JEDDs, ESIDs, and NCAs:

Notes on Financial Onboarding, Management, and Compliance

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Who we are…

Bricker Graydon

Dynamic Full-service Midwestern Law Firm

- Bricker Graydon focused in 8 key industries:
  - Banking & Financial Services
  - Higher Education
  - Education (Pre-K to 12)
  - Energy
  - Health Care
  - Insurance
  - Manufacturing
  - ***Public Sector***
- +200 attorneys in Ohio, Kentucky & Indiana

Free resource: *DevelopOhio* Toolkit

- Updated October 2024
- *DevelopOhio* blog's free resource:
  - Economic Incentives Toolkit
  - State & local public finance tools
- Since 2011
- User-friendly by design

Where we're headed today...

- Overview:
  - Joint Economic Development Districts (JEDDs)
  - Energy Special Improvement Districts (ESIDs)
  - New Community Authorities (NCAs)
- Financial Management
- Custodianship of Public Records
- Collection Processes for JEDD taxes, ESID assessments, and NCA community development charges
- Case Studies and Practical Examples

Overview:
JEDD

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What is a joint economic development district (JEDD)?

- Contractual agreement among jurisdictions to **create a new governmental entity, with its own board**, charged with improving a bounded district
  - Typically formed in connection w/ an economic development project
- By statute, a special-purpose district formed to:
  - *"facilitat[e] economic development t**o create or preserve jobs** and employment opportunities and to **improve the economic welfare** of the people in the state and **in the area of the contracting parties**."*

JEDDs as Alternative to Annexation

- Statutory compromise: JEDDs
- Enable district-wide income tax and the provision of municipal services to unincorporated areas
- Replace antagonism of annexation w/ collaborative spirit of cooperative agreement between municipality & township
- Typical scenario involves a township with prime development land and a municipality that is willing to offer services

JEDD Territory

- Can be formed by at least one municipality and one township, or more
- Contracting parties generally must be contiguous or one apart
- Territory **cannot** include residential property or property zoned for residential use (unless mixed-use)
  - At least at the time of formation
- Territory **cannot** include property owned or leased by a municipal corporation or township unless they are either a party to the agreement or consented to inclusion of the land within JEDD

Overview of JEDD Process

- Agreement negotiated among contracting parties
- Hold public hearing
- Get petitions signed
- Election required, but can be avoided
- Governed by Board of Directors
- Flexible powers defined by contract

JEDD Approval Process

- Municipality and township (and other parties, if applicable) prepare a contract for the JEDD that includes an economic development plan and a map for the JEDD
- Allow for public inspection of proposed JEDD documents
- Public hearing regarding proposed JEDD
- Obtain petition signatures of majority* of:
  - Owners of property w/in JEDD &
  - Owners of businesses located w/in JEDD

* Aim for 100%

JEDD Approval Process (Continued)

- Legislation adopted by each contracting party
  - Notice to businesses & property owners that did not sign petition (10 days after approval)
- Notify Ohio Department of Development
- Effective 30 days after Township approval (referendum period)

JEDD Election Requirement

- Generally, the electors of any township that will be a contracting party to the JEDD must approve the creation of the JEDD
- However, townships typically avoid an election by satisfying all three conditions:
  - **Unanimous approval** of the township board of trustees
  - **Petition signed by a majority** (read 100%) property owners w/in JEDD
  - Land to be included in JEDD is **zoned appropriately** for proposed use
- JEDD subject to referendum (10% requirement, 30 days)

JEDD Contract Provisions

- Board of Directors comprised of:
  - One person representing **municipality**
  - One person representing **township**
  - One person representing the **owners of businesses** located in JEDD
  - One person representing **people working** in JEDD
  - One person selected by the other members, who is the **chairperson**
- Election/selection determined by terms of contract

JEDD Contract Provisions (Continued)

- Coordination of services provided by municipality and township
  - Including any planned infrastructure improvements
- Levy income tax
  - Rate no higher than municipality's rate (no vote required)
- Determine zoning & land-use regulations for district
- Limit annexation w/in JEDD
- Limit granting of property tax abatements & other incentives w/in JEDD

JEDD Expansion Process

- 60-90 day process
- Term sheet between contracting parties
- Develop amendment, map
- Obtain petition signatures
- Public hearing process
- Legislative approvals
- Notice to property owners

Overview: ESID

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What is an energy special improvement district (ESID)?

