

The DC PACE Standard Offer Agreement:

A Summary of Terms and Conditions for the Origination and Funding of DC PACE Transactions

**An Agreement Between the DC PACE Program Administrator
And [Organization Name], the PACE Capital Provider**

August 9, 2017

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Introduction

The DC PACE Program Administrator (the “Administrator”) hereby presents this standard offer agreement (the “Standard Offer”), which summarizes the primary terms and conditions guiding the relationship between the Administrator and the PACE Capital Provider (the “Capital Provider”), regarding project origination and funding of PACE transactions for qualifying commercial, industrial, not-for-profit, and multifamily properties within the District of Columbia.

All transactions contemplated by this Standard Offer are subject to all necessary Administrator approvals, as guided by the Administrator’s program guidelines and professional judgment, and the Energy Efficiency Financing Act of 2010, DC Law 18-183 Section 305, and as amended by the Sustainable DC Act of 2012, DC Law 19-262 (the “Law”). In any situation where this document conflicts with provisions of the Law, the Law shall prevail.

I) Parties

Program Administrator (“Administrator”):	Urban Energy Advisors, LLC d/b/a Urban Ingenuity, a limited liability company of the District of Columbia and administrator of the DC PACE program as authorized by DC Law 18-183 Section 305, and as amended by DC Law 19-262 and pursuant to a contract with the District (that certain CW45504, effective as of October 1, 2016, by and between the Administrator and District, and as may be amended).
Property Owner:	The real property owner of an Eligible Project who is applying for PACE financing.
Capital Provider:	[Capital Provider Name] with offices at [Capital Provider Address], or their designated Project Originator, as defined further below, [Originator] with offices at [Project Originator Address], if applicable.
Registered Capital Provider:	Any Capital Provider registered with the DC PACE program and eligible to receive project term sheets from the Administrator.
District:	The District of Columbia, a body corporate and politic, existing under the Constitution and laws of the United States of America.
DC PACE Servicer:	Any designee as determined, from time to time, by the Administrator to service PACE financing.
Paying Agent:	District’s paying agent or any designee as determined, from time to time, by the District (currently, the Bank of New York Mellon).
Independent Engineer:	A third-party technical advisor approved by the Administrator to serve as an Independent Engineer for DC PACE projects. The Independent Engineer is an independent, certified, Professional Engineer (PE) that will validate energy and financial models for transactions and provide a validation report

confirming that the project meets Savings-to-Investment Ratio (SIR) criteria and other applicable DC PACE requirements.

Project Originator:

As applicable, the Capital Provider may elect to work in partnership with a Project Originator to serve as the formal agent of the Capital Provider in structuring, developing, and funding DC PACE projects. In such circumstances the Project Originator will be bound by the terms and conditions pertaining to the Capital Provider, outlined in this document.

II) Definitions

Law:	The Energy Efficiency Financing Act of 2010, as amended by the Sustainable DC Amendment Act of 2012 (May 27, 2010, D.C. Law 18-183, §101, 57 DCR 3406; Apr. 20, 2013, D.C. Law 19-262, § 102(a), 60 DCR 1300.)
Code	The District of Columbia Official Code, as may be amended.
Eligible Project or Project:	Energy Efficiency Improvements, as defined in the Law, which conform to the Eligibility Criteria in the Program Guidelines and other requirements of the Law.
Program Guidelines:	DC PACE Program Guidelines published by the Administrator on www.dcpace.com , as may be modified pursuant to Section 304 of the Law, with approval from the District.
Eligibility Criteria:	The Eligibility Criteria, as defined in the Program Guidelines, as may be modified from time to time by the Administrator with approval from the District to reflect any changes in market conditions, but at all times meeting the minimum criteria specified in the Law.
Underwriting Guidelines:	Underwriting Guidelines, as described in the Program Guidelines. Exceptions to the Underwriting Guidelines may be allowed by the Administrator with the approval of the District.
Lender Consent:	Lender consent will be required from all existing mortgage holders for properties seeking PACE financing. A template lender consent form is attached as <u>Appendix 2</u> .

III) Closing Documentation

The following PACE closing documents (the “Closing Documents”), which are attached hereto in template form as Appendices 1a – 1e, must be executed and recorded (as applicable) for a Project to become a Closed Project:

1. PACE Funding Agreement (Appendix 1a): An agreement signed by the Capital Provider, the Property

Owner, and the District, which contains the terms and conditions of the PACE financing.

2. PACE Agreement (Appendix 1b): A document signed by the Property Owner and the District, includes the Property Owner's consent to the PACE special assessment and the requirements of the DC PACE Program.
3. PACE Assessment Memorandum (Appendix 1c): A memorandum signed by the Capital Provider, Property Owner, and the District. The memorandum includes the amount of the assessment and the term of the assessment period and is recorded in the District's land records.
4. PACE Revenue Note (Appendix 1d): Upon signature of the three documents listed above, a PACE Revenue Note is signed by the Mayor of the District of Columbia and issued to the Capital Provider.
5. Paying Agent Agreement (Appendix 1e): An agreement between the District and their Paying Agent, establishing the process by which the Paying Agent collects and remits payment to the Capital Provider and the Administrator.

IV) Process

A) Standard Project Origination Process with a Selected Capital Provider:

The process for projects that are by a Capital Provider:

1. Capital Provider fills out a DC PACE Capital Provider Registration Form, attached in Appendix 3, and executes this Standard Offer with the Administrator to indicate their acceptance of the terms and conditions contained herein.
2. Capital Provider, or Property Owner working in conjunction with their selected Capital Provider, submits a Complete Application as described in the Program Guidelines, which includes all associated documents described in the Project Approval Checklist of that document (a "Complete Application"). The Application must demonstrate that the Project conforms to the Eligibility Criteria and Underwriting Guidelines.
3. The Administrator reviews all documentation and confirms that the Complete Application meets the requirements of the Law, Program Guidelines, this Standard Offer, and other applicable requirements.
4. Upon completion of such review, the Administrator shall indicate their approval, which shall not be unreasonably withheld, by submitting a Project Approval Report to the District, thereby making it an Approved Project.
5. Capital Provider and Property Owner execute the PACE Closing Documents, as applicable, and submit executed copies with all relevant attachments to the Administrator for District signatures.
6. The PACE Assessment Memorandum is recorded in the land records of the District and a PACE Revenue Note is issued by the Mayor of the District of Columbia to the Capital Provider, thereby making it a Closed Project.
7. The Administrator shall work with the District to ensure that PACE payments are billed to the Property Owner pursuant to the PACE Financing Agreement and remitted to the Capital Provider by the PACE Paying Agent, pursuant to the Paying Agent Agreement.
8. Fees are paid at closing and funds are allocated by the Capital Provider for the Project.

9. The Property Owner may commence with draw requests and project execution.

B) Project Origination Process when the Administrator Sources the Capital Provider:

A Property Owner who has not identified a Capital Provider may submit an Eligible Project to the Administrator to receive indicative terms from Registered Capital Providers. The process for submitting an Eligible Project that has not identified a Capital Provider:

1. At the request of a Property Owner, the Administrator gathers sufficient information about the project, as described more fully in the Program Guidelines.
2. Administrator circulates a Term Sheet Solicitation to the Registered Capital Providers that have indicated an ability to finance the relevant property or project type and will specify a reasonable timeline in which Registered Capital Providers may ask questions or respond with indicative terms.
3. The Administrator presents the Property Owner with a summary of the indicative terms for their review, and the Property Owner selects their desired Capital Provider.
4. The Administrator facilitates the development of a Complete Application and further due diligence and underwriting by the Registered Capital Provider, in order to support development of a final term sheet to be provided to the Property Owner.
5. The Administrator initiates steps 3-10 (from Section IV-A)

V) Roles and Responsibilities

Capital Provider's Obligations when Originating:

For projects originated by a Capital Provider, the Capital Provider must provide, or ensure that the Property Owner provides, a Complete Application.

Capital Provider's Reporting Obligations:

For all closed PACE Projects, the Capital Provider is responsible for reporting payments received as further detailed below.

In the case of prepayment by the property owner, a rate adjustment for an adjustable rate PACE financing, or other reason that may be approved by the Administrator, the amortization schedule for a PACE assessment must be amended. The Capital Provider must provide the Administrator with a revised amortization schedule at least 120 days prior to the first PACE payment that will not conform to the original amortization schedule. Such amendments will be provided to the District by the Administrator.

If the Capital Provider receives a payment from the Paying Agent that does not conform to the amortization schedule, the Capital Provider shall notify the Administrator within 30 days of the non-conforming payment.

Administrator's Obligations:

The Administrator will administer the DC PACE program according to the Law and the Program Guidelines. Such responsibilities include the

following tasks as related to facilitating the origination and funding of PACE projects:

1. Reviewing each Complete Application and providing approval to projects that meet program requirements;
2. Coordinating with the District to ensure that closing documents are signed, Memorandums of Assessment are recorded, and Revenue Notes are issued in a timely manner;
3. Working with the District, the Paying Agent, and the Administrator's Servicer in the collection and repayment of Special Assessments and remitting such payments to the Capital Provider; and
4. Circulating term sheet solicitations to Registered Capital Providers for all Projects sourced through the Administrator.

Exclusivity for Capital Providers Originating Projects:

For any Property Owner of any Eligible Project for which a complete application is submitted by a Registered Capital Provider (or by a Property Owner referencing their selected Capital Provider), the Administrator shall not share information about the Eligible Project, the Property Owner, or the Application with any other Capital Provider for a period of six (6) months (measured from the date of submission of a Complete Application).

This section does not apply if (1) the same Property Owner contacts the Administrator in writing to request PACE financing for a materially different Eligible Project; (2) the Capital Provider fails to close on the PACE financing within a commercially reasonable time, defined as six months from submission of a Complete Application; or (3) the Property Owner provides written authorization to the Administrator.

Confidentiality of Project Information Shared by the Administrator:

For Eligible Projects sourced by the Administrator and for which the Property Owner wishes to receive multiple bids, Registered Capital Providers will receive substantial information about Property Owners and their Projects through Term Sheet Solicitations that are circulated by the Administrator. Unless notified by the Administrator that they are the Property Owner's selected Capital Provider, no Capital Provider shall contact the Property Owner about their Eligible Project or about any other information shared through the Term Sheet Solicitation process.

This section does not apply if the Property Owner contacts the Capital Provider directly in writing.

V) Program Costs

Project application fees, closing fees, and ongoing servicing fees as of May 2017 are listed below. Please refer to the current edition of the DC PACE "Program Guidelines" document for the most accurate and definitive information about program costs. Program costs are subject to change from time to time at the discretion of the District, or at the discretion of the Administrator with the approval of the District. Notwithstanding anything

contained in this document, program fees will be determined at project closing based on the fee schedule included in the then-current edition of the Program Guidelines.

One-Time Fees			
Fee	Amount	Recipient	Details
Application Fee	\$250	Administrator	All projects – with Complete Application
Program Administration	1.25% (minimum \$2,500)	Administrator	All projects – at closing
Capital Sourcing and Project Development Fee	0.75%	Administrator	Waived if the Property Owner submits a Complete Application to the Administrator (i.e., does not require term sheet solicitation or lender consent support).
Recording Fee	\$31.50	Recorder of Deeds	All projects – At closing

Permanent Servicing Fees			
Fee	Annual Amount	Recipient	Details
PACE Servicing (Administrator)	0.15% of original principal	Administrator	All projects
PACE Servicing (District)	0.05% of original principal	District	All projects
Paying Agent Fee	\$400 per year (\$200 per semi-annual bill)	Paying Agent	All projects

Transaction Fees: In addition to the one-time program fees outlined above, the property owner may also be required to pay lender’s origination, transaction, and legal fees, along with costs for the technical validation by an Independent Engineer.

