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Financing Green Energy with PACE and Special Assessments

Tuesday, September 10, 2024

Financing Green Energy with PACE and Special Assessments



Noelle Sheets

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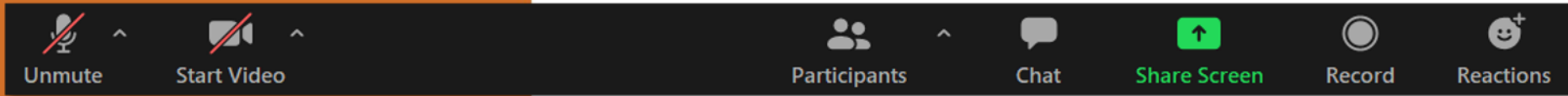
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Financing Green Energy with PACE and Special Assessments



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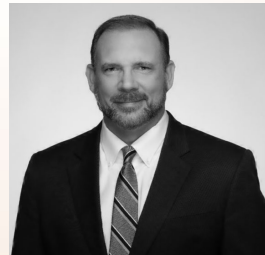
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What We'll Cover Today

- PACE legal, regulatory, and policy framework
- Identifying PACE-eligible improvements
- Identifying projects that are candidates for PACE financing
- Understanding lending alternatives for PACE projects
- Case studies
- Q&A

Legal, Regulatory, and Policy Outline

- State Authorizing Legislation
- Special Assessment Authorization
- Program regulations and policies
- Remedies for Delinquency
- Lien Priority
- Federal Regulatory Issues
- State Regulatory Issues
- PACE Financing

Importance of Legal, Regulatory, and Policy Considerations

- Why Legal Frameworks Matter
 - Ensuring compliance
 - Protecting stakeholders
 - Enabling financial viability
- Common Challenges
 - Legal and regulatory hurdles
 - Financial barriers

Special Assessments Generally – Public Use

Special assessments:

- governmental charges
- not taxes
- imposed on real property near an improvement
- used to pay the costs of improvement
- imposed in recognition of the “special benefit” received
- collected like real property taxes

Special Assessments Generally – Public Use

- Special assessments are traditionally imposed for “public use” improvements.
- Examples:
 - Roads
 - Sidewalks
 - Lighting improvements
- The “public use” element is fundamental to the use of governmental power to lien property.
- The “public use” element requires extensive due process, including notices and hearings.

Special Assessments for Energy Improvements – Private Use

- PACE assessments can fund privately-owned improvements.
- PACE assessments use existing or modified special assessment laws.
- Privately-owned improvements must be “public use” or provide “public good.”
- States have adopted PACE laws or relied on State constitutional provisions stating that energy conservation is a “public good.”
- Due process concerns are modified or reduced since the property owner must be involved in the process to petition the PACE assessments.

Special Assessments for Energy Improvements – Private Use

- Energy efficiency improvements
 - HVAC
 - Lighting
 - Roofs, windows, insulation
- Alternative energy improvements
 - Solar photovoltaic (PV) and thermal
 - Wind
 - Geothermal
 - Biomass
- Water efficiency improvements
- Resiliency improvements



Special Assessment Authorization

Authorizing legislation is required to impose PACE assessments on real property.

- **Majority Rule:** PACE assessments are authorized by local legislation with specific local action.
- **Minority Rule:** PACE assessments are authorized through statewide programs, which may give statewide entities assessment authority.

Special Assessment Authorization

PACE assessments may or may not require the creation of districts or programs.

Districts or programs may require

- formation of a separate legal entity
- articles, codes, and board representation
- audits
- other action items

Special Assessment Authorization

- Express authorization of energy improvement
- Permitted term of special assessments
 - Statutory maximums
 - Bond finance considerations of useful life of energy improvements
- Notice or waiver of due process
- Apportionment of special assessments or waiver

Special Assessment Authorization

- Like taxes and other forms of governmental exaction, special assessments must be “perfected” in order to be enforceable against real property.
- Perfection occurs through a variety of procedures:
 - Adoption of special assessment legislation
 - Notice of special assessment legislation to public
 - Notice of special assessment legislation to auditor, assessor, or tax collector
 - Recorded instrument establishing assessment lien
 - All of the above

Remedies for Delinquency

- PACE assessments, like most assessments, “run with the land.”
 - Federal regulatory requirements may require residential PACE assessments to be paid off at sale.
- PACE assessments should be viewed as a tax-like encumbrance on real property.

Remedies for Delinquency

- State property tax foreclosure procedures apply to PACE assessments
- Foreclosure of real property is ultimate remedy.
- Other potential remedies:
 - Sale of tax deed
 - Sale of tax lien certificate
 - Lien-clearing or land banking

Lien Priority

Generally, a delinquent PACE assessment is enforced like a delinquent real property tax and is superior to all private liens.

- Majority Rule: Taxes are superior to special assessments.
- Minority Rule: Taxes and special assessments are pari passu.
- Other Rule: Taxes and special assessments are superior to PACE assessments.

Lien Priority

Other liens fall in various places depending on the applicable law:

- Federal liens
- Mortgage liens
- Mechanics liens

Federal Regulatory Issues

- Issue #1: PACE and residential mortgage underwriting criteria
- Issue #2: IRS regulations for tax-exempt and tax-preferred bonds
- Issue #3: Federal income tax treatment of PACE financing and special assessment payments

State Regulatory Issues

- Issue #1: Energy efficiency savings requirements
- Issue #2: Investor-owned utility credit for improvements and reporting requirements
- Issue #3: State power siting rules
- Issue #4: Procurement of energy auditor, contractor, and other vendor services

