

Document Number

PACE SUPPLEMENTAL LOAN
AGREEMENT
Document Title

PACE Supplemental Loan Agreement (Municipal Special Charge)

Notice: This Agreement provides for the levying of special charges against real estate pursuant to Section 66.0627, Wis. Stats., **and may impact future owners of the Property and holders of other interests in all or part of the Property**, all as more fully described herein. Interested parties are advised to contact the City of Milwaukee, Dept. of Administration's Office of Environmental Sustainability for the most current information regarding any such charges outstanding under this Agreement.

Recording Area

Name and Return Address

City of Milwaukee
Department of Administration
200 East Wells Street, Room 606
Milwaukee, WI 53202
ATTN: Erick Shambarger

Parcel Identification Number (PIN)

[Tax Key]

PACE SUPPLEMENTAL LOAN AGREEMENT

THIS PACE SUPPLEMENTAL LOAN AGREEMENT (this “Agreement”), is made and entered into this [] day of [Month, Year] (the “Effective Date”) by and among the City of Milwaukee by and through its Department of Administration (“City”), the [lender name], a [description such as: Wisconsin non-stock corporation] (“Lender”), and [Property Owner] (“Property Owner”), and is made a part of that certain [primary loan document such as: CONSTRUCTION LOAN AGREEMENT] dated as of the same date made by and between Lender and Property Owner, such Construction Loan Agreement hereafter referred to as the “Loan Agreement.”

WITNESSETH:

WHEREAS, Property Owner is the owner of certain real property located at [address] in the City of Milwaukee (the “Property”), further described on **Exhibit A**, attached hereto;

WHEREAS, City has adopted a Clean Energy Financing Program, also known as the Me2 program (the “Program”) pursuant to Common Council File No. 121591, codified as Section 304-26.5 of the Milwaukee Code of Ordinances, as amended from time to time (the “Ordinance”);

WHEREAS, Property Owner has obtained the written consent of all persons or entities that currently hold mortgage liens on the Property, if any, to the Loan and the PACE Special Charges, both as herein defined;

WHEREAS, pursuant to the terms of the Program, City has approved Property Owner’s application for implementation of an energy efficiency, water savings and/or renewable energy improvement project at the Property as described on **Exhibit B** attached hereto (the “Project”);

WHEREAS, as part of Property Owner’s approved application attached hereto as **Exhibit C** (the “Approved Application”), Property Owner warranted that the Project shall be installed by Me2 Approved Contractors and will achieve a savings to investment ratio of greater than 1.0, as more specifically described in the PACE Financing Program Manual;

WHEREAS, Lender has agreed to make a loan to Property Owner in the amount of [loan value] (the “Loan”) to be used towards the implementation of the Project;

WHEREAS, the Project consists of “energy efficiency improvements” as that term is used in Section 66.0627 of the Wisconsin Statutes (the “Act”), which allows City to collect the annual installments on the Loan as municipal special charges;

WHEREAS, City has agreed to levy special charges, collect the special charges on the property tax bill for the Property and remit payments on such special charges to Lender to be applied to pay down the Loan, all as more particularly set forth herein and in the Ordinance;

WHEREAS, pursuant to the Program, City may offer reimbursable and non-reimbursable credit enhancements or other grants of funds or special incentives to Lender for the Project (the “Incentives”); and

WHEREAS, City's Department of Administration (the "Program Administrator") is authorized to enter into this Agreement pursuant to the Ordinance.

NOW, THEREFORE, for and in consideration of the making of the Loan, City's approval of the Project and the financing and collection arrangements between Lender, Property Owner and City, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, LENDER, PROPERTY OWNER and CITY agree as follows:

1. Defined Terms. The following capitalized terms used in this Agreement shall have the meanings defined or referenced below or in the Recitals above:

"Annual Installment" means the portion of the Loan Amount that is due in a particular year as more fully described in Sections 2 and 5 hereof.

"City Parties" shall have the meaning set forth in Section 14(b) hereof.

"County Recorder" means the Register of Deeds for Milwaukee County.

"Disbursement Amount" shall have the meaning set forth in Section 6(a) hereof.

"Foreclosure Proceeds" means the proceeds resulting from the disposition of the Property by City in an in rem tax foreclosure.

"Incentives" shall have the meaning set forth in the Recitals above.

