



**Commercial Property Assessed Clean Energy +
Resilience (C-PACER) PROGRAM GUIDEBOOK:**

King County, Washington

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I. Introduction

KING COUNTY STRATEGIC CLIMATE ACTION PLAN

Building and facility energy use is the second largest source of greenhouse gas (GHG) emissions countywide, representing nearly half of all emissions. With the passage of the Clean Energy Transformation Act in 2019, the electricity sector is increasingly transitioning to carbon – free generation. However, continued investment in energy efficiency in the built environment and distributed generation are essential to reduce overall environmental impacts. King County’s [2020 Strategic Climate Action Plan](#) establishes countywide GHG emission reduction targets of 50% by 2030, and 80% by 2050. To reach these goals, sector specific goals are proposed to support overall reductions, including targets to reduce energy use in the built environment 25% by 2030 and 45% by 2050. The development of innovative financing programs, such as Commercial Property Assessed Clean Energy and Resiliency (C – PACER), supports the goals for reduction in the built environment and overall GHG reductions.

ABOUT C - PACER

What is C-PACER? Short for Commercial Property Assessed Clean Energy and Resiliency, the C-PACER Program allows owners of eligible commercial, industrial, agricultural properties and multifamily residential property to obtain long-term financing from private capital providers for certain qualifying energy efficiency, renewable energy, water conservation, and resiliency investments. Improvements made to reduce lead in drinking water also qualify.

Similar to a traditional loan, a capital provider provides the building owner with financing to build a new property or renovate an existing property. The property owner repays the loan to the capital provider over time. What is different is that C-PACER financing allows King County to levy a voluntary assessment and record a senior lien on the improved property. Tax liens and other government assessments remain superior to the C-PACER lien. The lien stays with the building, and the repayment obligation transfers automatically to the next owner if the property is sold. This mechanism provides more security to the capital provider, allowing for longer loan terms and potentially lower interest rates, resulting in lower debt service.

Like other assessments, C-PACER financing is non-accelerating, which means only current or past due payments can be collected, while future payments are the responsibility of whoever owns the property at the time. In the event of default, only the payments in arrears are due. This arrangement spreads the cost of qualifying improvements – such as energy-efficient HVAC equipment, upgraded insulation, new windows, solar installations, or seismic upgrades – over the useful life of the measures. This approach to financing has been used by programs like C-PACER on thousands of properties in more than 24 states and the District of Columbia.

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LEGAL AUTHORITY

King County (the "County") administers a C-PACER financing program (the "C-PACER Program" or the "Program") under [Section 36.165 of the Revised Code of Washington \(RCW\)](#) (the "C-PACER Act"). The C-PACER Act was established after the passage of HB 2405 by the Washington State Legislature in 2020.

The Program exists as a function of Washington's C-PACER legislation and the rules established by the County. No change in the Program or in Washington's C-PACER legislation will affect a property owner's obligations to pay C-PACER assessments incurred under the Program prior to such changes.

The responsibility of the County is limited to a) adoption of an ordinance and guidelines that govern how its C-PACER program works and b) review of the lien application for compliance with the C-PACER state law, and then recording a unique agreement that includes the acknowledgment of a special property assessment by the County. The repayment of the C-PACER financing is between a private lender and a property owner, when the lender's lien against the property is filed, with no obligation on the part of the County.

KING COUNTY C - PACER PROGRAM GUIDEBOOK

This Guidebook will help commercial and multi-family building owners understand the provisions of King County's C-PACER program and navigate the process to secure financing.

In this document you can find information about:

- Statutory and programmatic eligibility requirements for C-PACER properties and projects in King County
- Process for applying for C-PACER project approval

II. King County C-PACER Program Guidelines

The C-PACER Program enables financing for commercial property owners ("Property Owners") to make certain energy efficiency, renewable energy, water conservation, and resiliency improvements (each, a "Qualified Improvement") as described in the C-PACER Act and further clarified in this Guidebook. The purpose of this Program Guidebook is to provide clarity on the guidelines of the King County C-PACER program.