PACE Financing

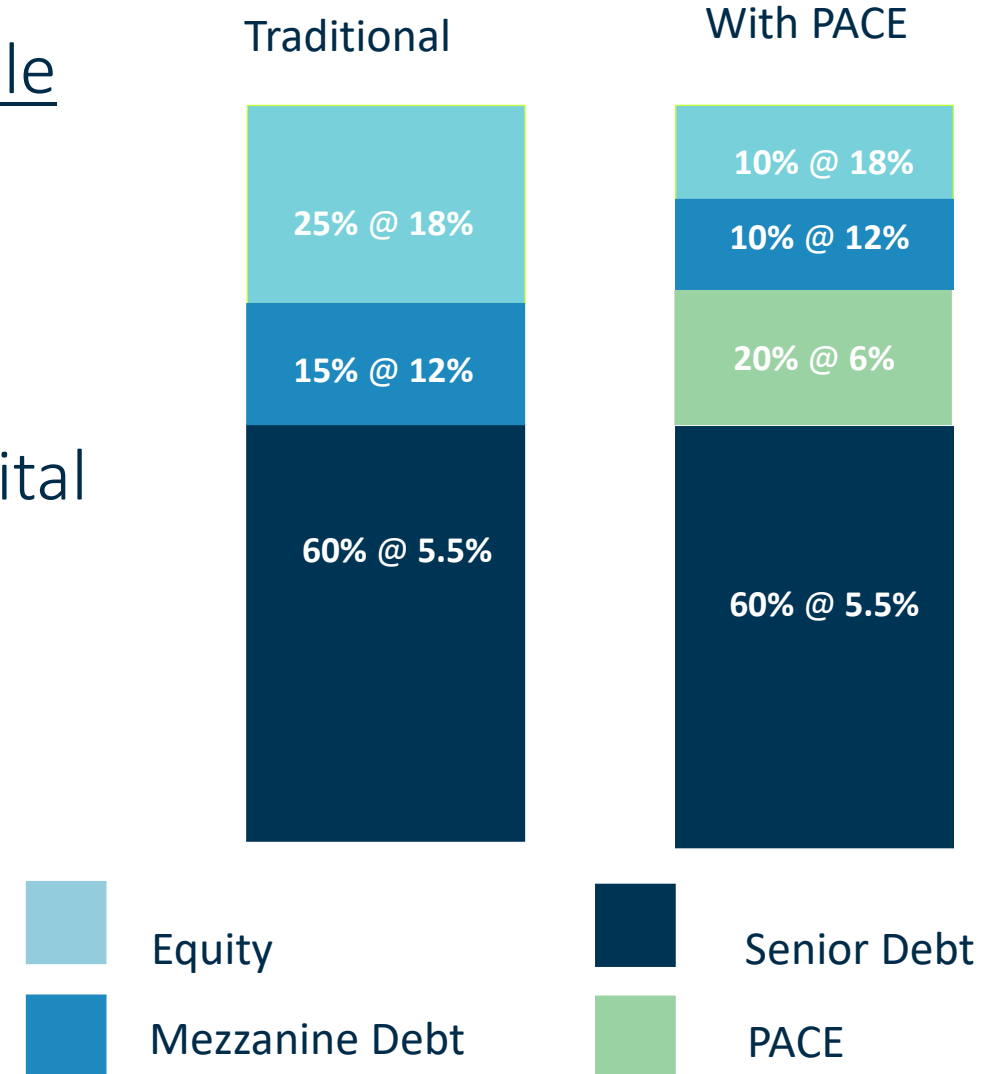


PACE Financing

- PACE assessments have strong credit profile in the private credit markets.
- Long-term loans (10 – 30 years)
- Fixed-interest rates/ Fixed payment
- 100% financing, no down payment
- Non-recourse loans (no personal guarantee)
- Payments can be passed through to tenants
- Loan transfers with the property

PACE and Capital Stacks

- From a developer viewpoint: Affordable Equity Alternative
- Long-term, fixed-rate payback
- Pass Through Assessment Expense
- Solution for projects experiencing capital issues (bridge the gap)
- Promotes Sustainable Development
- Prepayment Flexibility
- Can layer with IRB, HTC, TIF, etc.



PACE Financing – Lender Consent

- Mortgages do not permit creation of senior liens.
- A PACE assessment delinquency would establish a senior lien.
- The mere process of requesting a PACE assessment is probably not a mortgage default.

PACE Financing – Lender Consent

Mortgage consent or acknowledgment of PACE assessment is required.

- Majority Rule: Project must obtain first mortgagee consent.
- Minority Rule: Project may proceed without first mortgagee consent if permitted by mortgage.
- Other Rules:
 - Project may proceed with acknowledgment of PACE assessment by mortgagee.
 - Project may proceed after notice of PACE assessment to mortgagee

PACE Financing – Lender Consent

- Traditional lender views on PACE assessments vary.
 - Delinquent PACE assessments senior to delinquent mortgages
 - Possibility to re-originate a loan at a senior position
 - Higher rents
 - Stability in property value
 - Improvements enhance borrower cash flow or EBITDA
 - Balance sheet improves

Layering Financing Tools

C-PACE can be combined with other types of financing and incentives

Abatements

- Local/state property tax abatement
- Local/state income tax abatement
- Local/state sales tax abatement

Credit enhanced financing

- Local/state development loans or grants
- Local/state credit-enhanced financing

Other

- Tax increment financing (TIF)
- Historic tax credits (HTC)
- New market tax credits (NMTC)
- Alternative energy tax credits
- Utility rebate programs

PACE Project Candidates

- Complicated projects
- Urban projects
- Retrofit projects
- New construction
- PACE can help replace equity requirements!



Who is PACE for?

- **Commercial Property Owners**
 - Includes Hotels, Hospitals, Restaurants, Office Buildings, etc.
 - Includes Multi-Family Housing, with 5+ units
- **Industrial Property Owners**
- **Agricultural Property Owners**
 - Farms, Wineries, etc.
- **Nonprofits**
 - Churches, Childcare Facilities, Private Schools, etc.
- Does not include Residential Property Owners or Government Owned Property



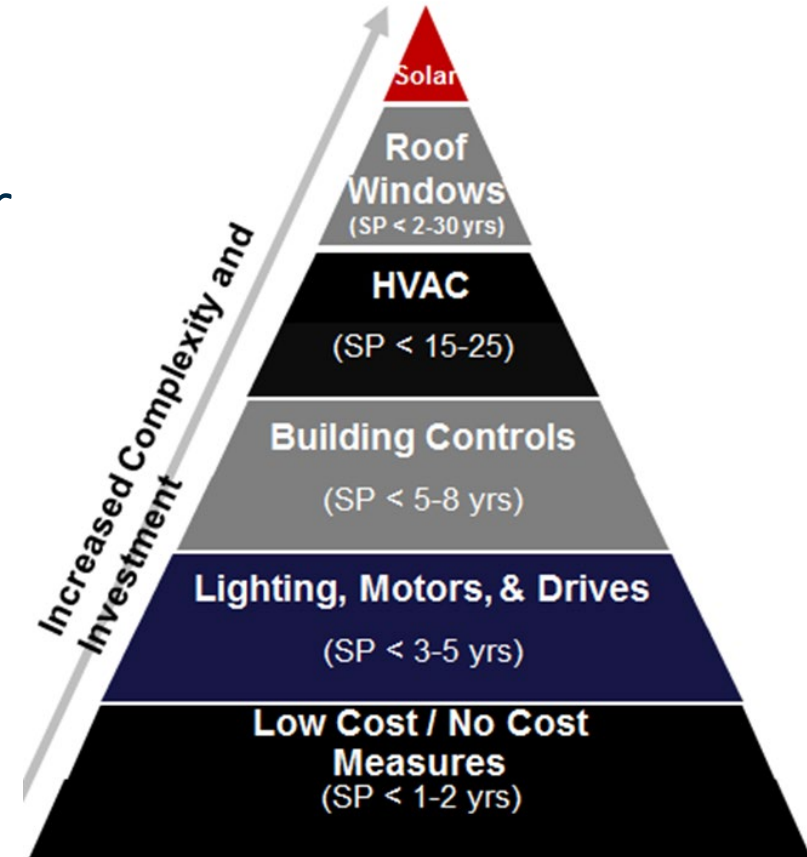
Legal Outline – Wrapping it Up

PACE

- Property, meaning that the financing mechanism improves real property and is secured with an interest in real property
- Assessed, meaning that the financing mechanism is paid for with special assessments under state laws
- Clean Energy, meaning that energy efficiency and alternative energy improvements are eligible for financing

Ohio's PACE Law

- Solar photovoltaic (i.e., roof-top and ground-mounted solar arrays)
- Solar thermal systems (i.e., solar water heating systems)
- Geothermal
- Wind
- Biomass
- Gasification
- **Energy efficiency improvements**



Ohio's PACE Law

“Energy Efficiency Improvement” is given a special statutory definition:

- “...energy efficiency technologies, products, and activities that (1) reduce or support the reduction of energy consumption, (2) allow for the reduction in demand, or (3) support the production of clean, renewable energy and that are or will be permanently fixed to real property.”

“Reduction In Demand” means:

- “...a change in customer behavior or a change in customer-owned or operated assets that reduces or has the capability to reduce the demand for electricity as a result of price signals or other incentives.”

Ohio's PACE Law

“Customer-generated energy project” means:

“... a wind, biomass, or gasification facility that produces electricity”

- EITHER the facility is designed to have a generating capacity of 250kw or less
- OR the facility is:
 - Designed to have a generating capacity of more than 250kw;
 - Operated in parallel with electric transmission and distribution facilities serving the real property at the site of the customer-generated energy project;
 - Intended primarily to offset part or all of the facility owner's requirements for electricity at the site of the customer-generated energy project and is located on the facility owner's real property; and
 - Not producing energy for direct sale by the facility owner to the public.

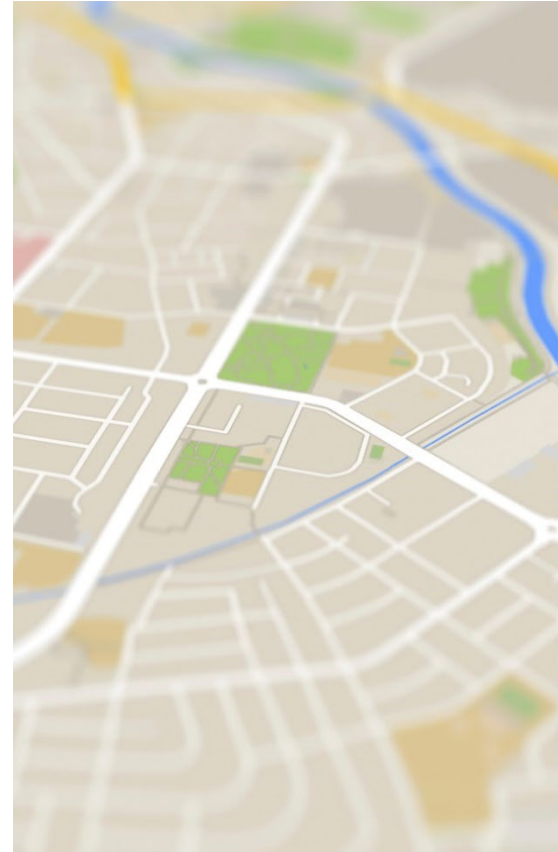
Energy Special Improvement Districts

- ESIDs are available for all property types (i.e., residential, commercial, industrial, non-profit and government property)
- Petition(s) by property owner(s)
- Legislative approval by local government
- Noncontiguous “districts” are permitted
- Single parcel projects

ESIDs - Applicable Law

Ohio Revised Code Section 1710.02(A)

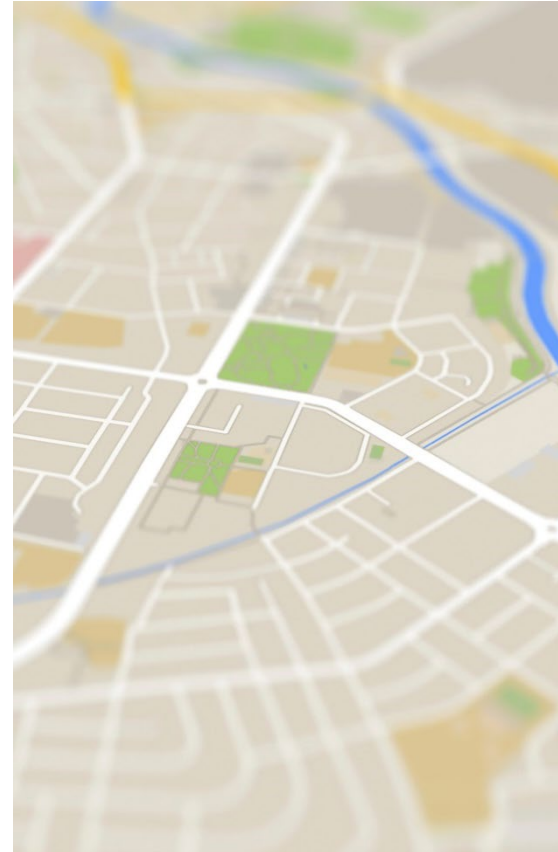
“A special improvement district may be created within the boundaries of any one municipal corporation, any one township, or any combination of contiguous municipal corporations and townships...”



