



MONROE COUNTY, MICHIGAN

PACE PROGRAM

PROPERTY ASSESSED CLEAN ENERGY

August 2019

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PACE Program

Executive Summary

Public Act No. 270 of 2010 (“Act 270”) authorizes local units of government to adopt Property Assessed Clean Energy (“PACE”) programs to promote the use of renewable energy systems and energy efficiency improvements by owners of certain real commercial and industrial property located within the boundaries of Monroe County, Michigan. P.A. 270 allows private commercial lenders to finance energy projects; authorizes local units of government to issue bonds, notes and other indebtedness; and authorizes the assessment of properties for the cost of the energy projects. Act 270 provides for repayment to the local unit of government or directly to the commercial lender through a voluntary property assessment. The property assessment remains with the property and has the same priority as other property tax and assessment liens in the event of foreclosure.

This documentation package includes the report required by Section 9 of Act 270 and provides model forms of documents for the Monroe County, MI PACE program. As many of the details of a PACE transaction are determined on a project specific basis, adjustments to the model documents may be required to fit a particular transaction. Additionally, there are several blanks left in the documents that should be filled in when the corresponding information is known.

The goal of the program is to support employment opportunities and expanded economic development. The County is sponsoring this program with this sole objective. The County shall manage the program with no incentive for any financial gain. The costs of the program are intended to be set at amounts that will cover the cost of administering the program so that general purpose tax dollars are not spent for the benefit of individual applicants. The County’s goal is that projects shall be approved that are financially sound and have the highest level of probability based on the best estimate of return on investment in order to be successful.

MONROE COUNTY, MICHIGAN

PACE PROGRAM REPORT

The Monroe County, Michigan PACE Program Report contains the information required by Section 9 of Act 270. Additional information is available from Monroe County. The PACE Program and Report were approved by the County Board of Commissioners of Monroe County, Michigan on August 20, 2019, subsequent to a public hearing held on August 20, 2019.

INTRODUCTION

In order to encourage economic development, improve property valuation, increase employment, reduce energy costs, reduce greenhouse gas emissions and contribute to the public health and welfare in Monroe County, the County Commissioners established the Monroe County Property Assessed Clean Energy Program (MCPACE) pursuant to Act 270 of 2010 (“Act 270”).

The PACE Program has identified specific sources of commercial funding to finance the implementation of energy efficiency improvements, renewable energy systems and energy projects within the Monroe County PACE district (which is coterminous with Monroe County’s jurisdictional boundaries).

The Monroe County Board of Commissioners approved a resolution of intent to establish a Property Assessed Clean Energy District at its meeting on August 6, 2019. The County published notice of the required public hearing regarding the establishment of the District on August 10, 2019. The public hearing was conducted on August 20, 2019, after which the Board of Commissioners approved the Resolution to Establish the Property Assessed Clean Energy District.

The purpose of this PACE Report (hereinafter the “Report”) is to fulfill the requirements of Act 270. Section 9 of Act 270 requires a Report that includes:

- a form of contract between Monroe County and the record owner
- identification of an official authorized to enter into program contracts on behalf of Monroe County
- a maximum aggregate amount for financing under the program
- an application process and eligibility requirements
- a method for determining interest rates
- repayment periods and the maximum amount of assessment
- explanation of how assessments will be made and collected
- a plan for raising capital
- information regarding reserve funds and fees of the program
- a requirement that the term of the assessment not exceed the useful life of the energy project
- a requirement of an appropriate ratio of the amount of assessment to the assessed value of the property
- requirement of consent from the mortgage holder
- provisions for marketing and participant education
- provisions for adequate debt service reserve fund
- quality assurance and anti-fraud measures
- a requirement for baseline energy audits, ongoing savings measurements and performance guarantees for projects over \$250,000 in assessments.

1. Form of PACE Contract

A form of model PACE Special Assessment Agreement is attached as **Appendix A**. Individual property owners may negotiate project specific terms to be included in the model Agreement based upon the specific energy efficiency and renewable energy improvements that are subject of the individual agreement, subject to the limitations set forth herein.

2. Authorized Official/PACE Administrator

The County Administrator/Chief Financial Officer or his designee (the “Authorized Official”) is authorized to enter into PACE Program contracts on behalf of Monroe County. The Authorized Official is further authorized to sign any agreement, documents or certificates necessary to facilitate the participation of property owners and to facilitate the purposes hereunder, subject to adherence to the PACE Program requirements detailed in this report.

3. Financing Parameters

Owner-arranged and other financing from commercial lenders, as allowed under Act 270, Section 9(1)(g)(iii), are separate sources of financing from the financing provided by Monroe County. The Authorized Official is not authorized to assist PACE project applicants in obtaining owner-arranged financing. The obligation to obtaining financing is an exclusive requirement of the property owner and shall not rely upon or seek assistance from the County in sourcing, determining any aspect of the financing agreement with a commercial lender or otherwise offering or providing advise or counsel in the appropriateness of the potential project. These considerations are the sole responsibility of the applicant to develop a complete project outline with financing, payback schedules, return on investment and all other requirements for inclusion in the application package to the County. The County will then consider the application for approval, rejection or referred back for any missing information necessary in order make a determination of project status.

4. Application Process/Eligibility Requirements

Application Process:

The application process for financing projects under the Program shall be that of Monroe County. The current application form is attached as **Appendix B**. This form may be changed or amended as necessary by Monroe County.

Eligibility Requirements:

- (a) The eligibility requirements for financing projects under the Program shall be those of Monroe County. Eligibility requirements may be changed or amended as necessary by Monroe County. The current list of eligibility requirements is attached as **Appendix C**. To qualify for the Monroe County PACE program, a project must meet a Minimum project cost of One Hundred Thousand Dollars (\$100,000.00).

Appeal:

- (b) Any applicant whose application is denied by the Authorized Official may appeal the application denial to the Monroe County Board of Commissioners within twenty-one (21) days of the date of the written denial. Any appeal shall be in writing and shall identify with specificity the facts upon which the appeal is based.

The Appellant shall establish by clear and convincing evidence that all eligibility requirements for financing a project under the Program were met and that the denial requires reversal by the Monroe County Board of Commissioners. The decision of the Monroe County Board of Commissioners shall be final.

5. Financing Terms of Assessments

For funds supplied by commercial lenders, the parties will negotiate the interest rate for PACE special assessment installments based on current market conditions and subject to the agreement between the parties.

The maximum allowable repayment period of a PACE special assessment must be included in the PACE Special Assessment Agreement and will be determined on a project specific basis and shall not exceed the lesser of the useful life of the energy project paid for by the assessment or 25 years. No projects will be considered that have a minimum repayment period of less than 10 years.

The maximum dollar amount of a PACE assessment shall be negotiated on a project-specific basis between the property owner and the bond purchaser/commercial lender based upon the specific energy efficiency improvement(s) and/or renewable energy system(s) included in the individual PACE Special Assessment Agreement, and approved by Monroe County.

6. Assessment Collection Process

Based upon the request of the Authorized Official, within the parameters set forth herein, they will determine to:

- i. Authorize commercial lenders to provide financing to defray all or part of the cost of the energy improvements by special assessment upon the Special Assessment Parcel, which the County Treasurer or designee will find is especially benefited in proportion to the costs of the energy improvements.

The Special Assessment Roll, attached as **Appendix E**, will be spread by the Authorized Official on behalf of Monroe County and without objection by the property owner to allocate one hundred percent (100%) of the PACE special assessment levy created hereby to the Special Assessment Parcel.

The PACE special assessment, as allocated by the Authorized Official on behalf of Monroe County without objection by the property owner, will be finally established against the property and the energy projects to be constructed on the Special Assessment Parcel. The PACE special assessment will be effective immediately upon the execution and delivery of the PACE Special Assessment Agreement by the property owner. The PACE special assessment may be

paid in semi-annual installments pursuant to Section 13(2) of Act 270. The Authorized Official, on behalf of Monroe County will confirm the Special Assessment Roll.

