

Instrument Prepared By
And Recording Requested by:

Space Above for Recorder's Use

C-PACE ASSESSMENT AGREEMENT

by and between

[Municipality]

and

[Owner(s)]¹

and

[Project Owner]²

Dated: [_____], 20__

[with respect to [insert address of Project Property]]

¹ All Property Owners must be listed.

² The Eligible Owner may be one of the Property Owners or may be a Beneficial Owner. If the Eligible Owner is a Beneficial Owner, the Eligible Owner still needs to be a party to this Agreement.

C-PACE ASSESSMENT AGREEMENT

THIS C-PACE ASSESSMENT AGREEMENT (this “Assessment Agreement” or “Agreement”) is made this ____ day of _____, 20__, by and between [MUNICIPALITY] (the “Municipality”), a municipal corporation of the State of New Jersey (the “State”), having an address at _____, in the County of [COUNTY] (the “County”), [OWNER A], having an address at [STREET ADDRESS OF PRIMARY OFFICE], . . . [OWNER Z], having an address at [STREET ADDRESS OF PRIMARY OFFICE]³, and [PROJECT OWNER], having an address at [STREET ADDRESS OF PRIMARY OFFICE]⁴ (collectively, the “Parties”, and each, a “Party”).

Capitalized terms defined in Exhibit A hereto (“Exhibit A”) shall have the meanings given in Exhibit A, and capitalized terms used but not defined herein or in Exhibit A shall have the meanings given such terms in the Program Guidelines (as hereinafter defined).

BACKGROUND

WHEREAS, the New Jersey Economic Development Authority (the “Authority”) has established the Garden State C-PACE Program (the “C-PACE Program”), and developed the Garden State C-PACE Program Guidelines (the “Program Guidelines”), pursuant to and in accordance with P.L. 2021, c. 201 (N.J.S.A. 34:1B-374 et seq.) (the “Act”), to facilitate private and other loan financing for clean energy and resiliency-related improvements to commercial and certain other types of properties (each, a “C-PACE Project”, as defined in Exhibit A); and

WHEREAS, the Act authorizes the imposition of a voluntary local improvement assessment in accordance with N.J.S.A. 40:56-1 et seq. (a “C-PACE Assessment”) at the request of an Eligible Owner to provide security for the repayment to a Qualified Capital Provider of loan financing for a C-PACE Project, provided that the municipality in which the Eligible Property is located has adopted an Opt-in Ordinance to participate in the C-PACE Program and has entered into a Garden State Program Agreement (a “Program Agreement”); and

WHEREAS, the Municipality has taken the actions described in the prior paragraph, so that Eligible Owners with Eligible Properties within the Municipality may participate in the C-PACE Program; and

WHEREAS, [OWNER A], . . . and [OWNER Z] (“Owner”) own property located within the Municipality, as more fully described on Exhibit C attached hereto and made a part hereof (collectively, the “Project Property”); and

WHEREAS, the Authority has determined that the proposed direct financing from a Qualified Capital Provider (“Project Capital Provider”) for the proposed project (“Project”) by

³ All Property Owners must be listed.

⁴ The Eligible Owner may be one of the Property Owners or may be a Beneficial Owner. If the Eligible Owner is a Beneficial Owner, the Eligible Owner still needs to be a party to this Agreement.

[APPROVED C-PACE PROJECT OWNER]⁵ (“Project Owner”) , is eligible under the C-PACE Program such Project being more fully described on Exhibit B attached hereto and made a part hereof; and

WHEREAS, the Project Owner has obtained the consent of all holders of mortgage liens on the Project Property; and

WHEREAS, the Parties desire to enter into this Assessment Agreement for the purpose of imposing a C-PACE Assessment on the Project Property to facilitate the financing of the Project Owner’s Project;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto mutually covenant and agree as follows:

Section 1. Purpose.

The Parties are entering into this Agreement for the purpose of the imposition of a C-PACE Assessment on the Project Property to facilitate the financing of the acquisition , installation, construction or modification of all or a portion of the Project. By executing and delivering this Agreement, the Project Owner represents that it is an Eligible Owner and its project is an Eligible Project under the Project Guidelines and the Act, and the Owner voluntarily and willingly agrees to have a C-PACE Assessment imposed on the Project Property in accordance with the terms hereof in order to facilitate the financing of the Project Owner’s Project. The Owner agrees and acknowledges that in order to secure and effectuate the financing of the Project, the Municipality and the Qualified Capital Provider will enter into an Assignment Agreement to assign the C-PACE Assessment to the Project Capital Provider.

