

**BOROUGH OF PEAPACK AND GLADSTONE
SOMERSET COUNTY, NJ**

ORDINANCE NO. 1116-2022

ORDINANCE OF THE BOROUGH OF PEAPACK AND GLADSTONE, IN THE COUNTY OF SOMERSET, NEW JERSEY ESTABLISHING A PROPERTY ASSESSED CLEAN ENERGY PROGRAM PURSUANT TO *N.J.S.A. 40:56-1.4 ET SEQ.*, AUTHORIZING A CLEAN ENERGY SPECIAL ASSESSMENT TO BE IMPOSED ON BLOCK 28, LOT 24.02 ON THE OFFICIAL TAX MAPS OF THE BOROUGH AS REQUESTED BY THE LEASEHOLD PROPERTY OWNER THEREOF IN CONNECTION WITH THE UNDERTAKING OF ONE OR MORE PROPERTY ASSESSED CLEAN ENERGY IMPROVEMENTS AND AUTHORIZING THE EXECUTION OF A PROPERTY ASSESSED CLEAN ENERGY SPECIAL ASSESSMENT AGREEMENT IN CONNECTION THEREWITH

WHEREAS, the Borough of Peapack and Gladstone (the "**Borough**") is a municipal corporation of the State of New Jersey, located in the County of Somerset (the "**County**"); and

WHEREAS, Pamphlet Law 2011, Chapter 187 (as the same may be amended and supplemented from time to time, the "**Act**"), authorizes a municipality, upon application to and approval by the Director of the Division of Local Government Services in the Department of Community Affairs (the "**Director**"), to establish, by ordinance, a program to finance renewable energy systems, energy efficiency improvements and any other improvements permitted to be completed pursuant to the Act (each, an "**Eligible Project**" and collectively, the "**Eligible Projects**"); and

WHEREAS, undertaking Eligible Projects and financing of same with respect to a particular property through a program established by the Act is voluntary, and can only be undertaken at the request of the owner of such property; and

WHEREAS, a municipality may apply to a county improvement authority to issue bonds pursuant to *N.J.S.A. 40:37A-55* of the Act, the proceeds of which ("**Project Funds**") are made available to a property owner requesting an Eligible Project to be completed on such property owner's property (each, a "**Property**"); and

WHEREAS, in exchange for the Project Funds made available to a property owner, a municipality shall impose a "clean energy special assessment" on the Property in the amount requested by the owner of the Property (each, an "**Assessment**") pursuant to the terms of a special assessment agreement, which Assessment is paid by the owner of such Property in quarterly installments, in accordance with the provisions of the Act; and

WHEREAS, any bonds issued by a county improvement authority shall be special, limited obligations of such county improvement authority, secured solely by the Assessments for the

Property upon which the respective Eligible Projects are located, shall be non-recourse to the Borough and County and shall not be secured by the full faith and credit of either the Borough or County; and

WHEREAS, Natirar Resort Development, LLC and Natirar Residential Development Group, LLC (collectively, "**Natirar**") are the leasehold owners of property located within the Borough commonly known as 2 Main Street, on a portion of the Natirar Estate, and identified as Block 28, Lot 24.02 on the official tax maps of the Borough (as further described in **Exhibit A** attached hereto, the "**Natirar Property**"), pursuant to a 99-year long-term lease agreement between Natirar's predecessor in interest and the Somerset County Improvement Authority (the "**Authority**") dated December 2003 (as amended and supplemented from time to time, the "**Lease Agreement**"); and

WHEREAS, Natirar seeks to finance various renewable energy systems, energy efficiency improvements and other improvements on the Natirar Property permitted to be completed pursuant to the Act (the "**Natirar PACE Project**"), as part of the broader redevelopment of the Natirar Mansion located on the Natirar Property, and has requested that the Borough establish a "Property Assessed Clean Energy Program" pursuant to the Act in order to finance same; and

WHEREAS, pursuant to the Lease Agreement, the Authority consented to Natirar, or their affiliate, applying to such a Property Assessed Clean Energy Program for financing, and further agreed to cooperate in all respects with Natirar in their application for same, including promptly providing written consent and other support for such application, upon Natirar's request; and

WHEREAS, the Borough wishes to (i) establish a "Property Assessed Clean Energy Program" (the "**Program**") for the financing of the Natirar PACE Project and the imposition of an Assessment on the Natirar Property in an amount at least sufficient to provide for the principal of and interest due on bonds issued by the Authority to fund such Natirar PACE Project (the "**Authority Bonds**"), (ii) apply to the Authority for the issuance of Authority Bonds to provide Project Funds to be used by Natirar to fund the Natirar PACE Project, such Bonds to be secured solely by the Assessments imposed on the Natirar Property, (iii) impose an Assessment against the Natirar Property upon which the Natirar PACE Project is located in an amount and in accordance with the terms of the hereinafter defined Natirar Special Assessment Agreement; and (iv) authorize the form and execution of a special assessment agreement in substantially the form attached hereto as **Exhibit B** by and between the Borough and Natirar (the "**Natirar Special Assessment Agreement**"); and

WHEREAS, Natirar has secured a capital provider that will purchase the Authority Bonds and provide the necessary Project Funds to the Authority for further distribution to Natirar; and

WHEREAS, the Borough previously made application to the Director in accordance with the Act, which application may be amended and supplemented from time to time; and

WHEREAS, prior to final adoption of this Ordinance, the Director approved this Ordinance and all of the provisions contained herein, in accordance with the Act, which approval may be amended and supplemented from time to time.

NOW THEREFORE BE IT ORDAINED BY THE BOROUGH OF PEAPACK AND GLADSTONE, IN THE COUNTY OF SOMERSET, NEW JERSEY AS FOLLOWS:

Section 1. Incorporation of Recitals. The recitals to this Ordinance are hereby incorporated as if set forth in full herein.

Section 2. Creation of Program. To effectuate the Natirar PACE Project, the Borough hereby establishes the Program, on the terms and conditions set forth herein and in the Natirar Special Assessment Agreement, as the same may be amended from time to time in accordance with its terms. The Borough hereby authorizes and directs each of the Mayor of the Borough (the "**Mayor**"), the chief financial officer of the Borough (the "**Chief Financial Officer**") and the Clerk of the Borough (the "**Borough Clerk**") to make application to the Authority to issue the Authority Bonds to fund the Natirar PACE Project by delivering a copy of this Ordinance as adopted to the Authority in furtherance of such application.

Section 3. Borough to Levy Assessment. (a) Upon execution of the Natirar Special Assessment Agreement, the Borough shall impose and levy an Assessment against the Natirar Property upon which the Natirar PACE Project is located in an aggregate amount not exceeding the amount set forth in the Natirar Special Assessment Agreement. Such Assessment shall be imposed and levied in the manner provided by the Act and pursuant to the Natirar Special Assessment Agreement. The Borough shall not contribute to the cost of the Natirar PACE Project.