An **energy special improvement district (ESID)** is a specific type of special improvement district (SID) authorized under Ohio law that serves as the **administrative vehicle** allowing properties within its boundaries to participate in **property assessed clean energy (PACE)** financing.

PACE Fundamentals – What is PACE?

An Acronym Says A lot!

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
Clean
Energy, meaning energy efficiency and alternative energy improvements are eligible for financing

State Authorized Legislation

- Over 32 states have enacted legislation creating PACE Programs
- States have several PACE laws for various reasons:
  - PACE is covered in more than one law
  - PACE laws have been passed over time to implement various aspects of PACE financing
  - PACE laws have been amended

R.C. 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 municipal corporations and townships within a single county, or counties that adjoin one another * * *
- territory in a special improvement district may be noncontiguous if at least one special energy improvement project or shoreline improvement project is designated for each parcel of real property included within the special improvement district.

Local Process – Project Identification

- Property owner submits petition to local government identifying the project, the assessments, and other aspects of the project

Local Process – Legislation (ORC 727)

- Local government adopts several pieces of legislation (can be all at once):
- Resolution of Necessity
- Ordinance to Proceed
- Ordinance Levying Assessments

Local Process – Closing and Afterward

- Local government enters into two agreements for each transaction.
- Local government agrees to transfer any assessments actually received to the PACE lender.

Energy Special Improvement Districts

- ESIDs are available for all property types (i.e., residential, commercial, industrial, non-profit and government property)
- Property Owner Petition
- City/Twp Approval to Form or Join ESID
  - 5 member ESID Board for New ESID
  - 2 City/Twp representatives on ESID Board if City/Twp Joins ESID
- City/Twp Approval for Each Project

Eligible Improvements

ORC Section 1710.01(I) – defines "Special Energy Improvement Project"

- Energy efficiency improvements (ORC 1710.01(K)):
- HVAC
- Lighting
- Roofs, windows, insulation
- Alternative energy improvements
- Solar PV and solar thermal
- Geothermal
- Customer-generated (e.g., biomass, micro-wind)

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."

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 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 Private Energy Improvements

- PACE assessments use existing or modified special assessment laws.
- PACE assessments fund private improvements.
- States adopted PACE laws or relied on State constitutional provisions stating that private energy conservation is a “public good.”
- PACE is 100% voluntary.
- Due process concerns are modified or reduced.

Enforcement

- Only currently due and delinquent amounts constitute an enforceable lien against real property.
- Special assessments cannot be accelerated.
- If special assessments are foreclosed upon, currently due and delinquent special assessments and any penalties or fees will be paid.
- Future special assessments will be paid by buyer of property.

Collection

- PACE special assessments are collected with real property tax bills based on a special assessment schedule.
- Only the amounts currently due or delinquent are due at any time.
- Future special assessments stay with property upon sale of property.

Remedies for Delinquency

- PACE assessments, like most assessments, “run with the land.”
- Majority Rule: PACE assessment remains with property upon sale.
- Minority Rule: PACE assessment must be satisfied upon sale.
- PACE assessments should be viewed as a tax-like encumbrance on real property.

Overview: NCA

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NCA | 101

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- A NCA is a separate "body corporate and politic" organized to encourage orderly development of an economically sound community. It is a voluntary development tool used to finance and maintain broad categories of infrastructure and community assets by imposing community development charges on property.
- A statutory "Developer" (a private developer, a city, or a County) . . . that either (i) owns, or (ii) controls (leases of 75+ years/options/etc.) voluntarily petitions an "organizational board" (e.g. City Council/County) . . . for its Initial Property to be located within a NCA District.
- Public-private partnership: developer and public entity represented on board

NCA Concept - Enhancement

Formation

- Procedure for creation
  - Developer files petition with “organizational board” (City Council or County Commissioners)
  - Petition must include, among other things, plan that sets forth development program for district
  - Training during organizational meeting on fiduciary duties for board members
- Organizational board holds hearing and approves creation of NCA if district is conducive to the public health, safety, convenience, and welfare
- NCAs can be formed with a single parcel or multiple parcels. Territory does not need to be contiguous and territory can be added to an NCA program later.