7. Financing Program

Monroe County authorizes the use of owner-arranged financing from commercial lenders to finance qualified energy projects under the Program. Furthermore, Monroe County recommends the Monroe County Business Development Corporation as a resource for an active roster of financial institutions, institutional investors and other sources of private capital available to finance PACE projects in Michigan.

8. Reserve Fund

As Monroe County has elected NOT to issue bonds, notes, or other public funds to finance PACE projects, it will not maintain a reserve fund for the program.

9. Fee Schedule

Application, administration and program fees for record owners shall be those of Monroe County Administration and program fees will be determined on a project specific basis and will depend on the size, nature and complexity of the energy project(s) and financing mechanism(s) involved.

10. Useful Life

The maximum length of time allowable for repayment of a PACE assessment shall not exceed the lesser of the useful life of the energy project paid for by the assessment or 25 years and will be determined on a project specific basis by Monroe County. Projects involving multiple energy efficiency improvements and/or renewable energy systems may aggregate the useful life of each improvement to determine an overall useful life figure for financing purposes. In aggregating the improvements, the property owner must appropriately weigh each improvement's dollar cost.

11. Property Eligibility Parameters

As set forth in the PACE Special Assessment Agreement, energy projects shall generally not exceed 25% of two times the State Equalized Value, in the year prior to completion of the application; and the lien to value ratio of property cannot exceed 80% of two times the State Equalized Value, in the year prior to completion of the application (does not include energy assessment amount). The Authorized Official may permit projects that exceed these values for good cause on a case-by-case basis.

12. Mortgage Consent Requirement

As set forth in the PACE Special Assessment Agreement, if a property is subject to a mortgage then the record owner must obtain written consent from the mortgagee to participate in the Program. Proof of lender consent must be submitted with the PACE Program Application. A form of model lender consent to participate in a PACE Program is attached as **Appendix G**.

13. Marketing Program

Monroe County in partnership with the Monroe County Business Development Corporation (BDC), will provide an ongoing marketing and participant education program. The BDC will provide both marketing and education programs as part of its economic development growth and retention program and will act as a point of contact to provide the same to any business considering locating in Monroe County about the opportunities to save energy, save money and improve their property. The BDC will act to assist the County as a liaison when necessary to gather any additional information that may be necessary to meet the County's obligation of reviewing and considering each application. The goal of the program is to support employment opportunities and expanded economic development. The County is sponsoring this program with this sole objective. The County shall manage the program with no incentive for any financial gain. The costs of the program are intended to be set at amounts that will cover the cost of administering the program so that general purpose tax dollars are not spent for the benefit of individual applicants. The County's goal is that projects shall be approved that are financially sound and have the highest level of probability based on the best estimate of return on investment in order to be successful.

14. Quality Assurance and Antifraud Measures

Monroe County includes the following quality assurance and antifraud measures:

- i. Business integrity review;
- ii. Background check process; and
- iii. Other general due diligence as may be necessary or required.

15. Audit Requirement

As set forth in the PACE Program Application, a baseline energy audit must be completed before an energy project is undertaken. Each contract will require and provide adequate funding for monitoring and verification of energy savings throughout the life of the special assessment.

16. Projects Over \$250,000

As set forth in the PACE Special Assessment Agreement, energy projects financed with more than \$250,000 require ongoing measurements to establish energy savings and a guarantee from the contractor that the energy project will achieve a savings to investment ratio greater than one (1). Provisions to provide for ongoing measurements and to provide performance guarantees shall be included with the PACE Program Application.

17. Amendments to the Program

A public hearing shall not be required to amend this Program.



SPACE ABOVE FOR RECORDING PURPOSES

**PACE SPECIAL ASSESSMENT AGREEMENT
[OWNER-ARRANGED FINANCING]**

by and among

MONROE COUNTY, MICHIGAN

and

and

Dated _____, 20xx

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**PACE SPECIAL ASSESSMENT AGREEMENT
[OWNER-ARRANGED FINANCING]**

THIS PACE SPECIAL ASSESSMENT AGREEMENT (this “Agreement”) is made this ____ day of _____, 20xx, by and among Monroe County, a Michigan county corporation (“Monroe County”), whose address is 106 E. First St Monroe, Michigan 48161, _____ (the “Property Owner”), whose address is _____, and _____, a _____ company (the “Lender”), whose address is _____.

RECITALS:

A. Pursuant to Act 270 and a resolution adopted by the County Commission of Monroe County on August 20, 2019, Monroe County has established the PACE Program as described in the PACE Program Report and has created the Special Assessment District under the PACE Program for the purpose, *inter alia*, of assisting a record owner of property within the Special Assessment District in obtaining Owner-Arranged Financing from a commercial lender to defray the costs of one or more Energy Projects on the property.

B. Under Act 270, Monroe County is authorized, pursuant to an agreement with the record owner of property within the Special Assessment District, to impose a special assessment on the property to be benefitted by the Energy Projects in order to secure and provide for the repayment of the Owner-Arranged Financing.

C. The Property Owner desires to undertake certain Energy Projects on commercial property of the Property Owner located within the Special Assessment District, as described herein, and has obtained a commitment from the Lender to make the Loan to the Property Owner to defray the cost thereof.

D. In order to induce the Lender to make the Loan to the Property Owner, the Property Owner has requested that Monroe County enter into this Agreement for the purpose of imposing a special assessment on the property to be benefitted by the Energy Projects, in accordance with Act 270, which special assessment will secure and provide for repayment of the Loan from the Lender.

E. Pursuant to Act 270 and the PACE Program, Monroe County is authorized to enter into this Agreement.

In consideration of the foregoing and the mutual covenants contained in this Agreement, Monroe County, the Property Owner and the Lender hereby enter into this Agreement and covenant and agree as follows:

**ARTICLE I
DEFINITIONS**

Section 1.01 Definitions. Capitalized terms used in this Agreement, including the Recitals hereto, shall have the following meanings, except to the extent the context in which they are used requires otherwise:

(a) “**Act 270**” means Act 270 of the Michigan Public Acts of 2010, commonly referred to as the Property Assessed Clean Energy Act.

(b) “**Agreement**” means this PACE Special Assessment Agreement as same may be amended and/or restated.

(c) “**Applicable Interest Rate**” means the per annum rate of interest specified in the Loan Documents at which the Special Assessment Roll bears interest as calculated by the Lender in accordance with the provisions of Section 4.01 of this Agreement.

(d) “**Authorized Official**” means the County Administrator/Chief Financial Officer of Monroe County, or his designee, who is authorized to exercise the authority of an Authorized Official under the terms of the PACE Program Report.

(e) “**Default Rate**” means the lesser of (i) % per annum and (ii) the maximum allowable rate of interest on the Special Assessment Roll under the laws of the State of Michigan.

(f) “**Energy Efficiency Improvement**” means equipment, devices, or materials intended to decrease energy consumption, including, but not limited to, all of the following: insulation in walls, roofs, floors, foundations, or heating and cooling distribution systems; storm windows and doors; multi-glazed windows and doors; heat-absorbing or heat-reflective glazed and coated window and door systems; and additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption; automated energy control systems; heating, ventilating, or air-conditioning and distribution system modifications or replacements; caulking, weather-stripping, and air sealing; replacement or modification of lighting fixtures to reduce the energy use of the lighting system; energy recovery systems; day lighting systems; installation or upgrade of electrical wiring or outlets to charge a motor vehicle that is fully or partially powered by electricity; measures to reduce the usage of water or increase the efficiency of water usage; and any other installation or modification of equipment, devices, or materials approved as a utility cost-savings measure by the County Council of Monroe County.