Capitalization of Fees: All one-time program fees due at closing may be capitalized into the PACE financing and paid at closing.

Additional Expenses: If the Capital Provider requests that the Administrator take any actions that shall result in any additional expense to the Administrator (including, but not limited to, acquiring certified copies of documents, shipping documents, etc.), they shall do so in writing. All expenses incurred by the Administrator in connection with any actions which the Capital Provider has requested shall be reimbursed by the Capital Provider.

VI) General Guidance to Capital Providers Submitting Financing Terms

The terms and conditions of the PACE Financing provided by the Capital Provider must be outlined in a term sheet that is signed by the Property Owner prior to approval of the Project by the Administrator. The final terms and conditions become binding upon execution of the PACE Funding Agreement.

Capital Providers may develop terms and conditions in accordance with the needs of the Project and Property Owner, provided that the terms and conditions are in accordance with the requirements of the Law, Eligibility Criteria, Program Guidelines, Underwriting Guidelines, and the requirements outlined below.

Financed Amount: The Capital Provider may provide up to 100% of the approved project costs, subject to the all other requirements of the Law and the Program Guidelines. The PACE financing may be used for approved hard and soft costs including: to (a) finance

clean energy, water conservation, energy efficiency, and other related retrofits to the property and (b) pay costs of obtaining and closing that credit facility, subject to the Capital Provider's approval.

PACE Assessment Term:

The PACE Assessment Term is at the discretion of the Property Owner and Capital Provider, provided that the term does not exceed the weighted average useful life of the measures.

Interest Rate:

The Interest Rate shall be determined at the discretion of the Capital Provider. Rate adjustments based on a predetermined spread over a given index are allowed, provided that the frequency of resets, the index to be used, and the spread above that index are agreed to at the time of closing by the Capital Provider and Property Owner and codified in the PACE Financing Agreement.

Capital Provider Origination Fee:

Capital Providers may charge an Origination Fee at their discretion.

Legal & Transaction Fees:

The Capital Provider may require that the Property Owner pay all legal and other transaction fees. These costs may be capitalized into the Financed Amount and paid at closing.

Program Costs:

As defined in the Program Costs section of this document, Section V.

PACE Assessment Prepayment Terms:

DC PACE permits prepayment of the PACE Assessment at any time. Prepayment restrictions and penalties are at the discretion of the Capital Provider. In the case of prepayment, the Property Owner shall make the prepayment, along with any penalty due, directly to the Capital Provider. The Property Owner shall also provide at least 90 days' notice to the Administrator of its intention to make a prepayment. Upon receipt of a prepayment, the Capital Provider shall notify the Administrator and provide a revised amortization schedule, if applicable.

Draw Mechanism and Inspections

To be negotiated between the Property Owner and the Capital Provider, in accordance with Program Guidelines.

Assumability:

Any purchaser of the Property will assume the PACE Assessment unless the seller chooses (at their sole discretion) to prepay the PACE Assessment in accordance with the prepayment terms of the PACE Funding Agreement.

Lender Consent:

All mortgage lenders must either consent to the PACE Assessment, in which case their lien may remain in place, or the mortgage will be prepaid so that there is no mortgage lien on the Property.

VII) Security Structure, Payment Mechanics, and Delinquency Process

Special Assessment Revenue Notes ("PACE Revenue Notes"):

The District of Columbia will issue Notes which will be secured solely by the PACE Assessment. The Notes are non-recourse special obligations of the District of Columbia, are neither a pledge of, nor supported by the full faith and credit or the taxing power of the District of the Columbia (other than the Special

Assessment), do not constitute a debt of the District of Columbia, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a) (2) of the Home Rule Act.

Transfers of the Note

Upon notice to the District, the Registered Owner of a PACE Note may assign the Note subject to the restrictions contained within the Note.

The transfer of the Note shall be registered by the Paying Agent at the written request of the Registered Owner upon surrender of the Note at the Payment Office of the Paying Agent accompanied by a written instrument of transfer satisfactory to the Paying Agent (“Form of Assignment” included in the PACE Revenue Note) and duly executed by the Registered Owner or his duly authorized attorney. The Registered Owner of the Note shall be deemed and regarded by the District and the Paying Agent as the absolute owner of the Note for purposes of receiving payment of or on account of the principal of and interest on the Note and for all other purposes; any such payment shall be made only to or upon the written order of the Registered Owner or his duly authorized attorney, and neither the District nor the Paying Agent will be affected by any notice to the contrary, but such registration may be changed as provided above.

Payment Dates:

The Property Owner will pay the PACE Assessment to the District semi-annually no later than March 31 and September 15 of each year; the same due dates for semiannual ad valorem property taxes. These payments are then forwarded to the Paying Agent. Payments on the PACE Notes are remitted to the Capital Provider on the first business day of June and December.

Security for PACE Assessment:

A lien for unpaid Assessments, including penalties and interest, shall attach to the Property in the same manner as and with a priority immediately junior to, a lien for delinquent real property tax under Title 47 of the District of Columbia Official Code.

Default and Delinquency Collection Process

In the case of delinquency, a lien for unpaid installments of the Special Assessment, including penalties and interest, shall attach to the Property in the same manner and with the same priority and collection procedures as a lien for delinquent real property taxes under Title 47 of the District of Columbia Official Code. Enforcement mirrors real estate tax collection procedures, with the exception that the tax certificate can be assigned by the Chief Financial Officer of the District to the PACE capital provider, mortgage lender (or other party) agreeing to make payment of delinquent PACE assessments, without requiring a public tax auction. Please review Section 47-1336 of the Code for further detail.

[Remainder of this page is intentionally left blank]

By executing this document, the parties accept the requirements of the Law, Program Guidelines, this Standard Offer, and any associated documentation thereunder, and agree to operate by the processes and guidelines established by the same.

The Administrator

Name: Bracken Hendricks
Title: President and CEO, Urban Ingenuity
Program Administrator, DC PACE
Date:

[Capital Provider]

Name:
Title:
Date:

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Appendices

- 1) Template Closing Documents
 - a. PACE Funding Agreement
 - b. PACE Agreement
 - c. Memorandum of Agreement and Special Assessment
 - d. PACE Revenue Note
 - e. Paying Agent Agreement
- 2) Template Lender Consent Agreement
- 3) Capital Provider Registration Form

DRAFT

October 2015

PACE FUNDING AGREEMENT

by and among

DISTRICT OF COLUMBIA

[Capital Provider]

and

[Property Owner]

Dated as of , 2015

PACE FUNDING AGREEMENT

THIS PACE FUNDING AGREEMENT (this “Agreement”) is dated as of _____, 2015 and is made by and among the **DISTRICT OF COLUMBIA**, a body corporate and politic, existing under the Constitution and laws of the United States of America (the “District”), **[CAPITAL PROVIDER]** (“**C**”) and **[PROPERTY OWNER]**, a District of Columbia limited liability company (the “Property Owner”).

RECITALS

A. The District of Columbia adopted the Energy Efficiency Financing Act of 2010, as amended (the “**Energy Act**,” D.C. Law 18-183; D.C. Code, 2001 Ed. § 8-1778.01 *et seq.*), pursuant to which it established the Energy Efficiency Loan program (the “**Program**”) and authorized a voluntary special assessment on participating property owners (the “**Special Assessment**”) in order to provide funds for the initial installation of energy efficiency improvements that are permanently attached to real property.

B. The Property Owner is the owner of certain improved real property located in the District of Columbia which is legally and particularly described in Exhibit A attached hereto and by this reference made a part hereof.

C. The Property Owner has requested funds in the principal amount of _____ Dollars (\$ _____) (the “**Funds**”) for the financing of the Project.

D. _____ has committed to make the Funds available to the Property Owner in exchange for a District of Columbia Special Assessment Revenue Note (_____Project Name_____) Series 2015 (the “**Special Assessment Note**”).

E. The Property Owner will pay a “**Special Assessment**” in the total amount of _____ Dollars (\$ _____) to the District (the “**Special Assessment**”).

F. The District will use the proceeds of the Special Assessment to make payments on the Special Assessment Note.

G. All payments on the Special Assessment Note shall be distributed pursuant to that certain Paying Agent Agreement dated [_____] , 2015, by and between the Bank of New York Mellon (the “**PACE Paying Agent**”), and the District (the “**Paying Agent Agreement**”).

H. The District, Project Owner and **Capital Provider** wish to set forth certain rights and obligations relating to the Funding.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and adequacy of which

is hereby acknowledged by both parties hereto, the District, **Capital Provider** and the Property Owner agree, as follows:

**ARTICLE I
INTERPRETATION**

Section 1.01 Definitions All initially capitalized terms included in the Recitals above shall have the respective meanings set forth therein. Unless otherwise expressly provided in this Agreement, the following terms shall have the respective meanings set forth below for all purposes of this Agreement.

Administrator means Urban Energy Advisors, LLC.

Closing Date is the date on which the parties execute this document.

Contractor means []

District is defined in the Preamble.

Energy Act is defined in the Recitals.

PACE Paying Agent is defined in the Recitals.

Paying Agent Agreement is defined in the Recitals.

Person means any individual, partnership, corporation, association, business trust, government or political subdivision thereof, governmental agency or other entity.

Program is defined in the Recitals.

Project is defined in the Recitals.

Property Owner is defined in the Preamble.

Special Assessment is defined in the Recitals.

Section 1.02 Conventions. Unless otherwise expressly provided in this Agreement:

- (a) references to Persons include their successors and permitted assigns;
- (b) the term “include,” “includes” or “including” means, include, includes or including without limitation (as the case may be);
- (c) references to the Recitals, Articles, Sections and Exhibits mean the

Recitals, articles and sections of, and the exhibits to, this Agreement;

(d) Unless the context clearly requires otherwise, the singular includes the plural, and vice versa, and the masculine, feminine and neuter adjectives include one another. The term “day” means a calendar day and includes Saturdays, Sundays and holidays, except that, if any obligation for the payment of money under this Agreement falls due on a Saturday, Sunday or a holiday on which banks in the District of Columbia are not open for business, the payment will be due on the next business day thereafter; and

(e) references to a party means a party to this Agreement.

ARTICLE II FUND PROVISIONS

Section 2.01 Amount Capital Provider will provide the Funds to finance the Project.

Section 2.02 Disbursement The total amount of the Funds pertaining to this transaction shall be disbursed to Property Owner [add disbursement details].

Section 2.03 Term The Funds shall be provided for a term commencing on the Closing Date and ending upon the expiration of the Assessment Period, unless such amounts are prepaid as provided herein.

Section 2.04 Interest Interest shall be charged at a rate of [] percent ([] %) per annum from the Closing Date.

Section 2.05 Repayment The Property Owner shall repay the Funds solely through the payment of the Special Assessment as provided in Article III of this Agreement.

ARTICLE III SPECIAL ASSESSMENT

Section 3.01. Agreement to Pay Special Assessment. Property Owner hereby agrees that during the Assessment Period provided for in this Article III, the Property shall be subject to a voluntary assessment (the “Special Assessment”) in the total amount of [] Dollars (\$ []).

Section 3.02 Assessment Period.

(a) The Special Assessment will be paid over a period of up to [] years (the “Assessment Period”) beginning as [] and ending on the earlier of (i) the [] anniversary of such date, or (ii) the date on which the Funds and any other amounts owed pursuant to this Agreement have been repaid in full. The Property shall no longer be subject to the Special Assessment following the expiration of the Assessment Period or at such time as the

Special Assessment has been paid in full.