Section 2. The Project Property.

This Agreement relates to the real property identified in Exhibit C. The Owner covenants, represents, and warrants that it has fee title ownership to the Project Property and possesses all legal authority necessary to execute and deliver this Agreement. The Owner further covenants, represents and warrants that any and all taxes, charges, and assessments on the Project Property have been paid are not delinquent.

Section 3. C-PACE Assessment.

(a) The Owner hereby consents to the placement of a C-PACE Assessment levied against the Project Property by the Municipality pursuant to this Agreement in the total amount set forth on Exhibit D attached hereto and made a part hereof. The execution and delivery of this Agreement by the Parties authorizes the levy of the C-PACE Assessment by the Municipality against the Project Property without any further action required by the Parties or any third party.

⁵ The Eligible Owner determined by the Authority to have an eligible C-PACE Project may be one of multiple Property Owners or may be a Beneficial Owner.

(b) The Owner hereby promises to pay the C-PACE Assessment imposed hereby in quarterly installments (each, an “Assessment Installment”) on the dates and in the amounts as set forth on Exhibit D (the “Repayment Schedule”).

(c) In accordance with the Act, if any payment of an Assessment Installment is not made when such payment shall have become due, or later, consistent with any grace period provided or extended by the Municipality for the payment of property tax bills as may be permitted or required by law, the interest thereon (“statutory interest”) shall be imposed at the same rate as may be imposed upon unpaid property taxes in the Municipality. Pursuant to the Act, any such statutory interest collected by the Municipality on a delinquent payment of an Assessment Installment shall be retained by the Municipality.

(d) Pursuant to the Act, and notwithstanding any other provision of law, such statutory interest shall be in addition to any accrued interest and any amount fixed as a penalty for delinquency pursuant to the Direct Financing Agreement between the Project Owner and the Project Capital Provider. Any such accrued interest and any such amount fixed as a penalty for delinquency paid by the Owner to the Municipality shall be remitted to the Project Capital Provider. In the event that the Municipality receives a payment that, pursuant to this provision, is due to the Project Capital Provider, the Municipality shall remit such payment to the Project Capital Provider within thirty (30) days following the receipt thereof.

Section 4. Nature of C-PACE Lien.

Pursuant to the Act, upon recording of this Agreement, the C-PACE Assessment imposed hereby shall be a single, continuous first lien on the Project Property (the “C-PACE Lien”), paramount to all prior or subsequent alienations and descents of the Project Property or encumbrances thereon, except subsequent taxes, charges, or assessments, without any additional notice, recording, filing, continuation filing, or action, until paid in full.

Section 5. Amendment of C-PACE Assessment Amount or Assessment Installments.

(a) The Owner, the Project Owner, and the Project Capital Provider may from time to time jointly agree to amend the Repayment Schedule to reflect a change in the C-PACE Assessment Amount or a change in one or more Assessment Installments. To effectuate any such amendment to the Repayment Schedule, and provided that such amendment requires only that the Repayment Schedule be replaced with an amended Repayment Schedule, the Owner, the Project Owner, and the Project Capital Provider shall execute and deliver to the Municipality a Notice of Amendment of Assessment substantially in the form attached to the Program Guidelines. Such executed Notice of Amendment of Assessment shall constitute joint written notice of the Owner, the Project Owner, and the Project Capital Provider to the Municipality to replace the existing Repayment Schedule with the amended Repayment Schedule.

(b) Within five (5) business days following receipt of the executed Notice of Amendment of Assessment described in clause (a) hereof, the Municipality shall execute such Notice of Amendment of Assessment.

(c) Within five (5) business days following the execution by the Municipality of such Notice of Amendment of Assessment, the [Municipality][Project Capital Provider] shall record or cause to be recorded in the County Recording Office the fully executed Notice of Amendment of Assessment.

(d) Except as otherwise expressly provided in this Section 5, any amendment to this Assessment Agreement shall be governed by Section 10 hereof.