(b) Each Assessment shall remain a lien upon the Natirar Property until the Assessment, with all installments and accrued interest, penalties, and fees thereon, applicable to the Natirar Property shall be paid and satisfied. Each Assessment shall be payable in quarterly installments and over the period of the Authority Bonds, which shall not exceed the number of years permitted by the Act, as set forth in the Natirar Special Assessment Agreement.

(c) Pursuant to *N.J.S.A. 40:56-33*, every Assessment, together with interest thereon and all costs and charges connected therewith, shall upon the effective date of this Ordinance be a continuous first lien upon the Natirar Property, paramount to all prior or subsequent alienations and descents of such Natirar Property or encumbrances thereon, except subsequent taxes or assessments, notwithstanding any mistake in the name or names of any owner or owners, or any omission to name any owner or owners who are unknown, and notwithstanding any lack of form therein, or in any other proceeding which does not impair the substantial rights of the owner or owners or other person or persons having a lien upon or interest in the Natirar Property.

Section 4. Natirar Special Assessment Agreement. (a) The Natirar Special Assessment Agreement is hereby approved in the form attached hereto as **Exhibit B**, together with such additions, insertions, modifications, completions and other changes as reviewed and approved by Counsel to the Borough, subject only to confirmation by Natirar that the terms and conditions set forth in Exhibit B to such Natirar Special Assessment Agreement are complete and accurate; such confirmation to be evidenced solely by execution of the Natirar Special Assessment Agreement by Natirar.

(b) The Mayor the Chief Financial Officer are each hereby authorized and directed without further authorization to execute by manual or facsimile signature the Natirar Special Assessment Agreement. The signatures of the Mayor and Chief Financial Officer shall be conclusively presumed to evidence all necessary approvals for the execution of the Natirar Special Assessment Agreement. The Borough Clerk is hereby authorized and directed without further authorization to attest to the signature of the Mayor and Chief Financial Officer, as applicable, and to apply the seal of the Borough to the Natirar Special Assessment Agreement.

(c) The Borough Clerk is hereby authorized and directed without further authorization to deliver a fully executed copy of the Natirar Special Assessment Agreement to the Chairperson of the Authority, Natirar, the tax assessing officer of the Borough (the "**Tax Assessor**") and the tax collecting officer of the Borough (the "**Tax Collector**").

(d) The Borough shall, at the cost of Natirar, record the Natirar Special Assessment Agreement against the Natirar Property in the land records of the County.

Section 5. Security for the Authority Bonds. (a) The Assessments due and payable under this Ordinance and pursuant to the Natirar Special Assessment Agreement are hereby pledged to the punctual payment of the principal of and the interest on the Authority Bonds issued to fund the Natirar PACE Project. The Authority Bonds shall be special, limited obligations of the Authority, secured solely by the Assessments received by the Borough. The Authority Bonds shall be non-recourse to the Borough and the County and shall not be secured by the full faith and credit of either the Borough or the County.

(b) Nothing in this Ordinance, any document or agreement authorized or entered into pursuant to this Ordinance or any Authority Bond referenced in this Ordinance shall be construed as obligating the Borough or the County to pay any Authority Bond or the interest thereon, or as pledging the full faith and credit of the Borough, the County, the State or any other political subdivision thereof, or as obligating the Borough, the County, the State or any other political subdivision thereof, directly, indirectly or contingently, to levy or pledge any form of taxation whatever therefor, other than the Assessments received by the Borough.

Section 6. Tax Assessor to Levy Assessment; Tax Collector to Collect Assessment. The Tax Assessor is hereby authorized and directed, immediately upon receipt of the fully executed Natirar Special Assessment Agreement from the Borough Clerk, to record the Assessment on the books and records of the Borough in accordance with the terms of such Natirar Special Assessment Agreement. The Tax Collector is hereby authorized and directed, immediately upon receipt of the fully executed Natirar Special Assessment Agreement from the Borough Clerk, to collect the Assessment in accordance with the terms of the Natirar Special Assessment Agreement.

Section 7. Notice of Assessment to Owner. By executing the Natirar Special Assessment Agreement, Natirar acknowledges that the Borough intends to make and to levy an Assessment against the Natirar Property in an aggregate amount set forth in the Natirar Special Assessment Agreement.

Section 8. Assignment by Borough of Assessment. The Borough hereby acknowledges and agrees that it shall pledge and assign all of its right, title and interest in and to the Natirar Special Assessment Agreement, including the Assessment payable thereunder, and including interest, penalties and costs of collection, to the Authority pursuant to an assignment (the "**Assignment**") acceptable to the Borough and the Authority and/or the trustee of the Authority Bonds (the "**Bond Trustee**"). Natirar is hereby notified of such assignments and, by executing the Natirar Special Assessment Agreement, Natirar acknowledges and consents to such assignment.

Section 9. Enforcement of Assessment and Costs. In connection with the issuance of the Authority Bonds, so long as such Authority Bonds are outstanding, the Bond Trustee as assignee of the Authority will require the Borough to cause Natirar to pay all the payments and other costs and charges payable by Natirar under the Natirar Special Assessment Agreement to the Bond Trustee. In the event that Natirar shall fail to make such payments, the Bond Trustee, as assignee of the Authority, will cause and direct the Borough to institute and prosecute all such legal proceedings available under applicable law as may be appropriate to enforce the payment of the Assessment and costs under the Natirar Special Assessment Agreement.

Section 10. Additional Acts. The Mayor, Chief Financial Officer and Borough Clerk are each hereby authorized to take all additional steps necessary to effectuate the purposes of the Program, including the execution of the Assignment, and the execution and entering into any other document, certificate or agreement necessary to effectuate the terms of this Ordinance or the terms and purposes of the Program.

Section 11. Additional Determinations of the Director. Pursuant to Section 3(b) of the Act, the Director has determined that the Assessments and the Authority Bonds issued shall generally be subject to *N.J.S.A. 40:56-21 et seq.*, except that *N.J.S.A. 40:56-21* through -30, inclusive, -34, -35 (the third and fourth paragraphs thereof), -37, -40 and any other provisions of *N.J.S.A. 40:56-21 et seq.* that conflict with the terms of the Authority Bonds shall not apply. Further, pursuant to the power granted to the Director pursuant to Section 3(c) of the Act, the Director has further determined that the provisions of *N.J.S.A. 40:56-11* shall not apply to Eligible Projects.

Section 12. Effectiveness. This Ordinance shall take effect in accordance with applicable law.

