City of Dublin

Office of the City Manager
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Memo

To: Members of Dublin City Council

From: Dana McDaniel, City Manager

Date: July 31, 2019

Initiated By: Donna Goss, Ph.D., Director of Development
Colleen Gilger, CEcD, Director of Economic Development
Jeremiah Gracia, CEcD, Economic Development Administrator

Re: Resolutions, Petition, and Ordinances for Property Assessed Clean Energy (PACE) Special Improvement for 5165 Emerald Parkway

Background

The City of Dublin is focused on setting appropriate conditions to encourage investment and economic development. City Council continues to support our strategies and tactics to ensure Dublin's office space remains competitive in the market as supported by the Dublin Corporate Area Plan. One particular tool the economic development team has brought to existing commercial building owners' attention is the use of the Property Assessed Clean Energy (PACE) program, a favorable financing tool for major energy efficiency improvements.

PACE allows qualifying energy improvements to be financed through assessments on a property owner's real estate tax bill. A summary of PACE is provided as an attachment to this memo.

The building ownership for 5165 Emerald Parkway is requesting the use of PACE financing assessments totaling $1,921,598.06. This project has received financial support from the Ohio Air Quality Development Authority (OAQDA) for improvements that provides additional benefits for the landowner over the term of the financing agreement. Specifically, the program exempts the tax increases on the property specifically related to the energy efficiency investments for the term of the special assessment (19 years). There are no impacts to existing property tax collections due to related parties (school district, township, etc.) and they remain whole.

The scope of work includes equipping the building with LED lighting, high efficiency HVAC systems, and building automation controls. In order to satisfy this request, Dublin City Council must pass a series of Resolutions and Ordinances at the August 12 and August 26, 2019 Council meetings. These Resolutions and Ordinances will allow building ownership to opt-in to the Regional Special Improvement District.

The City has no financial obligations with the establishment of a Special Improvement District for this project. The City simply serves as a pass-through entity for the project financing.

Recommendation

Staff recommends Council approve Resolution No. 43-19 and 44-19 on August 12, 2019 and Ordinances No. 39-19 – 41-19 on August 26, 2019. Please contact Jeremiah Gracia with any questions.

PACE

Property Assessed Clean Energy

WHAT IS PACE?

Property Assessed Clean Energy (PACE) is a financing mechanism that enables low-cost, long-term funding for energy efficiency, renewable energy and water conservation projects. PACE financing is repaid as an assessment on the property's regular tax bill, and is processed the same way as other local public benefit assessments (sidewalks, sewers) have been for decades. Depending on local legislation, PACE can be used for commercial, nonprofit and residential properties.

HOW DOES IT WORK?

PACE is a national initiative, but programs are established locally and tailored to meet regional market needs. State legislation is passed that authorizes municipalities to establish PACE programs, and local governments have developed a variety of program models that have been successfully implemented. Regardless of model, there are several keystones that hold true for every PACE program.

- PACE is voluntary for all parties involved.
- PACE can cover 100% of a project's hard and soft costs.
- Long financing terms up to 20 years.
- Can be combined with utility, local and federal incentive programs.
- Energy projects are permanently affixed to a property.
- The PACE assessment is filed with the local municipality as a lien on the property.

WHY IS IT SO POPULAR?

Property owners love PACE because they can fund projects with no out-of-pocket costs. Since PACE financing terms extend to 20 years, it's possible to undertake deep, comprehensive retrofits that have meaningful energy savings and a significant impact on the bottom line. The annual energy savings for a PACE project usually exceeds the annual assessment payment, so property owners are cash flow positive immediately. That means there are increased dollars that can be spent on other capital projects, budgetary expenses, or business expansion.

Local governments love PACE because it's an Economic Development initiative that lowers the cost of doing business in their community. It encourages new business owners to invest in the area, and creates jobs using the local workforce. PACE projects also have a positive impact of air quality, creating healthier, more livable neighborhoods.

HOW CAN I GET PACE?

www.PACENation.us has all the tools and resources you need to get started with PACE. Check to see if your state has passed a PACE statute, and if your area has an active program. If not, contact us to find out if there is a local initiative in development and we may be able to put you in touch with a working coalition. We look forward to hearing from you!

BENEFITS OF PACE

WORKFORCE DEVELOPMENT: Creates local jobs

ECONOMIC DEVELOPMENT: Lowers cost of doing business

BUILDING STOCK: Maintained and upgraded

BOTTOM LINE: Directly impacts local businesses

HEALTHY AIR: Environmental impact

PACENation
Building the clean energy economy

PACENation is the national, nonprofit advocate for PACE financing. We provide leadership, data, support and resources for the growing marketplace.

www.pacenation.us
info@pacenow.org

Ordinance No. **41-19** *Passed* _____, _____

AN ORDINANCE AUTHORIZING AND APPROVING AN ENERGY PROJECT COOPERATIVE AGREEMENT BY AND BETWEEN THE CITY OF DUBLIN, OHIO, THE COLUMBUS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., 970 HIGH RIDGE ASSOCIATES LLC, AND PETROS PACE FINANCE, LLC, A SPECIAL ASSESSMENT AGREEMENT BY AND BETWEEN THE CITY OF DUBLIN, OHIO, THE COUNTY TREASURER OF FRANKLIN COUNTY, OHIO, THE COLUMBUS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., 970 HIGH RIDGE ASSOCIATES LLC, AND PETROS PACE FINANCE, LLC, AND RELATED AGREEMENTS, ALL OF WHICH PROVIDE FOR THE FINANCING OF SPECIAL ENERGY IMPROVEMENTS PROJECTS (5165 EMERALD PARKWAY, DUBLIN, OHIO PROJECT)

WHEREAS, 970 High Ridge Associates LLC (the "Owner") has submitted its *Petition for Special Assessments for Special Energy Improvement Projects and Affidavit* (the "Petition") in order to provide for the completion of a special energy improvement project on real property owned by the Owner in the City of Dublin, Ohio (the "City"); and

WHEREAS, on August __, 2019, this Council approved the Petition and added the Owner's property subject to the Petition to the Columbus Regional Energy Special Improvement District, Inc. (the "District"); and

WHEREAS, on August __, 2019, this Council duly adopted a resolution declaring the necessity of acquiring, constructing, and improving certain public improvements in the City in cooperation with the District (the "Resolution of Necessity"); and

WHEREAS, on August __, 2019, this Council passed Ordinance No. _____-19 determining to proceed with the Project (as defined in the Resolution of Necessity) and adopted the estimated Special Assessments filed with the Clerk of the Council pursuant to the Resolution of Necessity; and

WHEREAS, pursuant to Ordinance No. _____-19 passed on August __, 2019, the City has levied special assessments against the Property (as defined in the Resolution of Necessity) to pay costs of the special energy improvement project (the "Special Assessments");

WHEREAS, the City intends to enter into an Energy Project Cooperative Agreement (the "Energy Project Cooperative Agreement") with the District, 970 High Ridge Associates LLC, and Petros PACE Finance, LLC (the "Investor") to provide for, among other things, (i) the making of the Project Advance (as defined in the Energy Project Cooperative Agreement) to pay costs of the Project, (ii) the disbursement of the Project Advance for the acquisition, construction, and improvement of the Project and the transfer of the Special Assessments by the City to the Investor to pay principal and interest and other costs relating to the Project Advance; and

WHEREAS, to provide for the security for the Project Advance and for administration of payments on the Project Advance and related matters, the City intends to enter into the Special Assessment Agreement with the County Treasurer of Franklin County, Ohio, the Investor, the District, and the Owner.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Dublin, State of Ohio _____ of the elected members concurring that:

Section 1. Each capitalized term or definition not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity.

Section 2. This Council hereby approves the Energy Project Cooperative Agreement, a copy of which is on file in the office of the Clerk of Council. The City Manager shall sign and deliver, in the name and on behalf of the City, the Energy Project Cooperative Agreement, in substantially the form as is now on file with the Clerk of Council. The Energy Project Cooperative Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager on behalf of the City, all of which shall be conclusively evidenced by the signing of the Energy Project Cooperative Agreement or amendments to the Energy Project Cooperative Agreement.

Section 3. This Council hereby approves the Special Assessment Agreement, a copy of which is on file in the office of the Clerk of Council. The City Manager shall sign and deliver, in the name and on behalf of the City, the Special Assessment Agreement, in substantially the form as is now on file with the Clerk of Council. The Special Assessment Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager on behalf of the City, all of which shall be conclusively evidenced by the signing of the Special Assessment Agreement or amendments to the Special Assessment Agreement.

Section 4. The City is hereby authorized to enter into such other agreements that are not inconsistent with the Resolution of Necessity and this Ordinance and that are approved by the City Manager on behalf of the City, all of which shall be conclusively evidenced by the signing of such agreements or any amendments to such agreements.

Section 5. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Ohio Revised Code Section 121.22.

Section 6. Under Section 4.04 of the Charter of the City, this Ordinance is an Ordinance for improvements petitioned for by owners of the requisite majority (100%) of the front footage or the area of the property benefited and to be assessed and shall be in full force and effect immediately upon its passage.

[Signature Page Follows]

Signed:

_____

Mayor – Presiding Officer

Attest:

_____

Clerk of Council

Passed: August __, 2019

Effective: August __, 2019

ENERGY PROJECT COOPERATIVE AGREEMENT

By and between

BEXLEY, COLUMBUS, DUBLIN, GROVE CITY, HILLIARD, PERRY TOWNSHIP, WHITEHALL, WORTHINGTON REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A:
COLUMBUS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.;

970 HIGH RIDGE ASSOCIATES LLC;

PETROS PACE FINANCE, LLC; and

CITY OF DUBLIN, OHIO

Dated as of _____, 2019

BRICKER & ECKLER LLP

ENERGY PROJECT COOPERATIVE AGREEMENT

THIS ENERGY PROJECT COOPERATIVE AGREEMENT (the **Agreement**) is made and entered into as of _____, 2019 (the **Closing Date**), by and between the BEXLEY, COLUMBUS, DUBLIN, GROVE CITY, HILLIARD, PERRY TOWNSHIP, WHITEHALL, WORTHINGTON REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., doing business under the registered trade name COLUMBUS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., a nonprofit corporation and special improvement district duly organized and validly existing under the laws of the State of Ohio (the **State**) (the **ESID**), 970 HIGH RIDGE ASSOCIATES LLC, a limited liability company duly organized and validly existing under the laws of the State of Connecticut (the **Owner**), PETROS PACE FINANCE, LLC, a limited liability company duly organized and validly existing under the laws of the State of Texas (the **Investor**), and the CITY OF DUBLIN, OHIO, a municipal corporation duly organized and validly existing under the constitution and laws of the State and its Charter (the **City**) (the capitalized terms used in this Agreement and not defined in the preamble and recitals have the meanings stated in **Exhibit A** to this Agreement):

A. The ESID was created under Ohio Revised Code Chapters 1702 and 1710 and established pursuant to Resolution No. 0261X-2015 of the Council of the City of Columbus, Ohio approved on November 23, 2015. Pursuant to the same action, the Columbus Regional Energy Special Improvement District Program Plan (as amended and supplemented from time to time, the **Plan**) was adopted as a plan for public improvements and public services under Ohio Revised Code Section 1710.02(F).

B. The ESID is an energy special improvement district and nonprofit corporation duly organized and validly existing under the laws of the State of Ohio to further the public purpose of implementing special energy improvement projects pursuant to the authority in Ohio Revised Code Chapter 1710 and Article VIII, Section 2o of the Ohio Constitution.

C. On _____, 2019, by its Resolution No. _____, the City Council of the City (the **City Council**) approved the Petition for Special Assessments for Special Improvement Projects and Affidavit (the **Petition**) submitted by the Owner to the City, together with the Columbus Regional Energy Special Improvement District Program Plan Supplement to Plan for 5165 Emerald Parkway, Dublin, Ohio Project (the **Supplemental Plan**), as a supplement to the Plan.

D. Pursuant to the Plan, the ESID, among other services, shall assist property owners, whether private or public, who own real property within participating political subdivisions to obtain financing for special energy improvement projects.

E. In order to obtain financing for special energy improvement projects and to create Special Assessment revenues available to pay and repay the costs of special energy improvement projects, the Petition requested that the City Council levy Special Assessments against the Owner's property as more fully described in the Supplemental Plan.

F. [The special energy improvement projects will be financed through bonds issued by the Ohio Air Quality Development Authority (the "OAQDA"), which bonds (the "OAQDA

Bonds") will be purchased by the Investor subject to the terms and conditions of the Bond Purchase Agreement between the Investor, the Owner, and the OAQDA dated as of _____, 2019 (the "Bond Purchase Agreement"). A portion of the Project Advance equal to $_____ under this Agreement will constitute the purchase of the equal principal amount of the OAQDA Bonds, and payments of moneys received as Special Assessments from the City to the Investor as identified in **Exhibit B**, paid in accordance with this Agreement and with the Special Assessment Agreement, will constitute payment of the principal of, and interest and any premium on ("Bond Service Charges"), the OAQDA Bonds.]

G. The ESID, the Owner, the Investor, and the City (collectively the **Parties**, and each, a **Party**) each have determined that the most efficient and effective way to implement the financing, acquisition, construction, equipment, improvement, and installation of energy special improvement projects and to further the public purposes set forth above is through this Agreement, pursuant to the Special Assessment Act and on the terms set forth in this Agreement, with (i) the Investor providing the Project Advance to finance the costs of the special energy improvement projects described in the Supplemental Plan, (ii) the ESID and the Owner cooperating to acquire, construct, equip, improve, and install special energy improvement projects, (iii) the Owner agreeing to make Special Assessment payments in an aggregate amount that will provide revenues sufficient to pay or repay the permitted costs of the special energy improvement projects, (iv) the City agreeing to assign and transfer all Special Assessment payments actually received by the City to the Investor to repay the Project Advance, [a portion of which Special Assessment payments, as shown on **Exhibit B**, shall constitute Bond Service Payments on the OAQDA Bonds]; and (v) the ESID agreeing to assign, transfer, and set over to the Investor any of its right, title, or interest in and to the Special Assessments which it may have by operation of law, this Agreement, or otherwise; provided that a portion of the Special Assessments may be retained by, or payable to, the City or the ESID, all pursuant to and in accordance with this Agreement.

H. The Parties each have full right and lawful authority to enter into this Agreement and to perform and observe its provisions on their respective parts to be performed and observed, and have determined to enter into this Agreement to set forth their respective rights, duties, responsibilities, obligations, and contributions with respect to the implementation of special energy improvement projects within the ESID.

NOW, THEREFORE, in consideration of the promises and the mutual representations, warranties, covenants, and agreements contained in this Agreement, the Parties agree as follows; provided, that any obligation of the ESID created by or arising out of this Agreement never shall constitute a general obligation, bonded indebtedness, or a pledge of the general credit of the ESID, or give rise to any pecuniary liability of the ESID, but any such obligation shall be payable solely from the Special Assessments actually received by the ESID, if any; and provided, further, that any obligation of the City created by or arising out of this Agreement never shall constitute a general obligation, bonded indebtedness, or a pledge of the general credit of the City, or give rise to any pecuniary liability of the City, but any such obligation shall be payable solely from the Special Assessments actually received by the City, if any:

ARTICLE I: DEFINITIONS

Section 1.1. Use of Defined Terms. In addition to the words and terms defined elsewhere in this Agreement or by reference to another document, words and terms used in this Agreement shall have the meanings set forth in **Exhibit A** to this Agreement unless the context or use clearly indicates another meaning or intent. Definitions shall apply equally to both the singular and plural forms of any of the words and terms. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

Section 1.2. Interpretation. Any reference in this Agreement to the ESID, the Owner, the City, the City Council, the Investor, or to any member or officer of any of the foregoing, includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Special Assessment Act, or to a section, provision or chapter of the Ohio Revised Code or any other legislation or to any statute of the United States of America, includes that section, provision, or chapter as amended, modified, revised, supplemented, or superseded from time to time; provided, however, that no amendment, modification, revision, supplement, or superseding section, provision, or chapter shall be applicable solely by reason of this provision if it constitutes in any way an impairment of the rights or obligations of the Parties under this Agreement.

Section 1.3. Captions and Headings. The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit, or describe the scope or intent of any of this Agreement's Articles, Sections, subsections, paragraphs, subparagraphs or clauses.

ARTICLE II: COOPERATIVE ARRANGEMENTS; ASSIGNMENT OF SPECIAL ASSESSMENTS

Section 2.1. Agreement Between the City, the ESID, and the Investor. The Owner and the ESID have requested the assistance of the Investor and the City in the financing of special energy improvement projects within the ESID. For the reasons set forth in this Agreement's Recitals—which Recitals are incorporated into this Agreement by this reference as a statement of the public purposes of this Agreement and the intended arrangements among the Parties—the City and the ESID have requested the assistance and cooperation of the Investor in the collection and payment of Special Assessments in accordance with this Agreement. The Parties intend this Agreement to be, and it shall be, an agreement among the Parties to cooperate in the financing, acquisition, construction, equipping, improvement, and installation of "special energy improvement projects," pursuant to Ohio Revised Code Chapter 1710, and as that term is defined in Ohio Revised Code Section 1710.01(I). The Parties intend this Agreement's provisions to be, and they shall be construed as, agreements to take effective cooperative action and to safeguard the Parties' interests.

Upon the considerations stated above and upon and subject to the terms and conditions of this Agreement, the Investor, on behalf of the Parties, shall make the Project Advance available to the Owner to pay the costs of the Project. The City and the ESID shall assign, transfer, set

over, and pay the Special Assessments actually received by the City or the ESID, respectively, to the Investor, to pay the costs of the Project at the times and in the manner provided in this Agreement; provided, however, that the City, the ESID, and the Investor intend that the City shall receive all Special Assessments from the County Treasurer and shall transfer, set over, and pay all Special Assessments received from the County Treasurer directly to the Investor. The City, the ESID, and the Investor further intend and agree that the Investor shall pay to the ESID, out of the Special Assessments received by the Investor, the ESID Fee with each of the semi-annual installments of the Special Assessments; provided, however, that if the amount of Special Assessments received by the Investor in any year are insufficient to pay the principal of, and interest on the Project Advance due in that year and the ESID Fee as described in this sentence, the Special Assessments received shall first be applied to the payment of interest on the Project Advance, then to the repayment of the principal of the Project Advance, and then to the payment of the ESID Fee.

Notwithstanding anything in this Agreement to the contrary, any obligations of the City under this Agreement, including the obligation to transfer the Special Assessments received by the City to the Investor, shall be a special obligation of the City and shall be required to be made only from Special Assessments actually received by or on behalf of the City, if any. The City's obligations under this Agreement are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The City's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the City's faith and credit or taxing power, and the ESID, the Owner, and the Investor do not have and shall not have any right to have taxes levied by the City for the transfer of the Special Assessments.

Section 2.2. Special Assessments; City Transfer of Special Assessments.

(a) The Special Assessment Proceedings. The City has duly enacted the Special Assessment Proceedings.

Pursuant to Ohio Revised Code Section 727.33, the City has certified the Special Assessments to the County Auditor for collection. The Parties agree that the County Auditor shall collect the unpaid Special Assessments with and in the same manner as other real property taxes and pay the amount collected to the City. The Parties intend that the County Auditor and the County Treasurer shall have the duty to collect the Special Assessments through enforcement proceedings in accordance with applicable law.

(b) Collection of Delinquent Special Assessments. Subject to the City having received written notice of any Special Assessment delinquency, the ESID and the Investor are hereby authorized to take any and all actions as assignees of and, to the extent required by law, in the name of, for, and on behalf of, the City to collect delinquent Special Assessments levied by the City pursuant to the Special Assessment Act and the Special Assessment Proceedings and to cause the lien securing the delinquent Special Assessments to be enforced through prompt and timely foreclosure proceedings, including, but not necessarily limited to, filing and prosecution of mandamus or other appropriate proceedings to induce the County Prosecutor, the County Auditor, and the County Treasurer, as necessary,

to institute such prompt and timely foreclosure proceedings. The proceeds of the enforcement of any such lien shall be deposited and used in accordance with this Agreement.

(c) Prepayment of Special Assessments. The Parties agree that the Special Assessments assessed against the Property and payable to the City pursuant to the Special Assessment Act and the Special Assessment Proceedings may be prepaid to the Investor by the Owner in accordance with Section 4.7 of this Agreement. [Any such prepayments shall constitute Bond Service Payments (including, as applicable, prepayment of Bond Service Payments) on the OAQDA Bonds in accordance with **Exhibit B**.] Except as set forth in this Section 2.2(c) and Section 4.7 of this Agreement, the Owner shall not prepay any Special Assessments. Notwithstanding the foregoing, if the Owner attempts to cause a prepayment of the Special Assessments by paying to the County Treasurer any amount as a full or partial prepayment of Special Assessments, and if the City shall have Knowledge of the same, the City immediately shall notify the Investor, and, unless provided the express written consent of the Investor, the City shall not cause any reduction in the amount of Special Assessments. Except as specifically provided in this Agreement to the contrary, no other action pursuant to any provision of this Agreement shall abate in any way the payment of the Special Assessments by the owners of property or the transfer of the Special Assessments by the City to the Investor.

(d) Reduction of Special Assessments. The Parties agree that the Special Assessments may be subject to reduction, but only upon the express written consent or instruction of the Investor. If the Owner causes the Special Assessments to be prepaid in accordance with Sections 2.2(c) and 4.7 of this Agreement, or if the Investor's obligations to make disbursements under this Agreement terminates pursuant to the terms of this Agreement, the Investor shall revise the Special Assessments to be collected such that, following such reduction, the amount of Special Assessments remaining to be paid shall be equal to the amounts necessary to pay, as and when due, the remaining outstanding principal of the Project Advance, together with interest at the annual rate of 6.11%, the ESID Fee, a County Auditor collection fee on each semi-annual installment of the Special Assessments in an amount to be calculated, charged, and collected by the County Auditor pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, penalties, and premium, if any. Upon the City's receipt of the Investor's express written consent or instruction, the City shall certify to the County Auditor, prior to the last date in the then-current tax year on which municipal corporations may certify special assessments to the County Auditor, a reduction in the amount of Special Assessments to be collected such that the remaining Special Assessments to be collected are equal to the amounts certified by the Investor. The Parties agree that the Investor may certify any reduction required by this Section 2.2(d) to the County Auditor directly after requesting and receiving the City's consent to certify the reduction on the City's behalf. Notwithstanding anything in this Agreement to the contrary, the City shall

not cause any reduction in the amount of Special Assessments without the prior written consent or instruction of the Investor.

(e) Assignment of Special Assessments. The City agrees that it shall establish its funds for the collection of the Special Assessments as separate funds maintained on the City's books and records and to be held in the custody of a bank with which the City maintains a depository relationship. The City hereby assigns to the Investor all of its right, title and interest in and to: (i) the Special Assessments received by the City under this Agreement, (ii) the City's special assessment funds established for the Project; and (iii) any other property received or to be received from the City under this Agreement; provided, however, such assignment shall not relate to, and the Investor shall have no right, title or interest in any interest earnings which may accrue to the City in respect of the Special Assessments while those Special Assessments are in the City's custody. The City further shall transfer, set over, and pay the Special Assessments and any Delinquency Amounts to the Investor in accordance with this Agreement. [The portion of the payment of Special Assessments by or on behalf of the City to the Investor shown on **Exhibit B** shall constitute Bond Service Payments on the OAQDA Bonds.] The ESID acknowledges and consents to the City's assignment of the Special Assessments to the Investor. The Parties agree that each of the City, the ESID, and the Investor, as assignee of the Special Assessments, is authorized to take any and all actions, whether at law, or in equity, to collect delinquent Special Assessments levied by the City pursuant to law and to cause the lien securing any delinquent Special Assessments to be enforced through prompt and timely foreclosure proceedings, including, but not necessarily limited to, filing and prosecution of mandamus or other appropriate proceedings to induce the County Prosecutor, the County Auditor, and the County Treasurer, as necessary, to institute such prompt and timely foreclosure proceedings. All Parties agree to provide notice to the other Parties within a reasonable period of time following any actions filed to enforce the lien securing any delinquent Special Assessments if such notice is not provided through such action.

(f) Transfer of Special Assessments. The parties anticipate that semi-annual installments of the Special Assessments and any Delinquency Amounts will be paid to the City by the County Auditor and the County Treasurer in accordance with Ohio Revised Code Chapters 319, 321, 323, and 727, which, without limiting the generality of the foregoing, contemplates that the County Auditor and County Treasurer will pay the Special Assessments and any Delinquency Amounts to the City on or before May 1 and November 1 of each year. Immediately upon receipt of any moneys received by the City as Special Assessments and any Delinquency Amounts, but in any event not later than 30 calendar days after the receipt of such moneys and the corresponding final settlement from the County Auditor, and notwithstanding any provision in this Agreement to the contrary requiring the City to remit payment directly to the Investor, the City shall deliver to the Investor all such moneys received by the City as Special Assessments and any Delinquency Amounts. [The payment of the portion of Special Assessments shown on **Exhibit B** by the or on behalf of the

City to the Investor shall constitute Bond Service Payments on the OAQDA Bonds.] The Investor shall provide the City with account and payment information in the form of **Exhibit H** on the date on which this Agreement becomes effective. The Investor may from time to time provide updated written account and payment information in the form of **Exhibit H** to the City for the payment of Special Assessments and any Delinquency Amounts, but the City shall maintain its right to send the Special Assessments by ACH or check in its sole discretion. The Parties acknowledge and agree that the City shall not be liable for any losses, costs, or expenses arising directly or indirectly from the City's reliance upon and compliance with any instructions from the Investor to the City directing that payment be made to any entity other than the Investor. If at any time during the term of this Agreement the County Auditor agrees, on behalf of the City, to disburse the Special Assessments and any Delinquency Amounts directly to the Investor or its trustee or other designee pursuant to instructions or procedures agreed upon by the County Auditor and the Investor, then, upon each transfer of an installment of the Special Assessments and any Delinquency Amounts from the County Auditor to the Investor or its trustee or other designee, the City shall be deemed to have satisfied all of its obligations under this Agreement to transfer that installment of the Special Assessments and any Delinquency Amounts to the Investor.

(g) Repayment of Project Advance. The Investor shall credit, on the dates shown on the Repayment Schedule (which is attached to and incorporated into this Agreement as **Exhibit B**), Special Assessments in the amounts shown on the Repayment Schedule to the payment of accrued interest on the Project Advance and to the repayment of the portion of the principal of the Project Advance scheduled to be repaid on such date. The Investor, on the dates shown on the Repayment Schedule, further shall pay to the ESID, after the payment of accrued interest on the Project Advance and the repayment of the portion of principal of the Project Advance scheduled to be repaid on such date, the ESID Fee, or such lesser amount as may be available from the Special Assessments on the applicable date after the payment of accrued interest on the Project Advance and the repayment of the portion of the principal of the Project Advance scheduled to be repaid on such date. The Parties acknowledge and agree that the County Auditor may calculate, charge, and collect a fee on each semi-annual installment of the Special Assessments pursuant to Ohio Revised Code Section 727.36, which fee is in addition to the amount of the Special Assessments and other related interest, fees, and penalties, and that such fee shall be paid to the County Auditor with the Special Assessments, and that the County Auditor will retain such fee.

Section 2.3. Obligations Unconditional; Place of Payments. The City's obligation to transfer the Special Assessments and any Delinquency Amounts to the Investor under Section 2.2 of this Agreement shall be absolute and unconditional, and the City shall make such transfers without abatement, diminution, or deduction regardless of any cause or circumstance whatsoever, including, without limitation, any defense, set-off, recoupment, or counterclaim which the City may have or assert against the Investor, the ESID, or the Owner; provided, however, that the City's obligation to transfer the Special Assessments and any Delinquency

Amounts is limited to the Special Assessments and any Delinquency Amounts actually received by or on behalf of the City, and nothing in this Agreement shall be construed to obligate the City to transfer or pledge, and the City shall not transfer or pledge any special assessments not related to the ESID.

Section 2.4. Appropriation by the City; No Further Obligations. Upon the Parties' execution of this Agreement, all of the Special Assessments and any Delinquency Amounts received or to be received by the City shall be deemed to have been appropriated to pay the City's obligation under this Agreement to pay to the Investor all Special Assessments and any Delinquency Amounts received by the City. During the years during which this Agreement is in effect, the City shall take such further actions as may be necessary or desirable in order to appropriate the transfer of the Special Assessments and any Delinquency Amounts actually received by the City in such amounts and at such times as will be sufficient to enable the City to satisfy its obligation under this Agreement to pay to the Investor all Special Assessments and any Delinquency Amounts received by the City; provided that the City shall not be responsible for the costs and expenses of any collection or enforcement actions, except to the extent of any Special Assessments and any Delinquency Amounts actually received by the City; and provided further that nothing in this Section shall be construed as a waiver of the City's right to be indemnified pursuant to Section 6.4 of this Agreement or pursuant to the Special Assessment Agreement. The City shall have no obligation, legally, morally or otherwise, to use or apply to the payment of the Special Assessments and any Delinquency Amounts any funds or revenues from any source other than the moneys received by the City as Special Assessments and any Delinquency Amounts.

Section 2.5. Security for Advanced Funds. To secure the transfer of the Special Assessments and any Delinquency Amounts by the City to the Investor, and in accordance with the Special Assessment Act and the Special Assessment Proceedings, the ESID hereby assigns, transfers, sets over, and shall pay all of its right, title, and interest in and to the Special Assessments and any Delinquency Amounts related to the ESID actually received by or on behalf of the City to the Investor. The Owner and the City agree and consent to that assignment.

Section 2.6. Conditions Precedent to Closing. Owner agrees that Owner will perform and satisfy all of the following conditions precedent before Closing and Owner agrees that the Investor's obligation to disburse the proceeds of the Project Advance is conditioned upon Owner's performance or satisfaction of all such conditions precedent:

(a) No Event of Default by Owner shall have occurred under this Agreement or any of the Loan Documents, and Owner shall have timely complied with and performed all of Owner's covenants, agreements and obligations hereunder which by their terms are required to have been complied with and performed by Owner, and no Material Adverse Change shall have occurred in the financial condition of Owner or the Project.

(b) Owner shall have furnished to Investor the following in sufficient time for review by Investor and its counsel prior to the Closing Date, all of which shall be in the form and substance satisfactory to Investor and its counsel:

(i) A letter from the ESID stating that ESID Board has approved the Petition and Supplemental Plan, determined that the Project constitutes "special energy improvement projects" under Ohio Revised Code Section 1710.01(I) because the Project consists of "energy efficiency improvements" as described in Ohio Revised Code Section 1710.01(K), and determined to waive the application of competitive bidding procedures with respect to the Project, all subject to the provision of lender consent by any Lender and subject to the City's approvals.

(ii) The following with respect to insurance, if applicable:

1) Evidence of insurance coverage with commercially reasonable limits (which evidence shall consist of an "ACORD" certificate) insuring the Property and Project against loss or damage by fire or other casualty, including coverage for extended perils such as vandalism, malicious mischief, floods, and earthquakes, boiler and machinery coverage, and business interruption coverage;

2) Investor shall be named as an additional insured as its interests in the Property may appear;

3) All companies providing insurance coverage shall have a Best's rating of "A VIII" or better and shall be qualified to do business in the State.

(iii) Evidence satisfactory to Investor that the Project Advance is authorized and that the individuals executing this Agreement and the other Loan Documents on behalf of Owner have been duly authorized by all appropriate action to execute and deliver this Agreement and the Loan Documents on behalf of Owner.

(iv) Executed copies of all contracts related to the Project as Investor may require.

(v) Evidence satisfactory to Investor of the Fair Market Value of the Property.

(c) Investor shall have received such reports and audits satisfactory to Investor, containing an analysis of all matters pertaining to the Property and Project which Investor deems necessary.

(d) The outstanding principal balance of the Project Advance on the Closing Date shall not exceed twenty percent (20%) of the Fair Market Value of the Property.

(e) Owner shall have complied with all other applicable requirements of this Agreement.

(f) Investor shall have received from Owner the fully executed Loan Documents.

ARTICLE III: REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

Section 3.1. The City's Representations and Warranties. The City represents and warrants that:

(a) It is a municipal corporation, duly organized, and validly existing under the Constitution and applicable laws of the State.

(b) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the City's Knowledge, that execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to the City and does not and will not conflict with or result in a default under any agreement or instrument to which the City is a party or by which it is bound.

(c) It, by proper action, has duly authorized, executed, and delivered this Agreement, and the City has taken all steps necessary to establish this Agreement and the City's covenants and agreements within this Agreement, as valid and binding obligations of the City, enforceable in accordance with their terms.

(d) To its actual knowledge, there is no litigation pending or threatened against or by the City in which an unfavorable ruling or decision would materially adversely affect the City's ability to carry out its obligations under this Agreement.

(e) The assignment contained in Section 2.2(e) is a valid and binding obligation of the City with respect to the Special Assessments received by the City under this Agreement.

Section 3.2. The ESID's Representations and Warranties. The ESID represents and warrants that:

(a) It is a nonprofit corporation and special improvement district, duly organized, and validly existing under the Constitution and applicable laws of the State.

(b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the ESID that would impair its ability to carry out its obligations contained in this Agreement.

(c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the ESID's Knowledge, that execution, delivery and performance does not and will not violate or conflict with any provision of law applicable to the ESID and does not and will not conflict with or result in a default under any agreement or instrument to which the ESID is a party or by which it is bound.

(d) It, by proper action, duly has authorized, executed, and delivered this Agreement, and the ESID has taken and all steps necessary to establish this Agreement and

the ESID's covenants and agreements within this Agreement as valid and binding obligations of the ESID, enforceable in accordance with their terms.

(e) There is no litigation pending, or to its Knowledge threatened, against or by the ESID in which an unfavorable ruling or decision would materially adversely affect the ESID's ability to carry out its obligations under this Agreement.

(f) The assignment contained in Section 2.5 is a valid and binding obligation of the ESID with respect to the ESID's right, title and interest in the Special Assessments under this Agreement.

Section 3.3. The Owner's Representations and Warranties. The Owner represents and warrants that:

(a) It is a limited liability company duly organized, validly existing and in full force and effect under the laws of the State. It has all requisite power to conduct its business as presently conducted and to own, or hold under lease, its assets and properties, and, is duly qualified to do business in all other jurisdictions in which it is required to be qualified, except where failure to be so qualified does not have a material adverse effect on it, and will remain so qualified and in full force and effect during the period during which Special Assessments shall be assessed, due, and payable.

(b) It, by proper action, duly has authorized, executed, and delivered this Agreement, and it has taken all steps necessary to establish this Agreement and its covenants and agreements within this Agreement as valid and binding obligations, enforceable in accordance with their terms

(c) It is not in default under any contract or agreement which may have a material adverse effect on this Agreement and the exhibits attached hereto, including, without limitation, the PACE Note, and its obligations thereunder.

(d) There are no actions, suits or proceedings pending or, to its Knowledge, threatened against or affecting it, the Property, or the Project that, if adversely determined, would individually or in the aggregate materially impair its ability to perform any of its obligations under this Agreement, or materially adversely affect its financial condition (an **Action**), and during the term of this Agreement, the Owner shall promptly notify the Investor of any Action commenced or to its Knowledge threatened against it.

(e) It is not in default under this Agreement, and no condition, the continuance in existence of which would constitute a default under this Agreement exists. It is not in default in the payment of any Special Assessments or under any agreement or instrument related to the Special Assessments which has not been waived or allowed.

(f) Owner uses no trade name other than its actual name set forth herein;

(g) Owner is not a "foreign person" within the meaning of Sections 1445 or 7701 of the Internal Revenue Code;

(h) No event has occurred and no circumstance exists, as a result of which the information concerning Owner or any Affiliated Party that has been provided to Investor, the ESID, or the City in connection herewith, that would include an untrue statement of a material fact or omit to state any material fact or any fact necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading;

(i) All statements set forth in the Recitals are true and correct;

(j) The Project meets all applicable criteria of the Special Assessment Act;

(k) Except for any financing of the Property and the lien related thereto that the Owner has previously disclosed in writing, it has made no contract or arrangement of any kind, other than this Agreement, which has given rise to, or the performance of which by the other party thereto would give rise to, a lien or claim of lien on the Project, except inchoate statutory liens in favor of suppliers, contractors, architects, subcontractors, laborers or materialmen performing work or services or supplying materials in connection with the acquiring, constructing, equipping, installing, and improving of the Project.

(l) The contractors engaged to provide the Project have been approved as required by Law;

(m) The Project Advance does not exceed 20% of the Fair Market Value of the Property;

(n) No investigation, litigation or proceedings are pending, or to Owner's Knowledge are threatened against Owner or any Affiliated Party (1) which might affect the validity or priority of the Special Assessment, (2) which might affect the ability of Owner to perform its obligations pursuant to and as contemplated by the terms and provisions of this Agreement and the other Loan Documents, or (3) which could materially affect the operations or financial condition of Owner or any Affiliated Party. Without limitation of the foregoing, to the Owner's Knowledge, there are no pending or threatened investigation proceedings, litigation or action of any kind to revoke, attack, invalidate, rescind, or modify the Project, the Special Assessment or any part thereof, or any building or other permits heretofore issued with respect thereto, or asserting that such zoning or permits do not permit the Project or the Special Assessment;

(o) To Owner's Knowledge, there are no pending civil (including, actions by private parties), criminal or administrative proceedings affecting the Project or the Property relating to environmental matters (**Environmental Proceedings**), and Owner has no Knowledge of any threatened Environmental Proceedings, or any facts or circumstances, which may give rise to any future Environmental Proceedings;

(p) The execution, delivery, and performance of this Agreement and the other Loan Documents have not constituted (and will not, upon the giving of notice or lapse of time or both, constitute) a breach or default under any other agreement to which Owner is a party or may be bound or affected, or a violation of any Law which may affect the Project or the Special Assessment, any part thereof, any interest therein, or the use thereof;

(q) All property taxes on the Property have been paid in full when due in the three years preceding the Closing Date and Owner has filed all federal and state tax returns which are required to be filed by it and paid all taxes, including any Special Assessments received by it, to the extent that such taxes have become due. Any taxes, fees and other governmental charges payable by it in connection with this Agreement, the Property, the Project, or the execution and delivery of the Loan Documents shall have been paid on or prior to the Closing;

(r) All of the data and other information relating to the Project Advance and this Agreement which has been provided by the Owner and ESID are true and correct in all material respects. None of such data or information contain any statement of a material fact with respect to it or the Project Advance, this Agreement or the Loan Documents that was untrue or misleading in any material respect when made. Since the furnishing of such data and information, there has been no change nor any development or event involving a prospective change known to it that would render such information or data untrue or misleading in any material respect. There is no fact known to it which would or could cause a Material Adverse Change with respect to Project, the Special Assessment or the Property;

(s) Each of the Owner's representations and warranties contained in the Loan Documents is true and correct in all material respects and it hereby makes, incorporates herein and restates each such representation, warranty and covenant to, and for the benefit of the Investor as if the same were set forth in full herein;

(t) No practice, procedure or policy employed or proposed to be employed by the Owner in the conduct of its business violates any Law, regulation, judgment, agreement, order or decree applicable to it which, if enforced, would result in a Material Adverse Change with respect to it, the Project Advance, the Special Assessment, the Property or the Project;

(u) Owner is solvent and will not be rendered insolvent by the Project Advance and will not incur debts beyond its ability to pay such debts as they mature and it does not contemplate the commencement of insolvency, bankruptcy, liquidation or consolidation proceedings or the appointment of a receiver, liquidator, conservator, trustee or similar official in respect of it or any of its assets;

(v) No practice, procedure or policy employed or proposed to be employed by Owner in the conduct of its business violates any anti-money laundering law or regulation (including without limitation, the USA PATRIOT Act, Public Law No. 107-56 (2001), and regulations promulgated thereunder) applicable to it;

(w) The Owner is not owned or controlled by, nor does it own or control, a person or entity that is (i) on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or any list of known or suspected terrorists, terrorist organizations or other prohibited persons published by any jurisdiction in which the Owner is doing business, or (ii) subject to economic or trade sanctions imposed by the United States Government, which restrict U.S. companies from engaging in financial or other transactions with such entity for any reason;

(x) There has not been a payment default on the mortgage on the Property in the three years preceding the Closing Date;

(y) Neither the Owner nor an Affiliated Party has declared bankruptcy in the five years preceding the Closing Date;

(z) All mortgage holders have consented in writing to the Special Assessment prior to the Closing Date;

(aa) This Agreement and the other Loan Documents constitute legal, valid, and binding obligations of Owner, and are enforceable in accordance with their respective terms subject to the effect of bankruptcy, insolvency, reorganization, moratorium, or similar Laws affecting enforcement of creditors' rights generally;

(bb) No representation or warranty made by it contained in this Agreement, and no statement contained in any certificate, schedule, list, financial statement or other instrument furnished to the Investor or the ESID by it or on its behalf contained, as of the date thereof, any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained herein or therein not misleading, and no Material Adverse Change in the operations or financial condition of the Owner or any Affiliated Party has occurred since the respective effective dates of their financial statements previously submitted to the Investor.