(g) “**Energy Project**” means the installation or modification of an Energy Efficiency Improvement or the acquisition, installation, or improvement of a Renewable Energy System.

(h) “**Event of Default**” has the meaning set forth in Section 7.01 hereof.

**PACE Special Assessment Agreement [Owner-Arranged Financing]
APPENDIX A**

(i) **“Force Majeure”** means unforeseeable events beyond a party’s reasonable control and without such party’s failure or negligence including, but not limited to, acts of God, acts of public or national enemy, acts of the federal government, fire, flood, epidemic, quarantine restrictions, strikes and embargoes, labor disturbances, the unavailability of raw materials, and delays of contractors due to such causes, but only if the party seeking to claim Force Majeure takes reasonable actions necessary to avoid delays caused thereby.

(j) **“General Property Tax Act”** means the General Property Tax Act, Act 206, Public Acts of Michigan, 1893, as amended.

(k) **“Improvements”** means the [Energy Efficiency Improvements and the Renewable Energy Improvements] being undertaken by the Property Owner on the Special Assessment Parcel as described in **Appendix H** attached hereto.

(l) **“Loan”** means the loan obtained by the Property Owner from the Lender pursuant to Owner-Arranged Financing to defray a portion of the cost of the Improvements under the terms of the Loan Documents.

(m) **“Loan Documents”** means [describe operative loan agreement and related documents between Property Owner and Lender].

(n) **“Owner-Arranged Financing”** means the process by which a property owner secures financing for improvements to its property that does not involve bonds, or any other form of funding provided by or supported by Monroe County.

(o) **“PACE Program”** shall mean the property assessed clean energy program implemented by Monroe County pursuant to Act 270 and the PACE Program Report to stimulate energy efficiency and renewable energy projects in conformity with Act 270.

(p) **“PACE Program Report”** means the Monroe Michigan Pace Program Report approved by the County Board of Commissioners of Monroe County on August 20, 2019.

(q) **“Payment Schedule”** has the meaning set forth in Section 4.01 hereof.

(r) **“Renewable Energy Improvement”** means a fixture, product, device, or interacting group of fixtures, products, or devices on the customer’s side of the electric meter that use one (1) or more renewable energy resources to generate electricity. Renewable Energy Improvement includes a biomass stove but does not include an incinerator or digester.

**PACE Special Assessment Agreement [Owner-Arranged Financing]
APPENDIX A**

(s) “**Special Assessment**” means the money obligation created pursuant to this Agreement with respect to the Special Assessment Parcel, used to defray the cost of the Improvements and which shall, until paid, be a lien upon the Special Assessment Parcel of the same priority and status as other property tax liens and other assessment liens as provided in Act 270.

(t) “**Special Assessment District**” means the Special Assessment District established as part of the PACE Program pursuant to Act 270.

(u) “**Special Assessment Parcel**” means the property located in the Special Assessment District to which one hundred percent (100%) of the Special Assessment has been spread by Monroe County and which is more particularly described on the attached **Appendix D**.

(v) “**Special Assessment Roll**” has the meaning set forth in Section 4.01 hereof.

**ARTICLE II
DESCRIPTION OF IMPROVEMENTS**

Section 2.01 Description of Improvements. The Improvements to be acquired, constructed, installed and financed by the Property Owner under the PACE Program are described in **Appendix I** attached hereto. If after project approval, the Property Owner seeks to undertake additional Improvements, **Appendix I** may be amended or supplemented from time to time. Such additional Improvements must meet all the eligibility criteria of the PACE Program and the PACE Program Report and may be added to the original application as a modification, or submitted as a new project, at the discretion of LEP and the Authorized Official.

**ARTICLE III
COVENANTS OF THE PROPERTY OWNER**

Section 3.01 Acquisition, Construction and Installation of Improvements. The Property Owner covenants and agrees to acquire, construct and install the Improvements as described in **Appendix I** on the Special Assessment Parcel described on **Appendix D** in full conformity with all applicable laws and regulations and in compliance with the PACE Program eligibility requirements set forth in **Appendix C**.

**ARTICLE IV
PACE SPECIAL ASSESSMENT**

Section 4.01 PACE Special Assessment Created.

**PACE Special Assessment Agreement [Owner-Arranged Financing]
APPENDIX A**

(a) The Improvements on the Special Assessment Parcel by the levy of the Special Assessment upon the Special Assessment Parcel, which the Authorized Official on behalf of Monroe County finds is especially benefitted in proportion to the cost of the Improvements. The Special Assessment created hereby has been spread by the Authorized Official on behalf of Monroe County on the Special Assessment Roll attached hereto as **Appendix E** (the “Special Assessment Roll”), with the consent of the Property Owner, to allocate one hundred percent (100%) of the Special Assessment to the Special Assessment Parcel.

(b) The Special Assessment, as allocated by the Authorized Official with the consent of the Property Owner, is hereby finally established and levied against the Special Assessment Parcel as described on the attached **Appendix D** in the principal amount of _____ Dollars (\$ _____) as stated on the Special Assessment Roll. The Special Assessment is effective immediately upon the execution and delivery of this Agreement by the Property Owner. The Special Assessment shall be paid by the Property Owner in [forty (40)] semi-annual installments on the dates and in the amounts set forth in the payment schedule attached hereto as **Appendix F** (the “Payment Schedule”). The Special Assessment Roll and the Payment Schedule are hereby confirmed by the Authorized Official on behalf of Monroe County. The unpaid amount of the Special Assessment Roll shall bear interest from the date of execution and delivery of this Agreement at the Applicable Interest Rate, as calculated by the Lender in accordance with the terms of the Loan Documents, payable semi-annually on each date on which any installment of the Special Assessment is due in accordance with the Payment Schedule. Notwithstanding the foregoing, (i) if any installment of the Special Assessment or any interest due and payable on the Special Assessment Roll is not paid by the Property Owner when and as the same shall become due and payable in accordance with the provisions of this Section 4.01 or (ii) any “event of default” under the Loan Documents has occurred and is continuing, the unpaid amount of the Special Assessment Roll shall bear interest at the Default Rate as calculated by the Lender in accordance with the terms of the Loan Documents, for long as such amounts remain unpaid or for so long as such “event of default” under the Loan Documents exists and is continuing. Monroe County, the Property Owner and the Lender agree that the Lender shall be solely responsible for the determination from time to time of the Applicable Interest Rate and the Default Rate and the amount of interest due and payable by the Property Owner on the Special Assessment Roll on each day on which interest thereon is due and payable as provided in this Agreement, and the Lender’s determination thereof shall be binding on the Property Owner absent manifest error. The Property Owner and the Lender agree that Monroe County shall under no circumstance have any obligation to determine the Applicable Interest Rate or the Default Rate or to calculate the amount of any interest payment due on the Special Assessment Roll as provided in this Agreement, and Monroe County may conclusively rely upon the Lender’s determinations thereof for the purpose of exercising and discharging all of Monroe County’s rights and obligations under this Agreement. The Lender agrees to provide, or cause to be provided, notice to the Property Owner and Monroe County of the determinations of the Applicable Interest Rate and the Default Rate, as applicable, pursuant to this Section 4.01(b) at such times, and from time to time, as the Property Owner or Monroe County may request.