EXHIBIT A

NATIRAR ESTATE PROPERTY DESCRIPTION

EXHIBIT A

LEASED PREMISES

Being known and designated as New Lot 24.02 Block 28 as shown on a certain map entitled "Plan of Survey & Minor Subdivision for the Somerset County Improvement Authority Located at Tax Map Lots 23.01, 23.02, 23.03, 23.04 & 24 Block 28, Sheet Nos. 8, 9, 11 & 12, Borough of Peapack and Gladstone, Somerset County, New Jersey", dated August 17, 2004, last revised June 15, 2007, prepared by Somerset Surveying Services and being more particularly bound and described as follows:

Beginning at a stone monument (found) marking the terminus of Course No. 9, Tract Number 1 as described in Deed Book 1475 Page 673, also being a common corner of New Lots 24.01 and 24.02 Block 28, said stone monument having New Jersey State plane coordinates of North 682,218.87 feet and east 453,653.49 feet and 83 (1996) system, and from said beginning point and in the said bearing system running thence;

1. Along the Westerly line of New Lot 24.01 Block 28, South 02 degrees 57 minutes 14 seconds West, a distance of 69.30 feet to a stone monument (found) marking an angle point in the same; thence
2. Still along the Westerly line of New Lot 24.01 Block 28, South 22 degrees 25 minutes 54 seconds West, a distance of 108.06 feet to a stone monument (found) marking an angle point in the same; thence
3. Still along the Westerly line of New Lot 24.01 Block 28, South 29 degrees 56 minutes 13 seconds West, a distance of 103.70 feet to an iron pin (set) corner to same; thence
4. Along the Southwesterly line of New Lot 24,01 Block 28, South 36 degrees 40 minutes 00 seconds East, a distance of 566.06 feet to an iron pin (set) marking a point of curvature in same; thence
5. Still along the Southwesterly line of New Lot 24.01 Block 28, Southeasterly on a curve to the right having a radius of 275.00 feet, an arc length of 146.04 feet, a delta angle of 30 degrees 25 minutes 41 seconds, a chord bearing South 21 degrees 27 minutes 10 seconds East and a chord distance of 144.33 feet to an iron pin (set) marking a point of tangency; thence
6. Along the Westerly line of New Lot 24.01 Block 28, South 06 degrees 14 minutes 19 seconds East, a distance of 125.10 feet to an iron pin (set) marking a point of curvature in same; thence
7. Still along the Westerly line of New Lot 24.01 Block 28, Southerly to Southwesterly on a curve to the right having a radius of 335.00 feet, an arc length of 236.46 feet, a delta angle of 40 degrees 26 minutes 32 seconds, a chord bearing of South 13 degrees 58 minutes 56 seconds West and a chord distance of 231.58 feet to an iron pin (set) marking a point of tangency in the Northwesterly line of New Lot 24.01 Block 28; thence
8. Along the Northwesterly line of New Lot 24.01 Block 28, South 34 degrees 12 minutes 12 seconds West, a distance of 130.07 feet to an iron pin (set) marking an angle point in the same; thence
9. Still along the Northwesterly line of New Lot 24.01 Block 28, South 33 degrees 06 minutes 09 seconds West, a distance of 191.84 feet to an iron pin (set) marking an angle point in the same; thence
10. Still along the Northwesterly line of New Lot 24.01 Block 28, South 69 degrees 58 minutes 44 seconds West, a distance of 314.62 feet to an iron pin (set) corner to same; thence

11. Along the Northerly line of New Lot 24.01 Block 28, North 81 degrees 43 minutes 41 seconds West, a distance of 954.88 feet to an iron pin (set) corner to same; thence
12. Along the Northwesterly line of New Lot 24.01 Block 28, South 74 degrees 15 minutes 58 seconds West, a distance of 522.92 feet to an iron pin (set) corner to same
13. Along the Easterly line of New Lot 24.01 Block 28, North 3 degrees. 49 minutes 01 seconds West, a distance of 818.68 feet to an iron pin (set) corner to same; thence
14. Along the Northeasterly line of New Lot 24.01 Block 28 North 47 degrees 45 minutes 56 seconds West, a distance of 345.32 feet to an iron pin (set) corner to same; thence
15. Along the Easterly line of New Lot 24.01 Block 28, North 09 degrees 26 minutes 30 seconds East, a distance of 660.76 feet to an iron pipe (found) corner to same; thence
16. Along the Easterly line of New Lot 24.01 Block 28, North 64 degrees 41 minutes 31 seconds East, a distance of 553.74 feet to an iron pipe (found) corner to same; thence
17. Along the Southeasterly line of New Lot 24.01 Block 28, North 04 degrees 34 minutes 02 seconds West, a distance of 553.36 feet to an iron pipe (found) corner to same in the Southwesterly right-of-way line of Highland Avenue (50 foot right-of-way), said point being 25.00 feet Southwesterly measured a right angle from the centerline of Highland Avenue; thence

Along the Southwesterly and Southerly right-of-way line of Highland Avenue, running parallel 25.00 feet Southerly from the centerline of Highland Avenue, the following four courses:

18. Southeasterly on a curve to the right having a radius of 500.00 feet, an arc length of 102.96 feet, a delta angle of 11 degrees 47 minutes 55 seconds, a chord bearing South 64 degrees 27 minutes 42 seconds East and a chord distance of 102.78 feet to a point of tangency in same; thence
19. Still along same, South 58 degrees 33 minutes 45 second East, a distance of 141.02 feet to a point of curvature in same; thence
20. Southeasterly on a curve to the left having a radius of 550.00 feet, an arch length of 233.58 feet, a delta angle of 24 degrees 20 minutes 00 seconds, a chord bearing South 70 degrees 43 minutes 45 seconds East and chord distance of 231.83 feet to a point of tangency in same; thence
21. Still along same, South 82 degrees 53 minutes 45 seconds East, a distance of 197.40 feet to an angle point in same; thence
22. Still along same, South 88 degrees 39 minutes 45 seconds East, a distance of 129.89 feet to an angle point in the Southwesterly right-of-way line of Highland Avenue (variable right-of-way) (unimproved); thence

Along the Southwesterly right-of-way line of Highland Avenue, the following five courses:

23. South 60 degrees 44 minutes 45 seconds East, a distance of 204.38 feet to a iron pin (set) marking an angle point in same (70.00 foot right-of-way at this point); thence
24. South 52 degrees 43 minutes 45 seconds East, a distance of 293.71 feet to an iron pin (set) marking an angle point in same (70.00 foot right-of-way at this point); thence
25. South 38 degrees 04 minutes 45 seconds East, a distance of 180.92 feet to an iron pin (set) marking an angle point in same (70.00 foot right-of-way at this point); thence
26. South 25 degrees 37 minutes 45 seconds East, a distance of 208.41 feet to an iron pin (set) marking an angle point in same (80.00 foot right-of-way at this point); thence
27. South 46 degrees 17 minutes 45 seconds East, a distance of 87.48 feet to an iron pin (set) in same (80.00 foot right-of-way at this point) corner to New Lot 24.01 Block 28; thence
28. Along the Northwesterly line of New Lot 24.01 Block 28, South 43 degrees 42 minutes 15 seconds West, a distance of 28.96 feet to the point and place of beginning.

Together with the right of a 100 foot access Easement as set forth in 6271 page 1306.
Subject to a 20 foot wide Drainage Easement crossing thru property between courses 17 and 18 as described above.

