detail can be found in the aforementioned documents.

1. **Project Agreements:** The municipality must execute a C-PACE Assessment Agreement, along with the Property Owner and its Capital Provider, for each C-PACE project within their municipality. The C-PACE Assessment Agreement authorizes the creation of a C-PACE Lien on the Property receiving the Energy Savings Improvements. The process of completing this program responsibility is as follows:
 - During the development of a C-PACE Project, the Capital Provider and Property Owner will sign the C-PACE Assessment Agreement.
 - The Municipality will then sign the C-PACE Assessment Agreement, approved as to form and substance by the Municipality.
 - All parties must sign the C-PACE Assessment Agreement prior to the submission of a C-PACE project application to Efficiency Maine, though the effectiveness of the Agreement is conditioned on final project approval by Efficiency Maine and closing of the C-PACE loan.
 - Once a project approval is provided by Efficiency Maine and the C-PACE financing transactions closes, a notice of the C-PACE Agreement will be filed in the registry of deeds, which filing will create a lien on the Property implementing the Energy Savings Improvements until the amounts due under the C-PACE Financing are paid in full. The form C-PACE Assessment Agreement places the obligation for recording the Notice of C-PACE Agreement on the Capital Provider.

2. **Annual C-PACE Assessments and Collections:** The municipality will not need to finance or fund any C-PACE projects and will incur no liability for payment of the loan. The C-PACE Assessment Agreement details the responsibilities of the Municipality and Capital Provider with regard to billing and collection of the C-PACE assessments, but in summary: The Capital Provider will provide the Municipality with a "Payment Due Notice" specifying the amount due from the Property Owner in repayment of the C-PACE loan for the subject year. The Municipality will assess the Property in the amount specified in the Payment Due Notice and designate the Capital Provider as agent for the billing of the C-PACE assessment amount and the collection of payments from the Property Owner. The C-PACE assessment payments are to be applied by the Capital Provider to the C-PACE loan balance. The Capital Provider will provide periodic reports to the Municipality on the status of the C-PACE payments from each Property Owner and will provide notice to the Municipality of any delinquency or default of a C-PACE assessment payment.

The Capital Provider shall provide notice to the Municipality and the Property Owner when the C-PACE Financing amount has been paid in full and shall cooperate with the Municipality and the Property Owner in the preparation and recording of a release and discharge of the C-PACE Lien on the subject Property when the C-PACE Financing has been satisfied.

3. **Default and Foreclosure:** The process for collection of delinquent C-PACE assessments is governed by the Maine C-PACE Act. If a C-PACE Assessment is delinquent or in default, collection and foreclosure shall proceed as follows:
- If both the C-PACE Assessment is delinquent or in default **AND** the borrower or property owner is delinquent in any tax debt due to the Municipality, the process is as follows:
 1. Collection may occur only by the recording of liens and by foreclosure under 36 M.R.S. §§ 942 and 943. The Municipality would institute the foreclosure process for both the delinquent tax and C-PACE assessments, and liens must be recorded and released in the same manner as liens for real property taxes.
 2. If the Municipality acquires the Property through tax lien foreclosure, then the Municipality shall cause to be paid to the Capital Provider all delinquent amounts payable under the C-PACE Financing at the time of foreclosure. *(This is true only to the extent that the Municipality has received such amounts through the foreclosure process and there are funds remaining after satisfaction of delinquent taxes, interest, fees, and costs owed to the Municipality.)*
 3. The portion of the C-PACE assessment that has not yet become due at the time foreclosure is not eliminated by foreclosure and remains as a lien against the Property with full rights of collection as set forth in the C-PACE Act.
 4. The form C-PACE Assessment Agreement provides that in no event shall the Municipality be obligated to make C-PACE Assessment payments during any period in which it is deemed the owner of the Property acquired through the statutory tax lien foreclosure process.
 5. Unpaid future C-PACE Assessment payments shall be the obligation of the person or entity that subsequently acquires title to the Property subject to the C-PACE Lien.
 - If **only** the C-PACE Assessment is delinquent, but the borrower or property owner is current on payment of all municipal taxes due to the Municipality, the process is as follows:
 1. The Capital Provider will take an assignment of the C-PACE Lien, as provided in the C-PACE Assessment Agreement.
 2. Per the C-PACE Act, the Capital Provider then shall have and possess all the same powers and rights at law as the Municipality and its tax collector with regards to the priority of the C-PACE lien, the accrual of interest and fees, and the costs of collection.
 3. The Capital Provider shall have the same rights to enforce the C-PACE lien as any private party or lender holding a lien on real property and shall have all such other rights as set forth in the C-PACE Act, including the right of foreclosure consistent with Title 14, sections 6203-A and 6321 and any other action in contract or lawsuit for the enforcement of a C-PACE Lien.