This Program Guidebook (the "Guidebook") is prepared as required by the C-PACER Act, at the direction of the County, and is approved in connection with, and as an attachment to, the enabling ordinance for this program (the "C-PACER Ordinance") dated _____. Capitalized terms used herein, but not defined herein, have the meaning given to such terms in the C-PACER Ordinance.

The Guidebook establishes guidelines, eligibility, approval criteria, and an application form for the administration of the C-PACER Program for the County.

Qualified Improvements, including all eligible costs that are to be financed as described in a project application (the "Project Application") approved by the Program, constitute a "Qualified Project." Property Owners may receive funding for their Qualified Improvements only from qualified private

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investors (“Capital Providers”) pursuant to a separate Financing Agreement negotiated between the Property Owner and Capital Provider (a “Financing Agreement”).

In the following numbered subsections, a reader can find information about:

- Statutory and programmatic eligibility requirements for C-PACER project financing in Washington State, and
- The appropriate steps and forms for application to King County for a C-PACER project lien.

1. C-PACER Program Boundaries

The County adopted Ordinance number _____ on _____, establishing the C-PACER Program for all eligible properties within the boundaries of King County, including both incorporated and unincorporated territory (the “Region”).

2. Administration of Program; Authorized Officials

The Director of Climate and Energy Initiatives, or its proxy, is designated and authorized to review each Project Application to confirm that it is complete and contains no errors on its face. The Director of Climate and Energy Initiatives or its proxy will then execute the Assessment Agreement and C-PACER Lien documents on behalf of the County and record them with the real property records.

As part of Program operation, the Director of Climate and Energy Initiatives or its proxy will:

- Accept Project Applications (see Attachment A, Application) from Property Owners and Capital Providers for prospective C-PACER projects.
- Review the Project Application to determine conformance with the Application Checklist (See Attachment B).
- Approve/conditionally approve/disapprove the Project Application and communicate to applicant.
- Execute the Assessment Agreement, Notice of Assessment Interest and C-PACER Lien (“Notice of Assessment Interest”) and Assignment of Notice of Assessment Interest and Assessment Agreement (“Assignment”).
- Record the Notice of Assessment Interest and Assignment.

3. Eligibility Requirements

Eligible Property means any privately-owned commercial, agricultural, industrial, or multi-family real property of five (5) or more dwelling units located within the boundaries of the Region. Eligible properties include those owned by a not-for-profit organization.

Ground leases on Eligible Property are permitted, so long as all requirements of the C-PACER Ordinance are met, including requiring the Property Owner to enter into an Assessment Agreement. On ground-leased property, therefore, the assessment and C-PACER Lien encumber the fee interest in the property, not the ground leasehold.

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Property Owner means an owner of qualifying eligible property, which is the record owner of title to the Eligible Property. The Property Owner may be any type of business, corporation, individual, or non-profit organization.

Qualified Improvement means a permanent improvement affixed to the real property that meets at least one of the following criteria:

- Decreases energy consumption or demand through the use of efficiency technologies, products, or activities that reduce or support the reduction of energy consumption, or allows for the reduction in demand, or reduces greenhouse gas emissions (“Energy Efficiency Improvement”);
- Supports the production of clean, renewable energy as defined in the [Clean Energy Transformation Act](#) (RCW 19.405.020(34)), including but not limited to a product, device, or interacting group of products or devices on the customer's side of the meter that generate electricity, provide thermal energy, or regulate temperature (“Renewable Energy Improvement”);
- Decreases water consumption or demand and addresses safe drinking water through the use of efficiency technologies, products, or activities that reduce or support the reduction of water consumption, allow for the reduction in demand, or reduce or eliminate lead from water which may be used for drinking or cooking (“Water Conservation Improvement”); or
- Increases resilience, including but not limited to seismic retrofits, flood mitigation, stormwater management, wildfire and wind resistance, energy storage, and microgrids (“Resiliency Improvement”).

Qualified Projects include the following:

- The acquisition, construction (including new construction), lease, installation, or modification of a Qualified Improvement permanently affixed to an Eligible Property.
- For Renewable Energy Improvements, “permanently affixed” includes Qualified Projects that are subject to a power purchase agreement or lease between the Property Owner/applicant and the owner of the renewable energy system, if the power purchase agreement or lease contains all of the following provisions:
 - a) The Renewable Energy Improvement relates to a Renewable Resource, defined in [RCW 19.405.020\(34\)](#) as follows: (a) water; (b) wind; (c) solar energy; (d) geothermal energy; (e) renewable natural gas; (f) renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first-growth forests; or (i) biomass energy.
 - b) The term of the power purchase agreement or lease is at least as long as the term of the related Assessment Agreement.
 - c) The owner of the Renewable Energy Improvement agrees to install, maintain, and monitor the system for the entire term of the Assessment Agreement.
 - d) Neither the owner of the Renewable Energy Improvement, nor the Property Owner, nor any successors in interest are permitted to remove the system prior to completion of the full repayment of the C-PACER Lien.
 - e) After installation, the power purchase agreement or lease is paid, either partially or in

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full, using the funds from the C-PACER financing.

- f) The power purchase agreement or lease specifies the holder of the C-PACER Lien is a third-party beneficiary of the power purchase agreement or lease until the C-PACER Lien has been fully repaid.
- Qualified Projects include the refinancing of existing properties that have had Qualified Improvements installed and completed for no more than three (3) years prior to the date of Project Application.

Qualifying Capital Provider may be any of the following:

- a corporation, partnership, or other legal entity that provides proof that it is currently registered as a C-PACER Capital Provider in two different states with C-PACE programs;
- a federal or state-chartered bank or credit union; or
- a private entity, whose principal place of business is located in Washington state, provided it is licensed or permitted to do business within the state and can produce its most recent audited financial statement or regulatory business filing.

Qualifying costs that can be C-PACER financed include:

- Materials and labor necessary for installation or modification of a Qualified Improvement;
- Permit fees;
- Inspection fees;
- Financing or origination fees;
- Program application and administrative fees;
- Project development, architectural and engineering fees;
- Third-party review fees, including verification review fees;
- Capitalized interest;
- Interest reserves;
- Escrow for prepaid property taxes and insurance;
- Any other fees or costs that may be incurred by the Property Owner incident to the installation, modification, or improvement on a specific or pro rata basis.
- See also the definition of Total Eligible Construction Costs in Section 5(5)(D).

4. Application Process

The Washington C-PACER statute reduces the administrative burden on participating counties as much as possible. Thus, the King County Director of Climate and Energy Initiatives or its proxy will review the Application for proof of compliance with the requirements of the statute that are necessary for the County to approve the application and execute the applicable documents for the proposed C-PACER transaction. All applicants are encouraged to review the Project Application Checklist accompanying the Application to ensure that the types of information that the County will rely upon to verify compliance with the statute are present in the completed Application.

The process of obtaining financing under the Program starts when a Property Owner approaches a Capital Provider. The Capital Provider will work with the Property Owner to collect a number of application and due diligence items. Once all the items have been received, reviewed, and approved by the Capital Provider, the parties should settle on the loan terms.