Subject to a Sanitary Sewer Easement along Highland Avenue (along courses 20, 21, and 22 as described above.

Subject to a Conservation Easement to the Borough of Peapack and Gladstone.

Subject to a View Shed Easement.

EXHIBIT B

FORM OF NATIRAR SPECIAL ASSESSMENT AGREEMENT

Record and return to:

Matthew D. Jessup, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue, 2nd Floor
Roseland, New Jersey 07068

**PROPERTY ASSESSED CLEAN ENERGY
SPECIAL ASSESSMENT AGREEMENT**

by and among

**THE BOROUGH OF PEAPACK AND GLADSTONE,
IN THE COUNTY OF SOMERSET, NEW JERSEY**

and

NATIRAR RESORT DEVELOPMENT, LLC

and

NATIRAR RESIDENTIAL DEVELOPMENT GROUP, LLC

with respect to

**2 Main Street, Peapack and Gladstone, New Jersey 07977
Block 28, Lot 24.02**

THIS PROPERTY ASSESSED CLEAN ENERGY SPECIAL ASSESSMENT AGREEMENT (hereinafter "**Special Assessment Agreement**" or "**Agreement**"), is made as of the Closing Date (as defined herein) by and among the Borough of Peapack and Gladstone (the "**Borough**"), in the County of Somerset (the "**County**"), New Jersey (the "**State**"), and both Natirar Resort Development, LLC and Natirar Residential Development Group, LLC (collectively, the "**Natirar Owners**") (each a "**Party**" and, together, the "**Parties**").

WITNESSETH:

WHEREAS, Pamphlet Law 2011, Chapter 187 (as the same may be amended and supplemented from time to time, the "**Act**"), authorizes a municipality, upon application to and approval by the Director of the Division of Local Government Services in the Department of Community Affairs (the "**Director**"), to establish, by ordinance, a program to finance renewable energy systems, energy efficiency improvements and any other improvements permitted to be completed pursuant to the Act (each, an "**Eligible Project**" and collectively, the "**Eligible Projects**"); and

WHEREAS, undertaking Eligible Projects and financing of same with respect to a particular property through a program established by the Act is voluntary, and can only be undertaken at the request of the owner of such property; and

WHEREAS, a municipality may apply to a county improvement authority to issue bonds pursuant to *N.J.S.A. 40:37A-55* of the Act, the proceeds of which ("**Project Funds**") are made available to a property owner requesting an Eligible Project to be completed on such property owner's property (each, a "**Property**"); and

WHEREAS, in exchange for the Project Funds made available to a property owner, a municipality shall impose a "clean energy special assessment" on the Property in the amount requested by the owner of the Property (each, an "**Assessment**") pursuant to the terms of a special assessment agreement, which Assessment is paid by the owner of such Property in quarterly installments, in accordance with the provisions of the Act; and

WHEREAS, any bonds issued by a county improvement authority shall be special, limited obligations of such county improvement authority secured solely by the Assessments for the Property upon which the respective Eligible Projects are located, shall be non-recourse to the Borough and County and shall not be secured by the full faith and credit of either the Borough or County; and

WHEREAS, the Natirar Owners are the leasehold owners of property located within the Borough commonly known as 2 Main Street, on a portion of the Natirar Estate, and identified as Block 28, Lot 24.02 on the official tax maps of the Borough (as further described in **Exhibit A** attached hereto, the "**Natirar Property**"), pursuant to a 99-year long-term lease agreement between the Natirar Owners' predecessor in interest and the Somerset County Improvement Authority (the "**Authority**") dated December 2003 (as amended and supplemented from time to time, the "**Lease Agreement**"); and

WHEREAS, the Natirar Owners seek to finance various renewable energy systems, energy efficiency improvements and other improvements on the Natirar Property permitted to be completed pursuant to the Act (the "**Natirar PACE Project**"), as part of the broader redevelopment of the Natirar Mansion located on the Natirar Property, and have requested that the Borough establish a "Property Assessed Clean Energy Program" pursuant to the Act in order to finance same; and

WHEREAS, pursuant to the Lease Agreement, the Authority consented to the Natirar Owners, or their respective affiliates, applying to such a Property Assessed Clean Energy Program for financing, and further agreed to cooperate in all respects with the Natirar Owners in their application for same, including promptly providing written consent and other support for such application, upon the joint request of the Natirar Owners; and

WHEREAS, pursuant to Ordinance No. [●] duly adopted on [●], 2022 (as the same may be amended and supplemented from time to time, the "**Assessment Ordinance**"), the Borough has established a "Property Assessed Clean Energy Program" pursuant to which the Borough has or will (i) finance the Natirar PACE Project and impose an Assessment on the Natirar Property in an amount at least sufficient to provide for the principal of and interest due on the hereinafter defined Authority Bonds issued by the Authority to fund such Natirar PACE Project, (ii) applied to and received the agreement from the Authority for the issuance by the Authority of the Authority Bonds to provide Project Funds to be used by the Natirar Owners to fund the Natirar PACE Project, such Authority Bonds to be secured solely by the Assessments imposed on the Natirar Property, (iii) impose an Assessment against the Natirar Property upon which the Natirar PACE Project is located in an amount and in accordance with the terms of this Agreement; and (iv) authorized the form and execution of this Agreement (collectively, the "**Program**"); and

WHEREAS, in accordance with the terms of the Act, the Assessment Ordinance and the Program, the Natirar Owners filed an application with the Borough prior to the date hereof (the "**Application Date**"), describing the Natirar PACE Project (as described in detail in **Exhibit A**), requesting the Assessment and requesting that the Authority issue the Authority Bonds to fund the Natirar PACE Project (the "**Application**"); and

WHEREAS, pursuant to Resolution No. [●] adopted by the Authority on [●], 2022 and the [Indenture of Trust] [Bond Agreement] authorized thereby, dated [●], 2022 by and between the Authority and the hereinafter defined Trustee (together, the "**Authority Bond Resolution**"), the Authority has issued \$[●] aggregate principal amount of Clean Energy Special Assessment Revenue Bonds, Series 2022 (Natirar PACE Project) (Federally Taxable) (the "**Authority Bonds**"), the proceeds of which will be used to provide Project Funds to the Natirar Owners for the Natirar PACE Project, such Authority Bonds to be secured solely by the Assessments imposed on the Natirar Property; and

WHEREAS, the Natirar Owners have secured C-Change Capital, LLC as the capital provider that will purchase the Authority Bonds and provide the necessary Project Funds to the Authority for further distribution to the Natirar Owners; and

WHEREAS, the Parties now desire to set forth the terms and conditions of the Assessment and to enter into this Agreement pursuant to which the Borough shall impose the Assessment in an amount equal to the PACE Financing (as defined herein).