(cc) Since the date of the most recent financial statements of the Owner provided to the Investor, there has been no Material Adverse Change in the financial condition of the Owner, nor has the Owner mortgaged, pledged or granted a security interest in or encumbered the Property since such date, except as otherwise disclosed to the Investor in writing, and the financial statements which have been delivered to the Investor prior to the date of this Agreement are true, correct, and current in all material respects and fairly represent the respective financial conditions of the subjects of the financial statements as of the respective dates of the financial statements.

(dd) On the Closing Date and thereafter, the Owner will have good and marketable fee simple title to the Property, free and clear of any lien, security interest, encumbrance, or third-party rights (other than to the Investor), subject only to the exceptions agreed to by Investor in writing.

(ee) The Owner has good and marketable title to its Property, subject only to existing liens, pledges, encumbrances, charges or other restrictions of record previously disclosed by the Owner to the Investor in writing, liens for taxes not yet due and payable, and minor liens of an immaterial nature.

(ff) The Project complies in all material respects with all applicable zoning, planning, building, environmental and other regulations of each Governmental Authority having jurisdiction of the Project, and all necessary permits, licenses, consents and permissions necessary for the Project have been or will be obtained.

(gg) The plans and specifications for the Project are satisfactory to the Owner, have been reviewed and approved by the general contractor for the Project, the tenants under any leases which require approval of the plans and specifications, the purchasers under any sales contracts which require approval of the plans and specifications, any architects for the Project, and, to the extent required by applicable law or any effective restrictive covenant, by all Governmental Authorities and the beneficiaries of any such covenants; all construction of the Project, if any, already performed on the Property has been performed on the Property in accordance in all material respects with such approved plans and specifications and the restrictive covenants applicable to the plans and specifications; there are no structural defects in the Project or violations of any requirement of any Governmental Authorities with respect to the Project; the planned use of the Project complies with applicable zoning ordinances, regulations, and restrictive covenants affecting the Property as well as all environmental, ecological, landmark and other applicable laws and regulations; and all requirements for such use have been satisfied.

(hh) The Owner has the Required Insurance Coverage and will maintain the Required Insurance Coverage at all times during the term of this Agreement, while any principal of or interest on the Project Advance remains outstanding, and while any Special Assessments remain to be paid. Any return of insurance premium or dividends based upon the Required Insurance Coverage shall be due and payable solely to the Owner or its Lender pursuant to any agreements between the Owner and its Lender, unless such premium shall have been paid by the Investor, in accordance with the distribution priority specified in Section 4.3.

(ii) (1) No condemnation of any portion of the Property or any improvements thereon, (2) no condemnation or relocation of any roadways abutting the Property or any improvements thereon, and (3) no denial of access to the Property or any improvements thereon from any point of access to the Property, to Owner's Knowledge has commenced or is contemplated by any Governmental Authority;

(jj) No building or other improvement encroaches upon any building line, setback line, side yard line, or any recorded or visible easement on the Property (or other easement of which Owner has Knowledge with respect to the Property);

(kk) The Property is a separate tax parcel in the records of the County Auditor. The Property may be mortgaged, conveyed, transferred, assigned and otherwise dealt with as a tax parcel separate from all other tax parcels identified in the records of the County Auditor in accordance with Law;

(ll) The Project Advance is being made for the sole purpose of undertaking, constructing, and installing the Project on the Property in a manner compliant with all applicable Laws, including without limitation, the Special Assessment Act;

(mm) Except with respect to Routine Uses, the Property is in a clean, safe, and healthy condition free of all potentially harmful Hazardous Material contamination; neither Owner nor, to Owner's Knowledge, any other person, has ever caused or permitted any Hazardous Material other than in connection with Routine Uses to be placed, held, stored, located or disposed of on, under, or at the Property, or any part thereof;

(nn) The Property has adequate water, gas, and electrical supply, storm and sanitary sewerage facilities, other required public utilities, fire and police protection, and means of appropriate access between the Property and public highways and none of the foregoing will be delayed or impeded by virtue of any requirements under any applicable Laws, including environmental protection or control Laws; and that all of the foregoing comply with all applicable Laws, including environmental protection or control Laws;

(oo) To Owner's Knowledge, the Project complies with all applicable Law, including without limitation, the Special Assessment Act;

(pp) The Owner has the absolute right, power and authority to construct, install, and maintain the Project on the Property;

(qq) The Property is fully insured in an amount equal to or in excess of its present Fair Market Value plus the total costs of all Project;

(rr) Any insurance required to be maintained by the Owner on the Property by operation of law or by contract, including without limitation, with any third-party Investor, is in full force and effect;

(ss) Each Disbursement Request Form presented to the Investor, and the receipt of the funds requested by the Disbursement Request Form, shall constitute an affirmation that the representations and warranties contained in this Agreement remain true and correct as of the date of the Disbursement Request Form and the receipt of the funds requested by the Disbursement Request Form.

(tt) Each of the Property and the Project are, and at all times during the term of this Agreement, while any principal of or interest on the Project Advance remain outstanding, and while any Special Assessments remain to be paid, used solely for the commercial purposes disclosed by the Owner to the Investor in writing.

(uu) The Project and the plans and specifications for the Project have been developed pursuant to an energy audit prepared by [ ], which energy audit demonstrates that the Project is expected to generate $[ ] in annual energy savings and $[ ] in annual operations and maintenance savings.

(vv) Each of the components of the Project is a qualified "special energy improvement project" pursuant to the definition of that term in Ohio Revised Code Section 1710.01(I).

(ww) At all times during the term of this Agreement, while any principal of or interest on the Project Advance remain outstanding, and while any Special Assessments remain to be paid, the Owner shall comply in all respects with the Special Assessment Act and the Special Assessment Proceedings and shall take any and all action necessary to remain in compliance with the Special Assessment Act and the Special Assessment Proceedings.

Section 3.4 Survival of Representations and Warranties. The Owner agrees that all of its representations and warranties set forth in Section 3.3 of this Agreement and elsewhere in this Agreement shall be true at the Closing Date.

Section 3.5. The Owner's Additional Agreements. The Owner agrees that:

(a) It shall not transfer or convey any right, title, or interest, in or to the Property and the Project, except after giving prompt notice of any such transfer or conveyance to the Investor; provided, however, that the foregoing restrictions shall not apply to the grant or conveyance of any leasehold interests, mortgage interest, lien interest, or easements granted in the normal course of real estate development, except as may be otherwise provided in this Agreement. Before or simultaneous with any such transfer or conveyance, the Owner shall (i) execute, cause the transferee or purchaser to execute, and deliver to the Investor, the City, and the ESID a fully executed "Assignment and Assumption of Energy Project Cooperative Agreement" in the form attached to and incorporated into this Agreement as **Exhibit G**; and (ii) if such transfer occurs prior to substantial completion of the Project, execute, cause the transferee or purchaser to execute, and deliver to the Investor, an assignment of all construction contracts related to the Project. The Parties acknowledge and agree that the Assignment and Assumption of Energy Project Cooperative Agreement includes the assignment and assumption of the Special Assessment Agreement and the Owner Consent, and the PACE Note.

(b) It shall pay when due all taxes, assessments, including the Special Assessments, service payments in lieu of taxes, levies, claims and charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Property, all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Property and all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on any portion of the Property. The Owner shall furnish

the Investor, upon reasonable request, with proof of payment of any taxes, governmental charges, utility charges, insurance premiums or other charges required to be paid by the Owner under this Agreement. The Parties acknowledge and agree that the foregoing obligation is in addition to the Owner's obligation to pay the Special Assessment.

(c) It shall not, without the prior written consent of the Investor, cause or agree to the imposition of any special assessments, other than the Special Assessments, on the Property for the purpose of paying the costs of "special energy improvement projects," as that term is defined in Ohio Revised Code Section 1710.01(I), as amended and in effect at the time.

(d) Owner shall use the Project Advance proceeds solely to pay for the eligible costs and expenses as expressly permitted herein and by the Special Assessment Act, including but not limited, to the costs of constructing and installing the Project, and related closing and transaction expenses, such as capitalized interest and eligible closing costs.

(e) It shall promptly pay and discharge all claims for labor performed and material and services furnished in connection with the acquisition, construction, equipping, installation, and improvement of the Project. Owner will not suffer or permit any mechanic's lien claims to be filed or otherwise asserted against the Project, and will promptly discharge, or cause its tenant to discharge, the same if any claims for lien or any proceedings for the enforcement thereof are filed or commenced; provided, however, that the Owner shall have the right to contest in good faith the validity of any such lien or claim.

(f) If Owner shall fail to promptly discharge any mechanics' lien claims filed against the Project, or upon adverse conclusion of any such contest, shall fail to cause any judgment or decree to be satisfied and lien to be promptly released, then, and in any such event, Investor may, at its election (but shall not be required to) (1) procure the release and discharge of any such claim and any judgment or decree thereon, without inquiring into or investigating the amount, validity, or enforceability of such lien or claim, and (2) effect any settlement or compromise of the same; and any amounts so expended by Investor shall be deemed to constitute additional indebtedness evidenced by the PACE Note and the other Loan Documents (even if the total amount of indebtedness would exceed the face amount of the PACE Note).

(g) It shall promptly notify the Investor of any material damage or destruction to the Project.

(h) It shall not cause the Property to be subdivided, platted, or otherwise separated into any additional parcels in the records of the County Auditor.

(i) Upon the reasonable request of the Investor, it shall take any actions and execute any further certificates, instruments, agreements, or documents as shall be

reasonably necessary in connection with the performance of this Agreement and with the transactions, obligations, and undertakings contained in this Agreement.

(j) It does not and will not engage in operations that involve the generation, manufacture, refining, transportation, treatment, storage or handling of Hazardous Materials, as defined in applicable state law, or any other federal, state or local environmental laws or regulations. Except as disclosed in the Environmental Reports, the Property has not been so used previously. There are no underground storage tanks located on the Property. Except as disclosed in the Environmental Reports, there is no past or present non-compliance with environmental laws, or with permits issued pursuant thereto, in connection with the Property, which has not been fully remediated in accordance with environmental laws, there is no environmental remediation required (or anticipated to be required) with respect to the Property, the Owner does not know of, and has not received, any written or oral notice or other communication from any person (including but not limited to a governmental entity) relating to Hazardous Materials or remediation of Hazardous Materials, of possible liability of any person pursuant to any environmental law, other environmental conditions in connection with the Property, or any actual or potential administrative or judicial proceedings in connection with the foregoing. Owner has or shall diligently complete the recommendations of [ ] found in the Environmental Reports.

(k) Owner shall promptly comply with all applicable Laws of any Governmental Authority having jurisdiction over Owner, the Property, or the Project.

(l) Owner shall, if the PACE Note is mutilated, destroyed, lost, or stolen, promptly deliver to Investor, in substitution therefor, a new PACE Note containing the same terms and conditions as the PACE Note with a notation thereon of the unpaid principal and accrued and unpaid interest and any penalties.

(m) Owner shall keep, or cause its tenants to keep, the Property in a clean and healthful condition and free of any potentially harmful Hazardous Material contamination. Owner shall comply with any and all Laws with respect to Hazardous Material, shall pay immediately when the costs are due for removal of any such Hazardous Material, and shall keep, or cause its tenants to keep the Property free of any liens imposed pursuant to such Laws. In the event Owner fails to do so, after notice to Owner and the expiration of the earlier of (1) applicable cure periods hereunder, or (2) the cure period permitted under applicable Law, Investor may declare an Event of Default under this Agreement. Owner further agrees not to release or dispose, or allow the release or disposal, of any Hazardous Material at the Property. Investor shall have the right at any time following reasonable notice to conduct an environmental audit of the Property and Owner shall cooperate in the conduct of such environmental audit and pay the cost of such audit. Owner shall give Investor and its agents and its employees access to the Property to conduct such audit. Owner further agrees to immediately advise Investor in writing of:

(i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted pursuant to any applicable Laws;

(ii) any and all claims made by any third-party against Owner or the Property relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Material (the matters set forth in this clause (ii) and clause (i) above are hereinafter referred to as "***Hazardous Material Claims***"); and

(iii) Owner agrees to indemnify and hold Investor free and harmless from and against all loss, costs (including attorney's fees and costs), damages (including, consequential damages), and expenses Investor may sustain by reason of the assertion against Investor by any party of any claim in connection with such Hazardous Material Claim.

(n) If an Event of Default occurs and is continuing at any time during the term hereof, then Investor shall have the right to obtain an appraisal, at Investor's option, of the Property, and Owner shall be responsible for the actual out-of-pocket cost for obtaining such appraisal. Investor shall not distribute copies of the appraisal or any information regarding the appraised value or the method of valuation of the Property with any party, person, or entity other than Investor's attorney, the company preparing such appraisal, and Owner.

(o) Owner shall not amend, terminate, abandon or otherwise modify the Project to be installed and/or constructed upon the Property.

ARTICLE IV: PROJECT ADVANCE; CONSTRUCTION OF PROJECT; REPAYMENT

Section 4.1. Project Advance. The Investor has made available to the Owner the Project Advance in the amount of $1,158,848.54. The Investor shall hold $1,142,951.39 of the total Project Advance in a segregated account established in the custody of the Investor, which account shall be referred to as the **Project Account**. The Investor shall retain the remaining $15,897.15 of the Project Advance and use it to pay capitalized interest in the amounts and on the dates set forth on the Repayment Schedule attached as **Exhibit B**. Subject to the terms and conditions of this Agreement, the Investor, upon the direction of the Owner, shall disburse the amounts on deposit in the Project Account to the Owner or to such parties as may be named by the Owner in order to pay the costs of the Project. [A portion of Project Advance equal to $1,200,000.00 under this Agreement will constitute the purchase of the equal principal amount of the OAQDA Bonds. Whether all or any part of the Project Advance under this Agreement shall constitute a purchase of an equal principal amount of the OAQDA Bonds shall be determined in accordance with **Exhibit [ ]** attached to and incorporated into this Agreement by this reference.]

If the Project Advance is insufficient to pay the costs of the Project pursuant to this Agreement, the Owner, nevertheless, shall complete the acquisition, construction, improvement, and installation of the Project, and the Owner shall pay all such additional costs of the Project from its own funds. The Owner shall not be entitled to reimbursement for any such additional

costs of the Project, nor shall it be entitled to any abatement, diminution, or postponement of the Special Assessments or an increase in the amount of the Special Assessments.

Section 4.2. Disbursements. In order to cause disbursement of amounts on deposit in the Project Account to pay or reimburse the costs of the Project, the Owner shall submit to the Investor Disbursement Request Forms (a form of which is attached to this Agreement as **Exhibit C**), which Disbursement Request Forms each shall, in part, set forth the payments or reimbursements requested, and shall be accompanied by invoices or other appropriate documentation supporting the payments or reimbursements requested. In addition, the following shall occur:

(a) With each Disbursement Request Form:

(i) The Owner shall deliver to the Investor copies of all related receipts and invoices;

(ii) The Owner shall deliver to the Investor, as necessary, information detailing any other sources of funds spent to pay any portion of the costs shown on any related receipts and invoices such that all costs shown on related receipts and invoices, including costs not eligible to be paid from the Project Advance, shall be accounted for either as costs being paid by a disbursement of a portion of the Project Advance or costs being paid by other sources;

(iii) The Owner shall deliver to the Investor, as necessary, bank information for wiring the amounts requested for disbursement; and

(iv) All conditions for disbursement under the Disbursing Agreement shall be satisfied.

(b) With the first Disbursement Request Form submitted, in addition to the documents required under Section 4.2(a):

(i) The Owner shall deliver to the Investor copies of all construction permits required for the construction of the Project;

(ii) The Owner shall deliver to the Investor copies of all agreements with its general contractor for the Project;

(iii) The Owner shall deliver to the Investor a construction schedule completed by the general contractor for the Project, which includes an anticipated date of completion of the Project; and

(iv) The Owner shall deliver to the Investor copies of all current policies of the Required Insurance Coverage;

(v) The construction plans and specifications shall have been approved by the Investor in its reasonable discretion;

(vi) The Owner shall deliver to the Investor the written consent of its existing mortgage lender, if any, to the levying, assessment, and collection of the Special Assessments, in the form attached to this Agreement as **Exhibit F**;

(vii) The Owner shall provide to the Investor evidence acceptable to the Investor, in its sole discretion, that the City Council and the ESID have approved the Project;

(viii) The Investor shall receive the executed Special Assessment Agreement and Owner Consent and evidence that the same has been recorded in the records of the County Recorder with respect to the Property;

(ix) The Owner and the ESID shall provide to the Investor original executed copies of this Agreement and any related certificates;

(x) The Owner shall have furnished to the Investor evidence satisfactory to the Investor of completion of construction of the Project; and

(xi) The Owner shall provide to the Investor a list of authorized representatives on whose instructions and directions the Investor may rely until such time as an updated list has been provided, as set forth in Exhibit **H** attached to this Agreement.

(xii) [Bricker & Eckler LLP, as bond counsel for the OAQDA Bonds, shall have delivered its opinion dated as of the date hereof in form and substance reasonably acceptable to OAQDA and the Investor;]

(xiii) [The Owner shall have delivered an opinion from its counsel in relation to the Bond Purchase Agreement which opinion shall be in a form and substance reasonably acceptable to OAQDA and the Investor; and]

(xiv) [The Issuer Documents and all other documents for the issuance, purchase, sale and security of the OAQDA Bonds, in form and substance satisfactory to OAQDA and the Investor, shall have been duly authorized, executed and delivered by the respective parties thereto and shall be in full force and effect.]

(c) With the final Disbursement Request Form, in addition to the documents required under Section 4.2(a):

(i) The Owner shall deliver to the Investor the executed certificate in the form attached as **Exhibit D** to this Agreement; and

(ii) The Owner shall deliver to the Investor copies of all completion inspections and closed permits with respect to the Project.

Upon its receipt of each completed Disbursement Request Form, the Investor shall approve within 10 business days all or a portion of the payment or reimbursements requested to be disbursed from the Project Account under this Agreement and the Disbursing Agreement. To the extent the Investor approves the payment or reimbursements requested to be disbursed from the Project Account, the Investor shall pay within five business days the Owner or such other parties as are indicated on the Disbursement Request Form the amounts described on such Disbursement Request Form which have been approved by the Investor.

[A portion of Project Advance equal to $[ ] under this Agreement will constitute the purchase of the equal principal amount of the OAQDA Bonds. Whether all or any part of the Project Advance under this Agreement shall constitute a purchase of an equal principal amount of the OAQDA Bonds shall be determined in accordance with **Exhibit [ ]** attached to and incorporated into this Agreement by this reference.]

