

## Appendix L: THIRD PARTY OWNERSHIP & C-PACE

### Section 1 – General Provisions

The C-PACE Legislation does not require the legal owner of the building to own the equipment associated with a qualified energy upgrade and allows for leases, power purchase agreements (“PPA”) and other third-party owned financing arrangements to be secured by a C-PACE assessment. The “benefitted property owner” as defined in the Act must only “[desire] to install energy improvements” and provide “free and willing consent to the benefit assessment authorized by the Act against the qualifying commercial real property.” As such, Approved Third-Party Capital Providers may finance Energy Improvements through C-PACE in cases where the Energy Improvement(s) itself is/are owned by a third-party provider under the following circumstances, subject to meeting other program requirements:

#### 1. Owner Consent

The Benefited Property Owner must provide consent to the Benefit Assessment (as defined in the Act) against the Qualifying Commercial Real Property. The Green Bank will recognize Benefit Property Owner consent under the following two fact patterns:

- (1) incorporating the consent into the third-party ownership agreement (e.g., energy services agreement (“ESA”), equipment lease or PPA); or
- (2) a separate consent agreement in favor of the Green Bank, the applicable municipality, and the applicable capital provider when the financing is made.

The Benefited Property Owner’s consent must include the payment structure outlined in the “Transfer of Payment” section below.

#### 2. Permanently Affixed

Since Energy Improvements under C-PACE must be “permanently affixed” to the Qualifying Commercial Real Property, the third-party ownership agreement must be of at least 15 years in length and contain language requiring the following:

- The third-party ownership agreement shall be assigned to a buyer or transferee of the property and not result in an automatic termination of such agreement if the property changes ownership or otherwise transfers; and
- The Benefited Property Owner shall have the right or option to acquire title to the qualifying energy upgrades system at the end of the third-party ownership agreement term.

### **3. Transfer of Payment**

All third-party ownership agreements shall require the Benefited Property Owner to make fixed payments to the relevant municipality pursuant to the Benefit Assessment Lien mechanism and municipality's property tax schedule.

If the third-party ownership agreement is a performance based agreement such as a PPA, it shall include provisions related to a regular "true-up" mechanism to adjust to the actual performance of the Energy Improvement against the expected performance used to calculate the Benefit Assessment Lien payments. For example, under a PPA, if fixed Benefit Assessment Lien payments are to be made to the relevant municipality every six months based on the expected production of the renewable energy system(s), the third party owner shall measure the actual energy generated by the renewable energy system(s) over that time period. If the overall cost of the energy generated during that time period (as calculated by multiplying the amount of the actual kWh produced by the per-kWh price of energy specified in the PPA) is greater than the fixed payment made by the Benefited Property Owner to the municipality, then the Benefited Property Owner shall remit the difference to the PPA provider. If the cost of energy generated is less than the fixed payment, then the third party owner shall remit the difference to the Benefited Property Owner. If necessary, the Green Bank, in its discretion, may serve as a conduit for these "true up" payments.

## **Section 2 – Savings to Investment Ratio Review**

Third-party owned projects that seek approval for a C-PACE assessment must meet C-PACE's requirement that the project has a demonstrated SIR of 1 or greater.

Per Section 3E of Article III of the Program Guidelines, if an otherwise Qualifying Project includes third party-owned energy efficiency equipment, a Technical Reviewer or Technical Administrator must review the project in accordance with the Technical Standards.

If an otherwise Qualifying Project includes a third party-owned renewable energy system(s) AND the financing structure is not a PPA or other performance-based structure, a Technical Reviewer or Technical Administrator must review the project in accordance with the Technical Standards.

If an otherwise Qualifying Project includes a third party-owned renewable energy system(s) AND the financing structure is a PPA or other performance-based structure, (i) Green Bank may, in its sole discretion, perform the technical review and approval for such project in accordance with the Technical Standards, or (ii) the applicable Approved Third-Party Capital Provider may certify that that such project meets SIR in accordance with the Technical Standards and the process outlined in Section 3 of this appendix. However, Green Bank reserves the right, on a case-by-case basis, to require a Technical Reviewer or Technical Administrator to review any such project.

### Section 3 - PPA SIR Self-Certification Process

C-PACE allows Approved Third-Party Capital Providers who finance a project through a C-PACE-backed PPA to self-certify that SIR is met.

In order for an Approved Third-Party Capital Provider PPA repayment to be secured via a C-PACE benefit assessment lien, they must provide the following additional information above and beyond what is required in the Capital Provider Terms and Conditions appendix:

- [Connecticut Green Bank C-PACE-Secured Power Purchase Agreement \(PPA\) Savings-to-Investment Ratio \(SIR\) Representation letter](#)
  - The letter requests the Approved Third-Party Capital Provider to attest to the fact that the project meets the C-PACE Program's SIR requirement. They are required to provide information in the letter showing that this requirement is met, including the calculated SIR, PPA rate used, and escalator rate used (if applicable).
  - A duly authorized representative of the Approved Third-Party Capital Provider must sign the letter attesting to the information provided in the letter.
- Technical details on the renewable energy system, as detailed in "Exhibit A – Solar Feasibility Analysis Checklist" found in the C-PACE-Secured PPA Program SIR Representation Letter.
  - The exhibit is a checklist of information that is required to be provided by the Approved Third-Party Capital Provider on the technical design and economics of the solar system being proposed. Information requested is broken up into three categories:
    - Site Suitability Assessment
    - PV System
- [Completed SIR Calculator](#)