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth above and herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I
GENERAL PROVISIONS

SECTION 1.01 Governing Law

THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE, INCLUDING BUT NOT LIMITED TO THE PROVISIONS OF THE ACT, THE LOCAL IMPROVEMENTS LAW, AND THE TAX SALE LAW, WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES. IT IS HEREBY EXPRESSLY ACKNOWLEDGED, UNDERSTOOD AND AGREED THAT UPON THE EFFECTIVE DATE OF THE ASSESSMENT ORDINANCE, THE LIEN OF THE ASSESSMENT SHALL BE DEEMED ESTABLISHED AND PERFECTED AS A CONTINUOUS FIRST LIEN UPON THE NATIRAR PROPERTY. IT IS FURTHER HEREBY EXPRESSLY ACKNOWLEDGED, UNDERSTOOD AND AGREED THAT UPON THE CLOSING DATE, EACH AND EVERY OWNER OF THE NATIRAR PROPERTY FROM TIME TO TIME SHALL BE BOUND BY THE TERMS HEREOF.

SECTION 1.02 General Definitions

Capitalized terms used and defined in the preambles hereof shall have the meanings assigned to such terms. Unless specifically provided otherwise, or unless the context otherwise requires, the following terms when used in this Agreement shall mean:

Closing Date – shall mean [●], 2022.

Default – shall have the meaning ascribed to such term at Section 6.01.

Initial Payment Date – shall mean [●], 20[●].

In Rem Tax Foreclosure – shall mean a summary proceeding by which the Borough may enforce the lien for taxes, special assessments and other statutory liens. Said foreclosure is governed by the Tax Sale Law.

Legal Interest – shall have the meaning ascribed to such term at Section 3.03.

Local Improvements Law – *N.J.S.A. 40:56-1 et seq.*, as the same may be amended or supplemented from time to time.

PACE Financing – shall mean that certain PACE Financing by which Project Funds were made available to fund the Natirar PACE Project on the Natirar Property pursuant to the Act and the Local Improvements Law, the terms of which shall not exceed the following:

Original Balance:	[\$●]
- Project Costs:	[\$●]
- Capitalized Interest:	[\$●]
- Cost of Issuance	[\$●]
- Financing Fees	[\$●]
Term in Years:	[30 years]
Interest Rate:	[●]

Payment Dates – shall mean February 1, May 1, August 1 and November 1 in each year.

Tax Sale Law – *N.J.S.A. 54:5-1 et seq.*, as the same may be amended or supplemented from time to time.

Term – shall mean the duration of this Agreement, as described at Section 2.01 hereof.

Trustee – shall mean [●], its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in the Authority Bond Resolution.

ARTICLE II **DURATION OF AGREEMENT**

SECTION 2.01 Term

The Parties hereby expressly, irrevocably and unconditionally acknowledge, agree, warrant and covenant that this Agreement, including the obligation to pay the Assessment required under Article III hereof, shall remain in effect until all payments of the Assessment as set forth at Exhibit B (as such Exhibit may be modified from time to time in accordance with this Agreement) have been made, subject to prepayment of the Assessment, as further described at Article III below.

ARTICLE III **ASSESSMENT**

SECTION 3.01 Assessment to Run with the Land

The Natirar Owners hereby expressly, irrevocably and unconditionally acknowledge and agree that upon the establishment and perfection of the lien of the Assessment as described in this Agreement, the Assessment shall attach to the Natirar Property and run with the land until discharged in accordance with the terms of this Agreement, regardless of any change in ownership or other property interest in the Natirar Property from time to time during the term of the Assessment.

SECTION 3.02 Assessment Amount and Installments

The Natirar Owners hereby expressly, irrevocably and unconditionally acknowledge and agree that, with respect to the Natirar Property and the Natirar PACE Project to be constructed thereon:

- (a) the Assessment relates to the Natirar PACE Project described in the Application;
- (b) the amount of the Assessment as calculated in accordance herewith, which includes the principal amount of the PACE Financing, the interest thereon (including the allocable portion of any capitalized interest), the cost of funding any reserve with respect to the Authority Bonds, and the costs and fees with respect to the PACE Financing and the Authority Bonds, and is hereby irrevocably and unconditionally accepted in full and agreed to by the Natirar Owners;
- (c) the amount of the PACE Financing and the Assessment constitute and are equal to the benefit conferred upon the Natirar Property by the Natirar PACE Project, and that no other determination of the amount of the Assessment, or the benefit conferred thereby, by any alternative procedures set forth in the Local Improvements Law shall be necessary or permissible;
- (d) the Natirar Owners shall pay the Assessment quarterly on the Payment Dates during the Term of this Agreement, commencing on the Initial Payment Date, on the dates and in the amounts set forth at **Exhibit B** hereto;
- (e) the Borough may, without further notice, authorization or consent of the Natirar Owners, assign the Assessment pursuant to Article V hereof and pay such Assessment to the Trustee to be applied in accordance with the terms of the Authority Bond Resolution;
- (f) the Natirar Owners shall make each installment payment of the aforesaid Assessment to the Borough, shall clearly identify the Assessment as an Assessment relating to the Natirar Property, and shall identify the Natirar Property by street address and by block and lot; and
- (g) the Borough shall not contribute to the cost of the Natirar PACE Project or the payment of the Assessment.

SECTION 3.03 Legal Interest; Interest on Past Due Amounts

- (a) The Borough shall charge interest (at the interest rate set forth in Section 1.02 herein) on unpaid installments of the Assessment while the repayment of such Assessment shall be current and in good standing.
- (b) The Natirar Owners hereby expressly, irrevocably and unconditionally acknowledge, agree, warrant, covenant and accept that in the event that the Natirar Owners fail to timely pay, in full, any installment of the Assessment as set forth at **Exhibit B** hereto, the Borough shall charge interest upon the amount past due at the highest rate of interest permitted under State law in the case of unpaid taxes or tax liens on land until paid.

SECTION 3.04 Prepayment of the PACE Financing

The Natirar Owners may prepay all of the remaining balance due of the Assessment on any Payment Date, or may prepay any portion in excess of \$1,000,000 of the remaining balance due of the Assessment on any Payment Date, plus a premium of 5% of the remaining balance due of the Assessment in years 1 through 5, 4% of the remaining balance due of the Assessment in year 6, 3% of the remaining balance due of the Assessment in year 7, 2% of the remaining balance due of the Assessment in year 8, and 1% of the remaining balance due of the Assessment thereafter. The Natirar Owners shall give the Authority, the Borough and the Trustee written notice of its intent to prepay no less than thirty (30) days prior to such Payment Date (the "**Prepayment Notice**"). After receiving such Prepayment Notice, the Trustee shall prepare a statement to be provided to all Parties setting forth the amount necessary to effectuate such prepayment, and directing the application of funds received thereby (the "**Prepayment Statement**"). If the Natirar Owners are prepaying a portion of the remaining balance due of the PACE Financing, the Prepayment Statement shall include a revised **Exhibit B** to this Agreement, indicating the fact of the prepayment, and decreasing the number of payments due under the payment schedule, while retaining the same quarterly payment amount. After such prepayment, the Borough shall record the revised **Exhibit B** in the land records of the County, at the cost and expense of the Natirar Owners, which cost and expense shall be included in the Prepayment Statement. If the Natirar Owners are prepaying the entire amount of the remaining balance due of the Assessment, the lien of the Assessment shall be satisfied and extinguished upon such prepayment.