Additionally, on the Closing Date, the Investor shall disburse closing costs related to the financing described in this Agreement in an amount not to exceed $[ ], as detailed in

Exhibit E to this Agreement to the parties set forth on **Exhibit E** to this Agreement. Without limiting the generality of the foregoing, disbursements made pursuant to this paragraph may be for fees to the Investor, fees to the ESID, legal fees, advisory fees, fees to the City, and other closing costs or contingencies. [Disbursement of all of the closing costs under the previous sentences shall be allocated to the Investor's purchase of the OAQDA bonds as set forth in **Exhibit [ ]**.]

Section 4.3. Casualties and Takings. The Owner shall promptly notify the Investor if the Project is damaged or destroyed by fire, casualty, injury or any other cause (each such occurrence, a **Casualty**). Upon the occurrence of such Casualty, the Owner's Lender, if any, may elect, in its sole discretion and judgment, to restore the Property and the Project or to terminate the construction of the Project, and in either case, to direct the application of the insurance proceeds pursuant to the terms of Owner's Lender's agreement with the Owner; provided, that if the insurance proceeds are not used to restore the Property and the Project, insurance proceeds will be distributed first to Owner's Lender in total satisfaction of the disbursement requests in its agreements with the Owner, and next to the Investor for repayment of the outstanding balance of the Special Assessments and any related fees, and any excess proceeds will be paid to the Owner.

Upon the occurrence of a Casualty, if no Person is a Lender at the time of such Casualty, the insurance proceeds shall be applied, at the Owner's election, to pay the costs of the restoration of the Project or to the repayment of the outstanding balance of the Special Assessments, and in which case the Investor shall remain obligated to make disbursements of up to the total amount of the Project Advance in accordance with this Agreement.

In the event restoration of the Project or the Property is pursued, the Owner shall immediately proceed with the restoration of the Project in accordance with the plans and specifications. If, in the Investor's reasonable judgment, said insurance proceeds are insufficient to complete the restoration, the Owner shall provide proof of deposit with the Owner's Lender (or if deposit with Owner's Lender is not required, deposit with the Investor) of such amounts as are necessary, in the Investor's reasonable judgment, to complete the restoration in accordance with the plans and specifications.

In the event any part of the Property or the Project shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain (a **Taking**), the Owner's Lender, if any, may elect, in its sole discretion and judgment, not to restore the Property or the Project or to restore the Property or the Project, and in either case, to direct the application of the proceeds of the Taking pursuant to the terms of its agreements with the Owner. If the Lender determines not to restore the Property or the Project and release funds related thereto to the Owner, the Investor's obligation to make disbursements under this Agreement shall be terminated and the Investor and the City shall promptly cause the lien of the Special Assessment to be reduced to an amount equal to the amount necessary to pay, as and when due, the remaining outstanding principal of the Project Advance theretofore disbursed to Owner, together with interest at the annual rate of 5.81% and the ESID Fee. If the Lender determines to restore the Property and the Project, the Owner shall immediately proceed with the

restoration of the Project in accordance with the plans and specifications. If, in the Investor's reasonable judgment, the Taking proceeds available to the Owner and the Investor are insufficient to complete the restoration, the Owner shall provide proof of deposit with the Owner's Lender (or if deposit with the Owner's Lender is not required, deposit with the Investor) of such amounts as are necessary, in the Investor's reasonable judgment, to complete the restoration in accordance with the plans and specifications.

In the event that no Person is a Lender at the time of such Taking, the Investor's obligation to make disbursements under this Agreement shall be terminated (and the Investor and the City shall promptly cause the lien of the Special Assessments to be reduced to an amount equal to the amount necessary to pay, as and when due, the remaining outstanding principal of the Project Advance theretofore disbursed to Owner, together with interest at the annual rate of 5.81% and the ESID Fee) unless the Property and the Project can be replaced and restored in a manner which will enable the Project to be functionally and economically utilized and occupied as originally intended. If the Property and the Project can be so restored, the Owner shall immediately proceed with the restoration of the Project in accordance with the plans and specifications, and the Investor shall release the funds for such purpose. If, in the Investor's reasonable judgment, the Taking proceeds available to the Owner and the Investor are insufficient to complete the restoration, the Owner shall deposit with the Investor such amounts as are necessary, in the Investor's reasonable judgment, to complete the restoration in accordance with the plans and specifications.

Section 4.4. Eligible Costs. The costs of the Project which are eligible for payment or reimbursement pursuant to this Agreement include the following:

(a) costs incurred directly or indirectly for or in connection with the acquisition, construction, improvement, and installation of the Project, including without limitation, costs incurred in respect of the Project for preliminary planning and studies; architectural, legal, engineering, surveying, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work;

(b) financial, legal, recording, title, accounting, and printing and engraving fees, charges and expenses, and all other fees, charges and expenses incurred in connection with the financing described in this Agreement;

(c) premiums attributable to any surety and payment and performance bonds and insurance required to be taken out and maintained until the date on which each Project is final and complete;

(d) taxes, assessments, including the Special Assessments, and other governmental charges in respect of the Project that may become due and payable until the date on which each Project is final and complete;

(e) costs, including, without limitation, attorney's fees, incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in

respect of any actual or claimed default under any contract relating to the Project; and

(f) any other incidental or necessary costs, expenses, fees and charges properly chargeable to the cost of the acquisition, construction, improvement, and installation of the Project.

Section 4.5. Completion of Project; Inspection. The Owner (a) in accordance with the approved plans and specifications for the Project, which plans and specifications shall not be materially revised without the prior written approval of the Investor, which approval shall not be unreasonably withheld, shall acquire, construct, improve, and install the Project with Project Advance with Reasonable Dispatch, (b) subject to its right to contest any disputed work, shall pay when due all fees, costs and expenses incurred or payable by the Owner in connection with that acquisition, construction, improvement, and installation from funds made available therefor in accordance with this Agreement or otherwise, and (c) shall ask, demand, sue for, levy, recover and receive all those sums of money, debts and other demands whatsoever which may be due, owing and payable to the Owner under the terms of any contract, order, receipt, writing or instruction in connection with the acquisition, construction, improvement, and installation of the Project, and shall utilize commercially reasonable efforts to enforce the provisions of any contract, agreement, obligation, bond or other performance security with respect thereto. It is understood that the Project is to be owned by the Owner and any contracts made by the Owner with respect to the Project or any work to be done by the Owner on or with respect to the Project are made or done by the Owner on its own behalf and not as agent or contractor for the ESID.

During the period of acquisition, construction, improvement, and installation of the Project, the ESID and the Investor, and their respective agents, subject to reasonable security and safety regulations, and upon reasonable prior notice, shall have the right, during normal business hours, to inspect the Project. The ESID and the Investor and their respective agents shall utilize commercially reasonable efforts to minimize interference with the tenants of the Property during any such inspection.

The Investor reserves the right to deny the request for a Project Advance pursuant to Article IV of this Agreement if (A) such inspection reveals that construction is not proceeding with Reasonable Dispatch, or (B) all undisbursed sources available for the Project are less than the amount necessary, based on Investor's reasonable estimates, to pay all unpaid costs to complete the Project in accordance with the plans approved by Investor. If, in the Investor's opinion, after 30 days' written notice to the Owner, the construction is not proceeding with Reasonable Dispatch, the Investor may (i) request that the Owner remove and replace the general contractor with a general contractor acceptable to the Investor, the failure of which by the Owner shall be a default under this Agreement, (ii) require that the Owner deposit funds with the Investor in the amount necessary, as reasonably determined by the Investor, such that such deposit and all other undisbursed sources available for the Project equal or exceed the amount necessary to pay all unpaid costs to complete the Project in accordance with the plans approved by Investor, (iii) utilize funds to continue construction of the Project and such funds shall be considered Project Advances, and/or (iv) deny any Project Advance until such time as the construction resumes proceeding with Reasonable Dispatch.

The Owner shall notify the ESID, the City, and the Investor of the Completion Date by a certificate in the form attached as **Exhibit D** to this Agreement, signed by the Owner and [its architect and the Lender's construction monitor] stating: (a) the date on which the acquisition, construction, improvement, and installation of the Project was substantially completed by the general contractor for the Project in accordance with the construction contract, and that there are no unresolved complaints regarding the work; (b) that the Project has been completed in all material respects in accordance with the plans and specifications, permits, and budget for the Project approved by the Investor; (c) that the Owner has complied, and will continue to comply with all applicable statutes, regulations, and ordinances in connection with the Property and the construction of the Project; (d) that the Owner holds fee ownership of the Property; (e) that the general contractor for the project has not offered the Owner any payment, refund, or any commission in return for completing Project; and (f) that all funds provided to the Owner by the Investor for the Project have been used in accordance with this Agreement. The certificate shall be delivered as promptly as practicable after the Completion Date.

Section 4.6. Repayment. The Parties acknowledge that pursuant to this Agreement, the Project Advance is expected to be repaid by the Special Assessments. [The Parties further acknowledge that the transfer of the portion of Special Assessment shown on **Exhibit B** from the City to the Investor shall constitute Bond Service Payments on the OAQDA Bonds.] The Parties agree that the Special Assessments have been levied and certified to the County Auditor in the amounts necessary to amortize the Project Advance, together with interest at the annual rate of 5.81% and the ESID Fee over 38 semi-annual payments to be collected beginning approximately on January 31, 2020 and continuing through approximately July 31, 2038.

The Parties further acknowledge that in addition to the amount of the Special Assessments and other related interest, fees, and penalties, the County Auditor may charge and collect a County Auditor collection fee on each annual installment of the Special Assessments in an amount to be calculated, charged, and collected by the County Auditor pursuant to Ohio Revised Code Section 727.36. Interest shall accrue on so much of the amount of the Project Advance as shall have been disbursed under this Agreement from the date of disbursement; provided, however, that a portion of the Project Advance may be used to pay interest accruing and due and payable on the Project Advance prior to the date on which the first installment of the Special Assessments is paid to the Investor by the City. The Parties acknowledge and agree that the total amount of the Project Advance includes an assumed amount of interest to be paid out of the Project Advance for interest accruing and due and payable prior to the date on which the first installment of the Special Assessments is paid to the Investor by the City, but that in the event that the entire amount so assumed is not necessary to pay interest based on the disbursement of the Project Advance, any excess amount of the Project Advance shall be available for, and shall be used to pay, eligible costs of the Project.

The Owner agrees to pay, as and when due, all Special Assessments with respect to its Property. Notwithstanding anything in this Section 4.6 or this Agreement to the contrary, the Parties acknowledge and agree that, pursuant to the laws of the State, the Special Assessments to be collected by the County Treasurer which as of the relevant date are not yet due and payable never shall be accelerated, and the lien of the Special Assessments never shall exceed the amount of Special Assessments which, as of the relevant date, are due and payable but remain unpaid.

Section 4.7. Prepayment. The Project Advance may not be prepaid, in whole or in part, without payment of a **Pre-payment Premium**. In the event the Project Advance is prepaid before the end of the fourth year after the date of this Agreement, the Pre-payment Premium is 5.0%, or the highest rate allowed by applicable law, whichever is less, of the principal amount of the Project Advance being prepaid. In the event the Project Advance is prepaid after the end of the fourth year, but before the end of the seventh year after the date of this Agreement, the Pre-payment Premium is 4.0%, or the highest rate allowed by applicable law, whichever is less, of the principal amount of the Project Advance being prepaid. In the event the Project Advance is prepaid after the end of the seventh year, but before the end of the ninth year after the date of this Agreement, the Pre-payment Premium is 3.0%, or the highest rate allowed by applicable law, whichever is less, of the principal amount of the Project Advance being prepaid. In the event the Project Advance is prepaid after the end of the ninth year, but before the end of the tenth year after the date of this Agreement, the Pre-payment Premium is 2.0%, or the highest rate allowed by applicable law, whichever is less, of the principal amount of the Project Advance being prepaid. In the event the Project Advance is prepaid after the end of the tenth year, but before the end of the eleventh year after the date of this Agreement, the Pre-payment Premium is 1.0%, or the highest rate allowed by applicable law, whichever is less, of the principal amount of the Project Advance being prepaid. There shall be no Pre-payment Premium if the Project Advance is prepaid after the end of the eleventh year after the date of this Agreement. In the event any partial pre-payments are made, such payments shall be credited against the installments last falling due under the Repayment Schedule attached as Exhibit B and the Payment Schedule attached as Appendix I to the PACE Note.

Immediately upon any prepayment pursuant to this Section 4.7, the Investor shall notify the City of the prepayment, and the Owner, the Investor, and the City shall cooperate to reduce the amount of Special Assessments to be collected by the County Auditor pursuant to Section 2.2(d) of this Agreement.

Section 4.8. Payment of Fees and Expenses.

(a) Owner agrees to pay all expenses of the Project Advance, including without limitation and also including all costs of collection, including any trustee's fees and expenses, recording charges, costs of surveys, and engineering reports, costs for certified copies of instruments, fees, expenses, and charges of any architectural/engineering/environmental consultants' fees and expenses of Investor's attorneys, and all costs and expenses incurred by Investor in connection with the determination of whether Owner has performed the obligations undertaken by Owner under this Agreement or has satisfied any conditions precedent to the obligations of Investor under this Agreement and all expenses, costs, charges and fees incurred by Investor in connection with the enforcement of this Agreement and the PACE Note (collectively, the **Project Advance Expenses**). All such expenses, charges, costs and fees shall be Owner's obligation regardless of whether the Project Advance is disbursed in whole or in part, unless such failure to disburse is due to Investor's wrongful failure to disburse hereunder. Provided no Event of Default remains uncured, Investor shall endeavor in good faith to consult with Owner prior to incurring any expenses, charges, costs, or fees to be reimbursed by Owner

hereunder; provided, however, the failure to so consult by Investor shall not release Owner from any reimbursement obligation, nor shall Investor's consulting with Owner give Owner any approval rights over Investor's decision to incur any expenses, charges, costs or fees pursuant to this Agreement.

(b) The Project Advance Expenses shall be payable by Owner to Investor at Closing and thereafter, on demand at such subsequent times as Investor may determine. Investor may require the payment of such fees and expenses as a condition to any disbursement of the Project Advance.

(c) Any and all advances or payments made by Investor under this Agreement from time to time, and any amounts expended by Investor pursuant to this Agreement, or for the fees of any consultants and attorney's fees and expenses and all other expenses shall, as and when advanced or incurred by Investor, constitute additional indebtedness evidenced by the PACE Note and the other Loan Documents to the same extent and effect as if the terms and provisions of this Agreement were set forth therein, whether or not the aggregate of such indebtedness shall exceed the aggregate face amount of the PACE Note.

(d) If an Event of Default on the part of the Owner should occur under this Agreement such that the ESID, the Investor, or the City should incur expenses, including but not limited to attorneys' fees, in connection with the enforcement of this Agreement or the collection of sums due under this Agreement, the Owner shall reimburse the ESID, the Investor, and the City, as applicable, for any reasonable out-of-pocket expenses so incurred upon demand. If any such expenses are not so reimbursed, the amount of such expenses, together with interest on such amount from the date of demand for payment at an annual rate equal to the lesser of 10% or the maximum rate allowable by law shall constitute indebtedness under this Agreement, and the ESID, the Investor, and the City, as applicable, shall be entitled to seek the recovery of those expenses in such action except as limited by law or by judicial order or decision entered in such proceedings.

Section 4.9. Further Assurances. Upon the request of the Investor, the Owner shall take any actions and execute any further documents as the Investor deems necessary or appropriate to carry out the purposes of this Agreement.

ARTICLE V: EVENTS OF DEFAULT AND REMEDIES

Section 5.1. Events of Default. If any of the following shall occur, such occurrence shall be an **Event of Default** under this Agreement:

(a) The Owner shall fail to pay an installment of the Special Assessments when due, after taking into account all applicable extensions;

(b) The City shall fail to appropriate in any fiscal year the Special Assessments payable to the Investor pursuant to this Agreement in such fiscal year, or shall fail to transfer, or cause the transfer of, any of the Special Assessments to the Investor within the time specified in this Agreement;

(c) Any Party is in material breach of its representations or warranties under this Agreement; provided, however, that upon the material breach of a Party's representations or warranties under this Agreement, such Party shall have the right to cure such breach within five (5) business days of the receipt of notice, and, if so cured, such breach shall not constitute an Event of Default;

(d) The ESID, the Owner, or the City, shall fail to observe and perform any other agreement, term, or condition contained in this Agreement, and the continuation of such failure for a period of 30 days after written notice of such failure shall have been given to the ESID, the Owner, or the City, as applicable, by any other Party to this Agreement, or for such longer period to which the notifying Party may agree in writing; provided, however, that if the failure is other than the payment of money, and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the ESID, an Owner, or the City, as applicable, institutes curative action within the applicable period and diligently pursues that action to completion;

(e) The Owner abandons its Property or the Project;

(f) The Owner commits waste upon its Property or the Project;

(g) The Owner becomes bankrupt or insolvent or files or has filed against it (and such action is not stayed or dismissed within 90 days) a petition in bankruptcy or for reorganization or arrangement or other relief under the bankruptcy laws or any similar state law or makes a general assignment for the benefit of creditors; or

(h) Any workmanship or materials constituting a portion of the Project or incorporated into the Project shall be materially defective and shall not be corrected within 30 days after notice; provided, however, that if Owner provides Investor with evidence that such correction is being diligently pursued in good faith (subject to Investor's reasonable discretion, then within 60 days after notice).

The declaration of an Event of Default above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

Promptly upon any non-defaulting Party becoming aware that an Event of Default has occurred, such Party shall deliver notice of such Event of Default to each other Party under this Agreement in accordance with the notice procedures described in Section 6.5 of this Agreement.

Section 5.2. Remedies on Default. Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

(a) Upon an Event of Default described in Section 5.1(a) only, the Investor shall become entitled to receive any Delinquency Amounts actually received by the City.

(b) The ESID, the Investor, and the City, together or separately, may pursue all remedies now or later existing at law or in equity to collect all amounts due and to become due under this Agreement or to enforce the performance and observance of any other obligation or agreement of any of the Parties, as applicable, under this Agreement, including enforcement under Ohio Revised Code Chapter 2731 of duties resulting from an office, trust, or station upon the ESID or the City, provided that, Parties may only pursue such remedies against the Party responsible for the particular Event of Default in question; provided, however, that the ESID, the Investor, and the City may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default.

(c) Any Party may pursue any other remedy which it may have, whether at law, in equity, or otherwise, provided that, Parties may only pursue such remedies against the Party responsible for the particular Event of Default in question; provided, however, that the ESID, the Investor, and the City may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default.

Notwithstanding the foregoing, each of the ESID, the City, and the Investor shall not be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond has been furnished to it by the Owner, or in its sole discretion, by the Investor, at no cost or expense to the ESID, the City, or the Investor.

Section 5.3. Foreclosure. Pursuant to Section 2.1 of the Special Assessment Agreement by and among the County Treasurer, the City, the ESID, the Investor, and the Owner and dated as of the date of this Agreement (the **Special Assessment Agreement**), the County Treasurer has agreed not to confirm the sale of the Property for an amount less than 100% of the amount of the Special Assessments and other general real estate taxes, payments in lieu of taxes, and assessments then due and owing with respect to the Property, as shall be certified by the ESID to the County Treasurer pursuant to the records of the County Treasurer without the consent of the ESID and the Investor. The ESID hereby agrees that in the event it is asked to provide its consent in accordance with Section 2.1, it will notify the Investor of such request, and it will not provide its consent pursuant to Section 2.1 of the Special Assessment Agreement without the Investor's prior written direction.

Section 5.4. No Remedy Exclusive. No remedy conferred upon or reserved to the Parties by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, or now or later existing at law, in equity or by statute; provided, however, that the ESID, the Investor, and the City may not take any other action or exercise any remedy against the Property, the Project, or the Owner except to collect or remedy any outstanding damages or liability which shall have arisen due to the occurrence of an Event of Default. No delay or omission to exercise any right or power accruing upon any default shall

impair that right or power nor shall be construed to be a waiver, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Parties to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made in this Agreement.

