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The County of Will Program Report





The County of Will Program Report

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Program REPORT for Will County

The County of Will, Illinois (the "County") is establishing a property assessed clean energy ("PACE") program (the "PACE Program") in which commercial property owners ("Record Owners") can improve their properties by completing Energy Projects (as defined in the Property Assessed Clean Energy Act, 50 ILCS 50/1 et. Seq. (the "PACE Act"). Record Owners can receive funding for their respective Energy Projects from qualified third-party finance companies ("Capital Providers" as defined in the PACE Act). In accordance with the PACE Act, the governing body of a Governmental Unit must adopt a resolution or ordinance that meets the requirements of Section 15 of the PACE Act, in order to establish the PACE Program, and the resolution or ordinance must contain a reference to the Report described in Section 20 of the PACE Act that details the items required to create and structure the PACE Program. Below are the criteria the Report will need to address to establish the PACE Program.

(1) A form of assessment contract between the Governmental Unit and Record Owner governing the terms and conditions of financing and assessment under the program; See Exhibit A

(2) Identification of one or more officials authorized to enter into an assessment contract on behalf of the Governmental Unit;

Will County will oversee the Will County PACE program and will delegate daily program administration and initial program set-up of the Will County PACE program (the "PACE Program"). Through a procurement process, the County has selected The Illinois Energy Conservation Authority NFP ("IECA") to be its program administrator (the "Program Administrator") for the PACE Program. Will County will form an Oversight Committee of individuals to be the point of contact with the IECA on matters related to the PACE Program and to give authorizations as necessary for the continued operation of the PACE Program in accordance with program guidelines that the Oversight Committee approves (the "Program Guidelines"). Per the resolution or ordinance establishing the PACE Program, the committee members can issue required authorizations and amendments to the Program Guidelines on behalf of the County. The Oversight Committee will consist of a representative from each of the following departments: 1. Land Use, 2. Treasurer, 3. Supervisor of Assessments, 4. Finance Department, and 5. County Executive.

Program Administrator shall prepare and maintain Program Guidelines, which are the set of guidelines, procedures and descriptions required to implement the PACE Program and for program participants to follow in order to qualify a PACE Project for PACE Financing. The Oversight Committee shall review and approve the Program Guidelines.

The Oversight Committee will delegate all Program Administrator duties and tasks to the IECA. The Oversight Committee will be 1) updated with reports from the Program Administrator as often as requested; 2) approve changes to the Program Guidelines and 3) be the liaison for the IECA to interact with the County as part of the administration of the PACE Program.



The Oversight Committee will delegate to the IECA the Program Administrator duties which include:

- Develop the Program Guidelines
- Approve, document, and execute PACE transactions
- Close PACE transactions
- Operate Website for access to the PACE Program
- Be available to help with issues among Capital Providers, Record Owners, and contractors
- Screen and approve Capital Providers and Registered Contractors
- Reconcile accounts associated with the accounting of the PACE Program and payments

(3) Blank

(4) An application process and eligibility requirements for financing or refinancing energy projects under the PACE Program;

Eligibility Requirements

Eligible Properties

Pursuant to the state law, PACE financing is currently available to Record Owners of any privately-owned commercial, industrial, non-residential agricultural, or multi-family (of 5 or more units) real property or any property owned by a non-for-profit located within the County, but does not include any real property owned by the County or by any other Governmental Unit. .

Buildings with multiple Parcel ID/tax keys, such as condominiums, require additional documentation and underwriting protocol. The Assessment Contract will identify each lot, block, tract, and parcel of land against which the PACE Financing will be assessed. The PACE Financing must be tied to a Parcel ID/tax key with sufficient property value to underwrite and justify the Energy Project.

Eligible Energy Projects

The IECA supports the acquisition, construction, installation, or modification of Alternative Energy Improvements Energy Efficiency Improvements, Renewable Energy Improvements, Resiliency Improvements, and Water Use Improvements (each as defined in the PACE Act and collectively referred to herein as “Energy Projects”), affixed to Property located within the PACE Area. An eligible Energy Project must meet the following criteria:

- An assessment of the Energy Project will be required to confirm the proposed Energy Project achieves the standards and requirements set forth in the PACE Act and the Program Guidelines.
- The Energy Projects that include energy efficiency improvements, Renewable Energy Improvements or Water Use Improvement, unless the Water Use Improvement is undertaken



to improve water quality, will require an energy assessment and modeling of the expected monetary savings expected to occur following installation of these Energy Projects.

- All fixtures, products, systems, equipment, devices, supplies, and materials included in the Energy Project must be affixed to the real property, and the Record Owner must leave the improvements affixed or attached to the property during the term of the Assessment Contract
- New construction Energy Projects are also eligible, subject to certain project verification requirements
- Examples of eligible Energy Projects include but are not limited to the list below:
 - insulation in walls, roofs, floors, foundations
 - heating and cooling distribution systems
 - energy efficient 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 systems that reduce energy consumption
 - automated energy or water control systems
 - high efficiency heating, ventilating, or air-conditioning and distribution systems
 - caulking, weather-stripping, and air sealing
 - lighting fixtures
 - energy controls or recovery systems
 - day lighting systems
 - any other fixture, product, system, equipment, device, or material intended as a utility or other cost-savings measure by Will County
 - voltage and optimization measures that optimize the voltage at points on the electric distribution voltage system and thereby reduce electricity consumption by electric customers' end use devices
 - Equipment that generates energy from cellulosic conversion
 - Equipment that generates energy from alternative feedstocks
 - battery or electrochemical storage technology for mobile or stationary storage of renewable energy
 - Wind turbines
 - Solar thermal energy systems
 - Geothermal energy systems
 - Photovoltaic cells and panels
 - Biodiesel production equipment
 - Equipment that generates electricity from anaerobic digestion of crops and untreated and unadulterated organic waste biomass
 - hydropower that does not involve new construction or significant expansion of hydropower dams
 - Stormwater mitigation infrastructure
 - Backup power generation equipment



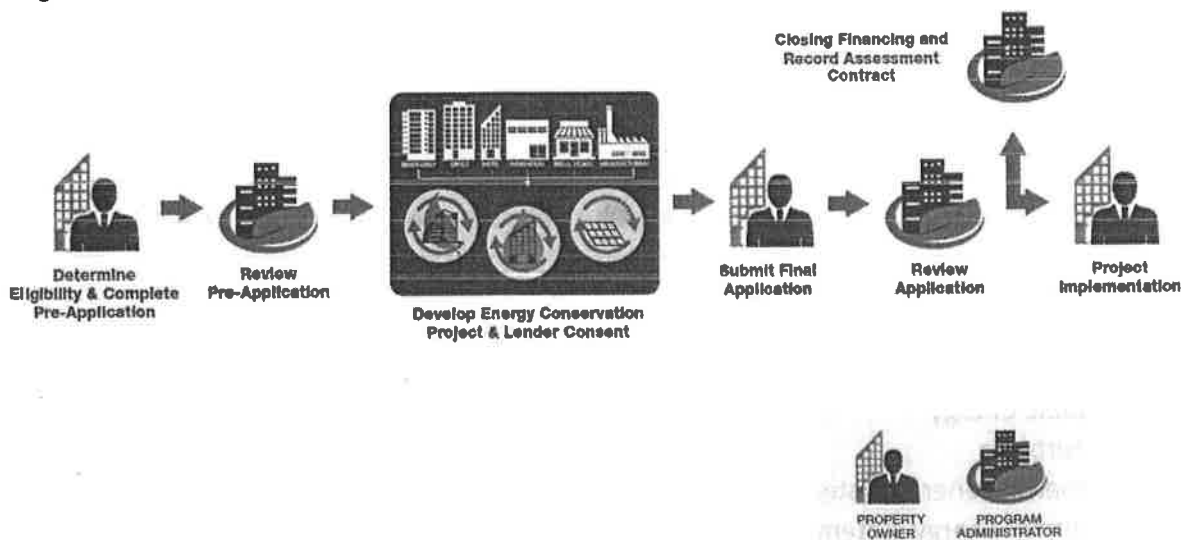
- Storm/wind hardening measures

Energy Project Assessment Requirements

All Energy Projects are required to prepare an assessment of the characteristics and anticipated performance of the proposed Energy Project to confirm the proposed Energy Projects is eligible for PACE financing through the PACE Program. Energy assessments containing a modeling of the monetary savings will be conducted by a qualified engineer or contractor for Energy Projects that include Energy Efficiency Improvements, Renewable Energy Improvements or Water Use Improvement, unless the Water Use Improvement is undertaken to improve water quality, in accordance to requirements set forth in the Program Guidelines. Energy Projects that include a Resiliency Improvement, an Alternative Energy Improvement and/or a Water Use Improvement to improve water quality shall obtain an assessment of characteristics of the proposed Energy Project prepared by a qualified engineer or contractor, in accordance with the Program Guidelines.