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The general flow of the C-PACER application process will be as follows:

- (1) The Property Owner and the Capital Provider prepare the Project Application, consisting of the Project Application Checklist and all supporting documents (described below). Applicants are encouraged to review the Project Application Checklist accompanying the Project Application to ensure that the types of information that King County will rely upon to verify compliance with the C-PACER Act and C-PACER Ordinance are present in the completed Project Application.
- (2) The Director of Climate and Energy Initiatives or its proxy will have 10 business days to review and approve the Project Application. If the Director has received an unusually high number of applications, or if review is delayed because of some force majeure event, the Director may notify the applicant that the application review and approval will be delayed by no more than 10 additional business days.
- (3) The County application review process is confined to confirming that the Project Application is complete and all attachments conform to these guidelines. **County approval does not constitute endorsement of any representations that may be made with regard to the operation and any savings associated with the Qualified Improvements.** The Director of Climate and Energy Initiatives or its proxy will review the Project Application for proof of compliance with the requirements of the C-PACER Act and C-PACER Ordinance that are necessary for the County to approve the Project Application and execute the applicable documents for the proposed C-PACER transaction. Incomplete Project Applications will be returned to the applicant, and the Director of Climate and Energy Initiatives or its proxy will notify the applicant about which items from the Project Application Checklist were not provided or are insufficient or inaccurate on their face. If the Project Application and supporting documents comply with the Project Application Checklist, the Project Application will be approved, and the approval communicated in writing to the applicant.
- (4) The Project Application may be conditionally approved if the application is complete but the attachment regarding lender consent is not yet available. Conditional approval will be treated the same as an approval, with exceptions noted below.
- (5) Upon receipt of approval, the Capital Provider will draft the following “Closing Documents”: The Assessment Agreement, the Notice of Assessment Interest and C-PACER Lien, and the Assignment of the Notice of Assessment and Assessment Agreement. At or before closing, at the request of the applicant, the designated and authorized official will execute Closing Documents.
- (6) If the Project Application received conditional approval, the Closing Documents executed by the County may not be released from escrow unless and until all lender consents have been received and executed in accordance with the C-PACER Act and C-PACER Ordinance.
- (7) At closing, the County will record the Assessment Agreement, the Notice of Assessment Interest and C-PACER Lien, and the Assignment of the Notice of Assessment Interest and C-PACER Lien in the Office of the Auditor for King County. At the election of the applicant, the County may delegate the recording of the Closing Documents to the applicant or their designee(s).
- (8) Upon confirmation of recordation, the Capital Provider will disburse funds in accordance with the Financing Agreement.

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- (9) The Property Owner begins on the Qualified Improvements or provides reimbursement for qualified expenses already incurred.
- (10) The Property Owner begins making assessment payments per the Assessment Agreement and in accordance with the Financing Agreement.

5. Application Documents

The Project Application must be submitted with the following documents appended:

- Project Application Checklist (form attached)
- Lienholder(s) Consent (form attached)
- Certificate of Qualified Improvements:
 - (1) For Renewable Energy Improvements or Energy Efficiency Improvements on an existing building: A certification stating that (a) the proposed Qualified Improvements will either result in more efficient use or conservation of energy or water, the reduction of greenhouse gas emissions, or the addition of renewable sources of energy or water; or (b) the subject property as a whole prior to the installation of the Qualified Improvements does not conform to the meeting the current building energy or water code for the County, but will do so after the Qualified Improvements are installed.

The certification must be performed by a licensed professional engineer or accredited individual or firm from the following list:

- American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE)
 - Building Energy Assessment Professional (BEAP)
 - Building Energy Modeling Professional (BEMP)
 - Operations & Performance Management Professional Certification (OPMP)
 - High-Performance Building Design Professional Certification (HBDP)
- Association of Energy Engineers (AEE)
 - Certified Energy Manager (CEM)
 - Certified Measurement and Verification Professional (CMVP)
 - Certified Energy Auditor (CEA)
- Building Performance Institute
 - Energy Auditor
- Investor Confidence Project
 - ICP Quality Assurance Assessor

Other professional entities may be accepted by the Director of Climate and Energy Initiatives or its proxy at its discretion.

- (2) For Renewable Energy Improvements that are solar photovoltaics, a North American Board of Certified Energy Practitioners (NABCEP) PV design specialist certification is acceptable, or a licensed Electrical Engineer, Building Energy Assessment Professional (BEAP), Building Energy Modeling Professional (BEMP), Certified Energy Manager (CEM), Certified Measurement and

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Verification Professional (CMVP), or Certified Energy Auditor (CEA). Other professional entities may be accepted by the Director of Climate and Energy Initiatives or its proxy at its discretion.

- (3) For lead reduction in water improvements: a Water Quality Association Professional Certification.
- (4) For Resiliency Improvements on an existing building: Certification by a licensed professional engineer stating that the Qualified Improvements will result in improved resilience, including but not limited to seismic improvements, flood mitigation, stormwater management, wildfire and wind resistance, energy storage, and microgrids.
- (5) For new construction:
 - (A) Relating to energy or water efficiency, certification by a licensed professional engineer stating that each proposed Qualified Improvement will enable the subject property to exceed the energy efficiency, water efficiency, or renewable energy code requirements. If the building as a whole performs above code, all energy and water-related improvements are eligible for financing. Alternatively, if the building as whole performs above code, 20% of the Total Eligible Construction Costs qualify for C-PACER financing.
 - (B) Relating to resiliency, certification by a licensed professional Civil Engineer that the proposed Qualified Improvements will enable the subject property to exceed the resilience requirements of the current building code. If the building as a whole performs above or exceeds code requirements for resiliency, all resiliency-related improvements that relate to that particular requirement are eligible for financing. Alternatively, if the building as a whole performs above code, 10% of the Total Eligible Construction Costs qualify for C-PACER financing.
 - (C) For buildings choosing the alternative path, if both efficiency and resiliency measures are present in a building that performs above code for both, 30% of the Total Eligible Construction Costs qualify for C-PACER financing.
 - (D) “Total Eligible Construction Costs” or “TECC” means all direct and indirect costs of materials, labor, and soft costs related to the design, installation, and construction of the new structure. Qualified costs include a) the cost of materials and labor for installation or modification of a qualified improvement; b) permit fees; c) inspection fees; d) lenders fees; e) program application and administrative fees; f) project development and engineering fees; g) third party review fees, including verification review fees; i) capitalized interest; j) interest reserves; k) escrow for prepaid property taxes and insurance and l) any other fees or costs that may be incurred by the property owner incident to the installation, modification, or improvement on a specific or pro rata basis. Costs that are excluded from TECC include the costs of land acquisition, off-site improvements, site permitting, environmental testing and remediation, and equipment not permanently installed on the property.
- (6) For all Qualified Improvements, the licensed engineer, individual or firm providing the certification of eligibility of the Qualified Improvements must attest that the proposed term of the financing does not exceed the weighted average effective useful life of the proposed Qualified Improvements and that the Qualified Improvements are permanently affixed, as described in this Guidebook.

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6. Closing Documents

The following documents require the signature of the County and shall be part of the closing of any C-PACER transaction. Each document must be substantially similar in substance to the forms provided, although it is expected that Property Owners and Capital Providers will negotiate variations tailored to their specific projects.

- Assessment Agreement (Form attached)
- Notice of Assessment Interest and C-PACER Lien (Form attached)
- Assignment of Notice of Assessment Interest and C-PACER Lien and Assessment Agreement (Form attached)

7. Interest Rates

Interest rates are negotiated in a Financing Agreement between the Property Owner and the Capital Provider. King County has no role in reviewing, setting, or opining on such interest rates or other aspects of the Financing Agreement. Market forces – such as competition, the intended use of the property, potential risk – will affect the terms negotiated by the Property Owners and Capital Providers.

8. Billing and Collection of Assessments

Billing, collection and enforcement of delinquent C-PACER Liens or C-PACER financing installment payments, including foreclosure, remain the responsibility of the Capital Provider, and the terms are negotiated within the Financing Agreement.

