

Greater Nebraska PACE District



Greater Nebraska PACE District – a Nebraska Clean Energy Assessment District serving the City of Lincoln



CITY of LINCOLN

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Greater Nebraska PACE District Program Manual

Executive Summary

For qualifying projects, qualifying property owners have the opportunity to access commercial Property Assessed Clean Energy (PACE) financing from private lenders. Residential PACE financing is not permitted. PACE financing is enabled by the Greater Nebraska PACE District (GNPD) to support economic growth, job creation, higher property values, and improved community health, all while lowering energy consumption and associated emissions. PACE financing makes it possible for property owners to exceed the minimum requirements of the City of Lincoln's construction codes, making buildings more energy-efficient and sustainable.

The Nebraska Property Assessed Clean Energy Act enables up-front financing of qualified energy projects. The Act requires all PACE-financed projects to demonstrate that there are sufficient resources to complete the energy project and that the energy project creates an estimated economic benefit, including, but not limited to, energy and water cost savings, maintenance cost savings, and other property operating savings expected during the financing period, which is equal to or greater than the principal cost of the energy project.

Private lenders supply the capital for PACE projects. PACE financing is secured by a voluntary special assessment lien on the improved property. The financing is paid up-front before construction, enabling deployment of the energy project measures. Retroactive financing is not permitted. This special assessment lien is senior to all other encumbrances on the property and is repaid over a time period not to exceed the average of the expected useful life of all energy project measures. Property owners must obtain consent from holders of mortgages or deeds of trust on the property for the PACE lien's senior debt position.

The proposed project must do at least one of the following as defined in the Nebraska Property Assessed Clean Energy Act:

- Reduce electricity consumption or demand
- Reduce natural gas consumption or demand
- Increase the production of on-site renewable energy
- Reduce water consumption or demand
- Improve storm water management

PACE financing may be applied for prior to or concurrent with a Building Permit application. In either case, as PACE financing funds the up-front costs of an energy project, PACE financing closing must be completed, or the applicant must provide assurance satisfactory to GNPD that the closing will occur before a Building Permit is issued.

The PACE financing assessment term may not exceed the weighted average useful life of all improvements in the energy project.

This document does not offer legal or financial advice—interested parties should consult with their own attorneys and advisors for guidance on the legal and financial impacts of participation in the GNPDP Program.

Background

Nebraska Revised Statute Sections 13-3201 to 13-3211, known as the Property Assessed Clean Energy Act, authorizes the creation of Clean Energy Districts and defines eligible projects for PACE financing.

The City of Lincoln established a Clean Energy District, known as the Greater Nebraska PACE District, through Ordinance No. 20701, passed by the Lincoln City Council on August 27, 2018. This ordinance sets specific requirements for enabling property assessed clean energy financing in Lincoln. It also appoints the mayor—or a designated representative—as the District Administrator responsible for overseeing the program.

Program Manual Overview

The GNPDP program manual establishes the rules and requirements for participation in the GNPDP program, including procedures for submitting applications and meeting eligibility criteria to qualify for PACE financing. Requirements for program participation clarify aspects not addressed by state law or city ordinance but still applicable to the approval process. Expectations for compliance, and project qualifications are detailed, as well as factors that may lead to ineligibility to ensure transparency, consistency and a successful outcome for qualified applicants.

The estimated economic benefit is detailed in the required Energy Savings Report and GNPDP Independent Third-Party Reviewer Worksheet, prepared by a third-party professional engineer licensed in the State of Nebraska, and submitted with the PACE financing application. The information included in the statement of sufficient resources must be satisfactory to GNPDP.

Application Process

The application process starts with submitting a GNPDP Intake Form to determine preliminary project eligibility. The intake form will be reviewed by the Program Administrator and an eligibility determination will be made. If the Program Administrator determines the project can proceed to an application for PACE financing, the property owner can begin the energy project development phase to prepare for financing.

Energy Project Development Phase:

Upon project eligibility determination by the Program Administrator, the property owner begins the energy project development phase which includes:

1. Selecting project contractor, obtaining signed quotes
2. Selecting third-party engineer to determine the project energy savings by obtaining an Energy Savings Report
 - a. Additionally, as applicable: for renewable energy generation projects or electric vehicle charging projects, obtaining the appropriate required reports

3. Selecting a PACE capital lender, obtaining signed term sheet or commitment letter
 - a. Obtaining written mortgage lender consent for the PACE lien
4. Completing Assessment Contract
5. Obtaining property owner approvals
6. Submitting completed application

The application process includes submission of:

Please see application form and application checklist for required submittals.

The following can be downloaded from the GNPDP website:

- GNPDP Program Manual
- Intake form
- PACE SPECIAL ASSESSMENT CONTRACT
- LENDER CONSENT FORM
- Application Form and Checklist
- GNPDP ITPR Program Worksheet
- Statement of Sufficient Resources
- Statement of Compliance
- Statement and Certification of Cost – Contractor
- Statement and Certification of Cost - Lender

Qualified Property Types

Within the boundary of the limits of the City of Lincoln and its extraterritorial jurisdiction, types of real property types that qualify for PACE financing are:

- Commercial
- Multifamily residential property comprised of more than four units
- Industrial

Qualified Ownership Types

- For profit, not for profit

Non-Qualified Property Types

- Single-family residential property of four dwelling units or fewer
- Residential units to be sold as single-family housing in a mixed-use development
- Undeveloped real property lots for which no building is to be constructed

Non-Qualified Ownership Types

- Real property owned by local government*
- Real property owned by a homeowner's association
- Real property owned by a condominium association

*Unless approved by voters, see Nebraska Property Assessed Clean Energy Act

Building Project Types

- Existing use buildings – buildings with a Certificate of Occupancy
- Substantial renovation or remodel – buildings where the cost of renovation or remodel for all property improvements including proposed energy project measures exceeds 50% of the Lancaster County Assessor's stated property value before improvements.
- New construction

Financing Criteria

The costs financed under the assessment contract may include the cost of materials and labor necessary for installation, capitalized interest, permit fees, inspection fees, report fees, analysis fees, assessment fees, GNPD administrative fees, bank fees, and all other fees incurred by the owner pursuant to the installation. The assessment contract shall provide for the repayment of all such costs through annual assessments upon the qualifying property benefited by the energy project.

The assessment contract period shall not exceed the weighted average useful life of the energy project.

Please note in the PACE SPECIAL ASSESSMENT CONTRACT the property owner must agree to complete the energy project and to pay that portion of the costs of the energy project in excess of the amount of the loan, if any.

In the PACE SPECIAL ASSESSMENT CONTRACT, the lender must agree that if the cost of the energy project (including materials and labor necessary for installation, capitalized interest, permit fees, inspection fees, report fees, analysis fees, assessment fees, GNPD administrative fees, bank fees, and all other fees incurred by the owner pursuant to the installation) is less than the PACE loan, the PACE loan will be reduced and revised to the actual cost of the energy project and annual PACE assessments will be reduced and revised in accordance with the reduced and revised loan amount.