(e) An amended Repayment Schedule shall take effect for billing and collection purposes not earlier than the commencement of the Municipality's next annual billing cycle with respect to property taxes, unless an earlier date is agreed upon between the Project Capital Provider, the Owner, the Project Owner, and the Municipality.

Section 6. Assignment of C-PACE Assessment.

The Owner and the Project Owner acknowledge and agree that the C-PACE Assessment imposed hereby and the C-PACE Lien shall be assigned by the Municipality, pursuant to the Assignment Agreement, to the Project Capital Provider, as set forth in the Assignment Agreement. The Assignment Agreement shall be executed and delivered contemporaneously with this Agreement.

Section 7. Billing and Collection of C-PACE Assessment; Remittance to Capital Provider; Foreclosure.

(a) The Assessment Installments shall be billed annually and shall be paid in quarterly installments on those dates when municipal *ad valorem* real estate tax payments on other properties within the Municipality are due.

(b) Following receipt from the Owner of each payment of an Assessment Installment, the Municipality shall remit such Assessment Installment to the Project Capital Provider not later than thirty (30) days after the end of the month in which such Assessment Installment is received by the Municipality.

(c) The Owner acknowledges and agrees that, pursuant to the Act, and notwithstanding any communication by or from the Owner or the Project Owner to the Municipality to the contrary, if the Owner is delinquent in the payment of any taxes, charges, or other assessments that are not C-PACE Assessments ("Delinquent Non-C-PACE Amounts"), whether or not the Owner is delinquent on C-PACE Assessments, (i) any and all payments made by the Owner to the Municipality shall be applied to the payment of Delinquent Non-C-PACE Amounts until such Delinquent Non-C-PACE Amounts are paid and no longer delinquent, and (ii) no payments shall be applied to the payment of any C-PACE Assessment or delinquent C-PACE Assessment at any time that there are any unpaid Delinquent Non-C-PACE Amounts.

(d) The Owner and Project Owner acknowledge and agree that if any Assessment Installment is not paid in full when due, the C-PACE Lien will be enforced by the Municipality at the time and in the manner that the Municipality enforces the collection of unpaid property taxes and other municipal charges, including by tax sale held pursuant to New Jersey law. The Owner

and the Project Owner further acknowledge and agree that the Project Capital Provider has the right, pursuant to the Act, to compel the Municipality to enforce the C-PACE Lien through an action to foreclose on the Project Property. This enforcement may include prosecution of foreclosure proceedings pursuant to N.J.S.A. 54:5-1 et seq. (the “tax sale law”). In the event that any lien on the Project Property shall be exposed to tax sale pursuant to the tax sale law and is struck off and sold to the Municipality, the C-PACE Assessment shall survive any subsequent action to foreclose the right of redemption and shall continue as a first lien upon the Project Property, paramount to all prior or subsequent alienations and descents of the Project Property or encumbrances, except subsequent taxes, charges, or other assessments. The Owner and the Project Owner agree and acknowledge that while the Municipality holds the lien or owns the Project Property, the Municipality shall not be responsible for or required to make any payment from its treasury or any other source in furtherance of or to satisfy the C-PACE Assessment. The redemption of any delinquent and unpaid C-PACE Assessments including any interest, penalties, or other charges related thereto, shall be paid no later than on the first available tax bill after the Project Property has been sold after an action to foreclose the right of redemption.

(e) In the event of a foreclosure of the C-PACE Lien or any lien for taxes imposed on the Project Property by the State, the Municipality, or any other taxing district, the balance of the C-PACE Assessment secured by the C-PACE Lien that has not yet become due pursuant to the Repayment Schedule shall not be accelerated or eliminated by such foreclosure.

(f) Notwithstanding anything in this Assessment Agreement to the contrary, the Parties agree that the Municipality’s obligation to levy, bill, collect, and remit amounts in accordance with the Act, the Program Guidelines, and this Assessment Agreement are ministerial and administrative in nature, and the Owner, the Project Owner, or Project Capital Provider may bring an action in mandamus, a claim for specific performance, or any similar action or remedy (except an action seeking monetary damages from the Municipality) against any necessary party to ensure the necessary levying, billing, collecting, and remitting of any amounts under this Assessment Agreement.

Section 8. Municipal C-PACE Fees.

(a) Closing Fee: In connection with the execution, delivery, and recording of this Assessment Agreement, the Notice of Assessment, and the Assignment Agreement, the Project Owner shall pay the Municipality a Closing Fee in the amount set forth in Schedule I hereto.