ARTICLE IV
MUNICIPAL LIEN; ENCUMBRANCES

SECTION 4.01 Municipal Lien

(a) The Parties hereby expressly, irrevocably and unconditionally acknowledge, agree, warrant and covenant that in accordance with the Act and the Local Improvements Law, including *N.J.S.A. 40:56-33*, upon the effective date of the Assessment Ordinance, this Agreement and any amount due hereunder, including without limitation, the Assessment, shall constitute an automatic, enforceable and perfected statutory municipal lien for all purposes of law, superior to all non-municipal liens whenever or howsoever perfected.

(b) The Parties hereby expressly, irrevocably and unconditionally represent, agree, warrant and covenant that this Agreement, and the municipal lien of the Assessment, is valid and enforceable in accordance with all applicable law, including without limitation the Local Improvements Law and the Tax Sale Law.

SECTION 4.02 Right to Encumber Fee Title

The Natirar Owners hereby expressly, irrevocably and unconditionally acknowledge, agree, warrant and covenant that the Natirar Owners have the right, subordinate to the municipal lien of the Assessment, as a matter of law, to encumber the fee title to their property, including any

improvements related thereto, and that any such subordinate encumbrance shall not be deemed to be a violation of this Agreement.

ARTICLE V **ASSIGNMENT**

SECTION 5.01 Assignment from Borough to the Authority

(a) The Borough agrees to enter into an assignment agreement (the "**Assignment**") with the Authority and the Trustee in a form acceptable to all parties to same that, among other things, absolutely and irrevocably grants, conveys, transfers and assigns unto the Authority, as issuer of the Authority Bonds, all of the right, title and interest of the Borough:

- (i) in and to all of the Assessment;
- (ii) in and to all rights to collect and enforce the rights to the Assessment, including the right to interest, penalties and costs of collection relating thereto; and
- (iii) in and to the rights, interests, powers and authorities set forth in this Agreement with respect to the Assessment.

The foregoing are referred to herein as the "**Borough's Assigned Rights**". This assignment by the Borough as memorialized in the Assignment will be an unconditional, absolute and present assignment and not a mere assignment in the nature of a pledge or the mere grant of security interest. The assignment of the Borough's Assigned Rights as memorialized in the Assignment will inure to the benefit of the Authority and its successors and assigns and will bind the Borough and the Borough's successors and assigns. The Borough and the Natirar Owners agree and acknowledge that upon execution of the Assignment, the Authority may further assign the Borough's Assigned Rights to the Trustee for the benefit of holders of the Authority Bonds under the Authority Bond Resolution.

SECTION 5.02 Bondholders Intended Third Party Beneficiaries

The Borough recognizes and acknowledges that the Assessment is the sole collateral for the Authority Bonds, and as a result, the Parties hereby acknowledge that the holders from time to time of the Authority Bonds constitute intended third party beneficiaries of this Agreement. As such, the holders of such Authority Bonds shall have the right to enforce the provisions of this Agreement at law or equity, including by specific performance. The Borough shall, however, perform all of its obligations under or pursuant to the Borough's Assigned Rights and shall enforce the rights, interest, powers and authorities granted the Authority pursuant to the Borough's Assigned Rights.

ARTICLE VI
DEFAULT

SECTION 6.01 Default

Default shall be failure of any Party to perform its obligations under this Agreement, beyond any applicable notice, cure or grace period.

SECTION 6.02 Cure Upon Default

Should any Party be in Default of any obligation under this Agreement, a non-defaulting Party shall notify the defaulting Party and the other Party in writing of said Default. Except as otherwise limited by law, the defaulting Party shall have sixty (60) days to cure any Default, other than a payment Default, for which the defaulting Party shall have ten (10) days to cure.

SECTION 6.03 Remedies for Default

(a) In the event of any uncured Default by a Party other than the Natirar Owners, the non-defaulting parties may take whatever action at law or in equity, as may be necessary or desirable to enforce the performance or observance of any rights under this Agreement, including an action for specific performance or damages.

(b) In the event of any uncured Default by the Natirar Owners, the Borough may take whatever action at law or in equity, as may be necessary or desirable to enforce the performance or observance of any rights under this Agreement, including an action for specific performance or damages. No Default hereunder by the Natirar Owners shall terminate this Agreement (except as described herein) and their obligation to pay the Assessment amounts due hereunder, which shall continue in effect for the duration as set forth in Section 2.01 hereof, unless and until such obligations shall be paid in full prior to the expiration of the Term.

SECTION 6.04 Default in the Payment of Assessment

Upon any Default by the Natirar Owners in payment of any installment of the Assessment, the Borough, in addition to their other remedies, shall (on its own initiative or at the direction of the Trustee) proceed against the Natirar Property to which the Default applies, including any improvements related thereto, in the manner provided by applicable law and shall proceed to In Rem Tax Foreclosure consistent with the provisions and procedures of the Tax Sale Law.

In accordance with *N.J.S.A. 40:56-35*, in the event of a Default by the Natirar Owners in payment of the Assessment that remains uncured for thirty (30) days, the Borough shall, by resolution adopted at the direction of the Trustee, direct that the Natirar Owners shall be permitted to make the delinquent payment, and thereupon resume the regular repayment schedule.

ARTICLE VII
WAIVER

SECTION 7.01 Waiver of Claims and Challenges by Natirar Owners

IN CONSIDERATION FOR THE PACE FINANCING, THE NATIRAR OWNERS HEREBY EXPRESSLY WAIVE, ON THEIR OWN BEHALF, AND ON BEHALF OF THEIR SUCCESSORS AND ASSIGNS, INCLUDING ANY SUBSEQUENT OWNER OF THE NATIRAR PROPERTY FROM TIME TO TIME, ANY CLAIM OR CHALLENGE THAT THEY MAY HAVE TO THE ASSESSMENT AND/OR AMOUNT THEREOF, THE BENEFIT CONFERRED THEREBY, THE REMEDIES OF THE BOROUGH IN THE EVENT OF A DEFAULT, THE ASSESSMENT ORDINANCE AND THE PROGRAM.

SECTION 7.02 Jury Trial Waiver

EACH OF THE PARTIES, FOR THEMSELVES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, HEREBY WAIVE TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

ARTICLE VIII
NOTICES

SECTION 8.01 Notice

Formal notices, demands and communications between and among the Parties shall be in writing and deemed given if dispatched to the address set forth below by registered or certified mail, postage prepaid, return receipt requested, or by a commercial overnight delivery service with packaging tracking capability and for which proof of delivery is available. In that case such notice is deemed effective upon delivery. Such written notices, demands and communications may be sent in the same manner to such other addresses as either Party may from time to time designate by written notice.