Section 4.02 Assignment of Special Assessment Payments to Lender. At the request of the Property Owner and the Lender, and pursuant to Section 9(f)(iii) of Act 270, Monroe County hereby irrevocably assigns to the Lender its right to receive all installments of the Special Assessment required to be paid by the Property Owner pursuant to this Agreement, whether in accordance with the Payment Schedule or upon prepayment of the Special Assessment in whole or in part in accordance with Section 4.06 of this Agreement, together with all payments of interest due and payable on the Special Assessment Roll at the Applicable Interest Rate or the Default Rate, as the case may be, as provided in Section 4.01(b) of this Agreement. In pursuance of the foregoing, Monroe County, the Property Owner and the Lender agree that, except as provided in Section 4.05 of this Agreement, (i) all installments of the Special Assessment, whether payable in accordance with the Payment Schedule or upon prepayment of the Special Assessment in whole or in part in accordance with Section 4.06 of this Agreement, together with all payments of interest due and payable upon the Special Assessment Roll at the Applicable Interest Rate or the Default Rate, as the case may be, shall be paid by the Property Owner directly to the Lender when due at such address in the United States as may be designated by the Lender in writing to the Property Owner and Monroe County, (ii) Monroe County shall have no obligation or duty to include any installments of the Special Assessment on any tax bill issued by Monroe County or to bill, collect or remit to the Lender any installments of the Special Assessment or any interest due and payable upon the Special Assessment Roll, and (iii) absent receipt by Monroe County of written notice from the Lender of a payment default in accordance with Section 4.05 hereof, Monroe County shall be entitled to conclusively presume that all installments of the Special Assessment and all payments of interest due and payable on the Special Assessment Roll have been made by the Lender to the Property Owner when due as required by the terms of this Agreement.

Section 4.03 Property Owner's Consent to Special Assessment: Waiver.

(a) The Property Owner hereby irrevocably consents to and confirms the creation of the Special Assessment Roll and the levy of the Special Assessment established pursuant to this Agreement and EXPRESSLY WAIVES ANY AND ALL CLAIMS CHALLENGING THE LEGALITY, VALIDITY OR COLLECTABILITY OF THE SPECIAL ASSESSMENT, including, but not limited to, claims arising from or based upon any theory of procedural defect concerning the approval of the Improvements, the establishment of the Special Assessment District, confirmation of the Special Assessment Roll and the Payment Schedule, Monroe County's right to place the Special Assessment lien on the Special Assessment Parcel, the collectability and due dates of the Special Assessment installments and interest due and payable on the Special Assessment Roll, or any other theory or claim. The Property Owner further waives notice of hearing and the right to file objections if and to the extent such rights exist under any special assessment ordinance of Monroe County.

(b) Following the signing of this Agreement, no suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of the Special Assessment, and the Property Owner, for itself and its successors in interest, lessees, purchasers, and assigns with respect to all or any part of the Special Assessment Parcel, hereby irrevocably

**PACE Special Assessment Agreement [Owner-Arranged Financing]
APPENDIX A**

waives its rights to contest the Special Assessment with any adjudicative body having jurisdiction over the subject matter, including, but not limited to, the Michigan Tax Tribunal.

(c) [In addition to the conditions specified in the Loan Documents,] the Property Owner shall not sell, transfer, alienate or convey any of its interest in the Special Assessment Parcel without first having given written notice of the Special Assessment to any successors in interest, lessees, purchasers or assigns and made a copy of this Agreement part of any purchase contract, sale contract, lease agreement, deed or any other conveyancing instrument by which the Property Owner purports to assign all or any part of its interest in the Special Assessment Parcel to any successors in interest, lessees, purchasers, and assigns. This Agreement shall be recorded against the real property constituting the Special Assessment Parcel by Monroe County with the Register of Deeds of the County of Monroe, State of Michigan.

(d) The Property Owner agrees that it, its successors and assigns shall, during the term of this Agreement and the Special Assessment, pay all ad valorem real property taxes and assessments levied against the Special Assessment Parcel when due and the Property Owner specifically waives, irrevocably for itself, its successors and assigns as to any and all portions of the Special Assessment Parcel, the right to pay ad valorem real property taxes and assessments on any other installment method which may be available to property owners in Monroe County.

(e) Monroe County agrees that following (i) payment by the Property Owner in full of the Special Assessment, together with all accrued interest on the Special Assessment Roll, and all other interest, charges and penalties which may accrue thereon, and (ii) receipt by Monroe County of written acknowledgment from the Lender that the Special Assessment, together with all accrued interest on the Special Assessment Roll, has been paid to the Lender in full, it will promptly execute and deliver documentation discharging the lien of the Special Assessment on the Special Assessment Parcel. Until the Special Assessment liability has been fully satisfied and the lien discharged, each purchaser of all or any part of the Special Assessment Parcel, as a condition of closing on such purchase, shall execute and deliver to Monroe County a written notice: (i) acknowledging the principal amount unpaid and outstanding on the Special Assessment; (ii) agreeing to the assumption of the liability to pay the Special Assessment on a timely basis, when due, until the remaining balance and interest on said Special Assessment has been paid in full; and (iii) acknowledging that the title insurance policy will state that the Special Assessment has not been paid at time of closing thereon.

Section 4.04 Lien. The Special Assessment is an obligation with respect to the Special Assessment Parcel, and shall, until paid, be and continue to be a lien upon the Special Assessment Parcel for the amount of the Special Assessment and all interest, charges and penalties that may accrue thereon. Such lien shall be of the same character and effect as liens created pursuant to the ordinances of Monroe County for County taxes and shall be treated as such with respect to procedures for collection as set forth in the General Property Tax Act and the ordinances of Monroe County, including accrued interest, charges and penalties. The Special Assessment confirmed hereby is a debt to Monroe County from the Property Owner and its successors in interest, lessees, purchasers and assigns. The right of Monroe County to receive all installments of the Special Assessment required to be paid by the Property Owner pursuant to

**PACE Special Assessment Agreement [Owner-Arranged Financing]
APPENDIX A**

this Agreement, together with all payments of interest due and payable on the Special Assessment Roll at the Applicable Interest Rate or the Default Rate, as the case may be, as provided in Section 4.01, has been assigned by Monroe County to the Lender in accordance with the provisions of Section 4.02 of this Agreement. No judgment or decree shall destroy or impair any lien of Monroe County upon the premises assessed for such amount of the Special Assessment as may have been equitably or lawfully charged and assessed thereon. Failure of the Property Owner or any subsequent property owner to receive any notice required to be sent under the provisions of the ordinances of Monroe County or this Agreement shall not invalidate the Special Assessment or the Special Assessment Roll and shall not be a jurisdictional requirement.

Section 4.05 Payment Default.

(a) If any installment of the Special Assessment or interest due on the Special Assessment Roll shall not have been paid by the Property Owner to the Lender, as assignee of Monroe County, at the time and in the amount required by Section 4.01 hereof (a “Payment Default”), the Lender shall, within thirty (30) days following the date such sums were due and payable (the “Payment Default Date”), deliver written notice to the local taxing authority and Monroe County Treasurer stating all of the following: (i) that a Payment Default has occurred under this Agreement; (ii) the Payment Default Date; (iii) the amount of the Special Assessment that was due and payable as of the Payment Default Date and which remains unpaid and the amount of interest on the Special Assessment Roll that was due and payable as of the Payment Default Date and which remains unpaid (collectively, the “Payment Default Amount”); and (iv) an attestation by an authorized officer of the Lender that the statements contained in the foregoing notice are true, correct and complete as of the date of such notice. Upon receipt of such notice from the Lender, the local taxing authority shall take such actions as may be required to cause the Payment Default Amount to be certified for collection on the summer or winter tax bill next succeeding the Payment Default Date, and such Payment Default Amount shall be collected at the same time and in the same manner as is prescribed for the collection of taxes under the General Property Tax Act. Monroe County may assess a fee for delinquent taxes, interest, penalties, and fees as provided under General Property Tax Act Section 211.78. Notwithstanding the foregoing provisions of this Section 4.05(a), if the local taxing authority shall determine that the notice of the Lender described in this Section 4.05(a) was not received by Monroe County in sufficient time to permit the Payment Default Amount to be placed for collection on the summer or winter tax bill next succeeding the Payment Default Date, such Payment Default Amount shall be certified for collection on the next feasible summer or winter tax bill. Monroe County shall be entitled to conclusively rely upon any notice of the Lender delivered pursuant to this Section 4.05(a) as to the existence of a Payment Default and as to the Payment Default Amount, and shall not be liable to the Property Owner or to any other person for any action taken by Monroe County pursuant to the terms of this Agreement or otherwise in reliance upon the information contained in such notice. Absent receipt by the local taxing authority of written notice from the Lender of a Payment Default in accordance with this Section 4.05(a), Monroe County shall be entitled to presume conclusively that all installments of the Special Assessment and all payments of interest due and payable on the Special Assessment Roll have been made by the Property Owner to the Lender when due as required by the terms of this

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Agreement, and Monroe County shall have no obligation or duty to include any installments of the Special Assessment on any tax bill issued by Monroe County or to bill, collect or remit to the Lender any installments of the Special Assessment or any interest due and payable upon the Special Assessment Roll.