Powers: What Can an NCA Do?

- The NCA may levy "community development charges" (Charges) on land within the community authority's boundaries.
  - Charges could look like: (i) Real Property Taxes, (ii) Sales Taxes, (iii) Bed Taxes, or (iv) Other Fees, etc., and can be assessed like property taxes or collected through collection agents
  - Charges are flexible
- The NCA may issue revenue bonds to support development within its boundaries.

Eligible Improvements

- Parks, recreation, art, and cultural facilities
- Public buildings, centers and plazas, auditoriums, day care centers
- Streets, sidewalks, pathway and bikeway systems
- Pedestrian underpasses and overpasses, lighting facilities, design amenities
- Water, wastewater, health and sanitation, and drainage facilities
- Acquisition of rights of way
- Erection of fountains
- Landscaping and other aesthetics
- Parking facilities

NCA | Powers & Advantages

The NCA is controlled by a Board (often but not always (7) members), including: (4) Appointed by the local gov and, (3) by the Developer	Public-private partnership.
The NCA Board may levy "charges" on property that operate like: (i) Real Property Taxes, (ii) Sales Taxes, (iii) Bed Taxes, or (iv) Other Fees, etc	Flexible Charge Parameters.
Charges can be used to finance public improvements and/or secure bond issued for public infrastructure. Charges can be layered with TIF and CRA.	Attracting Investment to the Community.

Financial Management of JEDDs, ESIDs, and NCAs

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Fiscal Officers Generally

- **Selection:**
  - JEDDs, ESIDs, and NCAs are each governed by a **board**:
    - JEDD – R.C. 715.71(G)
    - ESID – R.C. 1710.02(A)(4)
    - NCA – R.C. 349.04
  - **By-laws** or **codes of regulation**, as applicable, determine selection of Treasurer
- **General Responsibilities**:
  - Maintain:
    - Financial records
    - Accurate books of account of financial transactions
    - Care and custody of funds

Annual Report - R.C. 117.38

- **Applicability:** JEDDs, ESIDs, and NCAs are **public offices** for purposes of reporting requirements to the Auditor of State (AOS) under Chapter 117 of the Ohio Revised Code.
- **Timing:** Every public office, other than a state agency, must file a certified annual financial report within 60 days or (if using GAPP) 150 days after the applicable fiscal year's end
  - Subject to extension by AOS
- **Publication:** The fiscal officer must publish notice in a newspaper within political subdivision or taxing district stating the report's availability for public inspection.
  - Newspaper of general circulation acceptable if no newspaper within political subdivision or taxing district available.

Annual Report (Continued) - R.C. 117.38

- **Content of Annual Report:**
  - (1) Collections and receipts, and accounts due from each source;
  - (2) Expenditures for each purpose;
  - (3) Income of each public service industry owned or operated by a municipal corporation, and the cost of such ownership or operation;
  - (4) Amount of public debt of each taxing district, the purposes of such debt, and the provision made for the payment thereof.

The Hinkle System

- **The Hinkle System** is an application developed by the Ohio Auditor of State (AOS) for the electronic filing of financial statements in compliance with the Ohio Revised Code and the Ohio Administrative Code.
- All entities (including JEDDs, ESIDs, and NCAs) must file their annual report with the AOS via the Hinkle System.

Audit Cycle
- R.C. 117.11

- **Biennial Audit – 117.11(A):** The AOS **must** audit JEDDs, ESIDs, and NCAs at least once every 2 years.
- **Early Audit – 117.11(B):** The AOS **may** audit JEDDs, ESIDs, and NCAs at any time if:
  - Requested by the applicable JEDD, ESID, or NCA; **OR**
  - The AOS has reasonable cause to believe an additional audit is in the public interest.

Internal Controls
- O.A.C. Rule 117-2-01

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- AOS has promulgated administrative rules on the accounting and reporting of public offices.
- Of particular relevance, Rule 117-2-01 requires internal controls to provide reasonable assurance regarding:
  - Reliability of financing reporting;
  - Effectiveness and efficiency of operations;
  - Compliance with applicable laws and regulations; and
  - Safeguarding of assets against unauthorized acquisition, use or disposition.

