

**ASSESSMENT AGREEMENT FOR C-PACE FINANCING
CITY OF LAS VEGAS**

This ASSESSMENT AGREEMENT for C-PACE FINANCING (this “Assessment Agreement”) is made and entered into as of this _____ day of _____, 2024 (the “Effective Date”) by and between CITY OF LAS VEGAS, a Nevada municipal corporation (the “Jurisdiction”), and FBLV District 2 LLC, a Delaware limited liability company (the “Property Owner”). Capitalized terms used herein but not otherwise defined have the meanings ascribed such terms in the Resolution (as defined below).

RECITALS

WHEREAS, the City of Las Vegas, on October 22, 2018 and March 16, 2022, respectively, established the Commercial Property Assessed Clean Energy Program (the “Program”) through the adoption of Resolution Nos. R-61-2018 and R-13-2022 (collectively, the “Resolution”), which provides for the financing of one or more Qualified Improvement Projects on Qualifying Commercial or Industrial Real Property in the city of Las Vegas, Nevada District through the creation of contractual Assessment and Assessment Lien pursuant to NRS [271.6312 through 6325], inclusive (as may be amended from time-to-time, the “Act”); and

WHEREAS, the purpose and method of approval of Financing under the Program are described in the Program Guide attached to the Resolution, as the same may have been amended from time-to-time prior to the Effective Date; and

WHEREAS, Property Owner is the owner of fee title of that certain Tract identified on Exhibit A attached hereto and incorporated herein by this reference (the “Property”); and

WHEREAS, Property is located within the District, and the Jurisdiction has consented to owners of eligible properties within its jurisdiction participating in the Program; and

WHEREAS, Property Owner has applied as the applicant for the Program and wishes to enter into this Assessment Agreement to document the terms and conditions of such participation; and

WHEREAS, the subject application for the Program, including a description of the Qualified Improvement Projects to be acquired, constructed on and/or installed on the Property together with evidence of eligibility for the Program as required by the Act, the Resolution and the Program Guide, has been deemed by the Program Administrator to be complete; and

WHEREAS, the Program Administrator has reviewed such application materials to assess compliance with the Act, the Resolution and Program Guide, and the Qualified Improvement Projects on the Property listed on identified on Exhibit B attached hereto and incorporated herein by this reference (collectively, the “Approved Project”) comply with such criteria and are approved for participation in the Program; and

WHEREAS, the Approved Project is to be financed pursuant to a Financing Agreement between the Property Owner (the “Applicant”) and a Capital Provider, pursuant to which the Applicant agrees to repay the Capital Provider the Financing Amount; and

WHEREAS, pursuant to the Act and the Resolution, the Jurisdiction and the Property Owner must enter into this Assessment Agreement; and

WHEREAS, it is a condition to closing of the Financing under the Financing Agreement that the Property Owner and the Jurisdiction enter into this Assessment Agreement and that this Assessment Agreement and the Assessment and Assessment Lien created hereby be assigned to the Capital Provider;

and

WHEREAS, the Property Owner voluntarily and willingly agrees to have the Assessment and Assessment Lien created and Recorded against the Property and to enter into this Assessment Agreement in order to finance the installation on the Property of the Approved Project on the terms set forth in the Financing Agreement.

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements hereinafter contained, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Property Owner and the Jurisdiction formally covenant and agree as follows, with the intent to bind themselves and their respective successors and assigns:

AGREEMENT

SECTION 1 PURPOSE

1.0 PURPOSE.

This Assessment Agreement relates to the Property. The Property Owner has supplied to the Program Administrator evidence of its ownership of fee title to the Property and its legal authority to execute and deliver this Assessment Agreement. The Property Owner and the Jurisdiction are entering into this Assessment Agreement for the purpose of documenting the Property's participation in the Program and to establish Property Owner's consent as required under the Act and the Resolution. The parties acknowledge and agree that the Property is a Qualifying Commercial or Industrial Property and that the Approved Project, whether the refinancing, purchase, installation or construction thereof, constitutes a Qualified Improvement Project on the Property. The Property Owner shall be deemed to own the Approved Project pursuant to NRS 271.6312(3), but this Assessment Agreement shall not restrict Property Owner's right to sell, encumber or lease the Approved Project in its discretion.

SECTION 2 ASSESSMENT AND LIEN; ASSIGNMENT

2.0 ASSESSMENT AND LIEN; ASSIGNMENT

A. The Property Owner agrees to the creation of the Assessment and Assessment Lien, which is created hereby and requires no further ordinance or resolution by the Governing Body. Further, the Property Owner acknowledges and agrees that, upon the execution and delivery of this Assessment Agreement by the parties, the Property Owner voluntarily and willingly consents to notice of the Assessment and Assessment Lien being Recorded against the Property by the Jurisdiction in the principal amount of \$[108,000,000] together with all interest, penalties, and fees as described in the Financing Agreement, which shall be deemed the Financing Amount. Upon execution and delivery of this Assessment Agreement, Property Owner expressly consents to the Jurisdiction executing and Recording a Notice of Assessment and Assessment Lien in substantially the form prescribed by the Program Guide, which includes this Assessment Agreement as an exhibit, evidencing the Financing Amount (the "Notice"). The Recording of the Notice will cause the Assessment and Assessment Lien to attach as a lien upon the Property for the benefit of the Jurisdiction and will provide record notice to third parties of the existence of the Assessment and Assessment Lien.

The Approved Project relates to a new build or gut rehabilitation, and the Financing Amount does not exceed thirty-five percent (35%) of the fair market value of the Property assessed as determined by a certified appraiser pursuant to guidelines adopted pursuant to NRS 271.6325;

B. The execution and delivery of this Assessment Agreement by the parties authorizes and effectuates the creation of the Assessment and Assessment Lien by the Jurisdiction against the Property and

Recordation of the Notice without any further action required by the parties or by the Governing Body.

C. The Property Owner hereby promises to pay the Financing Amount in installments for a period of [thirty (30)] years on the due dates set forth in Exhibit C attached hereto and incorporated herein by this reference (the "Schedule"). The Property Owner agrees, as provided in the Financing Agreement, to pay the amount due in installments according to the Schedule (each, an "Installment"), and each Installment must be paid by the Property Owner by its due date in order to avoid delinquencies and the accrual of interest and related penalties under the Financing Agreement.

D. The Financing Amount shall be secured by the Assessment and Assessment Lien until paid in full. Failure to pay any Installment, like failure to pay any property taxes pertaining to the Property, will result in penalties and interest accruing on the amounts due on the terms and provisions of the Financing Agreement. In addition, under those circumstances, the Assessment and Assessment Lien may be foreclosed in the manner specified in Section 3 below.

E. The Assessment and Assessment Lien, together with this Assessment Agreement, shall be assigned pursuant to an Assignment of Assessment and Assessment Lien in substantially the form set forth in the Program Guide (the "Assignment") by the Jurisdiction to the Qualified Capital Provider (for the benefit of the Qualified Capital Provider and its designees and assigns). The Assignment shall be executed and delivered by the Jurisdiction contemporaneously with this Assessment Agreement and Recorded immediately following the Notice at the closing of the Financing pursuant to the Financing Agreement.

SECTION 3

COLLECTION OF INSTALLMENT; FORECLOSURE

3.0 COLLECTION OF INSTALLMENT; FORECLOSURE.

A. The Installments shall be collected in the manner specified in the Financing Agreement.

B. The Property Owner acknowledges that if any Installment is not paid when due, the Assessment and Assessment Lien may be enforced by judicial foreclosure like a mortgage by the Capital Provider.

C. Property Owner expressly consents to prosecution of said action of foreclosure by Capital Provider in accordance with the terms of the Financing Agreement. The Jurisdiction shall have no obligation to prosecute such foreclosure on behalf of the Capital Provider, or to otherwise participate in such foreclosure, except to the extent that any action on the part of the Jurisdiction or any Jurisdiction official is required in order to allow the Capital Provider to prosecute or effectuate the foreclosure proceeding or to ratify or confirm any action of the Capital Provider taken in furtherance of the foregoing, as contemplated in the Act or the Resolution.

SECTION 4

TERMS; RUNS WITH THE LAND

4.0 TERMS; RUNS WITH THE LAND.

A. Except as otherwise set forth in this Assessment Agreement, this Assessment Agreement shall terminate upon payment in full of the final Installment or prepayment in full of the Financing Amount. Following such termination, the Jurisdiction shall cause to be executed, delivered and Recorded a Release in substantially the form provided in the Program Guide.

B. Once the Notice is Recorded, the Assessment and Assessment Lien shall (i) run with the land until the Financing Amount is paid in full and released of record, (ii) not be subject to acceleration or extinguishment by the sale of any of the Property on account of the non-payment of general taxes, and (iii) be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes attached to the Property pursuant to the provisions of NRS 361.450. In the event of a default

under the Financing Agreement or foreclosure by another Lender against the Property, the balance of the Financing Amount that has not yet become due is not accelerated or eliminated but shall continue to run with the land and bind successors of Property Owner.

C. Each amendment to this Assessment Agreement must be executed by the Jurisdiction and the Property Owner and must be Recorded, and once so Recorded is binding upon the signatories and any other person who holds any interest in the Property, regardless of whether that interest arose before or after the Recording of the Notice.

D. The Property shall not be subdivided unless permissible under the terms of the Financing Agreement. In the event of subdivision, allocation of the Assessment and Assessment Lien between subdivided parcels will be pursuant to the terms of the Financing Agreement.

SECTION 5 RECORDATION OF DOCUMENTS

5.0 RECORDATION OF DOCUMENTS

A. The Jurisdiction shall cause to be Recorded the Notice, which includes this Assessment Agreement as an exhibit, and such other documents that are attached as Exhibits to this Assessment Agreement, or may delegate authority to Record to the Capital Provider. Once Recorded, this Assessment Agreement shall be binding on the Property Owner and any other person who holds any interest in the Property regardless of whether such interest in the Property came into existence before or after the Recording hereof.

SECTION 6 FURTHER ASSURANCES

6.0 FURTHER ASSURANCE.

The parties hereto agree to from time-to-time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required in order to carry out the expressed intention of this Assessment Agreement.

SECTION 7 BINDING EFFECT; ASSIGNMENT

7.0 BINDING EFFECT; ASSIGNMENT

A. This Assessment Agreement inures to the benefit of and is binding upon the Jurisdiction, the Property Owner and their respective successors and assigns. The obligation to pay the Financing Amount set forth in this Assessment Agreement is an obligation of the Property, and no agreement or action of the Property Owner (other than repayment of such amount in full in accordance with the terms of the Financing Agreement) will impair in any way the right to pursue foreclosure or the right to enforce the collection of the outstanding balance or any Installment against the Property. With exception of Section 8 which may not be assigned, any assignee of the Jurisdiction shall be a party to this Assessment Agreement and shall have all of the rights and obligations of the Jurisdiction hereunder to the extent that such rights and obligations have been assigned by the Jurisdiction pursuant to the assignment documentation between the Jurisdiction and the assignee. The Jurisdiction may furnish any information concerning the Property Owner in its possession from time-to-time to prospective assignees.

SECTION 8 NO LIABILITY OF THE JURISDICTION

8.0 NO LIABILITY OF THE JURISDICTION.

A. Except for the imposition and amount of the Assessment and Assessment Lien, in no event is the Jurisdiction responsible for the form of this Assessment Agreement or any statement, term, provision

or other matter contained herein. Pursuant to NRS 271,631.75, other than for its willful misconduct, the Jurisdiction shall incur no liability as a result of any provision of this Assessment Agreement, nor shall any members of the Governing Body, employees, board members and executives of the Jurisdiction be personally liable for exercising any rights or responsibilities pursuant to or in furtherance of this Assessment Agreement, other than for their willful misconduct. This Section shall inure only to the Jurisdiction, its Governing Body, employees, board members, and executives, and not to the benefit of the Jurisdiction's successors or assigns of this Assessment Agreement. The Municipality shall not be liable for any amounts due pursuant to a Qualified Improvement Project.

SECTION 9 INDEMNIFICATION.

9.0 INDEMNIFICATION.

A. Indemnification. Property Owner agrees to defend, indemnify and hold the Jurisdiction, its Governing Body, employees, agents and contractors harmless from any and all claims, including, but not limited to, reasonable attorneys' fees, demands, losses and liabilities to or by third parties arising from, resulting from or connected with this Assessment Agreement, the Approved Project, the Notice and the Assessment and Assessment Lien actually incurred by the Jurisdiction. Property Owner's duty to indemnify the Jurisdiction shall not apply to liability for damages to the extent caused by or resulting from the sole or contributory negligence or willful misconduct of the Jurisdiction, its Governing Body, employees, agents or contractors.

SECTION 10 GOVERNING LAW; VENUE; JURY TRIAL WAIVER.

10.0 GOVERNING LAW; VENUE; JURY TRIAL WAIVER

A. Governing Law; Venue; Jury Trial Waiver. This Assessment Agreement is governed by and construed in accordance with the laws of the State of Nevada. Any legal action brought under this Assessment Agreement must be instituted exclusively in the state and federal courts located within Clark County, Nevada. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS ASSESSMENT AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS ASSESSMENT AGREEMENT AND ANY OF THE AGREEMENTS DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTIES HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTIES WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE EITHER OF SUCH WAIVERS, (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVERS, (C) IT MAKES SUCH WAIVERS VOLUNTARILY, AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS ASSESSMENT AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.

SECTION 11 SEVERABILITY

11.0 SEVERABILITY.

A. Severability. Each and every provision of this Assessment Agreement is, and shall be construed to be, a separate and independent covenant and agreement. If any term or provision of this Assessment Agreement or the application thereof shall to any extent be held to be invalid or unenforceable,

the remainder of this Assessment Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Assessment Agreement shall be valid and shall be enforced to the extent permitted by applicable law.

SECTION 12 COUNTERPARTS

12.0 COUNTERPARTS.

A. Counterparts. This Assessment Agreement may be executed in several counterparts, each of which is an original and all of which constitutes one and the same instrument.

SECTION 13 CONFLICTS

13.0 CONFLICTS.

A. Conflicts. In the event of a conflict between this Assessment Agreement and the Financing Agreement, the terms and conditions of this Assessment Agreement shall control. This Assessment Agreement is subject to the Act and the Resolution in all respects and the terms and conditions of the Act and the Resolution are incorporated herein by this reference.

SECTION 14 EXCULPATION; NO SPECIAL DAMAGES

14.0 EXCULPATION; NO SPECIAL DAMAGES.

A. The obligations of Property Owner under this Assessment Agreement are collectible only from the assets of Property Owner, and in no event will any member, partner, employee, director, officer, shareholder or person with interest (direct or indirect) in Property Owner shall have any personal liability for the obligations of Property Owner hereunder and Jurisdiction expressly waives and releases all right to assert any liability whatsoever under or with respect to this Assessment Agreement, or to satisfy any claim or obligation arising hereunder against, any of the constituent members or partners of Property Owner or its members, partners, employees, directors, officers, shareholders or persons with interest (direct or indirect) or out of their respective assets.

B. Notwithstanding anything to the contrary set forth herein Property Owner shall not be liable for punitive, exemplary, special or consequential damages under any provision of this Assessment Agreement that would otherwise impose liability on Property Owner for such damages, except to the extent any of the foregoing excluded damages are payable by Jurisdiction to an unaffiliated third party.

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ASSESSMENT AGREEMENT FOR C-PACE FINANCING
CITY OF LAS VEGAS

Signature Page

IN WITNESS WHEREOF, the Jurisdiction and the Property Owner have caused this Assessment Agreement to be executed in their respective names by their duly authorized representatives, all as of the Effective Date.

"JURISDICTION"
CITY OF LAS VEGAS

By: _____
Carolyn G. Goodman, Mayor

Date of City Council Approval: _____

Attest:

By: _____
LuAnn D. Holmes, MMC, City Clerk

Approved as to Form:

By: John S. Ridilla 9/3/24
John S. Ridilla Date
Chief Deputy City Attorney



STATE OF NEVADA)
COUNTY OF CLARK)

This instrument was acknowledged before me on the _____ day of _____, 2024 by Carolyn G. Goodman, as the Mayor of Las Vegas, Nevada.

S
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A
L

Notary Public

[SIGNATURES CONTINUED ON NEXT PAGE]

ASSESSMENT AGREEMENT FOR C-PACE FINANCING
PROPERTY OWNER

Signature Page (continued)

“PROPERTY OWNER”

FBLV District 2 LLC,
a Delaware limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____

STATE OF NEVADA)
COUNTY OF CLARK)

This instrument was acknowledged before me on the ____ day of _____, 2024

by _____ as _____ of

S
E
A
L

Notary Public

EXHIBIT A

PROPERTY LEGAL DESCRIPTION

[REFERENCE ATTACHED]

EXHIBIT B

APPROVED PROJECT

[REFERENCE ATTACHED]

EXHIBIT C

SCHEDULE

Period	Bill Date	Delinquent After Date	Payment	Interest	Principal	Principal Remaining	Annual Collection Costs**	Total Payment Due
1								
2								
3								
4								
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ASSESSMENT AGREEMENT FOR C-PACE FINANCING
PROPERTY OWNER

Signature Page (continued)

“PROPERTY OWNER”

FBLV District 2 LLC,
a Delaware limited liability company

By: 

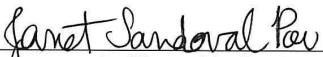
Printed Name: Sam Rosenberg

Title: Vice President

Date: 8/23/24

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 23rd day of August in the year 2024 before me, the undersigned a notary public in and for said state, personally appeared Sam Rosenberg, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Vice President of FBLV District 2 LLC, and that by his signature, in the instrument, the individual, or the persons upon behalf of which the individual acted executed the instrument.


Signature and office of individual taking acknowledgment

JANET SANDOVAL POU
Notary Public, State of New York
No. 01SA6076883
Qualified in Queens County
Commission Expires July 1, 2026

[Signature Page to Assessment Agreement]