(b) Monroe County hereby agrees that, pursuant to the assignment set forth in Section 4.04, it will cause to be paid over to the Lender, without interest, all amounts received by the County Treasurer as collections of any Payment Default Amount that has been placed on any summer or winter tax bill in accordance with Section 4.05(a) hereof, and that has not been returned to the County Treasurer of the County of Monroe, Michigan as delinquent, within forty-five (45) days of the date such sums are received by the County Treasurer. The parties hereto expressly acknowledge and agree that in no event shall Monroe County advance to the Lender the amount of any unpaid Payment Default Amount, and Monroe County shall be obligated to pay over to the Lender only such sums as are actually received by the County Treasurer as collections of any Payment Default Amount that has been placed on a summer or winter tax bill as provided in this Section 4.05.

(c) If any Payment Default Amount included in a summer or winter tax bill in any year shall remain unpaid as of the last day of February of the following year (the "Delinquent Payment Amount"), the local taxing authority shall use its best efforts to return the Delinquent Payment Amount also referred to as the Delinquent Amount to the County Treasurer of the County of Monroe, Michigan for collection pursuant to the General Property Tax Act in the same manner and with like effect as returns by Monroe County of delinquent County taxes.

(d) In the event that any interest, penalties, fees or other charges shall be imposed upon the Special Assessment Parcel or against the Special Assessment Roll or the amount of any unpaid Special Assessment pursuant to the ordinances of Monroe County or the General Property Tax Act, either by [CITY/TOWNSHIP] or by the County of Monroe, Michigan, for the administration, billing, collection or enforcement of the Special Assessment created hereby, such amounts shall remain a debt of the Property Owner to [CITY/TOWNSHIP] or the County Treasurer of the County of Monroe, Michigan, as their interests may appear, and shall not be deemed to have been assigned to the Lender pursuant to the terms of this Agreement or otherwise.

Section 4.06 Prepayment of Special Assessment. Subject to the provisions of the Loan Documents, the Property Owner may, upon [thirty (30)] days' written notice to the Lender and Monroe County, prepay any installment of the Special Assessment specified in the Payment Schedule by causing to be paid to the Lender the amount of the installment to be prepaid, together with accrued interest thereon to the date of prepayment. If such prepayment of any installment is not received by the Lender on the date specified for prepayment, the Lender shall promptly deliver written notice to Monroe County that such prepayment was not received by the Lender.

Section 4.07 Invalidity; Cure. In the event of any invalidity of the Special Assessment because of irregularity in the proceedings or the adjudgment of the Special Assessment as illegal by a court of competent jurisdiction, the Authorized Official, at the request of the Lender, and if Monroe County shall have received indemnity satisfactory to the Authorized Official for its costs and expenses (including reasonable attorneys' fees), may cause a new Special Assessment to be made for all or any part of the Improvements in accordance with Act 270 and the PACE Program as reasonably determined by the Authorized Official, and the Property Owner, on behalf of itself and its successors in interest, lessees, purchasers, and assigns, hereby waives any objections to and agrees to the imposition of such new Special Assessment; *provided, however*, that the amount of the new Special Assessment shall not exceed the unpaid principal amount of the Loan at the time the new Special Assessment shall be established.

**ARTICLE V
CONDITIONS PRECEDENT**

Section 5.01 Conditions Precedent to Monroe County's Obligations.

The obligations of Monroe County under this Agreement shall be subject to the satisfaction of the following conditions precedent on or prior to the date of execution and delivery of this Agreement by Monroe County, unless waived in writing by Monroe County:

(a) The County, the Property Owner and the Lender shall have authorized, executed and delivered this Agreement and all approvals required hereby shall have been secured.

(b) No action, suit, proceeding or investigation shall be pending before any court, public board or body to which the Property Owner or Monroe County is a party, or shall be threatened in writing against the Property Owner or Monroe County, contesting the validity or binding effect of this Agreement, the Special Assessment or the Owner-Arranged Financing contemplated hereby, or which, if adversely decided, could have a material adverse effect upon the ability of the Property Owner to pay or Monroe County to levy the Special Assessment or to assign to the Lender the right to receive payments of the Special Assessment, or which could have a material adverse effect on the ability of the Property Owner of Monroe County to comply with any of the obligations and terms of this Agreement.

(c) There shall be no ongoing breach of any of the covenants and agreements of the Property Owner required to have been observed or performed by the Property Owner under the terms of this Agreement and no Event of Default by the Property Owner, and no event which, with the passage of time or the giving of notice or both could become an Event of Default by the Property Owner under this Agreement, shall have occurred.

(d) All documents, schedules, materials, maps, plans, descriptions and related matters which are contemplated to be made Appendices to this Agreement shall have been fully completed by the Property Owner to Monroe County's reasonable satisfaction and such Appendices shall be true, accurate and complete.

(e) The Property Owner shall meet all eligibility requirements as set forth in **Appendix C**.

(f) The Property Owner and the Lender shall have authorized, executed and delivered the Loan Documents, and the Lender shall have funded the Loan in accordance with the terms of the Loan Documents.

(g) Monroe County shall have received an opinion of counsel to the Property Owner, acceptable in form and substance to Monroe County, as to the matters set forth in the representations of the Property Owner contained in subsections (a) through (d) of Section 6.02 hereof.

(h) The Property Owner shall not have filed for bankruptcy or sought the protections of any state or federal insolvency law providing protections to debtors.

(i) The Property Owner shall have obtained the consent of each holder of a mortgage interest in the Special Assessment Parcel to the execution and delivery of this Agreement in substantially the form set forth in the PACE Program Report.

**ARTICLE VI
REPRESENTATIONS AND WARRANTIES**

Section 6.01 Representations and Warranties of Monroe County.

Monroe County represents and warrants to the Property Owner that:

(a) The execution and delivery of this Agreement has been duly authorized by Monroe County, and this Agreement constitutes a valid and binding agreement of Monroe County, enforceable against Monroe County in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or other laws affecting creditors' rights generally, now existing or hereafter enacted, and by the application of general principals of equity, including those relating to equitable subordination.

(b) Neither the execution and delivery of this Agreement nor the consummation of the transaction contemplated herein is in violation of any provision of any existing law, ordinance, rule, resolution or regulation to which Monroe County is subject, or any agreement to which Monroe County is a party or by which Monroe County is bound, or any order or decree of any court or governmental entity by which Monroe County is subject.

Section 6.02 Representations and Warranties of the Property Owner.

The Property Owner represents and warrants to Monroe County and the Lender that:

**PACE Special Assessment Agreement [Owner-Arranged Financing]
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(a) The Property Owner is duly organized and validly existing as a Michigan limited liability company in good standing under the laws of the State of Michigan, with power under the laws of the State of Michigan to carry on its business as now being conducted, and is duly qualified to do business in the State of Michigan; and the Property Owner has the power and authority to own the Special Assessment Parcel and to carry out its obligation to complete the Improvements.

