



Le Sueur County, MN

Tuesday, September 5, 2017

Board Meeting

Item 8

10:00 a.m. Peter Lindstrom (15 min)

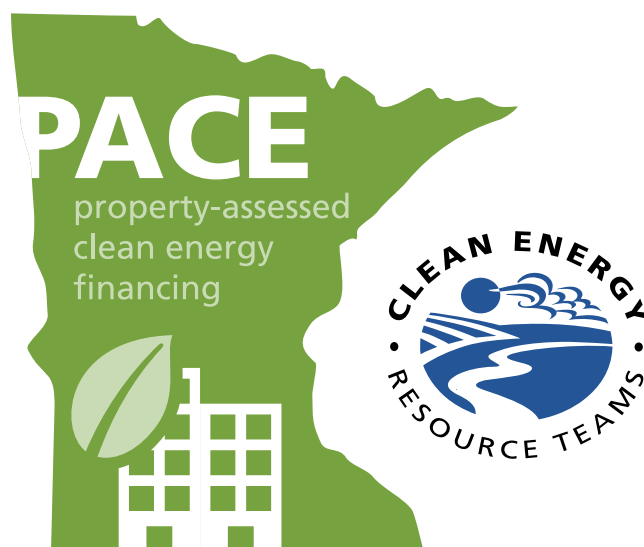
RE: New Prague Senior Living PACE Project

Staff Contact:

What is Property Assessed Clean Energy (PACE)?

PACE is a new way to finance energy efficiency and renewable energy upgrades to the buildings of commercial property owners.

Energy-saving measures pursued by the owners receive project financing and are repaid as a separate item on their property tax assessment for a set period. PACE eliminates the burden of upfront costs by providing low-cost, long-term financing.



Why PACE, and how does it work?

PACE financing helps overcome several barriers to making energy improvements:

- Eliminates high up-front costs
- Reduces dependence on credit
- Allows for comprehensive retrofits
- Allows programs to recoup their costs

Property Assessed Clean Energy (PACE) financing allows property owners to finance energy-related improvements to their buildings with affordable, long-term capital.

PACE PROJECT PROCESS



HOW THE MONEY FLOWS



**Learn more
on reverse**

Can I use PACE to finance building improvements?

Minnesota state law allows local units of government to enter into joint powers agreements to create PACE programs. Under this innovative arrangement, commercial, industrial, nonprofit and multi-housing property owners can take on voluntary special assessments to finance energy efficiency, renewable energy, or electric vehicle infrastructure improvements to their properties.

PACE allows companies the opportunity to maintain a positive cash flow while investing in energy upgrades at no cost to taxpayers. PACE financing can also make it easier for building owners to transfer financed improvement repayment to the next owner upon sale, as the repayment resides with the property tax assessment.

Basic qualifications for PACE financing:

- Property owners must be current on mortgage and property taxes
- No federal or state liens against the property
- Must not be in bankruptcy proceeding
- Lender acknowledgement or "consent" from current mortgage lender
- Term of financing may not exceed weighted average useful life of improvements
- Improvements may not exceed 20% of assessed property value

What programs exist in Minnesota?

There are currently two commercial PACE programs available to Minnesota cities and counties that want to help finance building energy improvements in their jurisdictions.

Rural Minnesota Energy Board

Available to entities in the Rural Minnesota Energy Board's counties. The program is administered by the Southwest Regional Development Commission. Learn more at <http://mncerts.org/pace#rmeb>.



Saint Paul Port Authority

Available to entities in any city or county in Minnesota. Interested local governments can work with the Saint Paul Port Authority to authorize the program. Learn more at <http://mncerts.org/pace#sppa>.



Ready To Get Started?



Dig a little deeper: Visit the CERTs website resource page on PACE, which includes program details, a map of all participating cities and counties, and interviews with business owners who have completed projects at <http://mncerts.org/pace>.

Go further: Contact Pete Lindstrom with the Clean Energy Resource Teams at plindstr@umn.edu or 612-625-9634.

**Port Authority of the City of Saint Paul
Property Assessed Clean Energy Program
(MinnPACE)
JOINT POWERS AGREEMENT**

Saint Paul Port Authority
850 Lawson Commons
380 St. Peter Street
Saint Paul, MN 55102
(651) 224-5686
(651) 223-5198 (fax)
www.sppa.com

DRAFT

JOINT POWERS AGREEMENT

This Agreement, made and entered into as of the ____ day of _____, 2017, by and between the Port Authority of the City of Saint Paul (the "Port Authority"), a body corporate and politic, and the County of Le Sueur, Minnesota, a political subdivision under the laws of Minnesota (the "County"), provides as follows:

WHEREAS, the Port Authority has been engaged in governmental programs for providing financing throughout the State of Minnesota (the "State") by making loans evidenced by various financing leases and loan agreements, and in the process of operating these programs the Port Authority has developed a high degree of financial expertise and strength; and

WHEREAS, Minnesota Statutes, Sections 216C.435 and 216C.436 and Chapter 429 and 471.59 (collectively the "Act") authorize the County to provide for the financing of the acquisition and construction or installation of energy efficiency and conservation improvements (the "Cost Effective Energy Improvements" as defined in the Act or "Improvements") on Qualifying Real Properties" as defined in the Act (the "Properties" or "Property") located within the boundaries of the County through the use of special assessments; and

WHEREAS, the Act authorizes the County to designate a local government unit other than the County to implement the program under the Act on behalf of the County; and

WHEREAS, the County has one or more projects within the boundaries of the County that have Improvements in need of financing, and has adopted its Resolution No. _____ (a copy of which is attached hereto as Exhibit A) to designate the Port Authority to implement and administer a program on behalf of the County to finance such Improvements; and

WHEREAS, the Port Authority has created a program under the Act known as the Property Assessed Clean Energy Program ("MinnPACE") for purposes of implementing and administering the activities described in the Act, and the Port Authority is willing to implement and administer that program on behalf of the County as requested herein; and

WHEREAS, the County has expressed a desire to make energy improvement financing programs of the kind managed by the Port Authority available for improvements of eligible properties within its boundaries, including but not limited to the Energy Savings Partnership, Trillion BTU and MinnPACE, and a joint powers agreement is required between the County and the Port Authority for MinnPACE; and

WHEREAS, the Improvements will serve citizens of Le Sueur County and the State of Minnesota.

NOW THEREFORE, in consideration of the mutual covenants herein made, the parties to this Agreement hereby agree as follows:

1. The Port Authority will exercise the powers of the Act on behalf of the County by providing financing for Improvements located within the boundaries of the County. Except as otherwise provided in this Joint Powers Agreement, the Port Authority shall be solely responsible for the implementation and administration of MinnPACE and the financing of the Improvements.

2. In connection with its implementation and administration of MinnPACE, and its financing of the Improvements located within the boundaries of the County, it is anticipated that the Port Authority will enter into various agreements with persons wishing to obtain financing for Improvements located within the boundaries of the County as well as with sources of financing for such Improvements (collectively the "Program Documents").

3. The Port Authority may and is permitted to charge fees for its implementation and administration of MinnPACE, which fee will be described in, and payable under, the Program Documents.

4. The Port Authority will have the sole duty and responsibility to comply with or enforce covenants and agreements contained in the Program Documents. This power specifically includes the responsibility for monitoring and enforcing compliance with the provisions of the Program Documents.

5. Either the Port Authority or a lending institution (the "Lender") will use its own financial resources to finance the Improvements (the "Loan"), or a taxable special assessment revenue bond(s) (the "Bond(s)") issued by the Port Authority in favor of the Lender will be used to finance the Improvements. Regardless of the financing mechanism, the Lender will advance funds under the Program Documents to be paid from levied special assessments.

6. The Loan(s) or Bond(s) must be a special/limited obligation of the Port Authority, payable solely from special assessments levied by the County as provided herein. The Loan(s) or Bond(s) and interest thereon must neither constitute nor give rise to a general indebtedness or pecuniary liability, or a general or moral obligation, or a pledge or loan of credit of the Port Authority, the County, the City of Saint Paul or the State of Minnesota, within the meaning of any constitutional or statutory provision. To that end, the Port Authority hereby agrees to indemnify and hold harmless the County from and against any claims or losses arising out of the failure of the Port Authority to provide for the payment of principal of, and the interest or any premium on the Loan(s) or Bond(s), from special assessment payments actually paid to the Port Authority by the County. This indemnity must not, however, be construed to relate to any claims or losses which might arise by virtue of the exercise, by the County, of its governmental powers in connection with the Project, or by virtue of the failure of the County to levy and collect special assessments with respect to the Improvements or promptly remit such special assessment payments to the Port Authority as provided in the Program Documents.

7. As and for its contribution to the financing of the Improvements, and as provided in the Act, the County must impose and collect special assessments necessary to pay debt service on that portion of the Loan(s) or Bond(s) attributable to the Improvements located within the boundaries of the County. Evidence that the County has imposed such special assessments is a

precondition to the Port Authority's obligation to provide financing to any Improvements located within the boundaries of the County in accordance with the following process:

A. The Port shall provide to County an application from an Applicant under the Program which includes the following documentation:

1) A copy of the Application containing the legal name of the Applicant, its legal status, its legal address, a description of the Project, the cost of the Improvements, the total amount to be assessed against the Property and the address, legal description and tax identification code for the Property upon which the Improvements are to be constructed or installed.

2) A statement from the Port that the proposed Project as described in the Application qualifies under the requirements of the Act and the Port Authority.

3) A fully-executed copy of the Applicant's Petition and Assessment Agreement suitable for evidencing, and recording if necessary, Applicant's agreement to be assessed for the amount of the Improvements.

B. Upon receipt of the documentation described in Subparagraph A above, County agrees that it will levy an assessment against the Property for the amount to be assessed as set forth in Section 7.A. above.

C. Evidence that the County has imposed such special assessments is a precondition to the Port Authority's obligation to provide financing to any Improvements located within the boundaries of the County.

D. In the event that, after the County levies an assessment against the Property for the costs of the Improvements and related costs as provided for in Subparagraph B above, the Port does not fund the cost of the Improvements as contemplated by this Agreement, the Port shall promptly notify County that it has not and will not fund the costs of the Improvements under the Program and County shall thereafter inform the County Auditor to remove the subject assessment from the Property.

8. Once the County has imposed special assessments to finance Improvements located within the boundaries of the County, the County transfer all collections of the assessments received by it upon receipt to the Port Authority for application to the payment of the applicable Loan(s) or Bond(s). The County will take all actions permitted by law for the recovery of the assessments, including without limitation, reinstating the outstanding balance of assessments when the land returns to private ownership, in accordance with Minn. Stat. Section 429.071, Subd. 4. The County has no obligation to make any payment on the applicable Loan(s) or Bond(s) other than by the imposition and collection of special assessments pursuant to the Act. The County acknowledges that the Lender is a third-party beneficiary of the County's covenants herein with respect to the imposition and transfer of special assessments described herein.

9. Unless otherwise provided by concurrent action of the Port Authority and the County, this Agreement will terminate upon a 30-day's advanced written notice to the other Joint Powers Agreement partner or upon the retirement or defeasance of all Loan(s) or Bond(s), whichever is later; and notwithstanding any other provisions, this Agreement may not be terminated in advance of such retirement or defeasance.

10. This Agreement may be amended by the Port Authority and the County, at any time, by an instrument executed by both of them. The Port Authority or the County may not amend this Agreement, however, if the effect of the amendment would impair the rights of the holder of the Loan(s) or Bond(s), unless the holder has consented to the amendment.

11. This Agreement may be executed in any number of counterparts, each of which when taken together will constitute a single agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Port Authority and the County have caused this Agreement to be executed on their behalf, by their duly authorized officers, as of the day and year first above written.

PORT AUTHORITY OF THE
CITY OF SAINT PAUL

By: _____
Its: President

By: _____
Its: Chief Financial Officer

COUNTY OF LE SUEUR, MINNESOTA

By: _____
Its: _____

By: _____
Its: _____

EXHIBIT A

Extract of Minutes of Meeting of the Board of Commissioners of the County of Le Sueur, Minnesota

Pursuant to due call and notice thereof, a regular meeting of the Board of Commissioners of the County of Le Sueur (the "County"), was duly held at the Le Sueur County Government Center in the County, on _____, 2017, at _____ P.M.

The following members were present:

and the following were absent:

* * * * *

The Chair announced that the next order of business was consideration of the designation of the Port Authority of the City of Saint Paul to implement and administer a program under Minnesota Statutes, Sections 216C.435 and 216C.436 and Chapter 429 and 471.59 on behalf of the County.

Member _____ introduced the following resolution and moved its adoption, the reading of which had been dispensed with by unanimous consent:

RESOLUTION NO. _____

RESOLUTION DESIGNATING THE PORT AUTHORITY TO
IMPLEMENT AND ADMINISTER A PROPERTY ASSESSED
CLEAN ENERGY IMPROVEMENT FINANCING ON BEHALF
OF THE COUNTY, AND PROVIDING FOR THE IMPOSITION
OF SPECIAL ASSESSMENTS AS NEEDED IN CONNECTION
WITH THAT PROGRAM

BE IT RESOLVED by the Board of Commissioners of the County of Le Sueur (the "County"), as follows:

1. The Port Authority of the City of Saint Paul (the "**Port Authority**") has established the Property Assessed Clean Energy Program ("**MinnPACE**") to finance the acquisition and construction or installation of energy efficiency and conservation improvements

(the “**Improvements**”), on properties located throughout the State of Minnesota through the use of special assessments pursuant to Minnesota Statutes Sections 216C.435 and 216C.436 and Chapter 429 and 471.59 (the “Act”).

2. In order to finance the Improvements, the County hereby determines that it is beneficial to participate in MinnPACE, and to designate the Port Authority as the implementor and administrator of that program on behalf of the County for purposes of financing Improvements located within the County.

3. The County understands that the Port Authority may obtain funding from designated lending institutions or may issue its MinnPACE special assessment revenue bond(s) to finance the Improvements, and that the sole security for the loan(s) or bond(s) will be special assessments imposed by the governmental entity participating in MinnPACE.

4. To facilitate and encourage the financing of Improvements located within the County, the County covenants to levy assessments for said Improvements on the property so benefitted, in accordance with the Application and Petition for Special Assessments received from the owner(s) of the Property and approved by the Port Authority. The interest rate on the Special Assessments shall be the interest rate on the Loan(s) or Bond(s), and may include additional interest.

5. After imposition of the special assessments, the County shall collect such assessments and remit them to the Port Authority for use in the repayment of the Loan(s) or Bond(s). The County will take all actions permitted by law to recover the assessments, including without limitation, reinstating the outstanding balance of assessments when the land returns to private ownership, in accordance with Minn. Stat. Section 429.071, Subd. 4.

6. The County Manager or Assistant County Manager are authorized to execute on behalf of the County, any documents, certificates or agreements necessary to implement the program authorized by this resolution.

The motion for the adoption of the foregoing resolution was duly seconded by Member

_____ upon vote being taken thereon the following voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

STATE OF MINNESOTA)
) ss.
COUNTY OF LE SUEUR)

I, the undersigned, being the duly qualified and acting _____ of the County of Le
Sueur, hereby certify that I have carefully compared the attached and foregoing extract of
minutes of a meeting of the Board of Commissioners of said County held _____,
with the original thereof on file and of record in my office and the same is a full, true and
complete transcript therefrom.

WITNESS My hand officially and the seal of the County this _____ of
_____.

(Seal)

By: _____
Its: _____
County of Le Sueur



Property Owner(s) Type(s) — *check all that apply*

- ☐ Individual(s)/Joint Tenants/Common Property (not in trust) ☐ Corporation ☒ Limited Liability Company
☐ Trust/Trustees/Living Trust ☐ Partnership ☐ Other (Specify):

Property Owner Contact Information

Name: Mark Appelbaum Email: mark.appelbaum@makado.com
Phone (Day): (612) 399-6685 Cell Phone: _____

Physical Property Address

Street Address: 10th Avenue SE between 1st Street SE and 3rd Street SE City, State Zip: New Prague, MN 56071

Property Type: ☐ Commercial/Industrial ☒ Apartment (more than four units)

Square Footage of Building (if applicable): 116,078 SF / 91 units

Finance Amount Requested: \$1.58 million based on TIF value of \$7.92 million, subject to modification.

Finance Term: ☐ 10 Years ☒ Other: 20 Years, subject to change based on final energy audit.

Current Mortgage Financing — *attach a copy of Mortgage Statement*

Name of Mortgage Lender: _____

Mortgage Lender Address: _____

Outstanding Principal Balance: _____

Utility Company: _____

Improvement Description — *attach all relevant documentation, including bids and estimates*

Ground up construction of a new, 91 unit senior living facility. The Property is currently planned to have 20% affordable units (max 50% AMI). The project will include the construction of a 4 story building and underground parking garage. Unit mix is currently estimated to be 32 independent living units, 43 assisted living units and 16 memory care units.

Initials

(all signers)



Special Assessments Application and Petition Agreement

The Property Assessed Clean Energy Program (MinnPACE), administered by the Saint Paul Port Authority, provides a finance mechanism for the installation of energy efficiency, renewable and conservation Improvements that are permanently fixed to the eligible properties and petition for special assessments in accordance with Minnesota Statutes Sections 216C.435 and 2016C.436 and Chapter 42, and the MinnPACE program. *For further information on eligibility requirements, see the Administrative Guidelines and Financing Summary found at minnpace.com or contact the Saint Paul Port Authority at 651-204-6236.* This MinnPACE Agreement contains an Application section, a Petition for Special Assessment, and designated attachments, all of which must be reviewed and completed, and constitute a full and complete agreement.

APPLICATION

Eligibility Requirements

- Applicant(s) is/are legal owner(s) of the Property described in the Application (the "Property.")
- Property is developed and located within the City of New Prague and County of Le Sueur.
(Revise as needed if special assessments are to be levied by a county or town.)
- Property Owner is current on all mortgage(s). All lenders have signed the Lender Acknowledgement Form for MinnPACE Financing.
- Property Owner is not in bankruptcy and the Property is not an asset in a bankruptcy proceeding.
- There are no federal or state income tax liens, judgment liens or similar involuntary liens on the Property.
- Applicant(s) can be verified as being in "Good Standing" with the Minnesota Office of the Secretary of State **or** are be able to provide a Member Agreement or Operating Agreement certified to be true or correct.
- Improvement costs are reasonable for the scope of the proposed Improvements and in relation to Property value.
- Requested Financing Amount does not exceed the lesser of 20 percent of the Property Market Value or the actual cost of installing the Improvements, including the cost of necessary equipment, materials and labor, the cost of energy audit or renewable energy feasibility study and the cost or verification of installation, less the value of expected rebates.
- Term of financing requested does not exceed the weighted average of the useful life of the Improvements.
- Applicant(s) has/have obtained an **energy audit or renewable energy feasibility study** on the Property. **Attach when submitting application.**

Below, please list and identify all real estate upon which the improvement will constructed or will be directly benefited.

Property Owner(s) Legal Name(s) (as they appear on Property tax records)

Applicant #1: New Prague Senior Living Associates I LLC

List all parcel #s Owned by Applicant #1: PID: 23.605.0050

Applicant #2: _____

List all parcel #s Owned by Applicant #2: _____

Applicant #3: _____

List all parcel #s Owned by Applicant #3: _____

Applicant #4: _____

List all parcel #s Owned by Applicant #4: _____

Initials

(all signers)



Petition for Special Assessment

We hereby acknowledge that we will be obligated to pay the assessments when due. The assessment and the interest and any penalties thereon will constitute a lien against the Property until they are paid, even if I/we sell the Property to another person. I/we understand that assessment installments together with the interest on the assessment will be collected on my/our Property tax bill in the same manner and at the same time as Property taxes and will be collected on my/our Property tax bill in subject to the same penalties, remedies and lien priorities as for Property taxes in the event of delinquency, including foreclosure. I/we waive any and all procedural and substantive objections to the installation of the Improvements and the special assessments, including but not limited to any public or other hearings or hearing requirements and any claim that the assessment exceeds the benefit to the Property. I/we waive any appeal rights otherwise available pursuant to M.S.A. §429.081.

The City or County will assess the cost of the Improvements as a special assessment against the Property in accordance with the City's or County's charter, code, or ordinances regulating assessments. The Assessment will carry a term of up to 20 years and will be certified by the City or County annually to County for collection with Owner's Property taxes. Owner may choose to prepay all or a portion of the assessment directly to the City or County at any time during the term of the Assessment. All principal amounts certified annually will carry interest amounts calculated on a fixed interest rate as established by the Saint Paul Port Authority prior to ratification of the Assessment by the City or County.

Declarations

By signing this Application, the undersigned hereby declares under penalty or perjury under the laws of the State of Minnesota all of the following:

1. I am/we are the current owner of record of the Property described herein (the "Property.")
2. The Property is not currently involved in a bankruptcy proceeding.
3. I/we are current on any mortgage(s) or other loan(s) secured by the Property.
4. I/we and the Property meet the Eligibility Requirements listed on page one.
5. I/we waive any and all procedural and substantive objections to the installation of the Improvements and the special assessments, including but not limited to any public or other hearings or hearing requirements and any claim that the assessment exceeds the benefit to the Property. I/we waive any appeal rights otherwise available pursuant the M.S.A. § 429.801.
6. That (i) the information provided in, or in connection with, this Application is true and correct as of the date set forth opposite my/our signature(s) on this Application and (ii) that I/we understand that any intentional or negligent misrepresentation(s) of the information contained in this Application, or provided in connection with the Application, may result in civil liability and/or criminal penalties including, but not limited to, fine or imprisonment or both and liability for monetary damages to the Saint Paul Port Authority, any lender providing financing for Improvements described herein, their agents, successors and assigns, insurers and any other person who may suffer any loss due to reliance upon any misrepresentation(s) which I/we have made in this application.
7. I/we agree that the selection of any product(s), equipment and measures referenced in this Application (the "Improvements,") and the decisions regarding the purchase, installation and ownership/maintenance of the Improvements is/are my/our sole responsibility and that I/we have not relied upon any representations or recommendations of MinnPACE/Saint Paul Port Authority, its agents, representatives, assignees, or employees in making such selection or decision, and that my manufacturer, dealer, supplier, contractor or installer of the Improvements is not an agent, employee, assignee or representative of MinnPACE/Saint Paul Port Authority.
8. Owner agrees that any review and approval of the Improvements by a City, County, State or governmental department is granted only in its capacity of administering and enforcing existing relevant codes. Any such approval is only as to compliance with the codes and does not create a special duty to the Owner nor establish a warranty of quality of materials and workmanship.
9. I/we understand the MinnPACE/Saint Paul Port Authority makes no warranty, whether expressed or implied, with respect to the choice, use or application of the Improvements, including without limitation, the implied warranties of merchantability and fitness for any particular purpose, or the use or application of the Improvements.
10. I/we agree that MinnPACE/Saint Paul Port Authority has no liability whatsoever concerning (i) the quality or safety of any Improvements, including their fitness for any purpose, (ii) the estimated energy savings produced by or performance of the Improvements, (iii) the workmanship of any third parties, (iv) the installation or use of the improvement including, but not limited to, any effect on indoor pollutants; or (v) any other matter with respect to MinnPACE/Saint Paul Port Authority.

Initials

(all signers)



Prior to sending this application, be sure to include all required attachments.

- ☐ Evidence of Energy Audit or Renewable Energy System Feasibility (requested on page one) — *REQUIRED*
- ☐ Mortgage Statement (requested on page two) — *REQUIRED*
- ☐ Construction Contracts/Bids (requested on page two) — *REQUIRED*
- ☐ Lender Acknowledgment Form (requested on page five) — ***REQUIRED FOR EACH AND EVERY MORTGAGE HOLDER***
- ☐ Financial Statements or Tax Returns from the past three years — *REQUIRED*

Signatures of all Property Owners and Notary

Date: 08/07/2017

Property Owner Signature [Signature] Printed Name Mark Appelbom

Property Owner Signature _____ Printed Name _____

Property Owner Signature _____ Printed Name _____

Property Owner Signature _____ Printed Name _____

For an acknowledgment in an individual capacity:

State of Minnesota

County of _____

This instrument was acknowledged before me on _____ (date) by _____ (name(s) of person(s)).
(Seal, if any)

Signature of notarial officer _____

Title (and Rank) My commission expires: _____



MinnPACE

A division of the Saint Paul Port Authority

minnpace.com

380 Saint Peter Street, Suite 850

Saint Paul, MN 55102

651-204-6236 (phone) | 651-223-5198 (fax)

Lender Acknowledgement Form

The undersigned, on behalf of the Lender, which is the holder of a mortgage lien on the Property described in this Application and Petition for Special Assessments in accordance with MinnPACE, administered by the Saint Paul Port Authority, acknowledges that it has reviewed the Applicant's completed MinnPACE Program Special Assessments Application and Petition Agreement, and confirms that the Applicant's receipt of MinnPACE financing and petition for assessment in connection therewith, and the imposition of, and any assignment of, MinnPACE will not constitute a default under Lender's mortgage.

Lender/Institution Name: _____

By: _____
(Signature)

Name (print): _____

Title: _____

Date: _____