(b) Property Owner may pre-pay the Special Assessment in whole or in part at any time and from time to time; provided, however, that the Property Owner shall give the District thirty (30) days notice of its intention to make a pre-payment.

(c) After the end of the Assessment Period, or at such time as the Special Assessment has been paid in full, if sooner, the Property shall no longer be subject to the Assessment.

Section 3.03 Assessment is Supplemental to Real Property Taxes; Installments. During the Assessment Period, in addition to paying real property taxes to the District under Chapter 8 of Title 47 of the District of Columbia Official Code ("Real Property Taxes"), each person who may, from time to time, own fee simple title to or a possessory interest (other than a leasehold interest for a term) in all or part of the Property (each an "Owner") shall make semi-annual payments of installments of the Special Assessment in the amount of _____ (\$_____) each, including interest at the rate of _____ Percent (___%) per annum, on each March 31 and September 15.

Section 3.04 Method of Payment. The payments of the Special Assessment shall be paid in the same manner and at such times as the semi-annual installments of Real Property Taxes are due and payable the Property.

Section 3.05 Other Impositions. If the Property is or becomes subject to Business Improvement District assessments or any other special assessments, the Property shall not, by reason of this Agreement, be exempt therefrom.

Section 3.06 Lien for Assessment. A lien for unpaid installments of the Special Assessment, including penalties and interest, shall attach to the Property in the same manner and with the same priority and collection procedures as a lien for delinquent real property taxes under Title 47 of the District of Columbia Official Code.

Section 3.07 Successor Owners. Each Owner, including the Property Owner, upon transfer of fee simple title to or a possessory interest in the Property or any portion thereof to a new Owner shall cause the new Owner to execute an assignment and assumption of the Special Agreement, substantially in the form attached hereto as Exhibit B.

ARTICLE IV SPECIAL ASSESSMENT NOTE

Section 4.01 Issuance of Special Assessment Note. The District will issue to Capital Provider its Special Assessment Note in the form of Exhibit C. The District shall use the proceeds

of the Special Assessment to make payments on the Funds pursuant to the Special Assessment Note.

Section 4.02 *Payment of Special Assessment Note.* Capital Provider agrees to accept the payments made on the Special Assessment Note in full payment of the Funds. The Special Assessment Note shall be without recourse to the District and Capital Provider's sole remedy for any failure to make payments on the Special Assessment Note shall be the foreclosure as provided in District of Columbia Official Code Section 47-1336.

ARTICLE V REPRESENTATIONS AND WARRANTIES

Section 5.01 *Representations and Warranties of Property Owner.* The Property Owner represents and warrants for the benefit of the District and Capital Provider that the following statements are true and accurate as of the date of this Agreement:

(a) *Organization.* The Property Owner is a limited liability company duly organized and validly existing under the laws of the District of Columbia, is in compliance with the laws of the District, and has the power and authority to own its properties and assets and to carry on its business in the District as now being conducted and as hereby contemplated.

(b) *Authority.* The Property Owner has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by the Property Owner.

(c) *Binding Obligation.* This Agreement is a legal, valid and binding obligation of the Property Owner, enforceable against the Property Owner in accordance with its terms, subject to bankruptcy and other equitable principles.

(d) *No Conflict.* The execution and delivery by the Property Owner of this Agreement and compliance with the provisions hereof, do not and will not in any material respect conflict with or constitute on the part of the Property Owner a breach or default under any agreement or instrument to which it is a party or by which it is bound, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would, in any material respect, constitute a default or an event of default under this Agreement.

(e) *Litigation.* There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or, to the best of its knowledge, threatened by or against the Property Owner: (i) in any way questioning the due formation and valid existence of the Property Owner; (ii) in any way contesting or affecting the validity of this Agreement or the consummation of the transactions contemplated hereby; (iii) in any way affecting the timely construction of the Project; or (iv) which would have a material

adverse effect upon the financial condition of the Property Owner or the ability to complete the Project.

Section 5.02 *Representations of the District.* The District represents for the benefit of **Capital Provider** and the Property Owner that the following statements are true and accurate as of the date of this Agreement:

(a) *Organization; Authorization.* The District is a body corporate and politic existing under the Constitution and the laws of the United States of America and has the full legal right, power and authority to enter into this Agreement, to issue and deliver the Special Assessment Note, and to carry out and consummate the transactions on its part contemplated by this Agreement.

(b) *Binding Obligations.* The District, by all necessary official action of the District, has duly authorized and approved the adoption, or execution and delivery by the District of, and the performance by the District of the obligations on its part contained in this Agreement, and such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded.

(c) *Issuance of Special Assessment Note.* The issuance and delivery of the Special Assessment Note have been duly authorized by the District pursuant to the Act and the Home Rule Act, and such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded.

(d) *No Conflict.* The execution and delivery by the District of this Agreement and compliance with the provisions thereof, do not and will not in any material respect conflict with or constitute on the part of the District a breach or default under any agreement or instrument to which it is a party or by which it is bound, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would, in any material respect, constitute a default or an event of default under this Agreement.

(e) *Litigation.* There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or, to the best of its knowledge, threatened by or against the District: (i) in any way contesting or affecting the validity of this Agreement or the consummation of the transactions contemplated hereby, (ii) in any way affecting the timely construction of the Project; or (iii) which would prevent the District from issuing the Special Assessment Note for the Project.

Section 5.03 *Covenants of the Property Owner.*

(a) *Payment of Special Assessment.* The Property Owner shall pay the Special Assessment at the times and in the amount required by this Agreement.

(b) *Maintain Existence.* The Property Owner at all times shall maintain in full force and effect its limited partnership existence, rights, privileges, and franchises and shall qualify and remain qualified in all jurisdictions where qualification is required.

(c) *Compliance with Laws.* The Property Owner shall not, with knowledge, commit, suffer or permit any act to be done in, upon or to the Property or in connection with the construction and operation of the Project in violation of any provision of any applicable federal, state or local law, statute, rule or regulation, or any order of any court or other governmental authority having jurisdiction, or any authorized official, board, department, instrumentality or agency thereof.

ARTICLE VI TERMINATION

Section 6.01 *Events of Default.*

(a) The following events shall constitute an “Event of Default”

(i) Property Owner shall fail to pay the Special Assessment in accordance with the terms of this Agreement and the Energy Act.

(ii) Property Owner shall admit in writing its inability to pay its debts as they mature or shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of any such act by answer or otherwise;

(iii) Property Owner shall be adjudicated bankrupt or insolvent by any court;

(iv) Involuntary proceedings under any bankruptcy law, insolvency act or similar law for the relief of debtors shall be instituted against Property Owner, or a receiver or trustee shall be appointed for all or substantially all of the property of Property Owner, or Property Owner shall suffer an attachment or levy of execution to be made against the property it owns or leases in the Project in excess of \$500,000, and such proceedings, levy or attachment shall not be dismissed or the receivership or trusteeship vacated within sixty (60) days after the institution of appointment;

(v) Property Owner shall make an assignment for the benefit of creditors or Property Owner shall petition for composition of debts under any law authorizing the composition of debts or reorganization of Property Owner;

(b) If an Event of Default by the Property Owner occurs, Capital Provider shall have the remedy provided in District of Columbia Official Code Section 47-1336 and no other.

(c) If an Event of Default by the Project Owner occurs, the Administrator shall be notified pursuant to Section 7.01.

ARTICLE VII MISCELLANEOUS

Section 7.01 Notices. All notices or other communications hereunder shall be in writing, addressed as set forth below, and delivered by certified mail (return receipt requested, postage prepaid), by hand, or by nationally recognized overnight commercial courier service or by facsimile with proof of receipt (with a copy to follow by U.S. Mail). Notices which shall be served in the manner aforesaid shall be deemed to have been received for all purposes hereunder at the time such notice shall have been: (i) if hand delivered to a party against receipted copy, when the copy of the notice is receipted; (ii) if given by nationally recognized overnight delivery service, on the next business day after the notice is deposited with the overnight delivery service; (iii) if given by certified mail, return receipt requested, postage prepaid, on the date of actual delivery or refusal thereof; or (iv) if given by facsimile, when received. If notice is tendered under the terms of this Agreement and is refused by the intended recipient of the notice, the notice shall nonetheless be considered to have been received and shall be effective as of the date provided in this Agreement.

Notices and other communications shall be addressed as follows:

To District: District Department of the Environment
Government of the District of Columbia
1200 1st Street, NE, 5th Floor
Washington, DC 20002
Attention: Kenley Farmer
Tel: (202) 671-3314
Fax: (202) 535-2881

With a copy to: Office of the Attorney General
441 4th Street, NW
Suite 1010 South
Washington, DC 20001
Attention: Deputy Attorney General, Commercial Division
Tel: (202) 724-3400
Fax: (202) 347-8922

To Property Owner: [REDACTED]
Attention:

with copies to: []

and

[]

To **Capital Provider**: []

with copies to: []

To Administrator: Urban Ingenuity, Suite 600
7735 Old Georgetown Road
Bethesda, MD 20814
Attention: Ian Fischer

Any party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other party.

Section 7.02 Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent possible.

Section 7.03 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of any permitted successors and assigns of the parties hereto.

Section 7.04 Parties in Interest. Nothing in this Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the District, **Capital Provider** and the Property Owner any rights, remedies or claims under or by reason of this Agreement or any covenants, conditions or stipulations hereof, and all covenants, conditions, promises and agreements in this Agreement contained by or on behalf of the District, **Capital Provider** or the Property Owner shall be for the sole and exclusive benefit of the District, **Capital Provider** and the Property Owner.

Section 7.05 Amendment; Waiver. This Agreement may be amended from time to time, in a manner consistent with the Energy Act and the Home Rule Act, by written supplement hereto and executed by the District, **Capital Provider** and the Property Owner. Any obligations hereunder may not be waived, except by written instrument signed by the party to be bound by such waiver. No failure or delay of any party in the exercise of any right given to such party hereunder or the waiver by any party of any condition hereunder for its benefit (unless the time specified herein for exercise of such right, or satisfaction of such condition, has expired) shall constitute a waiver of any other or further right nor shall any single or partial exercise of any right preclude other or further exercise thereof or any other right. The waiver of any breach hereunder shall not be deemed to be a waiver of any other or any subsequent breach hereof.

Section 7.06 *Governing Law.* This Agreement shall be governed by the laws of the District of Columbia.

Section 7.07 *Counterparts.* This Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 7.08 *Entire Agreement.* All previous negotiations and understandings between the parties hereto or their respective agents and employees with respect to the matters set forth herein are merged into this Agreement, and this Agreement alone fully and completely expresses the parties' rights, duties and obligations with respect to its subject matter.

Section 7.09 *Captions.* The captions are inserted in this Agreement only for convenience of reference and do not define, limit or describe the scope or intent of any provisions of this Agreement.

Section 7.10 *Exhibits.* The exhibits attached hereto shall be deemed incorporated into this Agreement in their entirety.

Section 7.11 *Binding Effect.* This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, heirs and personal representatives.

Section 7.12 *WAIVER OF TRIAL BY JURY.* EACH OF THE PARTIES TO THIS AGREEMENT HEREBY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY PARTY HERETO AGAINST THE OTHER PARTIES HERETO AS TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF THE PARTIES OR ANY OTHER CLAIM OR STATUTORY REMEDY.

Section 7.13 *Construction.* This Agreement shall be construed fairly as to all parties and not in favor of or against any party, regardless of which party prepared the Agreement.

Section 7.14 *Interpretation.* This Agreement constitutes an Energy Efficiency Loan Agreement referred to in the Energy Act.