(b) The execution and delivery of this Agreement will not result in a violation or default by the Property Owner of any provision of its Articles of Organization or Operating Agreement, or under any indenture, contract, mortgage, lien, agreement, lease, loan agreement, note, order, judgment, decree or other instrument of any kind or character to which it is a party and by which it is bound, or to which it or any of its assets are subject.

(c) The Property Owner is the sole and exclusive legal and equitable title owner of fee simple title to the Special Assessment Parcel and the Improvements located, or to be located, thereon and has full legal power and authority to consent to the finalization and levying of the Special Assessment as provided herein.

(d) The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite action, and this Agreement has been duly executed and delivered by the Property owner and constitutes a valid and binding agreement enforceable against the Property Owner in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or other laws affecting creditors' rights generally, now existing or hereafter enacted, and by the application of general principles of equity, including those relating to equitable subordination.

(e) Property Owner warrants and agrees that any contractual, legal or other disputes between it and the Lender -- other than matters specifically related to enforcement of property tax obligations -- or Contractor involved in the PACE project do not involve Monroe County, and Property Owner agrees to hold Monroe County harmless in any such disputes or causes of action.

(f) The Property Owner, the Special Assessment Parcel and the Improvements satisfy all of the PACE Program eligibility requirements set forth in **Appendix C**.

Section 6.03 Representations and Warranties of the Lender.

The Lender represents and warrants to Monroe County that:

(a) In connection with its business, the Lender holds an extensive portfolio of loans and investment securities. It has experience in the market for property assessed clean energy programs and assessments and is capable of evaluating the merits and risks of its participation in the Owner-Arranged Financing contemplated by this Agreement.

(b) The Lender has made its own independent investigation of the Property Owner, the terms of this Agreement, the nature of the Special Assessment created hereby and the

**PACE Special Assessment Agreement [Owner-Arranged Financing]
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procedures for the collection and enforcement of the Special Assessment under this Agreement and the laws of the State of Michigan, and is not relying on Monroe County, its agents, attorneys or employees for any of such information or with respect to the sufficiency and scope of such investigation. The Lender has not received, and is not relying on representations of Monroe County with respect to the Property Owner.

(c) Lender warrants and agrees that any contractual, legal or other disputes between it and Property Owner -- other than matters specifically related to enforcement of property tax obligations -- do not involve Monroe County, and Lender agrees to hold Monroe County harmless in any such disputes or causes of action.

**ARTICLE VII
DEFAULT**

Section 7.01 Property Owner Event of Default. If the Property Owner shall default in the performance of any covenant or agreement on its part contained in this Agreement and such default shall continue for a period of thirty (30) days after written notice thereof has been given to the Property Owner by Monroe County, an “Event of Default” shall be deemed to have occurred under this Agreement.

Section 7.02 Remedies for Property Owner Event of Default. [Upon the occurrence of an Event of Default as provided in Section 7.01 hereof, Monroe County, after giving written notice as required, without further notice of any kind, shall be entitled to seek and obtain a decree of specific performance of this Agreement from a court of competent jurisdiction; or the right to recover from the Property Owner any damages incurred by Monroe County and any costs incurred by Monroe County in enforcing or attempting to enforce this Agreement or the Special Assessment, including attorneys’ fees and expenses; or to foreclose on the Special Assessment Parcel and to sell all or any part of the Special Assessment Parcel to the extent necessary to recover any damages and costs; or any combination of the foregoing. Notwithstanding the foregoing, the parties hereto acknowledge and agree that Monroe County shall not be obligated to institute any of the actions or proceedings or to exercise any of the remedies authorized by this Section 7.02 upon the occurrence of an Event of Default hereunder, and that its obligations with respect to the billing, collection and enforcement of the Special Assessment or any installment thereon shall be limited to those obligations set forth in Article IV of this Agreement. The Lender acknowledges that neither the Special Assessment nor any installment thereon can be accelerated, and that no additional costs, other than the costs of the Improvements, are included in the amount of the Special Assessment levied against the Special Assessment Parcel pursuant to the terms of this Agreement.]

Section 7.03 Monroe County Default. If Monroe County shall default in the performance of any covenant or agreement on its part contained in this Agreement and shall fail to proceed in good faith to cure such default within sixty (60) days after written notice thereof has been received by Monroe County from the Property Owner or the Lender, a “County Default” shall be deemed to have occurred under this Agreement.

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Section 7.04 Remedy for County Default. Upon the occurrence of a County Default as provided in Section 7.03 hereof, and if the Property Owner or the Lender, as the case may be, shall have otherwise fully performed all of its obligations hereunder, the Property Owner or the Lender, after giving written notice as required, without further notice or demand, shall be entitled to seek and obtain a decree of specific performance from a court of competent jurisdiction; but neither the Property Owner nor the Lender shall have the right to seek to recover money damages against Monroe County, including any costs or fees (including attorneys' fees) incurred by the Property Owner or the Lender in enforcing or attempting to enforce this Agreement. Neither the occurrence of a County Default nor the institution of any proceeding or the exercise of any remedy upon the occurrence of a County Default shall negate or diminish the obligations of the Property Owner hereunder to pay the installments of the Special Assessment and interest accrued on the Special Assessment Roll and all other costs hereunder when the same shall become due and payable.

Section 7.05 Waiver. Failure of any party hereunder to act upon discovery of a default or to act upon the existence of an Event of Default shall not constitute a waiver of the right to pursue the remedies provided herein.

**ARTICLE VIII
MISCELLANEOUS**

Section 8.01 Term. Except as otherwise provided in this Agreement, the terms of this Agreement shall commence on the date first written above and shall terminate at such time as the Special Assessment liability shall have been fully satisfied as provided in Section 4.03(e) hereof.

Section 8.02 Assignment.

(a) Except as otherwise provided herein and as provided in Section 8.02(b) hereof, no party to this Agreement may transfer, assign or delegate to any other person or entity all or any part of its rights or obligations arising under this Agreement without the prior written consent of the other parties hereto excepting as otherwise expressly provided herein.

(b) The Lender and its successors and assigns may assign its rights in this Agreement and in the Special Assessment, in whole but not in part; provided, however, that any such assignment shall be made only in accordance with applicable law (including, without limitation, any applicable federal or state securities laws); and provided further, however, that no such assignment shall be effective unless Monroe County and the Property Owner shall have first received (i) notice of the assignment disclosing the name and the address of the assignee, which shall be an address in the United States, (ii) an agreement executed by the assignee, in form and substance acceptable to Monroe County, evidencing the assignee's agreement to be bound by the agreements made by the Lender hereunder, and (iii) a certificate executed by the assignee, in form and substance acceptable to Monroe County, confirming the representations and warranties set forth in Section 6.03 hereof as to the assignee. Any costs or fees (including reasonable attorneys' fees) incurred by Monroe County in connection with any assignment made pursuant to this Section 8.02 shall be paid to Monroe County by the Lender or its assignee as a condition to the effectiveness of the assignment. From and after the date of satisfaction of the conditions for the assignment of this Agreement as provided in this Section 8.02(b), the assignee of the Lender shall be a party hereto and shall have the rights and obligations of the Lender specified hereunder, and such assignee shall be deemed to be the "Lender" for all purposes of this Agreement.

Section 8.03 Notices. All notices, certificates or communications required by this Agreement to be given shall be in writing and shall be sufficiently given and shall be deemed delivered when personally served, or when received if mailed by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective parties as follows:

If to the County:

Monroe County
125 East Second Street
Monroe, MI 48161
Attn: Administrator/Chief Financial Officer

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With a copy to: Monroe County
125 East Second Street
Monroe, MI. 48161
Attn: [insert title of authorized official]

If to the Property Owner: _____

Attn: _____

With a copy to: The Lender

If to the Lender: _____

Attn: _____

or to such other address as such party may specify by written notice to the other parties hereto.