(b) Annual Servicing Fee: The Owner or Project Owner shall pay the Municipality an Annual Servicing Fee for the Municipality’s billing, collection and remittance services rendered with respect to the C-PACE Assessment. The Annual Servicing Fee shall be charged each calendar year, or part thereof, in which the C-PACE Assessment is in effect. [The Annual Servicing Fee shall be billed and payable together with the first quarterly Assessment Installment due in a calendar year, and the Municipality shall retain the Annual Servicing Fee before remitting the balance of the payment to the Project Capital Provider.][The Annual Servicing Fee shall be billed separately from Assessment Installments and payment shall be due from the Owner or Project Owner upon receipt of the bill.] The amount of the Annual Servicing Fee is set forth in Schedule I hereto or as may be amended by the Municipality in accordance with the Program Guidelines and the Municipality’s Program Agreement.

(c) Rebilling Fee: The Project Owner shall pay the Municipality a Rebilling Fee each time that the Project Owner requests a change in the Repayment Schedule that requires the Municipality to reissue a bill for the C-PACE Assessment within the same annual billing cycle. The amount of the Rebilling Fee is set forth in Schedule I hereto or as may be amended by the Municipality in accordance with the Program Guidelines and the Municipality's Program Agreement.

(d) Assessment Amendment Fee: The Project Owner shall pay the Municipality an Assessment Amendment Fee each time that the Project Owner and the Project Capital Provider jointly instruct the Municipality to execute an amendment the C-PACE Project Documents to effectuate a change in the C-PACE Assessment Amount, a change in the Repayment Schedule, or any other change to one or more C-PACE Project Documents, whether pursuant to Section 5 or Section 10 hereof. The Assessment Amendment Fee shall be paid when the request to amend the C-PACE Project Document(s) is made. The amount of the Assessment Amendment Fee is set forth in Schedule I hereto or as may be amended by the Municipality in accordance with the Program Guidelines and the Municipality's Program Agreement.

Section 9. Recordation of Documents.

The [Municipality][Project Capital Provider] shall record or cause to be recorded in the County Recording Office the following documents within the time required in the Program Guidelines in the following order: (i) the Notice of Assessment; (ii) this Assessment Agreement; and (iii) the Assignment Agreement. Amended documents shall be recorded in the same manner and in the same order.

Section 10. Amendment of this Agreement; Further Instruments.

(a) In addition to any amendment to the Repayment Schedule executed and delivered pursuant to Section 5 hereof, this Agreement may also be amended by the written agreement of the Municipality, the Owner, and the Project Owner, provided, however, that (i) such amendment shall require the written consent of the Project Capital Provider if the Project Capital Provider would be adversely affected by such amendment, and (ii) such amendment shall comply with the Act and the Program Guidelines. If this Agreement is so amended, an amended Notice of Assessment and an amended Assignment Agreement shall also each be executed and delivered to reflect such amendment. Each such amended document shall be recorded in the manner and in the order consistent with Section 9 of this Agreement.

(b) If any amendment to this Agreement includes an amended Repayment Schedule, such amended Repayment Schedule shall take effect for billing and collection purposes not earlier than the commencement of the Municipality's next annual billing cycle with respect to property taxes, unless the Capital Provider, the Owner, the Project Owner, and the Municipality shall agree upon an earlier effective date for the amended Repayment Schedule.

(c) The Parties agree that each will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further instruments as may reasonably be required in order to carry out the express intentions of this Assessment Agreement.

Section 11. Indemnification and Limitation of Liability.

(a) To the fullest extent permitted by law, the Project Owner shall indemnify and hold harmless the Municipality, its successors and assigns, and its officials, officers, directors, employees and agents (each, an “Indemnified Party” and collectively, the “Indemnified Parties”) from and against, and shall pay or reimburse the Indemnified Parties for, any and all liabilities, obligations, losses, damages, penalties, actions, demands, claims, judgments, suits, costs, expenses, taxes or disbursements of any kind or nature whatever (including reasonable attorneys’ fees and expenses), which the Indemnified Parties may sustain, be subject to, or be caused to incur by reason of, any claim, suit or action of whatever nature, related directly or indirectly to, or arising under, out of, or in connection with, this Assessment Agreement, the Assignment Agreement, any other Uniform Assessment Document, the Project Property, or the existence, acquisition, construction, equipping, installation, financing, functioning or use of the C-PACE Project (hereinafter referred to as a “Loss” or “Losses”); provided, however, that the Project Owner shall not be liable for any Loss or Losses resulting from an Indemnified Party’s own gross negligence or willful misconduct. In any such suit or action, the Municipality shall be entitled to, but shall not be required to, intervene, whether as party defendant or intervenor, and retain attorneys of its choosing, the reasonable cost of such attorneys to be borne by the Project Owner.