Custodians of Public Records for JEDDs, ESIDs, and NCAs

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Ohio Public Records Act

- All records created, received, or coming under the jurisdiction of a **public office** that document the activities or function of the public office are public records
- Any records that meet this definition—regardless of where they are held—are records subject to release
- JEDDs, ESIDs, and NCAs are all considered public offices for purposes of **Section 149.011(A)** of the Ohio Revised Code and therefore subject to the Ohio Public Records Act.

What Records Are Included? - R.C. 149.43(A)(1)

- **"Record"** is defined by the Ohio Revised Code and generally includes any item that is kept by a public office that:
  - Is stored on a fixed medium (items such as photographs, negatives, videos, maps, voice mails, e-mails, and computer files might constitute "records");
  - Is created, received, or sent under the jurisdiction of a public office; and
  - Documents the organization, functions, policies, decisions, procedures, operations, or other activities of the public office.
- **"Public Record"** is defined by the Ohio Revised Code and generally includes all records maintained by or for the applicable public office unless the records are specifically exempt from disclosure under the Ohio Revised Code or the disclosure of the record(s) is prohibited by state or federal law.

What Records Are Included? - R.C. 149.43(A)(1)

- "Construed liberally in favor of broad access, with **any doubt resolved in favor of disclosure of public records**"
  - *State ex. rel. Hogan Lovells U.S. L.L.P. v. Dept. of Rehab. & Corr.*, 156 Ohio St.3d 56 (2018)
- "The primary duty of a public office when it has received a public records request is to **promptly provide any responsive records** within a reasonable amount of time and **when a records request is denied, to inform the requester of that denial and provide the reasons[.]**"
  - *State ex. rel. Cordell v. Paden*, 156 Ohio St.3d 394 (2019)

What Is NOT included? -R.C. 149.43(A)(1)

- **Enumerated exceptions** set forth in (a) through (xx) of Section 149.43(A)(1) of the Ohio Revised Code.
- Non-records that **do not document the functions of the public office** – examples:
  - **Employee home addresses** & personal information
    - E.g., *State ex rel. Dispatch Printing Co. v. Johnson*, 2005-Ohio-4384 (home addresses of employees generally do not document activities of the office but may in certain circumstances).
  - **Personal notes** kept for one's own use & not shared with others
    - E.g., *Hunter v. Ohio Bur. of Workers' Comp.*, 2014-Ohio-5660, ¶ 16-17 (10th Dist.) (investigators' handwritten notes, used to convey information for oral or written reports and then disposed of, were not public records).
  - **Transient information** (provided public office complies with records retention schedule)
    - E.g., *State ex rel. Glasgow v. Jones, 2008-Ohio-4788*, ¶ 24, fn. 1 ("Our decision in no way restricts a public office from disposing of items, including transient and other documents (e.g., email messages) that are no longer of administrative value and are not otherwise required to be kept, in accordance with the office's properly adopted policy for records retention and disposal.").

What Is NOT included? -R.C. 1710.02(B)(4)

- **ESID-specific exception:** Although records of the ESID are public records, records of organizations contracting with an ESID are not public records solely by reason of any contract with a district.
  - **Practical Importance:** Private parties contracting with ESID may be able to claim exception to public records requirements.

Public Records – Availability Requirements - R.C. 149.43(B)(1)

1) Public records are **promptly prepared** & **made available** for inspection **to any person** at **all reasonable times** during regular business hours
2) Make available **copies at cost**, within a reasonable period of time
3) **Maintain public records** in a manner that they can be made available for inspection

Public Records Policy - R.C. 149.43(E)(2)

- JEDDs, ESIDs, and NCAs, as public offices, must all adopt a **public records policy** for responding to public records requests.
- Public offices may rely on model public records policy from Ohio Attorney General.
- Except as otherwise provided in R.C. 143.43, a public office may **NOT**:
  - Limit the number of public records:
    - Available to a single person
    - Available during a fixed period of time
  - Establish a fixed period of time before it will respond **unless** period is less than 8 hours.