Copies of all notices, demands and communications shall be sent as follows:

If to the Authority:

Somerset County Improvement Authority
Attn: Chairperson
20 Grove Street
Somerville, New Jersey 08876

If to the Borough:

Borough of Peapack and Gladstone
Attn: Borough Clerk
1 School Street, P.O. Box 218
Peapack and Gladstone, New Jersey 07977

With a copy to:

McManimon, Scotland & Baumann, LLC
Attn: Matthew D. Jessup, Esq.
75 Livingston Avenue, 2nd Floor
Roseland, New Jersey 07068

If to the Natirar Owners:

Natirar Resort Development, LLC
Attn: Robert Wojtowicz
2 Main Street, P.O. Box 331
Peapack and Gladstone, NJ 07977

With a copy to:

Gibbons P.C.
Attn: John D. Draikiwicz, Esq.
One Gateway Center
Newark, New Jersey 07102

If to any other owner:

The notice shall be directed to such owner's address
as set forth in the property tax records of the Borough.

If to the Trustee:

[•]

**ARTICLE IX
MISCELLANEOUS**

SECTION 9.01 Recording

Upon the execution and delivery of this Agreement, the entire Agreement shall be filed and recorded with the County Clerk by the Borough, at the Natirar Owners' expense, such that the Assessment and this Agreement shall be reflected upon the land records of the County as a

municipal lien upon, and a covenant running with, the Natirar Property and any improvements related thereto, until discharged in accordance with the terms of this Agreement.

SECTION 9.02 Representations, Warranties and Covenants of the Natirar Owners

(a) The Natirar Owners hereby represent and warrant as follows:

(i) All of the information contained in the Application submitted by the Natirar Owners on the Application Date, and any and all related information provided by the Natirar Owners to the Authority and/or the Borough was as of its date and is as of the date hereof, true, correct and complete in all respects.

(ii) The Natirar Owners have had sufficient time to review, and has reviewed and understands, this Agreement and any and all documents and agreements executed by the Natirar Owners on or prior to the date hereof in connection with the Program (collectively, the "**Contract Documents**"), and have had the opportunity to ask questions with respect to the Agreement and the Contract Documents, and have had the opportunity to consult with an attorney with respect to the same.

(iii) The Natirar Owners have reviewed, understand and agree to all terms, conditions and requirements of the Program.

(iv) The Natirar Owners affirm each and every representation and warranty in the Application and the Contract Documents.

(v) The Natirar Owners understand, acknowledge and agree to the schedule of Assessment payments set forth as **Exhibit B**.

(b) The Natirar Owners hereby covenant as follows:

(i) The Natirar Owners will comply with all of the terms and requirements set forth in this Agreement and the Contract Documents.

(ii) The Natirar Owners will not modify, alter or remove the Natirar PACE Project prior to satisfaction and discharge of the Assessment without the prior written consent of the Borough, and, if any Authority Bonds remain outstanding, the Trustee.

(iii) The Natirar Owners shall provide access to the Natirar Property to the Borough, and its collective agents and representatives, at any reasonable time, upon reasonable notice, to inspect the Natirar PACE Project. The Natirar Owners also shall provide the Borough and its agents and representatives with copies of any documentation relating to the Natirar PACE Project that shall be requested by any of them.

SECTION 9.03 Counterparts

This Agreement may be simultaneously executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 9.04 Amendments

This Agreement may not be amended, changed, modified, altered or terminated without the written consent of the Trustee (if the Authority Bonds are then outstanding) and each of the Parties hereto.

SECTION 9.05 Severability of Invalid Provisions

If any one or more of the covenants, agreements or provisions herein contained shall be held to be illegal or invalid in a final proceeding, then any such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof. In such event, the Parties shall confer in good faith and endeavor to reform this Agreement in a manner which is lawful and produces the same or substantially the same results as existed prior to the declaration of illegality or invalidity.

SECTION 9.06 Indemnity

The Natirar Owners agree to indemnify, hold harmless and defend the Borough and its respective officers, governing members, directors, officials, employees, attorneys and agents, successors and assigns (each, an "**Indemnified Party**") against any and all losses, damages, claims, actions, liabilities, reasonable costs and expenses of any nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments), to which the Indemnified Parties, or any of them, may become subject under federal or State securities laws or any other State statutory law or at common law or otherwise, to the extent arising out of or based upon or in any way relating to any transactions stated or contemplated by the Program, including, but not limited to, the procurement, construction, installation, renovation, maintenance or repair of the Natirar PACE Project, except in the case of the foregoing indemnification to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Party.

The Natirar Owners agree to RELEASE, WAIVE, DISCHARGE, AND COVENANT NOT TO SUE THE BOROUGH, and each of its officers, governing members, directors, officials, employees, attorneys and agents, successors and assigns (hereinafter referred to as "**Releasees**"), from any and all liability, claims, demands, actions, and causes of action whatsoever arising out of or related to any loss, damage, or injury, that may be sustained, or to any property, that results directly or indirectly from the transactions stated or contemplated by the Program, including, but not limited to, the procurement, construction, installation, renovation, maintenance or repair of the Natirar PACE Project, expressly excluding herefrom, such loss caused by the gross negligence or willful misconduct of the Releasees.

SECTION 9.07 Arbitration

Any dispute, controversy or claim of the Natirar Owners or the Borough arising out of, relating to or in connection with this Agreement or the Program, shall be resolved pursuant to the following procedures:

(a) Any Party wishing to initiate consideration of a dispute shall give a dispute notice to the other applicable Party of the existence of such dispute, and of the Party's desire to have the other Party consider the dispute. Such notice shall set forth in reasonable detail the nature of the dispute to be considered, and shall be accompanied by a full disclosure of all factual evidence and a statement of the applicable legal basis of the dispute; provided, however, that (1) the failure to provide any such disclosure or to state any such legal basis shall not operate as a waiver of such legal basis, or operate to preclude the presentation or introduction of such factual evidence in any subsequent arbitration or proceeding, or otherwise constitute a waiver of any right which a Party may then or thereafter possess; and, (2) any settlement proposal made or provided shall be deemed to have been made or provided as part of a settlement discussion, and may not be introduced in any arbitration or proceeding without the prior written consent of the party making such settlement disclosure and/or statement.

(b) Upon giving and receipt of a dispute notice, each Party shall appoint a negotiating team consisting of not less than one and not more than three representatives.

(c) The negotiating teams shall commence meeting within thirty (30) days of receipt of the dispute notice and shall, during and up to such thirty (30) day period, meet and negotiate in good faith for a period of up to thirty (30) days, to attempt to resolve the dispute. During such negotiation period, a Party asserting a claim for damages or equitable relief or any defense thereto against any other Party shall disclose to the other Party all previously undisclosed factual evidence and legal basis of such claim or defense; provided again, however, that (1) failure to provide any such disclosure or to state any such legal basis shall not operate as a waiver of such legal basis, or operate to preclude the presentation or introduction of such factual evidence in any subsequent arbitration or proceeding, or otherwise constitute a waiver of any right which a Party may then or thereafter possess; and, (2) any settlement proposal made or provided shall be deemed to have been made or provided as part of a settlement discussion, and may not be introduced in any arbitration or legal proceeding without the prior written consent of the Party making such settlement disclosure and/or statement.