(b) The Municipality shall not be liable to the Owner or Project Owner for any action taken or omitted to be taken by the Municipality or by any officials, officers, directors, employees or agents of the Municipality under or pursuant to this Assessment Agreement, except for the Municipality’s own gross negligence or willful misconduct. In addition, in no event shall the Municipality be liable for any incidental, indirect, special or consequential damages. No officials, officers, directors, employees or agents of the Municipality shall be personally liable or be subject to any personal liability or accountability whatsoever by reason of or with respect to this Assessment Agreement.

(c) The provisions of this Section 11 shall survive the termination of this Agreement.

Section 12. Municipality’s Role and Responsibilities.

The Owner and the Project Owner acknowledge and agree that:

(a) Pursuant to the Act, the Program Guidelines, and the Municipality’s Program Agreement, the Municipality is obligated to (i) levy, bill, collect, remit, and enforce the C-PACE Assessment, and (ii) maintain records of and report to the Authority any occurrences of the following events, no later than thirty (30) days after the occurrence of any such event: a delinquency in the payment of a C-PACE Assessment; the commencement of foreclosure proceedings with respect to a C-PACE Assessment; and the completion of foreclosure proceedings with respect to a C-PACE Assessment.

(b) The Municipality does not provide legal advice. Owner and Project Owner understand their respective right to obtain its own legal representation in connection with its participation in the C-PACE Program. The Owner and Project Owner are responsible for reviewing the terms, conditions, and obligations imposed on each, as applicable, by this Assessment Agreement, the Assignment Agreement, the Direct Financing Agreement, all

agreements with contractors and any other parties involved with the C-PACE Project, and any amendments or supplements to any of the foregoing.

(c) The Municipality does not endorse any product, system, design, equipment, material, appliance, or other aspect of a C-PACE Project, and the Municipality's levying, billing, collecting, remitting, and enforcement of a C-PACE Assessment does not imply any such endorsement. The Municipality does not guarantee that the implementation and operation of a C-PACE Project will result in reduced energy usage or cost savings to the Project Owner or any occupants of the Project Property. The Municipality makes no warranty or representation, either express or implied, as to, and assumes no liability with respect to, the value, design, condition, quality, safety, performance, merchantability, or fitness for a particular purpose, or fitness for any use, of the C-PACE Project or any portion thereof, or any product, system, design, equipment, material, or appliance installed in, on or as part of the C-PACE Project, and expressly disclaims any and all such warranties, representations, and liability. The Project Owner is responsible for the construction, implementation, and operation of a C-PACE Project, including the proper disposal or recycling of any waste generated as a result of the implementation and operation of the C-PACE Project.

(d) The Municipality does not endorse any design, engineering or construction contractor or subcontractor or any manufacturer or supplier. The Municipality does not endorse any Project Capital Provider. The Project Owner is responsible for conducting its own due diligence, including but not limited to consideration of finances, performance, and pricing, before selecting any contractor or contractors for the C-PACE Project.

(e) The Municipality will not mediate any disputes between any participants in the C-PACE Project, including but not limited to, the Owner, the Project Owner, the Owner's tenants, the Project Capital Provider, any design, engineering, or construction contractors or subcontractors, or any manufacturers or suppliers.

(f) The Municipality does not provide accounting or tax advice. The Municipality makes no representation regarding, and is not responsible for payment of, any increased tax liability imposed with respect to the Project Property, the C-PACE Project, or the financing of the C-PACE Project.

Section 13. Release of C-PACE Lien; Termination of Assessment Agreement.