Public Records Policy (Continued) - R.C. 149.43(E)(2)

- JEDDs, ESIDs, and NCAs, as a best practice, typically **designate a public records officer**, such as the Secretary of the applicable Board.
- Public offices **must distribute** the public records policy to those responsible for the public records.
- The applicable person(s) **must acknowledge receipt** of the policy.
  - **Practice Pointer:** Although the statute does not specify a form of acknowledgement, we recommend creating and using a signed document that acts as a 149.43 compliance certificate.
- The public office must include the policy in any manual or handbook.

Public Records Policy (Continued) - R.C. 149.43(E)(2)

- The public office must **either**:

  Create a poster that describes its public records policy and post the poster in a conspicuous place in the public office;

  OR

  Post its public records policy online if it has an internet website.

Who May Request Records?

- Any “person”, including corporations and other governmental agencies
- A request may be verbal or written
- No special format or special language is required, **but** we recommend using form to help narrow requests or enable follow-up with requester
- Requester’s **motive is not relevant**. However, the request must at least be specific and describe in detail the records being sought
- Cannot require the requester to reveal identity, but form may request

Records Management - R.C. 149.43(B)(2)

- Records to be organized for ready inspection and copying
  - Public offices are required to **organize their offices & staff** to make records available.
  - The Supreme Court of Ohio has cautioned that "expense," "time involved," or "too much interference with normal duties," will not excuse a public office's duty to respond to public record requests within a reasonable time.
    - *State ex rel. Beacon Journal Pub. Co. v. Andrews*, 48 Ohio St.2d 283, 289 (1976).
- Public offices must make readily available to the public a copy of the current **records retention schedule**.

Records Retention Schedules

- **Creation and Maintenance of Schedule:**
  - Conduct a records inventory
  - Categorize records
  - Decide how long to keep each category of records
  - Dispose of records on schedule
  - Review schedules regularly and revise, delete, or create new schedules as the law and circumstances change

Records Retention Schedules (Continued)

- **Content, not medium, determines how long to keep a record.**
  - Content categories are known as "records series."
  - Records within a records series should be kept for as long as they have legal, administrative, fiscal, or historic value.
- Records series descriptions should be broad enough to encompass all records of a particular type, but not too vague so as to fail to be instructive.

Records Retention Schedules (Continued)

- **How long to keep a records series?**
  - **Administrative Value:** For so long as record useful and relevant to activities that caused record to be created.
  - **Legal Value:** For so long as record documents or protects rights or obligations, provides for defense in litigation, or demonstrates compliance with law.
  - **Fiscal Value:** For so long as record pertains to receipt, transfer, payment, adjustment, or encumbrance, or is required for an audit.
  - **Historic Value:** The State Archive suggests historical documents be retained permanently. A document has historical value if it contains significant information about people, places, or events.

What to do upon receiving a public records request?

- **Acknowledge** the request
- **Process** the request
  - Identify records that might be responsive
  - Review records for responsiveness & whether exemptions exist
  - Send to legal counsel
- **Respond** to request "within a reasonable period of time"

What to Do Upon Receiving a Public Records Request? (Continued)

- Public office has authority to push back on request
- A requester must specifically identify the records being sought
  - *State ex rel. Kesterson v. Kent State Univ.*, 2018-Ohio-5110
- Must be for existing records
- Ambiguous or overly broad requests
  - Go back to requester and require more specificity (note, however, public office has obligation to state how to be more specific)

Collection Processes

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JEDD Tax Collection - R.C. 715.70(F)

- **Persons subject to tax:** JEDD income tax may be levied in JEDD based on income earned by persons working or residing within the JEDD and based on the net profits of businesses located in the JEDD.
- **JEDD taxes are subject to:**
  - General municipal income tax Code procedures (R.C. Chapter 718 - Municipal Income Taxes); **EXCEPT**
  - Where JEDD-specific provisions apply.