"Installment Certification" shall have the meaning set forth in Section 5(d) hereof.

"Liabilities" shall have the meaning set forth in Section 14(b) hereof.

"Loan" shall have the meaning set forth in the Recitals above.

"Loan Amount" means the outstanding amount of all principal under the Note, accrued but unpaid interest and any applicable penalties, costs, fees, charges, late payment charges, default interest rate charges, prepayment premiums or administrative expenses related to the Loan, including without limitation, the administrative fees set forth in Section 16 hereof and any and all other administrative fees to be paid to City by Property Owner in connection with the Loan.

"Loan Agreement" shall have the meaning set forth in the Preamble above.

"Maximum Disbursement Amount" shall have the meaning set forth in Section 6(a) hereof.

"Me2 Approved Contractors" means those commercial contractors approved through the Program, as more fully described in the PACE Financing Program Manual.

"Note" shall have the meaning given such term in the Loan Agreement.

“PACE Financing Program Manual” means the Property Assessed Clean Energy (PACE) Financing Program Manual published by the Program Administrator from time to time.

“Property” shall have the meaning set forth in the Recitals above.

“Reimbursable Incentives” means the Incentives set forth on Exhibit F attached hereto that must be paid back to the City upon the collection of the Annual Installments or the Foreclosure Proceeds.

“PACE Special Charges” means the aggregate amount of all Annual Installments of the Loan Amount, which Annual Installments shall be levied by the City as municipal special charges pursuant to Section 66.0627(8)(a) of the Wisconsin Statutes.

“Paying Agent” means the third party paying agent designated by Lender on Exhibit G attached hereto, if any, who shall be selected by Lender to handle the duties designated to it by Lender under this Agreement and the Loan Agreement, and whose fees shall be paid for by Borrower in accordance with the provisions of the Loan Agreement.

“Tax Year” means the period from January 1 through the following December 31.

2. Payments. The Loan Amount shall be payable in Annual Installments, based on an [Loan term such as: eighteen (18) year] amortization. The Loan shall bear interest, including default interest, at the rates set forth in the Note and payments shall be due under the Note and the Loan Agreement as more fully described therein and in Section 5 of this Agreement, ending upon payment in full of the Loan Amount and all other charges, fees, expenses and other amounts due under this Agreement, the Loan Agreement and the Note. The amounts of the Annual Installments are based on a Loan Amount of [Numerical Loan Amount]. Each Annual Installment may be further divided into ten monthly installment payments as more particularly set forth below and shall be remitted by City to Lender according to the schedule outlined in the Ordinance. The Loan shall be fully amortized over the [number] year term of the Loan, and shall be repaid on the terms set forth in this Agreement, the Loan Agreement and the Note. In the event the Loan proceeds have not been fully disbursed by October 1 of the first year of the Loan term, then the Annual Installment for the initial tax year shall be adjusted to reflect the actual principal amount disbursed by such date to Borrower and the amortization schedule shall be adjusted accordingly.

3. Consent to PACE Special Charges.

(a) By entering into the Agreement, City hereby agrees to enforce the PACE Special Charges and levy and impose the Annual Installments on the property tax bill of the Property as provided in the Ordinance and in Section 5 below. Upon execution of this Agreement, City will cause this Agreement to be recorded in the office of the County Recorder against the Property.

(b) Property Owner hereby agrees and acknowledges that the Property is subject to the PACE Special Charges and consents to the levy of the Annual Installments. Property Owner further agrees and acknowledges that Annual Installments of the PACE Special Charges are a lien on the Property as provided in the Act and the Ordinance and failure to pay the PACE Special Charges may result in foreclosure of the Property in accordance with the terms of the Ordinance.

4. Term. This Agreement shall remain in full force and in effect until the Loan Amount and all other charges, fees, expenses and other amounts due under this Agreement, the Loan Agreement and the Note have been paid in full.

5. Annual Installments Added to Property Tax Bill.

(a) During the term of this Agreement, the Annual Installments will be added to the property tax bill for the Property and collected as more particularly described below.

(b) The aggregate amount of all PACE Special Charges shall equal the Loan Amount which is also the Maximum Disbursement Amount as defined in Section 6(a) and as shown on Exhibit D attached and incorporated by this reference. The Program Administrator, following City's customary practices, shall cause the Annual Installments to be added to the tax bill of the Property for each year of the term of this Agreement.

