

September 8, 2022

TO: Mayor and Members of Council
FROM: John P. Curp, Interim City Manager
SUBJECT: PACE Financing and Government Efficiencies

202201702

Reference Document #202200791

The Council at its session on March 23, 2022, referred the following motion for report:

MOTION, submitted by Councilmember Jeffreys, Harris and Owens, **WE MOVE** that, the Administration provide a report back to Council within ninety (90) days with a feasibility analysis of Council pre-authorizing all necessary legislative items that are directly associated with PACE financing as well as a potential framework by which the Administration can evaluate future PACE deals administratively. **WE FURTHER MOVE** that, the Administration also report back to Council with a feasibility analysis of allowing for more than one program administrator to support PACE deals in the city as well as any metrics the City can use to evaluate future program administration. **WE FURTHER MOVE** that, the Administration outline: 1) Cincinnati's and Hamilton County's current fee structures as it relates to PACE, 2) how much revenue the City's fees generate annually, and 3) how Cincinnati's and Hamilton County's fee structures compares to other peer cities and counties.

The purpose of this report is to provide City Council with an update on Property Assessed Clean Energy ("PACE") Financing and government efficiencies. On April 9, 2014, City Council passed Resolution No. 28-2014, which approved the creation of the City of Cincinnati, Ohio Energy Special Improvement District ("ESID"). The creation of the ESID allowed property owners within the City of Cincinnati to utilize PACE financing. Since its creation, a total of 21 projects have used PACE to finance approximately \$21 million in energy saving improvements.

LEGISLATIVE EFFICIENCIES

PACE projects must complete a multi-step process before a special assessment is placed on the property. The Cincinnati ESID evaluates each project to ensure that it meets the statutory requirements for PACE and to confirm that all project documentation is in order. Once the ESID approves the project, it is forwarded to City Council.

City Council receives the following pieces of legislation to consider:

1. Resolution declaring the necessity of the assessment project (the "Resolution of Necessity")
2. Ordinance determining to proceed with the assessment project (the "Ordinance Determining to Proceed")
3. Ordinance levying assessments (the "Levying Ordinance")

A truncated process is used by the City for PACE assessments that allows all three pieces of legislation to be considered by City Council at the same Council meeting. This process is enabled by a waiver of due process rights signed by the property owner voluntarily asking to be assessed, which removes the waiting periods normally required for notice and hearings. The legislation must follow the City's traditional process for approving legislation, which generally entails a first reading for referral to committee, and a second reading at which the legislation is approved.

Other cities throughout Ohio have either passed legislation or are considering legislation that delegates authority for approval of PACE projects to administrative staff. The delegated individual or office is responsible for reviewing and approving a property owner's petition to join a city's ESID. Staff review takes the place of the Resolution of Necessity and the Ordinance Determining to Proceed. If the City were to adopt this model, City Council would still be required to pass the Levying Ordinance each year to levy the assessments on all PACE projects approved by the delegated authority over the previous 12-month period.

Recommendation: Delegated authority could reduce the amount of time a property owner is required to wait for project approval. However, implementing delegated authority does not appear to save substantial time for the Administration as it would still require staff to review the documentation for each PACE project. Additional discussions with the Law Department will be required to determine the legality of delegating Council's legislative responsibilities to the Administration.

PROGRAM ADMINISTRATION

The current program administrator of the Cincinnati ESID is Midwest PACE Services LLC dba Ohio PACE, a wholly owned subsidiary of Bricker & Eckler LLP. The program administrator is selected by the ESID and is responsible for assisting property owners through the process of placing a PACE assessment on their property. It works closely with the ESID to ensure that a project is eligible for PACE financing and that all documentation is complete. Ohio PACE operates an open program, meaning that it assists with PACE projects brought forward by any contractor, property owner, or capital provider. The policies and procedures used by Ohio PACE are in alignment with the best practices for program administration developed by the C-PACE Alliance.¹

The program administrator, on behalf of the ESID, is responsible for obtaining all special assessment funds collected from the City and transmitting them to PACE capital providers. Cincinnati is the only jurisdiction among its peers that requires the program administrator to transmit fees on behalf of the city.

Allowing multiple program administrators would create an undue burden on the ESID and add a layer of complexity in its interactions with the City. The ESID would be responsible for oversight of multiple administrators and would need to ensure that each administrator is properly invoicing the City for special assessment funds and transmitting them to PACE capital providers. A review of commercial PACE programs across the country did not reveal any programs with multiple administrators.