9. Enforcement of C-PACER Lien

The C-PACER Lien may be enforced by the Capital Provider at any time after one year from the date of delinquency in the same manner that the collection of delinquent real property taxes is enforced by King County, by prosecution of foreclosure proceedings under chapter 84.64 RCW et seq., including the provisions of RCW 84.64.040, excepting that a sworn declaration by the Capital Provider or assignee attesting to the assessment delinquency of at least one year will be used in lieu of the certificate of delinquency required under RCW 84.64.050. The sworn declaration has the same legal standing as a certificate of delinquency enumerated in RCW 84.64.050. Under the C-PACER Act, such enforcement may not occur until at least one year after delinquency.

By accepting a C-PACER Lien, the Capital Provider or its assignee, as applicable, agrees to assume responsibility for prosecution of said action of foreclosure pursuant to RCW 84.64.040, independent of and without assistance or consent from the prosecuting attorney, in accordance with the terms of the Financing Agreement.

10. Program Fee

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King County, as compensation for time and costs incurred in the establishment of the C-PACER Program, including the C-PACER Ordinance, this Guidebook, the draft documents, as well as for reviewing a Project Application for completeness and executing the Assessment Agreement, C-PACER Lien, and Assignment, is entitled to a fee equal to 1% of the amount financed by the Property Owner, or a minimum of \$2,500 and capped at a total of no more than \$15,000. The Property Owner must pay this fee to the County at the closing of the transaction between the Property Owner and the Capital Provider, and such payment is a condition precedent to recording.

11. Term of an Assessment; Calculation of Useful Life of Qualified Improvements

The maximum term of an assessment may not exceed the useful life of the Qualified Improvement, or weighted average life if more than one Qualified Improvement is included in the Qualified Project.

12. Form of Closing Documents

The Program has adopted form Closing Documents: The Assessment Agreements, Notice of Assessment Interest and C-PACER Lien, and Assignment of Notice of Assessments Interest and Assessment Agreement. 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.

The forms are attached as Exhibit 1 [and ___] and respectively incorporated herein as referenced

13. Written Consent from Lienholder(s) Required

Before entering into an Assessment Agreement with the County, the Capital Provider must obtain, and the Project Applications must show proof of, written consent for the placement of the assessment and C-PACER Lien from any holder of a lien, mortgage, or security interest in the real property.

For qualifying multifamily projects (residential projects of 5 or more dwelling units), the Capital Provider must obtain written consent from any holder of affordable housing covenants, restrictions, or regulatory agreements encumbering the real property as a condition precedent to the participation in the Program by the property.

If the consents are executed at closing, the signatures of the County to the Closing Documents will be held in escrow and will not be released until the consents are obtained. After closing, at the election of the Director of Climate and Energy Initiatives or its proxy, an amended Project Application with the consents attached must be sent to the Director of Climate and Energy Initiatives or its proxy. Capital Providers are responsible for providing their own form of consent that conforms to the C-PACER Ordinance and C-PACER Act.

14. Provisions for Marketing and Participant Education

This Guidebook will be made available to the public on the King County C-PACER website. (*page in development*). King County may, at its discretion, engage in workshops, webinars, or other public and stakeholder forums, or provide written materials to increase awareness about the C-PACER program. King

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County encourages other stakeholders to develop and share materials to promote the education about and use of the King County C-PACER program to serve the public benefit of health and safety.

15. County Has No Liability or Financial Responsibility

Neither King County, its governing body, executives, nor employees are personally liable as a result of exercising any rights or responsibilities granted under this Program.

The County shall not pledge, offer, or encumber its full faith and credit for any lien amount under the C-PACER program. No public funds may be used to repay any C-PACER financing obligation.

16. Limitations of King County's authority

King County may not enforce any privately financed debt under this Program. Neither the State of Washington nor King County may use public funds to fund or repay any loan between a capital provider and property owner. No provisions of this Program shall be interpreted to pledge, offer, or encumber the full faith and credit of King County, nor shall King County pledge, offer, or encumber its full faith and credit for any lien amount through this Program.

[EXHIBITS TO BE INSERTED]