Section 5.5. No Waiver. No failure by a Party to insist upon the strict performance by the other Parties of any provision of this Agreement shall constitute a waiver of such Party's right to strict performance; and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Parties to observe or comply with any provision of this Agreement. Each and every covenant and condition for the benefit of any Party contained in this Agreement may be waived by that Party, provided, however, that to the extent that the Investor may have acquiesced in any noncompliance with any conditions precedent to the Closing or to any subsequent disbursement of Project Advance proceeds, if any, such acquiescence shall not be deemed to constitute a waiver by the Investor of such requirements with respect to any future disbursements of Project Advance proceeds.

Section 5.6. Notice of Default. Any Party to this Agreement shall notify every other Party to this Agreement immediately if it becomes aware of the occurrence of any Event of Default or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

ARTICLE VI: MISCELLANEOUS

Section 6.1. Owner Waivers. The Owner acknowledges that the process for the imposition of special assessments provides the owner of property subject to such special assessments with certain rights, including rights to: receive notices of proceedings; object to the imposition of the special assessments; claim damages; participate in hearings; take appeals from proceedings imposing special assessments; participate in and prosecute court proceedings, as well as other rights under law, including but not limited to those provided for or specified in the United States Constitution, the Ohio Constitution, Ohio Revised Code Chapter 727, the Charter of the City and the resolutions or ordinances in effect in the City (collectively, **Assessment Rights**). The Owner irrevocably waives all Assessment Rights as to the Project and consents to the imposition of the Special Assessments as to the Project immediately or at such time as the ESID determines to be appropriate, and the Owner expressly requests the entities involved with the special assessment process to promptly proceed with the imposition of the Special Assessments upon its Property as to its Project. The Owner further waives in connection with the Project: any and all questions as to the constitutionality of the laws under which the Project will be constructed and the Special Assessments imposed upon the Property; the jurisdiction of the Council of the City acting thereunder; and the right to file a claim for damages as provided in Ohio Revised Code Section 727.18 and any similar provision of the Charter of the City or the resolutions or ordinances in effect within the City.

Section 6.2. Term of Agreement. This Agreement shall be and remain in full force and effect from the date of execution and delivery until the payment in full of the entire aggregate amount of the Special Assessments shall have been made to the Investor and the obligations (if any) of each Party under Section 6.4 shall have been fully satisfied, or such time as the Parties

shall agree in writing to terminate this Agreement. Any attempted termination of this Agreement prior to the payment in full of the entire aggregate amount of the Special Assessments which is not in writing and signed by each of the Parties to this Agreement shall be null and void.

Section 6.3. Litigation Notice. Each Party shall give all other Parties prompt notice of any action, suit, or proceeding by or against the notifying Party, at law or in equity, or before any governmental instrumentality or agency, of which the notifying Party has notice and which, if adversely determined would impair materially the right or ability of the Parties to perform its obligations under this Agreement. The notifying Party's prompt notice shall be accompanied by its written statement setting forth the details of the action, suit, or proceeding and any responsive actions with respect to the action, suit, or proceeding taken or proposed to be taken by the Party.

Section 6.4. Indemnification. The Owner shall indemnify and hold harmless the ESID, the Investor, and the City (including their respective members, officers, directors, and employees) (collectively, the **Indemnified Parties**), from, agrees that the Indemnified Parties shall not be liable for, and at Owner's sole cost and expense, agrees to indemnify, protect and save the Indemnified Parties harmless against and from any and all damages, losses, liabilities, obligations, penalties, claims, causes of action, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses (including, without limitation, out-of-pocket third party attorneys' and experts' reasonable fees and disbursements) of any kind or of any nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against an Indemnified Party and arising from or on account of (i) the levy and collection of the Special Assessments, (ii) Owner's financing, acquisition, construction, improvement, installation, operation, use or maintenance of the Project, (iii) any act, failure to act or misrepresentation solely by the Owner in connection with, or in the performance of any obligation on the Owner's part to be performed under this Agreement or related to the Special Assessments resulting in material actual damages, (iv) any other action or inaction or matter which is the responsibility of the owner, (v) the breach of any representation or warranty or failure to fulfill any obligations of the Owner under this Agreement or any of the Loan Documents, or (vi)(a) a past, present or future violation or alleged violation of any environmental laws in connection with the Property by any person or other source, whether related or unrelated to the Owner, (b) any presence of any hazardous, toxic or harmful substances, materials, wastes, pollutants or contaminants defined as such in or regulated under any environmental law (**Materials of Environmental Concern**) in, on, within, above, under, near, affecting or emanating from the Property, (c) the failure to timely perform any investigation, inspection, site monitoring, containment, clean–up, removal, response, corrective action, mitigation, restoration or other remedial work of any kind or nature because of, or in connection with, the current or future presence, suspected presence, Release (as defined below) or threatened Release in or about the air, soil, ground water, surface water or soil vapor at, on, about, under or within all or any portion of the Property of any Materials of Environmental Concern, including any action to comply with any applicable environmental laws or directives of any governmental authority with regard to any environmental laws, (d) any past, present or future activity by any person or other source, whether related or unrelated to the Owner in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Materials of Environmental Concern at any time located in, under, on, above or affecting the Property, (e) any past, present or future actual generation, treatment, use,

storage, transportation, manufacture, refinement, handling, production, removal, remediation, disposal, presence or migration of Materials of Environmental Concern on, about, under or within all or any portion of the Property (a **Release**) (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) to, from, on, within, in, under, near or affecting the Property by any person or other source, whether related or unrelated to the Owner, (f) the imposition, recording or filing or the threatened imposition, recording or filing of any lien on the Property with regard to, or as a result of, any Materials of Environmental Concern or pursuant to any environmental law, or (g) any misrepresentation or failure to perform any obligations related to environmental matters in any way pursuant to any documents related to the Special Assessments.

In the event any action or proceeding is brought against any Indemnified Party by reason of any such claim, such Indemnified Party will promptly give written notice thereof to the Owner. The Owner shall be entitled to participate at its own expense in the defense or, if it so elects, to assume at its own expense the defense of such claim, suit, action or proceeding, in which event such defense shall be conducted by counsel chosen by the Owner; but if the Owner shall elect not to assume such defense, it shall reimburse such Indemnified Party for the reasonable fees and expenses of any counsel retained by such Indemnified Party. If at any time the Indemnified Party becomes dissatisfied, in its reasonable discretion, with the selection of counsel by the Owner, a new mutually agreeable counsel shall be retained at the expense of the Owner. Each Indemnified Party agrees that the Owner shall have the sole right to compromise, settle or conclude any claim, suit, action or proceeding against any of the Indemnified Parties. Notwithstanding the foregoing, each Indemnified Party shall have the right to employ counsel in any such action at their own expense; and provided further that such Indemnified Party shall have the right to employ counsel in any such action and the fees and expenses of such counsel shall be at the expense of the Owner, if: (i) the employment of counsel by such Indemnified Party has been authorized by the Owner, (ii) there reasonably appears that there is a conflict of interest between the Owner and the Indemnified Party in the conduct of the defense of such action (in which case the Owner shall not have the right to direct the defense of such action on behalf of the Indemnified Party) or (iii) the Owner shall not in fact have employed counsel to assume the defense of such action. The Owner shall also indemnify the Indemnified Parties from and against all costs and expenses, including reasonable attorneys' fees, lawfully incurred in enforcing any obligations of the Owner under this Agreement. The obligations of the Owner under this Section shall survive the termination of this Agreement and shall be in addition to any other rights, including without limitation, rights to indemnity which any Indemnified Party may have at law, in equity, by contract or otherwise. Notwithstanding anything in this Agreement to the contrary, the Owner shall not indemnify the Indemnified Parties as provided above to the extent that any liability, claim, cost, or expense arises out of or results from the gross negligence or willful misconduct of, or breach of this Agreement or the Special Assessment Agreement by, the Indemnified Parties.

None of the Investor, the City, or the ESID shall have any liability to the Owner or any other Person on account of (i) the Owner engaging a contractor or architect from the list of contractors and architects submitted by the ESID or the Investor to the Owner, if any (it being understood and agreed that the Owner is not required to use a specific contractor or subcontractor), (ii) the services performed by the contractor, or (iii) any neglect or failure on the

part of the contractor to perform or properly perform its services. None of the Investor, the City, or the ESID assumes any obligation to the Owner or any other Person concerning contractors, the quality of construction of the Project or the absence of defects from the construction of the Project. The making of a Project Advance by the Investor shall not constitute the Investor's approval or acceptance of the construction theretofore completed. The Investor's inspection and approval of the budget, the construction work, the improvements, or the workmanship and materials used in the improvements, shall impose no liability of any kind on the Investor, the sole obligation of the Investor as the result of such inspection and approval being to make the Project Advances if, and to the extent, required by this Agreement. Any disbursement made by the Investor without the Investor having received each of the items to which it is entitled under this Agreement shall not constitute breach or modification of this Agreement, nor shall any written amendment to this Agreement be required as a result.

Section 6.5. Notices. All notices, certificates, requests or other communications under this Agreement shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, and addressed to the appropriate Notice Address. The Parties, by notice given under this Agreement to the others, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent. Each of the Parties agree to provide the other Parties to this Agreement of any litigation of which it has actual Knowledge that may adversely affect its ability to carry out its obligations under this Agreement.

Section 6.6. Extent of Covenants; No Personal Liability. All covenants, obligations, and agreements of the ESID and the City contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No covenant, obligation, or agreement shall be deemed to be a covenant, obligation, or agreement of any present or future member, officer, agent, or employee of the ESID, the Board, the Owner, the City, the City Council, the Investor, or the Board of Directors of the Investor in other than his or her official capacity; and none of the members of the Board, the City Council, or the Board of Directors of the Investor, nor any official of the ESID, the Owner, the City, or the Investor executing this Agreement shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the covenants, obligations, or agreements of the ESID, the Owner, the City, or the Investor contained in this Agreement.

Section 6.7. Binding Effect; Assignment; Estoppel Certificates. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Parties. Except as specifically provided below, this Agreement shall not be assigned by the any of the Parties except as may be necessary to enforce or secure payment of the Special Assessments.

Notwithstanding anything in this Agreement to the contrary, the Owner freely may sell the Property and the Project or any portion of the Property and the Project from time to time and may assign this Agreement to an arms-length, good faith purchaser of the Property but only after notice of such assignment is given to the Investor, and only upon (i) the execution and delivery to the City, the Investor, and the ESID of an "Assignment and Assumption of Energy Project Cooperative Agreement" in the form attached to and incorporated into this Agreement as **Exhibit G**; and (ii) if the transfer occurs prior to substantial completion of the Project, the execution and delivery to the Investor of an assignment of all construction contracts for the

Project. The Parties acknowledge and agree that the Assignment and Assumption of Energy Project Cooperative Agreement includes the assignment and assumption of the Special Assessment Agreement, the Owner Consent, and the PACE Note. Following any assignment by the Owner as described above, all obligations of the Owner contained in this Agreement, the Special Assessment Agreement, Owner Consent, and the PACE Note shall be obligations of the assignee, and the assigning Owner shall be released of its obligations to a corresponding extent. [At the same time as and with any assignment of this Agreement or the Investor's right to receive the Special Assessments under this Agreement by the Investor as described above, the Investor also shall assign all of its rights, title, and interest in and to, and all of its obligations under the Special Assessment Agreement, the Owner Consent, the Bond Purchase Agreement, the OAQDA Bonds, the Ohio Air Quality Development Authority Pledge Agreement dated as of _____, 2019 between the Investor and OAQDA, and the Capital Provider Pledge Agreement dated as of _____, 2019 between the Investor and the OAQDA to the Investor Assignee to whom this Agreement or the right to receive the Special Assessments under this Agreement has been assigned.]

This Agreement may be enforced only by the Parties, their permitted assignees, and others, who may, by law, stand in their respective places.

Any Party shall at any time and from time to time, upon not less than 30 days' prior written notice by the other party, execute, acknowledge and deliver to such party a statement in writing certifying that: (i) this Agreement is unmodified and in full force and effect (or, if there has been any modification of this Agreement, that the same is in full force and effect as modified and stating the modification or modifications); (ii) to the best of such Party's actual Knowledge (without any duty of inquiry) there are no continuing Events of Default (or, if there is a continuing Event of Default, stating the nature and extent of such Event of Default); (iii) that, to the best of such Party's actual Knowledge (without any duty of inquiry) there are no outstanding damages or liability arising from an Event of Default (or, if there is any outstanding damages or liability, stating the nature and extent of such damages or liability); (iv) if such certificate is being delivered by the Owner, the dates to which the Special Assessments have been paid; and (v) if such certificate is being delivered by the Investor, the dates to which the Special Assessments have been paid to the Investor. It is expressly understood and agreed that any such certificate delivered pursuant to this Section 6.7 may be relied upon by any prospective assignee of the Owner or any prospective Investor Assignee.

Section 6.8. Assignment by Investor.

(a) Investor may assign (and thereafter, at any time and from time to time, repurchase) all of its rights and obligations with respect to the Project Advance, including without limitation, all of (1) its obligations to lend hereunder; and (2) the outstanding principal balance of the Project Advance, to one or more banks, insurance companies, Accredited Investors, or Qualified Institutional Buyers (each, an **Investor Assignee**) and be thereby released from its rights and obligations as Investor and secured party in respect of the Project Advance, the Loan Documents and this Agreement; provided, however, that the Investor and its Investor Assignee shall execute an Assignment and Assumption Agreement (**Assignment**) in the form attached hereto as **Exhibit J**.

(b) Investor and each of the Investor Assignees may sell participations to one or more banks, insurance companies, Accredited Investors, or Qualified Institutional Buyers (a **Participant**) in or to all of their rights and obligations under the PACE Note and the Loan Documents and the Project Advance owing to it.

(c) From and after the effective date of the Assignment: (1) each Investor Assignee shall be a party hereto and each Loan Document, except as specified otherwise herein, shall succeed to the rights and obligations of the Investor hereunder and thereunder in respect of the Project Advance, and (2) Investor, as Investor and secured party, shall to the extent such rights and obligations have been assigned by it pursuant to such Assignment, relinquish its rights and be released from its obligations hereunder and thereunder the Loan Documents. The liabilities of Investor and each of the Investor Assignees shall be several and not joint. Neither Investor nor any Investor Assignee shall be responsible for the obligations of any other Investor Assignee.

(d) Owner acknowledges and agrees that Investor may provide to the Investor Assignees, and that Investor and each of the Investor Assignees may provide to any Participant, originals or copies of this Agreement, all Loan Documents and all other documents, instruments, certificates, opinions, insurance policies, letters of credit, reports, requisitions and other materials and information of every nature or description, and may communicate all oral information, at any time submitted by or on behalf of Owner or received by Investor in connection with the Project Advance or Owner, provided that, prior to any such delivery or communication, the Investor Assignee or Participant or proposed participant, as the case may be, shall agree to preserve the confidentiality of any of the foregoing to the same extent that Investor agreed to preserve such confidentiality. Upon any assignment of this Agreement to any Investor Assignee, the assigning entity and the Investor Assignee shall give prompt notice of such assignment to the other Parties to this Agreement.

Section 6.9. Amendments and Supplements. Except as otherwise expressly provided in this Agreement, this Agreement may not be amended, changed, modified, altered or terminated except by unanimous written agreement signed by each of the Parties materially affected by such proposed amendment, change, modification, alteration, or termination. For purposes of this Section, a materially affected Party is a Party with respect to which a material right or obligation under this Agreement is proposed to be amended, changed, modified, altered, or terminated. Any attempt to amend, change, modify, alter, or terminate this Agreement except by unanimous written agreement signed by all of the materially affected Parties or as otherwise provided in this Agreement shall be void.

Section 6.10. Execution Counterparts. This Agreement may be executed in counterpart and in any number of counterparts, each of which shall be regarded as an original and all of which together shall constitute but one and the same instrument.

Section 6.11. Severability. If any provision of this Agreement, or any covenant, obligation, or agreement contained in this Agreement is determined by a court to be invalid or

unenforceable, that determination shall not affect any other provision, covenant, obligation, or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained in this Agreement. That invalidity or unenforceability shall not affect any valid and enforceable application of the provision, covenant, obligation, or agreement, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

Section 6.12. Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

Section 6.13. Reimbursement for Project Advance Expenses. Investor is hereby authorized, without any specific request or direction by Owner, to first apply any payments received pursuant to this Agreement other than Special Assessments in payment of or to reimburse Investor for all Project Advance Expenses or for such other amounts, costs, fees, or expenses due to Investor under this Agreement.

Section 6.14. Disclaimer by Investor.

(a) Investor shall not be liable to any contractors, subcontractors, supplier, laborer, architect, engineer, tenant or other party for labor or services performed or materials supplied in connection with the Project. Investor shall not be liable for any debts or claims accruing in favor of any such parties against Owner or others or against the Property or Project. Owner shall not be an agent of Investor for any purpose. Except as expressly set forth in the Loan Documents, Investor is not and shall not be an agent of Owner for any purpose. Investor, by making the Project Advance or any action taken pursuant to any of the Loan Documents, shall not be deemed a partner or a joint venturer with Owner or a fiduciary of Owner. Investor shall not be deemed to be in privity of contract with any contractor or provider of services to the Property or the Project, nor shall any payment of funds directly to a contractor or subcontractor or provider of services be deemed to create any third-party beneficiary status or recognition of same by Investor;

(b) Investor shall have no liability, obligation or responsibility whatsoever with respect to the Project. Any inspections of the Project made by or through Investor are for purposes of administration of the Project Advance only and Owner is not entitled to rely upon the same with respect to the quality, adequacy, or suitability of materials or workmanship;

(c) By accepting or approving anything required to be observed, performed, fulfilled or given to Investor pursuant to the Loan Documents, including any certificate, statement of profit and loss or other financial statement, survey, appraisal, lease or insurance policy, Investor shall not be deemed to have warranted or represented the sufficiency, legality, effectiveness or legal effect of the same, or of any term provision or condition thereof, and such acceptance or approval thereof shall not constitute a warranty or representation to anyone with respect thereto by Investor;

(d) Investor neither undertakes nor assumes any responsibility or duty to Owner to select, review, inspect, supervise, pass judgment upon or to inform Owner of any matter in connection with the Project, and Owner shall rely entirely upon its own judgment with respect to such matters, and any review, inspection, supervision, exercise of judgment or supply of information to Owner by Investor in connection with such matters is for the protection of Investor only and neither Owner nor any third-party is entitled to rely thereon;

(e) Investor owes no duty of care to protect Owner against negligent, faulty, inadequate or defective building or construction; and

(f) Investor shall not be directly or indirectly liable or responsible for any loss, claims, causes of action, liability, indebtedness, damages or injuries of any kind or character to any person or property arising from any construction on, or occupancy or use of, all or any portion of the Property, including, without limitation, any loss, claim, cause of action, liability, indebtedness, damage or injury caused by, or arising from: (1) any defect in any building, structure, grading, fill, landscaping or other improvements thereon or in any onsite or offsite improvement or other facility therein, thereon or relating thereto; (2) any act or omission of Owner or any Affiliated Party, or any of Owner's or such Affiliated Party's agents, employees, independent contractors, licensees or invitees; (3) any accident at the Property or any fire, flood or other casualty or hazard thereon; (4) the failure of Owner, any Affiliated Party, or any of their respective licensees, employees, invitees, agents, independent contractors or other representatives, to maintain all or any portion of the Property in a safe condition; and (5) any nuisance made or suffered on any part of the Property.

Section 6.15. Right of Investor to Make Advances to Cure Defaults. If Owner or any Affiliated Party shall fail to perform in a timely fashion any of their respective covenants, agreements or obligations contained in this Agreement or any of the Loan Documents to which any of them are a Party, Investor may (but shall not be required to) perform any of such covenants, agreements and obligations. The proceeds advanced by Investor in the exercise of its judgment that the same are needed to protect its security for the Project Advance are deemed to be obligatory advances under this Agreement and any amounts expended (whether by disbursement of undisbursed Project Advance proceeds or otherwise) by Investor in so doing, including any amounts expended by Investor pursuant to Section 5.2 of this Agreement, shall constitute additional indebtedness evidenced and secured by the PACE Note and the other Loan Documents; provided, however, that the Parties acknowledge and agree that the Special Assessments levied by the City shall not increase by reason of this Section alone.