There are some basic metrics that could provide insight on the effectiveness of a program administrator, including: the number of properties interested in PACE, the source of the interested property (Ohio PACE, contractor, capital provider, City department, etc.), the number of completed PACE projects, and the reason why a property decided not to utilize PACE (fees, eligibility, etc.). However, due to the nature of PACE in Cincinnati, it is unlikely that these metrics would definitively evaluate the effectiveness of the program

¹ C-PACE Alliance, "Elements of a Well-Designed C-PACE Statute and Program to Attract Private Capital and Foster Greater Transaction Volumes." July 19, 2019, <http://www.c-pacealliance.com/wp-content/uploads/2019/07/Elements-of-a-Well-Designed-CPACE-v2.0-07-19-19-FINAL.pdf>

administrator.

Recommendation: City Council should continue to support the use of a single program administrator by the Cincinnati ESID.

FEE STRUCTURE

All PACE projects financed within the City of Cincinnati ESID are subject to fees charged by the City and the Hamilton County Auditor’s Office. These fees add significant costs to PACE financing that could discourage property owners from utilizing it.

Hamilton County Fee

Section 727.36 of the Ohio Revised Code allows a county auditor to “add to each assessment such per cent as he deems necessary to defray the expense of collecting it.” The Hamilton County Auditor has established a rate of 3 percent as the amount that will be charged as a collection fee on each assessment. The Hamilton County Auditor has not established a maximum amount that it will charge on each assessment payment. Since the creation of the Cincinnati ESID, the Hamilton County Auditor has collected \$103,497 in fees from PACE projects.

The Auditor’s collection fee is an impediment to the increased utilization of PACE financing in the City. It adds significant costs that many property owners are not willing to pay. Appendix A outlines the additional costs that a property owner can face due to the Auditor’s fee on assessment payments.

PACE Programs in other Ohio counties are not subject to high collection fees from their county auditors (see table below). The impact of those fees on overall project costs is shown in Appendix A.

Local Government	County	Auditor Collection Fee
City of Cincinnati	Hamilton	3%
City of Cleveland	Cuyahoga	1%
City of Columbus	Franklin	0%
City of Dayton	Montgomery	0-1%
City of Toledo	Lucas	1%

The removal or reduction of the assessment collection fee presents a major opportunity to make PACE financing more effective and efficient in Cincinnati. There are three options that the City could consider regarding the collection fees:

- The City could support the continued use of the current fee structure.
- The City could negotiate with the Hamilton County Auditor to determine if it would reduce its fee on PACE assessment collections to align with those in other Ohio counties.
- The City could utilize a third-party provider to bill and collect PACE assessments. Other ESIDs in Hamilton County have adopted this approach. The City currently uses a similar model for its first-time home buyer program. This option would require additional research by the Administration and Law Department to determine its feasibility.

City of Cincinnati Fees

In addition to the Hamilton County Auditor’s fee, PACE projects in Cincinnati are charged a one-time,

nonrefundable fee by the City to compensate it for the administrative costs associated with the levying and collection of the special assessment. The City’s fee is calculated as 0.50% of the aggregate amount of the special assessments, which is capped at a maximum amount of \$10,000. Since the creation of the Cincinnati ESID, the City has collected \$97,873.11 in fees across 21 projects.

Under the current structure, property owners pay the City fee in its entirety at the financial closing. This results in an additional out of pocket closing cost that property owners must pay rather than a cost that is included in the PACE financing and paid over a period of years. In addition, because the City charges its fee at the financial closing based on the number of proposed assessment payments, property owners who pay off their PACE loan early are charged the fee on assessment payments they did not make.

Only one of the City’s peers in Ohio charges a fee on PACE projects. The table below compares the fee structures currently used by the City’s peers. Appendix A shows the impact the fees can have on a project’s total cost.

Local Government	Fee Structure
City of Cincinnati	0.50% fee on each semi-annual assessment payment collected at closing
City of Cleveland	0.25% fee on each semi-annual assessment payment
City of Columbus	No fee
City of Dayton	No fee
City of Toledo	No fee

cc: Oliver Kroner, Interim Director of the Office of Environment and Sustainability
Attachment: Appendix A