ESIDs - Applicable Law

Ohio Revised Code Section 1710.02(A) cont.

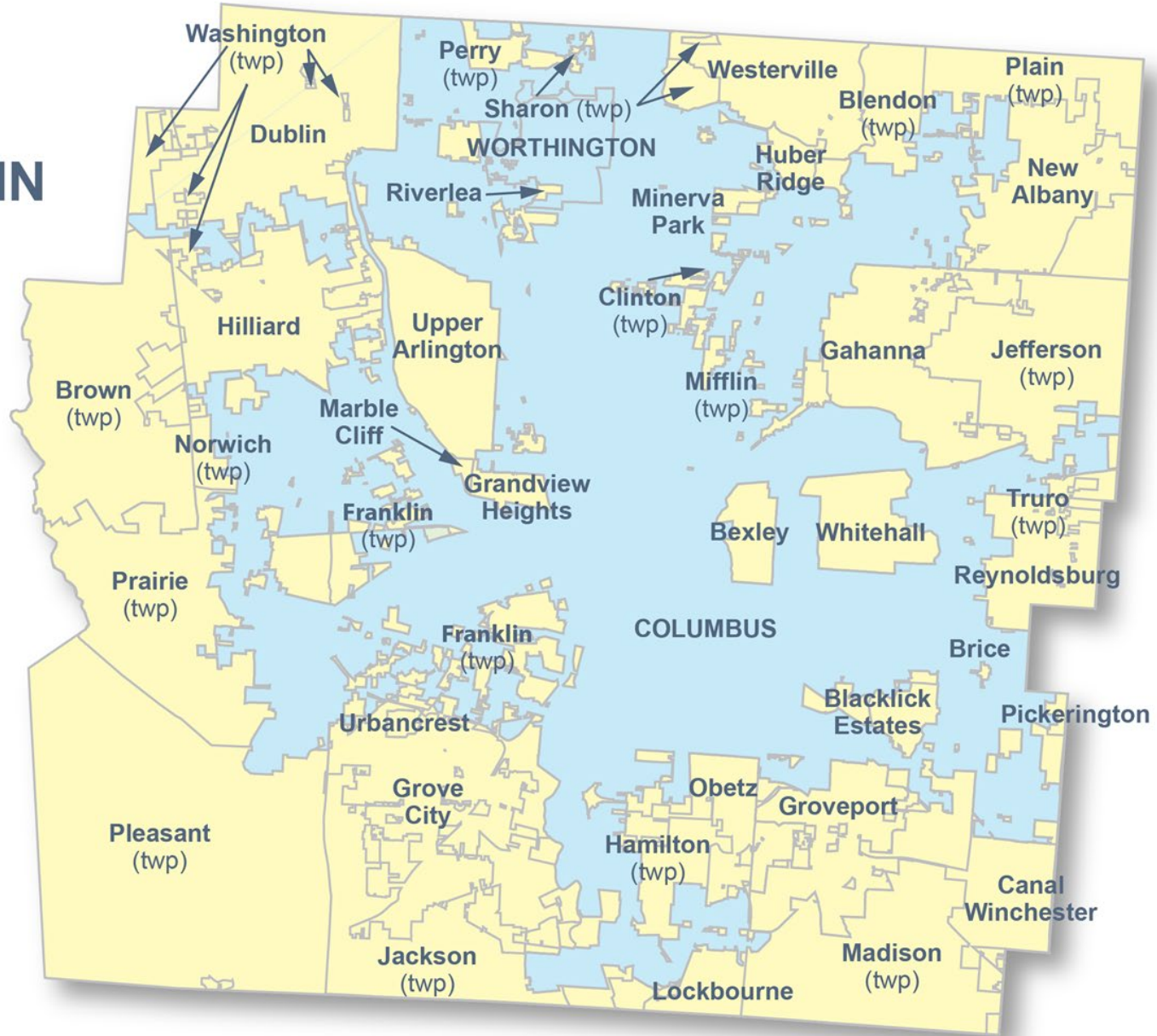
“...territory in a special improvement district may be noncontiguous if at least one special energy improvement project is designated for each parcel of real property included within the special improvement district.”



