



Colorado Commercial Property
Assessed Clean Energy

C-PACE Capital Provider Application and Participation Agreement

For More information:

Visit: <http://www.copace.com>

See the Program Guide.

Contact Information:

Colorado C-PACE Program Manager

E-mail: ProgramAdmin@copace.com

Telephone: (877) 325-1882

Please complete:

Part A: Application for Qualified Capital Provider

Part B: Participation Agreement

and submit via email to: ProgramAdmin@copace.com.

Part A. Application for Qualified Capital Provider

I. Capital Provider Information

Capital provider Name: _____
Contact person Name: _____
Title of contact person: _____
Contact person Address: _____
City: _____ State: _____ Zip: _____
Contact person office Tel#: _____
Contact person e-mail: _____

Principal regulator(s) of your institution? (i.e., Federal Reserve Board, OCC, etc)

Regulator name: _____
Regulator name: _____
Regulator name: _____

If not regulated: Provide three professional references for your firm:

Reference #1

Name: _____
Title: _____
Company Name: _____
Phone: _____
Email: _____
Project Name: _____
Project Type: Energy Efficiency (); Solar (); Combined () Other: _____

Reference #2

Name: _____

Title: _____

Company Name: _____

Phone: _____

Email: _____

Project Name: _____

Project Type: Energy Efficiency (); Solar (); Combined () Other: _____

Reference #3

Name: _____

Title: _____

Company Name: _____

Phone: _____

Email: _____

Project Name: _____

Project Type: Energy Efficiency (); Solar (); Combined () Other: _____

Years in business: (____)

Total assets: \$ _____

Capital available to devote to the Colorado C-PACE market (non-binding): \$ _____

Staff available to manage C-PACE transactions:

First Name: _____; Last Name: _____; Years with firm: _____

First Name: _____; Last Name: _____; Years with firm: _____

First Name: _____; Last Name: _____; Years with firm: _____

Does your institution currently provide lending to PACE programs: Yes No

If "Yes", provide contact information

1. Program Name: _____

Contact Name: _____ Email: _____ Ph: _____

2. Program Name: _____

Contact Name: _____ Email: _____ Ph: _____

3. Program Name: _____

Contact Name: _____ Email: _____ Ph: _____

Other experience providing lending to finance the implementation of energy and water efficiency improvements for commercial or residential property owners: _____

II. Standard C-PACE lending terms of your institution (non-binding):

Minimum loan amount (can be a range): _____

Maximum loan amount (can be a range): _____

Minimum loan term (months): _____

Maximum loan term (months): _____

Maximum LTV (including PACE lien): _____

Maximum Lien to value: _____

Minimum DSCR: _____

Minimum SIR: _____

Property must be current on taxes: Yes ; No

Minimum months without a delinquency: _____

Minimum years of positive NOI: _____

Minimum years of financials: _____

Energy Audit Requirements:

ASHRAE Level 1 or equivalent? _____

ASHRAE Level 2 or equivalent? _____

ASHRAE Level 3 or equivalent? _____

Maximum PACE Loan to Value: _____

Appraisal required? Yes ; No

If Yes: what is the maximum age of the appraisal: No more than () months old

Is an Environmental Data Review required? Yes ; No

How many months must the property be free from a bankruptcy or foreclosure: Months: (_____)

For residential property: Minimum number of units for which C-PACE Financing is available _____)

(Annual Interest rate: (provide schedule) _____)

Additional fees (please describe):

Fee Name: _____ Amount: _____; Other Fee Info: _____

Fee Name: _____ Amount: _____; Other Fee Info: _____

Fee Name: _____ Amount: _____; Other Fee Info: _____

Fee Name: _____ Amount: _____; Other Fee Info: _____

III. Additional C-PACE Non-Binding Underwriting information

Days required to:

Pre-qualify a loan: Min (_____); Max (_____)

Delivery a conditional term sheet: Min (_____); Max (_____)

Make loan decision: Min (_____); Max (_____)

Close after decision is made: Min (_____); Max (_____)

Other (please describe): _____

Part B: PARTICIPATION AGREEMENT

THIS PARTICIPATION AGREEMENT ("Agreement") is entered into by and between SUSTAINABLE REAL ESTATE SOLUTIONS, INC., a Delaware corporation ("SRS" or "PA"), and _____, a _____ (the "Applicant" or "QCP") (together, the "Parties").