Upon the payment or other discharge in full of the C-PACE Assessment, the Owner and Project Owner shall cooperate with the Project Capital Provider to provide joint written notice thereof (the "Release Notice") to the Municipality. This Agreement shall terminate only upon the payment or other discharge in full of the C-PACE Assessment and the payment in full of all amounts due to the Municipality hereunder. Following the Municipality's receipt of the Release Notice and the payment in full of all amounts due to the Municipality hereunder, the Municipality shall provide to the Owner such instruments as are reasonably necessary in order to discharge and release the C-PACE Lien.

Section 14. Binding Effect; Successors in Interest.

This Agreement inures to the benefit of and is binding upon the Municipality, the Owner, the Project Owner, and their respective successors and assigns. The obligation to pay the C-PACE Assessment set forth in this Agreement is an obligation of the Owner and no agreement or action of the Owner (other than repayment of the C-PACE Assessment in full) will impair in any way the right to pursue foreclosure of the C-PACE Lien or the right to enforce the collection of the C-PACE Assessment or any Assessment Installment against the Project Property. Any successor or assignee of the Owner and Project Owner shall be a party to this Agreement and shall have all of the rights and obligations, respectively, of the Owner and Project Owner hereunder to the extent that such rights and obligations have been assigned pursuant to the successor or assignment documentation between the Owner and Project Owner and the respective successor or assignee.

Section 15. Third-Party Administrators; Other Government Agencies.

The Authority has the current responsibility for the oversight of the C-PACE Program. In the event that, pursuant to the Act, the Authority contracts with one or more third-party administrator or enters into a memorandum of agreement with one or more State government agencies or instrumentalities, the Municipality, the Project Owner, and the Owner shall cooperate with such third-party administrator or State government agency or instrumentality and enter into such amendments to this Agreement or such new agreements with respect to the C-PACE Program as may be required at such time in connection with the change in C-PACE Program administration.

Section 16. Miscellaneous.

(a) Rules of Construction. If and to the extent there is any conflict or inconsistency between the Act and this Agreement, the Act shall control. If and to the extent there is any conflict or inconsistency between this Agreement and the Program Guidelines, the Program Guidelines shall control.

(b) Severability. If any term or provision of this Agreement, or the application thereof to any person or circumstances, shall, to any extent, be held illegal, invalid or unenforceable by any court of competent jurisdiction, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held illegal, invalid or unenforceable, shall not be invalidated, rendered unenforceable, or otherwise affected thereby, and each term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

(c) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same instrument.

(d) Notices. All notices, requests, consents and other communications shall be in writing and shall be delivered by any of the following methods: (i) by first class mail, postage prepaid; (ii) by overnight delivery service; (iii) by messenger delivery service; or (iv) by Electronic Means; in each case at the respective addresses set forth below. "Electronic Means" means email communication, facsimile transmission, or other similar electronic means of communication providing evidence of transmission.

If to the Municipality:
[Address]
Attention:
Email:
Fax:

If to the Owner:
[Address]
Attention:
Email:
Fax:

(e) Amendment and Waivers. Any amendment to or waiver of any provision of this Agreement must be in writing and mutually agreed to by the Parties hereto.

(f) Governing Law and Venue. This Agreement and its provisions shall be governed by and construed in accordance with the laws of the State. In any action, in equity or law, with respect to the enforcement or interpretation of this Agreement, venue shall be in the County of Mercer, State of New Jersey.

(g) Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof.

(h) Headings. The headings in this Agreement are solely for convenience, do not constitute a part of this Agreement, and do not affect its meaning or construction.

[SIGNATURES FOLLOW]

IN WITNESS WHEREOF, the Parties have caused this Assessment Agreement to be executed the day and year first above written.

WITNESS:

[_____],
as Owner **[and Project Owner]**⁶

Name:

By: _____
Name:
Title:

STATE OF NEW JERSEY)
) SS.:
COUNTY OF _____)

Sworn and subscribed to before me
this ____ day of _____, 2022

Notary Public of the State of New Jersey

ATTEST:

[MUNICIPALITY], as Municipality

Name:
Title: Clerk

By: _____
Name:
Title: Mayor

STATE OF NEW JERSEY)
) SS.:
COUNTY OF _____)

Sworn and subscribed to before me
this ____ day of _____, 2022

Notary Public of the State of New Jersey

⁶ A signature block must be inserted for each Property Owner and a separate signature block is required if the Project Owner is not a Property Owner.