THE REMAINING PORTION OF THIS PAGE WAS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

DISTRICT OF COLUMBIA

By: _____

Name:

Title:

Approved for Legal Sufficiency:

By: _____

Patrick Allen
Senior Assistant Attorney General
Office of the Attorney General
for the District of Columbia

[PROPERTY OWNER]

By: _____

Name:

Title:

[CAPITAL PROVIDER]

By: _____

Name:

Title:

Exhibit A

Project Site

Exhibit B

Form of Assignment and Assumption Agreement

This Assignment and Assumption (this "Assignment") is dated _____, 20__ and is made by and between _____ [CURRENT OWNER], a _____ organized and existing under the laws of _____ (the "Assignor") and _____ [PURCHASER / TRANSFEREE], a _____ organized and existing under the laws of _____.

RECITALS

A. Assignor is the owner of that certain real property as more fully described on Exhibit A attached hereto (the "Property").

B. Assignor is a party or successor party to that certain PACE Agreement dated as of _____, 20__ (the "Agreement"), a Memorandum of which is recorded in the Land Records of the District of Columbia on _____, 20__ as Instrument No. _____

C. The Agreement provides among other things for payments of a special assessment with respect to the Property and the Agreement is or will be as of the date hereof a covenant that runs with the Property.

D. By deed of even date herewith, Assignor has conveyed all of its right, title and interest in and to the Property to Assignee.

E. Pursuant to the terms of the Agreement, the Assignor desires to assign to Assignee and Assignee desires to accept the assignment of all the rights and obligations of Assignor under the Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Assignor and Assignee agree as follows:

1. Assignor hereby assigns to Assignee and Assignee hereby accepts all of the rights and obligations of Assignor under the Agreement effective on the date hereof.

2. Any notice permitted or required under the Agreement to be given or delivered to Assignee shall be given in accordance with the provisions of Agreement at the address for Assignee set forth in Exhibit B attached hereto.

3. Assignor represents and warrants as follows:

a. Assignor is a _____ existing under the laws of _____ and has the full legal right, power and authority to enter into this Assignment and to carry out and consummate the transactions on its part contemplated by this Assignment.

b. The Assignor, by all necessary corporate or other action, has duly authorized and approved the execution and delivery of this Assignment.

c. This Assignment is a legal, valid and binding obligation of the Assignor enforceable in accordance with its terms subject to applicable bankruptcy, insolvency or other similar laws of general application or equitable principals generally related to or affecting the enforcement of creditor's rights.

d. The Agreement is in full force and effect as it relates to Assignor and the Property and the Agreement has not been amended or modified since the [date thereof][the date of assignment thereof to Assignor].

e. Assignor is not in default of any of its obligations under the Agreement.

4. Assignee represents and warrants as follows:

a. Assignee is a _____ existing under the laws of _____ and has the full legal right, power and authority to enter into this Assignment and to carry out and consummate the transactions on its part contemplated by this Assignment.

b. The Assignee, by all necessary corporate or other action, has duly authorized and approved the execution and delivery of this Assignment.

c. This Assignment is a legal, valid and binding obligation of the Assignee enforceable in accordance with its terms subject to applicable bankruptcy, insolvency or other similar laws of general application or equitable principals generally related to or affecting the enforcement of creditor's rights.

5. This Assignment shall be governed by the laws of the District of Columbia.

IN WITNESS WHEREOF, the Assignor and the Assignee have executed this Assignment as of the date and year first above written.

Exhibit C

Form of Special Assessment Revenue Note

No:

DISTRICT OF COLUMBIA
SPECIAL ASSESSMENT REVENUE NOTE
(_____ PACE PROJECT)
SERIES 2015

Principal Amount Date of Issuance Maturity Date
\$ _____ _____ _____

Registered Owner: [CAPITAL PROVIDER] and its successors and assigns (collectively, the “Registered Owner”)

The District of Columbia (the “District”), a public body municipal and corporate, for value received, hereby promises to pay to the Registered Owner, solely from the source identified herein, the principal sum of _____ Dollars (\$ _____) together with interest at the rate of _____ percent (_____%) per annum on the unpaid principal sum from the date hereof until said principal sum shall be paid. The District’s obligation to pay installments of principal and interest 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 District as soon as any Pledged Revenues (as defined below) are available to pay all or any portion of such installment.

This Note is issued pursuant to the provisions of, and in full compliance with, the laws of the District, in particular the District of Columbia Home Rule Act. (P.L. 98-198; 87 Stat. 774; D.C. Official Code §§ 1-201.01 *et seq.* (the “Home Rule Act”), the Energy Efficiency Financing Act of 2010, effective May 27, 2010 (D.C. Law 18-183; D.C. Code, 2001 Ed. § 8-1778.01 *et seq.* (as the same has or may in the future be amended, collectively, the “PACE Act”).

THIS NOTE SHALL BE A SPECIAL OBLIGATION OF THE DISTRICT, SHALL BE NON-RECOURSE TO THE DISTRICT, SHALL NOT BE A PLEDGE OF, AND SHALL NOT INVOLVE THE FAITH AND CREDIT OR THE TAXING POWER OF THE DISTRICT, SHALL NOT CONSTITUTE A DEBT OF THE DISTRICT, AND SHALL NOT CONSTITUTE LENDING OF THE PUBLIC CREDIT FOR PRIVATE UNDERTAKINGS AS PROHIBITED BY SECTION 602(a) OF THE HOME RULE ACT.

The sole source of repayment of this Note shall be the Special Assessment, as defined in the PACE Act, payable to the District (the “Pledged Revenues”) pursuant to that certain PACE Funding Agreement dated as of __, 2015 between the District, _____ LLC (the “Property Owner”)

and [Capital Provider] and the District shall have no obligation to make any payments on this Note, other than through the remittance by the Property Owner of the Pledged Revenues. The District may pre-pay this Note, in whole or in part, at any time and from time to time by giving notice to the Paying Agent.

Interest on this Revenue Note shall be payable on the first business day of June and December commencing on December 1, 2015, with principal as set forth in the Amortization Schedule attached hereto; provided, however, the Pledged Revenues collected by the District shall be applied by the Paying Agent as provided in Section 5.2 of the Paying Agent Agreement. If the District prepays a portion of the outstanding principal of the Note, the District shall provide the Paying Agent with a revised Amortization Schedule reflecting the revised and updated payment schedule and amounts, as necessary.

If any payment of the principal of, or interest on, this Note is due on a day that is not a business day, such payment will be made on the next succeeding business day, and no interest will accrue on the amount of such payment during the intervening period. Presentation of the Note is not necessary for the payment of principal of or interest on the Note; provided, however, to receive the last payment on this Note the Registered Owner shall present this Note to the Paying Agent at the Paying Agent's Payment Office stated in the Paying Agent Agreement on the earlier of the Maturity Date or the date when all amounts due pursuant to this Note will be paid in full.

All obligations of the District hereunder shall terminate on the earlier of (i) the date when all amounts due pursuant to this Note have been paid in full or (ii) the Maturity Date; provided, that, if payments of all amounts due and owing on the Maturity Date have not been paid the District's obligations with respect to this Note shall be forgiven, so long as the District has remitted to the Registered Owner all Pledged Revenues received by the District prior to the Maturity Date.

UPON NOTICE TO THE DISTRICT, REGISTERED OWNER SHALL HAVE THE UNRESTRICTED RIGHT AT ANY TIME AND FROM TIME TO TIME TO TRANSFER, PLEDGE, ASSIGN OR SELL THIS NOTE OR TO ASSIGN ALL OR ANY PORTION OF ITS RIGHTS HEREUNDER, PROVIDED, HOWEVER, THAT ANY ASSIGNEE SHALL BE EITHER AN ACCREDITED INVESTOR AS DEFINED BY THE SECURITIES AND EXCHANGE COMMISSION RULE 501(a) of REGULATION D (17 C.F.R. §230.501 *et seq.*) OR A QUALIFIED INSTITUTIONAL BUYER AS DEFINED BY THE SECURITIES AND EXCHANGE COMMISSION RULE 144A (17 CFR §230.144A).

This Note constitutes a "Bond" for purposes of the PACE Act.

[The balance of page is intentionally blank]

IN WITNESS WHEREOF, the District has caused this Special Assessment Revenue Note to be executed in its name by the manual or facsimile signature of the Mayor of the District of Columbia and its corporate seal to be impressed or printed and attested by the manual or facsimile signature of the Secretary of the District of Columbia all as of the date first above written.

DISTRICT OF COLUMBIA

By: _____
Muriel Bowser
Mayor

(SEAL)

Attest:

Lauren C. Vaughan
Secretary of the District of Columbia

DISTRICT OF COLUMBIA PACE PROGRAM

PACE AGREEMENT

BETWEEN

THE DISTRICT OF COLUMBIA

and

[PROPERTY OWNER]

dated as of [DATE]

This PACE Agreement (this “Agreement”) is made and entered into as of this ___ day of _____ by and between the District of Columbia, a body corporate and politic (the “District”), and _____ (the “Property Owner”).

Background

- I. The District of Columbia adopted the Energy Efficiency Financing Act of 2010, as amended (the “**Energy Act**”), pursuant to which it established the Energy Efficiency Loan program (the “**Program**”) and authorized a voluntary special assessment on participating property owners (the “**Special Assessment**”) in order to provide funds for the initial installation of energy efficiency improvements that are permanently attached to real property.
- II. The Property Owner is the owner of certain improved real property located in the District of Columbia which is legally and particularly described in Exhibit A attached hereto and by this reference made a part hereof.
- III. The Property Owner has entered into a Construction Contract with _____ (the “Contractor”), dated as of [DATE] (the “Construction Contract”), pursuant to which the Contractor will, among other things, undertake a project, generally consisting of the procurement and installation of certain energy saving equipment at the Property (the “Project”).
- IV. To participate in the Program, the Property Owner has consented to the imposition of the Special Assessment against the Property.
- V. The Property is subject to the following deeds of trust: (each a n “**Existing Mortgage**,” with an “**Existing Lender**”). The Existing Lender has consented to the imposition of the Special Assessment pursuant to the Lender Consent by and between the Property Owner and the Existing Lender dated ____.
- VI. The Property Owner and _____ (the “**Capital Provider**”) have entered into a PACE Funding Agreement of even date herewith (the “**Funding Agreement**”) setting forth certain rights and obligations relating to the financing of the Project.
- VII. The District and the Bank of New York Mellon (the “PACE Paying Agent”) have entered into a Paying Agent Agreement dated [DATE] (the “Paying Agent Agreement”), pursuant to which the District has appointed the PACE Paying Agent as its agent for purposes of holding, maintaining and disbursing funds held in the Special Energy Assessment Fund.
- VIII. This Agreement sets forth, among other things, certain rights and obligations of the District and the Property Owner relating to the implementation of the Program.

Agreement

In consideration of the Background and the mutual covenants, undertakings and conditions set forth below, the parties, intending to be legally bound, agree as follows:

ARTICLE 1 DEFINITIONS; CONVENTIONS

1.1 Definitions

Administration Contract means that certain CW45504, effective as of October 1, 2016, by and between the Administrator and District, and as may be amended.

Administrator means Urban Energy Advisors, LLC, a District of Columbia limited liability company. The Project Owner acknowledges the appointment of Urban Ingenuity as the Administrator

Administrative Fee shall mean the Administrator's fee to manage and administer the _____ PACE Project as agreed to by the District and the Administrator in the semi-annual amount of _____.

Capital Provider is defined in the Background.

Contractor is defined in the Background.