Section 6.16. Waiver of Consequential Damages. In no event shall Investor be liable to Owner or any Affiliated Party for consequential damages, whatever the nature of a breach by Investor of its obligations under this Project Advance Agreement, or any of the Loan Documents, and Owner for itself and for all Affiliated Parties hereby waives all claims for consequential damages.

Section 6.17. Claims Against Investor. The Investor shall not be in default under this Agreement, or under any other Loan Document, unless the Investor has materially breached its obligations under this Agreement and a written notice specifically setting forth such breach shall have been given to the Investor of the occurrence of the event which the City, the ESID, or the

Owner, as applicable, alleges gave rise to such claim and the Investor does not remedy or cure the default within 30 days of receipt of such written notice. If it is determined in any proceedings that the Investor has improperly failed to grant its consent or approval, where such consent or approval is required by this Agreement or any other Loan Document, the sole remedy of the City, the ESID, or the Owner, as applicable, shall be to obtain declaratory relief determining such withholding to have been improper, and for itself, all Affiliated Parties, the Owner hereby waives all claims for damages setoff against the Investor resulting from any withholding of consent or approval by the Investor.

Section 6.18. Waiver of Jury Trial. THE INVESTOR AND THE OWNER EACH HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR RELATING THERETO OR ARISING FROM THE LENDING RELATIONSHIP WHICH IS THE SUBJECT OF THIS AGREEMENT AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

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[Counterpart signature pages follow.]

IN WITNESS WHEREOF, the Parties have each caused this Agreement to be duly executed in their respective names, all as of the date first written above.

BEXLEY, COLUMBUS, DUBLIN, GROVE CITY, HILLIARD, PERRY TOWNSHIP, WHITEHALL, WORTHINGTON REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A:

COLUMBUS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., as the ESID

By: _____

Name: _____

Title: _____

970 HIGH RIDGE ASSOCIATES LLC, as the Owner

By: _____

Name: _____

Title: _____

PETROS PACE FINANCE, LLC, as the Investor

By: _____

Name: _____

Title: _____

CITY OF DUBLIN, OHIO, as the City

By: _____

Name: _____

Title: _____

CITY FISCAL OFFICER CERTIFICATE

The undersigned, Director of Finance of the City of Dublin, Ohio, hereby certifies that the moneys required to meet the obligations of the City during the year 2019 under the foregoing Energy Project Cooperative Agreement, being $0.00, have been lawfully appropriated by the City Council of the City of Dublin, Ohio for such purpose and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

_____

Director of Finance
City of Dublin, Ohio

Dated: _____, 2019

EXHIBIT A

DEFINITIONS

As used in this Agreement, the following words have the following meanings:

"*Accredited Investor*" has the meaning given to it in Rule 501(a) promulgated under the Securities Act of 1993, as amended.

"*Agreement*" means this Energy Project Cooperative Agreement, dated as of March 29, 2019, by and between the ESID, the Owner, the Investor, and the City, as the same may be amended, modified, or supplemented from time to time in accordance with its terms.

"*Affiliated Party*" means (a) if Owner is a general or limited partnership, the general partners thereof; (b) if Owner is a joint venture, its joint venture partners; (c) if Owner is a corporation, any person or entity controlling such corporation; (d) if Owner is a limited liability company, each member thereof; (e) if Owner is a trust, each trustee thereof; and (f) any other person or entity that directly or indirectly controls, or is controlled by, or is under common control with the Owner. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract, or otherwise.

"*Board*" means the Board of Directors of the ESID.

"*Bond Purchase Agreement*" means the Bond Purchase Agreement between the Investor, the Owner, and the OAQDA, dated as of _____, 2019, as the same may be amended, modified, or supplemented from time to time in accordance with its terms, under which the Investor has agreed to purchase the OAQDA Bonds to provide financing for the costs of the Project.

"*Bond Service Payments*" means the principal of, and interest and any premium on, the OAQDA Bonds.

"*City*" means the City of Dublin, Ohio.

"*City Council*" means the City Council of the City.

"*Closing Date*" means the date identified in the Preamble.

"*Completion Date*" means the latest date on which substantial completion of the Project, in accordance with the Plans occurs, which date shall be established by the Completion Certificate attached to this Agreement as **Exhibit D**.

"*County*" means Franklin County, Ohio.

"*County Auditor*" means the Auditor of the County.

"*County Prosecutor*" means the Prosecuting Attorney of the County.

"*County Treasurer*" means the Treasurer of the County.

"*Delinquency Amounts*" means any penalties or interest which may be due on or with respect to any installment of the Special Assessments and which are not paid or payable to any party (other than the Investor under this Agreement) under law.

"*Disbursement Request Form*" means the form attached to this Agreement as **Exhibit C**, which form shall be submitted by the Owner in order to receive disbursements from the Project Account.

"*Environmental Reports*" means [ ].

"*ESID*" means the Bexley, Columbus, Dublin, Grove City, Hilliard, Perry Township, Whitehall, Worthington Regional Energy Special Improvement District, Inc., doing business under the registered trade name Columbus Regional Energy Special Improvement District, Inc., a nonprofit corporation and energy special improvement district organized under the laws of the State of Ohio.

"*ESID Fee*" means a semi-annual fee payable to the ESID in the amount of [0.005]% of the related installment of the Special Assessments, as shown on the repayment schedule attached to this Agreement as **Exhibit B**.

"*Fair Market Value*" means (i) the appraised value of the Property within one year prior to the Closing Date; (ii) the most recent assessed value of the Property as determined by the applicable Governmental Authority; or (iii) the fair market value of the Property as determined in accordance with the requirements of the Special Assessment Act and reasonably acceptable to Investor. Investor, in its sole discretion, may choose which valuation (i), (ii) or (iii), to use on a circumstances by circumstances basis, such that Investor's decision to use valuation (i) for a particular purpose or on a particular occasion, shall not preclude Investor from using valuation (ii) or (iii) for another purpose or on another particular occasion or vice-versa.

"Governmental Authority" means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"*Hazardous Material*" means (a) Any "hazardous substance" as defined under Ohio law or defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. § 9601(14) as may be amended from time to time, or any so called "superfund" or "superlien" law, including the judicial interpretation thereof; (b) any "pollutant or contaminant" as defined in 42 U.S.C.A. § 9601(33); (c) any material now defined as "hazardous waste" pursuant to 40 C.F.R. Part 260; (d) any petroleum, including crude oil or any fraction thereof; (e) natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel; (f) any "hazardous chemical" as defined pursuant to 29 C.F.R. Part 1910; and (g) any other substance, regardless of physical form, that is subject to any other Law or other

past, present or future requirement of Governmental Authority regulating, relating to, or imposing obligations, liability, or standards of conduct concerning the protection of human health, plant life, animal life, natural resources, property, or the reasonable enjoyment of life, or property from the presence in the environment of any solid, liquid, gas, odor or any form of energy, from whatever source.

"*Investor*" means Petros PACE Finance, LLC a limited liability company duly organized and validly existing under the laws of the State of Texas, together with any Investor Assignee.

"*Knowledge*" means actual knowledge or such knowledge as a reasonable Person under the circumstances should have after diligent inquiry and investigation.

"*Law*" means, collectively, all federal, state, and local laws, statutes, codes, ordinances, orders, rules and regulations, including judicial opinions or precedential authority in the applicable jurisdiction, including without limitation, the Special Assessment Act.

"Lender" means any Person which has loaned money to the Owner to pay or refinance the costs of acquiring, financing, refinancing, or improving the Property and which loan is secured by a mortgage interest in the Property, or any permitted successors or assigns of such Person.

"*Loan Documents*" means this Agreement, the PACE Note, the Special Assessment Agreement, the Owner Consent and any other documents required to be delivered by the Owner to any Party.

"*Material Adverse Change*" means (a) in respect of the Owner, a material adverse change in (i) the business, financial condition, results of operations or properties of the Owner or (ii) the ability of the Owner to perform its obligations under this Agreement and the Loan Documents to which it is a Party; and (b) in respect of the Project Advance, a material adverse change in the probability that any amount due in respect of the PACE Note will be paid on a timely basis.

"*Notice Address*" means:

(a)	As to the City:	City of Dublin, Ohio 5200 Emerald Parkway Dublin, Ohio 43017 Attention: City Manager
(b)	As to the ESID:	Columbus Regional Energy Special Improvement District, Inc. c/o Columbus-Franklin County Finance Authority 350 East First Avenue, Suite 120 Columbus, Ohio 43201 Attention: Jeremy Druhot
	With a Copy to:	J. Caleb Bell, Esq. Bricker & Eckler LLP

		100 S. Third Street Columbus, Ohio 43215
(c)	As to the Owner	970 High Ridge Associates LLC [ ] [ ] Attention: [ ]
(d)	As to the Investor	Petros PACE Finance, LLC 300 West Sixth Street, Suite 150 Austin, Texas 78701 Attention: Legal Department

"*OAQDA*" means the Ohio Air Quality Development Authority.

"*OAQDA Bonds*" means bonds issued by the OAQDA and purchased by the Investor under the Bond Purchase Agreement.

"*Ordinance Levying Assessments*" means any resolution or ordinance passed, enacted, or adopted by the City pursuant to Ohio Revised Code Section 727.25 with respect to levying special assessments on real property within the ESID.

"*Ordinance to Proceed*" means any resolution or ordinance passed, enacted, or adopted by the City pursuant to Ohio Revised Code Section 727.23 with respect to levying special assessments on real property within the ESID.

"*Owner*" means 970 High Ridge Associates LLC, a Connecticut limited liability company, and any permitted successors or assigns.

"*Owner Consent*" means the Owner Consent dated as of the Closing Date by 970 High Ridge Associates LLC and recorded in the records of the Franklin County Recorder with respect to the Property.

"*PACE Note*" means the Secured Promissory Note dated as of the Closing Date from the Owner to the Investor in the amount of the Project Advance.

"*Parties*" means the ESID, the Owner, the Investor, and the City.

"*Party*" means, individually, any one of the Parties.

"*Person*" or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), limited liability companies, joint ventures, societies, estates, trusts, corporations, public or governmental bodies, political subdivisions, other legal entities, and natural persons.

"*Plan*" means the Columbus Regional Energy Special Improvement District Program Plan adopted by the City of Columbus, Ohio by its Resolution No. 0261X-2015 of November 23,

2015, and any and all supplemental plans approved by the ESID and the City, including, without limitation, the Supplemental Plan.

"*Project*" means the special energy improvement project described in the Supplemental Plan with respect to the Property, for which Special Assessments are to be levied by the City, all in accordance with the Supplemental Plan.

"*Project Account*" means the segregated account in the custody of the Investor for the benefit of the Owner which contains the Project Advance, and out of which disbursements may be made in accordance with Article IV of this Agreement.

"*Project Advance*" means the amount of immediately available funds to be transferred, set over, paid to, and held in the Project Account established pursuant to Section 4.1 of this Agreement for the benefit of the Owner.

"*Property*" means the real property subject to the Supplemental Plan.

"*Qualified Institutional Buyers*" has the same meaning as that given in Rule144A, promulgated under the Securities Act of 1933, as amended.

"*Routine Uses*" means the use of Hazardous Materials at the Property in connection with the routine operation of a first class office building, including, cleaning and maintenance fluids, office supplies, and other similar items, in each case used in accordance with, and so as not to cause a violation of, Laws, and in quantities and in a manner which do not pose a hazard to persons on or about the Property.

"*Repayment Schedule*" means the schedule attached to and incorporated into this Agreement as **Exhibit B**, which schedule establishes the dates and amounts for the repayment of the Project Advance by the Special Assessments paid by the Owner.

"Required Insurance Coverage" means, collectively, the Required Property Insurance Coverage and the Required Public Liability Insurance Coverage, each of which, in addition to the requirements described in their respective definitions, (i) must provide for 10 days' notice to the Investor in the event of cancellation or nonrenewal and (ii) must name as an additional insured (mortgagee/loss payee) the Investor.

"Required Property Insurance Coverage" means at any time insurance coverage evidenced maintained with generally recognized, responsible insurance companies qualified to do business in the State in the amount of the then full replacement value of the Project and Property, insuring the Project against loss or damage by fire, windstorm, tornado and hail and extended coverage risks on a comprehensive all risk/special form insurance policy and containing loss deductible provisions of not to exceed $10,000, which insurance coverage shall name the Investor as loss payee/mortgagee.

"Required Public Liability Insurance Coverage" means at any time commercial general liability insurance against claims for personal injury, death or property damage suffered by

others upon, in or about any premises occupied by the Owner, which insurance coverage shall name the Investor as an additional insured.

"*Resolution of Necessity*" means any resolution or ordinance passed, enacted, or adopted by the City pursuant to Ohio Revised Code Section 727.12 with respect to levying special assessments on real property within the ESID.

"*Special Assessment Act*" means, collectively, Ohio Revised Code Section 727.01 *et seq.*, Ohio Revised Code Section 1710.01 *et seq.*, Ohio Revised Code Section 323.01 *et seq.*, Ohio Revised Code Section 319.01 *et seq.*, Ohio Revised Code Section 5721.01 *et seq.*, and related laws.

"*Special Assessment Proceedings*" means, collectively, Resolution Nos. _____ and _____ of the City Council both adopted on _____, 2019 approving the Petition, the Plan, and the Supplemental Plan and declaring the necessity of the Project, Ordinance _____, determining to proceed with the Project, adopted on _____, 2019, and Ordinance _____, levying the Special Assessments, adopted on _____, 2019, with respect to levying special assessments on the Property subject to the Petition.

"*Special Assessments*" means the special assessments levied pursuant to the Special Assessment Act and the Special Assessment Proceedings by the City with respect to the Project, a schedule of which is attached to and incorporated into the Plan.

"*State*" means the State of Ohio.

"*Supplemental Plan*" means the Supplement to Plan for 5165 Emerald Parkway, Dublin, Ohio Project, approved by the City Council on _____, 2019 by its Resolution No. _____.

EXHIBIT B

REPAYMENT SCHEDULE

EXHIBIT C

DISBURSEMENT REQUEST FORM

STATEMENT NO. [___] FOR 970 HIGH RIDGE ASSOCIATES LLC, REQUESTING AND AUTHORIZING DISBURSEMENT OF FUNDS PURSUANT TO SECTION 4.2 OF THE ENERGY PROJECT COOPERATIVE AGREEMENT DATED AS OF [_____], 2019.

Pursuant to Section 4.2 of the Energy Project and Cooperative Agreement dated as of [_____], 2019 (the "Agreement") among the ESID, the Owner, and the Investor, the undersigned authorized representative of 970 High Ridge Associates LLC, as an Owner under the Agreement, hereby requests the Investor, having custody of the Project Account, to pay to the Owner or the other person(s) listed on the disbursement schedule attached hereto as Appendix I (the "Disbursement Schedule"), the respective amounts specified in the Disbursement Schedule out of the moneys on deposit in the Project Account for the advances, payments and expenditures made in connection with the costs of the Project described in the Disbursement Schedule, all in accordance with Section 4.2 of the Agreement (capitalized words and terms not otherwise defined herein having the meanings assigned to them in the Agreement).

In connection with this request and authorization (the "Disbursement Request"), the undersigned hereby certifies that:

(i) each of the representations and warranties made by the Owner in the Agreement remains true and correct, in all material respects, as of the date of this Disbursement Request and no Event of Default by the Owner under the Agreement exists;

(ii) each item for which disbursement is requested by this Disbursement Request is properly payable out of the Project Account in accordance with the terms and conditions of the Agreement and, except as otherwise noted, none of those items has formed the basis for any disbursement heretofore made from the Project Account;

(iii) to the extent any portion of the payment requested is for construction work, the Owner has received and herewith delivers to the Investor, conditional waivers of any mechanics' or other liens with respect to such work;

(iv) this Disbursement Request and all exhibits hereto, including the Disbursement Schedule, shall be conclusive evidence of the facts and statements set forth herein and shall constitute full warrant, protection and authority to the Investor for its actions taken pursuant hereto; and

(v) this Disbursement Request constitutes the approval of the Owner of each disbursement hereby requested and authorized.

Dated: _____

_____
Authorized Representative of
Owner

Approved in accordance with the Agreement:

Petros PACE Finance, LLC as the Investor:

By:_____

Name:_____

Title:_____

Dated: _____

EXHIBIT D

COMPLETION CERTIFICATE

970 High Ridge Associates LLC (the "Owner") hereby certifies that the Project, as such term is defined in the Energy Project Cooperative Agreement entered into by and between the Owner, the Columbus Regional Energy Special Improvement District, Inc., the City of Dublin, Ohio, and Petros PACE Finance, LLC ("Investor") dated [_____], 2019 (the "Energy Project Cooperative Agreement") has been completed in all material respects at 5165 Emerald Parkway, Dublin, Ohio (the "Property") in strict compliance with the requirements of the Energy Project Cooperative Agreement and the Construction Contract entered into by and between the Owner and _____ (the "Contractor") dated _____ (the "Construction Contract").

Note: Capitalized terms used but not defined in this Completion Certificate have the meaning assigned to them in the Energy Project Cooperative Agreement to which this Completion Certificate is attached and of which it forms a part.

THE OWNER HEREBY CERTIFIES:

1. As of _____, the Contractor has completed the work in accordance with the terms of the Construction Contract that the Owner has entered into and executed. The Owner has no service requests and no unresolved complaints regarding the work performed.

2. The Project has been completed in all material respects in accordance with the plans and specifications, permits, and budget approved by Investor.

3. The Owner has complied, and will continue to comply with, all applicable statutes, regulations and ordinances in connection with the Property and construction of the Project.

4. The Owner holds fee ownership in the Property on which the Project was completed.

5. The Contractor has not offered the Owner any payment, refund, or any commission in return for completing the Project.

6. All funds provided to the Owner by the Investor for this Project have been used in accordance with the Energy Project Cooperative Agreement are correct.

[Balance of Page Intentionally Left Blank]

NOTICE: DO NOT SIGN THIS COMPLETION CERTIFICATE UNLESS YOU AGREE TO EACH OF THE ABOVE STATEMENTS.

970 High Ridge Associates LLC

By: _____

Name: _____

Title: _____

EXHIBIT E

CLOSING COSTS DETAIL

Pursuant to Section 4.2 of the foregoing Energy Project Cooperative Agreement, the Investor shall disburse to the respective payee set forth below, the following closing costs:

Payee	Amount	Detail
Columbus Regional ESID	$[ ]	ESID's Closing Administrative Fee
Bricker & Eckler LLP	$[ ]	ESID's Transaction Counsel Fee
Kapp Morrison LLP	$[ ]	Owner's Legal Fee
[Bricker & Eckler LLP]	$[ ]	Bound Counsel Fee
Petros PACE Finance, LLC	$[ ]	Investor's Legal Fee
Petros PACE Finance, LLC	$[ ]	Investor's Origination Fee
[OAQDA]	$[ ]	[OAQDA Issuer's Counsel Fee]
[OAQDA]	$[ ]	[OAQDA Fee]
TOTAL:	**$[ ]**	

EXHIBIT F
CONSENT OF MORTGAGEE

[See Attached]

EXHIBIT G

FORM OF ASSIGNMENT AND ASSUMPTION OF ENERGY PROJECT COOPERATIVE AGREEMENT

ASSIGNMENT AND ASSUMPTION
OF
ENERGY PROJECT COOPERATIVE AGREEMENT

[_____] (**Assignor**), in consideration of the sum of $[_____] in hand paid and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Assignor's execution of this Assignment and Assumption of Energy Project Cooperative Agreement (**Assignment**), assigns, transfers, sets over, and conveys to [_____] (**Assignee**) all of Assignor's right, title, and interest in and to that certain Energy Project Cooperative Agreement dated as of _____, 2019 between the Bexley, Columbus, Dublin, Grove City, Hilliard, Perry Township, Whitehall, Worthington Regional Energy Special Improvement District, Inc., d/b/a Columbus Regional Energy Special Improvement District, Inc., Assignor, Petros PACE Finance, LLC (the **Investor**), and the City of Dublin, Ohio (the **City**) (the **Energy Project Cooperative Agreement**).