An energy project shall not be eligible for PACE financing if the qualifying property is subject to any of the following:

- a) Delinquent ad valorem taxes;
- b) Delinquent personal property taxes;
- c) Delinquent special assessments;
- d) Overdue or delinquent water or sewer charges;
- e) Involuntary liens, including but not limited to construction liens;
- f) Notice of default pursuant to any mortgage or deed of trust related to the qualifying property, or
- g) If the property owner or property developer is delinquent in the payment of any assessment required to be paid for any energy efficiency improvement financed pursuant to the Act.
- h) the property owner or developer has any unresolved or pending violations or complaints of violations of the Lincoln Municipal Code related to the project identified in the

application. Complaints of violations are those leading to an investigation that result in a violation.

Holders of Mortgage Liens or Deeds of Trust

Property owners must obtain the written consent of all persons or entities that currently hold mortgage liens or deeds of trust on the Property.

If the holder or loan servicer of any existing mortgage or trust deed that encumbers or that is otherwise secured by the qualifying property has established a payment schedule or escrow account to accrue property taxes or insurance, such holder or loan servicer may increase the required monthly payment, if any, by an amount necessary to pay the annual PACE assessment.

Energy Project

Energy project means the installation or modification of an energy efficiency improvement or the acquisition, installation, or improvement of a renewable energy system.

Energy efficiency improvement means any acquisition, installation, or modification benefiting publicly or privately owned property that is designed to reduce the electric, gas, water, or other utility demand or consumption of the buildings on or to be constructed on such property or to promote the efficient and effective management of natural resources or storm water.

- All energy projects are required to submit an Energy Savings Report and a completed GNPDI TPR Worksheet. Energy and water savings and baseline calculations with explanation must be included in the Energy Savings Report.
- Electric Vehicle Charging Improvements must submit an Electric Vehicle Charging Improvement Assessment report.
- Renewable Energy System improvements must submit a Renewable Energy Project Analysis report.

Existing use building baseline

Baseline:

For energy efficiency improvements in existing use buildings, the baseline is the annual building utility use derived from electric, natural gas, and water bills from the most recent 12 months. The baseline for all renewable energy improvements is assumed to be zero energy generation.

New Construction and Substantial renovation/remodel baseline

Baseline:

For energy efficiency improvements in new construction and substantial renovation/remodel, the baseline is the applicable City of Lincoln construction codes. The baseline for all renewable energy improvements is assumed to be zero energy generation.

Energy efficiency improvements

- a) Energy efficiency improvements designed to reduce electric or gas demand or consumption

- Insulation in walls, roofs, floors, foundations, or heating and cooling distribution systems
- Storm windows and doors; multiglazed windows and doors; heat-absorbing or heat-reflective glazed and coated window and door systems; and additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption
- Automated energy control systems
- Heating, ventilating, or air conditioning and distribution system modifications or replacements
- Caulking, weatherstripping, and air sealing
- Replacement or modification of lighting fixtures to reduce the energy use of the lighting system
- Energy recovery systems, including, but not limited to, cogeneration and trigeneration systems
- Daylighting systems
- Installation or upgrade of electrical wiring or outlets to charge a motor vehicle that is fully or partially powered by electricity
- Facilities providing for water conservation or pollutant control
- Roofs designed to reduce energy consumption including green roofs
- Roofs designed to support additional loads necessitated by other energy efficiency improvements
- Installation of energy-efficient fixtures, including, but not limited to, water heating systems, escalators, and elevators
- Energy efficiency related items so long as the cost of the energy efficiency related items financed by the municipality does not exceed twenty-five percent (25%) of the total cost of the energy project
 - Energy efficiency related items:
 - Repair replacement, improvement, or modification to real property that is necessary or desirable in conjunction with an energy efficiency improvement including
 - structural support improvements and the repair or replacement of any building components,
 - paved surfaces, or fixtures disrupted or altered by the installation of an energy efficiency improvement
 - Paved surface repair or replacement must follow storm water management improvement project guidelines and minimums in the GNPD program manual (see impervious pavement removal below)
 - Any other installation or modification of equipment, devices, or materials approved as a utility cost-saving measure by GNPD as documented in the energy savings report
- b) Energy efficiency improvements designed to reduce water demand or consumption
 - EPA WaterSense labeled:
 - Landscape irrigation controllers
 - Landscape irrigation sprinkler bodies with integral pressure regulation
 - Flushometer-valve toilets

- Flushing urinals
- Toilets
- Pre-rinse spray valves
- Bathroom sink faucets
- Showerheads
- Other water conservation measures reducing water demand or consumption
- c) Energy efficiency improvements to promote the efficient and effective management of storm water
 - Rainwater cisterns
 - 250 gallon minimum
 - Green roofs
 - Impervious pavement removal
 - 400 sq. ft. minimum
 - Replacement with landscaping, permeable pavers
 - New permeable paver installation
 - 400 sq. ft. minimum
 - Rain garden
 - 100 sq. ft. minimum
 - Urban tree canopy
 - Approved trees from list of Recommended Trees for Eastern Nebraska, published by the Nebraska Statewide Arboretum <https://plantnebraska.org/resources-events/tips-help-how-to/trees-help-howto.html>
 - Planted on private property, not public right-of-way

Renewable energy systems

Renewable energy system means a fixture, product, device, or interacting group of fixtures, products, or devices on the customer's side of the meter that uses one or more renewable energy resources to generate electricity. Renewable energy systems include a biomass stove but do not include an incinerator.

- Nonhazardous biomass
- Solar and solar thermal energy
- Wind energy
- Geothermal energy
- Methane gas captured from a landfill or elsewhere
- Photovoltaic systems

Renewable Energy Project Analysis

Renewable energy system improvements must submit a renewable energy project analysis prepared by a professional engineer licensed in the State of Nebraska. At a minimum, project analysis should include the following:

- Renewable energy generation system baseline
- Description of proposed renewable energy system including production capacity and type (e.g., roof or ground mount solar PV)
- Description of the site's ambient conditions (e.g., shading analysis)
- Location of the renewable energy system
- Utility consumption profile of the site, including the site's historic energy use and cost (modeled energy consumption may be used in the case of new construction or substantial renovation projects)
- Expected total annual cost savings including:
 - i. Savings from reduction in grid power purchases
 - ii. Operational and maintenance savings
 - iii. Insurance cost savings
 - iv. Savings from renewable energy production sales
- Expected annual energy production (kWh), electrical demand reduction (kW)
- Description of monitoring plan to maintain optimized system performance
- Verification of the availability of net metering if the system generates excess power that is delivered to the utility grid at any time