(d) If the negotiating teams fail to resolve the dispute within the negotiation period set forth above, any Party may notify the other Party of such failure by delivery of a final dispute notice.

(e) Upon the giving or receipt of a final dispute notice, any disagreement within the scope of this section shall be determined by final and binding arbitration pursuant to the then current Commercial Arbitration Rules of the American Arbitration Association ("AAA"), in existence as of the date of the dispute notice. The arbitration shall be conducted in Somerville, New Jersey. The arbitration shall be before a panel of three (3) arbitrators. One arbitrator shall be selected by each of the Parties, and the third arbitrator shall be selected by the two arbitrators

designated by the Parties. Each Party shall bear its own costs and expenses in preparing for and participating in the arbitration hearing, except that each Party shall pay one-half of the compensation payable to the arbitrators, one-half of any fees to the AAA, and one-half of any other costs related to the hearing proceedings. The arbitration award may provide for either damages or other equitable relief, including, but not limited to, injunctive relief, and shall be final and binding on the Parties, and judgment on the award may be entered in any court having competent jurisdiction, including resort to the relief granted in the Federal Arbitration Act, any State counterpart thereto, or under applicable law.

(f) It is explicitly agreed by each of the parties that no such arbitration shall be commenced, except in conformity with this Section 9.07.

(g) Nothing in this Section 9.07 shall be construed to deprive any Party, or to abrogate any Party's right, to seek emergent, equitable or similar relief, if necessary, in any court of competent jurisdiction and in accordance with applicable law, as any such court may adjudge, order or decree under the pertinent circumstances.

SECTION 9.08 Borough Disclaimers

The Borough shall not be under any obligation, express or implied, to, and shall not, perform and duty or obligation other than as explicitly set forth herein. The Borough does not make any warranty or representation, either express or implied, as to the eligibility, value, design, condition, merchantability, fitness for particular purpose or fitness for use of the Natirar PACE Project or any contractor, subcontractor, vendor, employee or other person associated with the design, installation and/or operation and maintenance of the Natirar PACE Project. The Borough disclaims all risks and liabilities, whether or not covered by insurance, for loss or damage to the Natirar PACE Project, or any portion thereof, and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of any eligible contractors or other third parties, and whether such property damage be to the Natirar Property or to the property of others.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the day and year first above written.

ATTEST:

**BOROUGH OF PEAPACK AND
GLADSTONE, IN THE COUNTY OF
SOMERSET, NEW JERSEY**

By: _____

ATTEST:

NATIRAR RESORT DEVELOPMENT, LLC

By: _____

ATTEST:

**NATIRAR RESIDENTIAL DEVELOPMENT
GROUP, LLC**

By: _____

STATE OF NEW JERSEY,
COUNTY OF SOMERSET

SS:

I CERTIFY that on _____, 2022, _____ personally came before me and stated to my satisfaction that this person (or if more than one, each person):

- (a) was the maker of the attached instrument;
- (b) was authorized and did execute this instrument as Mayor of the Borough of Peapack and Gladstone, in the County of Somerset, New Jersey (the "Borough"); and
- (c) executed the instrument as the act of the Borough.

Notary Public

STATE OF NEW JERSEY,
COUNTY OF SOMERSET

SS:

I CERTIFY that on _____, 2022, _____ personally came before me and stated to my satisfaction that this person (or if more than one, each person) was the maker of the attached instrument.

Notary Public

STATE OF NEW JERSEY,
COUNTY OF SOMERSET

SS:

I CERTIFY that on _____, 2022, _____ personally came before me and stated to my satisfaction that this person (or if more than one, each person) was the maker of the attached instrument.

Notary Public

Exhibit A
Natirar Property Description and Natirar PACE Project Description

[Attach property description from lease]

- **HVAC** – All heating, ventilating, and air conditioning, including the filtration systems and controls
- **Lighting** – Advanced lighting systems integrated into a building management system
- **Electrical** – The electrical systems will monitor, control, and optimize the use of electricity
- **Technology** – An “internet of things” information control system with sensors in every room
- **Glass & Glazing** – Energy efficient, multi-layer glazing that will minimize heat and cold transfer and reduce the impact on HVAC systems and will meet the high energy efficient standards for building fenestration
- **Insulation** – Building design and materials selection to minimize temperature transfer
 - Exterior doors and windows are designed with high performance frames inclusive of insulation
 - Thermal protection throughout the facility exceeds minimal standards to reduce heat and cold transfer
 - Roofing that will minimize energy loss through insulation and reflective materials
 - Building Envelope - Construction material and finishes selection to maximize thermal retention
- **Plumbing** – Fire suppression system with compartmentalized sensors to conserve water
 - Pool Equipment including pumps and heaters will incorporate energy efficient specifications
 - All water pumps will be Low Voltage, as defined in NFPA 70 for circuits and equipment operating at less than 50 V or for remote-control, signaling power-limited circuits
 - Pumps and motor assemblies will be in-line, hermetically sealed centrifugal pumps
 - Water heaters will be gas-fired, high-efficiency, storage, heaters with LEED documentation
 - Toilets and showers will have product data that meet LEED standards
 - Drip irrigation in 12-acre organic garden
- **Restaurant Rehab** – Upgraded HVAC, and LED lighting within the Ninety Acres Restaurant
- **Food Service and Refrigeration Equipment** – will have the latest, efficient specifications. This equipment will include energy efficient insulation and water saving fixtures

Exhibit B
Schedule of Assessment Payments

<u>Date</u>	<u>Principal Amount</u>	<u>Interest</u>	Less: <u>Capitalized Interest</u>	<u>Borough Administrative Fee</u>	<u>Authority Administrative Fee</u>	<u>Trustee Fee</u>	<u>Total Assessment</u>
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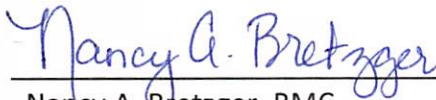
Introduced: August 16, 2022

Introduced	Seconded	Borough Council	Aye	Nay	Abstain	Absent
X		Gian-Paolo Caminiti	X			
		Mark Corigliano	X			
		Amy Dietrich	X			
		Donald Lemma	X			
		Jamie Murphy	X			
	X	John Sweeney	X			

Adopted: September 13, 2022

Introduced	Seconded	Borough Council	Aye	Nay	Abstain	Absent
		Gian-Paolo Caminiti				X
		Mark Corigliano	X			
		Amy Dietrich	X			
		Donald Lemma	X			
	X	Jamie Murphy	X			
X		John Sweeney	X			

ATTEST:



 Nancy A. Bretzger, RMC
 Municipal Clerk



 Mark Corigliano
 Council President