By executing this Assignment, Assignee accepts the assignment of, and assumes all of Assignor's duties and obligations under, the Energy Project Cooperative Agreement. Assignee further represents and warrants that it has taken title to the "Property," as that term is defined in the Energy Project Cooperative Agreement, subject to the Special Assessment Agreement dated as of even date with the Energy Project Cooperative Agreement between the Franklin County Treasurer, the City, the ESID, the Investor, and 970 High Ridge Associates LLC (the **Special Assessment Agreement**) and to the "Owner Consent" dated as of _____, 2019 by 970 High Ridge Associates LLC and recorded in the records of the Franklin County Recorder with respect to the Property. By executing this Assignment, Assignee accepts the assignment of, and assumes all of Assignor's duties and obligations under, the Special Assessment Agreement and the Owner Consent.

Assignor and Assignee acknowledge and agree that executed copies of this Assignment shall be delivered to the City, the Investor, and the ESID, as each of those terms are defined in the Energy Project Cooperative Agreement, all in accordance with Sections 3.4(a) and 6.7 of the Energy Project Cooperative Agreement

In witness of their intent to be bound by this Assignment, each of Assignor and Assignee have executed this Assignment this _____ day of _____, [_____], which Assignment is effective this date. This Assignment may be executed in any number of counterparts, which when taken together shall be deemed one agreement.

ASSIGNOR:

[_____]

By: _____

Name: _____

Title: _____

ASSIGNEE:

[_____]

By: _____

Name: _____

Title: _____

EXHIBIT H

PAYMENT INSTRUCTIONS

Payment Instructions
for
970 High Ridge Associates LLC

Bank Name: [BANK NAME]
[BANK ADDRESS]

ABA: [NUMBER]
Beneficiary Name: [Petros PACE Finance, LLC]
[ADDRESS LINE 1]
[CITY, STATE ZIP]
Beneficiary Account: [NUMBER]

Reference: [NUMBER]

Contact: [Information]

If sending by check, please make checks payable to: [NAME/REFERENCE] and mail to:

[Petros PACE Finance, LLC]
[ADDRESS LINE 1]
[CITY STATE ZIP]
Attention: [NAME]

EXHIBIT I
OWNERS AUTHORIZED REPRESENTATIVES

Authorized Representatives for Owner

The following individuals are authorized to provide instructions and directions to the Investor on behalf of the Owner until such time as an updated list has been provided. Owner may change, modify, or amend, the list of authorized individuals by providing five (5) days prior written notice to the Investor. Instructions may be provided via electronic mail and are valid so long as one of the individuals below are copied thereto.

Name: _____ Name: _____

Title: _____ Title: _____

Email: _____ Email: _____

Name: _____ Name: _____

Title: _____ Title: _____

Email: _____ Email: _____

EXHIBIT J
FORM OF INVESTOR'S ASSIGNMENT AND ASSUMPTION AGREEMENT

[See Attached]

SPECIAL ASSESSMENT AGREEMENT

by and among

COUNTY TREASURER OF FRANKLIN COUNTY, OHIO
("Treasurer"),

And

CITY OF DUBLIN, OHIO
("City"),

And

PETROS PACE FINANCE, LLC
("Investor"),

And

BEXLEY, COLUMBUS, DUBLIN, GROVE CITY, HILLIARD, PERRY TOWNSHIP, WHITEHALL, WORTHINGTON REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., D/B/A:
COLUMBUS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.
("District"),

And

970 HIGH RIDGE ASSOCIATES LLC
("Owner")

Dated as of _____, 2019

SPECIAL ASSESSMENT AGREEMENT

THIS SPECIAL ASSESSMENT AGREEMENT (this **Agreement**) is made effective as of _____, 2019, by and among the County Treasurer of Franklin County, Ohio (the **Treasurer**), the City of Dublin, Ohio (the **City**), the Bexley, Columbus, Dublin, Grove City, Hilliard, Perry Township, Whitehall, Worthington Regional Energy Special Improvement District, Inc., doing business under the registered trade name Columbus Regional Energy Special Improvement District, Inc., (the **District**), Petros PACE Finance, LLC together with its permitted successors and assigns, the **Investor**), and 970 High Ridge Associates LLC (the **Owner**).

BACKGROUND:

WHEREAS, the District was created under Ohio Revised Code Chapters 1702 and 1710 and established pursuant to Resolution No. 0261X-2015 of the Council of the City of Columbus, Ohio approved on November 23, 2015; and

WHEREAS, the Owner has determined that it is in its best interests to cause the acquisition, construction, improvement, and installation of energy efficiency improvements, including, without limitation, high-efficiency HVAC systems, building automation controls, LED lighting, and related improvements (collectively, the **Project**) on the real property located within Franklin County, Ohio (the **County**) and the City, and as more fully described in Exhibit A to this Agreement (the **Property**); and

WHEREAS, pursuant to Resolution No. _____ of the Council of the City (the **Council**), approved on _____ 2019, the Property was added to the territory of the District; and

WHEREAS, the costs of the Project are being funded through an advance in the amount of $1,158,848.54 (the **Project Advance**) to the Owner pursuant to an Energy Project Cooperative Agreement dated as of _____ 2019 between the Investor, the District, the Owner, and the City (the **Energy Project Cooperative Agreement**); and

WHEREAS, to secure the payment of the principal of, and any premium and unpaid interest on the Project Advance used to finance the Project (the **Project Costs**), (i) the Owner has signed and delivered to the Clerk of Council a Petition for Special Assessments for Special Energy Improvement Projects (the **Petition**), for the acquisition, construction, improvement, and installation of the Project and evidencing the Owner's agreement to the levy and collection of special assessments by the City (the **Special Assessments**) on the Property, which are located within the District in amounts sufficient to pay the Project Costs, and (ii) the City (a) has taken all the necessary actions required by Chapter 727 of the Ohio Revised Code, including, without limitation, the passage of the assessing ordinance pursuant to the requirements of Ohio Revised Code Section 727.25, for the levying of the Special Assessments and has caused or will cause the Special Assessments to be certified to the County Auditor of Franklin County, Ohio (the **County Auditor**) for collection by the Treasurer in semi-annual installments, and (b) hereby has agreed

to transfer to the Investor the payments of Special Assessments received, which payments are to be transferred to the Investor to repay the principal of, and pay interest, administrative fees, and any redemption premium on, the Project Advance; and

[WHEREAS, the Owner, the Investor, and the City agree that the Ohio Air Quality Development Authority (the "OAQDA") will issue bonds to provide financing for up to $[ ] of the costs of the Project, and these bonds issued by the OAQDA (the "OAQDA Bonds") will be purchased by the Investor through a Bond Purchase Agreement between the Investor, the Owner, and the OAQDA (the "Bond Purchase Agreement"). Furthermore, the Owner, the Investor, and the City acknowledge and agree that certain disbursements of the Project Advance under the Energy Project Cooperative Agreement represent the Investor's purchase of equal principal amounts of the OAQDA Bonds, and the transfer of a portion of the Special Assessments from or on behalf of the City to the Investor shall constitute payment of principal of, and interest and any premium on ("Bond Service Payments"), the OAQDA Bonds, all as more specifically described in the Energy Project Cooperative Agreement; and]

WHEREAS, the Owner agrees that its delivery of the Petition and the requests and agreements made in the Petition are irrevocable and that the parties to this Agreement have acted and will act in reliance on the agreements contained in the Petition; and

WHEREAS, pursuant to the Petition, the Special Assessments have been levied against the Property as described in the Petition and pursuant to this Agreement the Owner is willing to agree to make Special Assessment payments in accordance with the Petition; and

WHEREAS, Chapters 323 and 5721 of the Ohio Revised Code set forth certain parameters and timing requirements for the foreclosure of property on which taxes and assessments, including the Special Assessments, are due and owing and remain unpaid; and

WHEREAS, upon the occurrence of an Event of Default pursuant to the Energy Project Cooperative Agreement, it may be necessary for the District to foreclose on the lien of the Special Assessments with respect to the Property as set forth in Section 1 of this Agreement; and

WHEREAS, in consideration of the Project Advance, the Owner is willing to consent to an expedited foreclosure process with respect to the lien of the Special Assessments, the form of the consent being attached hereto as Exhibit B (the **Owner Consent**) and the Owner Consent with respect to the foreclosure of the Special Assessments as soon as possible (as referenced in Section 1 hereof) shall be a covenant running with the Property and binding upon the Owner and upon future owners of the Property until Project Advance is repaid in full; and

WHEREAS, based on the Owner Consent and other considerations, at the request of the District, upon the occurrence of an Event of Default under the Energy Project Cooperative Agreement, the Treasurer and the City have agreed to foreclose the lien of the Special Assessments as soon as possible as described herein; and

WHEREAS, if any assessments, including, without limitation, the Special Assessments, payments in lieu of taxes, real property taxes, or other governmental charges levied on the Property are not paid when due and thereafter remain delinquent, the Treasurer, pursuant to Ohio Revised Code Sections 5721.30 through 5721.41 (the **Delinquent Tax Lien Sale Act**), specifically Ohio Revised Code Section 5721.33, may, in his discretion, but is not required to, negotiate with one or more persons the sale of any number of tax certificates (**Tax Certificates**) which evidence the liens (the **Tax Liens**) of the State of Ohio (the **State**) and its applicable taxing districts for such delinquent assessments, including Special Assessments, real property taxes, payments in lieu of taxes, governmental charges, or penalties and interest on such Property; and

WHEREAS, pursuant to the Delinquent Tax Lien Sale Act, the Treasurer, in his discretion, is entitled to sell such Tax Certificates at a discount from the full amount of the general real estate taxes, assessments, including the Special Assessments, penalties and interest that have become delinquent; and

WHEREAS, if the Treasurer were to sell such Tax Certificates at a discount (other than in accordance with the provisions of this Agreement), the proceeds of such sale representing the delinquent Special Assessments might be insufficient to repay the principal of, and the interest, administrative fees, and any redemption premium on, the Project Advance; and

WHEREAS, the Treasurer does not desire to take any action with respect to the collection of the Special Assessments that might adversely affect the repayment of the Project Advance without the consent of the District and the Investor; and

WHEREAS, the Treasurer has agreed to remit to the Investor, in the event of a default under the Energy Project Cooperative Agreement, as set forth in this Agreement, amounts collected by the Treasurer and relating to the Special Assessments, including without limitation amounts collected by the Treasurer as a result of foreclosure of the lien of the Special Assessments on the Property and including amounts received from a sale of Tax Certificates pursuant to the Delinquent Tax Lien Sale Act;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, and desiring to be legally bound hereunder, the parties hereto covenant and agree as follows:

Section 1. Special Assessments.

1.1 The Owner, prior to the execution and delivery of this Agreement, has signed and delivered to the Clerk of Council the Petition for the acquisition, construction, improvement, and installation of the Project and evidencing the agreement of the Owner to the levy and collection of the Special Assessments as security for the Project Advance. The Owner agrees that its delivery of the Petition and the requests and agreements made therein are

irrevocable and that the parties hereto have acted and will act in reliance on the agreements contained in that Petition. The City has duly enacted Resolution No. _____, Ordinance No. _____ and Ordinance No. _____ (the **Assessing Ordinance**) to provide for the levy and collection of the Special Assessments on the Property. The Clerk of Council certified (or caused to be certified) the Assessing Ordinance to the County Auditor as set forth in the Petition.

1.2 The City shall cause the Special Assessments, as set forth in the Assessment Schedule attached to the Petition, to be certified to the County Auditor on or before the last date for the certification of special assessments to the County Auditor pursuant to the requirements of Section 727.33 of the Ohio Revised Code.

1.3 In the event the Project Advance is prepaid or redeemed in accordance with the Energy Project Cooperative Agreement, in whole or in part, the parties shall, in cooperation with the Owner, and to the extent permitted by law, cause the aggregate lien of the Special Assessments to be no greater than the amount calculated pursuant to Section 2.2(d) of the Energy Project Cooperative Agreement.

1.4 To the extent that the Owner prepays any of the required payments pursuant to the Energy Project Cooperative Agreement, then the amounts of the Special Assessments shall be reduced in accordance with the Assessment Schedule attached to the Petition.

1.5 To secure payments made on the Project Advance, the City hereby assigns to the Investor all of its rights, title to, and interest in the Special Assessments to be levied with respect to the Project Costs. As long as the Project Advance shall be outstanding and amounts shall be due and owing under the Energy Project Cooperative Agreement with respect to the Project Advance, the City assigns to the Investor all of its right, title and interest in and to, and grants to the Investor a security interest in, the Special Assessments received by the City and in the City's related special assessment fund. The Investor, as assignee of the City, is hereby authorized to take any and all such actions as assignee of and, to the extent required by law, in the name of and for and on behalf of the City, to collect delinquent Special Assessments levied by the City pursuant to law and to cause the lien securing the delinquent Special Assessments to be enforced through prompt and timely foreclosure proceedings, including, but not necessarily limited to, filing and prosecution of mandamus or other appropriate proceedings to induce the County Prosecutor, the County Auditor, and the County Treasurer, as necessary, to institute such prompt and timely foreclosure proceedings. The proceeds of the enforcement of any such lien shall be deposited and used in accordance with this Agreement and the Energy Project Cooperative Agreement. The Treasurer, the City, the District, the Investor, and the Owner each hereby acknowledges, agrees with, and consents to those assignments.

1.6 Pursuant to Section 2.5 of the Energy Project Cooperative Agreement, the District assigned to the Investor any and all of its right, title, and interest it may have in and to the Special Assessments related to the District actually received by or on behalf of the City under the Energy Project Cooperative Agreement. The Treasurer, the City, the District, the Owner, and

the Investor each hereby acknowledges, agrees with, and consents to those assignments. [The City, the Investor, and the Owner hereby further acknowledge that the transfer of the portions of moneys received by the City as Special Assessments to the Investor identified in Exhibit B of the Energy Project Cooperative Agreement shall constitute Bond Service Payments on the OAQDA Bonds.]

1.7 The City, upon receipt of any moneys received by the City as Special Assessments, but in any event not later than 30 calendar days after the receipt of such moneys and the corresponding final settlement from the County Auditor, shall deliver to the Investor all such moneys received by the City as Special Assessments. The City's obligation to transfer the Special Assessments to the Investor shall be absolute and unconditional, and the City shall make such transfers without abatement, diminution, or deduction regardless of any cause or circumstance whatsoever, including, without limitation, any defense, set-off, recoupment, or counterclaim which the City may have or assert against the Investor, the Owner, or any other person; provided, however, that the City's obligation to transfer special assessments is limited to the Special Assessments actually received by the City from the County Auditor. The Investor may from time to time provide written payment instructions to the City for payment of Special Assessments by check, wire instructions, or other means.

1.8 Notwithstanding anything in this Agreement to the contrary, the Treasurer's obligations under this Agreement are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The Treasurer's obligations shall be limited to the moneys levied, collected and received in respect of the Special Assessments and any County-imposed collection fees, charges, or penalties. The Treasurer's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the faith and credit or taxing power of the County.

1.9 Notwithstanding anything in this Agreement to the contrary, the City's obligations under this Agreement are not and shall not be secured by an obligation or pledge of any moneys raised by taxation. The City's obligation under this Agreement shall be limited to any moneys received from the County in respect of the Special Assessments and any County-imposed collection fees, charges, or penalties. The City's obligations under this Agreement do not and shall not represent or constitute a debt or pledge of the faith and credit or taxing power of the City.

Section 2. Foreclosure Process.

2.1 The Treasurer, the City, the Investor, and the Owner each acknowledge that the Special Assessments are to secure payments relating to the Project Advance, including the Project Costs and other amounts as provided under the Energy Project Cooperative Agreement. The Treasurer agrees that so long as the Project Advance is outstanding and the Project Costs thereon, and other amounts under the Energy Project Cooperative Agreement are secured, at least in part, by the revenues derived from the Special Assessments, upon the Treasurer's receipt of written notice from the Investor or the District, with a copy to the other of

the Investor or the District and to the Owner and the City that an Event of Default (as defined under the Energy Project Cooperative Agreement) has occurred and is continuing and which notice directs Treasurer to foreclose on the lien of the Special Assessments, the Treasurer will, not later than 30 days from the date of the receipt of such notice, file and diligently prosecute a foreclosure action against the Property, following the procedures for lien foreclosures established in Ohio Revised Code § 323.25 and related sections. The foreclosure action shall be to collect all Special Assessments then due and owing on the Property in accordance with the Petition. Without the prior written consent of the District and the Investor, the Treasurer will not confirm the sale of the Property for an amount less than 100% of the amount of the Special Assessments and other general real estate taxes, payments in lieu of taxes, and assessments then due and owing with respect to the Property, as shall be certified by the District to the Treasurer pursuant to the records of the Treasurer. All fees and expenses of the Treasurer in collecting the Special Assessments are to be included and paid for by the Owner.

2.2 The Treasurer hereby acknowledges that the City has assigned all of its right, title, and interest in and to the Special Assessments to the Investor, and that the District has assigned all of its right, title and interest in an to the Special Assessments to the Investor, and the Treasurer hereby agrees that so long as the Project Advance is outstanding and the Project Costs thereon and other amounts under the Energy Project Cooperative Agreement are secured, at least in part, by the revenues derived from the Special Assessments, the Treasurer will not sell or negotiate the sale of one or more Tax Certificates related to the Property for an amount less than 100% of the amount levied and certified for collection without the prior written consent of the District and the Investor.

2.3 The Treasurer hereby covenants and agrees that if any of the general real estate taxes, payments in lieu of taxes, assessments, including the Special Assessments, governmental charges, or penalties and interest on the Property are delinquent and the Delinquent Tax Lien Sale Act would permit the Treasurer to negotiate the sale of Tax Certificates with respect thereto, the Treasurer will, prior to giving any notice under the Delinquent Tax Lien Sale Act of a sale of Tax Certificates with respect to the Property, give written notice to the District and the Investor regarding the same and state therein whether the Treasurer reasonably anticipates receiving no less than 100% of the general real estate taxes, payments in lieu of taxes, and assessments, including the Special Assessments, penalties and interest, originally levied and certified for collection plus other charges, including attorney's fees, or whether the Treasurer reasonably expects to receive less than 100% of the general real estate taxes, payments in lieu of taxes, and assessments, including the Special Assessments, penalties and interest, levied and certified for collection plus other charges, including attorney's fees, and in accordance with this Agreement is requesting the consent of the District and the Investor for such a sale.

2.4 The Treasurer agrees, on behalf of the County, not to utilize the authority contained in Ohio Revised Code Chapter 5722 to transfer any of the Property to the county land reutilization corporation, to sell or convey any of the Property to any political subdivision under the authority contained in Ohio Revised Code Chapter 5722, or to clear the liens and

encumbrances applicable to the Property under the authority contained in Ohio Revised Code Chapter 5722 without the express written consent of the District and the Investor.

2.5 Nothing in this Agreement shall, or shall be construed to, prevent the Treasurer from selling one or more Tax Certificates with respect to the Property to a third party without the consent of the Investor and the District if the price received for the Tax Certificate or Tax Certificates equals or exceeds 100% of the delinquent general real estate taxes, assessments, including the Special Assessments, penalties and interest on the Property outstanding against the Property at the time of such sale.

2.6 The District and the Investor each hereby agrees that upon written notice from the Treasurer pursuant to Section 2.1 of this Agreement, it, within 30 days of receipt of the Treasurer's notice, shall give a written response to the Treasurer indicating therein whether it consents to the request for sale of a Tax Certificate or Tax Certificates.