WHEREAS, the Applicant has completed an APPLICATION with SRS, functioning in its capacity as the Program Administrator ("PA") for the Colorado Commercial Property Assessed Clean Energy Program ("CO C-PACE"); and

WHEREAS, the Applicant desires to have the opportunity to become a Qualified Capital Provider ("QCP") for one or more optimized energy efficiency / renewable energy projects (each a "Project") under CO C-PACE; and

WHEREAS, in consideration with being provided Project data and related information to formulate a financing proposal to owner of certain real property ("Property Owner"), the Applicant specifically agrees to the terms and conditions set forth in this Agreement.

1. Definitions.

- a. "CO C-PACE" shall mean the Colorado Commercial Property Assessed Clean Energy Program authorized by C.R.S. § 32-20-105.
- b. "Confidential Information" shall mean all confidential or proprietary written, recorded, electronic, visual information or data (including without limitation energy, structural research, developmental, engineering, manufacturing, technical, marketing, sales, financial, operating, performance, cost, pricing, business and process information or data, trade secrets, discoveries, ideas, designs, data,) provided to QCP or its Representatives by the PA or its Representatives, regardless of whether such confidentiality or proprietary status is indicated or the specific words "confidential" or "proprietary" are used in the course of the exchange of such information or data. Without limiting the aforesaid, the existence of discussions between the Parties regarding the Project shall constitute Confidential Information hereunder.
- c. "PA" shall mean SRS in its capacity as the Program Administrator of CO C-PACE.
- d. "Person" shall be broadly interpreted to include, without limitation, any corporation, limited liability company, partnership, limited partnership, governmental agency, or other legal entity or individual.
- e. "Representatives" shall mean as to any Person, its directors, officers, employees, agents and advisors (including, without limitation, financial advisors,

attorneys, accountants, engineers, technicians and vendors) and in the case of CO C-PACE, its PA and its Representatives.

2. Confidentiality and Non-Use. In consideration of receiving Confidential Information, the QCP agrees as follows:

a. QCP hereby acknowledges that any Confidential Information received is the property of CO C-PACE and the Property Owner, as applicable, and the QCP shall hold confidential and not disclose to any Person, without the prior written consent of the PA, and if such consent is given, obtain a written commitment from such third party, all Confidential Information and any information about the Project, or the terms or conditions or any other facts relating thereto, including, without limitation, the fact that discussions are taking place with respect thereto or the status thereof, or the fact that Confidential Information has been made available to the QCP or its Representatives; provided, however, that the QCP may disclose such Confidential Information to its Representatives who are actively and directly participating in its evaluation of the Project or who otherwise need to know the Confidential Information for the purpose of the Project;

b. The QCP shall cause all its Representatives to observe the terms of this Agreement and shall be responsible for any breach of the terms of this Agreement by it or its Representatives; and,

c. The QCP shall return or destroy all Confidential Information (including all copies thereof) within ten (10) days of receipt of a written request made by the PA, except for one record copy that may be maintained by the QCP in its legal archives. Further, the QCP shall delete all Confidential Information contained in electronic files.

d. In addition to the foregoing, the QCP will not use the Confidential Information for any purpose other directly than in connection with the Project and as expressly authorized in writing by the PA.

3. Exceptions to the Confidentiality and Non-Use Obligations. The obligations imposed by Section 2 hereof shall not apply, or shall cease to apply, to any Confidential Information if or when, but only to the extent that, such Confidential Information:

a. was known to the QCP or was already in its lawful possession prior to the receipt of the Confidential Information;

b. was or becomes, through no breach of the QCP's obligations hereunder, known to the public;

c. becomes known to the QCP from sources other than the PA or its representatives under circumstances not involving any breach of any confidentiality or non-use obligation; and/or,

d. is independently developed by the QCP, as evidenced by written records thereof.

Confidential information, as a whole, shall not be deemed to be in the public domain merely because any part of said Confidential Information is embodied in general disclosures or because individual features, components or combinations thereof are now or become known to the public.

It shall not be a breach of the confidentiality obligations hereof for the QCP to disclose Confidential Information where, but only to the extent that, such disclosure is required by law or applicable legal process, provided in such case the QCP shall (i) give the earliest written notice possible to the PA that such disclosure is or may be required and (ii) reasonably cooperate in protecting such confidential or proprietary nature of the Confidential Information which must so be disclosed.

4. No Further Agreements Hereunder. The PA shall be not under any obligation to enter into any further agreements with the QCP of any nature whatsoever as a result of this Agreement. The PA hereto reserves the right, in its sole discretion, to decline, to retract, or to reject at any time any proposal which has not yet become legally binding by execution of a written agreement between the Parties with respect thereto, or with respect to any further agreements or business arrangements with the other Party hereto, its parents, subsidiaries or affiliates and to terminate all further discussions and negotiations. Nothing in this Agreement shall obligate the PA or its Representatives to provide any specific information, including Confidential Information, that the PA or its Representatives otherwise desire to withhold.