Electric Vehicle Charging Improvements Assessment

Electric vehicle charging energy efficiency improvements must submit an assessment of the benefits of the electric vehicle charging improvements. The assessment must show the electric vehicle charging energy efficiency improvements qualify as a fuel-switching energy efficiency improvement enabled by the installation or upgrade of wiring or outlets at the property location. Using data from the US Department of Energy Alternative Fuels Data Center, and average emissions from an internal combustion engine vehicle as the baseline, the assessment shall include:

- Number of charging hours and average vehicle miles enabled
- Net change in energy consumption
- Net change in emissions from fuel switching enabled by electric vehicle charging energy efficiency improvements
- Cost of installation and simple payback period in years including any tax credits, manufacturer or utility rebates, and revenue generation from use of the installed electric vehicle charging energy efficiency improvements

Energy Savings Report

The GNPD requires that a property owner submit an energy savings report which details each energy project measure for which PACE funding is being requested. The energy savings report must show the estimated economic benefit of the project, including, but not limited to, energy and water cost savings, maintenance cost savings, and other property operating savings expected during the financing period.

The energy savings report must be prepared by a professional engineer licensed in the State of Nebraska using generally acceptable engineering calculations or a building energy model in a U.S.

Department of Energy-approved energy modeling software to determine savings attributable to the proposed energy efficiency improvements.

The energy savings report must address the following:

1. Name, firm name, and credentials of the engineer who prepared the energy savings report.
2. Written description of the proposed energy efficiency improvements and/or renewable energy systems.
3. Proposed equipment specifications, data sheets.
4. The Energy Use Intensity (EUI) for the building prior to the energy project, from actual or modeled baseline.
5. An estimate of the Energy Use Intensity (EUI) for the building after the energy project is installed.
6. Projected monetary value of annual energy, water, operations, and maintenance savings.
7. Documented assumptions used in projected increases (escalations) in the cost of energy and or water.
8. Documented assumptions for energy savings calculations.
9. Useful life of each energy efficiency improvement and/or renewable energy system.
10. Capital cost of each energy efficiency improvement and/or renewable energy systems measure.
11. Savings to investment ratio of each energy efficiency improvement and/or renewable energy system.
12. Weighted average useful life of all energy efficiency improvements and/or renewable energy systems.
13. Total capital cost of all energy efficiency improvements and/or renewable energy systems.
14. Weighted average savings to investment ratio of all energy efficiency improvements and/or renewable energy systems.

GNPD Independent Third-Party Reviewer PACE Project Worksheet

The Greater Nebraska PACE District Independent Third Party Reviewer Program Worksheet is an Excel spreadsheet to be completed by both the Professional Engineer licensed in the State of Nebraska who prepares the Energy Savings Report, and the PACE capital provider. The Worksheet calculates the energy project's estimated economic benefit, expressed as a Savings-to-Investment Ratio (SIR). The Worksheet also verifies that the weighted average useful life of the energy project exceeds the term of the loan. The principal amount financed and term of the loan in the final assessment contract must be used in the Worksheet.

The worksheet helps technical reviewers and administrators confirm that the program requirements are met and verify that the Savings to Investment Ratio is equal to or greater than 1.0.

A completed GNPD ITPR Program Worksheet is submitted with the Program Application.

Savings to Investment Ratio

The Energy Savings Report must show that the energy project creates an estimated economic benefit, including, but not limited to, energy and water cost savings, maintenance cost savings, and other property operating savings expected during the financing period, which is equal to or greater than the principal cost of the energy project, expressed as a savings to investment (SIR) ratio of 1.0 or greater to qualify for GNPDP PACE financing.

The GNPDP Independent Third-Party Reviewer PACE Project Worksheet validates the SIR using final loan amount and loan term not to exceed the weighted average useful life of the energy project.

When calculating the SIR in the Energy Savings Report, the SIR for individual discrete components of the energy efficiency improvements and/or renewable energy systems must be provided. The maximum utility escalation rate allowed is 3%. The maximum operations and maintenance escalation rate allowed is 2%.

Program Fees

1. Application fee. A non-refundable fee of \$500 is due at the time of application and must be submitted before the project review process can begin.
2. Administration fee: 1% of total financing amount (exclusive of such fee) not to exceed \$80,000. This fee may be capitalized and will be collected at PACE loan financial close.
3. Recording fee: the property owner is responsible for paying the assessment contract recording fee to the Lancaster County Register of Deeds. Filing fees for amendments and/or corrections to the assessment contract are also the responsibility of the property owner. The Lender is responsible for recording the agreement.

Additional fees including but not limited to those charged by the PACE capital provider, loan servicer, and third-party engineer are the responsibility of the property owner.

Project Completion Requirements

If the total of all costs of the construction and installation of the Project, capitalized interest, permit fees, inspection fees, report fees, analysis fees, assessment fees, GNPDP administrative fees, bank fees, and all other fees incurred by the owner pursuant to the installation is less than the Loan Amount advanced by the Lender, the Property Owner shall immediately repay to the Lender the excess of the amount advanced over such actual total cost of all Project costs.

The following statements are required prior to issuing a Certificate of Occupancy:

Statement of Compliance

The City of Lincoln Property Assessed Clean Energy (PACE) Ordinance Section 4.L. states, "After an energy project is completed, the District and/or its third-party lenders shall obtain verification that the renewable energy system or energy efficiency improvement was properly installed and is operating as intended."

The International Performance Measurement and Verification Protocol (IPMVP) (latest edition) should be used for verifying proper project completion and operation.

When the energy project is completed, a statement of compliance issued by a professional engineer licensed in the State of Nebraska attesting that the construction of the energy project has been completed, and the energy project measures financed have been properly installed and are operating as intended. The certificate of completion must be submitted to the GNPDP Program Administrator before the Certificate of Occupancy will be issued.

Statement and Certification of Cost - Contractor

Upon completion of the Project, Property Owner will submit to GNPDP and the Lender a written certification from Property Owner and the contractor(s), if any, that performed the work incident to the construction and installation of the Project, stating the actual cost of the Project. The Statement and Certification of Cost - Contractor must be submitted to the GNPDP Program Administrator before the Certificate of Occupancy will be issued.

Statement and Certification of Cost – Lender

Upon completion of the Project, Property Owner will submit to GNPDP a written certification from Lender stating the Loan Amount does not exceed the total of all costs of the construction and installation of the Project, capitalized interest, permit fees, inspection fees, report fees, analysis fees, assessment fees, GNPDP administrative fees, bank fees, and all other fees incurred by the owner pursuant to the installation. The Statement and Certification of Cost - Lender must be submitted to the GNPDP Program Administrator before the Certificate of Occupancy will be issued.