(c) The estimated amount of the initial Annual Installment is set forth on Exhibit D. That estimate is based on the assumptions set forth in the Exhibit, including the assumption that the Maximum Disbursement Amount has been disbursed to Borrower. In the event the Loan proceeds have not been fully disbursed to Borrower by October 1 of the first year of the Loan term, then the Annual Installment for the initial tax year shall be adjusted to reflect the actual principal amount disbursed by such date to Borrower. The Program Administrator, following City's customary practices, shall cause the actual amount of the initial Annual Installment to be added to the tax bill of the Property, in accordance with (d) below. **The parties anticipate that some or all of the Loan proceeds will be disbursed prior to October 1, 201_, so that the 201_ tax bill for the Property shall include the actual amount of the initial Annual Installment (which may be an amount less than future Annual Installments). [Strike if not applicable]**

(d) No later than October 1 in each year during the term of this Agreement, Lender or the Paying Agent shall confirm and certify to the Program Administrator the amount of the Annual Installment that will be due in the following year for the Property and the then outstanding Loan Amount (the "Installment Certification"). The Installment Certification shall be in form substantially similar to Exhibit E, attached hereto. Upon receipt of the Installment Certification, the Program Administrator, following City's customary practices, shall cause the appropriate Annual Installment to be added to the tax bill of the Property for the applicable year.

(e) Property Owner hereby agrees to pay the property tax bills for the Property during the term of this Agreement in a timely fashion and in any event no later

than January 31 of each year or, to the extent authorized by City and permitted under Section 74.87 of the Wisconsin Statutes, in a ten equal installments each year. Property Owner agrees that all property tax bills will be timely paid so as to avoid any default or delinquency in such payment

(f) In the event Property Owner fails to pay all or part of any Annual Installment when due, the parties hereto acknowledge and agree that (i) late payment charges and default interest on the unpaid amounts of the Annual Installments shall accrue in favor of Lender as set forth in the Note, (ii) such late payment charges and default interest shall be added to the PACE Special Charges and shall be included as part of the Annual Installments due thereafter unless and until all such accrued and unpaid default interest is paid in full, and (iii) such default interest shall be in addition to any and all penalties and interest that may be imposed by or accrue in favor of City as a result of Property Owner's failure to pay real estate or other property taxes or other assessments on the Property. In addition, Annual Installments shall continue to be added to Property Owner's tax bill notwithstanding Property Owner's failure to pay all or part of any past Annual Installment, such that City shall continue to levy Annual Installments, including default interest to be paid to Lender, until either the Loan Amount, including all accrued and unpaid interest, is paid in full or either City or Lender has acquired title to the Property pursuant to Section 8 or Section 9 of this Agreement.

(g) Property Owner hereby acknowledges and agrees that failure to pay any Annual Installment of the PACE Special Charges, like failure to pay any property taxes pertaining to the Property, will result in penalties and interest accruing in favor of Lender on the amounts due, in addition to penalties and interest that may accrue in favor of City. In addition, City may have the right to initiate a foreclosure action on the Property as a result of any delinquent Annual Installments of the PACE Special Charges, as set forth in Sections 8 and 9 below, as City or Lender's sole remedy for failure to pay the PACE Special Charges, except as otherwise expressly provided in the Note. City hereby waives City's right to seek personal liability for the PACE Special Charges and the other Loan Amounts due hereunder, including pursuant to Wis. Stats. §74.53, but City does not waive in any respect City's right to seek personal liability for any other tax deficiencies of any kind or nature due City by Property Owner, pursuant to Wis. Stats. §74.53 or otherwise.

6. Adjustments and Prepayment.

(a) Subject to the terms and conditions in the Loan Agreement, Lender agrees to disburse to Property Owner an amount equal to the actual cost of the Project (the "Disbursement Amount"); provided the Disbursement Amount shall not exceed [Written Loan Amount] [(\$ Numerical Loan Amount)] (the "Maximum Disbursement Amount"). If the Disbursement Amount is less than the Loan Amount, Lender shall recalculate the Annual Installment amounts based on the remaining amortization term and so notify the Program Administrator. If any payments have been made in excess of the amount disbursed, the Program Administrator may make an appropriate refund by crediting the refund amount against the next Annual Installment of the PACE Special Charges.