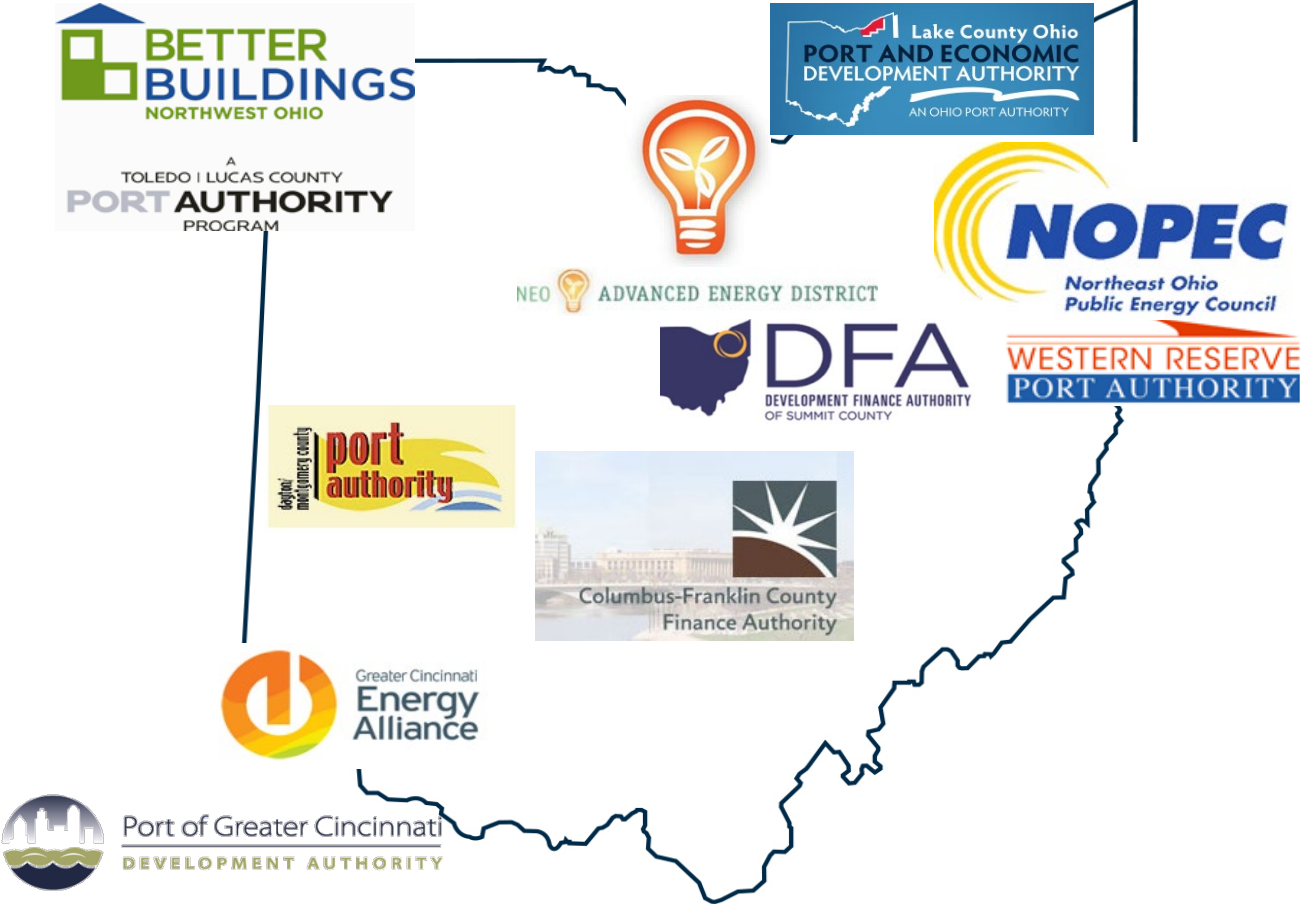


HAMILTON

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Ohio PACE Programs



Questions & Discussion

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Financing Green Energy with PACE and Special Assessments



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LONE ★ STAR
— PACE —



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“Solar energy is actually nuclear energy from a safe distance.”

- Unknown

LONE STAR PACE OVERVIEW



LONE STAR
— PACE —



Administer current
PACE projects



Expand the reach and
accessibility of PACE projects
throughout the State of Texas



Educate and train
stakeholders about PACE

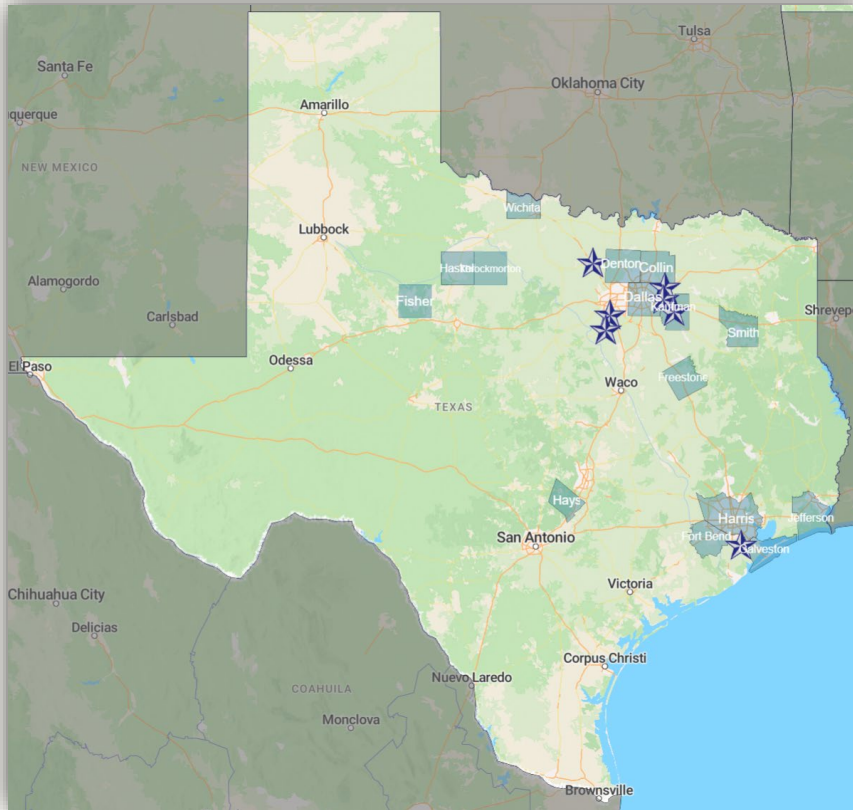


Facilitate future
PACE-funded projects

“For a typical office building, energy represents 30 percent of the variable costs and constitutes the single largest controllable operating cost.”

- National Action Plan for Energy Efficiency

WHERE IS LONE STAR PACE IN TEXAS?



