



# **Port Authority of the City of Saint Paul**

## **Property Assessed Clean Energy Program (PACE OF MN)**

### **ADMINISTRATIVE GUIDELINES**

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## I. INTRODUCTION

In 2010, the Minnesota State Legislature approved Minnesota Statutes, Sections 216C.435 and 216C.436, authorizing cities and counties to establish voluntary contractual assessment programs to fund an array of energy efficiency and renewable energy projects proposed by property owners. The State Legislature declared that a public purpose will be served by such programs, giving local governments the authority to finance the installation of distributed generation renewable energy sources — such as solar electric systems — and energy efficiency improvements that are permanently affixed to residential, commercial, industrial, or other real property.

To make energy efficiency and conservation improvements more affordable and to promote their installation, the legislation provides procedures for authorizing voluntary assessments to finance the cost of these improvements. The Property Assessed Clean Energy Program (“**PACE OF MN**” or “**Program**”) has been approved by the Board of Commissioners of the Port Authority of the City of Saint Paul (the “**Port Authority**”) and authorizes Port Authority staff to work with the owners of the property on which the energy improvements are to be made and the cities and/or counties in which such property is located.

The program will provide financing (“**PACE OF MN Financing**”) to property owners within the State to finance the installation of energy efficiency and renewable energy improvements under contractual assessment agreements. Property owners will repay PACE OF MN Financing through an assessment levied against their property which is payable in semi-annual installments on property tax bills. Payments made by property owners through this assessment mechanism will be pledged to secure financing provided by one or more lenders (individually a “**Lender**” and collectively the “**Lenders**”) which have agreed to purchase Port Authority of the City of Saint Paul PACE OF MN Special Assessment Revenue Bonds (Taxable) to provide initial financing for the Program. An individual revenue bond issued to provide PACE OF MN Financing is hereinafter referred to as a “**Bond**”. All of such revenue bonds together are collectively referred to as the “**Bonds**”.

### A. Goals

PACE OF MN will help property owners of improved real property invest in the long-term health of the economy and the environment by providing a long-term financing mechanism for energy efficiency and renewable energy improvements.

PACE OF MN provides multiple benefits. By enabling property owners to take responsible energy efficiency and renewable energy actions, the Program will reduce their utility bills. At the same time, PACE OF MN financed projects support the local economy and makes it possible for the Port Authority and the State of Minnesota to fulfill energy efficiency, renewable energy and climate protection goals.

## **B. Program Benefits**

Reduced energy use and increased on-site renewable energy generation translates directly into reduced greenhouse gas emissions and strengthens our nation's energy security.

For property owners, PACE OF MN offers a no-money-down means of financing energy efficiency and renewable energy improvements; fixed-rate financing over a number of years, financing without requiring a property appraisal; a streamlined financing and repayment process, and access to financing that may not be readily available through traditional means.

## **C. Program Administration**

Port Authority responsibilities will include: Community outreach and PACE OF MN marketing; responding to property owners inquiries; Processing applications; submitting requests to applicable cities and counties for assessment and joint powers authorizations; submitting potential projects to one or more Lenders for credit approval; managing and tracking funds available for PACE OF MN, including the collection and application of assessments, and the application and replenishment of the reserve account created in connection with the issuance of the Bonds; tracking individual project and collective energy savings and renewable energy generation, and associated carbon emission reductions, review of PACE OF MN administration activities and performance; and coordinating with participating jurisdictions.

# **II. PROGRAM REQUIREMENTS**

## **A. Geographic Parameters**

All properties located within the corporate limits of a Minnesota City, County or Town shall be eligible, provided that the City, County or Town (the "**Host Jurisdiction**") has designated the Port Authority as the provider of administrative services and financing for eligible Improvements.

## **B. Eligible Property Owners and Eligible Properties**

Property owners may be associations, business entities, cooperatives, and nearly any owner which pays secured real property taxes. Only properties classified as commercial/industrial, agricultural or multifamily housing (4 or more dwelling units) by a City Assessor are eligible for financing under the Program. Certain eligibility criteria must be satisfied. Financing may be approved if the following criteria are met:

- (1) Property Title is vested in the applicant(s), without federal or state income tax liens, judgment liens or similar involuntary liens on the property.
- (2) Property owner is current on property taxes.

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- (3) Property owner is not in bankruptcy, and the property is not an asset in a bankruptcy proceeding.
- (4) Property owner is current on mortgage(s).
- (5) Property owner has provided all financial information requested by the Port Authority or an applicable Lender.
- (6) By state law, PACE OF MN funding is limited to 10 percent of the property's current assessed value.
- (7) All existing mortgage lien holders have signed a lender acknowledgement notice ensuring that such lenders have notice of the proposed PACE OF MN assessment and declaring that the assessment will not constitute a default of the mortgage note.

While PACE OF MN financing may not exceed 10 percent of the property's current assessed value, other financing tools may be applied to those portions of projects in excess of the 10 percent assessed value limit with the approval of the Port Authority.

These applications are reviewed on a case-by-case basis; and if property owner has been in bankruptcy in the past three years, the bankruptcy must have been concluded at least one year before application was filed. In addition, all mortgage payments due on the property must have been timely paid during the six months preceding the application. If property is subject to loan modification because of default or delinquency, the loan modification must have been completed at least one year before application was filed. In addition, all mortgage payments due on the property must have been timely paid during the six months preceding the application.

PACE OF MN Financing is not currently available for properties that are not subject to secured property taxes, such as governmental entities. Property owners may make more than one application for funding under the program if additional energy improvements are desired by the owner, subject to all other limitations of the program.

**C. Eligible Equipment**

PACE OF MN allows eligible property owners in the State of Minnesota the opportunity to take advantage of a wide range of energy efficiency and renewable energy measures, consistent with the following provisions:

- (1) PACE OF MN Financing is intended principally for retrofit activities to replace outdated inefficient equipment and to install new equipment that reduces energy consumption, produces renewable energy, or reduces energy use. However, PACE OF MN Financing is also available for purchasers of new businesses that wish to add energy efficiency, renewable energy, and energy conservation improvements after taking title to the property.

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- (2) PACE OF MN provides financing only for energy efficiency improvements that are permanently affixed to real property, and renewable energy improvements attached to, installed within or proximate to a building.
- (3) PACE OF MN provides financing only for improvements specified in Appendix A. Broadly, these include:
  - (a) Energy Efficiency Improvements;
  - (b) Renewable Energy Systems; and
  - (c) Custom Measures, such as large-scale commercial or industrial projects requiring engineering design and meeting the financing threshold (\$500,000) requiring approval by the Port Authority or projects involving emerging technologies for improvements that provide new ways to save or generate energy will be evaluated on a case-by-case basis.

A detailed list of improvements is set out in Exhibit A - PACE OF MN's Eligible Improvements list.

PACE OF MN Financing is also available for projects that combine eligible improvements, such as bundling of, energy efficiency and renewable energy measures. For instance, a property owner may choose to replace an aging and inefficient furnace, install weather stripping, and install a photovoltaic system.

**D. Eligible Costs and Program Fees**

(1) Project Costs.

Eligible costs of the energy efficiency and renewable energy improvements include the cost of equipment and installation. Installation costs may include, but are not limited to, energy evaluation consultations, labor, design, drafting, engineering, permit fees, and inspection charges. All improvements, including those normally exempt from permit requirements, will require a permit from the applicable Host Jurisdiction. Final inspection by a building inspector will ensure that the Improvements were completed and compliant with all applicable building codes..

The installation of energy efficiency and renewable energy improvements can be completed by a qualified contractor of the property owner's choice. Eligible costs do not include labor costs for property owners that elect to do the work themselves.

Property owners who elect to engage in broader projects may only receive PACE OF MN Financing for that portion of the cost of retrofitting existing structures with energy efficiency and renewable energy improvements. Repairs and/or new construction only qualify for PACE OF MN Financing to the extent that the construction is required for the specific approved improvement.

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The value of expected rebates will be deducted from PACE OF MN Financing; the value of expected tax credits will not be deducted from PACE OF MN Financing. “Expected rebates” do not include rebates (1) that are contingent on performance or (2) that are not available to the property owner at or shortly after completion of the project, so as to be available for use to pay for the project.

Port Authority staff will determine whether the estimated equipment and installation costs are reasonable. Port Authority staff will evaluate market conditions and may require the property owner to obtain additional bids to determine whether costs are reasonable. While the property owner may choose the contractor, the amount available for PACE OF MN Financing will be limited to an amount determined reasonable by Port Authority staff.

(2) Program Fees.

The following program fees will be the responsibility of the property owner. The annual assessment fee will be included on the annual tax statement. The other fees must be paid at the time they are incurred.

- (a) Title costs, including title insurance, where required
- (b) Recording fee for documents required to be recorded by State law, which includes the Notice of Assessment, Assessment Contract, and Disclosure Notification
- (c) Legal fees and underwriting fees incurred by the Port Authority for the project financing

(3) Escrow fees.

Some large projects, or projects with multiple contractors, may benefit from funding through an escrow process. If this process is selected by the property owner, the owner would select an escrow agent, and after the Assessment Contract is signed, the amount requested would be funded into the escrow account. Escrow instructions governing release of the funds would need to be approved by the Port Authority and the applicable Lender. All fees related to this process would be the responsibility of the property owner but could be requested as part of Program funding. Interest on the full amount of the requested disbursement will begin to accrue as soon as the escrow is funded. Any amount not needed at the completion of the project must be returned to the Program, and will be deducted from the amount of the assessment lien. All projects over \$500,000 must utilize an escrow process.

**E. Administrative Costs**

The Program may elect to cover all or a portion of its costs through the “spread” between the interest rate charged by the applicable Lender and the PACE OF MN Financing interest rate offered to the property owner. Similarly, it may elect to recover PACE OF MN costs through a spread between bond rates and assessment rates, or the

spread between interest rates of any financial vehicle. The Program shall charge a fee as outlined in the PACE OF MN Financial Summary section at the time of submission of the PACE OF MN application.

### **III. TRACKS FOR PARTICIPATION**

There are three categories or “tracks” of technologies under which property owners may participate in the program. Eligible improvements must meet specified minimum efficiency standards. A complete list of approved improvements is set out in the Eligible Improvements list.

#### **A. The Energy Efficiency Track.**

The Energy Efficiency Track covers a wide range of energy efficiency fixtures from windows and doors, attic insulation and HVAC equipment that is Energy Star rated. Packaged and central air conditioning systems must meet specified minimum efficiencies.

#### **B. The Renewable Energy Track.**

The Renewable Energy Track covers renewable energy systems that generate electrical or thermal energy from a renewable energy source, including but not limited to: solar electric systems, solar thermal energy systems, and wind electric generation systems.

#### **C. The Custom Measure Track.**

The development of technologies is encouraged by PACE OF MN as a means of diversifying the energy sources. The Custom Measure Track will evaluate and provide funding, if appropriate, for these innovative projects.

Applicants for the Custom Measure Track should consult with Port Authority staff to determine eligibility and will be required in most cases to submit engineering plans and specifications. The Port Authority will approve the Custom Measure Track application on a case-by-case basis, and may request consultation from outside technology experts in making this decision. The applicant would be expected to bear the cost of such consultation. Cost reimbursement would be discussed with the applicant before the project was reviewed.

### **IV. ENERGY AUDITS, EVALUATIONS AND SOLAR SITE CHECKS**

An onsite energy audit or evaluation is required for participation in the Program. Your energy provider may offer an energy audit or evaluation services to help property owners determine the most cost-effective and efficient route to maximize investment and energy savings. Property owners may include the cost of the energy audit or evaluation in the application for PACE OF MN Financing.



## **V. PROGRAM PARAMETERS**

### **A. Minimum Energy Financing Amount and Duration of Assessment**

PACE OF MN Assessment Contracts are available for five and ten, fifteen or twenty-year terms to accommodate a wide range of efficiency measures and renewable energy investments. The minimum amount for a PACE OF MN Assessment Contract is \$2,500. The term will be determined by the Port Authority after consultation with the property owner and consideration of factors such as cost to value ratio and the marketability of bonds relying on the Assessment Contract for security.

### **B. Maximum Energy Financing Amount**

Improvement costs must bear a reasonable relationship to assessed value of the property. All contracts must be approved by the Port Authority President and the Lender.

PACE OF MN Financing will be disbursed directly to the property owner after improvements are completed and final documentation is submitted to the Port Authority.

### **C. Maximum Portfolio**

The Port Authority intends to initially fund PACE OF MN with a commitment of up to \$10,000,000 from one or more Lenders. The Port Authority will explore other financing opportunities, with the goal of expanding the Program beyond the initial \$10,000,000.

### **D. Assessment Interest Rate**

The Port Authority will set the interest rate for a PACE OF MN Assessment Contract at the time the Program and property owner enter into the contract. The interest rate will be fixed at that point and will not increase, although the Port Authority may reduce the rate for all Program participants if it is able to negotiate long term financing on sufficiently favorable terms to allow it to do so while still funding the program costs.

The interest rate for PACE OF MN financing will be determined on a project by project basis by the negotiated market rate of the Bond issued to fund each project. The Program will recover its administrative and overhead costs through the spread between the interest rate established for each Bond and the interest rate charged to the applicant in the Assessment Contract. Initially, the Port Authority is recommending the administrative assessment interest rate for the Program be set at a fixed interest rate spread of 0.50 percent.

### **E. Property Assessment Lien**

All property owners must sign and notarize the PACE OF MN Assessment Contract and Implementation Agreement (“contract documents”). Upon execution of the

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contract documents, the program will place a lien for the full amount of the assessment on the property that secures the assessment, including capitalized interest equal to the amount of interest accrued from the date of disbursement through September 1 of the first tax year. If funds are disbursed to property owners by the first business day in September, the assessment will appear on the next tax bill. For disbursements made after the first business day of September, the assessment will not appear on the tax bill until the following tax year, but interest will accrue on the outstanding amount.

**F. Delinquent Assessment Collections**

Delinquent assessments will be collected using the laws and powers authorized under state statutes for collecting property taxes and assessments. Delinquent assessments will be collected and allocated in accordance with state statutes. Where a Bond has been sold to finance assessments, state law also allows delinquent assessments to be collected through forfeiture proceedings to protect the Lenders.

**VI. THE FUNDING STRATEGY**

The Port Authority will establish the PACE OF MN Fund (the “**PACE OF MN Fund**”) and may accept funds from any available source and may disburse the funds to eligible property owners for the purpose of funding energy efficiency and renewable energy improvements. Repayments will be made pursuant to Assessment Contracts among the property owners, the Port Authority, the Lender and the applicable Host Jurisdiction, and will be collected through the property assessment mechanism of the applicable Host Jurisdiction’s property tax system.

The Port Authority will manage the PACE OF MN Fund in one enterprise fund with multiple sub-funds ensuring that financings equal the Port Authority’s Program receivables. Likewise, the Port Authority will separate Program funds available for repaying Bonds, etc. to ensure these funds are available when payment is due. The Port Authority has the authority to develop the necessary accounting structure needed to run the PACE OF MN.

At the outset of PACE OF MN, the Port Authority will establish a reserve account for the Bonds in the amount of \$50,000.00. In addition, if required by the applicable Lender, each property owner participating in the Program will include, as a cost of borrowing, an amount equal to 10% of the principal amount of the Bonds issued for the applicable Improvements. Moneys in the reserve account will provide additional security for the repayment of the Bonds, and will be used to make payments of principal and interest due on the Bonds in the event that assessments are not paid on time or in full. Delinquent assessment payments will be used to replenish the reserve account, as necessary.

Each year, the Port Authority will also use any assessment revenues in excess of the amounts needed to repay the Bonds to first, pay the Port Authority’s administrative fee, and then to replenish and enhance the reserve account. Then, with the consent of the applicable Lender, any excess may be used to fund a program expense account.

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Moneys in the program expense fund may be used to pay or reimburse the Port Authority for additional expenses to administer the PACE OF MN program. The Port Authority may use surplus funds; which remain after the payment of the Bond at maturity or upon early redemption for any lawful purpose for the program.

The Port Authority will use revenues from the annual administrative assessment provided for in each Assessment Contract to pay for the administrative expenses of the Port Authority in connection with the Bond and the collection of the assessments. It is anticipated the administrative assessment will be a nominal amount, to cover the cost of the assessment administrator and the Port Authority cost in placing the charge on the tax roll. The Port Authority is recommending the administrative assessment interest rate for the program be set at a fixed interest rate spread of 0.50 percent.

For long-term and additional financing, the Port Authority will explore funding opportunities from a number of other potential funding sources, and combinations of sources, which may include but are not limited to additional funding from any funds under the control of the Port Authority, the issuance of notes, bonds, or agreements with utilities or public or private lenders, other governmental entities and quasi-governmental entities, or any financing structure allowed by law.

The Port Authority will prepare a report on program progress on an annual basis with the information necessary to further adjust the Program to encourage participation and effectiveness.

**VII. CHANGES TO GUIDELINES**

The Port Authority may modify from time to time the Eligible Improvements List, Assessment Contract and Application attached hereto as Appendix A, Appendix D and Appendix C, respectively, as the Port Authority reasonable determines re necessary to effectuate the purposes of the PACE OF MN program .

## APPENDIX A— ELIGIBLE IMPROVEMENTS

The PACE OF MN offers PACE OF MN funds for a number of equipment types, including energy efficiency measures, solar systems, and other innovative, energy-saving and energy generation custom measures. In each case, if a rebate is available to the property owner to be applied to the purchase price, that amount must be deducted from the amount of financing requested. A comprehensive list of eligible improvements is available on the PACE OF MN website.

### I. ENERGY EFFICIENCY MEASURES

The PACE OF MN provides services and funding for a wide range of Energy Star-rated efficiency measures, including many Energy Efficiency measures for which property owners can get rebates as well as PACE OF MN funding. Excepting the HVAC equipment as noted below, efficiency measures must meet the performance criteria stated in the list of eligible improvements or the Energy Star minimum efficiency levels. For all packaged and central air conditioning systems funded in this Program, the minimum efficiency levels shall be as required by the current minimum requirements set forth in list of eligible improvements. All other proposed efficiency measures will be considered in the Custom Measure Track. The Port Authority anticipates that Energy Star requirements will “ratchet up” to greater efficiency levels over time. Energy Star will also become more inclusive of technologies over time. Thus, the PACE OF MN will evolve with Energy Star and the market for energy-efficient technologies. The following Energy Star measures — among others — are eligible in the Efficiency Track.

#### A. Energy Efficiency Measures

- (1) Heating, ventilating and air conditioning systems (“**HVAC**”)
  - (a) Minimum efficiencies
    - (i) Split systems with 14 SEER or 12 EER
    - (ii) Package systems with 13 SEER or 11 EER
- (2) Geothermal exchange heat pumps
  - (a) Minimum efficiencies
    - (i) Ground source exchange open loop system 17.8 EER or higher
    - (ii) Ground source exchange closed loop system 15.5 EER or higher
  - (b) High efficiency electric hand dryer

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- (3) All applicable energy efficiency measures listed in “Residential” section

**B. Energy Efficiency Custom Measures**

- (1) Building energy management systems,
- (2) Lighting control systems, which shall include occupancy sensors and other energy saving measures
- (3) HVAC duct zoning control systems
- (4) Motors and controls (processing or manufacturing equipment)
- (5) Customer electric vehicle plug-in station

**II. SOLAR EQUIPMENT**

Solar track funding is available for a wide range of solar equipment. PACE OF MN funding will be available for photovoltaic equipment and installers listed by the Minnesota Energy Commission. Solar thermal equipment must be rated by the Solar Rating Certification Council (SRCC). As with efficiency measures, if a rebate is available to the property owner to be applied to the purchase price, that amount must be deducted from the amount of financing requested. Eligible solar equipment includes:

- (1) Solar thermal systems (hot water)
- (2) Solar thermal systems for pool heating
- (3) Photovoltaic systems (electricity)
  - (a) Battery back-up systems will be allowed
  - (b) Funding for off-grid systems will be allowed
  - (c) PV systems can be sized to accommodate plug-in electric vehicles
  - (d) Plug in stations
- (4) Emerging technologies — following the Custom Measures Track
  - (a) Nano/thin film photovoltaic
  - (b) High intensity (parabolic solar panels)

### III. CUSTOM MEASURES

The Custom Measures Track is a process by which PACE OF MN Staff can evaluate and fund projects that are not “off the shelf” improvements listed in the eligible Water Conservation, Energy Efficiency or Solar Measures. These custom projects may involve large scale industrial or commercial energy efficiency improvement projects, such as process or industrial mechanical systems, renewable energy sources and energy generation, other than the solar system (photovoltaic), such as geothermal, and potentially fuel cells, as well as more complex and cutting edge energy management solutions and emerging technologies. The Custom Measure Track will evaluate and provide funding, if appropriate, for these innovative projects.

Applicants for the Custom Measure Track should consult with PACE OF MN staff to determine eligibility and will be required in most cases to submit engineering plans and specifications. A PACE OF MN Custom Measure’s Track review/technical panel will meet to review the engineering documents and data for custom and emerging technology projects. PACE OF MN may require an additional administrative fee for project evaluation by the technical review. In all cases, the Port Authority reserves the right to decline funding of a custom measure. The following types of measures — among others — will be considered for PACE OF MN funding through the Custom Measure Track:

#### A. Energy Efficiency Custom Measures

- (1) Alternative energy generation (other than photovoltaic)
- (2) Building energy management controls
- (3) HVAC duct zoning control systems
- (4) Lighting controls
- (5) Industrial and process equipment motors and controls

As these “**Custom Measures**” become Energy Star rated they will be included in the list of eligible improvements.

#### B. Energy Generation Custom Measures

- (1) Fuel Cells
- (2) Natural gas
- (3) Hydrogen fuel
- (4) Other fuel sources (emerging technologies)
- (5) Co-generation (heat and energy)

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Other documents including the Application, Petition for Special Assessments, Summary of Financing Process, Flowchart, and list of eligible improvements can be found online at [www.\\_\\_\\_\\_\\_](http://www._____) or can be obtained at \_\_\_\_\_.