PACE Financing Application Process

The Program Administrator will oversee the PACE Financing application process to ensure that PACE Financings comply with eligibility requirements as defined in the statute, enabling ordinance, and Program Guidelines.



1. Pre-Application. Applicant will use the IECA online portal to obtain an initial determination of eligibility for the property to be improved and if the Applicant meets the qualifications for the PACE Program. Once Applicant has qualified, it shall be referred to as the "Record Owner". The Pre-Application will determine whether the Property is located within a PACE Area and is an Eligible Property. Program Administrator will notify Applicant whether the Property and Applicant satisfy the pre-application eligibility requirements. Program Administrator will also



notify Record Owner of all PACE Program eligibility requirements that need to be confirmed during the remainder of the application process.

2. Project Development:
 - a. Energy Project assessment - Applicant will select a qualified and approved professional, as defined in the Program Guidelines, who will evaluate the proposed Energy Project and prepare a qualified assessment;
 - b. Project Definition – Applicant will select one or more Contractors and will work with the Energy Project assessment provider and Contractor to select the scope of work that will be included in the Energy Project;
 - c. Capital Provider Selection – Applicant will either choose or request financing quotes from one or more Capital Providers and will select a Capital Provider; and
 - d. Applicant and the selected Capital Provider, and if requested the Program Administrator, will contact all lenders with existing mortgage liens against the Property to request acknowledgment of the Mortgage Lender Consent requirement for PACE Financing.
3. Final Application – Applicant will complete and submit a final application on the IECA online portal by uploading all documents, including those listed below, that are required to support the Final Application. Certain documents may not be available when submitting the Final Application and the Program Administrator may establish satisfactory submission of these documents as conditions to be satisfied prior to closing of the financing.:
 - a. Signed installation contracts for all components of the Energy Project;
 - b. Energy Project assessment by the approved provider who completed the assessment;
 - c. Most recent mortgage loan statement for all outstanding mortgages against the Property;
 - d. Executed Mortgage Lender Consent forms for all lenders of record;
 - e. Current Assessor property tax value (as determined by the County) or a property appraisal by a licensed appraiser prepared in accordance with the PACE Act and Program Guidelines. As-complete property appraisal values can be used for new construction properties or properties undergoing significant renovation.
 - f. Title Report issued not more than 30 days prior to the closing date;
 - g. Substantially final Assessment Contract; and
 - h. Documentation of sources and uses for PACE Financing and the Energy Project.
4. Financing Approval - Program Administrator will review the Final Application and all supporting documents. The Program Administrator will confirm:
 - a. The Final Application is complete and has been properly executed;
 - b. All required supporting documents have been submitted;
 - c. Property is located in a PACE Area and is an Eligible Property;
 - d. Record Owner is an individual or entity that holds title to the Property that qualifies for PACE financing;



- e. The amount of the PACE Financing is not more than 25 percent of the 1) value of the property as determined by the office of the County Assessor or 2) the value of the property as determined by an appraisal conducted by a licensed appraiser and in accordance with the PACE Act and Program Guidelines;
 - f. Executed Mortgage Lender Consent forms have been received for all mortgages of record;
 - g. Minimum PACE assessment is initially set at \$50,000 (subject to change). Lower amount on a case by case basis.
 - h. The repayment term of the PACE Financing is not more than the expected useful life of the Project, and if more than one component, then the expected useful life of the component of the Energy Project with the longest expected useful life (so long as the component of the Energy Project with the longest expected useful life is a significant portion of the overall Energy Project);
 - i. All submitted Energy Assessments, Resiliency Improvement Analyses, Alternative Energy Improvement Analyses, and Renewable Energy Feasibility Studies were completed by an approved professional who holds the applicable professional credentials, as defined in the Program Guidelines, or to whom the Program Administrator has authorized an exception to the credential requirements based on an alternate set of skills and experiences. ;
 - j. All requested uses of funds for the PACE Financing are approved uses of PACE Financing funds;
 - k. There are no delinquent taxes, special assessments, or water or sewer charges on the Property;
 - l. There are no delinquent assessments on the Property under a PACE Program
 - m. The Record Owner has disclosed any and all involuntary liens on the Property, including, but not limited to, construction or mechanics liens, lis pendens or judgments against the Record Owner, environmental proceedings, or eminent domain proceedings;
 - n. There are no notices of default or other evidence of property-based debt delinquency have been recorded against the Property and not cured;
 - o. Record Owner has represented that it is current on all mortgage debt on the Property; and
 - p. Record Owner has represented it (and its owner(s), if applicable) has not filed for bankruptcy in the last 2 years, and the Property is not an asset to a current bankruptcy proceeding.
5. If the Final Application and supporting documents are complete and satisfy all PACE Program requirements, Program Administrator will notify Applicant of Financing Approval. If the Final Application and/or supporting documents are incomplete or demonstrate that the Energy Project and/or Applicant do not meet PACE Program requirements, Program Administrator will



promptly notify Applicant of the deficiency and provide Applicant with an opportunity to cure any deficiencies.

6. Close Financing – Upon receipt of notification of Financing Approval from the Program Administrator, Record Owner and Capital Provider will close the financing and execute the Assessment Contract with the Assessment Contract or Memorandum of Assessment Contract (if form is approved by the County) subsequently recorded with the County. At the time of closing, Capital Provider will fund the full financed amount under the Assessment Contract through purchase of the related bond or note as consideration for an assignment of the related Assessment Contract, as applicable. If the Energy Project is not complete at the time of funding, the PACE Financing will fund into an escrow arrangement agreed between Record Owner, PACE Capital Provider and an escrowee.
7. Energy Project Implementation – Record Owner notifies Contractor that construction on the Energy Project may begin. Record Owner and Capital Provider will submit to Program Administrator for approval a request to draw PACE financing proceeds for the Project. Upon approval by the Program Administrator to verify that the request is for pre-approved PACE eligible expenses for the Energy Project, the Record Owner and Capital Provider may proceed to release financing draw funds to Contractor per the terms of the draw schedule agreed to by Record Owner and the Capital Provider. Requests for draws must be accompanied by documentation satisfactory to the Program Administrator and if applicable, completion certificates signed by Contractor and Record Owner. Any change orders during the course of a project may require additional review by the Program Administrator and will be addressed in accordance with requirements in Program Guidelines.
8. Completion – Final payment of the PACE Financing funds cannot be released until the Record Owner and contractor sign a final Completion Certificate and submit it to the Program Administrator on behalf of the Governmental Unit. The Completion Certificate will acknowledge that all contracted work has been completed per the contract. The Completion Certificate will further acknowledge that the Energy Project was properly acquired, constructed, installed, or modified, and is operating as intended. The Completion Certificate will further acknowledge that the County has complied with all requirements of Section 25 of the PACE Act.

(5) A method for determining interest rates on amounts financed or refinanced under assessment contracts, repayment periods, and the maximum amount of an assessment, if any;

The IECA will operate an “Open Market” PACE Program whereby Record Owners have the flexibility to select their preferred Capital Provider for an Energy Project on their Eligible Property. The open market model gives Record Owners access to a range of Capital Providers who offer competitive rates and financing terms and conditions. Public funds are not anticipated to be made available for funding Energy Projects, though the County not prohibited from participating as a Capital Providers. No



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exclusivity will be provided to Capital Providers, and the Applicants will retain the right to choose the type and provider of financing that works best for their business needs.