(b) Property Owner may prepay the Loan in full, but not in part, by paying the outstanding principal amount of the Loan together with all accrued and unpaid interest, penalties, fees and other charges and accrued and unpaid Reimbursable Incentives, plus any prepayment premium due Lender, all as more fully set forth in the Loan Agreement and the Note. Lender or the Paying Agent shall certify to Property Owner and Program Administrator the aggregate amount due on the Loan, including principal, interest, and fees and any prepayment premium, within thirty (30) days of receipt of a written request therefor from Property Owner or Program Administrator. City shall certify to Property Owner and Lender any and all Reimbursable Incentives and other amounts due City under this Agreement within thirty (30) days of receipt of a written request by Property Owner or Lender.

(c) Without the prior written consent of Lender, which consent may be given or withheld in Lender's sole discretion, the Loan may not be prepaid in part and, if such consent is given, any such partial prepayment must be made in strict compliance with the terms and conditions set forth in such written consent, which terms and conditions may include a prepayment penalty. Any partial prepayment in violation of this provision will not be accepted by Lender.

7. Collection of Annual Installments; Payments to Lender.

(a) City shall follow its customary practices to collect the Annual Installments once placed on the tax roll, including assessing penalties and charging interest.

(b) City agrees to separately account for any Annual Installment payments collected or otherwise received for the Property. City shall remit the collected Annual Installment payments to Lender in accordance with the payment schedule set forth in Section 10(b) of the Ordinance as in effect on the date of this Agreement.

8. Delinquent Annual Installment; In Rem Foreclosure. If Property Owner becomes delinquent in the payment of an Annual Installment, then City, through the office of the city treasurer, following its customary and usual practices, shall begin a property tax foreclosure proceeding on the Property at the earliest time allowed under the Wisconsin Statutes and otherwise in accordance with the provisions of Chapters 74 and 75 of the Wisconsin Statutes; *provided, however*, in the event City determines based on the condition of the Property or other reasons that foreclosure of the Property is not in the best interests of City, then the procedures set forth in Section 9 below shall apply. In the event City elects to initiate a foreclosure proceeding, then:

(a) City hereby agrees to commence and diligently pursue such action to foreclose on the property tax lien as soon as legally permissible under the Act, the Ordinance and Section 75.521 of the Wisconsin Statutes.

(b) If the property tax lien against the Property is to be foreclosed pursuant to Section 75.521 of the Wisconsin Statutes and City obtains a judgment vesting City with title to the Property, City shall take all commercially reasonable efforts to lease or sell the Property. Lender may, in its sole discretion, request and if requested, City shall grant, the

right to an exclusive 90-day marketing period during which Lender shall have the sole right to market the Property to third parties and/or make an offer to purchase the Property itself. Any offers to purchase the Property during Lender's exclusive marketing period must be approved by the Common Council of the City. City agrees not to offer the Property for sale itself or with a third party (other than Lender) or consider any offers for the Property other than those presented by Lender during the exclusive marketing period. Pursuant to the Ordinance, City's Department of City Development is required to give Lender notice that City is prepared to market the Property. Lender shall have five (5) business days after receipt of such notice from City's Department of City Development to advise City of its intent to exclusively market the Property. The ninety (90) day exclusive marketing period shall commence immediately upon City's receipt of Lender's notice and shall conclude ninety (90) days thereafter; provided however, if Lender has presented a bona fide offer for the purchase of the Property to City prior to the expiration of the ninety (90) day marketing period and negotiations with respect to such offer have not completed prior to such expiration, then City agrees not to offer the Property for sale itself or through any party other than Lender and agrees not to consider any other offers for the purchase of the Property until City has responded to the offer presented by Lender and negotiations with respect to such offer have been completed, such that the ninety (90) day marketing period shall be tolled until the parties have completed their negotiations of any offers presented by Lender to City during Lender's marketing period. Upon request from Lender, and in City's sole discretion, City may grant Lender an additional ninety (90) day exclusive marketing period. Lender shall not be eligible to request the exclusive marketing periods if Lender is in violation of Section 304-49(8) of City Ordinances and Lender may not sell the Property to any party in violation of Section 304-49(8) of City Ordinances.

(c) After a sale or lease of the Property, the Program Administrator shall ensure that the Foreclosure Proceeds are processed as follows:

i. First, net proceeds from the sale or lease are to be determined by subtracting from the sale or lease proceeds the following:

(1) All costs incurred by City in pursuing the foreclosure action;

(2) Any Reimbursable Incentives paid by City to Lender;

(3) Any administrative fees to be paid to City under this Agreement to the extent any such fees remain due and owing;

(4) Any interest and penalties accruing to special charges added to the Property's property tax bill under the Ordinance;

(5) All actual costs, including personnel costs associated therewith, for maintenance costs, board-up costs, clean-up costs, demolition costs and all other costs that are reasonable and necessary to

sell the Property, including real estate and broker fees paid in connection with the sale or lease of the Property;

(6) All other charges accruing to the Property, including but not limited to, special charges other than Special Charges levied on the Property under the Ordinance, delinquent utility charges and personal property taxes, special assessments, special taxes, interest, penalties, and property taxes; and

(7) All “foreclosure reconstructive costs” as defined in the Ordinance.

ii. Any remaining proceeds shall be paid over to Lender up to the Loan Amount, including all interest, fees and penalties. All proceeds remaining after payment to Lender of the Loan Amount, including all interest, fees and penalties, shall be retained by City. In the event the Foreclosure Proceeds are insufficient to pay all amounts due to Lender in connection with the Loan, Lender, at its option, may enter into such agreements with the new owner or lessor of the Property regarding repayment of any outstanding amounts due Lender in connection with the Loan.

9. Delinquent Annual Installment; No Foreclosure by City. If the Property Owner becomes delinquent in the payment of an Annual Installment and City determines that foreclosure of the Property is not in the best interests of City, based on the condition of the Property or other reasons, then City shall, within thirty (30) days of City’s determination not to pursue foreclosure, advise Lender of such determination. Lender may, but shall not be obligated to, request City, pursuant to Section 75.106 of the Wisconsin Statutes, as the same may be renumbered or amended from time to time, assign to Lender City’s right to take judgment against the Property pursuant to Section 75.521 of the Wisconsin Statutes, as the same may be renumbered or amended from time to time. Provided that Lender (i) complies with all of the provisions of Section 75.106 of the Wisconsin Statutes applicable to Lender, (ii) agrees to reimburse City for all foreclosure costs reasonably incurred by City in connection with the Property, and (iii) agrees to pay City all other charges owed to City and accrued on the Property, including but not limited to special charges other than Special Charges levied on the Property under the Ordinance, delinquent utility charges, personal property taxes, special assessments, special taxes, interest and penalties, and delinquent property taxes owed to City, then City will, upon receipt of such request, forthwith assign to Lender City’s rights to take judgment against the Property.

10. City Representations regarding Loan and Loan Documents. City hereby represents to Lender and to Property Owner that (i) it is and will be duly authorized under all applicable laws to execute this Agreement, (ii) this Agreement is and will be the valid and legally enforceable obligation of City, enforceable in accordance with its terms except to the extent that enforcement thereof may be subject to bankruptcy and other similar laws affecting creditors’ rights generally, and (iii) this Agreement and the dollar amount and all other terms and conditions of the Loan as set forth herein, the Loan Agreement and the Note are in compliance with the provisions of the Act and the Ordinance. City shall at all times, to the extent permitted

by law, defend, preserve and protect the PACE Special Charges created by this Agreement and all the rights of Lender hereunder against all claims and demands of all other persons whomsoever.

11. Other Obligations Payable from Special Charges. The City will not issue or incur any obligations payable from the proceeds of the PACE Special Charges nor voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge upon the PACE Special Charges or the Annual Installments, except for administrative fees as provided in this Agreement and fees, commissions, costs and other charges payable for the marketing and sale or lease of the Property in the event City forecloses on the Property.

12. Re-Levy of Special Charge. If City shall have omitted to make, assess or collect any PACE Special Charges when it is required by this Agreement or by the Ordinance to have done so, then City shall either: (i) take all necessary steps to cause new PACE Special Charges (equal in amount to those not assessed, levied or collected plus interest and penalties, if any, thereon) to be levied against the Property in addition to those PACE Special Charges otherwise to be levied or assessed against the Property, or (ii) in its sole discretion, pay to Lender the amount of the PACE Special Charges not collected from legally available moneys.

13. No Guaranty by City of Repayment of Loan. The City does not assume any responsibility for or guarantee in any manner whatsoever, in whole or in part, the repayment of the Loan between Property Owner and Lender or the payment of the PACE Special Charges or any Annual Installment. In no event shall City ever be required to expend its own funds directly or indirectly on the Project.

14. Property Owner Responsibility; Indemnification.

(a) Property Owner acknowledges that City has established the Program solely for the purpose of facilitating loans arranged by owners of commercial property located in the City for the purpose of making energy-efficient renovations by treating principal and interest repayments, fees and other charges for these loans as special charges eligible for inclusion on the tax bill for such properties. The Program is a collection program only. Neither City nor Lender nor any of their respective officials, agents, employees, attorneys or representatives, nor the Program Administrator nor Program staff are responsible for selection, management or supervision of the Project or the Project's performance. Any issues related to performance of the Project should be discussed with chosen contractors or installers, and the manufacturer or distributor of the Project.

(b) To the extent permitted by law, Property Owner shall indemnify, defend, protect and hold harmless City and any and all officials, agents, employees, attorneys and representatives of City (collectively, the "City Parties") from and against all losses, liabilities, claims, damages, penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorneys' fees) and any demands of any nature whatsoever related directly or indirectly to, or arising out of or in connection with, any bodily injury or death or property damage occurring in or upon the Property through any cause whatsoever the presence of Hazardous Substances

(hereinafter defined) on the Property or arising out of any circumstance that results in a material, adverse devaluation of the Property as the result of any act or omission of the Property Owner (collectively, the "Liabilities"), regardless of whether such Liabilities shall accrue or are discovered before or after the disbursement of the Loan Amount or any portion thereof. Notwithstanding the foregoing, Property Owner's indemnities under this section shall not extend to Liabilities arising from City's intentional default, fraud or willful misconduct. "Hazardous Substance" means any substance, whether solid, liquid or gaseous which is listed, defined or regulated as a "hazardous substance", "hazardous waste" or "solid waste", or otherwise classified as hazardous or toxic, in or pursuant to any Environmental Law (hereinafter defined); or which causes or poses a threat to cause a contamination on the Property or any adjacent property or a hazard to the environment or to the health or safety of persons on the Property. "Environmental Law" means any federal, state, county or municipal statute, ordinance, regulation, rule, order, judgment, permit or decree or common law, now or hereafter in effect, relating to pollution or protection of human health, safety or the environment (including but not limited to ambient air, surface water, ground water, land surface or subsurface strata), or relating to waste disposal, or relating to worker safety, emissions, discharges, releases or threatened releases of Hazardous Substances or other environmental matters.

(c) The indemnity obligations described in this Section shall survive the disbursement of the Loan Amount or any portion thereof, the payment of the Loan Amount in full, the transfer or sale of the Property by Property Owner and the termination of this Agreement.

15. Waiver of Claims.

(a) For and in consideration of City's execution and delivery of this Agreement, Property Owner, for itself and for its successor-in-interest to the Property and for any one claiming by, through or under Property Owner, hereby waives the right to recover from the City Parties, and fully and irrevocably releases the City Parties from, any and all claims, obligations, liabilities, causes of action or damages including attorneys' fees and court costs, that Property Owner may now have or hereafter acquire against any of the City Parties and accruing from or related to (i) this Agreement, (ii) the disbursement of the Loan Amount, (iii) the levy and collection of the Annual Installments, (iv) the imposition of the lien of the PACE Special Charges, (v) the performance of the Project, (vi) the Project, (vii) any damage to or diminution in value of the Property that may result from construction or installation of the Project, (viii) any injury or death that may result from the construction or installation of the Project, (ix) the selection of manufacturer(s), dealer(s), supplier(s), contractor(s) and/or installer(s), and their action or inaction with respect to the Project, (x) the merchantability and fitness for any particular purpose, use or application of the Project, (xi) the amount of energy savings resulting from the Project, (xii) the workmanship of any third parties, and (xiii) any other matter with respect to the Program (the "Waived Claims"). This release includes claims, obligations, liabilities, causes of action and damages of which Property Owner is not presently aware or which Property Owner does not suspect to exist which, if known by Property Owner, would materially affect Property Owner's release of the City Parties. Notwithstanding the foregoing, Property Owner's release under this Section

shall not extend to Waived Claims arising from City's intentional default, fraud or willful misconduct.