[Signature Page to C-PACE Assessment Agreement]

SCHEDULE I

MUNICIPAL C-PACE FEES

Closing Fee:	\$
Annual Servicing Fee:	\$
Rebilling Fee:	\$
Assessment Amendment Fee:	\$

EXHIBIT A

DEFINITIONS

“Act” shall mean P.L. 2021, c. 201 (N.J.S.A. 34:1B-374 et seq.), as the same may be amended from time to time.

“Assessment Agreement” or “Agreement” shall mean the Assessment Agreement to which this Exhibit A is attached.

“Assessment Installment” shall mean a quarterly installment of the C-PACE Assessment Amount, as set forth on the Repayment Schedule attached hereto as Exhibit D.

“Assignment Agreement” shall have the meaning given such term in the Program Guidelines.

“Authority” shall mean the New Jersey Economic Development Authority.

“Capital Provider” shall have the meaning given such term in the Program Guidelines.

“County Recording Office” shall mean the office within the County for the filing and recording of documents and instruments affecting real property, including tax liens.

“C-PACE” shall mean commercial property assessed clean energy.

“C-PACE Assessment” shall have the meaning given such term in the Program Guidelines.

“C-PACE Assessment Amount” shall mean the total amount of the C-PACE Assessment, as set forth on Exhibit D attached hereto, as the same may be reduced from time to time by the payment of Assessment Installments.

“C-PACE Lien” shall mean the municipal lien created pursuant to the Assessment Agreement imposing the C-PACE Assessment on the **Project** Property to secure the payment of the C-PACE Assessment Amount, with the rights and priority of payment as set forth in the Act and the Program Guidelines, such C-PACE Lien to be evidenced by the recording of the Notice of Assessment.

“C-PACE Project” shall have the meaning given such term in the Program Guidelines.

“C-PACE Project Documents” shall mean, individually or collectively as the case may be, for any C-PACE Project, the related Assessment Agreement, Notice of Assessment, and Assignment Agreement, and, if applicable, Notice of Amendment of Assessment and/or any amendments to any of the foregoing.

“Direct Financing Agreement” shall mean the agreement entered into or to be entered into between the Project Capital Provider and the Project Owner regarding the Direct Financing provided by the Project Capital Provider.

“Garden State C-PACE Program” or “C-PACE Program” shall mean the program established pursuant to sections 4 and 5 of P.L. 2021, c. 201 (N.J.S.A. 34:1B-377 and N.J.S.A. 34:1B-378).

“Garden State Program Agreement” shall mean the Garden State Program Agreement, as defined in the Program Guidelines, entered into by the Authority and the Municipality.

“Municipality” shall mean the Municipality executing the Assessment Agreement to which this Exhibit A is attached.

“Notice of Assessment” shall mean the Notice of Assessment, as defined in the Program Guidelines, with regard to C-PACE Lien on the Project Property.

“Opt-in Ordinance” shall mean the Opt In-Ordinance, as defined in the Program Guidelines, adopted by the Municipality to participate in the C-PACE Program.

“Owner” shall mean the Property Owner(s) executing the Assessment Agreement to which this Exhibit A is attached.

“Program Guidelines” shall mean the Garden State C-PACE Program Guidelines adopted by the Authority pursuant to the Act and published on the Authority’s Program website; provided, however, that the Program Guidelines may be amended from time to time.

“Project Costs” shall have the meaning given such term in the Program Guidelines.

“Project Owner” shall mean the Eligible Owner approved for the Project and executing the Assessment Agreement to which this Exhibit A is attached.

“Project Property” shall mean the Eligible Property described in Exhibit C attached hereto, upon which a C-PACE Assessment shall be imposed pursuant to the Assessment Agreement to which this Exhibit A is attached.

“Property Owner” shall have the meaning given such term in the Program Guidelines.

“Repayment Schedule” means the schedule setting forth the C-PACE Assessment Amount and the schedule of Assessment Installment payments of the C-PACE Assessment Amount, as attached hereto as Exhibit D.

“Uniform Assessment Documents” shall have the meaning given such term in the Program Guidelines.

EXHIBIT B

DESCRIPTION OF C-PACE PROJECT

EXHIBIT C

LEGAL DESCRIPTION OF PROJECT PROPERTY

EXHIBIT D

C-PACE ASSESSMENT AMOUNT
AND
REPAYMENT SCHEDULE