Construction Contract is defined in the Background.

District is defined in the Preamble.

Energy Act is defined in the Background.

Existing Lender is defined in the Background.

Existing Mortgage is defined in the Background.

Final Completion means the date on which all of the following events have occurred: (i) construction of the Project is completed, lien-free, except if the Property Owner is appealing or contesting any of the aforementioned liens by appropriate legal or other proceeding, promptly initiated and conducted in good faith and with due diligence, in accordance with the Plans and Specifications, (ii) all amounts owing to the Project’s contractors have been paid-in-full, except for amounts owing that will be reimbursed through a pending disbursement of Funds; and (iii) Property Owner has procured final lien waivers from the contractor, subject to retainage amounts contemplated for any ongoing construction activity on the Property

Funding Agreement is defined in the Background.

Independent Engineer means **Clean Energy Solutions, Inc., a Massachusetts Limited Liability Company.** The Property Owner acknowledges the appointment of Clean Energy Solutions, Inc. as the Independent Engineer, or another firm as approved by the DC PACE program to provide this function.

Losses means costs, damages, expenses and liabilities of whatever nature, including attorneys’ fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments.

PACE Origination Fee will be will be _____% of the total project cost.

PACE Paying Agent is defined in the Background.

Paying Agent Agreement is defined in the Background.

Paying Agent Fee means a semi-annual fee in the amount of One Hundred Dollars (\$200.00) payable to the PACE Paying Agent for the performance of its duties under the Paying Agent Agreement.

Person means any individual, partnership, corporation, association, business trust, government or political subdivision thereof, governmental agency or other entity.

Program is defined in the Background.

Program Fee means a semi-annual fee in the amount of \$ [REDACTED] due to OCFO/DC OTR for the administration of the Program.

Project is defined in the Background.

Property Owner is defined in the Preamble.

Property Owner Agreements is defined in Section 4.1(a).

Special Assessment is defined in the Background.

1.2 Conventions. Unless otherwise expressly provided in this Agreement:

- a) references to Persons include their successors and permitted assigns;
- b) the term “include,” “includes” or “including” means, include, includes or including without limitation (as the case may be);
- c) references to the Background, Articles, Sections and Exhibits mean the background, articles and sections of, and the exhibits to, this Agreement;
- d) the term “day” means a calendar day and includes Saturdays, Sundays and holidays, except that, if any obligation for the payment of money under this Agreement falls due on a Saturday, Sunday or a holiday on which banks in the District of Columbia are not open for business, the payment will be due on the next business day thereafter; and
- e) references to a party means a party to this Agreement.

ARTICLE 2 PROJECT-RELATED COVENANTS

2.1 Project Funding

- a) The Property Owner acknowledges that no funds or resources of the District will be available to pay the sums coming due under the Construction Contract or the Funding Agreement.
- b) The Property Owner shall pay the Administrative Fee and the Program Fee, the amount of which shall be included in the Special Assessment.
- c) The Property Owner shall pay the PACE Origination Fee, the amount of which shall be paid at closing.

2.2 Inspection; Information; Reports.

- a) The Property Owner shall permit, and shall cause the Contractor to permit, the Independent Engineer, the Administrator and any agency of the District to inspect the Construction Work, at reasonable times and in a reasonable manner, so long as they do not unreasonably interfere with the performance of the Construction Work. The District will not have any duty or obligation to inspect the Construction Work. Any such inspections by the Independent Engineer, the District, or any department, agency or instrumentality thereof shall be for the purpose of informing the District as to the status of the Construction Work and shall not be for the benefit of the Property Owner or the Contractor, nor shall either of them be entitled to rely on any such inspection, examination or report.

- b) The Property Owner shall provide to the Administrator or the Independent Engineer any information relating to the Project that the District or the Independent Engineer may reasonably request.
- c) The Contractor shall provide a copy of each deliverable required to be submitted to the Property Owner under the Construction Contract to the Administrator at the same time that the Contractor provides it to the Property Owner.

2.3 Termination of the Construction Contract.

If the Construction Contract is terminated prior to Final Completion:

- a) the Property Owner shall give the Administrator notice thereof concurrently with the delivery of a termination notice to the Contractor;
- b) within 30 days after delivery of the notice described in subsection (a) above, the Property Owner shall, in its discretion, either:
 - i. enter into a new agreement meeting the requirements of the Energy Act with another contractor and in form and substance reasonably acceptable to the Administrator and cause the new contractor to execute and deliver to the Administrator an acknowledgment of the terms of this Agreement; or
 - ii. Notify the Administrator and the District that it does not intend to enter into such a new agreement and shall complete the Construction Work itself.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Property Owner. The Property Owner represents and warrants that:

- a) the Property Owner is a District of Columbia _____, in good standing in the District of Columbia, and has all requisite power and authority to enter into and perform its obligations under this Agreement, the Construction Contract, the Funding Agreement, and the Existing Mortgage (the “**Property Owner Agreements**”) and to carry out the terms thereof and the transactions contemplated thereby;
- b) the execution, delivery and performance by Property Owner of the Property Owner Agreements have been duly authorized by all necessary action on the part of Property Owner and do not require any approval or consent of any holder (or any trustee for any holder) of any indebtedness or other obligation of the Property Owner, except as has been obtained;
- c) each Property Owner Agreement has been duly executed and delivered on behalf of Property Owner by authorized officers of Property Owner, and constitutes the legal, valid and binding obligation of Property Owner, enforceable in accordance with its terms subject to applicable bankruptcy, insolvency, moratorium, and other similar laws applicable to creditors’ rights generally and also subject to any limitations on enforceability which may be imposed by application of equitable principles;

- d) the Property Owner Agreements are in full force and effect and have not been assigned by the Property Owner;
- e) to knowledge of Property Owner, there is no action, suit, proceeding or investigation pending or threatened against the Property Owner or its properties before or by any court, administrative agency, environmental council, arbitrator or governmental authority, body or agency that could adversely affect the performance by Property Owner of its obligations under any Property Owner Agreement or that questions the validity, binding effect or enforceability of any Property Owner Agreement, any action taken or to be taken pursuant thereto or any of the transactions contemplated thereby;
- f) the execution, delivery and performance by Property Owner of the Property Owner Agreements and the consummation of the transactions contemplated thereby, do not and will not conflict with, or result in any violation of, any term of its organizational documents, or of any contract or agreement applicable to it or of any license, permit, franchise, judgment, writ, injunction, decree, order, charter, law, ordinance, rule or regulation presently applicable to it or any of its properties or by which it or its properties may be bound or affected;
- g) no consent, approval, order or authorization of, or registration, declaration or filing with, or giving of notice to, obtaining of any license or permit from, or taking of any other action with respect to, any federal, state or local government or public body, authority or agency is required in connection with the valid authorization, execution and delivery by the Property Owner of the Property Owner Agreements, except those that have been obtained; and
- h) neither the Property Owner nor, to knowledge of Property Owner, the Contractor has declared a default under the Property Owner Agreements.

ARTICLE 4 SPECIAL ASSESSMENT

4.1 Assessment. Property Owner hereby confirms and agrees that pursuant to the Funding Agreement the Property shall be subject to a voluntary special assessment in the amount and on the terms provided in the Funding Agreement.

ARTICLE 5 RELEASE AND INDEMNIFICATION

5.1 Property Owner Release and Indemnification. Property Owner hereby agrees to defend District and each agency, officer, employee, agent or any other party acting for or on behalf of the District (the “**District Indemnified Parties**”) from, and hold each of them harmless against, any and all Losses arising out of (a) Property Owner’s negligence or willful misconduct or (b) Property Owner’s participation in the Program; provided, however, that Property Owner shall not be liable to the extent such Losses arise from gross negligence or willful misconduct on the part of the District Indemnified Parties as shall have been determined in a final and non- appealable judgment of a court of competent jurisdiction.

5.2 Limitation of Liability. Notwithstanding any other provision of this Agreement, in no event will any Party be liable for any indirect, special, punitive, incidental or consequential damages, including loss of anticipated profits, whether in contract or tort (including the negligence or strict liability of the party whose liability has been so limited) or otherwise.

5.3 No Personal Recourse. No covenant, obligation or agreement of a party hereunder will be deemed to be a covenant, stipulation, obligation or agreement of any past, present or future member, officer, agent, attorney or employee of such party in other than his or her official capacity, and none of the members, officers, agents, attorneys or employees, past, present or future of a party will be subject to any personal liability or accountability by reason of the covenants, obligations or agreements of such party in this Agreement.

ARTICLE 6 MISCELLANEOUS

6.1 Notices, Etc. All notices, consents, authorizations and approvals given under this Agreement must be in writing and may be telecopied, delivered by hand, mailed by first class, registered mail (return receipt requested) or sent by FedEx or similar courier service and addressed as follows:

If to the District:
Department of Energy and Environment
1200 1st Street NE 5th Floor
Washington, DC 20002
Attention: Kenley Farmer

With a copy to:
Office of the Chief Financial Officer
1101 4th Street, S.W. Suite
Washington, DC 20024
Attention: Office of Economic Development Finance

If to the Property Owner:
[REDACTED]
Attn:

With a copy to:
[REDACTED]
Attn:

Each party may change the address to which its communications are delivered by giving notice to the other party. Any communication given in accordance with this Section will be deemed to have been given to a party upon its receipt thereof.

6.2 Relationship of the Parties. Nothing herein will be deemed to establish a relationship of principal and agent between or among any party or any of their respective agents or employees, and this Agreement may not be construed as creating any form of legal association or arrangement that would impose liability upon one party for the act or failure to act of the other party.

6.3 No Waiver. Any waiver of, or consent to depart from, the requirements of any provision of this Agreement will be effective only if it is in writing and signed by the party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of either party to exercise, and no delay in exercising, any right under this Agreement will operate as a waiver of such right.

6.4 Severability. If any provision of this Agreement is determined to be invalid, illegal or unenforceable in any respect, the parties shall negotiate in good faith and agree to such amendments, modifications or supplements of or to this Agreement or such other appropriate actions as may, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein, and the other provisions hereof will, as so amended, modified or supplemented, or otherwise affected by such action, remain in full force and effect.

6.5 Complete Agreement; Amendments. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the parties as to the subject matter hereof. This Agreement may not be amended or modified except by a written instrument signed by the parties.

6.6 Governing Law. This Agreement will be governed by, and interpreted and enforced in accordance with, the laws of the District of Columbia (excluding any conflict of laws rule or principle that might refer such interpretation to the laws of another jurisdiction).

6.7 Headings. Headings used in this Agreement are for the purpose of convenience only, and no heading may be construed to modify or be used to interpret the text of any Section.

6.8 Further Assurances. The District and Property Owner agree to execute and deliver all such instruments and take all such action as may be reasonably necessary to effectuate fully the purposes of this Agreement.

6.9 Successors and Assigns. All the covenants, promises and agreements in this Agreement by or on behalf of a party hereto will bind and inure to the benefit of its successors and assigns, whether so expressed or not.

6.10 Counterparts. This Agreement may be executed in counterparts that, taken together, will constitute one and the same agreement.

As evidence of their intent to be legally bound, the District and the Property Owner have each caused this Program Agreement to be duly executed by their duly authorized representatives as of the day and year first written above.