2.7 No delay or failure of the District or the Investor to give a written response shall be construed to be a consent to such request or to be a waiver of the right to give such consent. No consent or refusal thereof by the District or the Investor in response to a request by the Treasurer shall extend to or affect any subsequent request of the Treasurer or shall impair the rights of the District or the Investor with respect any such subsequent request.

2.8 So long as the Project Costs are outstanding, the Treasurer hereby covenants and agrees (a) to remit to the Investor, as appropriate and as provided for herein, not more than 30 days from the date of collection by the Treasurer, any amounts collected with respect to the Property as payment for delinquent Special Assessments, including any amounts collected from Tax Certificates; and (b) to the extent the Treasurer seeks and is appointed as receiver for the Property, as provided for in Chapter 323 of the Revised Code, after payment of reasonable fees and expenses of the Treasurer, all amounts collected by the Treasurer, as receiver for the Property and collected as a result of any delinquent Special Assessments, shall be remitted to the Investor.

Section 3. Indemnification by Owner

3.1 The Owner hereby releases the District, the City, the Treasurer, the Investor, and their respective officers, directors and employees (collectively, the **Indemnified Parties**), from, agrees that the Indemnified Parties shall not be liable for, and at Owner's sole cost and expense, agrees to indemnify, protect and save the Indemnified Parties harmless against and from any and all damages, losses, liabilities, obligations, penalties, claims, causes of action, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements and expenses (including, without limitation, out-of-pocket third party attorneys' and experts' reasonable fees and disbursements) of any kind or of any nature whatsoever (collectively, the **Indemnified Matters**) which may at any time be imposed upon, incurred by or asserted or awarded against an Indemnified Party and arising from or on account of: (i) the levy and collection of the Special Assessments; (ii) any loss or damage to property or injury to or death of or loss by any person

that may be occasioned by any cause whatsoever pertaining to the acquisition, construction, installation, equipment, improvement maintenance, operation and use of the Project; (iii) any breach or default on the part of the Owner in the performance of any covenant, obligation or agreement of the Owner under the Energy Project Cooperative Agreement, or arising from any act or failure to act by the Owner, or any of the Owner's agents, contractors, servants, employees or licensees; (iv) the Owner's failure to comply with any requirement of this Agreement; (v) the efforts of the City and the Treasurer to collect Special Assessments; (vi) any legal costs or out-of-pocket costs incurred by the District specifically related to additional approvals or actions that may be required by the District arising after the date of the Energy Project Cooperative Agreement (and in the case of such legal costs or out-of-pocket costs, agrees to pay such costs directly to the District); (vii) any claim, action or proceeding brought with respect to any matter set forth in clause (i), (ii), (iii), (iv), (v) or (vi) above, provided, however that the Owner shall not indemnify the Indemnified Parties as provided above to the extent that any liability, claim, cost or expenses arises out of or results from the gross negligence, willful misconduct or material breach of this Agreement or the Energy Project Cooperative Agreement of the Indemnified Parties.

3.2 The Owner shall indemnify and hold harmless the Indemnified Parties from, agrees that the Indemnified Parties shall not be liable for, and at Owner's sole cost and expense, agrees to indemnify, protect and save the Indemnified Parties harmless against and from any and all damages, losses, liabilities, obligations, penalties, claims, causes of action, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses (including, without limitation, out-of-pocket third party attorneys' and experts' reasonable fees and disbursements) of any kind or of any nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against an Indemnified Party and arising from or on account of (a) a past, present or future violation or alleged violation of any environmental laws in connection with the Property by any person or other source, whether related or unrelated to the Owner, (b) any presence of any hazardous, toxic or harmful substances, materials, wastes, pollutants or contaminants defined as such in or regulated under any environmental law (**Materials of Environmental Concern**) in, on, within, above, under, near, affecting or emanating from the Property, (c) the failure to timely perform any investigation, inspection, site monitoring, containment, clean–up, removal, response, corrective action, mitigation, restoration or other remedial work of any kind or nature because of, or in connection with, the current or future presence, suspected presence, Release (as defined below) or threatened Release in or about the air, soil, ground water, surface water or soil vapor at, on, about, under or within all or any portion of the Property of any Materials of Environmental Concern, including any action to comply with any applicable environmental laws or directives of any governmental authority with regard to any environmental laws, (d) any past, present or future activity by any person or other source, whether related or unrelated to the Owner in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Materials of Environmental Concern at any time located in, under, on, above or affecting the Property, (e) any past, present or future actual generation, treatment, use, storage, transportation, manufacture, refinement,

handling, production, removal, remediation, disposal, presence or migration of Materials of Environmental Concern on, about, under or within all or any portion of the Property (a **Release**) (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) to, from, on, within, in, under, near or affecting the Property by any person or other source, whether related or unrelated to the Owner, (f) the imposition, recording or filing or the threatened imposition, recording or filing of any lien on the Property with regard to, or as a result of, any Materials of Environmental Concern or pursuant to any environmental law, or (g) any misrepresentation or failure to perform any obligations related to environmental matters in any way pursuant to any documents related to the Special Assessments.

Section 4. Additional Agreements and Covenants.

4.1 The agreements of the parties hereafter with respect to the foreclosure process shall be a covenant running with the Property and, so long as Project Costs are payable from or secured, at least in part, by the revenues derived from the Special Assessments, such covenant shall be binding upon the Property (except as released as provided in the Owner Consent), the Owner and any future owner of all or any portion of the Property. This Agreement, the Owner Consent, and all other required documents and agreements, shall be recorded with the Franklin County, Ohio Recorder's Office, so that the agreements of the parties hereafter with respect to the foreclosure process established pursuant to this Agreement is a covenant running with and is enforceable against the Property.

4.2 If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

4.3 This Agreement shall inure to the benefit of each of the parties, and each of their successors and assigns, all subject to the provisions of this Agreement. This Agreement may be amended only by a written instrument of the parties, and any attempt to amend or modify this Agreement without a written instrument signed by all of the parties to this Agreement shall be null and void. Notices given hereunder shall be in writing and shall be effective when actually received if delivered by hand or overnight courier, or three days after being sent by registered or certified mail, postage prepaid, the certification receipt therefore being deemed the date of such notice, and addressed to the parties as follows:

If to City: City of Dublin, Ohio
5200 Emerald Parkway
Dublin, OH 43017
Attention: City Manager

If to Treasurer: County Treasurer
Franklin County, Ohio
373 S. High Street, 17th Floor
Columbus, OH 43215

Attention: Cheryl Brooks Sullivan

If to the District: Columbus Regional Energy Special Improvement District, Inc.
c/o Columbus-Franklin County Finance Authority
350 East First Avenue, Suite 120
Columbus, OH 43201
Attention: Jeremy Druhot

With a Copy to: J. Caleb Bell
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215

If to the Owner: 970 High Ridge Associates LLC
[ ]
[ ]
Attention: [ ]

If to the Investor: Petros PACE Finance, LLC
300 West Sixth Street, Suite 150
Austin, Texas 78701
Attention: Legal Department

4.4 (a) Investor may assign (and thereafter, at any time and from time to time, repurchase) all of its rights and obligations with respect to the Project Advance, including without limitation, all of (1) its obligations to lend under the Energy Project Cooperative Agreement; [(2) all of its obligations under the Bond Purchase Agreement, the OAQDA Bonds, the Ohio Air Quality Development Authority Pledge Agreement dated as of _____, 2019 between the Investor and OAQDA, and the Capital Provider Pledge Agreement dated as of _____, 2019 between the Investor and the OAQDA]; and (3) the outstanding principal balance of the Project Advance, to one or more banks, insurance companies, Accredited Investors, or Qualified Institutional Buyers (each as defined in the Energy Project Cooperative Agreement and each an "Investor Assignee") and be thereby released from its rights and obligations as Investor and secured party in respect of the Project Advance, the Loan Documents (as defined in the Energy Project Cooperative Agreement) and this Agreement; provided, however, that the Investor and its Investor Assignee shall execute an Assignment and Assumption Agreement ("Assignment") in the form attached to the Energy Project Cooperative Agreement as Exhibit J.

(b) Investor and each of the Investor Assignees may sell participations to one or more banks, insurance companies, Accredited Investors, or Qualified Institutional Buyers (a "Participant") in or to all of their rights and obligations under the PACE Note (as defined in the Energy Project Cooperative Agreement) and the Loan Documents and the Project Advance owing to it.

(c) From and after the effective date of the Assignment: (1) each Investor Assignee shall be a party hereto and each Loan Document, except as specified otherwise herein, shall succeed to the rights and obligations of the Investor hereunder [(and under any and all other guaranties, documents, instruments and agreements executed in connection with this Agreement, including but not limited to the Bond Purchase Agreement, the OAQDA Bonds, the Ohio Air Quality Development Authority Pledge Agreement dated as of _____, 2019 between the Investor and OAQDA, and the Capital Provider Pledge Agreement dated as of _____, 2019 between the Investor and the OAQDA)] and thereunder in respect of the Project Advance, and (2) Investor, as Investor and secured party, shall to the extent such rights and obligations have been assigned by it pursuant to such Assignment, relinquish its rights and be released from its obligations hereunder and thereunder the Loan Documents. The liabilities of Investor and each of the Investor Assignees shall be several and not joint. Neither Investor nor any Investor Assignee shall be responsible for the obligations of any other Investor Assignee.

(d) Owner acknowledges and agrees that Investor may provide to the Investor Assignees, and that Investor and each of the Investor Assignees may provide to any Participant, originals or copies of this Agreement, all Loan Documents and all other documents, instruments, certificates, opinions, insurance policies, letters of credit, reports, requisitions and other materials and information of every nature or description, and may communicate all oral information, at any time submitted by or on behalf of Owner or received by Investor in connection with the Project Advance or Owner, provided that, prior to any such delivery or communication, the Investor Assignee or Participant or proposed participant, as the case may be, shall agree to preserve the confidentiality of any of the foregoing to the same extent that Investor agreed to preserve such confidentiality. Upon any assignment of this Agreement to any Investor Assignee, the assigning entity and the Investor Assignee shall give prompt notice of such assignment to the other Parties to this Agreement.

4.5 This Agreement shall be construed in accordance with the laws of the State of Ohio.

4.6 This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

4.7 The Parties hereby acknowledge and agree that this Agreement does not constitute a contract involving the expenditure of money by the County.

IN WITNESS WHEREOF, each party to this Agreement has caused this Agreement to be executed in its respective name and capacity by its respective duly authorized officers, all as of the day and the year first written above.

"TREASURER"
COUNTY TREASURER OF FRANKLIN COUNTY, OHIO

_____
Treasurer
County of Franklin, Ohio

STATE OF OHIO)
) SS:
COUNTY OF FRANKLIN)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named FRANKLIN COUNTY TREASURER, who acknowledged that he or she did sign the foregoing instrument and the same is his or her free act and deed as such officer of Franklin County.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2019.

_____
Notary Public

[SEAL]

"CITY"
CITY OF DUBLIN, OHIO

_____

Name: _____

Title: _____

STATE OF OHIO)
) SS:
COUNTY OF FRANKLIN)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named CITY OF DUBLIN, OHIO by _____, its_____, who acknowledged that he or she did sign the foregoing instrument and that the same is his or her free act and deed as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2019.

_____

Notary Public

[SEAL]

"INVESTOR"
PETROS PACE FINANCE, LLC

_____
Name: _____
Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named PETROS PACE FINANCE, LLC by _____, its_____ _____, who acknowledged that he or she did sign the foregoing instrument and that the same is his or her free act and deed as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2019.

_____
Notary Public

[SEAL]

"DISTRICT"
BEXLEY, COLUMBUS, DUBLIN, GROVE CITY, HILLIARD, PERRY TOWNSHIP, WHITEHALL, WORTHINGTON REGIONAL ENERGY SPECIAL
IMPROVEMENT DISTRICT, INC., D/B/A:
COLUMBUS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC.

By: _____

Name: _____

Title: _____

STATE OF OHIO)
) SS:
COUNTY OF _____)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named BEXLEY, COLUMBUS, DUBLIN, GROVE CITY, HILLIARD, PERRY TOWNSHIP, WHITEHALL, WORTHINGTON REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC., d/b/a COLUMBUS REGIONAL ENERGY SPECIAL IMPROVEMENT DISTRICT, INC. by _____, its _____, who acknowledged that such officer did sign the foregoing instrument and that the same is such officer's free act and deed as such officer and of said district.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2019.

_____
Notary Public

[SEAL]

"OWNER"
970 HIGH RIDGE ASSOCIATES LLC,
a Connecticut limited liability company

By: _____

Name: _____

Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named 970 HIGH RIDGE ASSOCIATES LLC by _____, its _____, who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed as such officer and of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2019.

_____
Notary Public

[SEAL]

This instrument prepared by:
J. Caleb Bell, Esq.
Bricker & Eckler LLP
100 South Third St.
Columbus, Ohio 43215

FISCAL OFFICER'S CERTIFICATE

The undersigned, Director of Finance of the City of Dublin, Ohio, hereby certifies that the City has established a special assessment fund, into which the Special Assessments (as that term is defined in the foregoing Agreement) received by the City shall be deposited, free from any previous encumbrances. The City shall use the moneys deposited in such special assessment fund to meet its obligations under the foregoing Agreement. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44

Dated: _____, 2019

_____
Director of Finance
City of Dublin, Ohio

EXHIBIT A

DESCRIPTION OF PROPERTY

The real property subject to this Owner Consent is located at the commonly used address 5165 Emerald Parkway, Dublin, Ohio 43017, having Franklin County Auditor Parcel ID No. 273-001687-00 and the following legal description:

[Legal Description To Be Inserted]

EXHIBIT B

OWNER CONSENT
(Affidavit of Facts Relating to Title Made Pursuant to O.R.C. §5301.252)

The undersigned, _____, having been duly cautioned and sworn, deposes and states as follows:

The undersigned is the _____ of 970 High Ridge Associates LLC, a Connecticut limited liability company (the "Owner").

This Owner Consent, dated as of _____, 2019, is given by the Owner pursuant to the Special Assessment Agreement dated as of _____, 2019 (the "Agreement") by and among the County Treasurer of Franklin County, Ohio (the "Treasurer"), the City of Dublin, Ohio (the "City"), the Bexley, Columbus, Dublin, Grove City, Hilliard, Perry Township, Whitehall, Worthington Regional Energy Special Improvement District, Inc., d/b/a the Columbus Regional Energy Special Improvement District, Inc., (the "District"), Petros PACE Finance, LLC (together with its permitted successors and assigns under the Agreement, the "Investor"), and the Owner. Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

The Agreement provides for an expedited foreclosure process with respect to certain Special Assessments which have been levied on the Property by the City in order to pay the costs of special energy improvement projects under Ohio Revised Code Chapter 1710. The Property is described in Exhibit 1 to this Owner Consent, and the Special Assessments are disclosed on Exhibit 2 to this Owner Consent.

The Agreement further provides that if an event of default occurs and is continuing with respect to a required semi-annual payment of Special Assessments or an "Event of Default" (as that term is defined in the Energy Project Cooperative Agreement, as appropriate) under the Energy Project Cooperative Agreement occurs and is continuing, the Treasurer will pursue an expedited foreclosure of the lien of the Special Assessments, all as provided in the Agreement. In consideration of the Project Advance to finance the Project, the Owner hereby consents to the expedited foreclosure process with respect to the lien of the Special Assessments then due and owing with respect to the Property, as provided in the Agreement.

The Owner is the owner of the Property. The Owner covenants and agrees that so long as the Project Advance remains outstanding, except as the covenant may be released by the District, the City and the Investor, as applicable, in writing, the expedited foreclosure process established pursuant to the Agreement shall be a covenant on and running with, and shall be binding upon, the Property, the Owner and all future owners of the Property. Any release, modification or waiver of the covenant running with the land by the District, the City or the Investor, as applicable, shall be filed of record with the Franklin County, Ohio Recorder's Office. The Owner agrees that this Owner Consent shall be recorded with the Franklin County, Ohio Recorder's Office and the Owner covenants and agrees to record such documents and to take

such reasonable steps as are necessary, so that the expedited foreclosure process with respect to the lien of the Special Assessments is a covenant on and running with the Property and is binding on the Owner and any and all future owners of all or any portion of the Property.

The Special Assessments have been levied by the City and certified for direct collection in semi-annual installments due on January 31 and July 31 of each of the years disclosed in the schedule of Special Assessments attached to this Owner Consent as Exhibit 2. Under certain circumstances described in the Agreement, the Special Assessments may be certified to the County Auditor for placement on the tax list and duplicate and collection with and in the same manner as real property taxes as special assessments binding against the Property in each of the years disclosed in the schedule of Special Assessments attached to this Owner Consent as Exhibit 2. Unless earlier paid by the Owner or any successor in interest of the Owner to the Property, the Special Assessments shall be levied, billed, due and payable, and collected in each of the years in each of the amounts disclosed on Exhibit 2.

Anything in this Owner Consent to the contrary notwithstanding, this Owner Consent shall in no way be construed as a waiver by the Owner of its statutory right of redemption, including the full applicable redemption period.

(Signature Page Immediately Follows)

Further affiant sayeth naught.

"OWNER"

970 HIGH RIDGE ASSOCIATES LLC

By: _____

Name: _____

Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named 970 HIGH RIDGE ASSOCIATES LLC by _____, its _____, who acknowledged that he did sign the foregoing instrument and that the same is such officer's free act and deed as such officer and of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2019.

_____
Notary Public

This instrument was prepared by:

J. Caleb Bell, Esq.
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215

EXHIBIT 1

DESCRIPTION OF PROPERTY

[Legal Description To Be Inserted]

EXHIBIT 2

SCHEDULE OF SPECIAL ASSESSMENTS

Property Tax Collection Year	Annual Total Special Assessment Amount	Requested Semi-Annual Special Assessment Payment Date*	Total Semi-Annual Special Assessment Installment Amount**
2020	$102,680.18	January 31, 2020	$51,340.09
		July 31, 2020	$51,340.09
2021	$102,680.18	January 31, 2021	$51,340.09
		July 31, 2021	$51,340.09
2022	$102,680.18	January 31, 2022	$51,340.09
		July 31, 2022	$51,340.09
2023	$102,680.18	January 31, 2023	$51,340.09
		July 31, 2023	$51,340.09
2024	$102,680.18	January 31, 2024	$51,340.09
		July 31, 2024	$51,340.09
2025	$102,680.18	January 31, 2025	$51,340.09
		July 31, 2025	$51,340.09
2026	$102,680.18	January 31, 2026	$51,340.09
		July 31, 2026	$51,340.09
2027	$102,680.18	January 31, 2027	$51,340.09
		July 31, 2027	$51,340.09
2028	$102,680.18	January 31, 2028	$51,340.09
		July 31, 2028	$51,340.09
2029	$102,680.18	January 31, 2029	$51,340.09
		July 31, 2029	$51,340.09
2030	$102,680.18	January 31, 2030	$51,340.09
		July 31, 2030	$51,340.09
2031	$102,680.18	January 31, 2031	$51,340.09
		July 31, 2031	$51,340.09
2032	$102,680.18	January 31, 2032	$51,340.09
		July 31, 2032	$51,340.09
2033	$102,680.18	January 31, 2033	$51,340.09
		July 31, 2033	$51,340.09
2034	$102,680.18	January 31, 2034	$51,340.09
		July 31, 2034	$51,340.09
2035	$102,680.18	January 31, 2035	$51,340.09
		July 31, 2035	$51,340.09
2036	$102,680.18	January 31, 2036	$51,340.09
		July 31, 2036	$51,340.09

2037	$102,680.18	January 31, 2037	$51,340.09
		July 31, 2037	$51,340.09
2038	$102,680.18	January 31, 2038	$51,340.09
		July 31, 2038	$51,340.09

* Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Exhibit 2 are subject to adjustment by the Franklin County Auditor under certain conditions.

** Pursuant to Ohio Revised Code Section 727.36, the Franklin County Auditor may charge and collect a fee in addition to the amounts listed in this Exhibit 2.