(b) The waivers and releases by Property Owner contained in this Section shall survive the disbursement of the Loan Amount or any portion thereof, the payment of the Loan Amount in full, the transfer or sale of the Property by Property Owner and the termination of this Agreement.

16. Administrative Fees.

(a) Property Owner agrees to pay a one-time administration processing fee to City in the amount of 0.5% of the Loan Amount, or [Written Dollar Amount] Dollars [(\$ Numerical Dollar Amount)]. Such payment shall be included in the initial Annual Installment.

(b) The Annual Installments shall include an annual administrative fee to be collected by City in the amount of 0.25% of the outstanding principal balance of the Loan (up to an annual maximum of One Thousand and no/100 Dollars (\$1,000)) as of January 1st of each year. This fee shall be included, on an annual basis, in the Annual Installments to be set forth on Installment Certification attached hereto as **Exhibit E**.

17. Incentives. All reimbursable and non-reimbursable Incentives and the terms and conditions of all such Incentives offered by or through City, including, without limitation, all Reimbursable Incentives, are set forth on **Exhibit F**.

18. Notices.

All notices, requests, demands and other communications hereunder shall be given in writing and shall be: (a) personally delivered; (b) sent by registered or certified mail, return receipt requested, postage prepaid; or (c) sent to the parties at their respective addresses indicated herein by private overnight mail courier service. The respective addresses to be used for all such notices, demands or requests are as follows:

(a) If to Property Owner, to:

[Property Owner name]
[Address]

(with a copy to)

[Attorney Name]
[Attorney Address]

or to such other person or address as Property Owner shall furnish to Lender and City in writing.

(b) If to Lender, to:

[Lender name, address, and contact]

(with a copy to)

[Attorney Name]

[Attorney Address]

or to such other person or address as Lender shall furnish to Property Owner and City in writing.

(c) If to City, to:

City of Milwaukee
Department of Administration
200 East Wells Street
Milwaukee, WI 53202
Attention: Erick Shambarger

(with a copy to)

City of Milwaukee
Office of the City Attorney
200 East Wells Street
Milwaukee, WI 53202

or to such other person or address as City shall furnish to Property Owner and Lender in writing.

If personally delivered, such communication shall be deemed delivered upon actual receipt (or refusal to accept delivery); if sent by registered or certified mail, such communication shall be deemed delivered upon actual receipt (or refusal to accept delivery); and if sent by overnight courier pursuant to this Section, such communication shall be deemed delivered upon receipt. Any party to this Agreement may change its address for the purposes of this Agreement by giving notice thereof in accordance with this Section.

19. Supremacy. In the event of any conflict, inconsistency or ambiguity between the provisions of this Agreement and the provisions of the Loan Agreement, the provisions of this Agreement shall control.

20. Application Compliance. In applying for the Loan, Property Owner represents and warrants that it has fully complied with the loan application process as set forth in the PACE Financing Program Manual.

21. City Approval of Approved Application. By its entry into this Agreement, City, through its Department of Administration, represents, warrants and covenants that it has approved of the financing arrangements between Property Owner and Lender. City, through its Department of Administration, further represents, warrants and covenants that the Approved Application was reviewed and approved by City in compliance with the provisions of the

Ordinance, and that the Project complies in all respects with the Act and the Ordinance, including compliance with any and all energy savings guarantee requirements.

22. Compliance with Laws. Lender and Property Owner hereby agree to comply with all applicable federal, state and local lending and disclosure requirements and with the provisions of the Ordinance.

23. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed a single agreement.

24. Amendment. This Agreement may be amended only by a writing signed by Property Owner, Lender and City.

25. Severability. If any one or more of the provisions of this Agreement shall be found to be invalid, illegal or unenforceable in any respect of to any extent, such finding shall not affect the validity, legality or enforceability of the remaining provisions of this Agreement.

26. Transferability. Lender and City agree that this Agreement shall run with the land and that upon any transfer of the Property, "Property Owner" shall become the transferee and the transferor shall be released from any obligation or liability hereunder.

[Signature Pages Follow]

Executed as of the date set forth above.