5. No Representations and Warranties. No representations or warranties express or implied, of any kind with respect to the Confidential Information, including without limitation with respect to the suitability, accuracy or completeness of the same, exist under this Agreement. Any representations or warranties shall be made thereby, if at all, only in a separate definitive written agreement that may be entered into between the QCP and the PA. The Parties specifically acknowledge and agree that the PA and its Representatives shall not be liable to the QCP or its Representatives whether in contract, tort or otherwise for loss of profits, consequential, special or punitive damages, based on the accuracy of the Confidential Information, unless expressly set forth in a separate definite written agreement to the contrary.

6. Costs. QCP shall be responsible for all of its own costs and expenditures incurred in the APPLICATION process and during any period during which the QCP maintains its QCP status with CO C-PACE. QCP shall have no right to make any claim(s) whatsoever under this Agreement for reimbursement of costs for any efforts expended.

7. Program Administration Fee. A fee equal to 2.5% of the project finance amount (not to exceed \$50,000 per project) shall be included in each project to be paid by the Property Owner. Such fee shall be disbursed by the QCP to the PA at the time of project finance closing.

8. County Servicing Fee. For its billing and collection support services rendered, the county will collect a "servicing fee" (not to exceed 1% of the periodic C-PACE assessment payments) to be paid by the Property Owner over the term of the C-PACE financing in the normal course of paying their property tax bill.

9. Non-Circumvention. QCP and its Representatives shall, not directly or indirectly interfere with, circumvent or attempt to circumvent, avoid, by-pass, or obviate CO C-PACE or the PA, or its relationship with the Property Owners, its other contractors, and their respective affiliates, to change, increase or avoid directly or indirectly payment or issuance of established or to be established fees, commissions, investment or ownership interest or continuance of pre-established relationship or intervene in non-contracted relationships with any third parties, or initiate transactional relationships that by-pass CO C-PACE in connection with any on-going or future transaction or project. In furtherance and not in limitation of the foregoing, QCP agrees not to contact the Property Owner, its tenants, their respective owners and lenders and Representatives, nor, in connection with submitting proposals for the Project, other QCPs as identified by the PA without its express prior written permission from the PA.

10. Governing Law. This Agreement is made subject to and shall be construed and enforced under the laws of the State of Colorado, without giving regard to conflict of laws or choice of law principles and that the state courts of the State of Colorado shall have exclusive jurisdiction to resolve any disputes with respect to this Agreement or the Confidential Information with each Party irrevocably consenting to the jurisdiction thereof for any actions, suits or proceedings arising out of, or relating to, this Agreement or the Confidential Information, and each Party irrevocably waives its rights to jury trials with respect thereto.

11. Right to Rescind. Any time and in its sole discretion, the PA reserves the right to rescind or revoke the QCP status of the QCP. Notice of the PA's determination to revoke or rescind the QCP status shall be given in writing by the PA to the QCP in accordance with Section 15 below.

12. Remedies. Without prejudice to the rights and remedies otherwise available to either Party, each Party shall be entitled to equitable relief by way of injunction or specific performance, or otherwise if the QCP or any of its Representatives breach or threaten to breach any of the provisions of this Agreement the QCP shall not plead in defense thereto that there would be an adequate remedy at statutory or common law. All of the Party's rights and remedies shall be cumulative and may be exercised separately or concurrently.

13. Non-Publicity. All media releases, public announcements and other disclosures relating to any Project including promotional or marketing material, but excluding announcements intended solely for internal distribution or to meet legal or regulatory requirements, shall be coordinated with and approved by the PA prior to release. In addition, the QCP shall refrain from removing, overprinting or defacing any notices of copyright, trademark, logo or other proprietary identifications or notices of confidentiality, from any originals or copies of the PA's or the Property Owner's Confidential Information.

14. Paragraph Captions. The captions of the paragraphs and sections are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

15. Integration and Amendment. This Agreement represents the entire and integrated agreement between the PA and the QCP and supersedes all prior negotiations,

representations, or agreements, either written or oral. Any amendments to this Agreement must be in writing and be signed by both Parties.

16. Severability. Invalidation of any of the provisions of this Agreement or any paragraph, sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.

17. Notices. Unless otherwise specifically required by a provision of this Agreement, any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given at the address set forth below or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States Mail properly addressed to the intended recipient.

18. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document. In addition, the Parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.

APPLICANT/QCP:

_____, a _____

By: _____

Name (printed): _____ Title: _____

Address: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The above Participation Agreement was acknowledged before me this ___ day of _____, 201__ by _____ as the _____ of _____, a _____.

My commission expires: _____

Notary Public