Section 8.04 Amendment and Waiver No amendment or modification to or of this Agreement shall be binding upon any party hereto until such amendment or modification is reduced to writing and executed by each party hereto. No waiver of any term of this Agreement shall be binding upon any party until such waiver is reduced to writing, executed by the party to be charged with such waiver, and delivered to the other parties hereto.

Section 8.05 Entire Agreement. This Agreement and the agreements and documents specifically referenced herein, contain all agreements between the parties. There are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among the parties, except to the extent reference is made thereto in this Agreement.

Section 8.06 Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.

Section 8.07 Captions. The captions and headings in this Agreement are for convenience only and in no way limit, define or describe the scope or intent of any provision of this Agreement.

Section 8.08 Applicable Law. This Agreement shall be governed in all respects, whether as to validity, construction, performance and otherwise, by the laws of the State of Michigan.

Section 8.09 Mutual Cooperation. Each party to this Agreement shall take all actions required of it by the terms of this Agreement as expeditiously as possible and shall cooperate to the fullest extent possible with the other parties to this Agreement. Each party to this Agreement

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APPENDIX A**

shall exercise reasonable diligence in reviewing, approving, executing and delivering all documents necessary to accomplish the purposes and intent of this Agreement. Each party to this Agreement also shall use its best efforts to assist the other parties to this Agreement in the discharge of its obligations hereunder and to assure that all conditions precedent to the financing arrangements are satisfied.

Section 8.10 Binding Effect. This Agreement shall be binding upon the parties hereto and upon their respective successors and assigns.

Section 8.11 Force Majeure. No party hereto shall be liable for the failure to perform its obligations hereunder if said failure to perform is due to Force Majeure. Said failure to perform shall be excused only for the period during which the event giving rise to said failure to perform exists; *provided, however*, that the party seeking to take advantage of this Section shall notify the other party in writing, setting forth the event giving rise to said failure to perform, within ten (10) business days after the occurrence of said event.

[SIGNATURES ON THE FOLLOWING PAGE]

**PACE Special Assessment Agreement [Owner-Arranged Financing]
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IN WITNESS WHEREOF, Monroe County, Michigan _____, and _____ have caused this PACE Special Assessment Agreement to be duly executed and delivered as of the date first written above.

Witnessed: _____
By: _____
Signature of: _____
Its: _____

Witnessed: _____
By: _____
Signature of: _____
Its: [TITLE OF AUTHORIZED OFF.]

By: _____
Signature of: _____
Its: County Clerk

Signature of: _____

Witnessed: _____
By: _____
Signature of: _____
Its: _____

**PACE Special Assessment Agreement [Owner-Arranged Financing]
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State of Michigan)
) ss
County of Monroe)

The foregoing instrument was acknowledged before me this ____ day of _____, 20XX, by _____ the Authorized Signatory of _____ on behalf of _____.

Notary Public

County, Michigan
My commission expires _____

State of Michigan)
) ss
County of Monroe)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, the County Clerk of Monroe County, and [insert name of authorized official], the [insert title of authorized official] of Monroe County, on behalf of Monroe County.

Notary Public

County, Michigan
My commission expires _____

State of _____)
) ss
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20XX, by _____ the Authorized Signatory of _____, on behalf of _____.

Notary Public

County, _____
My commission expires _____

APPENDIX B

Monroe County PACE Program Application

Public Act 270 of 2010 (“Act 270”) authorizes local units of government to adopt Property Assessed Clean Energy (“PACE”) programs to promote the installation of energy efficiency improvements and renewable energy systems by owners of commercial or industrial property within a district designated by Monroe County. Act 270 allows private commercial lenders to finance energy projects and authorizes local units of government to issue bonds, notes and other indebtedness. Act 270 authorizes the assessment of properties for the cost of the energy projects and provides for repayment to local governments through a voluntary property assessment. The property assessment remains with the property and has the same priority as other property tax and assessment liens in the event of foreclosure.

Monroe County has developed a PACE Program that provides voluntary special assessments for certain energy efficiency improvements and renewable energy systems that are associated with real property.

The property eligibility requirements are as follows:

- (c) Property is privately owned commercial or industrial real property within Monroe County’s jurisdictional boundaries, which may be owned by any individual or private entity, whether for-profit or non-profit. MCL 460.933(g). Multi-family residential property is included in the definition of commercial property.
- (d) There are no delinquent taxes, special assessments, or water or sewer charges on the property. The Authorized Official at his discretion may disqualify properties that although not currently delinquent, have been delinquent within six months of the application’s submission. MCL 460.941(2)(a).
- (e) There are no delinquent assessments on the property under a PACE Program. MCL 460.941(2)(b).
- (f) The term of assessment shall not exceed the lesser of the useful life of the energy project paid for by the assessment or 25 years. Projects that consist of multiple energy efficiency improvements or renewable energy systems with varying lengths of useful life may blend the lengths to determine an overall assessment term that does not exceed the useful life of the improvements in aggregate. MCL 460.939(i).
- (g) An appropriate ratio must be determined for the amount of assessment in relation to the assessed value of the property. The ratio will be determined on a project-by-project basis by Monroe County and shall not exceed 25% of two times the State Equalized Value without written approval of LEP and the Authorized Official. MCL 460.939(j).
- (h) Written consent from the mortgage holder must be obtained if the property is subject to a mortgage. MCL 460.939(k).

PACE Program Application
APPENDIX B

- (i) A baseline energy audit must be conducted for the property that is approved by Monroe County and the Authorized Official. Such approval may be granted retroactively if the audit meets the standards of Monroe County MCL 460.939(o).
- (j) For projects financed for more than \$250,000, a performance guarantee must be provided by the contractor(s) to guarantee a savings to investment ratio greater than one (1). MCL 460.939(p). The performance guarantee must meet the standards set by Monroe County.
- (k) For projects financed for more than \$250,000, financial and logistical arrangements for ongoing measurement and verification of energy savings that meet standards set by Monroe County. MCL 460.939(p).
- (l) Bonds or notes issued under Act 270 shall **not** be general obligations of the local unit of government but shall be secured by the voluntary assessments and other security mechanisms provided in the statute. MCL 460.945(2).
- (m) The applicant assumes all risk with respect to the implementation of a PACE Program in respect of the applicant's property. Monroe County is an accommodation party only, and is providing access to the PACE Program so as to enable property owners to make decisions regarding energy improvements to their property in a manner which allows the property owner to make the improvements in a cost-effective manner and for the property owner's benefit.
- (n) To qualify for the Monroe County PACE program, a project must meet a Minimum project cost of One Hundred Thousand Dollars (\$100,000.00).

Energy projects that may be eligible for PACE assessments include, but are not limited to: equipment, devices, or materials intended to decrease energy consumption, including: insulation in walls, roofs, floors, foundations, or heating and cooling distribution systems; storm windows and doors; multi-glazed windows and doors; heat-absorbing or heat-reflective glazed and coated window and door systems; and additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption; automated energy control systems; heating, ventilating, or air-conditioning and distribution system modifications or replacements; caulking, weather-stripping, and air sealing; replacement or modification of lighting fixtures to reduce the energy use of the lighting system; energy recovery systems; day lighting systems; installation or upgrade of electrical wiring or outlets to charge a motor vehicle that is fully or partially powered by electricity; measures to reduce the usage of water or increase the efficiency of water usage; any other installation or modification of equipment, devices, or materials approved as a utility cost-savings measure by the County Commission; and a fixture, product, device, or interacting group of fixtures, products, or devices on the customer's side of the meter that use one (1) or more renewable energy resources to generate electricity, but does not include an incinerator or digester.