Any financing source interested in offering PACE financing must qualify as a Capital Provider to participate in the PACE Program. The process for becoming a qualified Capital Provider is as follows:

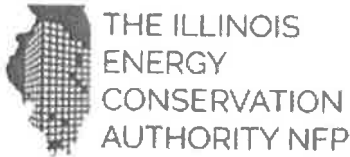
1. The interested Capital Provider must register with the PACE Program and meet the requirements set forth in the Program Guidelines.
2. Upon approval by the Program Administrator and execution of a PACE Capital Provider Agreement, the Capital Provider will be considered a "PACE Capital Provider." PACE Capital Providers will be listed on the PACE Program's website. PACE Capital Providers will receive information from the Program Administrator regarding financing opportunities as well as pertinent developments related to the PACE Program.
3. Applicants may also pre-select their preferred lenders prior to the lender registering with the PACE Program. Prior to the closing of the applicable PACE Financing, however, the lender must become a PACE Capital Provider as outlined above.

The information provided by Capital Providers will be used to link Capital Providers, project developers, energy service companies, installers and contractors, energy auditors, engineering firms, utility companies, Record Owners, and others to develop and fund qualified Energy Projects.

The County reserves the right to rescind the "PACE Capital Provider" status of any lender or Capital Provider according to the terms of the PACE program Capital Provider Agreement.

(6) An explanation of how assessments will be made and collected;

The attached Assessment Contract will be the contract between the Record Owner and the County in order to place the PACE assessment on the property. When the PACE transaction closes, the Assessment Contract will be recorded at the County Recorder's office. The date the PACE assessment will be added to the tax roll will depend on when in the calendar year the PACE transaction closes and the tax season schedules for the County Treasurer's office. PACE payments will be added to the real estate tax bill for the Property as a special assessment with its own separate line item. Payments will be due when general real estate taxes are due which are approximately June 1st and September 1st of the calendar year. The bi-annual PACE assessment payments will be equal payments and will be collected by the County Treasurer's office subject to the same processes and remedies as general real estate taxes. The Program Administrator, in conjunction with the County Treasurer's office, will reconcile the PACE assessment payment and send the payment to the PACE Capital Provider through the Program Administrator or a Trustee/Paying Agent approximately 30 days from when the County Treasurer's office receives the payment. Any late fees and default interest, as calculated pursuant to state law, on the PACE assessment portion (not including the ad valorem) will be paid to the PACE Capital Provider.



(7) A plan to finance the PACE Program pursuant to the issuance of PACE bonds under or in accordance with Section 35 of the PACE Act.

Public funds will not be used for the PACE Program unless authorized by the County. The PACE Program will operate as an open market PACE Program so it will be necessary for the PACE Program to have qualified and experienced Capital Providers and a documentation mechanism to fund the PACE Program. The County has options as to the debt instrument and documentation mechanism as it relates to bonds, notes, and or assignments. The County has the option to allow the bonding through an approved County PACE bond conduit or the County can bond or issue notes itself.

(8) Information regarding all of the following, to the extent known, or procedures to determine the following in the future:

(A) Any revenue source or reserve fund or funds to be used as security for PACE bonds described in paragraph (7);

Revenue sources or reserved fund/funds will not be used.

(B) Any application, administration, or other PACE Program fees to be charged to Record Owners participating in the PACE Program that will be used to finance all or a portion of costs incurred by the Governmental Unit as a result of the PACE Program;

The Record Owner will be charged an application fee, cost of issuance fees & closing costs associated with the closing of a PACE transaction, interest on the funds financed by the PACE Capital Provider, and servicing fees for the on-going monitoring and collection of the PACE Assessment. Details of these costs will be in the Program Guidelines.

Application Fee

- For the initial application review to check eligibility a nominal application fee will be charged to the Record Owner. The fee that is paid is non-refundable but will be credited to the Program Fee required at the time of closing.

At Closing/Cost of Issuance

- County Fee – Based on a percentage of the overall PACE Financing Amount or a set amount for participation in the PACE Program
- Program Administration Fee – Based on a percentage of the overall PACE Financing Amount or a set amount for work associated with the administration of the PACE Program
- Closing Costs - Can include title reports, credit checks, owner’s legal, Trustee fees, recording charges, and third-party reports such as the Energy Project assessments, appraisal reports, and



environmental reports. Some fees may not apply depending on transaction scope and owner’s availability to provide certain due diligence reports

- Closing Cost Bond Counsel – Based on a percentage of the overall PACE Financing Amount or a set amount for the closing and issuance of the bond

Elective/Discretionary

- Capital Provider Fee - If applicable, an origination fee charged Record Owner from Capital Provider
- Closing Cost Bond Issuer – If applicable, a fee charged by a bond issuer such as the Illinois Finance Authority for the closing and issuance of the bond
- Debt Service Reserve – If applicable, a reserve required by Capital Provider
- Escrow Fees for the funding of the improvements, if necessary

Servicing (on-going)

- County Treasurer – Based on a percentage of the overall PACE debt service payment or a set amount for the collection and processing of the PACE Assessment from the real estate tax bill
- Program Administration Maintenance Fee - Based on a percentage of the overall PACE debt service payment or a set amount for the collection and processing of the PACE Assessment from the real estate tax bill and for the reporting and payment reconciliation to the County/Trustee.

Capital Providers may be charged a fee to participate in the PACE Program.

(9) A requirement that the term of an assessment not exceed the useful life of the energy project financed or refinanced under an assessment contract; provided that an assessment contract financing or refinancing multiple energy projects with varying lengths of useful life may have a terms that is calculated in accordance with the principles established by the program report.;

The repayment term of a PACE Financing shall not exceed the expected life of the proposed Energy Project as described in the Energy Assessment. For Energy Projects that include multiple Improvements, the term of a PACE financing may not be greater than the improvement with the longest expected useful life. The measure with the longest expected useful life must be a substantial portion of the Energy Project, subject to the Program Administrator’s review and approval. In no case shall the term of an assessment contract exceed 40 years.

(10) A requirement for an appropriate ratio of the amount of the assessment to the greater of the value of the property as determined by the office of the county assessor or the value of the property as determined by an appraisal conducted by a licensed appraiser ;



- Pursuant to the PACE Act, the principal amount of the PACE financing may not exceed 25 percent of the value of the Property
- Recommend that the PACE Financing plus the outstanding principal on all mortgage liens secured by the property shall not exceed 100% percent of the Property value, unless otherwise approved by the Program Administrator. For example, a commercial building with an assessed or appraised value of \$1,000,000 that requests a \$250,000 PACE Financing must have total outstanding mortgage loan balance(s) as of closing of the PACE Financing that are not greater than \$750,000. *Capital Providers may have additional limits based on their underwriting criteria*
- Pursuant to the PACE Act, property value will be determined by either the assessed value from the county assessor's office or alternatively Record Owners may supply an appraisal or prepared by an independent licensed real estate appraisal firm. Record Owners of non-for-profit properties must provide an appraisal, as described above.

(11) A requirement that the Record Owner of Property subject to a mortgage obtain written consent from the mortgage holder before participating in the PACE Program;

Applicants must provide notice to all existing mortgage lenders of Applicant's intent to enter into a PACE Assessment Contract with the County, which will encumber the Property. Applicant's notice must state the maximum principal amount to be secured by the Assessment Contract, as well as the maximum annual amount to be repaid via the Assessment Contract (assuming there is no default).

Applicant must provide the written consent of the existing mortgage lender(s) of record on the Property prior to Final Application approval by the Program Administrator. The Mortgage Lender Consent must acknowledge the following:

1. The PACE assessment will be part of the general real estate tax bill and therefore the annual payment will have priority to the Mortgage Lender's existing lien.
2. The Governmental Unit, or its assignee, will have the same rights and remedies under the Property Tax Code which could ultimately lead to the foreclosure of the lien on the Property pursuant to tax law if the assessment is not paid. The County is not required to purchase outstanding delinquent PACE liens.
3. The maximum principal amount to be secured by the Assessment Contract.
4. The maximum annual amount to be repaid via the Assessment Contract (assuming there is no default).
5. The levy of the PACE Assessment will not trigger an event of default or the exercise of any remedies under the mortgage loan document or other security agreement held by the lienholder.