[Remainder of Page Intentionally Blank]

DISTRICT OF COLUMBIA

By: _____

Name:

Title:

Approved as to Legal Sufficiency:

By: _____

Patrick Allen
Senior Assistant Attorney General
Office of the Attorney General for the District of Columbia

PROPERTY OWNER

By: _____

Name:

Title:

MEMORANDUM OF PACE AGREEMENT AND SPECIAL ASSESSMENT

This MEMORANDUM is made as of the _____ day of _____, [YEAR], by and among the **DISTRICT OF COLUMBIA**, a body corporate and politic (the "**District**"), existing under the Constitution and laws of the United States of America, _____, a _____ ("**Capital Provider**"), and _____, a _____ ("**Property Owner**"). District, Capital Provider, and Property Owner are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties.**"

WHEREAS, Property Owner is the Property Owner of certain real property that is described on Exhibit A attached thereto and made a part hereof (the "**Property**"); and

WHEREAS, the District has adopted the Energy Efficiency Financing Act of 2010, as amended, pursuant to which it has established the Energy Efficiency Loan Program (the "**Program**"). Property Owner's obligation to repay funds advanced to it under the Program will be paid through a voluntary special assessment on the Property; and

WHEREAS, Property Owner has requested that it be allowed to participate in the Program. The District has approved Property Owner and the Property to participate in the Program; and

WHEREAS, funding under the Program has been committed to Property Owner in the amount of _____ Dollars (\$ _____) (the "**Funding**"); and

WHEREAS, in connection with the Funding, Property Owner has entered into a PACE Funding Agreement (the "**Agreement**") dated [DATE], and subjected the Property to a Special Assessment payable at the annual rate of _____ Dollars (\$ _____) per year as further specified below (the "**Special Assessment**"); and

WHEREAS, the parties hereto have executed this Memorandum in accordance with the Agreement, for the purpose of submitting this Memorandum to be recorded among the Land Records of the District;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto state as follows with respect to the Agreement:

1. Names of the parties to the Agreement are:

District: The District of Columbia

Property Owner: _____, a District of Columbia limited liability company.

Capital Provider: _____

2. The addresses of the parties set forth in the Agreement:

District:
Department of Energy and Environment
1200 1st Street NE

September 15.

- (b) The payments of the Assessment shall be paid in the same manner and at such times as the semi-annual installments of Real Property Taxes are due and payable on the Property.
- (c) If the Property is or becomes subject to Business Improvement District assessments or any other special assessments, the Property shall not, by reason of the Agreement, be exempt therefrom.
- (d) Payments of the Assessment shall be made to the District or another party designated by the District.
- (e) A lien for unpaid Assessments, including penalties and interest, shall attach to the Property in the same manner and with the same priority and collection procedures as a lien for delinquent real property taxes under Title 47 of the District of Columbia Official Code.
- (f) Each Property Owner, upon transfer of fee simple title to or a possessory interest in the Property or any portion thereof to a new Property Owner, shall cause the new Property Owner to execute an assignment and assumption of the Agreement, substantially in the form attached as Exhibit B to the Agreement.

5. Description of the Property which is subject to the Assessment:

See Exhibit A attached hereto and made a part hereof.

6. Description of the Assessment Period:

The Assessment Period shall begin on [REDACTED]. The Assessment Period shall end twenty (20) years after commencement.

7. Encumbrance of Agreement:

The rights, benefits and burdens evidenced by the Agreement are covenants that run with the Property for the benefit of Property Owner and the District.

8. Partial Assignment and Assumption: Upon any conveyance of the Property by the Property Owner (other than conveyance of a possessory interest in the Property for a term) the conveying Property Owner of the Property shall be relieved of all liability and obligation to make payments of installments of the Assessment coming due after the date of recordation of the instrument of conveyance of the Property, and the grantee or transferee of the Property, shall thereafter be liable for such payments. Notwithstanding the provisions of the immediately preceding sentence, the Property shall, at all times, be and remain liable for all installments of the Assessment, whether coming due before or after such transfer or conveyance.

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the day and year above.

April 2016

DISTRICT OF COLUMBIA

By: _____

Name: _____

Title: _____

Approved as to Legal Sufficiency:

By: _____
Patrick Allen
Senior Assistant Attorney General
Office of the Attorney General
for the District of Columbia

I HEREBY CERTIFY that on _____, 20____, before me, a Notary Public of the District of Columbia, personally appeared _____, who acknowledged himself/herself to be duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth; and that the same as its act and deed.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires:
City of Washington,
District of Columbia

[PROPERTY OWNER]

By: _____ (Seal)

Name: _____

Title: _____

I HEREBY CERTIFY that on _____, 20____, before me, a Notary Public of the District of Columbia, personally appeared _____, who acknowledged himself/herself to be [duly authorized[[the attorney-in-fact duly authorized] to execute, and has executed, such instrument on its behalf for the purposes therein set forth; and that the same as its act and deed.

WITNESS my hand and Notarial Seal.

Notary Public
My Commission Expires:
City of Washington,
District of Columbia

[Capital Provider]

By: _____

Name: _____

Title: _____

I HEREBY CERTIFY that on _____, 20____, before me, a Notary Public of the District of Columbia, personally appeared _____, who acknowledged himself/herself to be duly authorized to execute, and has executed, such instrument on its behalf for the purposes therein set forth; and that the same as its act and deed.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires:
City of Washington,
District of Columbia

No:

**DISTRICT OF COLUMBIA
SPECIAL ASSESSMENT REVENUE NOTE
(_____ PACE PROJECT)
SERIES 2016**

Principal Amount

Date of Issuance

Maturity Date

\$_[_____]

_____, 2016

_____, 20XX

Registered Owner: _____ and its successors and assigns (collectively, the “Registered Owner”).

The District of Columbia (the “District”), a public body municipal and corporate, for value received, hereby promises to pay to the Registered Owner, solely from the source identified herein, the principal sum of _____ Dollars (\$ _____) together with interest at the rate of _____ percent (_____ %) per annum on the unpaid principal sum from the date hereof until said principal sum shall be paid. The District’s obligation to pay installments of principal and interest 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 District as soon as any Pledged Revenues (as defined below) are available to pay all or any portion of such installment.

This Note is issued pursuant to the provisions of, and in full compliance with, the laws of the District, in particular the District of Columbia Home Rule Act. (P.L. 98-198; 87 Stat. 774; D.C. Official Code §§ 1-201.01 *et seq.* (the “Home Rule Act”), the Energy Efficiency Financing Act of 2010, effective May 27, 2010 (D.C. Law 18-183; D.C. Code, 2001 Ed. § 8-1778.01 *et seq.* (as the same has or may in the future be amended, collectively, the “PACE Act”).

THIS NOTE SHALL BE A SPECIAL OBLIGATION OF THE DISTRICT, SHALL BE NON-RECOURSE TO THE DISTRICT, SHALL NOT BE A PLEDGE OF, AND SHALL NOT INVOLVE THE FAITH AND CREDIT OR THE TAXING POWER OF THE DISTRICT, SHALL NOT CONSTITUTE A DEBT OF THE DISTRICT, AND SHALL NOT CONSTITUTE LENDING OF THE PUBLIC CREDIT FOR PRIVATE UNDERTAKINGS AS PROHIBITED BY SECTION 602(a) OF THE HOME RULE ACT.

The sole source of repayment of this Note shall be the Special Assessment and associated penalties and interest, as defined in the PACE Act, payable to the District (the “Pledged Revenues”) pursuant to that certain PACE Funding Agreement dated as of _____, 2016 between the District, _____ LLC (the “Property Owner”) and _____ Capital Provider and the District shall have no obligation to make any payments on this Note, other than through the remittance by the Property Owner of the Pledged Revenues. The District may pre-pay this Note, in whole or in part, at any time and from time to time by giving notice to the Paying Agent.

Interest on this Revenue Note shall be payable on the first business day of June and December commencing on _____, with principal as set forth in the Amortization Schedule attached

hereto; provided, however, the Pledged Revenues collected by the District shall be applied by the Paying Agent as provided in Section 5.2 of the Paying Agent Agreement. If the District prepays a portion of the outstanding principal of the Note, the District shall provide the Paying Agent and the Registered Owner with a revised Amortization Schedule reflecting the revised and updated payment schedule and amounts, as necessary.

If any payment of the principal of, or interest on, this Note is due on a day that is not a business day, such payment will be made on the next succeeding business day, and the amount owed shall not otherwise change due to payment being made on the next succeeding business day. Presentation of the Note is not necessary for the payment of principal of or interest on the Note; provided, however, to receive the last payment on this Note, the Registered Owner shall present this Note to the Paying Agent at the Paying Agent's Payment Office stated in the Paying Agent Agreement on the earlier of the Maturity Date or the date when all amounts due pursuant to this Note will be paid in full.

All obligations of the District hereunder shall terminate on the date when all amounts due pursuant to this Note have been paid in full.

UPON NOTICE TO THE DISTRICT, REGISTERED OWNER SHALL HAVE THE UNRESTRICTED RIGHT AT ANY TIME AND FROM TIME TO TIME TO TRANSFER, PLEDGE, ASSIGN OR SELL THIS NOTE OR TO ASSIGN ALL OR ANY PORTION OF ITS RIGHTS HEREUNDER, PROVIDED, HOWEVER, THAT ANY ASSIGNEE SHALL BE EITHER AN ACCREDITED INVESTOR AS DEFINED BY THE SECURITIES AND EXCHANGE COMMISSION RULE 501(a) of REGULATION D (17 C.F.R. §230.501 *et seq.*) OR A QUALIFIED INSTITUTIONAL BUYER AS DEFINED BY THE SECURITIES AND EXCHANGE COMMISSION RULE 144A (17 CFR §230.144A).

This Note constitutes a "Bond" for purposes of the PACE Act.

[The balance of page is intentionally blank]

IN WITNESS WHEREOF, the District has caused this Special Assessment Revenue Note to be executed in its name by the manual or facsimile signature of the Mayor of the District of Columbia and its corporate seal to be impressed or printed and attested by the manual or facsimile signature of the Secretary of the District of Columbia all as of the date first above written.

DISTRICT OF COLUMBIA

By: _____
Muriel Bowser
Mayor

(SEAL)

Attest:

Lauren C. Vaughan
Secretary of the District of Columbia

Assignment

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers without representation or warranty except for warranty of title unto

(Social Security or other identifying number of Assignee)

(Address of Assignee)

this Note and all rights thereunder, and hereby irrevocably constitutes and appoints _____ to transfer this Note on the books kept for registration thereof, with full power of substitution in the premises.

The undersigned also represents that the assignee is either an Accredited Investor as defined by the Securities And Exchange Commission Rule 501(a) of Regulation D (17 C.F.R. §230.501 *et seq.*) or a Qualified Institutional Buyer as defined by the Securities and Exchange Commission Rule 144A (17 CFR §230.144A) as of the date of this Assignment.

Dated: _____ Signature _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of this Note in every particular, without alteration or enlargement or any change whatever. (Signature Guaranty)

SPECIAL ASSESSMENT REVENUE NOTE

[REDACTED]
Series 2015

PAYING AGENT AGREEMENT

This Paying Agent Agreement (this "Agreement"), dated as of [REDACTED] (the "Effective Date" is made by and between the District of Columbia ("the District") and The Bank of New York Mellon (together with any successors, the "Paying Agent").

WHEREAS, the District is authorized to issue its District of Columbia Special Assessment Revenue Note (PACE Project) Series 2015 for the [REDACTED] Project ("Note") under and pursuant to the District of Columbia Home Rule Act (87 Stat. 774; D/C/ Official Code §§ 1-201.01 et seq.) (the "Home Rule Act"), and the Energy Efficiency Financing Act of 2010, effective May 27, 2010, as amended (D.C. Law 18-183; D.C. Code §8-1778.01 *et seq.*) (the "PACE Act" and, together with the Home Rule Act, the "Acts").