Property Transfer

Prior to the effective date of any contract that binds the purchaser to purchase qualifying property upon which an annual assessment is imposed, the owner shall provide notice to the purchaser that the purchaser assumes responsibility for payment of the annual assessment as provided in the Nebraska Property Assessed Clean Energy Act subdivision (3)(d) of section 13-3205.

An energy efficiency improvement that is not permanently affixed to the qualifying property upon which an annual assessment is imposed to repay the cost of such energy efficiency improvement must be conveyed with the qualifying property if a transfer of ownership of the qualifying property occurs.

Appendix A: State of Nebraska Property Assessed Clean Energy Act

13-3201. Act, how cited.

Sections 13-3201 to 13-3211 shall be known and may be cited as the Property Assessed Clean Energy Act.

Source: Laws 2016, LB1012, § 1; R.S.Supp.,2016, § 18-3201; Laws 2017, LB625, § 1.

13-3202. Legislative findings.

The Legislature finds that:

- (1) Energy efficiency and the use of renewable energy are important for preserving the health and economic well-being of Nebraska's citizens. Using less energy decreases the cost of living and keeps the cost of public power low by delaying the need for additional power plants. By building the market for energy efficiency and renewable energy products, economic development will be encouraged and new jobs will be created for Nebraskans in the energy efficiency and renewable energy job sectors;
- (2) To further these goals, the state should promote energy efficiency improvements and renewable energy systems;
- (3) The upfront costs for energy efficiency improvements and renewable energy systems prohibit many property owners from making improvements. Therefore, it is necessary to authorize municipalities to implement an alternative financing method through the creation of clean energy assessment districts; and
- (4) Public purposes will be served by providing municipalities with the authority to finance the installation of energy efficiency improvements and renewable energy systems through the creation of clean energy assessment districts. Such public purposes include, but are not limited to, reduced energy and water costs, reduced greenhouse gas emissions, economic stimulation and development, improved property valuation, and increased employment.

13-3203. Terms, defined.

For purposes of the Property Assessed Clean Energy Act:

- (1) Assessment contract means a contract entered into between a municipality, a property owner, and, if applicable, a third-party lender under which the municipality agrees to provide financing for an energy project in exchange for a property owner's agreement to pay an annual assessment for a period not to exceed the weighted average useful life of the energy project;
- (2) Clean energy assessment district means a district created by a municipality to provide financing for energy projects;
- (3) Energy efficiency improvement means any acquisition, installation, or modification benefiting publicly or privately owned property that is designed to reduce the electric, gas, water, or other utility demand or consumption of the buildings on or to be constructed on

such property or to promote the efficient and effective management of natural resources or storm water, including, but not limited to:

- a. Insulation in walls, roofs, floors, foundations, or heating and cooling distribution systems;
 - b. Storm windows and doors; multiglazed windows and doors; heat-absorbing or heat-reflective glazed and coated window and door systems; and additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;
 - c. Automated energy control systems;
 - d. Heating, ventilating, or air conditioning and distribution system modifications or replacements;
 - e. Caulking, weatherstripping, and air sealing;
 - f. Replacement or modification of lighting fixtures to reduce the energy use of the lighting system;
 - g. Energy recovery systems, including, but not limited to, cogeneration and trigeneration systems;
 - h. Daylighting systems;
 - i. Installation or upgrade of electrical wiring or outlets to charge a motor vehicle that is fully or partially powered by electricity;
 - j. Facilities providing for water conservation or pollutant control;
 - k. Roofs designed to reduce energy consumption or support additional loads necessitated by other energy efficiency improvements;
 - l. Installation of energy-efficient fixtures, including, but not limited to, water heating systems, escalators, and elevators;
 - m. Energy efficiency related items so long as the cost of the energy efficiency related items financed by the municipality does not exceed twenty-five percent of the total cost of the energy project; and
 - n. Any other installation or modification of equipment, devices, or materials approved as a utility cost-saving measure by the municipality;
- (4) Energy efficiency related item means any repair, replacement, improvement, or modification to real property that is necessary or desirable in conjunction with an energy efficiency improvement, including, but not limited to, structural support improvements and the repair or replacement of any building components, paved surfaces, or fixtures disrupted or altered by the installation of an energy efficiency improvement;
- (5) Energy project means the installation or modification of an energy efficiency improvement or the acquisition, installation, or improvement of a renewable energy system;
- (6) Municipality means any county, city, or village in this state;
- (7) Qualifying property means any of the following types of property located within a municipality:
- a. Agricultural property;
 - b. Commercial property, including multifamily residential property comprised of more than four dwelling units;
 - c. Industrial property; or
 - d. Single-family residential property, which may include up to four dwelling units;

(8) (a) Renewable energy resource means a resource that naturally replenishes over time and that minimizes the output of toxic material in the conversion to energy. Renewable energy resource includes, but is not limited to, the following:

- (i) Nonhazardous biomass;
- (ii) Solar and solar thermal energy;
- (iii) Wind energy;
- (iv) Geothermal energy;
- (v) Methane gas captured from a landfill or elsewhere; and
- (vi) Photovoltaic systems; and

(b) Renewable energy resource does not include petroleum, nuclear power, natural gas, coal, or hazardous biomass; and

(9) Renewable energy system means a fixture, product, device, or interacting group of fixtures, products, or devices on the customer's side of the meter that uses one or more renewable energy resources to generate electricity. Renewable energy system includes a biomass stove but does not include an incinerator.

13-3204. Clean energy assessment district; creation; procedures; governing body; public hearing; notice; ordinance; resolution; contents; assessment contracts.

(1) Pursuant to the procedures provided in this section, a municipality may, from time to time, create one or more clean energy assessment districts. Such districts may be separate, overlapping, or coterminous and may be created anywhere within the municipality or its extraterritorial zoning jurisdiction, except that a county shall not create a district that includes any area within the corporate boundaries or extraterritorial zoning jurisdiction of any city or village located in whole or in part within such county. The governing body of the municipality shall be the governing body for any district so created.

(2) Prior to creating any clean energy assessment district, the municipality shall hold a public hearing at which the public may comment on the creation of such district. Notice of the public hearing shall be given by publication in a legal newspaper in or of general circulation in the municipality at least ten days prior to the hearing.