- Alvin (City)
- Burleson (City)+
- Cleburne (City)
- Collin County
- Dallas County*
- Decatur (City)
- Denton County
- Forney (City)
- Fort Bend County*
- Freestone County
- Galveston County*
- Harris County+
- Haskell County
- Hays County*
- Jefferson County*
- Kaufman (City)
- Kaufman County
- Rockwall (City)
- Smith County*
- Throckmorton County
- Wichita County

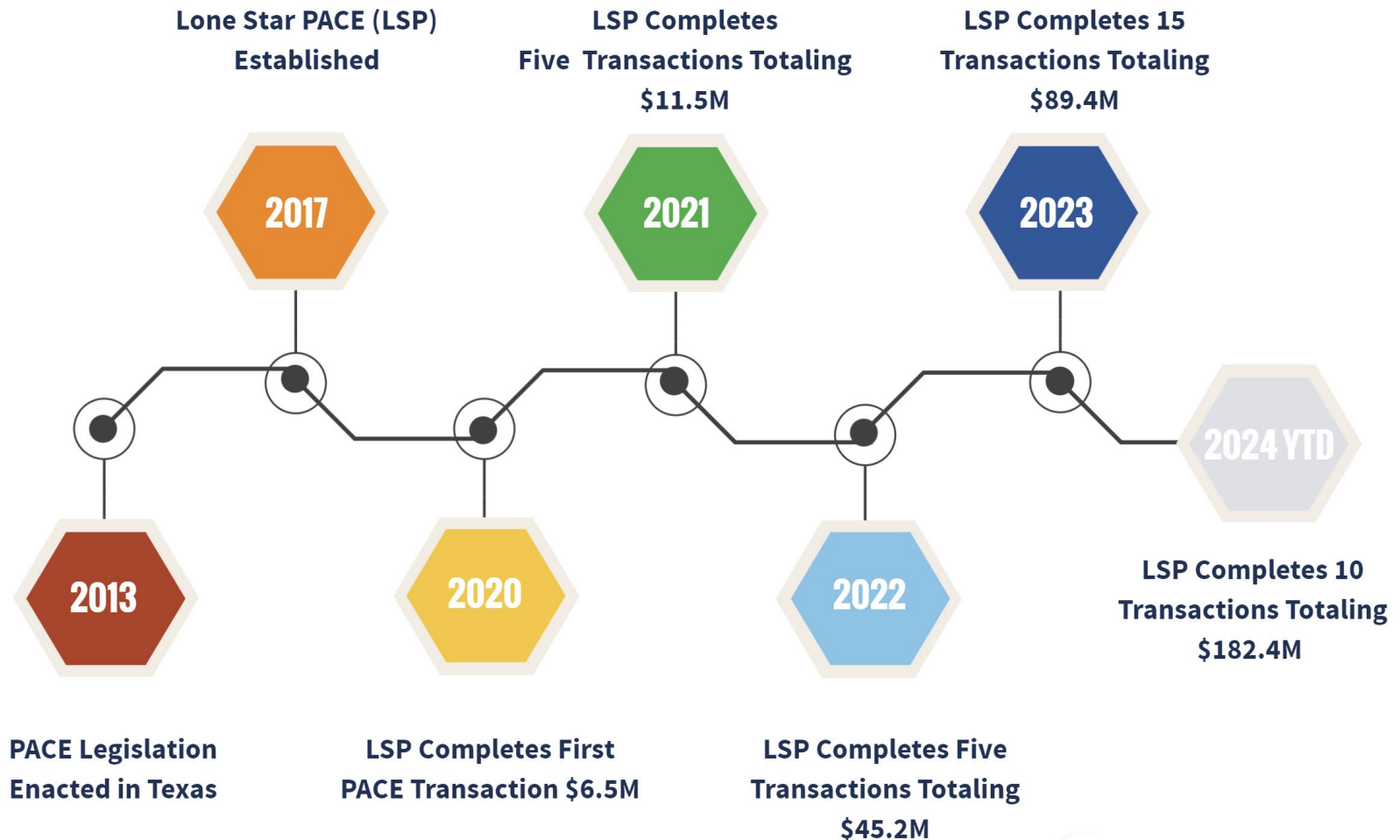
* County utilizes two PACE Program Administrators
+ One administrator at the city level and other at county level.

“Reducing Air Leaks Can Save Up to 20% of a Home’s Energy Use .”

– Payless Power



LONE STAR PACE HISTORY IN TEXAS

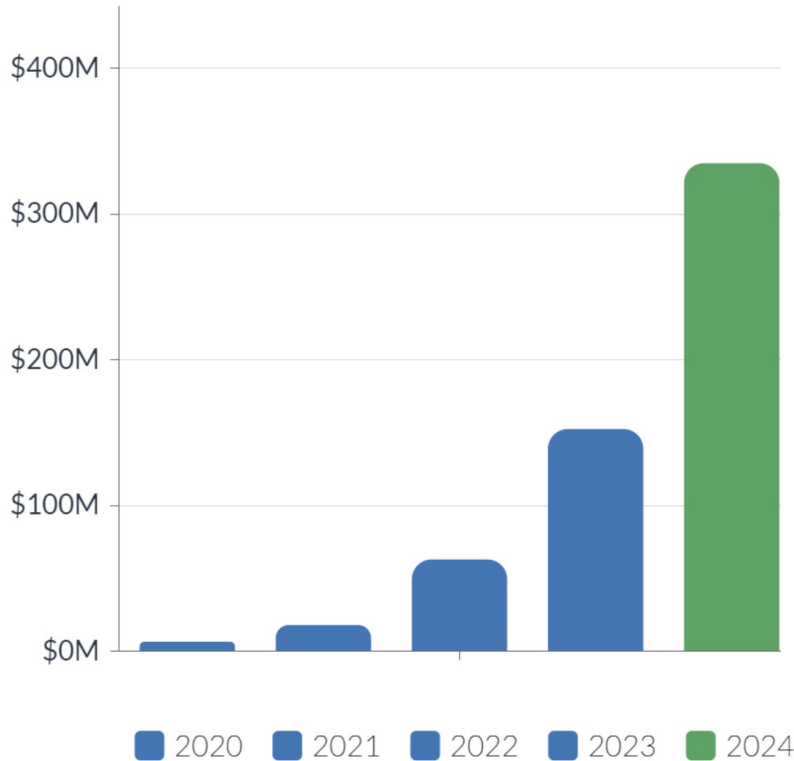


“5.9 million U.S. commercial buildings consumed 6.8 quadrillion British thermal units of energy and spent \$141 billion on energy in 2018.”



