**COMMERCIAL PROPERTY-ASSESSED CAPITAL ENHANCEMENTS (C-PACE)**
**LENDER NOTICE AND CONSENT FORM**

## LENDER NOTICE

Date of Notice: _____

LENDER INFORMATION

Lender Name: _____
Attn: _____
Lender Address: _____
_____

PROPERTY / LOAN INFORMATION

Property Owner: _____
Owner Address: _____
_____

Loan Number: _____

Property Address: _____
_____

Legal Description: _____
_____
_____
_____

**Why has the financial institution received this notice?**
The property owner wishes to install energy efficiency, water conservation, renewable energy upgrades, or public safety and resiliency improvements to the property using the Commercial Property-Assessed Capital Enhancements (C-PACE) program. C-PACE requires any senior lenders who hold debt on the property to consent to the tax assessment.

**What is C-PACE?**
C-PACE is an alternative financing mechanism for property upgrades that improve energy efficiency, conserve water, utilize renewable energy, and/or install public safety and resiliency improvements. C-PACE makes it possible for qualified property owners to obtain low-cost, long-term financing funded by private capital providers. C-PACE is paid back via a special tax assessment on the property.

**Why do lenders consent to C-PACE?**

1. **Financed C-PACE Measures Reduce Building Operating Costs**
   C-PACE projects are designed to save the property owner money by improving their systems. By making these improvements, the whole of the building is more energy efficient, cost effective, and resilient.
2. **C-PACE Assessments Cannot be Accelerated/Eliminated**
   While the full assessment amount is recorded on the property records, only the annual payment may be collected, even in a default situation. So, much like with property taxes, senior lenders are only behind that annual assessment payment and not the full balance of the financing. The lien created by the assessment runs with the land, and any portion of the assessment that has not yet become due is not eliminated by foreclosure of: (i) a property tax lien, or (ii) the lien for any past due portion of the assessment.
3. **Financed C-PACE Measures Improve Properties, Often Reducing Maintenance and Repair Costs**
   Energy and resiliency measures improve the efficiency, health, and comfort of a building making it more attractive to tenants and future owners. It also increases the property's taxable value. C-PACE projects make good business sense for the property owner because they are improving their assets, and therefore the property's mortgage lender has improved collateral.
4. **C-PACE Financing Does Not Restrict a Senior Lender's Foreclosure Rights**
   Unlike other debt, C-PACE does not require an inter-creditor agreement. Rather, in the event of a default on the senior lender's debt, the senior lender can foreclose on its mortgage interest in the property in the same manner as if it were the sole financing on the property. C-PACE does not affect any existing remedies under the loan documents. The C-PACE capital provider may not prevent, restrict, or otherwise impact the senior lender's foreclosure.

**What else should your financial institution know?**

The property owner has indicated their intention to apply for C-PACE financing for the improvements outlined in Exhibit A. The Assessment is to be levied on the property pursuant to an agreement between the property owner, the capital provider for the C-PACE improvements, and the local unit of government processing the tax assessment.

Upon the recording of the C-PACE assessment, all existing mortgage debt on the property will be subordinate to the C-PACE Assessment. The local unit of government, or its permitted assignee, can foreclose the C-PACE Assessment encumbering the property if the C-PACE assessment is not paid. C-PACE Assessments cannot be accelerated. Senior lenders are only behind the annual assessment payment and not the full balance of the financing.

**Project Estimates**

Total cost of improvements: _____
Utility rebates/incentives: _____
Annual energy/water savings: _____
C-PACE financing requested: _____
Annual interest rate: _____
Term of repayment period: _____
Annual assessment amount: _____
Two (2) equal semi-annual payments per year

**Purpose of this Notice**
As required by the C-PACE enabling legislation, Title 90, Chapter 4, Part 13, MCA, the property owner is sending this "Lender Notice and Consent" to your financial institution in order to:

- Provide notice of the proposed participation in C-PACE financing
- Request confirmation from you (the current lender) that the assessment of the C-PACE program will not trigger an event of default or the exercise of any remedies under the loan documents
- Provide project estimates of cost and savings
- Declare the property owner's agreement to pay on a timely basis both the existing obligations secured by the property (including the Loan) and the proposed C-PACE Assessment

**Execution and Return of Consent**
The property owner would appreciate your financing institution executing the attached "Lender Consent" and returning it to the undersigned at your earliest convenience.

Very truly yours,

By: (signature) _____

Property Owner Name: _____

Mailing Address: _____
(if different than Property Address): _____

LENDER NOTICE - EXHIBIT A

DESCRIPTION OF IMPROVEMENTS

**LENDER CONSENT**

Property Owner: _____
Mailing address: _____
_____

Lender: _____
Mailing Address: _____
_____

Street Address of Property: _____

Legal Description: _____
_____
_____
_____

Property: the Real Property described in _____ County, Montana, more fully described in above Legal Description.

**RECITALS**

WHEREAS, Lender has made one or more loans to Property Owner secured by that Deed of Trust or Security Agreement (the "Deed of Trust") dated _____ recorded in Book __, Page __, under Instrument No. _____ of the Real Property Records of _____ County, Montana securing the indebtedness described therein. The Deed of Trust, promissory note, or the notes creating the debt secured by the Deed of Trust, and all other loan agreements and other documents relating to the debt and Deed of Trust are referred to as the "Loan Documents."

WHEREAS, Lender is in receipt of written notice (the "Notice") from the Property Owner that they desire to enter into an agreement (the "PACE Agreement") with the Local Government to impose an assessment (the "Assessment") to repay the financing of an C-PACE Project that will be permanently fixed to the Property under Section 90-4-1307, MCA, (the "PACE Act").

WHEREAS, the terms of the Assessment are set out in the PACE Agreement between the Local Government and Property Owner. The Assessment will constitute a lien against the Property with the same priority status as taxes collected under Title 15, Chapter 16, MCA.

WHEREAS, the PACE ACT requires that the Lender provides written consent to the Assessment prior to the Property Owner and Local Government executing the PACE Agreement.

WHEREAS, as certified in the Certificate of Authority attached hereto as Exhibit 1 as "Lender Representative" is authorized to execute this Lender Consent to PACE Assessment on behalf of the Lender.

**AGREEMENT**

Section 1. Lender is in receipt of the Notice and hereby consents to the Assessment and the PACE Agreement and agrees, for purposes of Section 90-4-1305(b)(i), MCA, that Property Owner shall not be in default under the Loan Documents because it enters into the PACE Agreement or the financing documents referenced therein, or because the Property is subject to the Assessment imposed against the Property pursuant to the PACE Agreement.

Section 2. This Lender consent is granted on the condition that Property Owner agrees that the amount of the Assessment shall not increase above the C-PACE financing amount specified in the Notice without the consent of Lender.

Section 3. Except for the express agreement of the Lender contained in this Consent, Lender is not waiving any other right under the Loan Documents. Nothing contained in this Consent shall be construed to modify or amend any of the provisions of the Loan Documents.

PROPERTY OWNER:

_____

By:

Name:

Title:

STATE OF MONTANA )
) ss.
County of _____ )

Signed and sworn to (or affirmed) before me this _____ day of _____, ___ by _____, as_____.

_____
Signature of Notary

(Montana notaries must complete the following if not part of stamp at left)

(SEAL)

_____
(Print Name of Notary)
Notary Public for the State of Montana
Residing at _____, Montana
My commission expires: _____

LENDER:

_____

By:

Name:

Title:

STATE OF MONTANA )
) ss.
County of _____ )

Signed and sworn to (or affirmed) before me this _____ day of _____, ___ by _____, as_____.

_____
Signature of Notary

(Montana notaries must complete the following if not part of stamp at left)

(SEAL)

_____
(Print Name of Notary)
Notary Public for the State of Montana
Residing at _____, Montana
My commission expires: _____

LENDER CONSENT - EXHIBIT 1

[FORM OF CERTIFICATE OF AUTHORITY]

[Insert Lender's Letterhead]

Date ____

Re: Certificate of Authority for Execution of Lender Consent to PACE Assessment.

I, _____, am the [insert title] at [insert Lender]. I do hereby attest that [insert name of Lender representative who will execute Lender Consent] holds the position of [insert position title] at [insert Lender name] and in her/his capacity as [insert title] is authorized to enter into a Lender Consent to PACE Assessment as required by Section 90-4-1305(3)(b)(i), Montana Code Annotated.

LENDER:

_____

By:

Name:

Title:

STATE OF MONTANA )
) ss.
County of _____ )

Signed and sworn to (or affirmed) before me this _____ day of _____, ___ by _____, as_____.

_____
Signature of Notary

(Montana notaries must complete the following if not part of stamp at left)

(SEAL)

_____
(Print Name of Notary)
Notary Public for the State of Montana
Residing at _____, Montana
My commission expires: _____