(3) After the public hearing, the municipality may create a clean energy assessment district by ordinance or, for counties, by resolution. The ordinance or resolution shall include:

- (a) A finding that the financing of energy projects is a valid public purpose;
- (b) A contract form to be used for assessment contracts between the municipality, the owner of the qualifying property, and, if applicable, a third-party lender governing the terms and conditions of financing and annual assessments;
- (c) Identification of an official authorized to enter into assessment contracts on behalf of the municipality;
- (d) An application process and eligibility requirements for financing energy projects;
- (e) An explanation of how annual assessments will be made and collected;
- (f) For energy projects involving residential property, a requirement that any interest rate on assessment installments must be a fixed rate;
- (g) For energy projects involving residential property, a requirement that the repayment period for assessments must be according to a fixed repayment schedule;

- (h) Information regarding the following, to the extent known, or procedures to determine the following in the future:
 - i. Provisions for an adequate debt service reserve fund created under section 13-3209, if applicable;
 - ii. Provisions for an adequate loss reserve fund created under section 13-3208; and
 - iii. Any application, administration, or other program fees to be charged to owners participating in the program that will be used to finance costs incurred by the municipality as a result of the program;
- (i) A requirement that the term of the annual assessments not exceed the weighted average useful life of the energy project paid for by the annual assessments;
- (j) A requirement that any energy efficiency improvement that is not permanently affixed to the qualifying property upon which an annual assessment is imposed to repay the cost of such energy efficiency improvement must be conveyed with the qualifying property if a transfer of ownership of the qualifying property occurs;
- (k) A requirement that, prior to the effective date of any contract that binds the purchaser to purchase qualifying property upon which an annual assessment is imposed, the owner shall provide notice to the purchaser that the purchaser assumes responsibility for payment of the annual assessment as provided in subdivision (3)(d) of section 13-3205;
- (l) Provisions for marketing and participant education;
- (m) A requirement that the municipality obtain verification that the renewable energy system or energy efficiency improvement was properly installed and is operating as intended; and
- (n) A requirement that the clean energy assessment district, with respect to single-family residential property, comply with the Property Assessed Clean Energy Act and with directives or guidelines issued by the Federal Housing Administration and the Federal Housing Finance Agency on or after January 1, 2016, relating to property assessed clean energy financing.

13-3205. Assessment contract; contents; recorded with register of deeds; municipality; duties; annual assessments; copy to county assessor and register of deeds.

- (1) After passage of an ordinance or resolution under section 13-3204, a municipality may enter into an assessment contract with the record owner of qualifying property within a clean energy assessment district and, if applicable, with a third-party lender to finance an energy project on the qualifying property. The costs financed under the assessment contract may include the cost of materials and labor necessary for installation, permit fees, inspection fees, application and administrative fees, bank fees, and all other fees incurred by the owner pursuant to the installation. The assessment contract shall provide for the repayment of all such costs through annual assessments upon the qualifying property benefited by the energy project. A municipality may not impose an annual assessment under the Property Assessed Clean Energy Act unless such annual assessment is part of an assessment contract entered into under this section.

- (2) Before entering into an assessment contract with an owner and, if applicable, a third-party lender under this section, the municipality shall verify:
- (a) In all cases involving qualifying property other than single-family residential property, that the owner has obtained an acknowledged and verified written consent and subordination agreement executed by each mortgage holder or trust deed beneficiary stating that the mortgagee or beneficiary consents to the imposition of the annual assessment and that the priority of the mortgage or trust deed is subordinated to the PACE lien established in section 13-3206. The consent and subordination agreement shall be in a form and substance acceptable to each mortgagee or beneficiary and shall be recorded in the office of the register of deeds of the county in which the qualifying property is located;
 - (b) That there are no delinquent taxes, special assessments, water or sewer charges, or any other assessments levied on the qualifying property; that there are no involuntary liens, including, but not limited to, construction liens, on the qualifying property; and that the owner of the qualifying property is current on all debt secured by a mortgage or trust deed encumbering or otherwise securing the qualifying property;
 - (c) That there are no delinquent annual assessments on the qualifying property which were imposed to pay for a different energy project under the Property Assessed Clean Energy Act; and
 - (d) That there are sufficient resources to complete the energy project and that the energy project creates an estimated economic benefit, including, but not limited to, energy and water cost savings, maintenance cost savings, and other property operating savings expected during the financing period, which is equal to or greater than the principal cost of the energy project. The estimated economic benefit may be derived from federal, state, or third-party engineer certifications or from standards of energy or water savings associated with a particular energy efficiency improvement or set of energy efficiency improvements. A municipality may waive the requirements of this subdivision upon request of the owner of the qualifying property, and, if such request is denied, the owner may appeal the denial as provided by the ordinance or resolution adopted pursuant to section 13-3204 or as otherwise provided by local ordinance or resolution.
- (3) Upon completion of the verifications required under subsection (2) of this section, an assessment contract may be executed by the municipality, the owner of the qualifying property, and, if applicable, a third-party lender and shall provide:
- (a) A description of the energy project, including the estimated cost of the energy project and a description of the estimated savings prepared in accordance with standards acceptable to the municipality;
 - (b) A mechanism for:
 - (i) Verifying the final costs of the energy project upon its completion; and
 - (ii) Ensuring that any amounts advanced, financed, or otherwise paid by the municipality toward the costs of the energy project will not exceed the final cost of the energy project;

- (c) An agreement by the property owner to pay annual assessments for a period not to exceed the weighted average useful life of the energy project;
 - (d) A statement that the obligations set forth in the assessment contract, including the obligation to pay annual assessments, are a covenant that shall run with the land and be obligations upon future owners of the qualifying property; and
 - (e) An acknowledgment that no subdivision of qualifying property subject to the assessment contract shall be valid unless the assessment contract or an amendment to such contract divides the total annual assessment due between the newly subdivided parcels pro rata to the special benefit realized by each subdivided parcel.
- (4) The total annual assessments levied against qualifying property under an assessment contract shall not exceed the sum of the cost of the energy project, including any energy audits or inspections or portion thereof financed by the municipality, plus such administration fees, interest, and other financing costs reasonably required by the municipality.
 - (5) Nothing in the Property Assessed Clean Energy Act shall be construed to prevent a municipality from entering into more than one assessment contract with respect to a single parcel of real property so long as each assessment contract relates to a separate energy project and subdivision (2)(c) of this section is not violated.
 - (6) The municipality shall provide a copy of each signed assessment contract to the county assessor and register of deeds of the county in which the qualifying property is located, and the register of deeds shall record the assessment contract with the qualifying property.
 - (7) Annual assessments agreed to under an assessment contract shall be levied against the qualifying property and collected at the same time and in the same manner as property taxes are levied and collected, except that an assessment contract for qualifying property other than single-family residential property may allow third-party lenders to collect annual assessments directly from the owner of the qualifying property in a manner prescribed in the assessment contract. Any third-party lender collecting annual assessments directly from the owner of the qualifying property shall notify the municipality within three business days if an annual assessment becomes delinquent.
 - (8) Collection of annual assessments shall only be sought from the original owners or subsequent purchasers of qualifying property subject to an assessment contract.

13-3206. Annual assessment; PACE lien; notice of lien; contents; priority; sale of property; use of proceeds; release of lien; recording.

