



## EIC Energize NY PACE Finance Underwriting Criteria and Other Requirements – PACE 2.0

### The Property

- Property must be located in a municipality that is a Participating Municipality.
- Property taxes and assessments are current on the Property and have not been delinquent at any time in the past three (3) years;
- The Property Owner is current in payments on any existing mortgage
- The Property is qualified to participate in an approved NYSERDA or local utility qualified energy program or a pathway qualified through the NYSERDA Commercial PACE Guidance Document (see Attachment A)
- The Property is not subject to any involuntary liens or judgments in excess of \$1,000 in the aggregate;
- The Property is subject to the appropriate jurisdiction's (County, City, Town, Village) permitting and inspections and all other applicable Federal, State, and Local codes and regulations;
- All existing lien holders on the Property (including any mortgagees) consent to the PACE Financing Charge.
- The Participating Municipality may impose other restrictions not listed here.

### The Property Owner

- The Property Owner is a corporation (both for-profit and not-for-profit), limited liability company, partnership, real estate investment trust (REIT), or an entity that owns real property other than a natural person or governmental entity, and pays the property tax on the property.
- The Property Owner must sign off on the Improvements being financed
- The Property Owner may not be in bankruptcy, has not filed for bankruptcy within the past seven years, and the Property may not constitute property subject to a bankruptcy proceeding;
- The Property Owner must be the legal owner of the property, and/or all the legal Owners of such Property agree to participate and
- The Property Owner, through the provision of a Title Search, must attest to and demonstrate that the Title on the Property is clear, it is current on any mortgage, has not defaulted on the mortgage and can legally enter into the Program.

### The Improvements

The proposed Improvements must meet standards outlined in the NYSERDA Commercial PACE Guidance Document (see Attachment A) and will only qualify provided that:

- Energy efficiency improvements meet the cost-effectiveness criteria as outlined and referenced in Section V of the NYSERDA Commercial PACE Guidance Document (see Attachment A).

- Renewable energy systems meet the criteria as outlined and referenced in Section VI of the NYSERDA Commercial PACE Guidance Document (see Attachment A)
- The Improvements are permanently affixed to property.
- The proposed improvements are subjected to an energy audit and/or renewable energy system feasibility study as outlined and referenced in Section II and/or VII of the NYSERDA Commercial PACE Guidance Document (see Attachment A).  
The Energize NY PACE financed amount shall be repaid over a term not to exceed the weighted average of the useful life of such systems and Improvements as determined by the qualified energy audit and/or renewable energy system feasibility study
- If the Improvements are to be owned by a third party or lessee (the Improvement Owner), as is the case with Power Purchase Agreements (PPAs) or leases for solar PV, and are not owned in whole by the Property Owner, the agreement(s) and/or contract(s) (e.g., PPA, lease) creating the third-party arrangement must include:
  - 1) Provisions confirming that:
    - a. the Improvements remain operational and cannot be removed through the term of the financing
    - b. the Property Owner's Cost Benefit Ratio from the Improvements as indicated in the qualified energy audit and/or renewable energy system feasibility study meets the cost-effectiveness criteria identified in Section V of the NYSERDA Commercial PACE Guidance Document (see Attachment A).
  - 2) In the case of a third-party arrangement between an Improvement Owner and a fourth party (eg: tenant), a separate agreement must be in place between the fourth party and the Property Owner guaranteeing payments sufficient to cover the annual tax charge obligation from the financing and create positive cash flow of greater than 1% to benefit the Property Owner through the term of the financing.
  - 3) Covenants that confirm the Improvement(s) and all agreement(s) and/or contract(s) creating a third-party arrangement are to be transferable to any new Property Owner, fourth party (eg: tenant) and/or Improvement Owner for the duration of the Financing Term.

### Financing Restrictions

- The total value of the Energize NY PACE financing added to all mortgages and other loans secured by the Property does not exceed 90% of the Appraised Value of the Property as determined by the Program Administrator in its sole discretion;
- The total value of the Energize NY PACE financing does not exceed 35% of the Appraised Value of the Property as determined by the Program Administrator in its sole discretion
- Energize NY PACE Financing is net of ALL non-tax-based upfront incentives
- Minimum Energize NY PACE Financing is \$25,000
- Such additional criteria that EIC may determine to be relevant to properly evaluate the risks associated with a particular financing, which criteria shall be approved by EIC's Board of Directors.
- The EIC Board reserves the right to reject any application for any reason in its sole discretion.

## Required Documents

The application for Energize NY PACE financing requires the submission of the following documents:

**Qualified Energy Audit / Renewable Energy System Feasibility Study:** Complete a qualified energy audit and/or a renewable energy system feasibility study of your building using a NYSERDA approved process as referenced in the NYSERDA Commercial PACE Guidance Document and/or through an approved NYSERDA or local utility qualified energy program.

**Proposed Scope of Work:** The Scope of Work, generated from your qualified energy audit or renewable energy system feasibility study, details the energy Improvements that you wish to be considered for Energize NY PACE Financing. The Program Administrator will verify that the desired Improvements are eligible for Energize NY PACE Financing during the application phase.

**Organizational Documents:** Assemble the organizational documents needed (e.g. **Certificate of Incorporation, By-Laws, and Certificate of Good Standing**) for all Owners of record.

**Mortgage Documents:** You must submit the two most recent mortgage statements or other evidence that all mortgages or any other loans secured by the Property are current.

**Appraisal:** A Property Appraisal is required to ensure that the requested financing amount plus all other mortgages and loans secured by the Property does not exceed 90% of the Appraised Value of the Property. Full appraisals completed within the past year may serve to meet the required conditions above, subject to EIC review. Alternatively, EIC may provide a desktop appraisal of the Property based on the full market value on the local government tax rolls. If the loan-to-value ratio is less than 70% of the appraised value of the Property, this desktop appraisal will be sufficient. If the desktop appraisal of the applicant indicates a loan-to-value equal to or in excess of 70%, a full appraisal will be required. Appraisals must be prepared by a Member of the Appraisers Institute (MAI) approved appraiser. A NY State Certified General Appraisers (CGA) may be used if these variables are met:

- 1) in counties where no MAI are located we allow a CGA appraisals to be used instead of an MAI appraiser OR
- 2) when the reported value of the property is less than or equal to \$3,000,000, and
- 3) the loan-to-value is less than 70%.

If a CGA appraisal yields a value that is 70% or greater EIC reserves the right to require an MAI appraisal.

**Energize NY Finance Lender Consent Form:** A Property Owner must obtain written consent from Mortgagee(s) or other lenders who have provided credit secured by the Property. Please use the Energize NY Finance Lender Consent Form (see Form 2). The Mortgagee will likely request to see a copy of the proposed Scope of Work, the proposed Energize NY Finance Agreement and the Energize NY Finance Application, copies of which are available from the Program Administrator.

**Secretary's Certificate of Resolution:** The Property Owner is required to submit a Secretary's Certificate of Resolution from the Board of Directors of the Property Owner corporation, that

the undersigned has the power and authority to enter into a PACE financing with EIC. The Program Administrator will attach the Secretary's Certificate of Resolution to your Application.

**Insurance:** Proof of property insurance that covers proposed improvements

**Third Party Agreements:** If the Improvements are to be owned by a third party or a lessee (the Improvement Owner), as is the case with Power Purchase Agreements (PPAs) for solar, other renewable energy generating equipment or energy efficiency HVAC equipment and are not owned in whole by the Property Owner, provide the agreement(s) and/or contract(s) (e.g., PPA, lease) creating the third-party arrangement.

**Sanctioned Countries.** The Program must receive a written and signed statement that indicates either that the Property Owner does not do business outside of the United States, or if the Owner does do business outside of the United States, it does not do business with Sanctioned Countries, as defined by the Office of Foreign Asset Control (OFAC). A list of Sanctioned Countries can be found at the following website:

<https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>

## Agreement Documents

### **Energize NY Finance Agreement**

The Energize NY Finance Agreement describes the PACE Financing Charge, schedule of payments, interest rates, capitalized interest, professional fees, program fees and final Disbursement Amount in accordance with the New York State General Municipal Law, Article 5L, Section 119ee, ff, gg and the local laws of your municipality as a Participating Municipality.

### **Energize NY Benefit Finance Disclosure Form**

The Energize NY Benefit Finance Disclosure Form discusses the limits of responsibility of the Program with respect to Energize NY Finance and the Improvements for a given Property. All Owners of the Property need to sign and return the Agreement Documents within ten (10) business days.

### **Certificate of Owner**

Owner certifies that they own the Benefitted Property, the construction of the project has either been completed or that owner will provide proof of completion before funds are fully disbursed, and that the signer is authorized to act on behalf of the Owner.

## Completion of the Improvements

**Certificate of Completion:** Both the Contractor and the Property Owner must sign a Certificate of Completion or equivalent document or receive confirmation by NYSERDA or the local utility program certifying completion of the project. Property owner will be responsible to submit verification of the improvement(s) final cost. These documents certify that the Scope of Work as presented with the Energize NY PACE Finance Application and Energize NY Finance Agreement was completed satisfactorily.

## **Attachment A – NYSERDA Commercial PACE Guidance Document**

<http://www.nyserda.ny.gov/cpace-guidelines>