**PACE Program Application
APPENDIX B**

Mail or deliver your application and attachments to:

Attention: Michael Bosanac
Program Administrator for PACE Program
C/O County of Monroe
125 East Second Street
Monroe, MI 48161

Applications and attachments may also be e-mailed to the Program Administrator at michael_bosanac@monroemi.org or for questions regarding the status of your application please contact the Program Administrator at 734-240-7267.

Applicant Information
(Use attachments as necessary)

1. Property Owner(s) Legal Name(s) (as they appear on property tax records)

	Name	Parcel #
Owner 1	_____	_____
Owner 2	_____	_____
Owner 3	_____	_____

2. Property Owner(s) Contact Information

Name	Address	E-mail Address	Telephone #
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

3. Property Owner(s) Type

Individual	LLP	LLC
Corporation	Other (please specify) _____	

4. Property Type (Check all that apply)

Commercial

- Grocery/convenience store
- Health care/clinic
- Mixed use
- Multi-family unit (3 or more)
- Office
- Other - Please describe _____
- Retail
- Restaurant
- Recreational
- Warehouse

Industrial

Please describe _____

5. Property Addresses and Parcel Number

Physical Property Address of Improvements

Mailing Address (if different)

Assessor's Parcel #

6. Balance of Any Mortgage(s):

	Amount of Mortgage	Name of Mortgage Holder
First Mortgage	\$ _____	_____
Second Mortgage	\$ _____	_____
Other	\$ _____	_____
State Equalized Value (SEV)	\$ _____	
Requested assessment amount	\$ _____	

The lien to value ratio (*including* the mortgage, if any, and *excluding* the requested financing amount) cannot exceed 80% of two times the State Equalized Value.

Consent by mortgage holder(s) obtained, if subject to a mortgage. Please attach consent.

7. Existing Liens Against Property (tax, special assessment, water or sewer charges, etc.)

Amount	Type	End Date
\$ _____	_____	_____
\$ _____	_____	_____
\$ _____	_____	_____

Total: \$ _____

8. Requested Assessment Amount

Energy Project	\$ _____
Energy Audit	\$ _____
Engineering/Architect Plans	\$ _____
Building Permit Fees	\$ _____
Other (Please explain)	\$ _____
Total	\$ _____

The lien to value ratio (*including* the mortgage, if any, and *excluding* the requested financing amount) cannot exceed 80% of two times the State Equalized Value.

The assessment to assessed value ratio cannot exceed 25% of two times the State Equalized Value without written approval of the Authorized Official.

9. Requested Assessment Repayment Period (Term may not exceed the lesser of the useful life of the energy project or 25 years.)

Term: _____ years

10. Projects Over \$250,000

Please attach details regarding provisions for ongoing measurement of energy savings and information regarding performance guarantees.

11. Baseline Energy Audit

Please attach the baseline energy audit performed on the property and all supporting documentation.

APPENDIX C

PROGRAM ELIGIBILITY CHECKLIST

Property is privately owned commercial or industrial real property within Monroe County's jurisdictional boundaries, which may be owned by any individual or private entity, whether for-profit or non-profit. MCL 460.933(g). Multi-family residential property is included in the definition of commercial property.

There are no delinquent taxes, special assessments, or water or sewer charges on the property. The Authorized Official at his discretion may disqualify properties that although not currently delinquent, have been delinquent within six months of the application's submission. MCL 460.941(2)(a).

There are no delinquent assessments on the property under a PACE program. MCL 460.941(2)(b).

The term of assessment shall not exceed the lesser of the useful life of the energy project paid for by the assessment or 25 years. Projects that consist of multiple energy efficiency improvements or renewable energy systems with varying lengths of useful life may blend the lengths to determine an overall assessment term that does not exceed the useful life of the improvements in aggregate. MCL 460.939(i).

An appropriate ratio must be determined for the amount of assessment in relation to the assessed value of the property. The ratio will be determined on a project-by-project basis by Monroe County and shall not exceed 25% of two times the State Equalized Value without written approval of the Authorized Official. MCL 460.939(j).

Written consent from the mortgage holder must be obtained if the property is subject to a mortgage. MCL 460.939(k).

A baseline energy audit must be conducted for the property that is approved by Monroe County. Such approval may be granted retroactively if the audit meets the standards of Monroe County. MCL 460.939(o).

For projects financed for more than \$250,000, a performance guarantee must be provided by the contractor(s) to guarantee a savings to investment ratio greater than one (1). MCL 460.939(p). The performance guarantee must meet the standards set by Monroe County.

For projects financed for more than \$250,000, financial and logistical arrangements for ongoing measurement and verification of energy savings that meet standards set by Monroe County. MCL 460.939(p).

APPENDIX D

**PACE SPECIAL ASSESSMENT PARCEL WHICH IS ENCUMBERED
BY THE PACE SPECIAL ASSESSMENT ROLL**

[PROJECT SPECIFIC]

Parcel

Tax Parcel I.D. No.: _____.

APPENDIX E

PACE SPECIAL ASSESSMENT ROLL

[PROJECT SPECIFIC]

APPENDIX F

PAYMENT SCHEDULE

[PROJECT SPECIFIC]

PAYMENT SCHEDULE*

<u>Date of Principal Installment</u>	<u>Amount of Principal Installment</u>
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[*This schedule includes principal of the Special Assessment only. Interest will be calculated as set forth in the Loan Documents and Monroe County is entitled to conclusively rely on the amount due on each payment date as determined by the Lender in accordance with this Agreement.]

APPENDIX G

**LENDER CONSENT AND ACKNOWLEDGEMENT OF OWNER PARTICIPATION IN
MONROE COUNTY, MICHIGAN PACE PROGRAM¹**

This acknowledgement is granted _____, 20XX, by (Insert Lender Name) (the “Lender”), and for the benefit of (Insert Name of Entity) (the “Property Owner”), and Monroe County and State of Michigan.

Recitals

A. Pursuant to Public Act No. 270 of 2010, Monroe County established the Monroe County Property Assessed Clean Energy (“PACE”) Program on _____, 2019, to promote installation of energy efficiency improvements and/or renewable energy systems.

B. The Property Owner has applied to the Program to finance the amount of \$ ^{XXXXX.XX}, to be paid back as an assessment on Property Owner’s real property, described in **Appendix A** attached hereto (the “Property”), over a period of XX years.

C. Owner has previously executed a mortgage, deed of trust, dated _____, 20 , to the Lender, covering the Property, to secure a promissory note in the sum of \$ XXXXXX.XX, and recorded on _____, 20XX at Liber , Page , Monroe County Register of Deeds.

D. Repayment by the Property Owner under the PACE Special Assessment Agreement will be a statutory assessment levied against the Property notice of which shall be recorded against the Property in the Office of the Register of Deeds for Monroe County, Michigan, and which assessment, together with interest and any penalties, shall constitute a lien (the “Lien”) on the Property, and shall be collected subject to the terms agreed to between the parties and as contained in the PACE Special Assessment Agreement.

Consent and Acknowledgement

Lender acknowledges that it has been informed of the Property Owner’s participation in Monroe County PACE Program and agrees that Property Owner’s execution of the PACE Special Assessment Agreement will not constitute a default under Lender’s Deed of Trust.

Execution of this Consent and Acknowledgement by Lender’s representative shall constitute full and complete consent to the Property Owner’s participation in Monroe County PACE Program.

Name of Lender: _____

Date: _____

¹ If property being improved has no mortgage, please submit documentation demonstrating such.

APPENDIX H

DESCRIPTION OF IMPROVEMENTS

[PROJECT SPECIFIC]

APPENDIX I

SOURCE OF PRIVATE FINANCING

[PROJECT SPECIFIC]