WHEREAS, in accordance with the Acts, the District has decided to appoint a paying agent for the Notes.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth and for other good and valuable consideration, the District and Paying Agent agree as follows:

Section 1. Definitions.

For purposes of this Agreement, the term:

"Administrator" shall mean the Urban Energy Advisors, LLC, a District of Columbia limited liability company, or its successor, serving as the administrator to manage and administer [REDACTED] Project pursuant to its contract with the District.

"Administrative Fee" shall mean the Administrator's fee to manage and administer the [REDACTED] PACE Project as agreed to by the District and the Administrator in the semi-annual amount of [AMOUNT].

"Amortization Schedule for the Note" shall mean the amortization schedule attached and incorporated as Exhibit A to the Note.

"Business Day" shall mean a day other than (i) a Saturday, (ii) a Sunday; (iii) a day on which banking institutions located in the District or in the state in which the corporate trust office of the Paying Agent identified in Section 3.1 is located are required or authorized by law or executive order to remain closed; or (iv) a day on which the New York Stock Exchange is closed.

"Collection Agent" shall mean Wells Fargo Bank, National Association, appointed by the District to serve as the collection agent pursuant to the Collection Instructions issued by the District.

“Collection Instructions” shall mean the written instructions issued by the District to the Collection Agent for the deposit and distribution of the [REDACTED] PACE Assessment.

“Note Termination Date” shall mean the earlier of (a) the date when all amounts due pursuant to the Note have been paid in full, or (b) [REDACTED], 2030.

“Project” shall mean the [REDACTED] at [REDACTED] PACE Project as defined in the PACE Agreement with the District and [REDACTED] LLC, dated as of [REDACTED] 2015.

“PACE Program Fee” shall mean the fee charged by the District Department of the Environment to administer and manage the [REDACTED] PACE Project in the semi-annual amount of \$ [REDACTED].

"Paying Agent Service Fee" shall mean the flat fee in the semi-annual amount of \$ [REDACTED] payable to the Paying Agent for services rendered pursuant to this Agreement.

"Payment Date" shall mean, during the terms of the Note, the first Business Day of each December and June commencing on December 1, 2015.

“Registered Owner” shall mean [REDACTED] or its registered assigns.

All capitalized terms not defined in this Agreement shall have the same meaning as in the Acts, the Note, or the PACE Agreement.

Section 2. Appointment of Paying Agent and Registrar

2.1 The District hereby appoints the Paying Agent as the paying agent and registrar for the Note and the Paying Agent hereby acknowledges and accepts appointment by the District as the paying agent of the Note.

2.2 The Paying Agent accepts and shall perform all the duties and obligations of the Paying Agent set forth in this Agreement. The Paying Agent represents that it has the qualifications and legal authority to act as the Paying Agent for the Note and covenants that it will faithfully perform all of the duties of the Paying Agent in accordance with the terms of this Agreement.

Section 3. Registration, Transfer, and Exchange of the Note: Persons Treated as Registered Owners.

3.1 The Paying Agent shall maintain and keep, at its office in Woodland Park, New Jersey or such other location as provided by the Paying Agent (the "Payment Office") a record of the registration and registration of transfer of the Note, which at all reasonable times, upon prior written notice, shall be open for inspection by the District. Upon presentation of the Note entitled to registration or registration of transfer at the Payment Office of the Paying Agent, the Paying Agent shall register or register the transfer of the Note in the registration books, under such reasonable regulations as the Paying Agent may

prescribe. The Paying Agent shall make all necessary provisions to permit the exchange or registration of transfer of the Note at the Payment Office of the Paying Agent.

3.2 The transfer of the Note shall be subject to the restrictions contained in the Note. The transfer of the Note shall be registered upon the registration books of the Paying Agent at the written request of the Registered Owner in person or by his attorney duly authorized in writing, upon (a) surrender of the Note at the Payment Office of the Paying Agent duly endorsed for transfer or accompanied by a written instrument of transfer satisfactory to the Paying Agent and duly executed by the Registered Owner or his duly authorized attorney, along with a written consent of the District, (b) such further evidence, if any, as may be reasonably required by the Paying Agent to establish that the proposed transferee is a person to whom a transfer of the Note is permitted under the Note, and (c) payment of the charges of the Paying Agent for transfer. If the Note shall be surrendered for transfer, the Paying Agent shall authenticate and deliver an identical note of the same maturity and interest rate duly executed by the District, for a like aggregate principal amount.

3.3 The Registered Owner of the Note shall be deemed and regarded by the District and the Paying Agent as the absolute owner of the Note for purposes of receiving payment of or on account of the principal of and interest on the Note and for all other purposes; any such payment shall be made only to or upon the written order of the Registered Owner or his duly authorized attorney, and neither the District nor the Paying Agent shall be affected by any notice to the contrary, but such registration may be changed as provided above. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Note to the extent of the sum or sums paid.

3.4 The Paying Agent shall require the payment by any Registered Owner requesting exchange or transfer of the Note of a sum sufficient to cover any tax or other governmental charge required to be paid with respect to such exchange or transfer, as directed by the District.

Section 4. Creation of the Debt Service Fund.

There is hereby created and established with the Paying Agent an account designated the “[REDACTED] PACE Assessment Account.” All moneys received by the Paying Agent from the Collection agent for the project shall be deposited into the [REDACTED] PACE Assessment Account and shall be held by the Paying Agent separate from moneys derived from any other source. All money deposited into the [REDACTED] PACE Assessment Account shall be distributed in accordance with Section 5 of the Agreement.

Section 5. Payment on the Note: Investment of Funds.

5.1 Interest on the unpaid principal sum of the Note shall accrue from the issuance date of the Note until the Note Termination Date at the interest rate of Five and three quarters percent ([REDACTED]%) per annum calculated based on a year of 360 days comprised of twelve 30-day months.

5.2 Unless otherwise directed in writing by the District, the Paying Agent shall make the following payments on each Payment Date to the extent the funds are available in the [REDACTED] PACE Assessment Account for payments with respect to the Note:

- a) First, to pay the Paying Agent Service Fee on each Payment Date;

- b) Second, to pay the PACE Program Fee on each Payment Date;
- c) Third, to pay the Administrator the Administrative Fee on each Payment Date;
- d) Fourth, to pay any shortfall (without interest or premium) with respect to interest payments due but unpaid in prior months;
- e) Fifth, to pay any shortfall (without interest or premium) with respect to principal due but unpaid in prior months;
- f) Sixth, to pay current interest;
- g) Seventh, to pay current principal; and
- h) Eighth, to prepay the principal of the Note as directed by the District from time to time.

5.3 Funds on deposit in the [REDACTED] PACE Assessment Account shall be invested as directed in writing by the District solely in money market mutual funds consisting of investments in (a) direct obligations of, or obligations unconditionally guaranteed by, the United States and/or (b) obligations issued or guaranteed by agencies or instrumentalities of the United States. The Paying Agent may invest through its own bonds or securities department or through an affiliate. Investments selected by the District shall mature in sufficient time or otherwise be available to make the transfers required by this Agreement.

5.4 The Paying Agent shall promptly notify the Collection Agent and the District in writing when the Note Termination Date occurs and transfer any funds remaining in [REDACTED] PACE Assessment Account to the Collection Agent.

Section 6. No Lien.

The Paying Agent shall have no rights to, or liens on, any funds or obligations held by it from the District.

Section 7. Resignation.

7.1 The Paying Agent may resign at any time, with or without cause, by giving sixty (60) days written notice to the District and the Registered Owner; and such resignation shall take effect upon the appointment of a successor Paying Agent by the District. The fees of any successor Paying Agent shall be paid from the PACE assessment. The Paying Agent may be removed at any time, with or without cause by the District's giving sixty (60) days written notice to the Paying Agent and the Registered Owner, and the removal shall take effect upon the appointment of a successor Paying Agent by the District. The District shall give written notice to the Registered Owner of the appointment of a successor Paying Agent. If a successor shall not have been appointed within sixty (60) days after the date of notice of such resignation or removal, the Paying Agent, at the District's expense, may apply to a court of competent jurisdiction for the appointment of a successor.

7.2 If the position of Paying Agent becomes vacant for any reason, or if any bankruptcy, insolvency or similar proceeding shall be commenced by or against the Paying Agent, the District shall promptly appoint a successor Paying Agent.

7.3 Upon the resignation or removal of the Paying Agent, the Paying Agent shall pay over, deliver and assign any moneys held by it pursuant to this Agreement to its successor.

7.4 Unless the District notifies the Paying Agent in writing pursuant to Section 7.1 above regarding the removal of the Paying Agent, any corporation or association into which the Paying Agent may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Paying Agent shall be a party, or any corporation or association to which all or substantially all the corporate trust business of the Paying Agent may be sold or otherwise transferred, shall be the Paying Agent under this Agreement; provided the Paying Agent shall promptly notify the District and the Registered Owner in writing of such activities stated herein, and the change of address, if any, of the Paying Agent.

Section 8. Books and Records.

The Paying Agent shall keep such books and records as shall be consistent with prudent corporate trust industry practice, and make such books and records available for inspection by the District at any reasonable time upon prior written request. The Paying Agent shall provide to the District monthly statements on the first Business Day of each month commencing August 1, 2015 showing activities and investments for the funds in the [REDACTED] PACE Assessment Account, payments, records of payments and methods of payments, pertaining to this Agreement and additional related records and documentation requested by the District.

Section 9. Liability of Paying Agent.

In connection with the performance of any of its duties hereunder, in the absence of bad faith, or gross negligence by the Paying Agent, the Paying Agent, including its officers, directors, employees and agents, shall not be liable for any action taken, or omitted in the performance of its duties under this Agreement. In the event that the Paying Agent is unsure of its duties under this Agreement, it shall request written instructions from the Chief Financial Officer of the District (the "CFO"); The Paying Agent shall not be liable for any action or omission pending the receipt of responsive written instructions from the CFO. Except for the liability resulting from bad faith, or gross negligence by the Paying Agent, no provision of this Agreement shall require the Paying Agent to use, advance or risk its own funds or otherwise incur financial liability in the performance of its duties or the exercise of any of its rights and powers hereunder.

The Paying Agent undertakes to perform only such duties as are expressly set forth herein. The duties and responsibilities of the Paying Agent hereunder shall be determined solely by the express provisions of this Agreement, and no further duties or responsibilities shall be implied. The Paying Agent shall not have any liability under, nor duty to inquire into the terms and provisions of any agreement or instructions, other than outlined in this Agreement. The Paying Agent shall have the right to liquidate any investments held in order to provide funds necessary to make required payments under this Agreement. The Paying Agent in its capacity as Paying Agent hereunder shall not have any liability for any loss sustained as a result of any investment made pursuant to the instructions of the District or as a result of any liquidation of any investment prior to its maturity or for the failure of the CFO to give the Paying Agent instruction to invest or reinvest the money in the [REDACTED] PACE Assessment Account or any earnings thereon. The Paying Agent shall have no duty to solicit any payments which may be due it hereunder, except as specifically provided herein. The Paying Agent shall not incur any liability for following the instructions herein contained or expressly provided for, or written instructions given by the District. In the administration of this Agreement and [REDACTED] PACE Assessment Account the Paying Agent may execute any of its powers and perform its duties hereunder directly or through agents

or attorneys and any consult with counsel, accountants and other skilled persons to be selected and retained by it. The Paying Agent shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or other skilled persons.

In the event the District asks the Paying Agent to perform any extraordinary services or incurs any additional expenses in connection with these extraordinary services under this Agreement, the Mayor agrees to seek the required funding or appropriations authority to reimburse the Paying Agent for those amounts by the District in this Agreement. The District shall have no obligation to make such payments in the absence of obtaining such legislative appropriation authority and failure to obtain such appropriation authority shall not constitute a default by the District.