[PROPERTY OWNER]

By: _____
Name: _____
Title: _____

[LENDER]

By: _____
Name: _____
Title: _____

**CITY OF MILWAUKEE ACTING BY
AND THROUGH
DEPARTMENT OF
ADMINISTRATION**

Assistant City Attorney, _____,
as a member in good standing of the State
Bar of Wisconsin, hereby approves the
signatures of the City of Milwaukee
representatives, and also authenticates the
signatures of each of City of Milwaukee
representative per Wis. Stat. § 706.06 so this
document may be recorded per Wis. Stat. §
706.05(2)(b).

By: _____
Name: Sharon Robinson
Title: Director, Department of
Administration

By: _____
Name: Erick Shambarger
Title: Environmental Sustainability
Program Manager

By: _____
State Bar No. _____
Date: _____

Approved as to Content, Form, and
Execution: _____, __ 201__

Assistant City Attorney

Property Owner Notary

STATE OF _____)
)ss.
COUNTY OF _____)

Personally came before me this ____ day of _____, 201_, the above named _____, _____ of _____, to me known to be such person who executed the foregoing instrument and acknowledged the same in such capacity.

Notary Public, State of Wisconsin
My Commission: _____

Lender Notary

STATE OF _____)
)ss.
COUNTY OF _____)

Personally came before me this ____ day of _____, 201_, the above named _____, _____ of _____, to me known to be such person who executed the foregoing instrument and acknowledged the same in such capacity.

Notary Public, State of Wisconsin
My Commission: _____

EXHIBIT A

Legal Description of Property

[Legal Description of Property]

Address: [Property Address]

Tax Key Number: [Tax Key]

EXHIBIT B

Description of Project

EXHIBIT C

Approved Project Application

EXHIBIT D

SCHEDULE OF ESTIMATED INITIAL ANNUAL INSTALLMENT

<u>PACE SPECIAL CHARGES</u>	<u>TAX YEARS</u>	<u>INITIAL ANNUAL INSTALLMENT</u>	<u>INITIAL MONTHLY INSTALLMENT</u>
[\$ Loan amount]	[Term]	[\$ Interest amount]	[\$ Installment amount]

The Maximum PACE Special Charges and Estimated Initial Annual Installments are based on the following assumptions:

1. The Lender disburses the Maximum Disbursement Amount to Property Owner.
2. The Lender disburses all Loan proceeds to Property Owner or the Disbursing Agent (as defined in the Construction Loan Agreement) on the date the City executes this Agreement. Interest accrues from the date of disbursement.
3. It is assumed that the Property Owner will elect to pay the Annual Installment of the PACE Special Charges with ten (10) installments as allowed by Section 74.87(3), Wisconsin Statutes and interest is added to the Maximum Disbursement Amount for this time period each year of the Special Charge.

Following the disbursement of the Disbursement Amount, the Program Administrator will adjust the Maximum PACE Special Charges and the Annual Installments, if necessary, to reflect the actual PACE Special Charges based upon the Disbursement Amount, the date of disbursement of the Disbursement Amount (or the date of the first progress payment and the date of the final progress payment if the Lender makes partial disbursements of the Disbursement Amount pursuant to the Agreement) as certified to Program Administrator by Lender and Property Owner. If any refund is required, the Program Administrator may make the refund by crediting the refund amount against the next Annual Installment(s).

EXHIBIT E

Lender's Form of Installment Certification

Property Tax Key No.	Borrower	Date of PACE Loan	Annual Installment to Lender (A)	Annual Administrative Charge to City (B)	Total Annual Installment/Special Charge (A+B)	Number of Installments Remaining	Outstanding Loan Amount

The undersigned, an authorized representative of the [Lender Name] (“Lender”) hereby certifies that the information contained in this Installment Certification is true and accurate, and may be relied upon by the City of Milwaukee (“City”) in connection with those certain Construction Loan Agreements and those certain PACE Supplemental Loan Agreements as detailed above.

LENDER: [LENDER NAME]

By:	Date:
Printed Name:	Title:

[Appendix C- PACE Supplemental Loan Agreement]

EXHIBIT F

Terms and Conditions of Incentives

NONE

EXHIBIT G

Third Party Paying Agent

A Paying Agent selected by Lender will be used in connection with the Loan.

A Paying Agent will not be used in connection with the Loan.