The purpose of the Mortgage Lender Consent is to:

- Provide notice to the mortgage holder that the Applicant is proposing the Property participate in the PACE Program, and obtain the mortgage holder's consent to such participation



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- Receive confirmation from the Mortgage Lender that the levy of the PACE Financing, pursuant to the Assessment Contract, will not trigger an event of default allowing the Mortgage Lender to exercise any remedies under the mortgage loan documents or other security documents held by the lienholder
- Advise the mortgage holder or lienholder that the PACE Financing will be repaid in Installments collected pursuant to the terms of the Assessment Contract subject to the same penalties, remedies and lien priorities as a special assessment

(12) Provisions for marketing and participant education;

IECA will conduct outreach to organizations that have existing relationships with owners such as IREM, BOMA, ICSC, as well as general business advocacy groups such as the local Chambers of Commerce. Contractors, project developers, and Energy Project assessment firms are also effective channel partners to engage and educate about the PACE Program.

IECA will also develop a website on behalf of the County that will have essential information regarding the PACE Program, benefits, and downloadable marketing materials as well as social media feeds and pages. Separately, there will be a web portal powered by Slipstream (formerly WECC) that will process project applications.

The IECA team has a variety of marketing materials that are ready to be adapted to the County and are tailored to both general audiences and specific stakeholders. The IECA team will provide training and education through in person seminars, workshops, webinars and web-based classes as appropriate.

(13) [Blank]

(14) Quality assurance and antifraud measures.

The Program Administrator will conduct quality assurance for PACE Financings and will enforce antifraud measures in order to ensure that PACE Financings adhere to the requirements stated in the Program Guidelines, as well as requirements enacted by applicable legislation and ordinances. Quality assurance protocols and antifraud measures serve to create safeguards that promote the quality and performance of Energy Projects and the corresponding PACE Financings completed through the PACE Program.

Protocols will assure that buildings improved through the PACE Program meet the property eligibility requirements established in statute and in the Program Guidelines. Measures will also verify that Applicants are eligible Record Owners that are in good standing according to state statute and the Program Guidelines.



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Recognizing the public benefit of the clean energy projects, as well as the expected monetary benefits of the Energy Projects that accrue to Record Owners, Program Administrator will apply quality assurance and antifraud measures that promote high quality design and installation of Energy Projects. Quality assurance of Energy Projects will address the Energy Project assessment, the installation contractor and the disbursement of final payments to installation contractors and will be designed to reduce the risk of low quality installations.

The Program Administrator will qualify Registered Contractors who apply to complete Energy Projects in the PACE Program to ensure they are licensed and meet PACE Program requirements. Additionally, the Program Administrator will qualify and provide oversight of PACE Capital Providers who intend to finance PACE Projects.

The Program Guidelines will define the processes that the Program Administrator will implement to ensure that PACE Financings comply with applicable statutory and PACE Program requirements regarding the terms of PACE Financings, the relationships between the amount of the Financing and the value of the Eligible Property, the appropriate consent of mortgage lienholders subject to a PACE Financing, and other required PACE Program requirements.

The Program Administrator will implement quality assurance and antifraud measures as described in this section; however it is understood that the County intends to implement an open-market PACE Program and that the Record Owner and all providers of goods and services for a PACE Project retain responsibility for operating ethically and assuring the satisfactory implementation of the PACE Project.

The Oversight Committee and Program Administrator may revise and update the quality assurance and antifraud protocols and procedures from time to time.



Exhibit A

Form of Assessment Contract

Attachment: C-PACE Program Report Will IECA 10282020 FINAL (20-447 : Auth C-PACE Ordinance, Program Report & Other Related Docs)

ASSESSMENT CONTRACT

[County]	Property Owner Name:	
		FEIN #
	Property:	
	PIN:	
	Financed Amount:	
	Assessment Payments:	
	Interest Rate:	
	Registered Contractor:	
	Completion Deadline:	
	Construction Escrow:	

This **ASSESSMENT CONTRACT** (this "**Agreement**"), dated as of [DATE] (the "**Effective Date**"), is by and between [COUNTY], Illinois (the "**County**") a political subdivision of the State of Illinois, and [PROPERTY OWNER] (the "**Property Owner**") the owner(s) of record, of the fee interest in the real property described on Exhibit A (the "**Property**"). The Property Owner completed an application (the "**PACE Application**") to participate in a property assessed clean energy ("**PACE**") financing program (the "**Program**") offered by the County pursuant to the Property Assessed Clean Energy Act. 50 ILCS 50/1 et. seq. (the "**PACE Act**") and administered by The Illinois Energy Conservation Authority NFP (the "**Administrator**"), in order to finance or refinance certain qualified "energy projects" (as defined in the PACE Act) that benefit the Property, as described on Exhibit A (the "**Improvements**"). The Property Owner will repay the Financed Amount through a tax assessment (the "**Special Assessment**") levied on the Property. This Agreement establishes the terms of participation in the Program and payment of the Special Assessment.

SPECIAL ASSESSMENT. The Property Owner freely and willingly agrees that upon execution of this Agreement, the Property shall be subject to the Special Assessment levied by the County in an amount equal to the Financed Amount described above. The Property Owner will use the financing obtained under this Agreement solely for the purpose of financing the actual costs of materials, labor and fees necessary for installation of the Improvements. If the actual costs of the Improvements, the Administrative Fees and all other costs and fees incurred in connection with this Agreement exceed the Financed Amount, the Property Owner is solely responsible for such excess. The Special Assessment and all associated interest and penalties will create a lien (the "**Lien**") against the Property until they are paid in full. The Lien will be coequal to and independent of the lien for general taxes on the Property. If the Property Owner sells the Property, the obligation to pay the Special Assessment and the Lien will remain with the Property and will be effective against any future owner of the Property until the Special Assessment has been paid in full.

PAYMENTS. The equal installments that the Property Owner is anticipated to pay under the Special Assessment are described above ("**Assessment Payments**") and on Schedule I. The exact payment amounts and due dates will be disclosed in annual invoices from the County Collector along with the Property Owner's regular property taxes and must be paid with the Property Owner's regular property taxes. Assessment Payments are not subject to discount or any other credit for early payment.

INTEREST. Interest will accrue on the principal balance of the Special Assessment at rate equal to [RATE]% per year on the basis of a 360-day year consisting of 12 months of 30 days each. Interest will begin to accrue on the full amount of the Special Assessment beginning on the Effective Date. Each Assessment Payment will include the full amount of interest scheduled to become due within the corresponding 6-month period of the calendar year in which that Assessment Payment is scheduled (each, an "**Interest Period**"). Early payment will not reduce the amount of interest accrued in any Interest Period. The principal balance of the Special Assessment will include capitalized interest sufficient to pay any interest due in the period from the Effective Date to the first day of the Interest Period covered by the first scheduled Assessment Payment.

ADMINISTRATIVE FEES. Each Assessment Payment will include administrative fees to pay certain costs to administer the Program ("**Administrative Fees**"). Administrative Fees will be equal to \$300 of each scheduled Assessment Payment.

PROGRAM REQUIREMENTS. Based solely on the recommendation of the Administrator and the representations of the Property Owner in this Agreement and in the related PACE Application, the County has determined the Property Owner has met all necessary Program requirements to enter into this Agreement.

FUNDING. If construction of the Improvements is not complete as of the Effective Date, funds from the Special Assessment must be disbursed to a construction escrow account governed by a CPACE Supplemental Agreement (as defined herein) (the "**Construction Escrow**") that is consistent with the requirements of the program guidelines for the Program as of the Effective Date (the "**Program Guidelines**") and designated by the Property Owner on the Effective Date. Otherwise, funds from the Special Assessment will be disbursed to or at the direction of the Property Owner once all requirements have been completed in accordance with the Program Guidelines. The Property Owner shall provide to the Administrator copies of any documents submitted or required to be submitted in connection with requests for funding from the Construction Escrow. In accordance with the Program Guidelines, requests for funding under the Construction Escrow or any other disbursements will be accompanied by an interim or final completion certificate, as applicable, signed by the relevant contractors and the Property Owner certifying the work on the Improvements has been completed in a satisfactory manner and in accordance with all relevant construction agreements. The Property Owner shall ensure that, if (a) funds remain in the Construction Escrow 24 months after the Effective Date and the Improvements are not complete (as evidenced by delivery of a final completion certificate) or (b) after the delivery of the final completion certificate funds from the Special Assessment remain unspent, the agreements governing the Construction Escrow provide that the Program Administrator may direct by written notice to the applicable escrow agent that funds in the Construction Escrow will be disbursed at the direction of the Administrator as a partial prepayment of the Special Assessment.