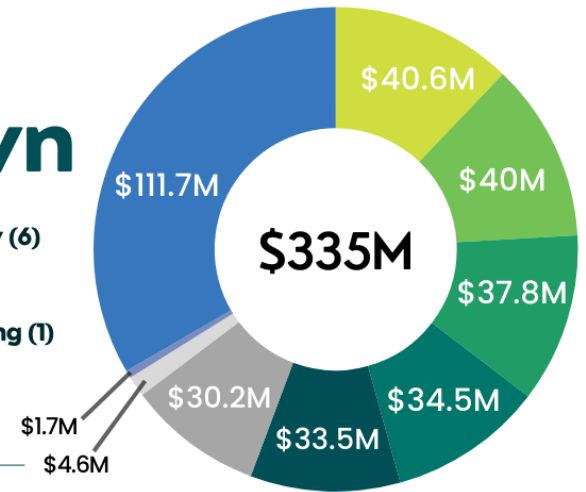
Cumulative and Project Type

CUMULATIVE VOLUME



Project Breakdown

- Hospitality (9)
- Retail (3)
- Data Center (1)
- Industrial (10)
- Mixed-Use (3)
- Multifamily (6)
- Office (4)
- Senior Living (1)
- Solar (1)



Projects are a mix of new developments, renovations/retrofits and retroactive financing.

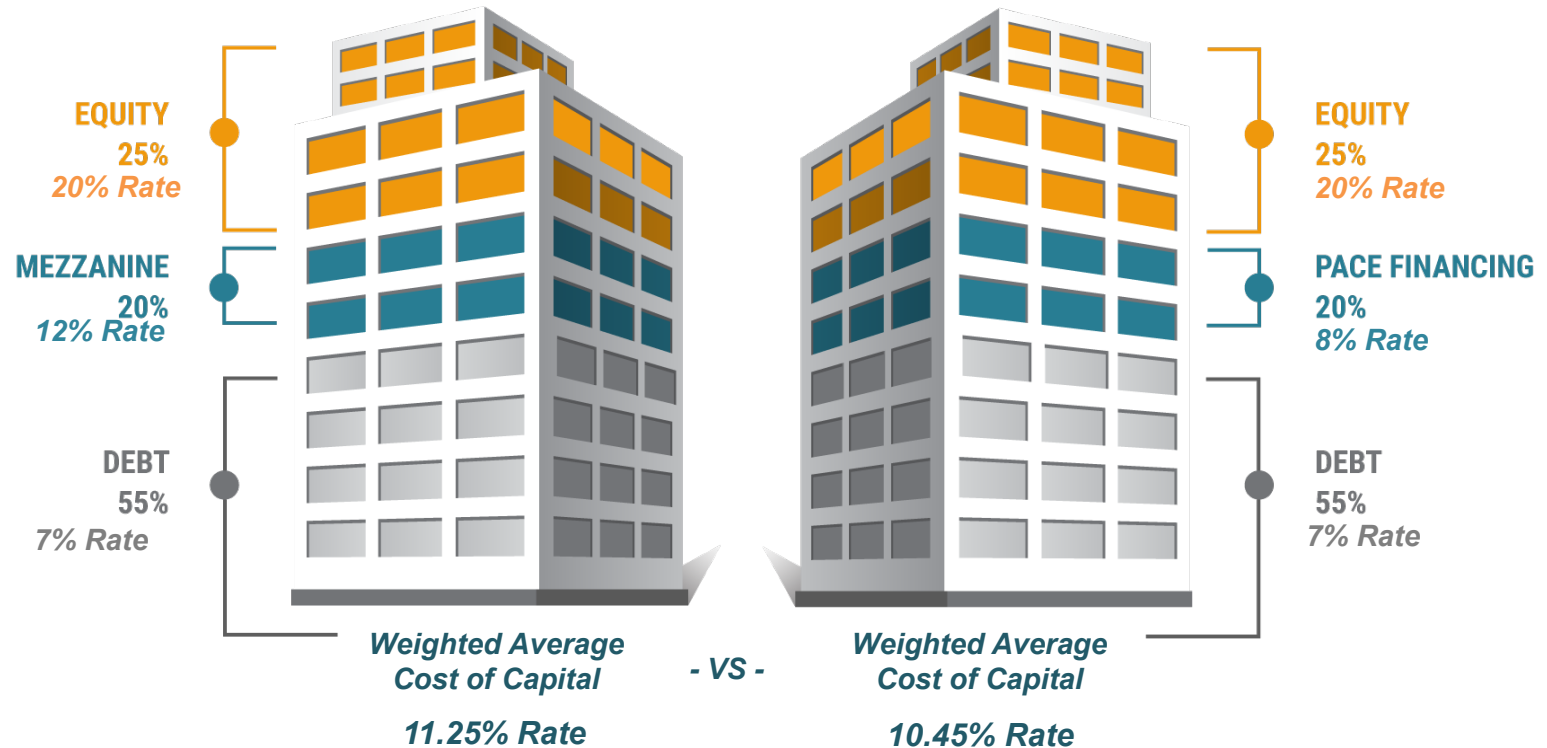
"While our energy efficiency is improving, there is a very high correlation, almost near perfect correlation, between GDP growth and energy usage."

- Malcom Turnbull

PACE INTEREST RATE COMPARISON

CONVENTIONAL DEBT/EQUITY

PACE FINANCING



“Drip irrigation systems can result in water savings of 30 to 65 percent compared to traditional systems.”



Dallas County - 2023 Projects

BIOLABS PEGASUS PARK

Date of Assessment	October 4, 2023
PACE Municipality	Dallas County
PACE Assessment	\$11.3M
Project	Biotechnology
Improvements	Envelope, Electrical Lighting, HVAC, and Plumbing
Utility Savings	1,733,575 kWh/yr (25% reduction), 222 kgal/yr (79% reduction)
Estimated Jobs Created	113



Equivalent to
offsetting the
energy used
by **123**
average Texas homes/yr



Equivalent
to reducing
1,680,540
water bottles/yr

Source: U.S. Energy Information
Administration



Dallas County - 2023 Projects

WASHINGTON TOWER

Date of Assessment	May 26, 2023
PACE Municipality	Dallas County
PACE Assessment	\$0.82M
Project	Office
Improvements	Envelope, Mechanical Systems
Utility Savings	843,567 kWh/yr (53% reduction)
Estimated Jobs Created	113



Equivalent to
offsetting the
energy used
by **64**
average Texas homes/yr

Source: U.S. Energy Information
Administration



Wichita County - 2024 Projects



Equivalent to
offsetting the
energy used
by **208**
average Texas homes/yr



Equivalent
to reducing
29,100,400
water bottles/yr

Source: U.S. Energy Information
Administration

PANDA BIOTECH

Date of Assessment	April 11, 2024
PACE Municipality	Dallas County
PACE Assessment	\$13.38M
Project	Industrial
Improvements	Building Envelope, Heating, Ventilation, Air Conditioning, Plumbing, Domestic Hot Water, Lighting Systems & Controls
Utility Savings	2,732,769kWh/yr (68% reduction), 3,829 kgal/yr (94% reduction)
Estimated Jobs Created	133



Harris County - 2024 Projects

THOMPSON HOTEL & RETAIL

Date of Assessment	May 31, 2024
PACE Municipality	Harris County
PACE Assessment	\$46.63M
Project	Hospitality and Retail
Improvements	Building Envelope, Heating, Ventilation, Air Conditioning, Plumbing, Domestic Hot Water, Lighting Systems & Controls
Utility Savings	951,214 kWh/yr (15% reduction), 1,604 kgal/yr (66% reduction)
Estimated Jobs Created	466



Equivalent to offsetting the energy used by **74** average Texas homes/yr



Equivalent to reducing **12,190,400** water bottles/yr

Source: U.S. Energy Information Administration.



Dallas County - 2022 Projects

RIVER EDGE AND THIRTEEN THIRTY

Date of Assessment	December 23, 2022
PACE Municipality	Dallas County
PACE Assessment	\$28.33M
Project	Office
Improvements	Building Envelope, Heating, Ventilation, Air Conditioning, Plumbing, Lighting Systems & Controls
Utility Savings	483,733 kWh/yr (10% reduction), 404 kgal/yr (34% reduction)
Estimated Jobs Created	282



Equivalent to offsetting
the energy used by
37 average Texas homes/yr



Equivalent to reducing
3,070,400
water bottles/yr

Source: U.S. Energy Information Administration





Harris County - 2024 Projects

HOLIDAY INN EXPRESS/STAYBRIDGE

Date of Assessment	March 26, 2024
PACE Municipality	Harris County
PACE Assessment	\$17.79M
Project	Hospitality
Improvements	Building Envelope, Heating, Ventilation, Air Conditioning, Plumbing, Domestic Hot Water, Lighting Systems & Controls
Utility Savings	982,169 kWh/yr (48% reduction), 844 kgal/yr (9% reduction)
Estimated Jobs Created	177



Equivalent to
offsetting the
energy used
by **75**
average Texas homes/yr



Equivalent
to reducing
9,239,000
water bottles/yr

Source: U.S. Energy Information
Administration





Galveston County - 2022 Projects



Equivalent to
offsetting the
energy used
by **156**
average Texas homes/yr



Equivalent
to reducing
1,208,400
water bottles/yr

Source: U.S. Energy Information
Administration

PROVEER AT SOUTH SHORE

Date of Assessment	December 29, 2022
PACE Municipality	Galveston County
PACE Assessment	\$4.58M
Project	Independent Living
Improvements	Envelope, Lighting, HVAC, Plumbing
Utility Savings	2,053,512 kWh/yr (42% reduction), 159 kgal/yr (33% reduction)
Estimated Jobs Created	45





BENEFITS TO LOCAL GOVERNMENT:

- Encourage Energy and Water Conservation
- Promotes Economic Development
- Upgrades Existing Building Stock
- Improves Property Values
- No Cost to Implement
- Completely Voluntary Agreement

BENEFITS TO COMMERCIAL PROPERTY OWNERS:

- Immediate Cash Flow
- No Down Payment
- Long Term Funding
- Increased Property Value
- Non-Recourse

“If the energy efficiency of commercial and industrial buildings improved by 10 percent, the collected savings would be \$40 billion.”

– U.S. Department of Energy



LONE ★ STAR
— PACE —



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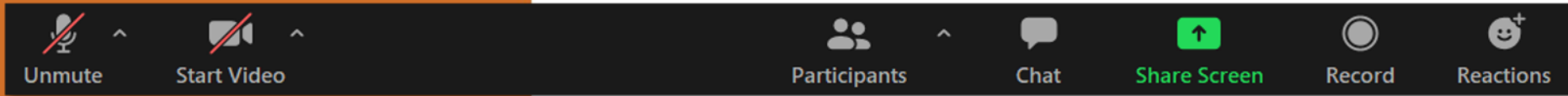
Phone: (214) 256-3121

E-Mail: lmccormick@lonestarpace.com

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“A 12W LED light bulb produces the same amount of light as a traditional 60W Incandescent light bulb while saving 75%-80% on energy costs and lasts 25X longer.”

Audience Questions



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Upcoming Events at CDFA

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CDFA // BNY Mellon Development Finance Webcast Series: Exploring New IIJA Bond Categories

Tuesday, September 17, 2024 / 2:00 PM – 3:00 PM Eastern

2024 Greenhouse Gas Reduction Fund Readiness Workshop

Wednesday, September 18, 2024 / 1:00 PM – 4:00 PM Eastern

CDFA Food Systems Finance Webinar Series: Driving Food Systems Investment with Tax Credits

Tuesday, September 24, 2024 / 2:00 PM – 3:30 PM Eastern

Intro Tax Credit Finance WebCourse

Wednesday, September 25, 2024 / 12:00 PM - 5:00 PM Eastern

Thursday, September 26, 2024 / 12:00 PM – 5:00 PM Eastern

Contact Us



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