JEDD Tax Collection (Continued) - R.C. 715.70(F), (K)

- **JEDD-Specific Provisions:**
  - At least one municipality party to the JEDD agrees to administer, collect, and enforce the income tax on behalf of the JEDD.
  - Tax is subject to vote of electors in JEDD in accordance with R.C. 715.70.
  - JEDD income tax cannot be higher than the highest rate levied by the applicable municipality.
  - JEDD must satisfy publication requirement set forth in R.C. 715.70(F)(6)(a).
  - Referendum and initiative proceedings required for JEDD must be conducted in accordance with requirements applicable to municipalities.
  - Annexation, merger, or incorporation of JEDD territory does not void income tax.

JEDD Tax Collection (Continued) - R.C. 715.70(H)

- **Contracting Parties to JEDD May Block Other Incentives:**
  - Within a JEDD, **no** other political subdivision shall authorize or grant any tax exemption pursuant to:
    - Chapter 1728 (Community Development Corporations);
    - Section 3735.67 (Community Reinvestment Areas); or
    - Sections 5709.62, 5709.63, and 5709.632 (Enterprise Zones)
  - **Unless:**
    - The political subdivision seeking the incentive obtains the consent of the contracting parties to the JEDD; or
    - The exemption was filed, pending, approved, or entered into before the JEDD contract's effective date.

ESID Assessment Collection

- **Duration of Assessments – R.C. 1710.02(F):** ESID assessments may be no more than 30 years from the date the applicable real property is added to the ESID (whether added as part of the ESID's formation or as a later addition).
- **Written Plan/Petition – R.C. 1710.06**: Board of ESID adopts written plan (which is then submitted for approval as a Petition to all applicable legislative authorities) that sets forth:
  - The specific improvements to be provided;
  - The areas in which they will be provided;
  - The **method of assessment** to be used; and
  - The **period of time** the assessments are to be levied for the improvements.

ESID Assessment Collection (Continued) - R.C. 1710.06(C)

- **ESID Relies on Political Subdivision(s) to Levy:** "Each participating political subdivision," not the ESID itself, levies the special assessments set forth in the approved petition.
- **ESID special assessments are subject to:**
  - General special assessment procedures (R.C. Chapter 727 – Making and Levying Assessments); **EXCEPT**
  - Where ESID-specific provisions apply.

ESID Assessment Collection (Continued) - R.C. 1710.06(C)

- **ESID-Specific Provisions:**
  - Assessment may be levied by any method listed in Section 727.01 of the Ohio Revised Code, provided that the assessment is **uniformly applied**.
  - ESID Board **may combine** one or more improvements or parts of plans and levy a single assessment against specially benefited property.
  - Assessments levied by a township on behalf of an ESID shall be governed by the rules set forth in Chapter 727 of the Ohio Revised Code applicable to municipalities.
  - Revenue collected may be assigned to the Ohio air quality development authority pursuant to an agreement entered into under Section 3706.12 of the Ohio Revised Code.

ESID Assessment Collection (Continued)

- **In Practice – Key Documents in Typical PACE Deal in Ohio:**
  - **Petition & Plan**
  - **Owner Consent:** Memorializes owner consent to voluntary PACE assessments.
  - **Special Assessment Agreement:** Sets forth terms and schedule of repayment of bonds or loan secured by PACE assessments, including interest and collection processes.
  - **Energy Project Cooperative Agreement:** Coordinating document among all relevant parties to PACE transaction, including rights and obligations related to completion of the special energy improvement project and financing.
  - **Legislation:**
    - Approving Petition & Plan
    - Levying assessments
    - Authorizing relevant agreements
  - **Certification of Final Special Assessment:** Certifies the PACE assessments to the county auditor for collection.

NCA Community Development Charge (CDC) Collection

- **Role of Petition – R.C. 349.03:** Petition to create NCA to set forth the bases, timing, and manner of collecting CDC.
- **Implementation of CDC— R.C. 349.06-349.07:**
  - NCA enforces CDC as covenant running with the land.
  - CDC implemented by:
    - First, NCA duly records an instrument describing CDC in the land records of the county;
    - NCA then certifies the CDC to the county auditor;
    - County auditor enters unpaid charge on the tax list and duplicate of real property;
    - County auditor then certifies charge to the county treasurer;
    - CDC is then collected in the same manner as real property taxes;
    - Once the County collects the charge, it is immediately paid to the NCA.

