

## **EIC Municipal Agreement Addendum – “Pay When Received PACE” Product – 9-20-18 FINAL**

This addendum (the “Addendum”) to the EIC Municipal Agreement executed on the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Agreement”) by and between the \_\_\_\_\_ (the “Municipality”) and the Energy Improvement Corporation (“EIC”), which Addendum is executed on the \_\_\_ day of \_\_\_\_\_, 20\_\_, sets forth the amended duties and obligations of each Party in connection with enabling “Pay When Received PACE”, a Product of the Energize NY Benefit Finance Program (the “Program”).

WHEREAS, EIC is offering a Product referred to as “Pay When Received PACE” and such Product may be offered to Property Owners within the Municipality; and

WHEREAS, the “Pay When Received PACE” Product varies from ENY PACE 1.0 or ENY PACE 2.0 in that the Municipality is not required to remit payments pursuant to paragraph 2(c) of the Municipal Agreement unless and until payment is received by the Municipality from the owner of the Benefitted Property; and

WHEREAS, this Addendum is intended to set forth certain modifications to the Municipal Agreement which are necessary for the “Pay When Received PACE” Product.

Now, THEREFORE, in consideration of the mutual promises contained in this Agreement, the Parties agree as follows:

1. Supplementing section 1(g) of the Municipal Agreement, EIC will identify any Benefitted Property approved under the “Pay When Received PACE” Product in the Annual Report as such.

2. For all Energy Improvements financed under the “Pay When Received PACE” Product, Section 2(c) of the Municipal Agreement is hereby replaced in its entirety with the following paragraph:

“Within thirty days of the date that payment of municipal taxes (including the charge pursuant to the Financing Agreement) is due to be made to \_\_\_\_\_, remit payment to an EIC Trust Account established for such financing in the total annual payment due to EIC and actually received from the Owner of such Benefitted Property. For the avoidance of doubt, with respect to such “Pay When Received PACE” Benefitted Properties, the Municipality shall have no obligation to make any payments to the applicable EIC Trust Account unless the Municipality has actually received such payments from the Owner of the Benefitted Property or as provided in Section 6 of this Addendum.”

3. Section 1(h) of the Agreement shall be modified to provide that any EIC Trust Account established by EIC with respect to the “Pay When Received PACE” Product need not be held by a trustee under an indenture but instead may be held by any bank or trust company designated by EIC for such purpose.

4. Supplementing Section 2(d) of the Municipal Agreement, the Municipality will separately identify any Benefitted Property approved under the “Pay When Received PACE” Product in the Delinquency Report.

5. Section 4(a) and Section 7 of the Municipal Agreement are hereby modified to provide that where the Benefitted Property was approved under the “Pay When Received PACE” Product, the failure of the Municipality to deliver payments to EIC within thirty (30) days of when due to the Municipality, shall not be an event of default, provided that the Municipality remits such payments to EIC within thirty (30) days after the Municipality’s receipt of such amount from the Owner of the Benefitted Property or as required by Section 6 hereof.

6. In connection with the “Pay When Received PACE” Product, the Municipality hereby covenants and agrees that, (i) in the event that municipal taxes and other charges due from the owner of a Benefitted Property financed under the Pay When Received PACE Product are not paid by the owner of the Benefitted Property when due, the Municipality shall cause to be commenced tax delinquency, default and foreclosure proceedings against each such Benefitted Property in the same manner and in accordance with the same policies and procedures utilized by the Municipality to enforce delinquent taxes against properties that do not include charges payable under the Pay When Received PACE Product; and (ii) the Municipality shall not take into account the existence of charges payable under the Pay When Received PACE Product in determining how to fulfill its obligations under the provisions of General Municipal Law 119-gg(9) and the Local Law requiring the Municipality to levy and collect such charges at the same time and in the same manner as other municipal taxes levied by the Municipality. The aforementioned proceedings may include any and all collection actions authorized by New York State Law to collect municipal taxes on real property including preparations to the filing of any action to foreclose on the municipal lien.

7. Municipality will remit any delinquent tax charges recovered from the Benefitted Property through a proceeding brought under paragraph 5 above to the applicable EIC Trust Account within 5 business days after receipt by the Municipality.

8. Any provision of the Municipal Agreement not specifically modified hereby shall remain in full force and effect.

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

Date:                    20\_\_

Energy Improvement Corporation

By: \_\_\_\_\_

PRINT NAME:

Date:                    20\_\_

Municipality Name:

By: \_\_\_\_\_

PRINT NAME: