



**ICSC+LAW SYMPOSIUM OH/KY/IN/MI/PA**  
**Hilton Columbus/Polaris, Columbus, OH**  
**February 29 - March 1, 2024**

**ICSC+LAW SYMPOSIUM OH/KY/IN/MI/PA**

**Hilton Columbus/Polaris**

**Columbus, OH**

**Friday, March 1, 2024**

**9:50 - 10:50 am**

**Session 1A: ESG Trends and Impacts to Retail Real Estate**

**Panelists**

**Melissa Breedon**  
**Vice President, Senior Legal Counsel**  
**Realty Income Corporation**  
**Phoenix, AZ**

**Doug Parker**  
**Founder & CEO**  
**Ecolumix**  
**Bethesda, MD**



## **OUTLINE & SESSION MATERIALS**

### **ESG: Trends and Impacts to Retail Real Estate**

Keeping up with the latest trends in the environmental, social, governance space can be mind-boggling. This session will focus what landlords and tenants need to know as they navigate regulatory requirements and stakeholder desires with respect to ESG while leasing and operating retail real estate.

#### **I. WHAT IS ESG?**

**ESG** is an acronym used for **[E]**nvironmental, **[S]**ocial, and **[G]**overnance topics and a framework to understand how an organization is managing opportunities and risks in these three (3) areas.

#### **A. The E in ESG**

The **E** in ESG focuses on planet stewardship and an organization's responsibility to increase sustainability, minimize operational impact and reduce environmental footprints. These topics include climate change impact, greenhouse gas emissions, energy efficiency, waste production, recycling and management, water and other resource management.

A developer's Environmental initiatives might include (i) constructing and retrofitting office buildings, residential buildings and shopping centers to achieve eco-friendly sustainability designations; (ii) a net zero greenhouse gas emissions commitment by a certain date, (iii) energy efficiency, (iv) accelerating use of renewable power generation, (v) water conservation, and (vi) waste reduction.

A retailer's Environmental initiatives around product might include (i) constructing and retrofitting stores to achieve eco-friendly sustainability designations, (ii) developing a strategy to measure, report and decrease greenhouse gas emissions, (iii) increase use of raw materials with greater positive environmental impact compared to more conventional materials, (iv) increasing use of recycled materials in product creation or packaging materials, (v) expanding end of life garment use, and (vi) partnering with suppliers to regularly assess environmental performance and compliance with environmental policies, including chemical use and wastewater management.

Environmental initiatives of law firms might include (i) eco-friendly certifications of its buildings and office space that demonstrate improved efficiency and lowered carbon emissions, (ii) offset of carbon emissions through purchase of verified carbon credits, (iii) providing subsidized transportation, bike programs, and electrical charging stations for its employees, (iv) paperless core operations, (v) recycling protocols for technology, paper, etc., and (vi) pro bono environmental advocacy to protect the environment.



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Eco-friendly certifications might include (i) ENERGY STAR® ratings (ii) the U.S. Green Building Council's® LEED® (Leadership in Energy and Environmental Design) Green Building Rating System certification which evaluates the greenness, design, and welfare of a building, and (iii) a Well Certification which evaluates how the space inside a building enhances employee health and well-being across multiple standards.

**B. The S in ESG**

The **S** in ESG focuses on an organization's Social impact – how does it manage its relationships with employees, suppliers, customers and the communities where it operates. Social initiatives also include ethical and responsible practices, philanthropy, and volunteerism.

Social initiatives in the workplace might include employee engagement and satisfaction, ethics and compliance helplines to raise concerns/address grievances, programs to listen, develop, and retain talent, mentoring, promoting an inclusive culture, employee resource sponsorship, increased health and wellness offerings to employees, commitment to equal pay/equal pay certifications, and commitment to increase the proportion of diverse employees in management and other DEI (Diversity, Equity, and Inclusion) efforts. Law firms and corporate legal departments might reflect their commitments to increase and sustain a diverse and inclusive workforce by participating in the Legal Leadership Diversity Council and/or Mansfield certification.

Social initiatives relating to customers might include product transparency regarding ingredient and material make-up, quality control, product safety, protecting consumer information from cyber risk, respecting customer diversity by offering a differentiated category view, and creating an inclusive shopping experience.

Social initiatives relating to suppliers and global supply chains include ethical sourcing programs that integrate environmental sustainability commitments respecting the rights to land, water and natural resources; and human rights – freedom from non-discrimination, the right to associate, just and favorable working conditions that include the health and safety of works, and the right to be free from forced and child labor.

**C. The G in ESG**

The **G** in ESG focuses on the structure of an organization's Governance and the rules, roles and processes through which its decisions are made. Governance includes structure and oversight, code and values, transparency, and reporting, consumer data privacy, and cyber security. Examples include board composition and management, executive compensation, and corporate disclosure, risk management, ethics, anti-corruption initiatives, and compliance. Compliance extends to its company policies, all applicable laws and regulations, internal controls, audits, inspections, and corrective actions.



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**II. ESG FRAMEWORKS & TRENDS**

As interest in ESG topics have continued to grow, companies have reacted by voluntarily reporting on their ESG initiatives to inform their investors, shareholders, employees, consumers, non-governmental organizations, and other constituencies of their goals and practices. Since there is no single standard for ESG reporting, an organization may use more than one framework depending on its industry, its audience, its competitors, and where it operates. Reporting frameworks offer organizations a structured way to publicly disclose their Environmental, Social and Governance commitments and track their progress. These reports are generally done on an annual basis to share long term objectives and provide key milestone updates.

The Financial Stability Board (FSB) created the Task Force on Climate Related Disclosures (TCFD). The TCFD's makes disclosure recommendations to companies so that investors, lenders, and insurance underwriters may appropriately assess and price climate change risks. Initial recommendations were published in 2017. The disclosure recommendations are centered around the following inter-related core components: governance, strategy, risk management, and metrics and targets. The TCFD has continued its work by promoting adoption of the TCFD framework to provide further guidance, support educational efforts, monitor climate-related disclosure practices and preparing annual status reports. <https://www.fsb-tcf.org/>








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Other examples of frameworks are shown below.

**The Top Five Sustainability Frameworks You Should Know**



STANDARD	FOCUS	WHY REPORT	SCORING	WHO REPORTS	REPORTING PERIOD
	GHG emissions as well as governance actions and business strategies to mitigate climate change and deforestation and promote water security.	CDP holds the largest repository of GHG emissions and energy use data in the world. In 2021, more than 590 investors with over US\$110 trillion in assets requested companies disclose through CDP. CDP's transparent scoring methodology helps respondents understand exactly what's expected of them.	Companies are scored based on four criteria: Disclosure, Awareness, Management, and Leadership. CDP recognizes top scoring companies in the Carbon Disclosure Leadership Index (CDLI).	Cities and companies	For companies, CDP's online reporting system opens in early April and responses are due in late July.
	Industry-specific criteria considered material to investors, including economic, social, and environmental indicators	Members of DJSI represent the top 10% of the 2,500 largest companies in the S&P Global Broad Market Index. The Corporate Sustainability Assessment (CSA) brings a sector-specific focus and need-to-know simplicity to disclosure for public companies.	Companies receive a total Sustainability Score between 0-100 and are ranked against peers. Those with scores in the top 10% are included in the index.	The 2,500 largest public companies in the world.	April 6 - July 13
	Corporate social responsibility with an equal weight on environmental, social and governance factors. Heavy on stakeholder engagement to determine materiality	GRI was announced as the official reporting standard of the UN Global Compact, making it the default reporting framework for the compact's more than 5,800 associated companies. It's among the oldest, most widely adopted and most widely respected reporting methodologies in the world. Its thorough focus on social and governance aspects of ESG is unparalleled.	The GRI Standards - A constantly updated set of guidelines focusing on transparency and accountability rather than a set score. Designed to give a high level look as well as a more detailed breakdown depending on your organization's material topics	Public and private companies, cities, government agencies, universities, hospitals, NGOs	Anytime, but typically integrated into a company's traditional annual report
	Environmental, social and governance performance in the global commercial real estate sector only. Includes asset- and entity-level disclosures	Private and public institutional investors look to GRESB's annual survey as the barometer of sustainability performance in the commercial real estate industry. Its niche target audience allows it to give deeper and more accurate insights into industry performance and reveal "investment grade" results.	Responses scored out of a possible 100 points distributed across three data components which are then divided into multiple aspects. More weight is attributed to performance and development components.	Commercial real estate owners, asset managers and developers.	April 1 - June 30
	SASB aims to align organizations and investors on the financial impacts of ESG. Industry-specific standards focus on material aspects of an organization's sustainability performance.	SASB offers disclosure standards for more than 75 industries to ensure information disclosed is most relevant to the financial performance of an organization's industry. The standards focus on financially material aspects so that the disclosure can help drive business and investment decisions.	SASB Standards offer guidelines on material information to report and can be used in conjunction with other frameworks.	Any corporation can use SASB to guide its disclosure.	No specific reporting period, but this framework may be complemented by other organizational disclosures.

As ESG focus continues to grow, so has regulatory activity. There are over 1,800 climate laws worldwide. Although companies with global operations have been required to comply with ESG directives adopted in the European Union (EU) and other countries, companies operating in the US have seen a recent rapid influx of ESG related activity which is expected to continue.

**III. ESG REGULATORY DEVELOPMENTS IN THE US**

**A. Federal Activity.**

The Securities and Exchange Commission (**SEC**) proposed rule changes that would require certain climate-related disclosures including greenhouse gas emissions in their registration statements and periodic reports for publicly traded companies. *See Appendix – Fact Sheet: Enhancement and Standardization of Climate Related Disclosures.*

The SEC has also proposed amendments to rules to enhance disclosures by certain investment advisers and investment companies about ESG investment practices to prevent greenwashing. *See Appendix – Fact Sheet: ESG Disclosures for Investment Advisers and Investment Companies.*



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“Greenwashing” is a term used to describe businesses who may represent themselves as sustainable by providing false or misleading information about the environmental benefits of a product or practice or promote a false image of caring for the environment. Funds and advisers that engage in greenwashing may exaggerate or overstate their environmental and sustainability or practices or factors considered in their investment products, making it difficult for investors and advisers to differentiate from those that are truly using environmental and sustainability strategies.

The Federal Trade Commission (**FTC**) regulates unfair or deceptive marketing claims related to the environment, otherwise known as greenwashing. The FTC also provides Guides for the Use of Environmental Marketing Claims (Green Guides) that are designed to provide guidance so that marketers avoid making environmental claims that mislead consumers by providing general principles applicable to all environmental marketing claims, how consumers are likely to interpret certain claims and how marketers can substantiate these claims, and how marketers can qualify their claims to avoid deceiving consumers. *The Green Guides were last updated in 2012 and can be found on the [www.ftc.gov](http://www.ftc.gov) website.* The FTC website also includes recent case activity.

The US global electronic marketplace for buying and selling securities (**Nasdaq**), has introduced a Board Diversity Rule. This requires companies listed on Nasdaq’s exchange to publicly disclose board diversity statistics annually using a standardized template. If the company’s board does not meet Nasdaq’s minimum criteria, the company must explain why. *See Appendix- NASDAQ’S Board Diversity Rule: What Company’s Should Know (Last Updated February 28, 2023).*

The Financial Stability Oversight Council (**FSOC**), established under the Dodd Frank Wall Street Reform and Consumer Protection Act, identified climate change as an emerging and increasing threat to the US financial stability and made recommendations to federal agencies to account for this risk and enhance climate related disclosures. *See Appendix – Treasury Fact Sheet: The Financial Stability Oversight Council and Progress in Addressing Climate – Related Financial Risk.*

The Department of Labor (**DOL**), which regulates private sector employee benefit plans, published a rule that allowed consideration of ESG factors that impact risk and return of investment. This rule has had significant attention due to the differing views between the Trump administration; the Biden administration; a lawsuit by a coalition of Republican led states; two energy companies, an oil and gas trade group, and a plan participant; congressional activity, and a presidential veto upholding the rule. *See Appendix -Final Rule on Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights Nov. 22, 2022.*



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**B. State And Local Activity.**

There has also been a lot of state activity through their legislature and attorneys general regarding ESG proposals and rules and at the local level through various ordinances. A few examples are below.

California, Connecticut, Illinois, New Jersey, New York, Oregon and Washington are requiring their pension systems to do business with financial institutions and funds with ESG oriented investment strategies; while Florida, Kentucky, Oklahoma, Tennessee, Texas and West Virginia have adopted new prohibitions regarding ESG oriented investment strategies.

California enacted California Green Building Standards Code—Part 11, Title 24, California Code of Regulations known as CALGreen, is the first-in-the-nation mandatory green building standards code.

More recently, in October 2023, Governor Newsom in California signed into law the following:

- Bill 253 (the “Climate Corporate Data Accountability Act”) into law, which imposes climate-related disclosure requirements for public and private companies with revenues over \$1 billion annually that do business in California. Companies will have to start disclosing emissions from their direct operations and energy use (Scope 1 and 2) by 2026. Emissions reporting from supply chains and other indirect sources (Scope 3) is required by 2027.
- SB 261, the Climate-Related Financial Risk Act (“CFRA”). Under CFRA, public and private companies with total annual revenues exceeding \$500 million that do business in California will be required to prepare a biennial climate-related financial risk report and publish a copy of the report publicly on the company website, and
- AB 1305, governing voluntary carbon market disclosures and aimed at combatting greenwashing. Under AB 1305, business entities operating in California and marketing, selling, purchasing, and/or using voluntary carbon offsets will need to disclose on their websites information pertaining to the applicable carbon offset project including location, timeline, relevant standards, durability, independent third-party verification, and emissions reduced or removed. AB 1305 also requires that companies disclose accountability measures that apply if a carbon offset project is not completed or does not meet projected emission reduction or removal goals. As of January 1, 2024, companies that operate within California or make certain claims in California about the achievement of net zero emissions, claims that the company or a product is “carbon neutral, or other claims implying the company or a product does not add net carbon dioxide or greenhouse gases to the climate, or has made significant reductions to its carbon dioxide or greenhouse gas emission are required to disclose on their website specified information documenting the support and accuracy of such claims. Failure to comply may result in a civil penalty of not more than \$2,500 per day for each day the information is not available or accurate on the company website, not to exceed \$500,000.





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Colorado adopted a slate of new laws in in 2022 that will lower greenhouse gas emissions and improve air quality. *See Appendix – Colorado Energy Office Press Release June 3, 2022.* One of those laws is House Bill 21-1286, passed the Colorado General Assembly on June 8, 2021 and effective September 6, 2021. The bill requires *owners* (emphasis added) of large commercial, multifamily, and public buildings 50,000 square feet or more in Colorado to report their annual energy use to the Colorado Energy Office (CEO) through ENERGY STAR Portfolio Manager, a free energy management tool used to track and assess energy and water consumption. There are fines for failure to comply. *See Appendix – Colorado Energy Office website, Building Benchmarking.*

In addition, cities such as Boulder, Colorado, Boston, Chicago, Des Moines, Denver, Fort Collins, Colorado, Kansas City, Los Angeles, New York, Orlando, Seattle, and Washington, D.C., have passed ordinances requiring building owners to report their energy use on an annual basis. Like the State of Colorado, many of these municipalities levy fines for failure to comply with reporting requirements.

New York has enacted Local Law 87 requiring buildings over 50,000 square feet to audit, retro-commission, and submit information to the City.

New York has enacted Local Law 97 requiring most buildings over 25,000 square feet to meet new energy efficiency and greenhouse emissions limits by 2024, with stricter limits in effect by 2030. *See Appendix – Local Law 97 nyc.gov.*

**IV. IMPACTS TO RETAIL REAL ESTATE**

ESG considerations are likely to play a more prominent role in the real estate life cycle – what is acquired, leasing impacts, and asset management. While LEED language has been in leases to cover initial buildouts, additional provisions are likely to be requested by landlords and tenants based on sustainability initiatives and how they track their own progress, and any laws and disclosures in effect that impact real estate. These lease provisions might include energy use, recycling, water and waste management, indoor air quality, and other wellness building features, and. use of green cleaning materials.

**V. ESG LEASE CLAUSES**

**A. Clauses Suggested by Chatgpt**  
<https://openai.com/blog/chatgpt>

**Please draft ESG lease provision:**

Certainly! Here's a draft ESG (Environmental, Social, and Governance) lease provision:

"ESG Lease Provision:





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1. Environmental Stewardship: a. The Landlord and Tenant agree to prioritize environmental stewardship by jointly implementing sustainable practices to minimize the environmental impact of the leased premises and the property as a whole. b. The Tenant shall comply with all applicable environmental laws, regulations, and standards and undertake reasonable efforts to reduce energy consumption, promote waste reduction and recycling, conserve water, and minimize harmful emissions.
2. Social Responsibility: a. The Landlord and Tenant recognize the importance of social responsibility and commit to fostering a positive and inclusive community within the property. b. The Tenant shall respect the rights and dignity of all individuals, including employees, visitors, and neighboring communities, and shall not engage in discriminatory or unethical practices.
3. Governance: a. The Landlord and Tenant shall uphold the highest standards of governance and business ethics in their operations and interactions. b. The Tenant shall maintain accurate records, comply with financial reporting requirements, and adhere to applicable laws and regulations governing the conduct of its business.
4. Collaboration and Reporting: a. The Landlord and Tenant shall collaborate to identify and implement ESG initiatives that align with their shared values and objectives. b. The Tenant agrees to provide periodic reports to the Landlord on its ESG performance, including relevant metrics and progress towards mutually agreed-upon sustainability goals. c. The Landlord and Tenant may work together to develop joint initiatives, educational programs, or community engagement activities related to ESG principles.
5. Compliance: a. The Tenant shall promptly address any identified non-compliance with ESG requirements and take appropriate corrective actions to rectify such issues. b. In the event of persistent non-compliance with ESG provisions, the Landlord reserves the right to take remedial action, including but not limited to termination of the lease agreement.
6. Amendment: a. The Landlord reserves the right to modify or update the ESG provisions set forth in this lease, upon providing reasonable notice to the Tenant. b. The Tenant agrees to comply with any reasonable modifications or updates to the ESG provisions.
7. Confidentiality: a. The Landlord and Tenant agree to treat any proprietary or sensitive ESG information shared between them with strict confidentiality, unless required by law or regulatory obligations.
8. Third-Party Certifications: a. The Tenant shall have the option to seek and obtain third-party ESG certifications or ratings for the leased premises, subject to the Landlord's approval. b. The Landlord agrees to reasonably cooperate with the Tenant in the pursuit and maintenance of such certifications, where applicable.
9. Disclaimer: a. The ESG provisions outlined in this lease do not create any fiduciary duty or legal obligation beyond those expressly set forth in the lease agreement or as required by applicable laws.

The parties acknowledge and agree that ESG principles are integral to their shared commitment to sustainability, responsibility, and long-term value creation."

Please note that this is a general provision and should be tailored to fit specific circumstances or local laws. It is advisable to consult with legal professionals when drafting or reviewing lease agreements.



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**Please draft lease provision addressing landlord sustainability.**

Certainly! Here's a draft lease provision addressing landlord sustainability:

"Landlord Sustainability:

1. Energy Efficiency: The Landlord agrees to make reasonable efforts to improve the energy efficiency of the leased premises and the common areas of the property. This may include but is not limited to installing energy-efficient lighting, HVAC systems, and controls, as well as conducting regular energy audits and implementing energy-saving measures.
2. Renewable Energy: The Landlord shall explore opportunities to incorporate renewable energy sources, such as solar panels or wind turbines, into the property's energy supply. The feasibility, cost-effectiveness, and applicable regulations shall be considered in making decisions regarding renewable energy installations.
3. Water Conservation: The Landlord agrees to implement water conservation measures within the leased premises and common areas. This may include the installation of water-efficient fixtures, monitoring water usage, promptly repairing leaks, and educating tenants on responsible water usage.
4. Waste Management: The Landlord shall establish and maintain a comprehensive waste management program for the property. This program may include recycling stations, composting facilities, and the promotion of waste reduction and recycling practices among tenants.
5. Indoor Environmental Quality: The Landlord shall endeavor to maintain a healthy indoor environment within the leased premises and common areas. This may include regular maintenance of HVAC systems, monitoring of air quality, use of low-emission building materials, and adequate ventilation.
6. Sustainable Landscaping: The Landlord agrees to promote sustainable landscaping practices within the property. This may include planting native and drought-tolerant vegetation, minimizing the use of pesticides and fertilizers, and implementing efficient irrigation systems.
7. Green Building Certifications: The Landlord shall pursue and maintain applicable green building certifications, such as LEED (Leadership in Energy and Environmental Design) or local equivalents, for the property whenever feasible and economically justifiable.
8. Communication and Education: The Landlord shall communicate and educate tenants about sustainable practices, initiatives, and programs within the property. This may include providing informational materials, organizing educational events, or establishing a sustainability committee.
9. Reporting: The Landlord shall provide an annual report to tenants outlining the sustainability efforts and achievements made within the property. This report may include energy and water consumption data, waste diversion rates, and updates on sustainability initiatives.
10. Collaboration: The Landlord encourages tenant participation and collaboration in sustainability initiatives and welcomes suggestions and feedback from tenants regarding sustainability practices.



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11. Amendment: The Landlord reserves the right to modify or update the sustainability provisions set forth in this lease, upon giving reasonable notice to the tenant. The tenant agrees to comply with any such modifications or updates.

The parties acknowledge and agree that the Landlord's commitment to sustainability is crucial for creating an environmentally responsible and sustainable property."

Please keep in mind that this is a general provision and should be tailored to fit specific circumstances or local laws. It's advisable to consult with legal professionals when drafting or reviewing lease agreements.

**Can you please draft lease provision addressing sustainability requirements?**

Certainly! Here's a draft lease provision addressing sustainability requirements:

"Sustainability Requirements:

1. Environmental Performance: The Tenant agrees to comply with all applicable environmental laws, regulations, and standards, and to undertake reasonable efforts to minimize the environmental impact of its operations within the premises. This includes but is not limited to energy conservation, waste reduction, and water efficiency.
2. Energy Efficiency: The Tenant shall strive to promote energy efficiency within the premises by implementing practices such as utilizing energy-efficient appliances, installing LED lighting, and regularly maintaining HVAC systems to ensure optimal energy performance.
3. Waste Management: The Tenant shall implement proper waste management practices, including recycling and composting programs, and shall strive to minimize waste generation by encouraging employees and visitors to reduce, reuse, and recycle.
4. Water Conservation: The Tenant agrees to promote water conservation efforts by using water-efficient fixtures and appliances, promptly fixing any water leaks or malfunctions, and encouraging employees and visitors to use water responsibly.
5. Sustainable Transportation: The Tenant shall encourage the use of sustainable transportation methods, such as carpooling, cycling, walking, and using public transportation, by providing adequate facilities, such as bicycle racks and showers, and by promoting relevant programs and initiatives.
6. Indoor Environmental Quality: The Tenant shall maintain a healthy indoor environment by implementing appropriate measures to ensure good indoor air quality, such as regular HVAC maintenance, use of low-emission materials, and proper ventilation.
7. Green Certifications: The Tenant shall, upon request by the Landlord, provide documentation or evidence of any applicable green certifications or sustainability programs in which the Tenant participates.
8. Reporting: The Tenant shall provide an annual report to the Landlord outlining its efforts and achievements in meeting the sustainability requirements set forth in this provision.
9. Compliance: In the event that the Tenant fails to comply with any of the sustainability requirements stated herein, the Landlord reserves the right to take appropriate



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measures, including but not limited to issuing a notice of non-compliance and seeking remedies as allowed by law.

10. Amendment: The Landlord reserves the right to modify or update the sustainability requirements set forth in this provision, upon giving reasonable notice to the Tenant. The Tenant agrees to comply with any such modifications or updates. The parties acknowledge and agree that adherence to these sustainability requirements is essential for the promotion of a sustainable and environmentally responsible operation of the premises."

Please note that this is a general provision and may need to be tailored to fit specific circumstances or local laws. It is recommended to consult with legal professionals when drafting or reviewing lease agreements.

**B. Tenant Energy Disclosure (Institute for Market Transformation)**

"Tenant shall be required to submit on a(n) [monthly, quarterly, annual] basis to Landlord energy and water consumption data, including total usage and total charges as they appear on Tenant's electric, gas, water, and other utility bills, in a format deemed reasonably acceptable by Landlord. The Landlord participates in an energy benchmarking program with the United States Environmental Protection Agency (EPA) called ENERGY STAR Portfolio Manager®. This program helps the Landlord improve the energy efficiency of the Building. To this end, Landlord may request Tenant to provide monthly electricity data for the Leased Premise from the utility company."

**C. Tenant Energy Disclosure (ICSC/JLL)**

"Tenant shall be required to submit on a(n) [monthly, quarterly, annual] basis to Landlord energy and water consumption data, including total usage and total charges as they appear on Tenant's electric, gas, water, and other utility bills, in a format deemed reasonably acceptable by Landlord. Landlord agrees to provide, at Tenant's request, building level energy and water consumption, as well as (if applicable) the Energy Star score of the building."

**D. Create a Sustainability Contact (ICSC/JLL)—sometimes combined with the Tenant Energy Disclosure**

"Landlord and Tenant shall provide a point of contact to discuss issues related to sustainability and energy. Issues include, but are not limited to, retrofit projects, billing issues, energy efficiency upgrades, and data access."

"Landlord's point of contact to discuss issues related to sustainability and energy is [\_\_\_\_\_], and Tenant's point of contact to discuss issues related to sustainability and energy is [\_\_\_\_\_]. Landlord and Tenant may each update such point of contact by providing notice to the other. Issues include, but are not limited to, retrofit projects, billing issues, energy efficiency upgrades, and data access."



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**E. Purchase of On-Site Renewables (ICSC/JLL)**

“Tenant shall purchase energy from on-site renewables as provided by the Landlord via a Power Purchase Agreement (PPA). Landlord shall install, own and maintain the on-site generation and sell power directly to the Tenants at a fixed rate that is at or below electricity rate offered by local utilities.

**Appendix**

- *SEC Fact Sheet Enhancement and Standardization of Climate Related Disclosures.* [33-11042-fact-sheet.pdf \(sec.gov\)](#)
- *SEC Fact Sheet: ESG Disclosures for Investment Advisers and Investment Companies.* [ia-6034-fact-sheet.pdf \(sec.gov\)](#)
- *The Green Guides last updated in 2012. See the [www.ftc.gov](#) website.*
- *NASDAQ’S Board Diversity Rule: What Company’s Should Know (Last Updated February 28,2023).* [Board Diversity Disclosure Five Things.pdf \(nasdaq.com\)](#)
- *Treasury Fact Sheet: The Financial Stability Oversight Council and Progress in Addressing Climate – Related Financial Risk* [FSOC 20220728 Factsheet Climate-Related Financial Risk.pdf \(treasury.gov\)](#)
- *Final Rule on Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights Nov. 22, 2022.* [Final Rule on Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights | U.S. Department of Labor \(dol.gov\)](#)
- *See Appendix – Colorado Energy Office Press Release June 3, 2022.* [https://urldefense.com/v3/\\_https://energyoffice.colorado.gov/sites/energyoffice/files/documents/CEO\\_PressRelease\\_LegislativeWins\\_EN\\_v1.pdf\\_!!GajMJZiM!UCCH9C8iw6\\_ZZyojcD0vcmw464YImZByOYZkV9TtAKkNqr-xCJ35bnLwoys5YltoyZPqeyKqLtCgwgfHjyk\\$](https://urldefense.com/v3/_https://energyoffice.colorado.gov/sites/energyoffice/files/documents/CEO_PressRelease_LegislativeWins_EN_v1.pdf_!!GajMJZiM!UCCH9C8iw6_ZZyojcD0vcmw464YImZByOYZkV9TtAKkNqr-xCJ35bnLwoys5YltoyZPqeyKqLtCgwgfHjyk$)
- *See Appendix – Colorado Energy Office website, Building Benchmarking* <https://energyoffice.colorado.gov/climate-energy/energy-policy/building-benchmarking>
- *See Appendix – Local Law 97 nyc.gov.* <https://www.nyc.gov/site/sustainablebuildings/l97/local-law-97.page>

**Additional Resources:**

**ICSC’s ESG Center:**

<https://www.icsc.com/news-and-views/environmental-social-and-governance-center>

**Nareit Guide to ESG Reporting Frameworks February 2019**

[www.reit.com](http://www.reit.com)

**LexisNexis Environmental, Social and Governance (ESG) Resource Kit** – collects Practical Guidance resources addressing Environmental Governance (ESG) issues and Corporate Social Responsibility (CSR). The resource kit will be updated as new ESG/CSR content is published.



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**Institute for Market Transformation**

<https://www.imt.org/transformingrealestate/>

**Green Lease Leaders: Reference Guide For Landlords**

<https://www.greenleaseleaders.com/green-lease-library/>

**Green Lease Leaders: Reference Guide For Tenants**

<https://www.greenleaseleaders.com/green-lease-library/>

**Green Lease Leaders: Green Lease Language Samples 2020**

<https://www.greenleaseleaders.com/green-lease-library/>