NCA CDC Collection (Continued)

- **In Practice:**
  - **Declaration of Covenants and Restrictions** recorded in favor of NCA describes possible NCA charges applicable to initial property submitted to NCA.
  - A new **Supplemental Declaration of Covenants and Restrictions** must be recorded in favor of the NCA for each new property added to the NCA.
  - County auditors may request **verifying documents** relevant to setting up an NCA's vendor number and bank account before releasing CDCs– for example:
    - Original copy of a W-9 (request for taxpayer ID # and certification)
    - Authorization Agreement for Electronic Payment
    - Voided check or letter from applicable bank

Case Studies and Practical Examples

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JEDD Practical Example #1

JEDD formed to encourage responsible growth in a rapidly-developing community.

A partnership was formed between a municipality and surrounding townships providing for one or more JEDDs to be established throughout the townships as they grow, with the municipality providing water and sewer, the township providing safety services, and both parties cooperating to provide a higher level of infrastructure and services to a rapidly developing part of the state.

JEDD Practical Example #2

JEDD formed to attract a new, large employer.

A local economic development agency, in cooperation with the county, municipality and township, established a JEDD in order to provide revenue to pay debt service on a large loan used to pay the cost of significant utility expansions.

ESID Case Study #1

Newburgh Heights ESID:

- Village of Newburgh Heights wanted to implement energy efficiency improvements in property owned by the Village.
- Village opted not to use its bonding debt to finance the project and instead created an ESID and received a 14.5-year PACE loan with a 5.25% interest rate.
- Annual special assessments are collected via the Village's Cuyahoga County tax bills and remitted to PACE lender.

ESID Case Study #2

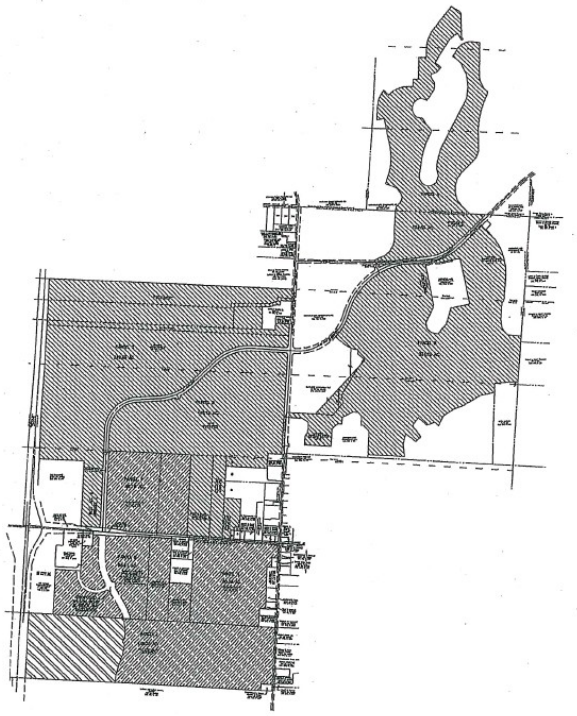
Northeast Ohio Advanced ESID:

- East Cleveland Public Library implemented energy efficiency improvements at its Euclid Avenue property.
- Library opted not to use its bonding debt to finance the project and instead jointed the Northwest Ohio Advanced ESID and received a 10-year PACE loan with a 3.00% interest rate.
- Annual special assessments are collected via the Library's Cuyahoga County tax bills and remitted to PACE lender.

NCA Case Study #1

Berkshire Landing NCA:

- Players: Delaware County, Berkshire Township, School District, Developers
- Impact: Multiple Revenue Streams Created by NCA Charge
  - 0.5% Sales Tax On Mall
  - 4 Mill Property Assessment in Southern Areas (Benefit to School District)
  - Variable Millage Property Assessment in Northern Areas (Benefit to Developer/Township)



NCA Case Study #2

Dayton Arcade NCA:

- Two Types of Charges
  - **Area Charge**
    - NCA has a per commercial-use square foot charge within the District.
  - **Retail Charge**
    - A charge on a percentage of gross receipts of all businesses operating within the District.
- Redevelopment of historic Dayton Arcade built in 1904
  - Retail, Restaurants, Offices
  - Arcade Innovation Hub

Questions?

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Thank You

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