PREPAYMENT. The Special Assessment may be prepaid in whole or in part upon no less than 45 days written request to the Administrator at any time. Prepayments will be applied at the end of the month in which funds are received. Upon receipt of the request for prepayment, the Administrator will provide a payoff statement and payment instructions. The amount of any prepayment, in whole or in part, will include a rebate of unearned interest, if applicable, and a prepayment premium equal to the amount set forth on Exhibit A attached hereto. Following a prepayment, Assessment Payments will continue to be owed in the same amount as prior to such prepayment; however, the number of Assessment Payments owed may decrease. Due to circumstances outside of the Program's control, certain prepayments (including those applied after February 15 of any calendar year) may result in the Property Owner receiving a tax bill that does not reflect that prepayment. In these circumstances, the Property Owner must pay the full tax bill, and the Administrator will refund overpayments to the Property Owner when received from the County Collector.

LATE PAYMENT. Under Illinois law, if the Property Owner fails to pay any annual installment of the Special Assessment on a timely basis, delinquent Special Assessments will be subject to the same penalties as other delinquent property taxes, which initially incur a penalty of 1.5% per month and continue to incur increasingly steep penalties mandated by statute if such taxes remain unpaid, including loss of title to the Property. The Property Owner will be responsible for any fees, default interest or other charges related to a delinquent payment.

FORECLOSURE. The Property Owner acknowledges and agrees that upon failure to pay any Assessment Payment, the County has the right to enforce collection of delinquent installments, associated penalties and all costs of suit (including attorneys' fees) by all lawful means, including through a tax certificate sale or an issuance of a tax deed or other process that could result in Property Owner losing title to the Property. The Property Owner acknowledges that the County has the right to obligate itself, on behalf of the Financing Parties (as defined below), to exercise such rights and remedies with respect to enforcement of delinquent Special Assessments to the extent permitted by applicable law.

NO ACCELERATION; NO REDUCTION OR OFFSET; SURVIVAL. Except as provided below with respect to Eminent Domain, amounts due under the Special Assessment will not accelerate upon a default or late payment or enforcement of remedies under this Special Assessment and the Special Assessment, the Lien and the obligation to pay Assessment Payments when they become due shall survive any such event and continue until

paid in full. The Property Owner acknowledges and agrees that the Special Assessment will not be subject to reduction, offset or credit of any kind for any reason, including in the event the Improvements fail to perform.

NONRECOURSE. Without limiting any rights pursuant to an agreement among the providers of capital for funding the Special Assessment (the "**Capital Providers**") and the Property Owner that is (A) entered into in connection with the Special Assessment and (B) in accordance with the requirements for such agreements in the Program Guidelines (a "**CPACE Supplemental Agreement**"), the Property Owner will not be personally liable for any Special Assessment due after the closing of a tax sale with respect to the Property or the completion of the exercise of other applicable remedies by the County, except for indemnification rights arising from an event of fraud, willful misconduct or reckless disregard by Property Owner.

NO WARRANTIES; LIMITATION OF LIABILITY. NEITHER THE COUNTY NOR THE ADMINISTRATOR MAKES ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, REGARDING THE IMPROVEMENTS, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE EXPRESSLY DISCLAIMED.

PROPERTY OWNER REPRESENTATIONS AND WARRANTIES. The Property Owner represents and warrants: (A) the Property Owner is duly organized, validly existing and in good standing in the state of its organization and has authority to do business under the laws of the State of Illinois; (B) the Property Owner has all necessary power and authority to own the Property and to enter into and perform the transactions contemplated by this Agreement; (C) there are no actions, suits or proceedings pending, or to the knowledge of the Property Owner threatened, against or affecting it or the Property which could materially adversely affect the Property Owner, the Property or the construction of the Improvements; (D) the Property Owner has good and insurable title to the Property; (E) the Property Owner has complied with, and will continue to comply with, all applicable statutes, regulations and ordinances in connection with the Property and construction of the Improvements; (F) all permits, consents, approvals and authorizations required to be issued by any governmental body necessary for the construction of the Improvements in accordance with the plans and specifications submitted by the Property Owner to the Administrator (the "**Plans**") either (i) have been obtained, are valid, and are in full force and effect; or (ii) will be obtained, will be valid, will be in full force and effect prior to the initiation of construction; (G) the Property Owner has (i) disclosed to the Administrator the identities of all persons, if any, that hold mortgage liens or other Special Assessment liens against the Property; (ii) at least thirty days prior to the Effective Date, provided notice of the Property Owner's intent to enter this Agreement pursuant to the PACE Act, and (iii) obtained the written consent of the holders of such mortgage liens against the Property acknowledging that upon execution of this Agreement, the Special Assessment (including interest thereon) shall constitute a legal, valid and binding assessment and a resulting lien upon the Property, equal in priority with the lien of all state, county, district and municipal taxes and superior in priority to all other liens, titles and claims, until paid; and (iii) to the Property Owner's knowledge, no such consent has been withdrawn or revoked; (H) the information in the PACE Application, including, without limitation, the description of the Improvements provided to the Administrator in connection with in the PACE Application, is true and correct as of the Effective Date, and that the representations in the PACE Application with respect to the Property and the Property Owner are true and correct as of the Effective Date; (I) the Property Owner has thoroughly reviewed any projections of future energy savings, has been provided sufficient time to clarify any questions regarding such projections and understands that the actual energy savings may vary for a variety of reasons; (J) the Property Owner understands that neither the County nor the Administrator makes any assurances as to the quality, safety, efficiency of the Improvements or compliance of the installation of the Improvements with any applicable laws, regulations, codes, standards or requirements; (K) the Property Owner understands that the County voluntarily participates in the Program but does not directly operate or administer the Program; (L) the Property Owner does not and will not engage in operations that involve the generation, manufacture, refining, transportation, treatment, storage or handling of hazardous materials or hazardous wastes, and the Property has not been previously used for such matters; (M) the Property Owner acknowledges and agrees that the term of the Special Assessment does not exceed the expected useful life of the Improvements; and (N) Property Owner has reviewed the Program Guidelines. These representations and warranties will survive the execution and delivery of this Agreement.

PROPERTY OWNER COVENANTS. The Property Owner covenants and agrees to: (A) at all times, maintain the Property and, after construction, the Improvements; (B) pay all taxes, assessments (including the Special

Assessment), and all other charges levied on or against the Property when due; (C) cause its contractor(s) to install the Improvements in accordance with the Plans and in a good and workmanlike manner in accordance with all applicable laws, ordinances, codes, rules and regulations; (D) keep in effect all permits, licenses, and approvals required to own and operate the Improvements; and (E) provide written notice to any subsequent purchaser of the Property that the Property is subject to the Special Assessment lien and to provide any subsequent purchaser a copy of this Agreement.

INSPECTION RIGHTS. The Property Owner grants the County, the Administrator, their respective agents and representatives the right to enter at any reasonable time, upon reasonable notice, to inspect the Improvements. The Property Owner further grants the County, the Administrator, their respective agents and representatives the right to examine and copy any documentation relating to the Improvements.

TERM. Except as otherwise set forth in this Agreement, this Agreement shall expire upon payment in full of the Special Assessment and any other amounts owed by the Property Owner pursuant to this Agreement.

DIVISION OF PROPERTY. If the property is subdivided before the Special Assessment is paid in full, the Special Assessment will be allocated among the subdivided parcels in the same proportion used for allocating other property taxes on such parcels. If the Improvements no longer exist, the Special Assessment will be assigned to each parcel on a per-acre basis, unless the Administrator, in its sole discretion, decides to allocate the Special Assessment in an alternate manner.