- (1) (a) For qualifying property other than single-family residential property, any annual assessment imposed on such qualifying property that becomes delinquent, including any interest on the annual assessment and any penalty, shall constitute a PACE lien against the qualifying property on which the annual assessment is imposed until the annual assessment, including any interest and penalty, is paid in full. Any annual assessment that is not paid within the time period set forth in the assessment contract shall be considered delinquent. The municipality shall, within fourteen days after an annual assessment becomes delinquent, record a notice of such lien in the office of the register of deeds of the county in which the qualifying property is located.

- (b) For qualifying property that is single-family residential property, all annual assessments imposed on such qualifying property, including any interest on the annual assessments and any penalty, shall, upon the initial annual assessment, constitute a PACE lien against the qualifying property on which the annual assessments are imposed until all annual assessments, including any interest and penalty, are paid in full. Any annual assessment that is not paid within the time period set forth in the assessment contract shall be considered delinquent. The municipality shall, upon imposition of the initial annual assessment, record a notice of such lien in the office of the register of deeds of the county in which the qualifying property is located.
- (2) A notice of lien filed under this section shall, at a minimum, include:
- (a) The amount of funds disbursed or to be disbursed pursuant to the assessment contract;
 - (b) The names and addresses of the current owners of the qualifying property subject to the annual assessment;
 - (c) The legal description of the qualifying property subject to the annual assessment;
 - (d) The duration of the assessment contract; and
 - (e) The name and address of the municipality filing the notice of lien.
- (3) The PACE lien created under this section shall:
- (a) For qualifying property that is single-family residential property,
 - (i) be subordinate to all liens on the qualifying property recorded prior to the time the notice of the PACE lien is recorded,
 - (ii) be subordinate to a first mortgage or trust deed on the qualifying property recorded after the notice of the PACE lien is recorded, and
 - (iii) have priority over any other lien on the qualifying property recorded after the notice of the PACE lien is recorded; and
 - (b) For qualifying property other than single-family residential property and subject to the requirement in subdivision (2)(a) of section 13-3205 to obtain and record an executed consent and subordination agreement, have the same priority and status as real property tax liens.
- (4)
- (a) Notwithstanding any other provision of law, in the event of a sale pursuant to a foreclosure or a sale pursuant to the exercise of a power of sale under a trust deed relating to qualifying property that is single-family residential property, the holders of any mortgages, trust deeds, or other liens, including delinquent annual assessments secured by PACE liens, shall receive proceeds in accordance with the priorities established under subdivision (3)(a) of this section. In the event there are insufficient proceeds from such a sale, from the loss reserve fund established pursuant to section 13-3208, or from any other means to satisfy the delinquent annual assessments, such delinquent annual assessments shall be extinguished. Any annual assessment that has not yet become delinquent shall not be accelerated or extinguished in the event of a sale pursuant to a foreclosure or a sale pursuant to the exercise of a power of sale under subdivision (3)(a) of this section.

- (b) Upon the transfer of ownership of qualifying property other than single-family residential property, including a sale pursuant to a foreclosure or a sale pursuant to the exercise of a power of sale under a trust deed, the obligation to pay annual assessments shall run with the qualifying property.
 - (5)
 - (a) For qualifying property other than single-family residential property, when the delinquent annual assessment, including any interest and penalty, is paid in full, a release of the PACE lien shall be recorded in the office of the register of deeds of the county in which the notice of the PACE lien was recorded.
 - (b) For qualifying property that is single-family residential property, when all annual assessments, including any interest and penalty, are paid in full, a release of the PACE lien shall be recorded in the office of the register of deeds of the county in which the notice of the PACE lien was recorded.
 - (6) If the holder or loan servicer of any existing mortgage or trust deed that encumbers or that is otherwise secured by the qualifying property has established a payment schedule or escrow account to accrue property taxes or insurance, such holder or loan servicer may increase the required monthly payment, if any, by an amount necessary to pay the annual assessment imposed under the Property Assessed Clean Energy Act.
- 13-3207. Municipality; raise capital; sources; bonds; issuance; statutory lien; vote; when required.
- (1) A municipality may raise capital to finance energy projects undertaken pursuant to an assessment contract entered into under the Property Assessed Clean Energy Act. Such capital may come from any of the following:
 - (a) The sale of bonds;
 - (b) Amounts to be advanced by the municipality through funds available to it from any other source; or
 - (c) Third-party lending.
 - (2) Bonds issued under subsection (1) of this section shall not be general obligations of the municipality, shall be nonrecourse, and shall not be backed by the full faith and credit of the issuer, the municipality, or the state, but shall only be secured by payments of annual assessments by owners of qualifying property within the clean energy assessment district or districts specified who are subject to an assessment contract under section 13-3205.
 - (3) Any single bond issuance by a municipality for purposes of the Property Assessed Clean Energy Act shall not exceed five million dollars without a vote of the registered voters of such municipality.
 - (4) A pledge of annual assessments, funds, or contractual rights made in connection with the issuance of bonds by a municipality constitutes a statutory lien on the annual assessments, funds, or contractual rights so pledged in favor of the person or persons to whom the pledge is given without further action by the municipality. The statutory lien is valid and binding against all other persons, with or without notice.
 - (5) Bonds of one series issued under the Property Assessed Clean Energy Act may be secured on a parity with bonds of another series issued by the municipality pursuant to the terms of a master indenture or master resolution entered into or adopted by the municipality.

- (6) Bonds issued under the act, and interest payable on such bonds, are exempt from all taxation by this state and its political subdivisions.
- (7) Bonds issued under the act further essential public and governmental purposes, including, but not limited to, reduced energy costs, reduced greenhouse gas emissions, economic stimulation and development, improved property valuation, and increased employment.
- (8) The Property Assessed Clean Energy Act shall not be used to finance an energy project on qualifying property owned by a municipality or any other political subdivision of the State of Nebraska without having first been approved by a vote of the registered voters of such municipality or political subdivision owning the qualifying property. Such vote shall be taken at a special election called for such purpose or at an election held in conjunction with a statewide or local primary or general election.

13-3208. Loss reserve fund; created; funding; use.

- (1) A municipality that has created a clean energy assessment district shall create a loss reserve fund for:
 - (a) The payment of any delinquent annual assessments for qualifying property that is single-family residential property in the event that there is a sale pursuant to a foreclosure or a sale pursuant to the exercise of a power of sale under a trust deed of such qualifying property and the proceeds resulting from such a sale are, after all superior liens have been satisfied, insufficient to pay the delinquent annual assessments. Payments from the loss reserve fund under this subdivision may only be made with respect to delinquent annual assessments imposed upon qualifying property that is single-family residential property, with no more than one such payment to be made for the same qualifying property; and
 - (b) The payment of annual assessments imposed upon qualifying property that is single-family residential property subsequent to a sale pursuant to a foreclosure or a sale pursuant to the exercise of a power of sale under a trust deed in which the mortgagee or beneficiary becomes the owner of such qualifying property. Payments from the loss reserve fund under this subdivision may only be made with respect to annual assessments imposed upon qualifying property that is single-family residential property subsequent to the date on which the mortgagee or beneficiary became the owner of such qualifying property and until the qualifying property is conveyed by the mortgagee or beneficiary, with no more than one such payment to be made for the same qualifying property.
- (2) The loss reserve fund may be funded by state and federal sources, the proceeds of bonds issued pursuant to the Property Assessed Clean Energy Act, third-party capital, and participating property owners. The loss reserve fund shall only be used to provide payment of annual assessments as provided in this section and for the costs of administering the loss reserve fund.
- (3) The loss reserve fund shall not be funded by, and payment of annual assessments and costs of administering the loss reserve fund shall not be made from, the general fund of any municipality.