Anything in this Agreement to the contrary notwithstanding, in no event shall the Paying Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Paying Agent has been advised of such loss or damage and regardless of the form of action.

Section 10. Compensation.

For providing services hereunder, the Paying Agent shall be paid certain fees payable as provided in Section 5.2(a) hereof.

Section 11. Paying Agent Representations.

The Paying Agent represents and warrants to the District that the Paying Agent has full legal right, power and authority to undertake, and the Paying Agent has duly authorized, the execution, delivery and performance of this Agreement, and that the provisions of this Agreement applicable to the Paying Agent constitute legal and valid obligations of the Paying Agent, binding and enforceable in accordance with their terms, subject to any applicable bankruptcy, receivership, insolvency, reorganization, moratorium or similar laws affecting creditor's rights or remedies and to general principles of equity, and are not in contravention, in any material respect, of the terms of the Paying Agent's organization certificate and bylaws or other organizational documents or, to the best of its knowledge and without undertaking any independent investigation, any indenture, agreement or undertaking to which the Paying Agent is now a party or by which it is bound. Further, notwithstanding any claims, interests or obligations of the Paying Agent, its parent companies, subsidiaries or affiliates, jointly or severally, related to or arising out of the financing, refinancing or operation of the Project, the Paying Agent, its parent companies, subsidiaries and affiliates, expressly disclaim any rights the Paying Agent, its parent companies, subsidiaries or affiliates, may have, jointly or severally, to offset against or seize any amounts on deposit in the [] PACE Assessment Account (except the payment of the Paying Agent's annual fees set forth in Section 5.2(a)).

Section 12. District Representations.

The District represents and warrants to the Paying Agent that the District has full legal right, power and authority to undertake, and the District has duly authorized and approved, the execution and delivery of this Agreement and the performance of its obligations contained herein; that no further authorization or approval is required for the execution, delivery or performance of this Agreement by the District; that the provisions of this Agreement applicable to the District constitute legal, valid and binding

obligations of the District, enforceable in accordance with their terms; and that the execution and delivery of this Agreement by the District and the fulfillment of the terms and conditions of this Agreement are not in contravention of the terms of any law, administrative regulation, decree, order agreement, indenture, mortgage, lease or other instrument to which the District is subject or by which it is bound.

Section 13. Construction.

This Agreement shall be governed in all respects, including validity, interpretation and effect by, and shall be construed and enforced in accordance with, the laws of the District.

Section 14. Severability.

If, pursuant to a final non-appealable order of a court of competent jurisdiction, any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired. In the event that any covenant, stipulation, obligation or agreement contained herein shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the District and the Paying Agent only to the full extent permitted by law, and this Agreement shall be deemed to be modified accordingly.

Section 15. Notices and Wiring Instructions.

15.1 All notices and communications to the District shall be addressed in writing to:

District of Columbia
Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Attention: Kenley Farmer
Tel: 202-535-2600
Fax: 202-535-2881

With a copy to:

District of Columbia
Office of Finance and Treasury
101 4th Street, SW, Suite W850
Washington, D.C. 20024
Attention: DC Treasurer
Tel: 202-727-6055
Fax: 202-727-0700

and

Office of the Chief Financial Officer
Office of Economic Development Finance,
1101 4th Street, SW, Suite W772,
Washington, DC 20024.
Attention: Deputy Director

Tel: 202-727-0387
Fax: 202-727-9010

and

Office of the Attorney General
441 4th Street, N.W.
Suite 1010 South
Washington, D.C. 20005
Attention: Deputy Attorney General for Commercial Division
Phone: (202) 727-3400
Fax: (202) 347-8922

or otherwise in accordance with a written instruction provided by the District to the Paying Agent.

Notices to the Registered Owner shall be sent to:

[REDACTED]
Attn: [REDACTED]

or otherwise in accordance with a written instruction provided by the Registered Owner to the Paying Agent.

Notices to the Paying Agent shall be sent to:

Bank of New York Mellon
385 Rifle Camp Road
Woodland Park, NJ 07424
Attn: Thomas Vlahakis
Tel: (973) 247-4742
Fax: (973) 357-7840

or at such other address as is furnished from time to time in writing to the District by the Paying Agent.

15.2 A District official designated pursuant to the attached Incumbency Certificate will provide the Paying Agent with the wiring instructions no later than [REDACTED], 2025 for the payments of the Administrative Fee and the PACE Program Fee and the Note payments to the Registered Owner.

Section 16. Third Party Beneficiary.

Each Registered Owner shall be a third party beneficiary of this Agreement and shall have the right to enforce the provisions hereof in the event that the District fails or refuses to exercise its rights hereunder.

Section 17. Term of the Agreement.

Subject to Section 7.1, this Agreement shall terminate on the Note Termination Date.

Section 18. Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all taken together shall constitute the one and same document.

Section 19. Electronic Communication.

The Paying Agent agrees to accept and act upon instructions or directions pursuant to this Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the instructions or directions shall be signed by a person as may be designated and authorized to sign for the District or in the name of the District, by an authorized representative of the District, and the District shall provide to the Paying Agent an incumbency certificate ("Incumbency Certificate") attached and incorporated as Exhibit A for all purposes, listing such designated persons ("Designated Persons"), which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the District elects to give the Paying Agent e-mail or facsimile instructions (or instructions by a similar electronic method) and the instructions are sent by one of the Designated Persons, the Paying Agent shall act upon such instructions without the responsibility of determining whether the instructions are in fact issued by one of the Designated Persons. If the Paying Agent has not acted upon such instructions and subsequently the Paying Agent receives instructions (whether they are e-mail, facsimile or written instructions) from one of the Designated Persons which contradicts the earlier instructions, the subsequent instructions shall control. The Paying Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Paying Agent's reliance upon and compliance with such instructions. The District agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Paying Agent, including without limitation the risk of interception and misuse by third parties.

Section 20. USA Patriot Act Requirements.

To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

August 2015

IN WITNESS WHEREOF, the District has caused this Agreement to be signed in its name by its Chief Financial Officer and Paying Agent has caused this Agreement to be signed in its corporate name by one of its duly authorized officers, all as of the date first above written.

DISTRICT OF COLUMBIA

By: _____

Chief Financial Officer

Bank of New York Mellon

By: _____

[NAME]

[TITLE]

DESIGNATED PERSONS LISTING

**DISTRICT OF COLUMBIA
SPECIAL ASSESSMENT REVENUE
[REDACTED]
SERIES 2015**

Listed below are the individuals authorized to provide the Bank of New York Mellon with email, facsimile or written instructions relating to the District of Columbia SPECIAL ASSESSMENT Note ([REDACTED] PACE Project Series 2015) for which the Bank of New York Mellon is the Paying Agent:

<u>Name</u>	<u>Title</u>	<u>Specimen Signature</u>
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Dated: _____

By: _____

Name: [NAME]

Title: [TITLE]

**LENDER CONSENT TO OWNER PARTICIPATION IN
DISTRICT OF COLUMBIA PACE PROGRAM**

This Consent is granted this ___ day of _____, 2015 by _____, a _____ (the “**Lender**”), for the benefit of _____, a [REDACTED] (the “**Property Owner**”) and the District of Columbia Government (the “**District**”).

Background

A. The District adopted the Energy Efficiency Financing Act of 2010, as amended (the “**Energy Act**”) pursuant to which it established the Property Assessed Clean Energy program (the “**Program**”) and authorized a special voluntary property tax assessment on participating property owners (the “**Special Assessment**”) in order to provide funds for the initial installation of energy efficiency improvements that are permanently attached to real property.

B. Property Owner will undertake a project, generally consisting of the procurement and installation of certain energy saving equipment (the “**Project**”) at property owned by the Property Owner and located at _____ (the “**Property**”).

C. The Property is subject to a Mortgage dated [REDACTED] with Lender (the “**Existing Mortgage**”).

D. The Property Owner has applied to the Program to finance the amount of \$_____, to be paid back with interest as an assessment on the Property Owner’s Property over a period of **XX** years.

E. To participate in the Program, the Property Owner has consented to the imposition of the Special Assessment pursuant to the PACE Agreement by and between the Property Owner and the District [of even date herewith] (the “**PACE Agreement**”).

F. The Property Owner and [REDACTED] (the “**PACE Program Lender**”) will enter into a PACE Funding Agreement setting forth certain rights and obligations relating to the financing of the Project.

G. The District the Bank of New York Mellon (the “**PACE Paying Agent**”) will enter into a Paying Agent Agreement pursuant to which the District has appointed the PACE Paying Agent as its agent for purposes of receiving and collecting funds collected under the Special Assessment.

Acknowledgment and Consent

Lender acknowledges that (i) it has been informed of the Property Owner’s participation in the Program, (ii) hereby consents to Property Owner’s participation in the Program, (iii) hereby consents to the Special Assessment, and (iv) agrees that none of the imposition of the Special Assessment, participation by the Property Owner in the Program, or the Property Owner’s execution of the PACE Agreement and all documents necessary or appropriate to confirm and implement Property Owner’s Participation in the Program will constitute a default under Lender’s Existing Mortgage or any other document, agreement or undertaking evidencing

or securing the indebtedness secured by the Existing Mortgage, provided, however, that such consent shall not be deemed to be a waiver of any of Lender's rights which arise hereafter by reason of Property Owner's failure to perform its obligations under the Program.

LENDER:

By: _____
Name:
Title:

DC PACE Capital Provider Registration Form

Capital Provider Information

Capital Provider Name:

Contact Name:

Contact Email:

Capital Provider Website:

Capital Provider Address:

Title:

Contact Phone:

Qualifications

Years in Business:

Total Assets:

Please state the principal regulator(s) of your institution.

Regulator Name:

Additional Regulators:

OR, if not regulated, please provide three professional references for your institution.

Reference #1

Reference Name:

Contact Phone:

Project Name / Address:

Project Description:

Company Name:

Contact Email:

Reference #2

Reference Name:

Contact Phone:

Project Name / Address:

Project Description:

Company Name:

Contact Email:

Reference #2

Reference Name:

Contact Phone:

Project Name / Address:

Project Description:

Company Name:

Contact Email:

Does your institution currently provide financing for commercial PACE transactions? If yes, please list jurisdictions in which you are a registered capital provider or otherwise active in the market:

Please list any jurisdictions in which you have closed PACE transactions, and a point of contact in the local Program Administrator:

Please describe any other experience your institution has in providing financing for energy efficiency, renewable energy, or real estate transactions, or attach corporate background materials.

DC PACE Capital Provider Registration Form

Standard PACE Financing Terms (NON-BINDING) and Preferred Project Profile

Are you interested in receiving and responding to term sheet solicitations for projects for which capital is being sourced through the Administrator?

Minimum Project Size:

Maximum Project Size:

Minimum Financing Term:

Maximum Financing Term:

Interest Rates Available (Fixed or Adjusting):

Indicative Interest Rates (Please describe or provide a schedule):

Prepayment Penalties:

Typical Closing Costs / Origination Fees:

Other Fees:

Properties / project types that your institution CAN NOT finance:

Properties / project types of particular interest:

How many days would you typically require to:

- 1) Respond to a term sheet solicitation:
- 2) Prepare a full term sheet, if selected by a property owner based on a response to a term sheet solicitation:
- 3) Close, after receiving a signed term sheet from the property owner:

Please describe below or attach additional information about your underwriting criteria and key document requirements (eg appraisals, environmental assessments, etc.):

Other information: