

UNOFFICIAL COPY

18003031 NC 2



1931645110

THIS INSTRUMENT WAS PREPARED BY:

THOMAS O'CONNOR, ESQUIRE
DUVAL & STACHENFELD LLP
555 MADISON AVE.
6TH FLOOR
NEW YORK, NEW YORK 10022

Doc# 1931645110 Fee \$88.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 11/12/2019 02:03 PM PG: 1 OF 1:

RETURN TO:

CHICAGO TITLE INSURANCE COMPANY
10 SOUTH LASALLE ST., SUITE 3100
CHICAGO, ILLINOIS 60603
ATTN: LANA JONES

(THE ABOVE SPACE FOR RECORDER'S USE ONLY)

ASSIGNMENT AGREEMENT

This ASSIGNMENT AGREEMENT (this "*IFA Assignment*") is made and entered into effective as of November 8, 2019 (the "*Effective Date*"), by and between the City of Chicago, a municipal corporation and home rule unit of local government of the State of Illinois (the "*Governmental Unit*") and the ILLINOIS FINANCE AUTHORITY, a body politic and corporate created and existing under and by virtue of the laws of the State of Illinois (along with its successors and assigns, the "*Authority*," and, together with the Governmental Unit, each a "*Party*" and collectively the "*Parties*").

RECITALS

WHEREAS, RCP HOTEL OWNER, LLC, a Delaware limited liability company (the "*Property Owner*") is the owner of certain real property located at 208 S. LaSalle Street, Chicago, Illinois ("*Property*"), as further described on Exhibit A.

WHEREAS, the Property Owner has applied to the Governmental Unit for assistance in financing or refinancing a certain "energy project" (as defined in the Property Assessed Clean Energy Act, 50 ILCS 50/1 et seq., as amended (the "*PACE Act*")) at the Property (the "*Project*").

WHEREAS, the Governmental Unit has appointed Loop-Counterpointe PACE LLC, a Delaware limited liability company, as a program administrator (together with any successors thereto, the "*Program Administrator*") to administer its property assessed clean energy program (the "*PACE Program*") within its jurisdictional boundaries (the "*PACE Area*").

SY
P//
S /
M /
SC
E
INT.

UNOFFICIAL COPY

WHEREAS, to finance or refinance the Project, the Governmental Unit and the Property Owner have entered into that certain Assessment Contract dated as of November __, 2019 (“**PACE Contract**”) pursuant to which, *inter alia*, (i) the Governmental Unit, through the Program Administrator, has agreed to arrange financing for the Project through the issuance of bonds, (ii) the Property Owner has agreed to repay such financing by consenting to the imposition of an annual assessment on the Property payable in installments (“**Assessment Installments**”), and has agreed to pay certain administrative expenses (“**Assessment Administrative Fees**”), (iii) the Property Owner has consented to the assignment of the PACE Contract to secure any bonds issued to finance the Project, and (iv) the Governmental Unit has agreed to impose such assessment and to direct that the Assessment Installments be paid directly to the Governmental Unit or its designee.

WHEREAS, the Governmental Unit and the Property Owner have requested that the Authority provide financing for the Project, and the Authority has agreed to provide such financing by issuing revenue bonds secured by the PACE Contract (the “**Bonds**”) pursuant to a Master Indenture (the “**Indenture**”) among the Authority, Wilmington Trust, N.A., as trustee (the “**Trustee**”) and the Program Administrator and lend the proceeds of such Bonds to the Property Owner in one or more advances to pay, or to reimburse the Property Owner for payment of, the costs of the Project, subject to the terms and conditions contained in the PACE Contract and the Indenture, and as authorized pursuant to Resolution 2019-0214-DA04 (the “**PACE Bond Resolution**”) of the Authority authorizing the sale of Bonds to Counterpointe Sustainable Real Estate LLC or its Designated Transferee as defined in the Indenture (the “**Capital Provider**”).

WHEREAS, as one condition, among others, to issuing the Bonds and lending the proceeds thereof, the Authority requires the Governmental Unit to assign, and the Governmental Unit wishes to assign all of its rights, title and interest (reserving to itself only the “**Reserved Rights**” specified herein) in the PACE Contract, including the right to receive Assessment Installments and Assessment Administrative Fees from the Property Owner, to the Authority, subject to and upon the terms and conditions set forth herein, and the Property Owner has consented to such pledge and assignment.

WHEREAS, pursuant to the Indenture, as security for the Bonds, the Authority will pledge and assign to the Trustee all of its right, title and interest in and to the PACE Contract (other than certain “**Authority Reserved Rights**” as defined therein), including the right to receive and apply the Assessment Installments, and certain other funds, property and collateral, collectively defined as the “**Security**” in the Indenture, and the Property Owner has consented to such pledge and assignment.

AGREEMENT

UNOFFICIAL COPY

NOW, THEREFORE, in consideration of the foregoing, the mutual promises hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the Governmental Unit and the Authority agree as follows:

Section 1. Assignment and Assumption of PACE Contract. The Governmental Unit hereby assigns to the Authority all of the Governmental Unit's right, title and interest in and to the PACE Contract, including the right to receive and apply Assessment Installments and Assessment Administrative Fees from the Property Owner, other than its rights to indemnification and payment of Governmental Unit's costs and expenses, and any rights and obligations of the Governmental Unit to pursue an "Enforcement Remedy" (as defined in Section 6(b) of the PACE Contract) which may be non-delegable as a matter of law, as set forth in the PACE Contract (the "**Reserved Rights**"). The Authority hereby assumes or causes the Program Administrator to assume (as set forth in the Indenture), as of the date hereof, and agrees to perform or cause to be performed all of the Governmental Unit's obligations under the PACE Contract from and after the date hereof.

Section 2. Governmental Unit's Representations and Warranties; Disclaimer.

(a) **Representations and Warranties.** The Governmental Unit hereby represents and warrants that, as of the date of this IFA Assignment:

- (i) It is a Governmental Unit duly organized and validly existing under the Constitution and the laws of the State of Illinois and has all necessary power and authority to enter into this IFA Assignment and to assign its rights under the PACE Contract, other than Reserved Rights, to the Authority pursuant hereto;
- (ii) The execution and delivery of this IFA Assignment and the Governmental Unit's undertakings herein, including assignment of the Governmental Unit's rights under the PACE Contract, other than Reserved Rights, to the Authority pursuant hereto, have been duly authorized by all necessary action on the part of the Governmental Unit and will not contravene or violate the Governmental Unit's municipal or county authority;
- (iii) The Governmental Unit has not previously assigned or transferred any of its rights under the PACE Contract.
- (iv) This IFA Assignment and the PACE Contract constitute the legal, valid and binding obligations of the Governmental Unit enforceable in accordance with their respective terms and, upon information and

UNOFFICIAL COPY

belief, the PACE Contract constitutes the legal, valid and binding obligation of the Property Owner, enforceable in accordance with its terms; except in either case as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, and to the application of equitable principles;

- (v) The execution, delivery and performance by the Governmental Unit of this IFA Assignment and the transactions contemplated hereby: (A) do not contravene any provisions of law applicable to the Governmental Unit; and (B) do not conflict and are not inconsistent with, and will not result (with or without the giving of notice or passage of time or both) in the breach of or constitute a default or require any consent under any applicable court or administrative order or any credit agreement, indenture, mortgage, purchase agreement, deed of trust, security agreement, lease, guarantee or other instrument to which the Governmental Unit or its property may be subject, or the PACE Act; and
- (vi) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending or, to its knowledge threatened, against the Governmental Unit seeking to restrain or enjoin or in any way contesting the validity or enforceability of this IFA Assignment or the PACE Contract.

(b) Disclaimer. Except as set forth in this Section 2, the Governmental Unit (i) has not heretofore made, nor does it make by this IFA Assignment, any representations or warranties with respect to the Property, including any warranty of title or any environmental matters, and (ii) makes no representation or warranty in connection with, and assumes no responsibility with respect to, the solvency, financial condition or statements of the Property Owner, or with respect to the performance or observance by the Property Owner of its obligations under the PACE Contract.

Section 3. Authority's Representations. The Authority represents that, as of the date of this IFA Assignment, it is a body politic and corporate created and existing under and by virtue of the laws of the State of Illinois and has full power and authority to enter into and to perform its obligations under this IFA Assignment; and when executed and delivered by the respective parties thereto, this IFA Assignment will constitute the legal, valid and binding obligations of the

UNOFFICIAL COPY

Authority enforceable in accordance with their respective terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitation on legal remedies against the Authority.

Section 4. Consideration. The Governmental Unit acknowledges and agrees that the assumption by the Authority of the Governmental Unit's obligations under the PACE Contract and the issuance of the Bonds and the loan to the Property Owner are of substantial benefit to the Governmental Unit as a source of liquidity and financing or refinancing of the Project, and constitute good, valuable, fair and adequate consideration for the Governmental Unit's assignment as contemplated herein.

Section 5. Delivery of Documents.

(a) As a condition to the Governmental Unit's performance of its obligations under this IFA Assignment, the Authority shall have delivered to the Governmental Unit an original of this IFA Assignment, in recordable form, duly executed by the Authority.

(b) As a condition to the Authority's performance of its obligations with respect to this IFA Assignment, the Governmental Unit shall have delivered to the Authority all of the following, in form and substance reasonably satisfactory to the Authority: (i) a certified true and correct copy of the PACE Contract, in recordable form, bearing the original signature(s) of the Property Owner and the Governmental Unit and (ii) an original of this IFA Assignment, in recordable form, duly executed by the Governmental Unit.

(c) As a condition to each Party's performance of its obligations under this IFA Assignment, all of the Authority's, the Governmental Unit's and the Property Owner's respective representations and warranties contained in the PACE Contract and this IFA Assignment, as applicable, shall be true and correct on the date of the execution of this IFA Assignment.

Section 6. Recording of Documents. Upon the execution of this IFA Assignment by both Parties hereto, the Governmental Unit shall direct the Program Administrator to record this IFA Assignment in the office of the Recorder for the County in which the Property is situated.

Section 7. Acknowledgement and Consent to Further Assignment. By execution of this IFA Assignment, the Governmental Unit hereby acknowledges and consents to any pledge and assignment of the PACE Contract by the Authority to the Trustee related to the issuance of Bonds.

UNOFFICIAL COPY

Section 8. Successors and Assigns. This IFA Assignment shall be binding on, and inure to the benefit of, the parties hereto, their respective successors in interest, and their respective assigns.

Section 9. Governing Law; Submission to Jurisdiction. This IFA Assignment shall be governed exclusively by and construed in accordance with the internal laws of the State of Illinois applicable to contracts to be wholly performed therein. This IFA Assignment shall be enforceable in the State of Illinois, and any action arising hereunder shall (unless waived by the Authority in writing) be filed and maintained in the Circuit Court of Illinois, County of Cook.

Section 10. No Effect on PACE Contract. Nothing in this IFA Assignment, express or implied, is intended to or shall be construed to modify, expand, or limit in any way the terms of the PACE Contract. To the extent that any provision of this IFA Assignment conflicts or is inconsistent with the terms of the PACE Contract, the PACE Contract will govern. All terms not defined herein shall be given the meaning ascribed to such terms in the Indenture.

Section 11. Amendment. This IFA Assignment may not be modified or amended, except in writing executed by both Parties.

Section 12. Severability. If any provision of this IFA Assignment is declared void or unenforceable by any court or government authority, the remaining provisions of this IFA Assignment shall be effective and shall control.

Section 13. Entire Agreement. This IFA Assignment constitutes the entire agreement between the parties with respect to the subject matter hereof. This IFA Assignment supersedes and replaces any prior or contemporaneous oral or written understandings, agreements, or representations between the parties.

Section 14. Recitals. The provisions set forth in the Recitals are made a part of this Assignment and are incorporated by reference into the terms hereof.

Section 15. Counterparts. This IFA Assignment may be executed in any number of counterparts, each of which will be deemed an original, but all of which taken together will constitute one single agreement between the parties. Signatures sent digitally will be deemed to be original signatures for all purposes.

[Signature Page Follows.]

UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties hereto have caused this IFA Assignment to be executed as of the day and year first above written.

ILLINOIS FINANCE AUTHORITY

By: 

Name: Christopher B. Meister

Its: Executive Director

State of Illinois)

) SS

County of Cook)

I, BRAID R. FLETCHER, a Notary Public, do hereby certify that Christopher B. Meister, personally known to me to be the same person whose name is, as the Executive Director of the Illinois Finance Authority, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that he/she, being thereunto duly authorized, signed and delivered the said instrument as the free and voluntary act of said body politic and corporate created under the laws of the State of Illinois and as his/her own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 31 day of OCTOBER, 2019.





Notary Public in and for
Cook County, Illinois

(SEAL)

My commission expires:

UNOFFICIAL COPY

Exhibit A

Legal Description

(attached hereto)

Property of Cook County Clerk's Office

**COOK COUNTY
RECORDER OF DEEDS**

**COOK COUNTY
RECORDER OF DEEDS**

UNOFFICIAL COPY

Legal Description

Real property in the City of Chicago, County of Cook, State of Illinois, described as follows:

Parcel 1:

NH Parcel 1:

The West 10 feet of Lot 1 and all of Lots 2 to 8 in Subdivision of Block 97 in School Section Addition to Chicago in Section 16, Township 39 North, Range 14, East of the Third Principal Meridian, taken as a tract, lying below a horizontal plane having an elevation of +27.48 feet above Chicago City Datum and lying above a horizontal plane having an elevation of +13.53 feet above Chicago City Datum and lying within its horizontal boundary projected vertically and described as follows: commencing at the Southeast Corner of Said Tract; thence North 00 degrees 04 minutes 44 seconds West, along the East Line Thereof, 62.57 feet to the point of beginning; thence North 89 degrees 47 minutes 01 seconds West, 16.41 feet; thence South 00 degrees 12 minutes 59 seconds West, 3.34 feet; thence North 89 degrees 47 minutes 01 seconds West, 16.32 feet; thence South 00 degrees 09 minutes 32 seconds West, 2.88 feet; thence North 89 degrees 47 minutes 01 seconds West, 9.67 feet; thence South 00 degrees 09 minutes 32 seconds West, 21.94 feet; thence North 89 degrees 47 minutes 01 seconds West, 14.63 feet; thence North 00 degrees 09 minutes 32 seconds East, 21.94 feet; thence North 89 degrees 47 minutes 01 seconds West, 9.91 feet; thence South 00 degrees 12 minutes 59 seconds West, 2.04 feet; thence North 89 degrees 47 minutes 01 seconds West, 50.77 feet; thence South 00 degrees 09 minutes 32 seconds West, 21.56 feet; thence South 89 degrees 47 minutes 01 seconds East, 18.81 feet; thence South 00 degrees 09 minutes 09 seconds West, 32.75 feet to the South Line of said tract; thence North 89 degrees 46 minutes 50 seconds West, along said South Line 97.04 feet; thence North 00 degrees 09 minutes 32 seconds East, 54.31 feet; thence North 89 degrees 47 minutes 01 seconds West, 59.59 feet; thence North 00 degrees 12 minutes 59 seconds East, 1.21 feet; thence North 89 degrees 47 minutes 01 seconds West, 10.58 feet; thence South 00 degrees 12 minutes 59 seconds West, 7.82 feet; thence North 89 degrees 47 minutes 01 seconds West, 14.53 feet; thence North 00 degrees 12 minutes 59 seconds East, 7.82 feet; thence South 89 degrees 57 minutes 46 seconds West, 43.22 feet to the West Line of said tract; thence North 00 degrees 02 minutes 52 seconds West, 18.18 feet along said West Line; thence South 89 degrees 47 minutes 01 seconds East, 66.39 feet; thence South 00 degrees 12 minutes 59 seconds West, 8.34 feet; thence South 89 degrees 47 minutes 01 seconds East, 177.30 feet; thence North 00 degrees 12 minutes 59 seconds East, 7.00 feet; thence South 89 degrees 47 minutes 01 seconds East, 12.08 feet; thence North 00 degrees 12 minutes 59 seconds East, 16.16 feet; thence South 89 degrees 47 minutes 01 seconds East, 1.52 feet; thence North 00 degrees 12 minutes 59 seconds East, 16.48 feet; thence South 89 degrees 47 minutes 01 seconds East, 1.09 feet; thence North 00 degrees 12 minutes 59 seconds East, 26.66 feet; thence South 89 degrees 47 minutes 01 seconds East, 8.82 feet; thence North 00 degrees 12 minutes 59 seconds East, 0.67 feet; thence South 89 degrees 47 minutes 01 seconds East, 7.03 feet; thence South 00 degrees 14 minutes 16 seconds West, 42.26 feet; thence South 89 degrees 45 minutes 44 seconds East, 49.58 feet to the East Line of said tract; thence South 00 degrees 04 minutes 44 seconds East, 27.30 feet to the point of beginning, in Cook County, Illinois.

NH Parcel 2:

The West 10 feet of Lot 1 and all of Lots 2 to 8 in Subdivision of Block 97 in School Section Addition to Chicago in Section 16, Township 39 North, Range 14, East of the Third Principal Meridian, taken as a tract, lying below a horizontal plane having an elevation of +239.12 feet above Chicago City Datum and lying above a horizontal plane having an elevation of +27.48 feet above Chicago City Datum and lying within its horizontal boundary projected vertically and described as follows: commencing at the Southeast Corner of said Tract; thence North 00 degrees 04 minutes 44 seconds West, along the East Line Thereof, 165.84 feet to the Northeast corner of said Tract; thence North 89 degrees 45 minutes 44 seconds West, along the North Line Thereof, 56.20 feet; thence South 00 degrees 14 minutes 16 seconds West, 34.37 feet to the point of beginning; thence North 89 degrees 47 minutes 01 seconds

UNOFFICIAL COPY

West, 8.82 feet; thence South 00 degrees 12 minutes 59 seconds West, 22.52 feet; thence South 89 degrees 47 minutes 01 seconds East, 8.82 feet; thence North 00 degrees 12 minutes 59 seconds East, 22.52 feet to the point of beginning, in Cook County, Illinois.

NH Parcel 3:

The West 10 feet of Lot 1 and all of Lots 2 to 8 in Subdivision of Block 97 in School Section Addition to Chicago in Section 16, Township 39 North, Range 14, East of the Third Principal Meridian, lying above a horizontal plane having an elevation of +239.12 feet above Chicago City Datum, in Cook County, Illinois.

Parcel 2:

Non-exclusive easement for the benefit of Grantee Property Owner and its permittees, as defined therein, as created by Easement Agreement and Declaration of Covenants, Conditions and Restrictions dated as of May 6, 2003 and recorded August 14, 2003 as document 0322645090 made by and between Federal Reserve Bank of Chicago, a Federally Chartered Corporation and LaSalle-Adams, L.L.C., a Delaware Limited Liability Company for the benefit of the Grantee Property Owner and its permittees for pedestrian ingress, egress, access and circulation over and upon the premises as described as exhibit "D" attached thereto, as amended by First Amendment recorded July 30, 2012 as document 1221210136 and further amended and relocated by Second Amendment recorded April 16, 2014 as document 1410616039.

Parcel 3:

Non-exclusive easements for the benefit of Parcel 1 as created and described in Sections 3.2, 4.2 and 5.2 of that certain Amended and Restated Reciprocal Easement and Operating Agreement by and between UST Prime III Office Owner, LLC, Ust Prime III Hotel Owner, L.P. And RCP Hotel Owner, LLC recorded as Document No. 1418916002 and rerecorded August 2, 2016 as document 1621522172.

PINS: 17-16-220-018; 17-16-220-020; 17-16-220-021

Property Address: 208 S. LaSalle Street, Chicago, Illinois 60604