



**PROGRAM GUIDEBOOK:  
IMPROVEMENT SPECIAL ASSESSMENT  
PROGRAM**

**Los Alamos County, New Mexico**

## Contents

I.	Introduction .....	3
1.	About Improvement Special Assessments.....	3
2.	NM Improvement Special Assessment Program Guidebook .....	3
II.	Benefits of Improvement Special Assessments.....	4
III.	Improvement Special Assessment Financing Program Rules .....	6
1.	Establishment of Improvement Special Assessment Program Boundaries.....	6
2.	Administration of Program; Authorized Officials .....	6
3.	Eligibility Requirements.....	7
4.	Application Process.....	9
5.	Application Documents.....	10
6.	Closing Documents .....	12
7.	Interest Rates .....	12
8.	Billing and Collection of Assessments .....	13
9.	Enforcement of Improvement Special Assessment Lien.....	13
10.	Program Fee .....	13
11.	Term of a Special Assessment; Calculation of Useful Life of Eligible Improvements	13
12.	Form of Closing Documents .....	14
13.	Written Consent from Lienholder(s) Required.....	14
14.	County Has No Liability or Financial Responsibility.....	14
15.	Program Reporting .....	14

## **I. Introduction**

### **1. About Improvement Special Assessments**

The Program Administrator administers an Improvement Special Assessment program (the “Improvement Special Assessment Program” or the “Program”) under Section 4-55D of the New Mexico Statutes Annotated (“NMSA”) (the “Improvement Special Assessment Act”). The Improvement Special Assessment Program allows owners of eligible commercial property to obtain long-term financing from private capital providers for certain eligible improvements. While the financing is repaid to the Capital Provider, the Improvement Special Assessment Act directs the County to place a voluntary special assessment and record a special assessment lien (the “Improvement Special Assessment Lien”) on the property. This approach to financing has been used by programs like the Improvement Special Assessment Program on thousands of properties in more than 24 states and the District of Columbia.

The New Mexico Legislature passed the Improvement Special Assessment Act enabling legislation, HB 228, in March 2023. This legislation allows counties to establish Improvement Special Assessment Programs. Improvement Special Assessments allow property owners to access financing for eligible energy efficiency, renewable energy, water conservation, and resiliency improvements for qualifying buildings. Improvements made to reduce lead in drinking water also qualify as eligible improvements.

Individual counties may now take action to opt into the statewide program. Creating a county Improvement Special Assessment Program is simple: One, a county adopts an ordinance and guidebook that govern how its Improvement Special Assessment Program works; and two, the Program Administrator reviews the special assessment lien application for compliance with the Improvement Special Assessment state law, and then records the agreement that acknowledges the special assessment by the county.

In New Mexico, Improvement Special Assessment financing is available in four categories: energy efficiency, renewable energy, water conservation, and resiliency improvements. Improvements that reduce greenhouse gas emissions qualify, provided that the improvements also conserve energy or result in renewable energy improvements. A voluntary Improvement Special Assessment is secured by a special assessment lien on the property and paid back over time; tax liens and other government assessments remain superior to the Improvement Special Assessment lien. Like other assessments, Improvement Special Assessment financing is non-accelerating, which means only current or past due payments can be collected, while future payments are the responsibility of whomever owns the property at the time. The Improvement Special Assessment obligation transfers automatically to the next owner if the property is sold. In the event of default, only the payments in arrears are due. This arrangement spreads the cost of eligible improvements over the useful life of the measures.

The Program exists as a function of New Mexico’s Improvement Special Assessment legislation and the rules established by the County. No change in the Program or in New Mexico’s Improvement Special Assessment legislation will affect a property owner’s obligations to pay Improvement Special Assessments incurred under the Program prior to such changes.

### **2. NM Improvement Special Assessment Program Guidebook**

This Guidebook was developed to help counties launch Improvement Special Assessment programs. The Guidebook and form documents are available at no cost to counties to use and adopt. A major benefit to using a ready-made and legally reviewed program is that it allows counties, property owners, contractors, and capital

providers to follow a standard set of rules. This is critical in attracting the broadest capital investment to Improvement Special Assessment projects.

In this document you can find information about:

- Statutory and programmatic eligibility requirements for eligible properties and projects in New Mexico and \_\_\_\_\_ County
- Process for applying for Improvement Special Assessment project approval

## II. Benefits of Improvement Special Assessments

Improvement Special Assessments offer benefits to building owners, developers, municipalities, mortgage holders, and building professionals.

**For Building Owners and Developers:** One of the biggest barriers to converting potential projects to completed projects for efficiency and resiliency upgrades are the up-front cost of the types of measures identified in the statute as eligible improvements. Improvement Special Assessment financing typically requires little up-front investment, and eligible improvements may also increase property value. Energy efficiency measures also lower operating costs. In addition, Improvement Special Assessment financing has the following benefits:

- **Up to 100%, long-term financing.** Many owners lack the capital to complete efficiency and resiliency improvements. All direct and indirect costs incidental to the eligible improvements can be wrapped into Improvement Special Assessment financing.
- **Transferrable upon sale.** Some owners may want to sell the building before the special assessment is repaid. The special assessment lien and special assessment are attached to the property and transfer to the new owner.
- **Cash flow benefits.** Improvement Special Assessment financing may be repaid over the useful life of the improvements.
- **Triple-net and Full-net leases may allow pass-through of assessment installments to tenants.** Under triple/full net leases, special assessment payments can be passed along to tenants, who also typically derive benefit from any energy savings through reduced operating costs.

**For Energy Auditors, Architects, Building Engineers, and Contractors:** More substantial efficiency and resiliency improvements are now more affordable with Improvement Special Assessment. Energy auditors, architects, engineers, and contractors can suggest special assessment financing as a way for their clients to implement needed energy or resiliency upgrades that might otherwise be unaffordable. Improvement Special Assessments are a powerful business growth catalyst for building professionals like energy auditors and contractors.

**For Counties:** Improvement Special Assessments are an economic development tool. By making it more affordable for building owners to make major improvements to their buildings, local building stock value is enhanced, and more jobs are created. Energy and resiliency upgrades create a more competitive environment for retaining and attracting new businesses by lowering energy costs and improving the structural soundness of buildings. Upgraded buildings can generate higher property tax payments for the county. Energy upgrades also typically reduce greenhouse gases and other pollutants, which facilitates adherence to county or state climate action plans or goals.

**For Existing Lien Holders:** Eligible improvements can enhance property value and improve a building's longevity. In addition, special assessment financing is non-accelerating, meaning only current or past due annual payments can be collected. Existing mortgage holders may see their collateral improved without substantial increase in credit risk. Improvement Special Assessment financing is not permitted without the consent of all existing lien holders on the property.

### **III. Improvement Special Assessment Financing Program Rules**

The purpose of this Program Guidebook is to provide standard guidelines for counties to use in establishing efficient and effective Improvement Special Assessment programs that are consistent from county-to-county across New Mexico.

This Program Guidebook (the “Guidebook”) is prepared at the direction of the County, as required by the Improvement Special Assessment Act. The Guidebook is approved in connection with, and as an attachment to, the enabling ordinance for this program (the “Improvement Special Assessment Ordinance”) dated \_\_\_\_\_. Capitalized terms used herein, but not defined herein, have the meaning given to such terms in the Improvement Special Assessment Ordinance.

The Guidebook establishes guidelines, eligibility, approval criteria, and an application form for the administration of the Improvement Special Assessment Program. The Improvement Special Assessment Program enables special assessment financing for commercial property owners (“Property Owners”) to make certain energy efficiency, renewable energy, water conservation, and resiliency improvements (each, a “Qualified Improvement”) as described in the Improvement Special Assessment Act and further clarified in this Guidebook.

Eligible Improvements, including all eligible costs that are to be financed as described in a project application (the “Project Application”) approved by the Program, constitute an “Eligible Improvement.” Property Owners may receive funding for their Eligible Improvements only from qualified private investors (“Capital Providers”) pursuant to a separate special assessment financing agreement negotiated between the Property Owner and Capital Provider (a “Special Assessment Financing Agreement”).

In these guidelines, a reader can find information about:

- Statutory and programmatic eligibility requirements for Improvement Special Assessment project financing in New Mexico, and
- The appropriate steps and forms needed for a County or Program Administrator to receive and process a Improvement Special Assessment project application.

#### **1. Establishment of Improvement Special Assessment Program Boundaries**

The County adopted Ordinance number \_\_\_\_\_ on \_\_\_\_\_, establishing the Improvement Special Assessment Program for all eligible properties within the boundaries of the County, but outside the limits of any municipality (the “Region”). In accordance with the Act, the Program may be available within the limits of a municipality if the municipality adopts a resolution or ordinance approving the application of the County’s ordinance within the municipality.

#### **2. Administration of Program; Authorized Officials**

The Program Administrator is designated and authorized to review each Project Application to confirm that it is complete and contains no errors on its face. The Program Administrator will then execute the Assessment Agreement, Notice of Special Assessment Lien, and Assignment of Notice of Special Assessment Lien documents on behalf of the County. The County will record them with the real property records.

As part of Program operation, the Program Administrator will:

- Accept Project Applications (refer to the Project Application Form) from Property Owners and Capital Providers for prospective Improvement Special Assessment projects.
- Review the Project Application to determine conformance with the Application Form (refer to the

Project Application Form).

- Approve/conditionally approve/deny the Project Application and communicate to the applicant.
- Execute the Assessment Agreement, Notice of Special Assessment Interest and Lien (“Notice of Assessment Interest”), and Assignment of Notice of Special Assessment Interest and Assessment Agreement (“Assignment”).
- Work with the County to record the Notice of Special Assessment Interest and Assignment.
- Work with the County to place the Special Assessment payment to the property tax bill.

### **3. Eligibility Requirements**

Eligible Property means any privately-owned commercial, agricultural, industrial, or multi-family real property of five (5) or more dwelling units located within the boundaries of the Region (including properties owned by a not-for-profit organization).

Ground leases on Eligible Property are permitted, so long as all requirements of the Improvement Special Assessment Ordinance are met, including requiring the Property Owner to enter into an Assessment Agreement. On ground-leased property, therefore, the special assessment and Special Assessment Lien encumber the fee interest in the property, not the ground leasehold.

Property Owner means an owner of eligible property, which is the record owner of title to the Eligible Property. The Property Owner may be any type of business, corporation, individual, or non-profit organization.

Eligible Improvements means a permanent improvement affixed to the real property that must meet at least one of these criteria:

- Decrease energy consumption or demand through the use of efficiency technologies, products, or activities that reduce or support the reduction of energy consumption or allow for the reduction in demand or reduce greenhouse gas emissions (“Energy Efficiency Improvement”);
- Support the production of clean, renewable energy, including but not limited to a product, device, or interacting group of products or devices on the customer’s side of the meter that generates electricity, provides thermal energy, or regulates temperature (“Renewable Energy Improvement”);
- Decrease water consumption or demand and address safe drinking water through the use of efficiency technologies, products, or activities that reduce or support the reduction of water consumption, allow for the reduction in demand, or reduce or eliminate lead from water which may be used for drinking or cooking (“Water Conservation Improvement”); or
- Increase resilience, including but not limited to flood mitigation, stormwater management, wildfire and wind resistance, energy storage, and microgrids (“Resiliency Improvement”).

Eligible Improvements include the following:

- The acquisition, construction (including new construction), lease, installation, or modification of a Qualified Improvement permanently affixed to an Eligible Property.
- For Renewable Energy Improvements, “permanently affixed” includes Eligible Improvements that are subject to a power purchase agreement or lease between the Property Owner/applicant and the owner of the subject renewable energy system, if the power purchase agreement or lease contains all of the following provisions:

- a) The Renewable Energy Improvement relates to a Renewable Resource, defined as follows:
    - (a) water; (b) wind; (c) solar energy; (d) geothermal energy; (e) renewable natural gas; (f) renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first-growth forests; or (i) biomass energy.
  - b) The term of the power purchase agreement or lease is at least as long as the term of the related Assessment Agreement.
  - c) The owner of the Renewable Energy Improvement agrees to install, maintain, and monitor the system for the entire term of the Assessment Agreement.
  - d) Neither the owner of the Renewable Energy Improvement, nor the Property Owner, nor any successors in interest are permitted to remove the system prior to completion of the full repayment of the Special Assessment and Special Assessment Lien.
  - e) After installation, the power purchase agreement or lease is paid, either partially or in full, using the funds from the Special Assessment financing.
  - f) The power purchase agreement or lease specifies the holder of the Special Assessment Lien is a third-party beneficiary of the power purchase agreement or lease until the Special Assessment Lien has been fully repaid.
- Eligible Improvements include the refinancing of existing properties that have had Eligible Improvements installed and completed for no more than three (3) years or thirty-six (36) months prior to the date of Project Application.
  - Examples of Eligible Improvements include, but are not limited to:
    - A like-for-like roof associated with installing a roof-mounted solar photovoltaic array;
    - Asbestos abatement associated with a boiler retrofit;
    - New pads to support new plant equipment, such as a new chiller;
    - Replacement of ductwork and terminal boxes related to a packaged rooftop unit replacement;
    - Relocation of equipment associated with the installation of energy-saving measures, such as relocating a packaged rooftop unit to serve redistributed loads within a building better;
    - Rerouting of a fire sprinkler system to accommodate a new HVAC system upgrade;
    - Electrical upgrades associated with a new solar photovoltaic system, energy efficiency, or suitable measures, and electric vehicle charging;
    - Any utility infrastructure cost associated with electrical upgrades;
    - Existing Carport structures that support a solar photovoltaic array;
    - Demolition of an existing parking lot and installation of a new parking lot to allow for the installation of a bore field associated with a new ground source heat pump system;
    - Resurface or repaving of parking lots if solar photovoltaic carports are specified for new builds or installed on retrofits;
    - General construction costs required for the suitable measure;
    - Renewable energy improvements that are part of a community solar garden;
    - High efficiency electric appliances such as heat pumps and heat pump water heaters.

Capital Provider may be any of the following:

- a corporation, partnership, or other legal entity that provides proof that it is currently registered as a Improvement Special Assessment Capital Provider in two different states with C-PACE programs;
- a federal or state-chartered bank or credit union; or



- a private entity, whose principal place of business is located in New Mexico, provided it is licensed or permitted to do business within the state and can produce its most recent audited financial statement or regulatory business filing.

Qualifying costs that can be Improvement Special Assessment financed include:

- Materials and labor necessary for installation or modification of a Qualified Improvement;
- Permit fees;
- Inspection fees;
- Financing or origination fees;
- Program application and administrative fees;
- Project development, architectural and engineering fees;
- Third-party review fees, including verification review fees;
- Capitalized interest;
- Interest reserves;
- Escrow for prepaid property taxes and insurance;
- Any other fees or costs that may be incurred by the Property Owner incident to the installation, modification, or improvement on a specific or pro rata basis.

#### 4. Application Process

The New Mexico Improvement Special Assessment Act reduces the administrative burden on participating counties as much as possible. Thus, the Program Administrator will review the Project Application for proof of compliance with the requirements of the statute. All applicants are encouraged to review the Project Application Form to ensure that the information the Program Administrator will rely upon to verify compliance with the statute are present in the completed Application.

The process of obtaining financing under the Program starts when a Property Owner approaches a Capital Provider. The Capital Provider will work with the Property Owner to collect due diligence items. Once all the items have been received, reviewed, and approved by the Capital Provider, the parties should settle on the Special Assessment Financing terms.

The general flow of the Improvement Special Assessment application process will be as follows:

- (1) The Property Owner and the Capital Provider prepare the Project Application, consisting of the Project Application Form and all supporting documents. Applicants are encouraged to review the Project Application Form to confirm that the types of information that the County will rely upon to verify compliance with the Improvement Special Assessment Act and Improvement Special Assessment Ordinance are present in the completed Project Application.
- (2) The Program Administrator will have 10 business days to review and approve the Project Application. If the Program Administrator has received an unusually high number of applications, or if review is delayed because of a *force majeure* event, the Program Administrator may notify the applicant that the application review and approval will be delayed by no more than 10 additional business days.
- (3) The application review process is confined to confirming that the Project Application is complete, and all attachments conform to these guidelines. ***Program Administrator approval does not constitute endorsement of any representations that may be made with regard to the operation and any savings associated with the Eligible Improvements.*** The Program Administrator will review the Project Application for proof of compliance with the requirements of the Improvement Special Assessment Act and Improvement Special Assessment Ordinance. Incomplete Project

Applications will be returned to the applicant, and the Program Administrator will notify the applicant about which items were not provided or are insufficient or inaccurate on their face. If the Project Application and supporting documents comply with the Project Application Form, the Project Application will be approved, and the approval communicated in writing to the applicant.

- (4) The Project Application may be conditionally approved if the application is complete but the attachment regarding consent of all lienholders on the property is not yet available. Conditional approval will be treated the same as an approval, with exceptions noted below.
- (5) Once the application is approved, the Capital Provider will draft the following Closing Documents: The Assessment Agreement, the Notice of Special Assessment Interest and Special Assessment Lien, and the Assignment of the Notice of Special Assessment and Assessment Agreement. At or before closing, at the request of the applicant, the designated and authorized official will execute the Closing Documents.
- (6) If the Project Application received conditional approval, the Closing Documents executed by the Program Administrator may not be released from escrow unless and until all lien holder consents have been received and executed in accordance with the Improvement Special Assessment Act and Improvement Special Assessment Ordinance.
- (7) At closing, the County will record the Assessment Agreement, the Notice of Special Assessment Interest and Special Assessment Lien, and the Assignment of the Notice of Special Assessment Interest and Special Assessment Lien. At the election of the applicant, the County may delegate the recording of the Closing Documents to the applicant or their designee(s).
- (8) Upon confirmation of recordation, the Capital Provider will disburse funds in accordance with the Special Assessment Financing Agreement.
- (9) The Capital Provider will send the Property Owner a separate bill to collect the Special Assessment installment amounts, as outlined in the Assessment Agreement and in accordance with the Special Assessment Financing Agreement.
- (10) The Property Owner begins making assessment payments per the Assessment Agreement and in accordance with the Special Assessment Financing Agreement.

## **5. Application Documents**

The Project Application must be submitted with the following documents appended:

- Project Application Form
  - Lienholder(s) Consent
  - Certificate of Eligible Improvements
- (1) For Renewable Energy Improvements or Energy Efficiency Improvements on an existing building: A certification stating that (a) the proposed Eligible Improvements will result either in more efficient use or conservation of energy or water, the reduction of greenhouse gas emissions, or the addition of renewable sources of energy or water; or (b) the subject property as a whole prior to the installation of the Eligible Improvements does not conform to the meeting the current

building energy or water code for the County, but will do so after the Eligible Improvements are installed.

The certification must be performed by a licensed professional engineer or an individual or firm accredited by one of the following:

- American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE)
  - Building Energy Assessment Professional (BEAP)
  - Building Energy Modeling Professional (BEMP)
  - Operations & Performance Management Professional Certification (OPMP)
  - High-Performance Building Design Professional Certification (HBDP)
- North American Board of Certified Energy Practitioners (NABCEP)
  - PV Installation Professional (PVIP)
  - PV Design Specialist (PVDS)
- Association of Energy Engineers (AEE)
  - Certified Energy Manager (CEM)
  - Certified Measurement and Verification Professional (CMVP)
  - Certified Energy Auditor (CEA)
- Building Performance Institute
  - Energy Auditor
- Investor Confidence Project
  - ICP Quality Assurance Assessor

Other professional qualifications may be accepted by the Program Administrator at its discretion.

- (2) For Renewable Energy Improvements that are solar photovoltaics, a North American Board of Certified Energy Practitioners (NABCEP) PV Installation Professional (PVIP), or PV design specialist (PVDS) certification is acceptable, or a licensed Electrical Engineer, Building Energy Assessment Professional (BEAP), Building Energy Modeling Professional (BEMP), Certified Energy Manager (CEM), Certified Measurement and Verification Professional (CMVP), or Certified Energy Auditor (CEA). Other professional qualifications may be accepted by the Program Administrator at its discretion.
- (3) For lead reduction in water improvements, a Water Quality Association Professional Certification.
- (4) For Resilience Improvements on an existing building: Certification by a licensed professional engineer, or a North American Board of Certified Energy Practitioners (NABCEP) PVIP Installation Professional stating that the Qualified Improvements will result in improved resilience, including but not limited to flood mitigation, stormwater management, wildfire and wind resistance, energy storage, and microgrids.
- (5) For new construction:
  - (A) Relating to energy or water efficiency, certification by a North American Board of Certified Energy Practitioners (NABCEP) PVIP Installation Professional, or a licensed professional engineer stating that each proposed Eligible Improvement will enable the subject property to exceed the energy efficiency, water efficiency, or renewable energy code requirements.

(B) Relating to resilience, certification by a licensed professional Civil Engineer that the proposed Eligible Improvements will enable the subject property to exceed the resiliency requirements of the current building code.

- (6) For all Eligible Improvements, the licensed engineer, individual or firm providing the certification of eligibility of the Eligible Improvements must attest that the proposed term of the financing does not exceed the weighted average effective useful life of the proposed Eligible Improvements and that the Eligible Improvements are permanently affixed, as described in this Guidebook.

The application shall also include:

- (7) the name of the capital provider providing the special assessment financing and the proposed terms of the special assessment financing agreement, including:
- (a) the special assessment financing amount;
  - (b) the interest rate;
  - (c) administrative fees paid to the Program Administrator;
  - (d) a schedule of the installments of the special assessment;
  - (e) the number of years the special assessment shall be imposed on the property;
  - (f) delinquent interest or penalties; and
  - (g) the conditions by which the property owner may prepay and permanently satisfy the debt owed pursuant to the special assessment financing agreement and remove the special assessment lien from the property; and

Prior to the County entering into a special assessment agreement, it shall receive the Program Administrator's certification that the proposed eligible improvements, eligible property and property owner qualify for financing pursuant to the program.

## **6. Closing Documents**

The following documents require the signature of the County and shall be part of the closing of any Improvement Special Assessment transaction. Each document must be substantially similar in substance to the forms provided, although it is expected that Property Owners and Capital Providers will negotiate variations tailored to their specific projects.

- Assessment Agreement (form on the program website)
- Notice of Special Assessment Interest and Improvement Special Assessment Lien (form on the program website)
- Certificate of Assignment of Notice of Special Assessment Lien (form on the program website)

## **7. Interest Rates**

Interest rates are negotiated in a Special Assessment Financing Agreement between the Property Owner and the Capital Provider. A County or a Program Administrator has no role in reviewing, setting, or opining on such interest rates or other aspects of the Special Assessment Financing Agreement. Market forces – such as competition, the intended use of the property, potential risk – will affect the terms negotiated by the Property Owners and Capital Providers.

## 8. Billing and Collection of Assessments

Billing, collection, and enforcement of delinquent Improvement Special Assessment Liens or Improvement Special Assessment financing installment payments, including foreclosure, are the responsibility of the Capital Provider.

## 9. Enforcement of Improvement Special Assessment Lien

The Improvement Special Assessment Special Assessment Lien may be enforced by the Capital Provider one year from the date of delinquency in the same manner as the collection of real estate mortgages, by prosecution of foreclosure proceedings under New Mexico common law and sale under foreclosure under NMSA 1978, Sections 39-5-1 *et seq.* Prior to the enforcement of any delinquency, the Capital Provider must provide written notification to all lien holders on the property.

By accepting Special Assessment Lien, the Capital Provider, or its assignee, as applicable, agrees to assume responsibility for prosecution of said action of foreclosure pursuant to New Mexico law, independent of and without assistance or consent from the prosecuting attorney, in accordance with the terms of the Special Assessment Financing Agreement.

## 10. Program Fee

The Program Administrator, as compensation for time and costs incurred in the establishment of the Improvement Special Assessment Program, including the Improvement Special Assessment Ordinance, this Guidebook, the draft documents, as well as for reviewing a Project Application for completeness and executing the Assessment Agreement, Special Assessment Lien, and Assignment, is entitled to a fee as outlined in the table below. The Property Owner must pay this fee directly to the Program Administrator at the closing of the transaction between the Property Owner and the Capital Provider, and such payment is a condition precedent to recording by the County.

Based on the above description, the Program Administrator will be entitled to the following administrative fee, dependent on the total project costs.

<b>Total Project Costs</b>	<b>Fee Structure</b>	<b>Administrator Fee</b>
\$2,499,999 and less	Percentage	1 %
\$2,500,000 and more	Flat fee	\$25,000

## 11. Term of a Special Assessment; Calculation of Useful Life of Eligible Improvements

The term of a Special Assessment may not exceed the useful life of the Eligible Improvement or if more than one Eligible Improvement is included in the Qualified Project, weighted average life of all Eligible Improvements. In no case shall the term of the financing exceed thirty years.

## **12. Form of Closing Documents**

The Program has adopted form Closing Documents: The Assessment Agreements, Notice of Special Assessment Interest and Special Assessment Lien, and Assignment of Notice of Special Assessments Interest and Assessment Agreement. A Property Owner and Capital Provider may adapt the forms to the needs of their particular transaction but must not modify or omit any material substantive terms contained in the forms.

## **13. Written Consent from Lienholder(s) Required**

Before entering into an Assessment Agreement with the County, the Capital Provider must obtain, and the Project Applications must show proof of, written consent for the placement of the special assessment and Special Assessment Lien from any holder of a lien, mortgage, or security interest in the real property.

For qualifying multifamily projects (residential projects of five or more dwelling units), the Capital Provider must obtain written consent from any holder of affordable housing covenants, restrictions, or regulatory agreements encumbering the real property as a condition precedent to the participation in the Program by the property.

If the consents are executed at closing, the signatures of the County to the Closing Documents will be held in escrow and will not be released until the consents are obtained. After closing, at the election of the Program Administrator, an amended Project Application with the consents attached must be sent to the Program Administrator. Capital Providers are responsible for providing their own form of consent that conforms to the Improvement Special Assessment Ordinance and Improvement Special Assessment Act.

## **14. County Has No Liability or Financial Responsibility**

Neither the County, its governing body, executives, or employees are personally liable as a result of exercising any rights or responsibilities granted under this Program. The County shall not pledge, offer, or encumber its full faith and credit for any lien amount under the Improvement Special Assessment program. No public funds may be used to repay any Improvement Special Assessment financing obligation.

## **15. Program Reporting**

The Program Administrator will prepare a report for the County no less than semi-annually with the following information regarding the loan portfolio of C-PACE financings completed within the County:

- 1) Types and amounts of eligible improvements financed;
- 2) Locations of projects;
- 3) Number of loans outstanding;
- 4) Overall aggregate dollar amount outstanding under such loans;
- 5) Average initial Loan Amount;
- 6) Number of loans with delinquent assessment payments; and
- 7) Number of loans foreclosed upon to date and the number of pending foreclosures