13-3209. Debt service reserve fund.

A municipality that has created a clean energy assessment district may create a debt service reserve fund to be used as security for capital raised under section 13-3207.

13-3210. Use of Interlocal Cooperation Act; public hearing; contract authorized.

- (1) Two or more municipalities may enter into an agreement pursuant to the Interlocal Cooperation Act to jointly create, administer, or create and administer clean energy assessment districts. Notwithstanding subsection (1) of section 13-3204, the following provisions shall apply to jointly created districts:
 - (a) Such districts may be separate, overlapping, or coterminous and may be created anywhere within the municipalities that entered into the agreement or within their extraterritorial zoning jurisdictions, except that such districts shall not include any area within the corporate boundaries or extraterritorial zoning jurisdiction of any city or village unless such city or village is one of the municipalities that entered into the agreement; and
 - (b) The agreement shall provide for a governing body for any such district, which shall be made up of members of the governing bodies of the municipalities that entered into the agreement.
- (2) If the creation of clean energy assessment districts is implemented jointly by two or more municipalities, a single public hearing held jointly by the cooperating municipalities is sufficient to satisfy the requirements of subsection (2) of section 13-3204.
- (3) A municipality or municipalities may contract with a third party for the administration of clean energy assessment districts.

13-3211. Report; required, when; contents.

- (1) Except as provided in subsection (3) of this section, any municipality that creates a clean energy assessment district under the Property Assessed Clean Energy Act shall, on or before January 31 of each year, electronically submit a report to the Urban Affairs Committee of the Legislature on the following:
 - (a) The number of clean energy assessment districts in the municipality and their location;
 - (b) The total dollar amount of energy projects undertaken pursuant to the act;
 - (c) The total dollar amount of outstanding bonds issued under the act;
 - (d) The total dollar amount of annual assessments collected as of the end of the most recently completed calendar year and the total amount of annual assessments yet to be collected pursuant to assessment contracts signed under the act; and
 - (e) A description of the types of energy projects undertaken pursuant to the act.
- (2) If a clean energy assessment district is administered jointly by two or more municipalities, a single report submission by the cooperating municipalities is sufficient to satisfy the requirements of subsection (1) of this section.
- (3) This section shall not apply to any municipality that has created a clean energy assessment district but does not have any active energy projects pursuant to the act.

Appendix B: City of Lincoln Clean Energy Assessment District Ordinance

ORDINANCE NO. 20701

AN ORDINANCE to create a clean energy assessment district; to establish definitions; to provide for the financing, administration, and collections, to promote energy efficiency improvements and renewable energy systems; and to provide the effective date hereof.

WHEREAS, the City of Lincoln desires to create a clean energy assessment district to enable property assessed clean energy financing for its property owners: and,

WHEREAS, the City also desires to authorize the clean energy assessment district to enable third-party lenders to accept applications and enter into financing agreements with property owners within the boundaries of the district; and,

WHEREAS, this Ordinance, upon execution, shall create a clean energy assessment district, which shall be known as the Greater Nebraska PACE District, as authorized by Nebraska Revised Statute Sections 13-3203 and 13-3204(3), which boundaries shall be the corporate boundaries of the City of Lincoln and its extraterritorial jurisdiction.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LINCOLN:

Section I. Findings and Determinations. That the City Council of the City of Lincoln, Nebraska (the "City"), hereby finds and determines as follows:

Pursuant to NEB. REV. STAT. §§13-3201 to 13-3211, inclusive, the Property Assessment Clean Energy Act (the "Act"), energy efficiency and the use of renewable energy are important for preserving the health and economic well-being of Nebraska's citizens. Using less energy decreases the cost of living and keeps the cost of public power low by delaying the need for additional power plants. To further these goals, it is necessary for the City to promote energy efficiency improvements and renewable energy systems. Upfront costs for energy efficiency improvements and renewable energy systems may prohibit or deter many property owners from making improvements. It is necessary for the City to implement an alternative financing method through the creation of a clean energy assessment district.

Financing energy projects to further these goals is a valid public purpose and can be accomplished through Property Assessed Clean Energy ("PACE") financing, which is used to overcome the upfront costs for energy efficiency improvements and renewable energy systems by using private capital and equity, rather than public debt.

Pursuant to the Act and NEB. REV. STAT. § 13-3204, the City of Lincoln is authorized to establish a clean energy assessment district so that owners of qualifying property can access PACE financing for energy efficiency improvements or renewable energy improvements to their properties located in the City. The City may enter into an agreement pursuant to the Interlocal Cooperation Act, NEB. REV. STAT. §§ 13-801, et seq., for the creation, administration, or creation and administration of clean energy assessment districts, pursuant to NEB. REV. ST. AT. § 13-3210. The City declares its intent that the provisions of this Ordinance shall be in conformity with federal and state laws. The City enacts this Ordinance pursuant to the Act. as amended.

Section 2. Title and Definitions. That this Ordinance shall be known and may be cited as "The City of Lincoln Property Assessed Clean Energy (PACE) Ordinance." Except the words and phrases specifically defined below or in NEB. REV. STAT. § 13-3203. as amended, words and phrases used in this Ordinance shall have their customary meanings. As used in this Ordinance, the following words and phrases shall have the following meanings:

"District" means the Greater Nebraska PACE District, created pursuant to this Ordinance, as authorized by NEB. REV. STAT. §§ 13-3203 and 13-3204(3), which boundaries shall be the corporate boundaries of the City and its extraterritorial jurisdiction.

"District Administrator" means the Mayor of the City or a designated representative, or a third-party administrator selected by the City.

"PACE financing" means funds provided to the owner(s) of qualified property by third-party lender, pursuant to the Act and this Ordinance, for an energy efficiency improvement.

"Qualifying Property" means commercial property, including multifamily residential property having more than four dwelling units, and industrial property located in the District.

Section 3. District Boundaries and Requirements Pursuant to NEB. REV. STAT. § 13- 3204(3).

- A. The City finds that the financing of energy projects is a valid public purpose.
- B. The boundaries of the District shall be the corporate boundaries of the City and its extraterritorial jurisdiction, as allowed pursuant to NEB. REV. STAT. § 13- 3204(1).
- C. The District Administrator shall use a form contract for assessment contracts among the City, the owner of the qualifying property, and a third-party lender, containing terms as attached hereto as Exhibit "A," governing the terms and conditions of financing and annual assessments in accordance with the Act, including NEB. REV. STAT. § 13-3205(1), which provides for repayment of the costs financed through annual assessments upon the qualifying property benefited by the energy project.
- D. The District Administrator is authorized to enter into assessment contracts on behalf of the District.
- E. The District Administrator will use a financing application process and eligibility requirements, which shall be more specifically defined in a program manual created by the District Administrator, for financing energy projects in accordance with the requirements of the Act and accepted by the third-party lender. The application process and program eligibility requirements shall be, at a minimum, as follows:
 - i. Submission of an application to the District Administrator, which shall include, but not be limited to, the following information:
 - a) Applicant name and contact information, including property owner and developer;
 - b) Project location and legal description;
 - c) Identification of contractor or supplier, including anticipated PACE contractor and a copy of the approved bid for the energy efficiency project;
 - d) Project description;
 - e) Total project cost;

- f) Description of proposed improvements;
 - g) Description of energy efficiency project to be financed;
 - h) Amount of requested assessment;
 - i) Interest rate on the PACE assessment and any required fees;
 - j) Term of assessment;
 - k) Estimated energy savings;
 - l) Title report showing any mortgage or lien holders;
 - m) Lender consent;
 - n) Projected jobs created by PACE project;
 - o) Project environmental benefits;
 - p) Energy savings report;
 - q) Funding source;
 - r) All other such information as needed to demonstrate the project complies with all the requirements of the Act.
- ii. The District Administrator shall review the application to determine whether the energy project meets the eligibility requirements of the Act and this Ordinance. An energy project shall not be eligible for PACE financing if the qualifying property is subject to any of the following:
 - a) Delinquent ad valorem taxes;
 - b) Delinquent personal property taxes;
 - c) Delinquent special assessments;
 - d) Overdue or delinquent water or sewer charges;
 - e) Involuntary liens, including but not limited to construction liens;
 - f) Notice of default pursuant to any mortgage or deed of trust related to the qualifying property, or
 - g) If the property owner or property developer is delinquent in the payment of any assessment required to be paid for any energy efficiency improvement financed pursuant to the Act.
 - h) the property owner or developer has any unresolved or pending violations or complaints of violations of the Lincoln Municipal Code related to the project identified in the application.
 - iii. If the energy project is determined to be eligible under the terms of the Act and as required in this Ordinance, the District Administrator shall review the application and recommend approval, request additional information, or deny the application at his/her sole discretion.
 - iv. Upon approval of an application, the District Administrator is authorized to proceed with an assessment contract.
- F. Pursuant to NEB. REV. STAT. § 13-3205(7), annual assessments agreed to under an assessment contract shall be levied against the qualifying property and collected in accordance with the Act.
 - G. The District shall establish procedures to determine the following in the future:

- i. Provisions for an adequate debt service reserve fund created under Section 13-3209, if applicable;
- ii. Provisions for an adequate loss reserve fund created under Section 13-3208, if applicable; and
- iii. Any application, administration, or other program fees to be charged to owners participating in the program that will be used to finance costs incurred by the City as a result of the program;

Any costs shall be deducted before remitting the assessment to the third-party PACE program administrator.

- H. The assessment term shall not exceed the weighted average useful life of the energy project paid for by the annual assessments.
- I. Any energy efficiency improvement that is not permanently affixed to the qualifying property upon which an annual assessment is imposed to repay the cost of such energy efficiency improvement must be conveyed with the qualifying property if a transfer of ownership of the qualifying property occurs during the assessment term.
- J. Prior to the effective date of any contract that binds the purchaser to purchase qualifying property upon which an annual assessment is imposed, the owner shall provide notice to the purchaser that the purchaser assumes responsibility for payment of the annual assessment as provided in NEB. REV. STAT. § 13-3205(3)(d), that the obligations set forth in the assessment contract, including the obligation to pay annual assessments, are a covenant that shall run with the land and be assessed upon future owners of the qualifying property.
- K. In connection with providing PACE financing, the District will provide for marketing and participant education.
- L. After an energy project is completed, the District and/or its third-party lenders shall obtain verification that the renewable energy system or energy efficiency improvement was properly installed and is operating as intended.

Section 4. Authorization for PACE Program. That, pursuant to NEB. REV. STAT. § 13- 3204(1), the District shall be governed by the Lincoln City Council.

- A. The District Administrator shall comply with the Act and the provisions of this Ordinance and follow approved City procurement policy and procedures for selecting a third- party administrator for the administration of the PACE program. The third-party administrator must ensure that there is no financial requirement, liability, or exposure to the District. The City Planning Department may serve as the administrator of the PACE program for the District.
- B. The District may also engage the services of a state or local financing agency for the purposes of providing conduit bond financing for the District as part of its third- party administration.
- C. Upon selection of a third-party administrator, that third-party administrator may, on behalf of the District, accept applications for financing energy efficient improvements within the District boundaries. facilitate the financing application process, and review eligibility

requirements for financing energy projects in accordance with the requirements of the Act and as accepted by the third-party lender.

- D. The District may be expanded via the Interlocal Cooperation Act in order to create a program of sufficient size and scale to attract qualified third-party administrators and/or to promote energy efficiency across multiple political subdivisions, as authorized under the Act.

Section 5. Liability of City Officials; Liability of City. That notwithstanding any other provision of law to the contrary, officers and other officials of the City, the District, and Lancaster County shall not be personally liable to any person for claims, of whatever kind or nature, under or related to the City's participation in the District's PACE Program, including, without limitation, claims for or related to uncollected PACE Assessments. The City has no liability to a property owner for or related to energy savings improvements funded under a PACE Program.

Section 6. This ordinance shall be published, within fifteen days after the passage hereof, in one issue of a daily or weekly newspaper of general circulation in the City, or posted on the official bulletin board of the City, located on the wall across from the City Clerk's office at 555 S. 101st Street, in lieu and in place of the foregoing newspaper publication with notice of passage and such posting to be given by publication one time in the official newspaper by the City Clerk. This ordinance shall take effect and be in force from and after its passage and publication or after its posting and notice of such posting given by publication as herein and in the City Charter provided except that implementation of this ordinance shall be delayed for a period of not to exceed one hundred twenty days for development of procedures, policies, forms, and other actions necessary to implement this ordinance. The Mayor shall issue an executive order declaring implementation of this ordinance at any time deemed appropriate by the Mayor after fifteen days and prior to one hundred twenty days after passage of this ordinance.