EMINENT DOMAIN. If the Property or any part thereof is taken by eminent domain or other taking in a manner that would extinguish all or a portion of the Property Owner's (or that of its successor by eminent domain) obligation to make Assessment Payments following such exercise of eminent domain, then Property Owner may be required to pay all or a portion of the outstanding amounts in accordance with the CPACE Supplemental Agreement.

RECORDATION OF DOCUMENTS. The County shall record or cause a memorandum of this Agreement to be recorded in the office of the applicable County Recorder on or after the Effective Date.

WAIVERS, ACKNOWLEDGMENT AND AGREEMENT. To the extent permitted by applicable law, the Property Owner expressly waives any right for a public hearing regarding the Special Assessment. The Property Owner also waives any right to repeal or challenge the Special Assessment either by lawsuit or by any other proceeding. The Property Owner acknowledges and agrees that the Property Owner and its successors in interest to fee title in the Property shall be solely responsible for the installation, operation and maintenance of the Improvements. The Property Owner waives any right to recover from and fully releases the County, the Program Administrator and their successors, assigns and funding sources, and any of their respective officials, employees and agents (the "Financing Parties") from any claims or liabilities related to, (i) the Property Owner's participation in the Program, (ii) the Special Assessment, (iii) the Improvements, or (iv) any fact, circumstance or event related to this Agreement, other than claims for, or liabilities not exceeding, Property Owner's actual damages resulting from such Financing Party's willful misconduct or gross negligence and equitable actions to enforce the terms of this Agreement.

INDEMNIFICATION. To the extent permitted by applicable law, the Property Owner agrees to indemnify, defend, protect, and hold harmless the Financing Parties against all losses, liabilities, claims, damages (including consequential damages), penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and attorney's fees) and any demands related to (i) the Property Owner's participation in the Program, (ii) the Special Assessment, (iii) the Improvements, or (iv) any other fact, circumstance or event related to this Agreement. These indemnification provisions shall survive the termination of this Agreement.

AMENDMENT. This Agreement may be modified or amended only by the written agreement of the County and the Property Owner or their respective successors.

BINDING EFFECT; ASSIGNMENT. This Agreement inures to the benefit of and is binding upon the County, the Administrator, the Property Owner and their respective successors and assigns. The County has the right to

assign any or all of its rights and obligations under this Agreement without the consent of the Property Owner. The County intends to delegate certain of its functions under this Agreement to the Administrator.

SEVERABILITY. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision of this Agreement.

FURTHER ASSURANCES. The Property Owner and the County agree to execute any further documents necessary or appropriate to ensure that this Agreement and the Special Assessment operate as intended.

MISCELLANEOUS. This Agreement shall be governed by the laws of the State of Illinois. This Agreement may be executed in several counterparts, each of which is an original and all of which constitutes one and the same instrument. This Agreement may be executed by one or more electronic means and each party agrees that an electronic signature is enforceable against each that respective party.

THIRD PARTY BENEFICIARY. The parties hereto acknowledge that the Administrator is a third party beneficiary of this Agreement.

PERMITTED ASSIGNMENTS. To the extent permitted by the PACE Act, the County may assign its rights under this Agreement, including all rights to Assessment Payments, to a third party (a "**Permitted Assignee**"). Any Permitted Assignee shall be a direct beneficiary hereof.

EFFECTIVENESS OF AGREEMENT. The effectiveness of this Agreement is subject to the execution of the documents described on Exhibit A (the "**PACE Documents**") and the satisfaction of any conditions precedent therein.

GOVERNING LAW; VENUE AND JURY WAIVER. THIS AGREEMENT SHALL BE GOVERNED BY THE AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES. IF FOR ANY REASON A DISPUTE UNDER THIS AGREEMENT PROCEEDS IN COURT AS A LAWSUIT, BOTH PARTIES AGREE THAT: (1) ANY SUCH DISPUTE SHALL ONLY BE BROUGHT AS A LAWSUIT IN THE TWELFTH JUDICIAL CIRCUIT COURT, SITTING IN WILL COUNTY, ILLINOIS; (2) BOTH PARTIES IRREVOCABLY CONSENT AND SUBMIT TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF SUCH COURTS; AND (3) BOTH PARTIES WAIVE ANY RIGHT TO TRIAL BY A JURY.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the County and the Property Owner have caused this Agreement to be executed in their respective names by their duly authorized representatives, all as of the Effective Date.

Property Owner:

[PROPERTY OWNER]

By: _____
Title: _____

Date: _____

Month/Day/Year

State/Commonwealth of _____)
County of _____) ss.

On this the _____ day of _____, _____, before me,
Day Month Year

_____, the undersigned Notary Public,
Name of Notary Public

personally appeared _____
Name(s) of Corporate Signer(s)

- personally known to me – OR –
- proved to me on the basis of satisfactory evidence to be the person(s) who executed the within instrument as

Corporate Title(s) of Signer(s), Respectively
on behalf of

Name of Corporation
the corporation therein named, and acknowledged to me that the corporation executed the same for the purposes therein stated.

WITNESS my hand and official seal.

Signature of Notary Public

Any Other Required Information
(Printed Name of Notary, Expiration Date, etc.)

Place Notary Seal/Stamp Above

Attent: C-PACE Form Assessment Contract 4852-1361-6577 FIN/ (20-447 : Auth C-PACE Ordinance, Program Report & Other R

[COUNTY]

By: _____
Title: _____

Date: _____
Month/Day/Year

State of _____)
County of _____) ss.

The foregoing instrument was acknowledged before
me this _____, by
Date

Name and Title

Signature of Notary Public

Title or Rank (Such as "Notary Public")

*Any Other Required Information
(Commission Number, etc.)*

Place Notary Seal/Stamp Above

EXHIBIT A
DESCRIPTION OF PROPERTY, DESCRIPTION OF THE IMPROVEMENTS AND NOTICE
INFORMATION

Description of Property:

Description of Improvements:

The Improvements consist of the following:

Notice Information:

If to Program Administrator:

With a copy to:

The Illinois Energy Conservation Authority NFP
2901 Butterfield Road
Oak Brook, IL 60523

If to Property Owner:

PACE Documents:

Assessment Contract

CPACE Supplemental Agreement

[Assignment Agreement, dated as of [DATE], by and between [COUNTY], as assignor, and [CAPITAL PROVIDER], as assignee]

[Capital Provider Escrow Agreement, dated as of [DATE], by and between the [CAPITAL PROVIDER] and Inland Bank and Trust]

Prepayment Premium:

The PACE Financing may be prepaid in accordance with the terms of the Assessment Contract and upon payment of a prepayment premium based on the following schedule:

Pre-payment within one year of the Effective Date	%
Pre-payment after one years of the Effective Date but within two years of the Effective Date	%
Pre-payment after two years of the Effective Date but within three years of the Effective Date	%
Pre-payment after three years of the Effective Date but within four years of the Effective Date	%
Pre-payment after four years of the Effective Date but within five years of the Effective Date	%
Pre-payment after five years of the Effective Date	%

SCHEDULE I

**SCHEDULE OF ANNUAL ASSESSMENT INSTALLMENTS, INCLUDING PRINCIPAL, INTEREST
AND ANNUAL ASSESSMENT ADMINISTRATIVE FEE**

No. _____

THE COUNTY OF WILL, ILLINOIS
TAXABLE PACE REVENUE NOTE
([STREET ADDRESS] PROJECT)

<u>Principal Amount</u>	<u>Date of Issuance</u>	<u>Maturity Date of Assessment Contract</u>	<u>Interest Rate of Assessment Contract</u>
\$[]	[] [], 20XX	[] [], 20XX	[]

Registered Owner:[] (together with its successors and assigns, "Registered Owner")

