



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: BL2022-1634, **Version:** 1

An ordinance approving standardized forms, agreements, and other documents to be utilized by the Metropolitan Trustee in administering the C-PACER Program.

WHEREAS, pursuant to Tenn. Code Ann. 68-205-101, et seq., the Metropolitan Government has adopted Ordinance No. BL2022-_____, amending the Metropolitan Code of Laws to add Chapter 5.22 (the “Chapter”) to establish a Commercial Property Assessed Clean Energy and Resilience Program (the “Program”) within Davidson County; and,

WHEREAS, pursuant to the Chapter, the Office of the Metropolitan Trustee (the “Trustee”) serves as administrator of the Program and is charged with developing, and when required, executing on behalf of the Metropolitan Government, such forms, agreements, and other documents necessary to carry out the purposes and intent of the Program; and,

WHEREAS, the Trustee, in consultation with the Metropolitan Department of Law, has developed standardized forms, agreements, and other documents, attached hereto in their proposed forms as Collective Exhibit A, to be used in administering the Program; and,

WHEREAS, for each approved application for the Program, the Trustee will need to make routine changes, insertions, deletions, amendments, supplements and updates to the standardized forms, agreements, and documents-including, without limitation, the “Assessment Agreement” (Collective Exhibit A-3) and “Notice of Assessment Interest and C-PACER Lien” (Collective Exhibit A-4) that levy the C-PACER special assessment and lien-to reflect the particular characteristics of each C-PACER transaction such as the amount financed and time period of the C-PACER loan; and,

WHEREAS, from time to time, the Trustee may need to develop and adopt such additional forms and documents to aid in the administration of the Program.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the Metropolitan Council hereby approves the use of the forms, agreements and documents, substantially in the forms of the drafts attached hereto as Collective Exhibit A, with such reasonable changes, insertions, deletions, amendments, supplements and updates as the Metropolitan Trustee shall approve consistent with the intent and purposes of Chapter 5.22 of the Metropolitan Code of Laws and the C-PACER Act.

Section 2. That consistent with the provisions of Chapter 5.22 of the Metropolitan Code of Laws, the Trustee is authorized to develop and adopt such additional forms and documents necessary to aid in the administration of the Program.

Section 3. That any changes, insertions, deletions, amendments, supplements or updates to the documents contained in Collective Exhibit A, or to such additional documents developed subsequent to the enactment of this ordinance, that materially changes or modifies the obligations of any party participating in the Program, or otherwise newly binds or obligates the Metropolitan Government with respect to the Program, shall be brought before the Metropolitan Council for approval, which shall be by resolution.

Section 4. That consistent with the provisions of Chapter 5.22 of the Metropolitan Code of Laws and this ordinance, the Metropolitan Trustee is authorized to execute on behalf of the Metropolitan Government, the Assessment Agreement and the Notice of Assessment Interest and C-PACER Lien and any other ancillary documents related thereto.

Section 5. That this ordinance shall take effect from and after its final passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This Ordinance approves the standardized form and use of the C-PACER program forms, agreements, and other documents, all of which are contained in the Program Guidelines attached to the Ordinance, that would be utilized by the Metropolitan Trustee in administering the program. If such forms, agreements, or other documents are materially amended after the enactment of the Ordinance, then they will require Council approval by resolution.

The forms that will be approved are as follows:

- Program Guidelines (Exhibit A-1)
 - Contains the program guidelines as required by the C-PACER Act and the specific provisions of BL2022-1633.
- C-PACER Project Application Checklist (Exhibit A-2)
 - To be used by the Metropolitan Trustee when reviewing applications. Contains the information and documentation required to be provided by the applicant: property address, property owner, qualifying property, qualifying owner, capital provider, qualifying improvement certifications, economic benefit certifications, consents, etc.
- Assessment Agreement for C-PACER Financing (Exhibit A-3)
 - Form of the agreement between Metro, the capital provider, and the property owner regarding the amount of the annual assessment, the term of the assessments, billing procedures, assignment of interest in the assessment installment payments, collection and disbursement of the assessment payments, no liability for Metro, etc.
- Notice of Assessment Interest and C-PACER Lien (Exhibit A-4)
 - Form of notice of lien to be filed and recorded with the Davidson County Register of Deeds.
- Certificate of C-PACER Use of Minority and Women-Owned Business Enterprises (Exhibit A-5)
 - Will contain a list of MWBE anticipated to participate in the project.
- Certificate of C-PACER Compliance: Economic Benefits (Exhibit A-6)
 - A statement that the economic benefits of the project outweigh the cost of the assessment.
- Certificate of C-PACER Compliance: Energy, Water, Renewable Energy, Resilience (Exhibit A-7)
 - Certification from a licensed engineer or engineering firm that the project proposal includes qualified improvements as defined in state law and that they will be affixed to the property. Additionally, certifies that the improvements provide the environmental benefits required in state law.
- Certificate of C-PACER Environmental and Economic Benefits (Exhibit A-8)
 - Details the anticipated environmental and economic benefits of the project.

- Certificate of C-PACER Improvements Completion (Exhibit A-9)
- Mortgage Holder Consent (Exhibit A-10)
- Ground Lessor Consent (Exhibit A-11)