1. PAYMENT OBLIGATIONS

- 1.1 Obligation to Pay Pledged Revenues. The County of Will, Illinois (the "County"), a corporate body and politic, in consideration of the Registered Owner's funding of the Financed Amount under the Assessment Contract ([STREET ADDRESS] PROJECT), dated [], between the County and [PROPERTY OWNER] (together with its successors and assigns, "Property Owner") attached hereto as Exhibit A (the "Assessment Contract" and, together with this Note, collectively the "PACE Documents"), hereby promises to pay, in the amounts and at the times set forth in the Assessment Contract, to the Registered Owner, solely from the source identified herein, the principal sum set forth above, together with interest, fees, penalties, indemnities and other amounts payable on such amounts under the Assessment Contract or pursuant to applicable law, other than (i) amounts collected from direct or indirect indemnification rights for the benefit of the County or any person other than the Registered Owner pursuant to the Assessment Contract or any related document, (ii) amounts identified and assessed as administrative fees and expenses to the extent payable to or on behalf of the County or its agents in accordance with the Assessment Contract and (iii) []% of the sums received by the County from the collection of penalties and statutory interest on delinquent payments under the Assessment Contract, which shall be retained by the County as collections fees (collectively, the "Pledged Revenues").
- 1.2 Cumulative Obligations. The County's obligation to pay the Pledged Revenues shall be cumulative. For the purposes of this Note, the term "cumulative" shall mean that if any installment of principal and interest is not paid when due, it shall remain due and payable until actually paid and shall be paid by the County as soon as any Pledged Revenues are available to pay all or any portion of such installment.
- 1.3 Assignment and Pledge. The County hereby grants and assigns the Pledged Revenues to the Registered Owner and to the extent not assigned, conveys and pledges to the Registered Owner a first priority security interest in and to the Pledged Revenues. The County may not issue additional notes payable from the Pledged Revenues or otherwise assign, pledge, or encumber the Pledged Revenues, without the written consent of the Registered Owner.
- 1.4 Principal Reductions; Prepayments. To the fullest extent permitted by applicable law¹, the County shall

¹ NTD: In thinking this language through, we determined that its appropriate to keep the applicable law exception

not permit any reduction or deferral in the amount due and owing under the Assessment Contract, without the written consent of the Registered Owner. The County shall or shall cause the Program Administrator (as defined below) to, provide a reasonable period of time for Registered Owner to review and approve any calculations necessary to effect prepayments in accordance with the Assessment Contract.

- 1.5 Payment Obligations Unconditional. The County’s obligation to transfer or cause the transfer of the Pledged Revenues it receives from the Property Owner to the Registered Owner shall be unconditional, and the County shall make or cause such transfers without any deduction for any reason, including any set-off or defense the County may have or assert against the Registered Owner.²
- 1.6 Term. All obligations of the County hereunder shall terminate on the date when all amounts due under the Assessment Contract have been received by the Registered Owner as set forth herein. Notwithstanding the foregoing or anything else set forth herein, and in addition thereto, if at any time all or any part of any payment received by the Registered Owner under or with respect to this Note is or must be rescinded or returned for any reason whatsoever (including, but not limited to, determination that said payment was a voidable preference or fraudulent transfer under insolvency, bankruptcy or reorganization laws), then the obligations hereunder shall, to the extent of the payment rescinded or returned, be deemed to have continued in existence, notwithstanding such previous receipt of payment by the Registered Owner, continue to be effective or be reinstated as to such payment, all as though such previous payment to the Registered Owner had never been made. The provisions of the foregoing sentence shall survive termination of this Note and shall remain a valid and binding obligation of County.

2. REPRESENTATIONS AND WARRANTIES OF THE COUNTY.

The County hereby makes the following representations and warranties for the benefit of the Registered Owner as of the date hereof:

- 2.1 Authorization. The County has taken (i) all necessary official action required of it under the Property Assessed Clean Energy Act, 50 ILCS 50/1 et. seq. (the “PACE Act”) to establish the property assessed clean energy program for the County, including approving the ordinance (the “Ordinance”) of the County Board of the County on [November __, 2020], and (ii) all such action as may be required on the part of the County to carry out, give effect to and consummate the transactions contemplated in the PACE Documents.
- 2.2 Organization; Authority. The County is a political subdivision of the State of Illinois, duly organized and validly existing as a County under the laws of the State of Illinois, with the power to adopt the Ordinance, issue the PACE Documents, and perform the agreements on its part contained in or related to the PACE Documents.
- 2.3 C PACE Act. This Note is issued pursuant to the provisions of, and in full compliance with, the PACE Act. This Note constitutes a “PACE bond” for purposes of the PACE Act.
- 2.4 Enforceability. When executed and delivered by the respective parties thereto, each of the PACE Documents executed by the County will constitute a legal, valid and binding obligation of the County enforceable in accordance with its terms.
- 2.5 Compliance with Laws and Agreements. The execution, delivery and performance by the County of each of the PACE Documents and the performance by the County of its obligations under each of the PACE Documents and the transactions contemplated hereby and thereby (i) do not contravene any provisions of law applicable to the County, and (ii) do not conflict with, and will not result (with or without the

here. If a tax lien isn’t sold the IL real property tax law eventually requires a scavenger sale, which could mean that the amount of delinquent taxes actually collected is reduced to the amount bid at the scavenger sale.

² NTD – Deleted language was duplicative of new language in 1.3.

giving of notice or passage of time or both) in the breach of or constitute a default or require any consent under any credit agreement, indenture, mortgage, purchase agreement, deed of trust, security agreement, lease, guarantee or other instrument to which the County is a party, by which the County may be bound or to which the County or its property may be subject.

- 2.6 No Actions. To the best knowledge of the County after reasonable inquiry, no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, or public board of body is pending or threatened, in any way affecting the existence of the County or the titles of its officers to their respective offices, or seeking to restrain or to enjoin the execution and delivery of the Ordinance, this Note or the Assessment Contract, or the consummation by the County of the transactions contemplated by the Ordinance, the PACE Documents, or in any way contesting or affecting the validity or enforceability of the Ordinance, this Note or the Assessment Contract, any other applicable agreements, or any action of the County contemplated by any of those documents, or in any way contesting the powers of the County or its authority with respect to the Ordinance, this Note or the Assessment Contract, any other applicable agreements, or any action of the County contemplated by any of such documents.
- 2.7 Consents and Approvals. No further approval of, or consent from, any governmental authority is required for the execution and delivery by the County of the PACE Documents or the consummation by the County of any other transaction contemplated by the PACE Documents that has not been obtained.

3. COVENANTS OF THE COUNTY.

- 3.1 Direction of Payments. The County will pay all Pledged Revenues to the account specified by the Registered Owner in a written notice to The Illinois Energy Conservation Authority NFP, as program administrator (together with any successor, the “**Program Administrator**”) within 30 days of receipt and identification.
- 3.2 PACE Note and Interest Fund. The County agrees that it shall establish funds for the collection of the Pledged Revenues as separate funds maintained on the County’s books and records and to be held at a bank with which the County maintains a depository relationship. The County hereby assigns to the Registered Owner all of its right, title and interest in and to all Pledged Revenues maintained in such fund and agrees that it holds such amounts in trust for the benefit of the Registered Owner.
- 3.3 Amendment to Assessment Contract. The County shall not amend the Assessment Contract in any manner that is materially adverse to the Registered Owner without the Registered Owner’s prior written consent.
- 3.4 Property Tax Code Compliance; Adjustments to Scheduled Payments. The County will comply with all requirements of the PACE Act, the Property Tax Code of the State of Illinois, as amended (the “**Property Tax Code**”), the Assessment Contract and this Note to assure the timely collection of the Pledged Revenues, including, without limitation, the enforcement of delinquent Assessment Payments (as defined in the Assessment Contract) as set forth in Section 3.5 and any other applicable law. To the extent that the Assessment Contract contemplates adjustments to Assessment Payments becoming due (such as interest rate changes or prepayments), the Registered Owner or its designee shall be responsible for making such calculations and delivering them to the Program Administrator. Program Administrator shall promptly deliver any prepayment notices received from the Property Owner to the Registered Owner or its designee and Registered Owner shall promptly provide (a) a calculation of the require prepayment amount, including any prepayment premium and rebated interest, and (b) payment instructions. Upon receipt of such calculation, the Program Administrator shall deliver a payoff statement to the Property Owner in accordance with the Assessment Contract. So long as necessary information regarding adjustments to any scheduled Assessment Payment (as defined in the Assessment Contract) is delivered by the Registered Owner to the Program Administrator before

[DATE]³ of each calendar year, then the County shall include such adjustments on the next tax roll applicable to the Property (as defined in the Assessment Contract). The Program Administrator may conclusively rely on any payment calculations delivered by the Registered Owner hereunder.

- 3.5 Delinquencies. If an Assessment Payment (as defined in the Assessment Contract) is delinquent according to the Property Tax Code, the County shall take such steps and follow such procedures to collect delinquent property tax payments as specified in the Property Tax Code. Upon receipt of any Pledged Revenues via the tax sale procedures available to the County pursuant to the Property Tax Code, the County shall within 30 days transfer such amounts to the Registered Owner at the Registered Owner’s designated account.
- 3.6 Bankruptcy of the County. The County acknowledges and agrees that amounts collected by the County as Pledged Revenues are intended to be “special revenues” as defined in Section 902(2) of the United States Bankruptcy Code. The foregoing is a statement of intent and not a guaranty or assurance that such proceeds will be treated as special revenues. In the event that the County files a petition under Chapter 9 of the United States Bankruptcy Code, the County shall not oppose a post-petition motion by the Registered Owner seeking (a) to obtain relief from the automatic stay applicable in bankruptcy cases with respect to all Pledged Revenues received by the County prior to such petition being filed to enable such Pledged Revenues to be paid to the Registered Owner, or (b) to ensure that all Pledged Revenues received by the County following such petition being filed are timely paid to the Registered Owner.
- 3.7 Further Assurances. The County will adopt, make, execute and deliver any and all such further ordinances, resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of the PACE Documents, and for the better assuring and confirming unto the County the rights and benefits provided in this Note.
- 3.8 Delegation of Duties. For the avoidance of doubt, to the extent permitted by applicable law, the County may cause the Program Administrator to perform any of its obligations under this Note.

4. EVENTS OF DEFAULT; REMEDIES.

- 4.1 Events of Default. Any one or more of the following events will constitute an “Event of Default”:
 - (a) Default in the due and punctual payment of any Pledged Revenues after receipt by the County;
 - (b) Default by the County in the observance of any of its other covenants in the PACE Documents, and the continuation of such default for a period of thirty (30) days after the County has been given notice in writing of such default by the Registered Owner; *provided that*, if such failure is curable, but not within such thirty (30) day period, such failure shall not constitute an Event of Default if, within such thirty (30) day period, the County diligently pursues such cure and such failure is cured within a reasonable period of time;
 - (c) Failure of the Registered Owner to have a valid and binding priority lien and security interest in the Pledged Revenues; or
 - (d) The filing by the County of a voluntary petition in bankruptcy, or failure by the County promptly to lift any adjudication of the County as bankrupt, or the approval by a court of competent jurisdiction of a petition applicable to the County in any proceedings instituted under the provisions of the United States Bankruptcy Code.
- 4.2 Remedies.
 - (a) Following the occurrence of an Event of Default, Registered Owner will have the right:

³ IECA to confirm.

- (i) By mandamus or other suit or proceeding at law or in equity to enforce its, its rights against the County and any of the members, officers and employees of the County, and to compel the County or any such members, officers or employees to perform and carry out their duties under the PACE Act and their agreements herein;
 - (ii) By suit in equity to enjoin any actions or things that are unlawful or violate the rights of the Owners; or
 - (iii) To exercise every power and remedy available to it under the PACE Act or other applicable law.
- (b) No remedy herein conferred upon or reserved to the Registered Owner is intended to be exclusive of any other remedy. Every such remedy will be cumulative and will be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by the PACE Act or any other law.

5. LIMITED RECOURSE.

THE SOLE SOURCE OF REPAYMENT OF THIS NOTE SHALL BE THE PLEDGED REVENUES. THE COUNTY WILL NOT BE IN ANY WAY LIABLE OR RESPONSIBLE FOR PAYMENT OF PLEDGED REVENUES TO REGISTERED OWNER, BEYOND REMITTING PLEDGED REVENUES PAID TO THE COUNTY BY PROPERTY OWNER OR IN CASES OF DEFAULT BY PROPERTY OWNER, BY A TAX PURCHASER VIA TAX SALE. EXCEPT AS SPECIFICALLY STATED IN THE ASSESSMENT CONTRACT, NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE COUNTY OR ANY OTHER POLITICAL SUBDIVISION OR AGENCY OF THE STATE OF ILLINOIS SHALL BE AVAILABLE FOR THE PAYMENT OF THE PRINCIPAL, INTEREST OR PENALTIES ON THE ASSIGNED ASSESSMENT PAYMENTS OR ANY COSTS INCIDENTAL THERETO. NO OFFICIAL, AGENT OR EMPLOYEE OF THE COUNTY WILL BE INDIVIDUALLY OR PERSONALLY LIABLE FOR THE PAYMENT OF PLEDGED REVENUES; BUT NOTHING HEREIN CONTAINED WILL RELIEVE ANY SUCH OFFICIAL, AGENT OR EMPLOYEE FROM THE PERFORMANCE OF ANY OFFICIAL DUTY PROVIDED BY LAW.

6. MISCELLANEOUS PROVISIONS.

- 6.1 Section Headings. Headings and numbers have been set forth herein for convenience only. Unless the contrary is compelled by the context, everything contained in each Section applies equally to this entire Note.
- 6.2 Interpretation. This Note shall be construed and interpreted according to the ordinary meaning of the words used so as to accomplish fairly the purposes and intentions of the provision herein.
- 6.3 Severability of Provisions. Each provision of this Note shall be severable from every other provision of this Note for the purpose of determining the legal enforceability of any specific provision.
- 6.4 Counterparts; Electronic Execution. Delivery of an executed counterpart of this Note by electronic method of transmission shall be equally as effective as delivery of a manually executed counterpart of this Note.
- 6.5 Governing Law. This Note shall be governed by and construed according to the laws of the State of Illinois.
- 6.6 Assignments; Note Register. To register the transfer of this Note, Registered Owner must present to the County and the Program Administrator a duly executed Form of Assignment marked as Exhibit B and attached hereto. The County shall cause the Program Administrator to keep a register of the ownership and transfers of this Note. The register will show the date, maturity amount, rate of interest and last Registered Owner and will at all times be open to inspection by the County and the Registered Owner during regular business hours on any Business Day, upon reasonable notice.

6.7 Interpretation. Unless the context of this Note clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, the terms “includes” and “including” are not limiting, and the term “or” has, except where otherwise indicated, the inclusive meaning represented by the phrase “and/or.” The words “hereof,” “herein,” “hereby,” “hereunder,” and similar terms in this Note refer to this Note as a whole and not to any particular provision of this Note, as the case may be. Section, subsection, clause, schedule, and exhibit references herein are to this Note unless otherwise specified. Any reference in this Note to any agreement, instrument, or document shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements, thereto and thereof, as applicable (subject to any restrictions on such alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements set forth herein). Any reference herein to any person or entity shall be construed to include such person’s or entity’s successors and assigns. The words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties. Any requirement of a writing contained herein shall be satisfied by the transmission of a record and any record transmitted shall constitute a representation and warranty as to the accuracy and completeness of the information contained therein.

[Signature page follows.]

IN WITNESS WHEREOF The County of Will, Illinois, by its County Board, has caused this Note to be executed by the manual or duly authorized facsimile signature of the Chairman of its County Board and attested by the manual or duly authorized facsimile signature of the County Clerk and ex-officio Clerk of the County Board, all as appearing hereon and as of the dated date identified above.

Chairman of the County Board

ATTEST:

County Clerk and ex-officio Clerk
of the County Board

Date of Authentication: [Closing Date]

CERTIFICATE
OF
AUTHENTICATION

Note Registrar and Paying Agent:
[Name of Entity]
[City],[State]

This Note is one of the Notes described in the within-mentioned Ordinance and is one of the Taxable PACE Revenue Notes, ([Street Address] Project) having a dated date of [Closing Date], of The County of Will, Illinois.

[Name of Entity],
as Note Registrar

By _____
Authorized Officer

Exhibit B
Form of Assignment

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

[Empty rectangular box for identifying number]

[Here insert identifying number such as TID, SSN, or other]

(Name and Address of Assignee)

the within Note and does hereby irrevocably constitute and appoint

attorney to transfer such Note on the books kept for registration thereof with full power of substitution in the premises.

Dated:

Signature:
