Colorado Commercial Property Assessed Clean Energy

C-PACE Program Guide

Colorado New Energy Improvement District (NEID)

Version #: 5
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Colorado New Energy Improvement District

Colorado Commercial Property Assessed Clean Energy Program

C-PACE

Energy Efficiency Financing Solutions

PROGRAM GUIDELINES

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Section 1: Overview

A. Introduction

Colorado's Commercial Property Assessed Clean Energy ("C-PACE") program provides a financing tool that allows property owners of commercial, industrial, agricultural, non-profit and multifamily (with 5 more units) facilities to finance qualifying energy efficiency, renewable energy generation, water conservation and other energy improvements on existing and newly constructed properties.

Buildings owned by state and local government agencies are also technically eligible for C-PACE financing. Applications from such agencies or local government entities, will be reviewed by attorneys for both the Colorado New Energy Improvement District "NEID or the "District" and the local agency or government entity to ensure that the building ownership and C-PACE financing does not trigger Colorado's Taxpayer Bill of Rights ("TABOR").

Interested property owners may opt to receive long-term (up to 25-year) financing for as much as 100 percent of the cost of these improvements. Repayment is made through a voluntary assessment on the building owner's property tax bill. This arrangement spreads the cost of sustainability improvements[1] over a longer period than could be obtained with traditional debt financing.

C-PACE also helps address split incentives. In many cases, this may allow landlords to pass on both the benefits and the costs of C-PACE assessments directly to their tenants.[2]

For C-PACE program originated projects, C-PACE has identified and registered multiple Qualified Capital Providers ("QCPs") to provide financing for approved projects.[3] At the request of a building owner, the Program Administrator (PA) will facilitate financing term sheets from participating QCPs. Alternatively, property owners are free to bring their own capital provider to provide financing for a project.

Moreover, QCPs and their project development partners are encouraged to develop projects for submission to the Program Administrator (PA) for review and approval. In such cases, the PA will not solicit competitive financing terms from participating QCPs.

Repayment of the C-PACE financing is secured through a voluntary special assessment (similar to a sewer, sidewalk, or business improvement district assessment) which is placed on the assessment roll of the property receiving the improvements. In the case of delinquency, the

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[1] Such as energy-efficient lighting, upgraded insulation, new window glazing, solar installations, co-generation, waste-to-energy systems, water conservation measures, roof and HVAC upgrades, etc.

[2] Subject to lease terms.

[3] The list of Qualified Capital Providers are posted on the program website: copace.com.

PACE special assessment is subject to the same penalties and the procedures as *ad valorem* (i.e., property) taxes, up to and including a tax lien sale.

The C-PACE assessment has priority over all private liens on the property,[4] is of equal priority to other special assessments, and is junior in priority to general property taxes. Because the PACE assessment obligation runs with the property, the assessment transfers to the next property owner if the property is sold. PACE assessments have a higher priority than private mortgages and loans. Thus, many capital providers view PACE financing as less risky than commercial loans, which can generate attractive interest rates and longer terms.

C-PACE builds on a long history of benefit assessments that a government can levy on real estate parcels to pay for installation of projects that serve a public purpose, such as sewers, sidewalks, fire protection districts and business improvement districts. C-PACE serves the important public purpose of reducing energy costs, water use and waste. Project investments stimulate the economy, improve property valuation and create jobs.

B. C-PACE Background

The Colorado General Assembly passed the New Energy Jobs Creation Act of 2010 (HB 10-1328), as amended by the New Energy Jobs Act of 2013 (SB-13-212) and SB-171, enacted in 2014. These statutory provisions are codified at C.R.S. 32-20-101 et seq. (collectively, the "C-PACE Statute"). The C-PACE Statute established the Colorado New Energy Improvement District ("NEID" or the "District"), to be governed by a Board of Directors (the "Board") comprising seven members, including representatives from the Colorado Energy Office, the real estate development industry, banking, the energy efficiency and renewable energy industries and public utilities. The current members of the Board are listed at https://www.colorado.gov/pacific/energyoffice/new-energy-improvement-district-board

The PACE Statute directs the District to establish the C-PACE statewide financing program for energy efficiency, renewable energy, and water conservation upgrades on non-residential properties. Each county in the state may opt in to the program by resolution of their Board of County Commissioners. After a county opts in, property owners in that county may participate in the C-PACE financing program. Because C-PACE is enabled by new legislation, counties that have opted into previous PACE mechanisms will need to opt into C-PACE if they would like for their commercial property owners to participate in PACE in Colorado.

The Board has determined C-PACE financing program will be made available to both existing property retrofits and, with certain limitations, new construction. There is no minimum or maximum financing amount. However, because of the transaction costs involved, initially the program is best suited for projects over a certain threshold amount, which the market will determine. The Board expects to implement a structure in the future that would make the program more attractive for smaller projects as well.

[4] Consent must be obtained from all such lien holders.

C. C-PACE Project Review and Approval

The C-PACE project review and approval is a multi-step process that involves the following stakeholders:

Colorado New Energy Improvement District (NEID)
Established by the State Legislature to implement C-PACE in Colorado.

CO C-PACE Program Administrator (PA)
Sustainable Real Estate Solutions, Inc. (SRS) has been retained to work in collaboration with the District to establish program and project technical and financial standards, originate projects, qualify capital providers, and assist as needed in the mortgage holder consent, project closing and post-closing process.

Building Owners
Individuals or corporations who own commercial property including office, retail or lodging, industrial, agricultural building, or multifamily housing (with 5 or more units).

Energy Auditors
Includes properly accredited professionals who provide Level I, II and III energy audits.

Registered Contractors (Contractors):
HVAC, CHP, Electrical, Insulation and other building contractors.

Qualified Capital Providers (QCP)
Local & national banks and specialty finance firms approved by the District to provide C-PACE project financing.

Mortgage Holders (MH)
The bank holding a first mortgage on a property. For properties with a mortgage, C-PACE requires the written consent of the MH to proceed with financing.

Project Development, Finance, and Closing
There are three (3) major steps that require the collaboration of multiple parties to complete a C-PACE project financing. As the project unfolds, the District and the PA work side by side with owners, contractors and capital providers to navigate the process. From start to finish some projects can be financed in as little as 6-8 weeks. More complex projects may take up to 90 days or longer.

Project Development					
Task	**Responsible Party**				
	Owner	Contractor	CP	PA	NEID
Project Origination	✔	✔	✔	✔	
Pre-Qualification Submission	✔	✔			
Property Pre-qualification				✔	
Project Development	✔	✔			
Project Technical Review & Risk Rating				✔	

Project Finance					
Task	**Responsible Party**				
	Owner	Contractor	CP	PA	NEID
Solicit Capital Provider Term Sheets[5]				✔	
Capital Provider Selection	✔				
Mortgage Holder Consent	✔		✔	✔	✔
Preliminary Assessing Resolution					✔
Title Search				✔	✔

Project Closing					
Task	**Responsible Party**				
	Owner	Contractor	CP	PA	NEID
Submit Project Financing Application	✔				
Assessment & Finance Closing	✔		✔		✔
Commence Construction		✔			
Project Commissioning		✔		✔	
M&V (one year anniversary)		✔		✔	

D. Program Administration

The Program Administrator has the responsibility for day-to-day coordination and delivery of the C-PACE program. The District Board members will select or source new administering entities if a change in program administration is required.

Administration is broken out into three functional categories comprising program management, fiduciary, and program marketing, outreach, and education. Key contacts and contact information for the administrative entities are listed below, although general questions should be directed to the Program Administrator. All major decisions in the administration of the program and appointment of additional entities to perform program administration tasks require the consent of Board.

Program Administrator (**PA):**
Sustainable Real Estate Solutions, Inc.
Key Contact: Brian J. McCarter
Phone: 203.459.0567
Email: bmccarter@PACEworx.com

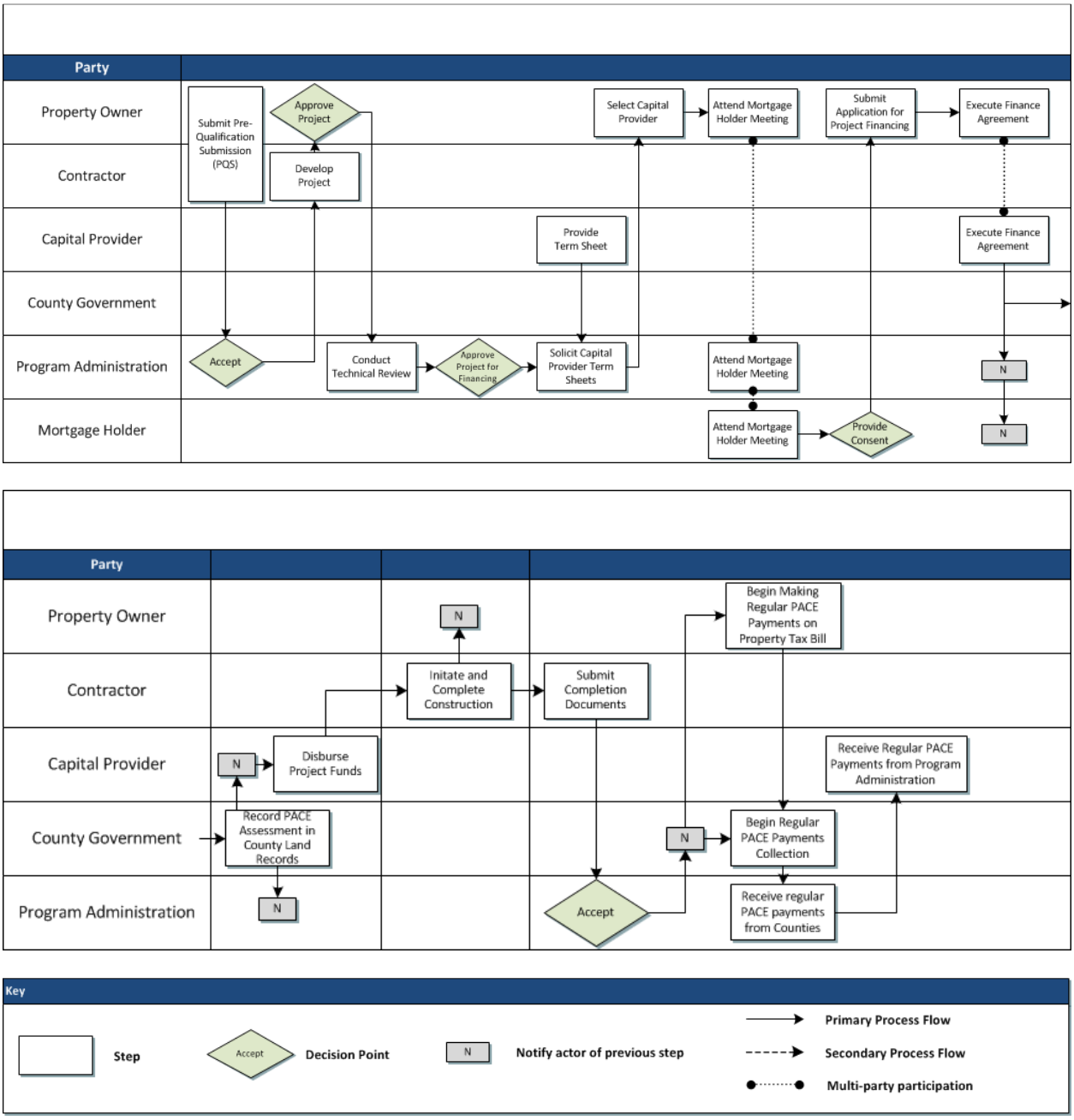
[5] For projects where the building owner requests the PA to facilitate financing term sheets from participating QCPs.

Fiduciary:
New Energy Improvement District
Key Contact: Paul Scharfenberger
Phone: 303.866.2432
Email: paul.scharfenberger@state.co.us

Program Marketing:
Sustainable Real Estate Solutions, Inc.
Key Contact: Brian J. McCarter
Phone: 203.459.0567
Email: bmccarter@PACEworx.com

Section 2: Eligibility, Participation, and Process

C-PACE project flow overview. [6]



[6] As no two projects are alike it is possible that the process for a specific project may differ from the steps defined in the charts above and in this Section 2. If there are any questions, consult with the PA to further discuss.

A. Eligible Projects

An eligible project for C-PACE financing must be:

a) Located on eligible real property, permanent, owned by an eligible property owner and

b) An "Energy Efficiency Improvement, Water Saving Measure, or a Renewable Energy Improvement."

1. Energy Efficiency and Water Conservation Improvements

Under the C-PACE statute, an "Energy Efficiency Improvement" eligible for C-PACE financing means one or more installations or modifications to eligible real property that is designed to reduce the energy and/or water consumption of the property. Appliances and other measures that are not permanent (i.e., attached[7] to the real property or building) are generally not eligible unless they are part of a larger package of measures that consist primarily of eligible measures. The following numbered list is included directly from the C-PACE Statute and specifies the types of energy efficiency improvements that may be financed using C-PACE. *This list is not comprehensive, and any measures that result in "utility cost savings," that meet other program criteria, will be considered under C-PACE*:

a) Insulation in walls, roofs, floors, and foundations and in heating and cooling distribution systems;

b) Storm windows and doors, multi-glazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

c) Automatic energy control systems;

d) Heating, ventilating, or air conditioning and distribution system modifications or replacements in a building;

e) Caulking and weather-stripping and other air sealing measures;

(f) Replacement or modification of lighting fixtures and controls to increase the energy efficiency of the system;

(g) Energy recovery systems;

(h) Daylighting systems (e.g., skylights, controls, light shelves);

(i) CHP and waste-to-power projects;

(j) Electric vehicle charging equipment added to the building or its associated parking area;

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[7] To qualify as permanent (attached), equipment must be bolted to, permanently affixed, or otherwise not easily removable from the property without the use of specialized machinery or tools and without damage to the structure.

and

(k) Any other modification, installation, or remodeling approved as a utility cost-savings measure by the District, including water conservation fixtures, both indoor and outdoor and for both hot and cold water.

A list of the specific energy efficiency measures that the District has approved to date can be found at http://www.copace.com/resources. The District has a strong preference for permanently installed measures. However, the District will consider Pre-Qualification Submission (PQS) that include some non-permanently installed measures that demonstrate that the applicant has made an effort to ensure that they will remain installed throughout their useful lives. If owners or contractors choose to propose a measure not listed that can be shown to be a utility cost-saving measure such measure must be described in the PQS. The description should include technical support for the assertion that the measure will save utility costs, consistent with the Board's guidance that *projects with an overall savings-to-investment ratio greater than one are strongly preferred.* (The savings includes total savings over the finance term. The investment is the total capital investment including all fees and interest charges.) The District's Board will review the PQS and determine whether such a measure is eligible for C-PACE financing.

2. Renewable Energy Improvements

The C-PACE statute permits the financing of Renewable Energy Improvements, installed on the customer side of the electric meter, that produce energy from renewable resources. These include, *but are not limited to*, photovoltaic, solar thermal, small wind, low-impact hydroelectric, biomass, fuel cell, or geothermal systems, including geothermal heat pumps.

The specific requirements for PACE financing of Renewable Energy Improvements that are part of a community solar garden[8] or located in a qualified community location[9] remain under consideration by the District. They will be set out in future revisions to this Program Guide. For the time being, however, such projects are not eligible for C-PACE financing.

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[8] "Community solar garden" means a solar electric generation facility with a nameplate rating of two megawatts or less and located in or near a community served by a qualifying retail utility where the beneficial use of the electricity generated by the facility belongs to the subscribers to the community solar garden. There shall be at least 10 subscribers. The owner of the community solar garden may be the qualifying retail utility or any other for-profit or nonprofit entity or organization, including a subscriber organization organized under this section that contracts to sell the output from the community solar garden to the qualifying retail utility. A community solar garden shall be deemed to be "located on the site of customer facilities."

[9] Through a qualified community location, as defined in section 30-20-602 (4.3), C.R.S., enacted by Senate Bill 10-100 which passed in 2010. "Qualified community location" means: (a) If the affected local electric utility is not an investor-owned utility, an off-site location of a renewable energy improvement that: (I) Is wholly owned, through either an undivided or a fractional interest, by the owner or owners of the residential or commercial building or buildings that are directly benefited by the renewable energy improvement; (II) Provides energy as a direct credit on the owner's utility bill; and (III) Is an encumbrance on the property specifically benefited. (b) If the affected local electric utility is an investor-owned utility, a community solar garden, as that term is defined in section 40-2-127 (2), C.R.S. If House Bill 10-1342 does not take effect, there shall be no qualified community locations in the service territories of investor-owned utilities.

A list of the specific Renewable Energy Improvement measures that the District has approved to date can be found at http://copace.com/resources/. Owners who wish to propose a renewable energy improvement measure not listed must describe such a measure in the PQS. The description should include technical support for the assertion that the measure generates renewable energy. The District's Board of Directors will review the PQS and determine whether such renewable measure is eligible for C-PACE financing.

Proponents of renewable energy projects will be required to submit a renewable energy feasibility study, as detailed in Chapter 2, section B, subsection 8 of this program guide.

3. Energy Savings Requirement

Under the C-PACE Statute, energy improvements may be financed under the program *provided* they generate "utility cost savings." Unlike some other commercial PACE programs, *there is no statutory requirement that the projects generate positive cash flows based on energy savings*. This means that if the District is satisfied that the project will generate utility cost savings, this statutory requirement will be satisfied.

While the C-PACE Statute does not require any demonstration of the Savings-to-Investment Ratio (SIR), the District strongly encourages property owners to bring forward projects with SIR's greater than 1.0 for the following reasons:

a) Capital providers look favorably on projects that show positive cash flow over their lifetimes;
b) Mortgage holders are more likely to consent to the imposition of the senior C-PACE lien for projects that show positive cash flow;
c) In general, the higher the SIR, the greater the demonstrated environmental benefits of the project, helping to promote the goals for the C-PACE program set forth in the C-PACE Statute.

The SIR is calculated as the ratio of the total projected energy and water utility cost savings over the lifetime (or weighted average lifetime if there are multiple measures) of those measures, divided by the total cost of those measures, including all fees and interest charges. For new construction, the energy savings should be calculated as the incremental energy savings gained above the determined minimum requirements specified in the new construction section of this document.

4. Data Sharing Requirements

To track C-PACE performance, the District requires that projects provide ongoing access to utility usage data after a project is complete. This data will be used for reporting purposes and will be anonymized[10] and aggregated[11] with other projects before it is shared with any members of the public. Early in the program, if total participation is low enough, the district will ensure that a sufficient sample size of projects is available to maintain anonymity of data sources.

Data can be shared in one of two formats:

a) The preferred format for sharing this data is through the U.S. EPA's ENERGY STAR Portfolio Manager.[12] Portfolio Manager is an online tool that allows property owners to measure and track energy and water consumption of their building (or the portfolio of buildings that have participated in C-PACE).
   i) C-PACE participants are highly encouraged to enable automated update of post construction utility billing data to Portfolio Manager.
   ii) C-PACE participants are encouraged, but not required, to provide the C-PACE PA with access to their Portfolio Manager login data, to be used expressly for the purposes detailed in this program guide.
   iii) C-PACE participants, otherwise, will be asked to provide energy consumption reports from Portfolio Manager no less than once annually.

b) Alternatively, property owners can provide a signed utility release waiver[13] to the District.

If an applicant does not wish to allow the District access to utility data for the building, the District Board may grant exception to this requirement provided however that confidentiality, competitiveness, or other compelling reasons are presented. Property owners with data sharing concerns should include a letter to the District along with their PQS materials, stating reasons why a waiver should be granted for this requirement.

Xcel Energy's utility data release waiver form is valid in perpetuity until the customer submits a written statement terminating the consent. That form is included as part of the attached program documents.

The PA will assist project Owners with the utility data release process as needed.

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[10] Anonymized Data means all personal identifying information such as contact names, address, and parcel numbers has been deleted.

[11] Aggregated Data means specific project data is blended with data from other projects so that individual data points that may be attributed to a single property are not recognizable. The C-PACE program will not release any programmatic energy savings or investment data unless at least 15 records are reported statewide or unless the property owner has specifically consented to the release of such data.

[12] http://www.energystar.gov/buildings/facility-owners-and-managers/existing-buildings/use-portfolio-manager

[13] Utility Release Waivers authorize the release of utility billing data to a named third party. C-PACE includes a utility release waiver for Xcel Energy, as well as a generic form that can be customized to meet the needs of other utilities as needed.

5. Other Eligible Expenses

Subject to acceptance by the QCP, project related expenses associated with a C-PACE financing may be capitalized. These costs include:

a) Energy/water audit costs;
b) Renewable Energy Feasibility Study costs;
c) Engineering and design expenses, including energy modeling for new construction;
d) Construction and installation costs, including labor and equipment;
e) Commissioning costs;
f) Prepaid operation and maintenance expenses for a period of up to five years, including measurement and verification costs incurred;
g) Costs of an extended warranty covering the full finance term for equipment financed;
h) Any capital provider fees and /or required prepaid interest;
i) Program and permit fees;
j) Other project-related expenses approved by the District.
k) Ineligible measures that do not exceed 30 percent of the eligible measure project cost.

6. Ineligible Measures

Other than custom measures approved by the District, all C-PACE-related improvements must be permanently affixed[14] to the subject property or building and can reasonably be expected to save energy or water or generate renewable energy. The program cannot finance projects that include:

a) Any combination of measures that does not result in utility cost savings.
b) Measures that are not permanently attached to the subject property or building and which can be easily removed (not including certain lighting upgrades that the District determines are unlikely to be removed).
c) Any measure that is not commercially available.[15]
d) Health and safety improvements not directly related to or otherwise incorporated in the energy improvement.
e) Examples of ineligible measures include: appliances, some types of plug load devices (such as smart strip devices) and vending machine controls.
f) General construction costs.

Ineligible measures may be included in the amount financed *provided* the proportion of those ineligible measures to eligible measures does not exceed 30 percent of the eligible measure project cost.

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[14] Ballasted solar is considered permanently affixed

[15] Commercially Available Items are defined as the following: Goods, services or items that have been offered for sale, lease or license to the general public through the commercial marketplace; Goods, services or items not yet available in the commercial marketplace, but will be available in the commercial marketplace prior to intended installation date indicated by C-PACE project applicant.

Ultimately, the inclusion of any given measure will be up to the C-PACE PA and the District Board. When in doubt, it is best to consult with the administrator on the eligibility of any specific measure.

7. Special Considerations for New Construction

New construction projects present a unique opportunity for C-PACE financing in CO. The C-PACE financing structure can unlock capital to enable a property owner or developer to achieve higher building performance – improvements that are often "value engineered" out of a project – and it may also replace all or a portion of high cost mezzanine or equity financing.

Unlike retrofits to existing properties, where the savings from energy and water efficiency improvements can be demonstrated by reference to pre-improvement baseline consumption data, new construction, by definition, has no baseline against which to measure improvements.[16] Consequently, the District has designed a separate process to accommodate new construction projects in the program.

C-PACE new construction PQSs that are limited to renewable energy are not subject to the guidelines in this section and should follow the guidance provided in the pertinent sections of this document.

Maximum New Construction C-PACE Finance Amount

The applicant is required to provide total project construction cost by trade component in order to allow the CO C-PACE Program Administrator to evaluate the "total eligible construction cost" (TECC). The applicant will also be required to confirm using modeling (such as EnergyPlus™) that the building will be designed to meet or exceed IECC 2015/ASHRAE 90.1-2013.

The maximum C-PACE finance amount will depend upon whether IECC 2015 is met or exceeded.

If the existing local energy code in a jurisdiction is "less than" IECC 2015, the project will be eligible for C-PACE financing at 15% of the TECC if the project meets IECC 2015. If the project is designed to exceed IECC 2015 by 5% or more, the project will be eligible for C-PACE financing at 20% of the TECC (an additional 5%).

If the local code is at IECC 2015, the new construction project will have to comply with this energy code and will be eligible for C-PACE financing at 15% of the TECC. If the project is designed to exceed IECC 2015 by at least 5%, the project will be eligible for C-PACE financing at 20% of the TECC (an additional 5%).

The maximum C-PACE finance amount will not exceed 20% of the TECC.

Once an application is received, the CO C-PACE Program Administrator will coordinate with the project developer, property owner, utility, engineering/construction firm and/or energy modeling firm, depending on how a particular project intends to proceed. The purpose of this coordination

[16] This is also the case where an abandoned building is being rehabilitated or a building is being fundamentally repurposed, such as from a warehouse to an industrial facility or to multi-tenant office or residential. Consequently, such rehabilitation or repurposing will be treated the same as new construction for purposes of C-PACE financing.

will be to understand the project, review C-PACE requirements (particularly with respect to building energy simulation modeling), and ensure consistency with potential utility incentives.

If the design is to include a renewable energy system such as Solar PV, its impact on building energy performance is excluded from the energy savings analysis. Such systems will be evaluated separately by the Program Administrator and the total installed cost added to the eligible C-PACE financing amount determined solely by reviewing performance against IECC 2015.

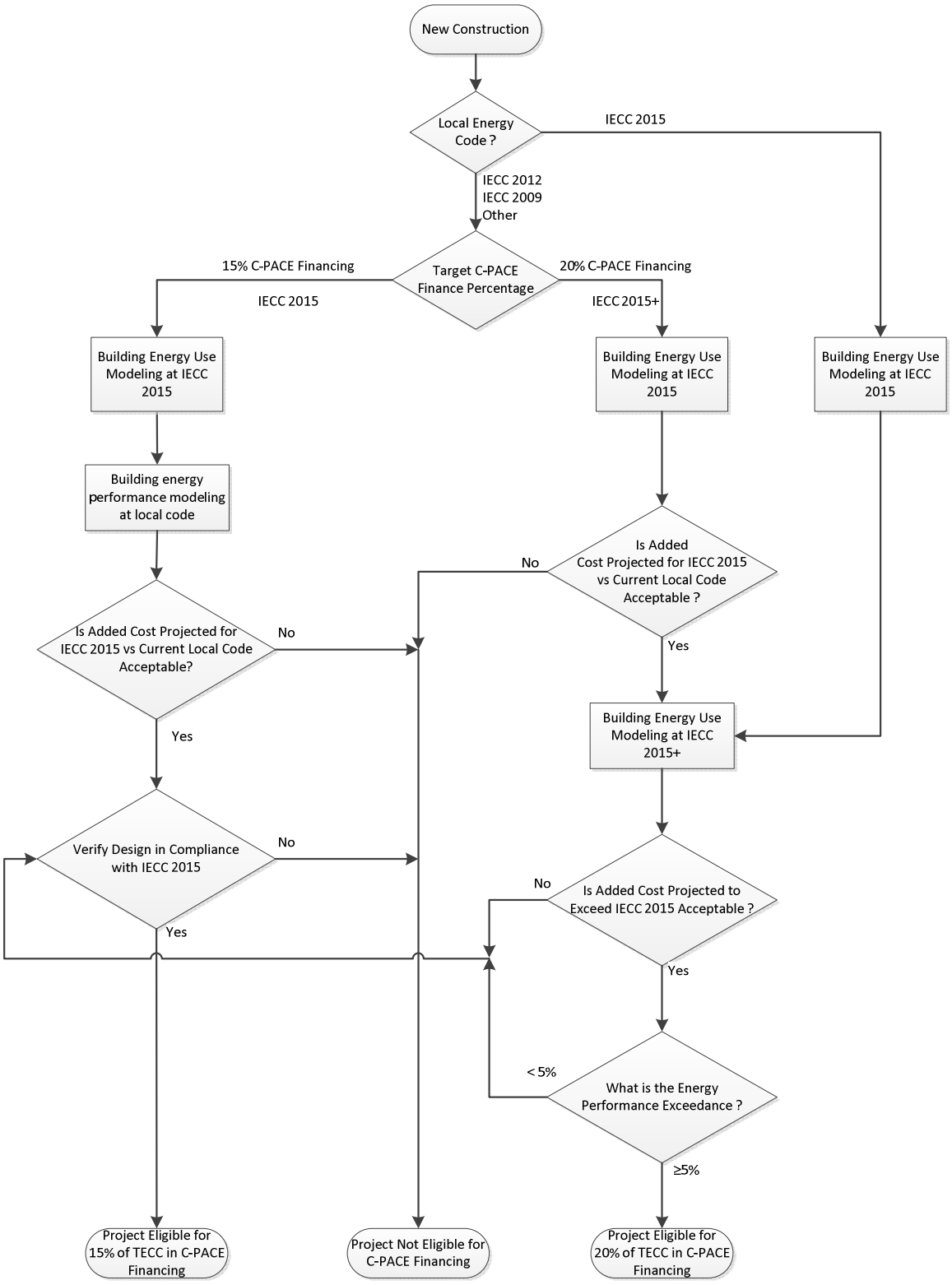
The maximum C-PACE finance amount eligible for a particular project will ultimately be determined by the Program Administrator.

In view of the complexity of new construction projects, all new construction projects seeking C-PACE financing should be reviewed with the Program Administrator prior to application submittal.

As new construction represents a unique and innovative feature among C-PACE programs, from which both economic development and environmental benefits are expected, the first two years of CO's C-PACE new construction initiative will be considered a pilot. The Program Administrator reserves the right to modify the criteria to meet market needs and achieve the program's goals.

A flowchart of the new construction methodology is presented below.

New Construction Flowchart for Energy Efficiency Measure



8. Audit Requirements[17]

As a condition of financing, the District requires performance of an energy audit, water audit or renewable energy feasibility analysis that assesses the expected energy and/or water cost savings of the energy improvements over their useful lives.

a. **Audits**. The District requires an ASHRAE Level I audit or better. This requirement is waived for single-measure projects involving like-for-like equipment replacements, provided the PQS includes a commitment from the contactor to demonstrate that newly installed equipment has been properly commissioned.

b. **Renewable Energy Feasibility Study**. For all Renewable Energy Improvements, the property owner must submit with the PQS a Renewable Energy Feasibility Study. Renewable Energy Feasibility Studies provide technology and financing recommendations that a property owner or project developer should pursue. Ultimately, the feasibility study needs to provide enough information for the property owner or project developer and design team to make informed decisions about the types of technologies to include in the final project design.

   The feasibility study should be performed by a renewable energy expert with detailed knowledge of the renewable energy systems under consideration, including technical and design requirements issues, relevant policies and incentives, utility tariffs, interconnections issues, NEPA evaluations (where necessary), and project funding mechanisms.

9. Post-completion Measurement and Verification Requirements

Post-completion Inspection Report

During the project period the Program Administrator, at its discretion, will conduct onsite inspection(s), or request verification of certain installations through photo and/or video evidence.

Upon completion of the project, post-installation verification activities will be conducted to ensure that proper equipment/systems were installed. This will include the submittal of photographic or video evidence of completion and / or onsite inspection. Post installation verification requirements will be determined by the District or its delegate, the PA, on a project by project basis.

Post-construction Commissioning Report

The District requires that a post-construction commissioning report be provided upon completion of projects. The post-construction commissioning report can be performed by either a third party, or the party performing the original installation of funded measures. The report shall contain, at a minimum:

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[17] The Property Owner is responsible for all costs and fees incurred as a result of the C-PACE program, including costs associated with audit and renewable energy feasibility study (which may eventually be included in the project financing), even in cases where the project does not ultimately move forward to construction. The District is not responsible for any costs incurred by an Owner or Contractor in the course of preparing and filing a PQS or a Project Application in the event of a denied application.

a) A statement that systems have been completed in accordance with the contract documents, and that the systems are performing as expected of such an installation;

b) Identification and discussion of any substitutions, compromises, or variances between the final design intent, contract documents and as-built conditions;

c) Description of components and systems that exceed the owner's project requirements and those which do not meet the requirements and why; and

d) A summary of all issues resolved and unresolved and any recommendations for resolution.

In certain instances, namely for projects representing single measure, or like-for-like replacements, the District may grant a waiver for the post-construction commissioning report requirement.

B. Eligible Properties

An eligible project for C-PACE financing must be located on eligible real property, be owned by an eligible property owner, and be an "Energy Efficiency Improvement," which is defined to include water saving measures, or a "Renewable Energy Improvement," or both.

Under the C-PACE statute, a parcel of real property is eligible for C-PACE financing if it meets the following criteria:

1. The property is located in a county that has joined the statewide C-PACE New Energy Improvement District. A list of participating counties is located here: http://www.copace.com/participating-counties.

2. If the project to be financed represents a retrofit to an existing building and it:

   (a) Includes a building, other than a residential building containing four or fewer units, which could include an office or retail or lodging building, an industrial or agricultural building, or multifamily housing (other than for the portion of a building which has for sale housing units or "condominiums"), or

   (b) Contains an improvement or connected land that, for purposes of ad valorem taxation, is billed with a parcel meeting the requirements of paragraph (a). For example, if a commercial building occupies 25 percent of a tax parcel of property, subject to applicable zoning/density regulations, C-PACE financing could be used to install solar panels on the remainder of the parcel.

3. If the project to be financed represents new construction, the new construction must:

(a) Comprise the construction of a building, other than a residential building containing four or fewer units, and

(b) May also include upgrades to an improvement or connected land that, for purposes of ad valorem taxation, is billed with a parcel meeting the requirements of (a). The example given in 2(b) (above) applies here. The only difference is that the solar project would be on land connected to a new construction project.

4. The property is (or is eligible to be placed) on the property tax rolls of a county in which it is located and has a property tax identification number.

C. Local Government Eligibility and Participation

Eligibility

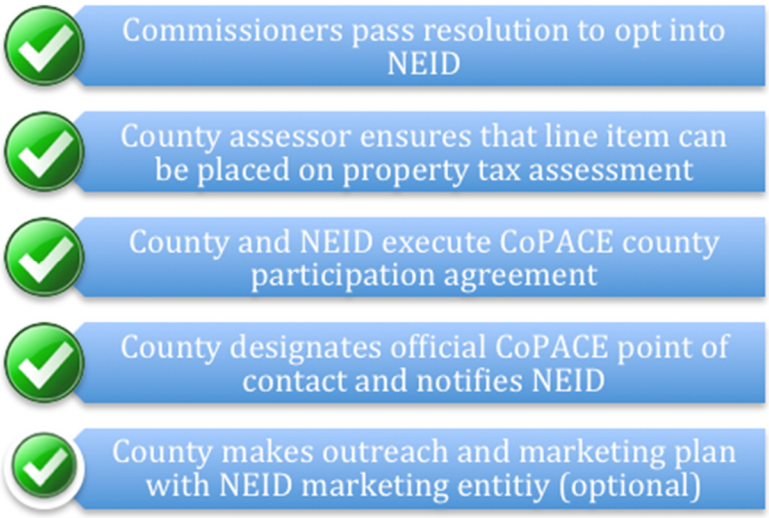
Local governments[18] are the key to the program's success. For a county to become eligible, C.R.S. 32-20-105(c) requires that Board of County Commissioners adopt a resolution authorizing the District to offer the C-PACE program within that county. Upon execution of the agreement, that county will become part of the C-PACE program.

Cities and towns are not eligible to opt in, but are encouraged to work with their county governments to educate property owners and other stakeholders on the economic development, energy, and environmental benefits of C-PACE.

The following table outlines the major steps required of a county government to become part of the statewide NEID.

[18] Buildings owned by state and local government agencies are also technically eligible for C-PACE financing. Applications from such agencies or local government entities, will be reviewed by attorneys for both NEID and the local agency or government entity to ensure that the building ownership and C-PACE financing does not trigger TABOR.

County Government Eligibility Checklist



Participation

Once a county opted in to CO C-PACE, the ongoing role of the county government is three - fold:

1. Record assessments in county land records and notify the District and capital providers of recordation.[19]

2. Issue property tax bills, including C-PACE assessments, in the ordinary course of business. Collect special assessment payments and forward such assessments to NEID.

3. Optionally, act as a conduit between the District outreach, education and marketing team and local county departments such as offices of economic development, land use, sustainability etc.

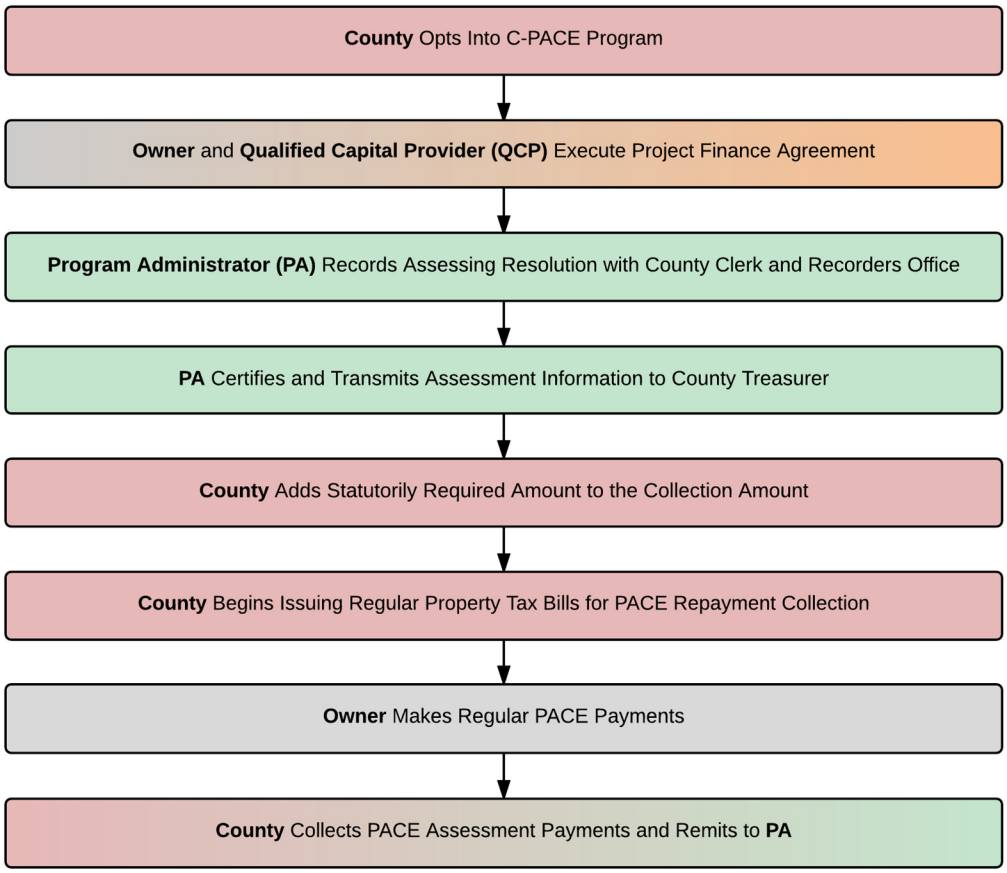
The C-PACE program is designed to leverage the existing county tax collection process to the greatest extent possible. However, variations in tax collection practices from county to county may require customization of the basic process.

CRS 30-1-102(1), provides that county treasurers are empowered to collect a fee equal to 1% of the amount of each special assessment payment. This statutory requirement also applies to C-PACE assessments, so property owners should expect to see the 1% fee included in the amounts to be paid on their C-PACE assessment on each property tax bill.

[19] The District maintains responsibility to calculate and report assessment amounts to the County on an annual basis.

Local Government Process Flow

County Government Process Flow



Legend:

Program Administrator	Contractor	Owner	Capital Provider	County	Mortgage Holder

E. Property Owner Eligibility and Participation

Eligibility

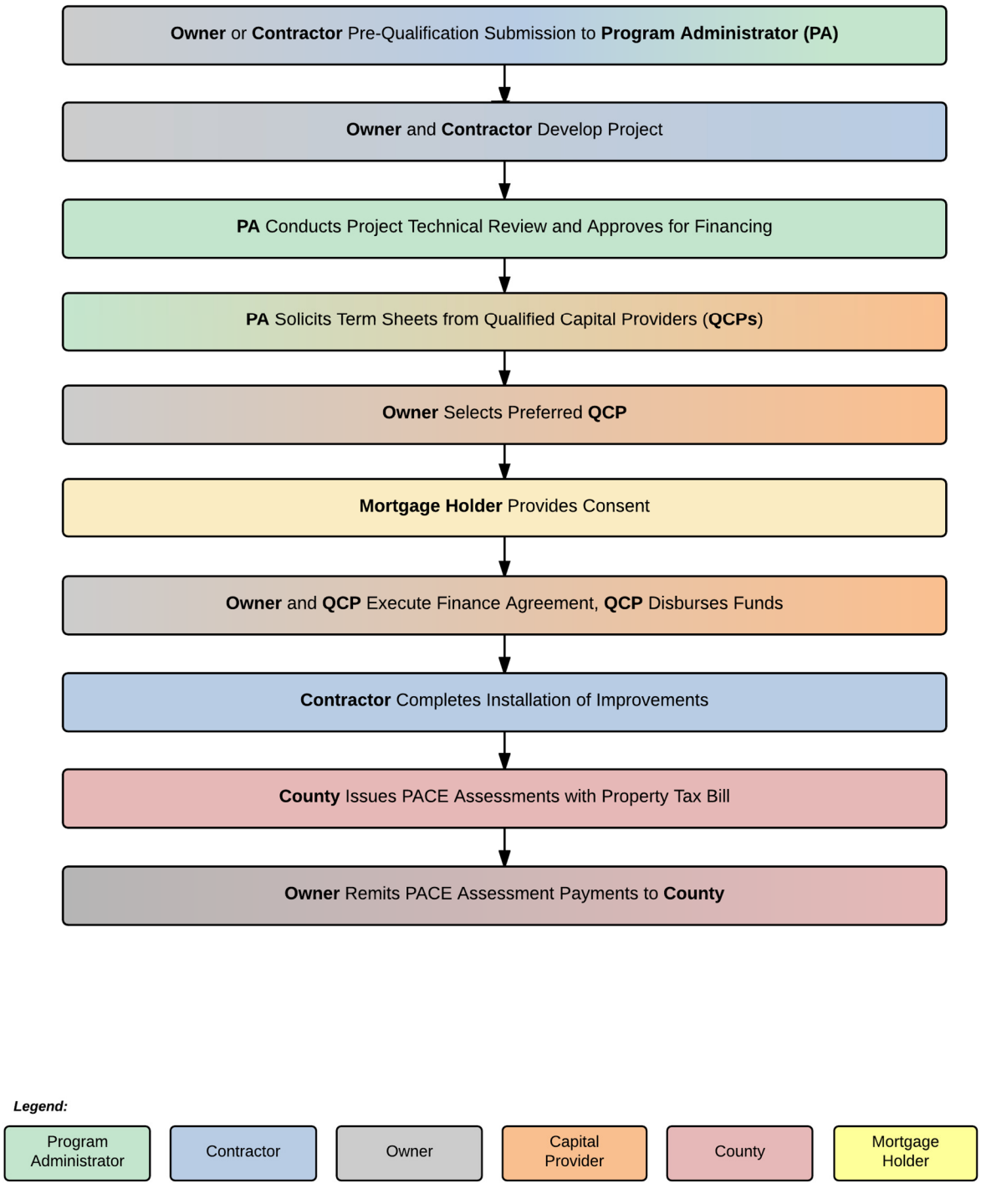
Property owners eligible to participate include individuals, business entities (such as corporations, partnerships, limited liability companies and cooperatives) and non-profit companies. Government-owned properties are also eligible to participate in C-PACE.[20] The applicable underwriting standards of qualified capital providers may, in some circumstances, disqualify a property owner with a recent bankruptcy from participation in C-PACE.

[20] The Solar Foundation is currently (as of 4/2/15) working on a PACE program specific to tax exempt organizations. It has not launched yet. http://www.thesolarfoundation.org/press-release-the-solar-foundation-selected-to-lead-1-2m-sunshot-initiative-project/

Participation

The process flow for a C-PACE assessment, from PQS through the submission of a Project Application, Funding and Repayment, is as specified in the figure below.

Property Owner Process Flow



To produce a fully approved Project Application, multiple parties need to work in collaboration to obtain C-PACE project financing. It is strongly recommended that property owners begin working with the PA as early as possible.

1. Project Development and Pre-Qualification Submission (PQS)

Contractors working on behalf of and in collaboration with building owners shall submit project technical and financial data in the PQS. The PA will collaborate with the contractor and the owner to consider alternative project scenarios. The goal is to select the optimum mix of ECMs. With all parties in agreement the PA will complete a final technical review, issue the Project Finance Report and Risk Rating, and approve the project for financing.

2. Project Finance and Mortgage Holder Consent

Upon the building owner's selection of a preferred Qualified Capital Provider, the PA prepares Mortgage Holder Consent documentation for review and delivery by the Owner to the Mortgage Holder with a request to meet and discuss the financial merits of the project.

Once Mortgage Holder consent has been received, the District prepares the Preliminary Assessing Resolution and requests a title search.

3. Project Closing, Construction and Commissioning

When the title search has been received, the Owner submits a Project Finance Application to the PA. The Owner, PA, the District and the Qualified Capital Provider schedule a closing and execute all the final documents. The contractor is notified upon finance closing and construction will commence.

At the completion of construction, a Commissioning Oversight Report (prepared by a 3rd party) will be drafted and submitted to the Owner and the PA.

4. Funding

Once approved, the project can move forward with the execution of the Assessment and Financing Agreement by the Owner and the Qualified Capital Provider. Upon execution of this Agreement, project construction finance and all other project closing fees can be disbursed as provided in the closing documents.

5. Schedule for Completion

As part of the Project Application, the property owner will submit an estimated project completion date. The project applicant must notify the C-PACE program if an extension on the project timeline is required.

The Owner must use the contractor that the C-PACE program has approved for the work and has the responsibility to ensure that the approved project completion date for installation of improvements is met.

6. Progress Payments

For larger projects or those that will be constructed in phases, some Qualified Capital Providers may require that disbursements be made over time and be based on achieving certain milestones. In such a case, the Qualified Capital Providers will specify the documents and certifications that will need to be provided to trigger each disbursement.

In such cases, and although the property owner and/or its contractors will not have received all of the funds, interest in the full amount of the C-PACE assessment will begin accruing at the initial closing of the C-PACE transaction.

7. Program Participation Expiration

Property owners that receive approval must have a registered contractor complete installation of the eligible improvements on the subject property and be current with the payment schedule that has been agreed to in the closing documents.

If a property owner fails to have a registered contractor complete the installation of eligible improvements on the subject property within the reservation period, the approval will expire. Property owners may request to extend program approvals. However, an extension fee may be payable, at the discretion of the District.

An applicant may cancel a program approval in writing during the project completion timeline period, but will forfeit any fees paid and the opportunity to receive funding under that approval. The applicant may reapply.

8. Change of Contractor

Property owners who wish to change or bring on additional contractors after the Project Finance Application has been approved may do so with approval from the District. New contractors must follow the necessary program approval process set forth in this document prior to commencing work on a C-PACE funded project.

9. Change Orders

Recognizing that change orders are relatively common during the construction process, Owners may be required to submit a change order to the District for approval. If the changes significantly alter an already approved measure or otherwise may affect the energy consumption of the building, the PA should be consulted to determine if a change order should be submitted.

Change orders that result in a change to the total funded cost will be handled on a case by case basis. While budget overruns are not anticipated, Owners should keep the PA well apprised of potential or actual changes in project scope, project budget, and project timeline.

F. Contractor Eligibility and Participation

Eligibility

For the purposes of C-PACE, "Contractor" is defined as any agent, employee or subcontractor thereof who is performing work required for installation of eligible measures, or program compliance on behalf of a C-PACE participating property owner or investor. "Contractor" can include individuals or companies performing installations and other work associated with projects as well as those individuals or companies performing commissioning or other forms of project verification required through C-PACE.

The District will maintain a list of registered contractors. To become a C-PACE registered contractor, contractors must meet eligibility criteria established by the District. The District encourages contractors to take steps toward becoming a registered contractor prior to submitting paperwork for a specific project.

Contractors who have been approved as registered contractors will remain on the C-PACE registered contractor list for three years from the date they become qualified. The District reserves the right to disqualify contractors if they are found to be in violation of any of the standards set forth in the Program Guidelines or for any other reason that the District Board finds to be in violation of good practices of the C-PACE program.

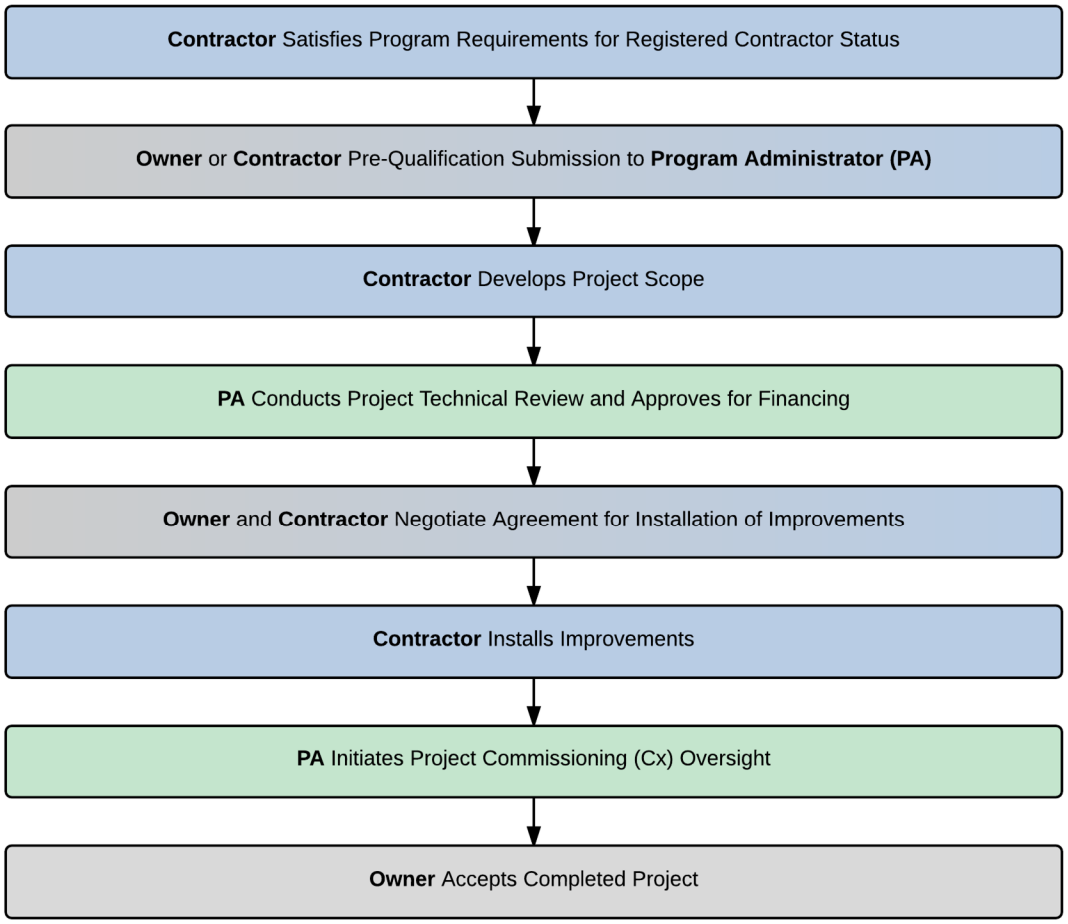
To become registered, a contractor will be required to complete contractor training and submit the C-PACE Contractor Registration application, which can be found at: http://copace.com/resources/.

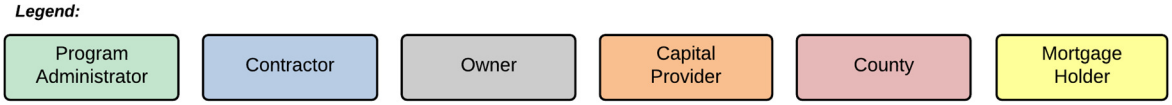
Participation

Contractors are an integral link in the chain that makes C-PACE a successful program. Registered Contractor applications will be accepted on a rolling basis. Those contractors whose applications are accepted will be listed as a registered contractor on the C-PACE website.

Contractors must obtain all necessary local and state building permits that are required by law to complete the proposed scope of work.

Contractor Process Flow





G. Capital Provider Participation and Process Flow

C-PACE does not work exclusively with any single capital provider, but instead, seeks to stimulate the market through an open model under which any qualifying capital provider may participate and fund eligible projects.

To participate in C-PACE, a capital provider must become a Qualified Capital Provider (QCP) by submitting the Capital Provider Application and Participation Agreement. For a QCP to maintain its status, it must promptly disclose to the District any material changes to the initial Application.

The C-PACE program reserves the right to rescind the "QCP status" if the QCP is found to be in violation of any of the standards set forth in the Program Guidelines, or for any other reason that the District Board finds to be in violation of good practices of the C-PACE program.

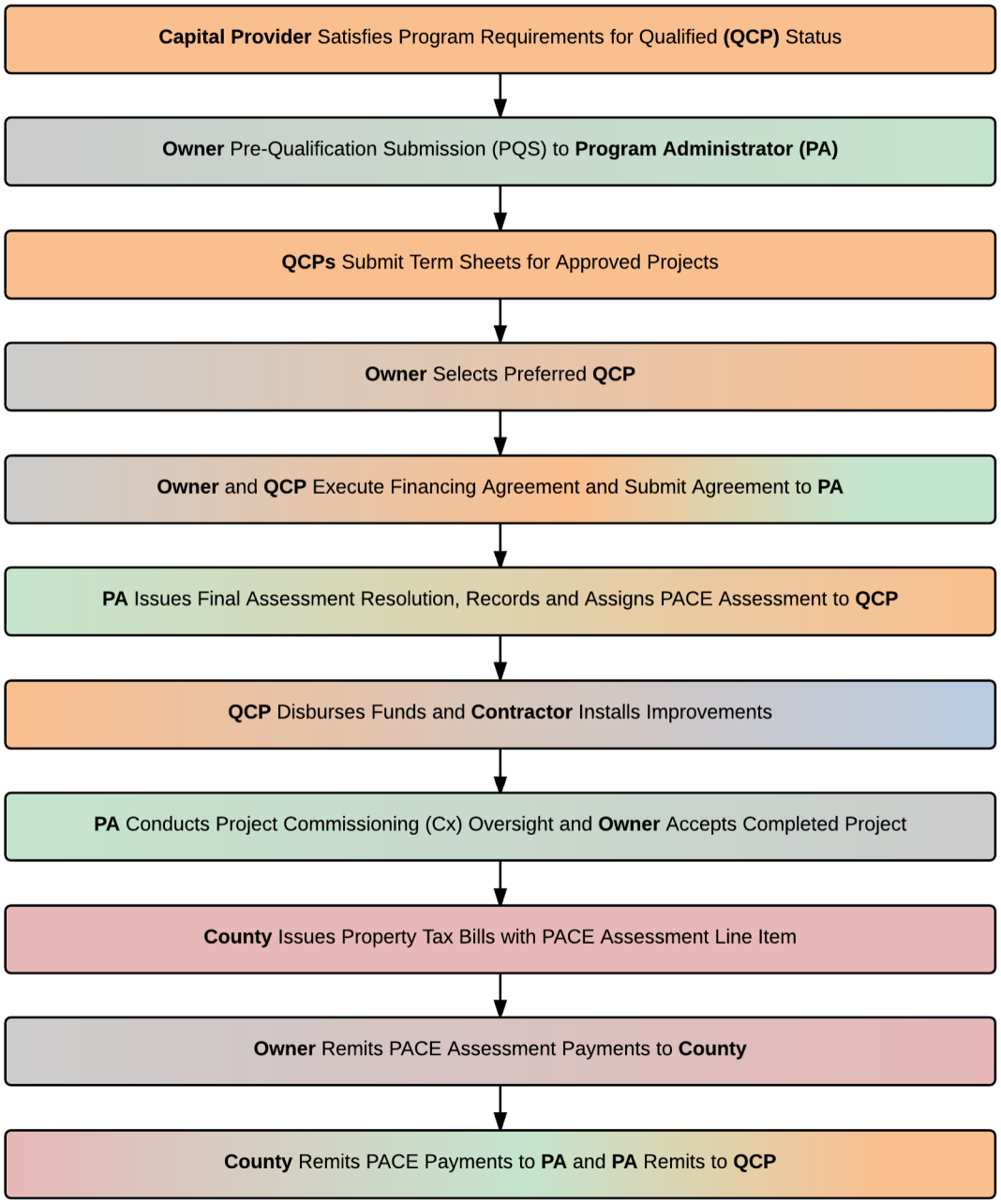
A QCP may choose to have their contact information listed on the C-PACE website, which could be a way to source additional projects.

Process Flow

The Colorado C-PACE open market approach offers multiple financing options to building owners, enabling the program to achieve its mission of making financing accessible and affordable. QCPs will be provided an opportunity to bid on projects as they are originated by the program. However, should an owner pre-select a capital provider for a specific project, the selected capital provider must complete Capital Provider Application and Participation Agreement.

The following table provides an overview of the process steps that capital providers will encounter over the course of funding a C-PACE project.

Capital Provider Process Flow



Legend:

Program Administrator | Contractor | Owner | Capital Provider | County | Mortgage Holder

Section 3: Financing Standards

A. Financing Structure

Any qualified capital provider is eligible to provide C-PACE financing to property owners for qualified projects. The District maintains a list of qualified capital providers, along with their contact details. All capital providers must be approved by the District.

Participating property owners should understand the following important features of C-PACE financing:

The principal amount will be equal to all project costs that the property owner may choose to finance through the program, which may include costs associated with project implementation such as permits, audit expenses, closing fees and capitalized interest.

The rate of interest on the financing will be established by the project's capital provider.

Depending on the date that a project financing is closed, it may not be possible to place the special assessment on the property tax bill until the following tax roll cycle. Where such delay occurs, the interest payments that the property owner would have paid in the first tax year are capitalized in the principal amount.

The C-PACE program is funded by administrative fees paid by participating property owners. This administration fee is typically included in the total amount financed. The District's current program administration fee is 2.5% of the project finance amount (not to exceed $50,000 per project).

Interest on a project begins accruing at the point that the first progress payment is made.

B. Financing Term

C-PACE financing is available for terms of up to 25 years.

C. Security

C-PACE project financing is secured by a special assessment and corresponding lien on the subject property. This lien is senior to all commercial liens, even if filed earlier in time, including mortgages and deeds of trust. It is equal (*pari passu*) in priority to other special assessments on the property and junior to general tax liens. If a payment is in default, the remedies available to capital providers are the same as are available to holders of other special assessments, including penalty interest and, in extreme cases, foreclosure and sale of the property at a tax lien sale.

D. Underwriting Standards

The District does not establish the underwriting requirements for C-PACE financing. Rather, each approved capital provider will use its own underwriting criteria. Nevertheless, experience

has shown the following to be typical of the underwriting standards used nationwide by PACE capital providers:

Total property-related debt (including mortgage debt, the C-PACE financing and any other obligations secured by the property) is not to exceed 80 percent of the property's value. This value may be established either (a) as the assessed value of the property, or (b) its appraised value, as supported by a recent appraisal. In either case, the property's value may include the enhanced value of the property resulting from the installation of the energy improvements being financed with the C-PACE assessment.

The property owner has been current on its property tax and assessment payments with respect to the property for at least three years.

The property owner must not have any involuntary liens, defaults, or judgments applicable to the subject property. A property owner may be able to participate if it can be demonstrated that there is an acceptable reason for the lien, default, or judgment and provide supporting documentation.

The property owner(s) or their affiliated companies have not been a debtor in a bankruptcy proceeding during the past seven years and the property proposed to be subject to the contractual assessment must not currently be an asset in a bankruptcy proceeding.

The cash flow generated by the property during the past 12 months exceeds 1.25 times the sum of the amount of the annual assessment plus any interest expense associated with any mortgage debt for the past 12 months.

It is possible that some project capital providers may require a debt service reserve fund to be funded with bond proceeds.

E. Financing Costs and Interest Rates

The applicable interest rate and fees will be set by the capital provider.

F. Mortgage Holder Consent

The C-PACE Statute at C.R.S. 32-20-105(3)(i) requires that property owners receive the consent of all holders of mortgages or deeds of trust on the property prior to the imposition of the C-PACE assessment lien, which will be senior in priority to all commercial mortgages on the property. A list of financial institutions that have consented to the imposition of PACE liens nationwide is available here.

G. Transfer or Resale of the Subject Property

If the property is sold prior to the end of the agreed-upon special assessment period, the new owner will assume the C-PACE assessment obligation, unless otherwise negotiated. Ownership of any authorized improvements on the subject property will transfer to the new owner at the close of the real estate sale. Authorized improvements financed through the program may not be removed from the property until the C-PACE assessment has been fully repaid. In

connection with any sale, Program participants agree to make all legally required disclosures about the existence of the special C-PACE assessment lien on the property.

H. Other Assessment Terms and Conditions

It is expected that project QCPs will require Owners to sign off on yield maintenance, or prepayment penalties, in order to protect their investment. Any such arrangement is between the property owner and the project investor.

I. Program Fees

C-PACE is designed to be a self-sustaining program once a certain level of deal-flow is achieved. The Colorado Energy Office has a limited budget to ensure that the program can cover its operating and start-up costs through the first few years. However, the long-term goal is to ensure that the program's project closing fees are sufficient to cover the costs associated with administering the program, while still allowing for attractive overall costs associated with C-PACE participation.

The C-PACE program administration fee assigned to each project is 2.5 percent of the project's amount financed (not to exceed $50,000 per project). This program administration fee, to cover the costs associated with the various support services required to sustain the C-PACE program, is typically included in the total financed amount and is only due in the case of a successful project financing.

J. Interaction with Other Incentives

C-PACE financing is fully compatible with other state and federal incentive programs such as tax credits, accelerated depreciation and rebates. The District encourages property owners to apply for all federal, state, local and utility incentives that are available for their projects.

Section 4: Payment Process

A. How funds are collected

Repayment of C-PACE assessment financing is made via payments on the property tax bill. While property owners will find the C-PACE assessment as a separate line item on the bill, the payment will be made together with the payment of property taxes and any other applicable special assessments. Property owners whose mortgage lenders require that taxes be escrowed should expect that the lenders will increase the escrow amount to include these C-PACE payments.

B. How funds are disbursed to investors

Each county that participates in C-PACE has agreed to collect the C-PACE assessments from participating property owners via the property tax collection system and to remit those funds to the District (or its designated fiduciary) for distribution to capital providers.

C. Default and exercise of remedies

Property owners should be aware that any failure to make a payment on a C-PACE assessment will give rise to the same consequences as a failure to pay property taxes, which could include penalty interest and fees as well as a tax sale to recover the amounts owed. The C-PACE Act also grants the District the ability to file a civil action for foreclosure of the subject property (see C.R.S. 32-30-107(4)(e)).

Section 5: Disclaimers; Other Program Requirements

A. Changes in the Program Terms; Severability

The District reserves the right to change this Program Guide and the terms and provisions set forth within at any time without notice; however, no such change will affect the obligation to pay special assessments for approved C-PACE financings. Participation in the program will be subject to the Program Guide in effect at the time of closing.

If any provision of this Program Guide is determined to be unlawful, void, or for any reason unenforceable, removal or invalidity of that provision shall be deemed severable from this Program Guide and shall not affect the validity and enforceability of any remaining provisions.

It is the property owner's responsibility to confirm that the property owner has the most recent version of Program Documents. The property owner may satisfy this responsibility by checking the documents on the District website or by calling the PA.

B. Disclosure of Property Owner Information

Property owners must agree to allow the District to disclose personal/corporate information submitted as part of the program to the PA. They also must agree that the District and the PA may disclose the property owner's information to third parties when such disclosure is essential to the conduct of the District's business. This disclosure also may be necessary to provide services to the property owner, including but not limited to where such disclosure is necessary to (i) comply with the law, legal process or regulators, and (ii) enable the District or the PA's employees or consultants to provide services to the property owner or to otherwise perform their duties. The program will not provide property owner information to third parties for telemarketing, email or direct mail solicitation.

To protect privacy and security all property owner information obtained by the District or the PA is treated with great care.

C. Fraud

Giving materially false, misleading or inaccurate information or statements to the District, the PA or any of their employees and agents (or failing to provide the District with material information) in connection with a Pre-Qualification Submission, Project Application, Contractor Registration Application or Capital Provider Application and Participation Agreement is punishable by law.

Material representations include, but are not limited to, representations concerning the project costs, ownership structure and financial information relating to the property and the applicant.

D. Exceptions to these Terms and Provisions

The District may make exceptions to the terms and provisions detailed in this handbook where there is a finding that such exception furthers the goals and objectives of C-PACE and the District. Consideration of an exception request from a property owner may involve payment of a fee.

E. Changes in State and Federal Law

The District's ability to operate the program is subject to a variety of state and federal laws. If those laws or the judicial interpretation thereof were to change after the filing of the project has been submitted for funding, the program's ability to issue the contemplated C-PACE funding may be impaired.

Section 6: Exhibits

A. NEID County Participation Agreement

Can be found here.

B. Pre-Qualification Submission:

Can be found here.

C. Assessment and Financing Agreement - Template

Can be found here.

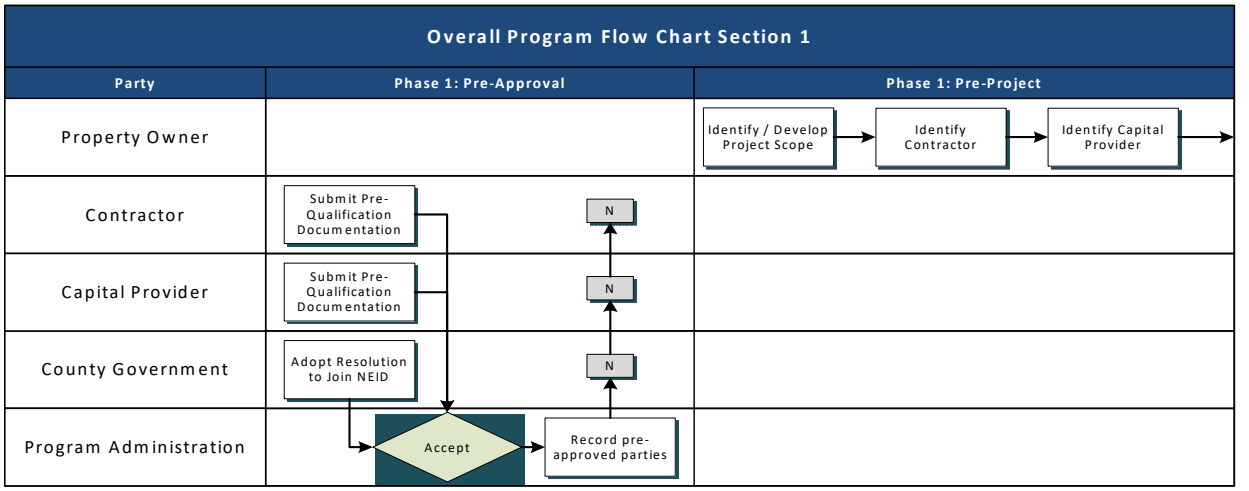
D. Contractor Registration Application:

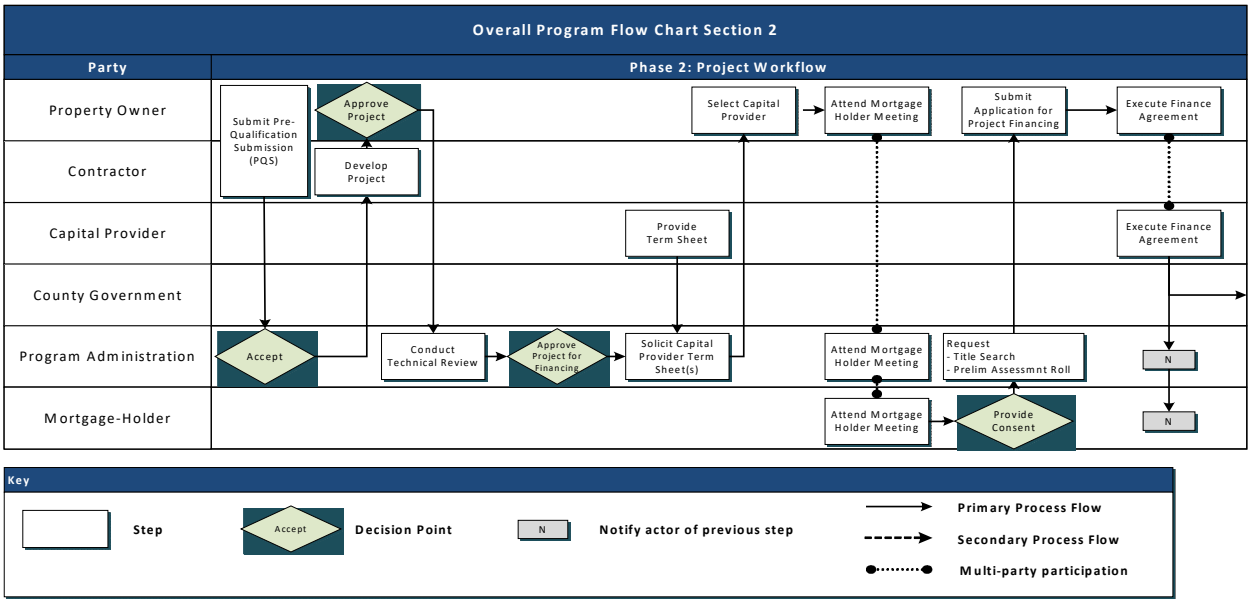
Can be found here.

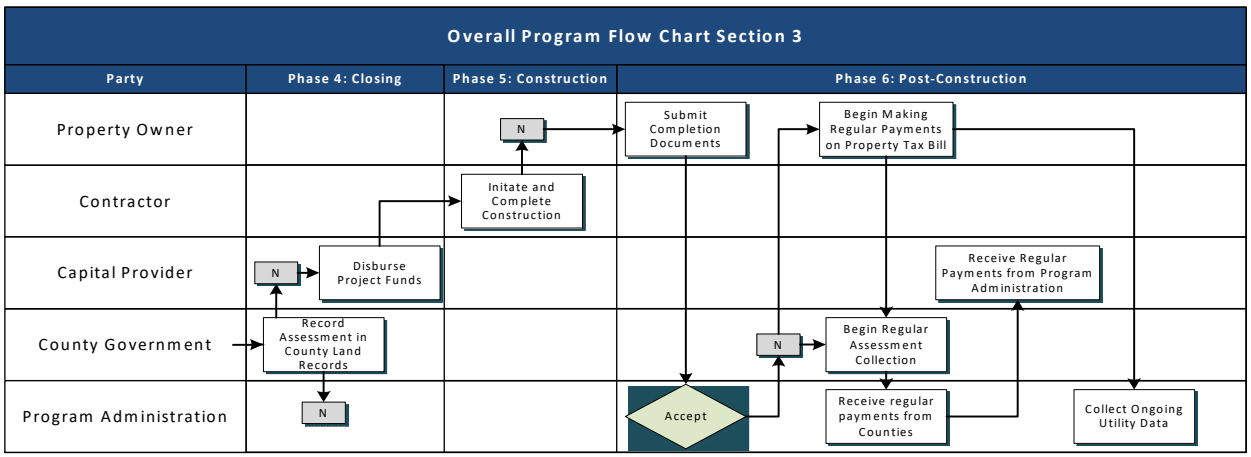
E. Utility Release Waiver(s):

Xcel Energy Consent to Disclose Utility Customer Data can be found here. If your property is serviced by a utility provider other that Xcel Energy you will need to contact that entity to obtain their utility data release waiver. The C-PACE PA can assist with the process if need be.

F. Full Program Workflow Diagram






Overall Program Flow Chart Section 3
Party
Phase 4: Closing
Phase 5: Construction
Phase 6: Post-Construction
Property Owner
Contractor
Capital Provider
County Government
Program Administration
N
Submit Completion Documents
Begin Making Regular Payments on Property Tax Bill
Initate and Complete Construction
N
Disburse Project Funds
Receive Regular Payments from Program Administration
Record Assessment in County Land Records
N
Begin Regular Assessment Collection
Accept
Receive regular payments from Counties
Collect Ongoing Utility Data

G. Sample Project Savings Eligibility Rating (SER™) Report

Can be found here.

H. Sample Project Finance Report (PFR)

Can be found here.

I. Sample Project Eligibility Rating (PER™) Report

Can be found here.

Section 7: C-PACE Statute C.R.S. 32-20-101 (2016)

32-20-101. Short title

32-20-102. Legislative declaration

(1) The general assembly hereby finds and declares that:

(a) It is in the best interest of the state and its citizens and a public purpose to enable and encourage the owners of eligible real property to invest in new energy improvements, including energy efficiency improvements and renewable energy improvements, sooner rather than later by creating the Colorado new energy improvement district and authorizing the district to establish, develop, finance, implement, and administer a new energy improvement program that includes both energy efficiency improvements and renewable energy improvements to assist any such owners who choose to join the district in completing new energy improvements to their property because:

(I) New energy improvements, including energy efficiency improvements and renewable energy improvements, help protect owners of eligible real property from the financial impact of the rising cost of electricity produced from nonrenewable fuels and can even provide positive cash flow in many instances in which the costs of the improvements are spread out over a long enough time so that the owners' utility bill cost savings exceed the special assessments levied on the eligible real property to pay for the improvements;

(II) The inclusion of both energy efficiency improvements and renewable energy improvements in the new energy improvement program will help to promote informed choices and maximize the benefits of the program for both individual owners of eligible real property and society as a whole;

(III) Reduction in the amount of emissions of greenhouse gases and environmental pollutants resulting from decreased use of traditional nonrenewable fuels will improve air quality and may help to mitigate climate change;

(IV) New energy improvements, including energy efficiency improvements and renewable energy improvements, increase the value of the eligible real property improved;

(V) The commitment of a significant amount of sustainable funding for increased construction of new energy improvements will create jobs and stimulate the state economy:

(A) By directly creating jobs for contractors and other persons who complete new energy improvements; and

(B) By reinforcing the leadership role of the state in the Colorado energy economy and thereby attracting new energy manufacturing facilities and related jobs to the state; and

(VI) The new energy improvement program provides a meaningful, practical opportunity for average citizens to take action that will benefit their personal finances and the economy of the state, promote their own and the nation's energy independence and security, and help sustain the environment; and

(b) In many cases, the owner of eligible real property is unable to fund a new energy improvement because the owner does not have sufficient liquid assets to directly fund the improvement and is unable or unwilling to incur the negative net cash flow likely to result if the owner uses a typical home equity loan or line of credit or other loan to fund the improvement.

(2) The general assembly further finds and declares that it is necessary, appropriate, and legally permissible under section 20 of article X of the state constitution and all other constitutional provisions and laws to authorize the Colorado new energy improvement district, without voter approval in advance, to generate the capital needed to reimburse owners of eligible real property who voluntarily join the district for, or directly pay for all or a portion of the cost of, completing new energy improvements, including energy efficiency improvements and renewable energy improvements, to the property by levying special assessments and issuing special assessment bonds to be paid from the revenues generated by the special assessments because:

(a) Under the Colorado supreme court's decision in Campbell v. Orchard Mesa Irrigation District, 972 P.2d 1037 (Colo. 1998), the Colorado new energy improvement district is neither the state nor a local government and therefore is not a district, as defined in section 20 (2) (b) of article X of the state constitution, subject to the requirements of section 20 of article X of the state constitution because:

(I) The district is not authorized to levy general taxes;

(II) Although the district is a public corporation that serves the public purposes of promoting new energy improvements and creating jobs, it does not have elected board members and primarily exists to serve the interests of owners of eligible real property who voluntarily join the district in order to fund new energy improvements to the property; and

(III) The district is endowed by the state pursuant to this article with only the powers necessary to perform its predominantly private objective;

(b) There is no legal impediment to the imposition of special assessments and the issuance of special assessment bonds without an election by an entity like the Colorado new energy improvement district that is formed by law, has statewide jurisdiction, and is governed by an appointed board;

(c) The burden of a special assessment is voluntarily assumed by the owner of the eligible real property on which the special assessment is levied because:

(I) A special assessment may only be levied on eligible real property if the owner of the

property has voluntarily joined the district, agreed to accept reimbursement or a direct payment, and consented to the levy of a special assessment; and

(II) A subsequent purchaser of eligible real property upon which a special assessment has been levied purchases the property with full knowledge of the special assessment; and

(d) Both an owner of eligible real property who joins the district and receives reimbursement or a direct payment and any subsequent owner of the property receive the special benefit of the new energy improvement for which the district has made reimbursement or a direct payment in proportion to or in excess of the amount of the special assessment paid.

32-20-103. Definitions

As used in this article, unless the context otherwise requires:

(1) "Board" means the board of directors of the district.

(1.5) "Commercial building" means any real property other than a residential building containing fewer than five dwelling units and includes any other improvement or connected land that is billed with the improvement for purposes of ad valorem property taxation.

(2) "District" means the Colorado new energy improvement district created in section 32-20-104 (1).

(3) "District member" means a qualified applicant whose application to join the district, receive reimbursement or a direct payment, and consent to the levying of a special assessment is approved by the district.

(4) "Eligible real property" means a residential or commercial building, located within a county in which the district has been authorized to conduct the program as required by section 32-20-105 (3), on which or in which a new energy improvement to be financed by the district has been or will be completed.

(5) "Energy efficiency improvement" means one or more installations or modifications to eligible real property that are designed to reduce the energy consumption of the property and includes, but is not limited to, the following:

(a) Insulation in walls, roofs, floors, and foundations and in heating and cooling distribution systems;

(b) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

(c) Automatic energy control systems;

(d) Heating, ventilating, or air conditioning and distribution system modifications or replacements in a building;

(e) Caulking and weatherstripping;

(f) Replacement or modification of lighting fixtures to increase the energy efficiency of the system;

(g) Energy recovery systems;

(h) Daylighting systems;

(i) Electric vehicle charging equipment added to the building or its associated parking area; and

(j) Any other modification, installation, or remodeling approved as a utility cost-savings measure by the district, including water conservation fixtures, both indoor and outdoor and for both hot and cold water.

(6) "Loan balance" means the outstanding principal balance of loans secured by a mortgage or deed of trust with a first or second lien on eligible real property.

(7) "New energy improvement" means one or more on-site energy efficiency improvements or renewable energy improvements, or both, made to eligible real property that will reduce the energy consumption of or add energy produced from renewable energy sources with regard to any portion of the eligible real property.

(8) "Program" means the new energy improvement program established by the district in accordance with section 32-20-105.

(9) "Program administrator" or "administrator" means an entity hired by the district to administer the program on behalf of the district to the extent specified in a contract between the district and the administrator. Neither the district nor its program administrator shall offer rebates for the purchase of renewable energy credits. The district's activities shall be limited to funding new energy improvements and to marketing that funding.

(10) "Qualified applicant" means a person who:

(a) Repealed.

(b) Timely submits to the district a complete application, which notes the existence of any first priority mortgage or deed of trust on the eligible real property and the identity of the holder thereof, to join the district, have the eligible real property included in the district's

boundaries, receive reimbursement or a direct payment, and consent to the levying of a special assessment on the property. Within thirty days of a person's submission of an application to the district, the district shall provide written notice to the holder of any first priority mortgage or deed of trust on the eligible real property that the person is participating in the district.

(c) Meets any standard of credit-worthiness that the district may establish.

(11) "Reimbursement or a direct payment" means the payment by the district to a district member, or on behalf of a district member to a contractor that has completed a new energy improvement to the district member's eligible real property, of all or a portion of the cost of completing a new energy improvement. Utility rebates offered to program participants by a qualifying retail utility for the purpose of compliance with renewable energy targets established in section 40-2-124, C.R.S., are subject to the retail rate impact cap established pursuant to section 40-2-124 (1) (g) (I), C.R.S.

(12) "Renewable energy improvement" means one or more fixtures, products, systems, or devices, or an interacting group of fixtures, products, systems, or devices, that directly benefit eligible real property through a qualified community location, as defined in section 30-20-602 (4.3), C.R.S., enacted by Senate Bill 10-100, enacted in 2010, or that are installed behind the meter of any eligible real property and that produce energy from renewable resources, including but not limited to photovoltaic, solar thermal, small wind, low-impact hydroelectric, biomass, fuel cell, or geothermal systems such as ground source heat pumps, as may be approved by the district; except that no renewable energy improvement shall be authorized that interferes with a right held by a public utility under a certificate issued by the public utilities commission under article 5 of title 40, C.R.S. Nothing in this article shall limit the right of a public utility, subject to article 3 or 3.5 of title 40, C.R.S., or section 40-9.5-106, C.R.S., to assess fees for the use of its facilities or modify or expand the net metering limitations established in sections 40-9.5-118 and 40-2-124 (7), C.R.S. Primary jurisdiction to hear any disputes as to whether a renewable energy improvement interferes with such a right shall lie:

(a) In the case of a regulated utility, with the public utilities commission; and

(b) In the case of a municipally-owned electric utility, with the governing body of the municipality.

(13) "Residential building" means an improvement to real property that is designed for use predominantly as a place of residency. The term also includes any other improvement or connected land that is billed with the improvement for purposes of ad valorem property taxation.

(14) "Special assessment" or "assessment" means a charge levied by the district against eligible real property specially benefited by a new energy improvement for which the district has made or will make reimbursement or a direct payment that is proportional to the benefit received from the new energy improvement and does not exceed the estimated

amount of special benefits received or the full cost of completing the new energy improvement.

(15) "Special assessment bond" or "bond" means any bond, note, interim certificate, loan agreement, contract, or other evidence of borrowing of the district issued by the district pursuant to this article that is payable, in whole or in part, from revenues generated by special assessments levied as authorized in this article and, at the discretion of the board, from any other legally available source of moneys lawfully pledged for their repayment.

32-20-104. Colorado new energy improvement district - creation - board - meetings - quorum - expenses - records

(1) The Colorado new energy improvement district is hereby created as an independent public body corporate, and the boundaries of the district shall include the eligible real property that is owned by a person who has voluntarily joined the district. The district constitutes a public instrumentality, and its exercise of the powers conferred by this article shall be deemed and held to be the performance of an essential public function, but the district:

(a) Shall not be an agency of state government or of any local government;

(b) Shall not be subject to administrative direction by any department, commission, board, or agency of the state or any local government; and

(c) Shall not be a district, as defined in section 20 (2) (b) of article X of the state constitution, for purposes of section 20 of said article X.

(2) (a) The district is governed by a board of directors, which shall exercise the powers of the district, shall, by a majority vote of a quorum of its members, select from its membership a chair, vice-chair, and secretary, and is composed of seven members, including:

(I) The director of the Colorado energy office created in section 24-38.5-101 (1), C.R.S., or the director's designee;

(II) The following six members appointed by the governor:

(A) One member who has executive-level experience in commercial or residential real estate development;

(B) Two members who each have at least ten years of executive-level experience with one or more financial institutions, at least one of whom has had such experience with one or more financial institutions having total assets of less than one billion dollars;

(C) One member who has executive-level experience in the utility industry;

(D) One member who represents the energy efficiency industry; and

(E) One member who represents the renewable energy industry.

(III) to (VI) Repealed.

(b) The terms of the appointed members shall be four years; except that the terms of the members initially appointed by the governor, the speaker of the house of representatives, and the minority leader of the senate shall be two years.

(c) (I) Notwithstanding any other law, it is not a conflict of interest for a trustee, director, officer, or employee of any public utility, financial institution, investment banking firm, brokerage firm, commercial bank or trust company, insurance company, law firm, or other firm, corporation, or business entity to serve as a board member, the executive director of the district, or an employee of the district. However, a board member, executive director, or other employee who is also such a trustee, director, officer, or employee shall disclose his or her business affiliation to the board and shall abstain from voting or otherwise taking action in any instance in which his or her business affiliation is directly involved.

(II) A member of the board, any executive director of the district, and any employee of the district shall be immune from civil liability for any action taken in good faith in the course of the member's, director's, or employee's duties for the district.

(d) Members of the board shall receive no compensation for services but shall be entitled to the necessary expenses, including travel and lodging expenses, incurred in the discharge of their official duties. Any payments for compensation and expenses shall be paid from funds of the district.

(3) Four members of the board shall constitute a quorum for the purpose of conducting business and exercising the powers of the board. Action may be taken by the board upon the affirmative vote of at least four of its members. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(4) The district shall be subject to the open meetings provisions of the "Colorado Sunshine Act of 1972", part 4 of article 6 of title 24, C.R.S., and the "Colorado Open Records Act", part 2 of article 72 of title 24, C.R.S. The board shall also promulgate and adhere to policies and procedures that govern its conduct, provide meaningful opportunities for public input, and establish standards and procedures for calling emergency meetings. One or more members of the board may participate in a meeting of the board and may vote through the use of telecommunications devices, including, but not limited to, a conference telephone or similar communications equipment. Participation through telecommunications devices shall constitute presence in person at a meeting. The use of telecommunications devices shall not supersede any requirements for a public hearing otherwise provided by law.

(5) The district shall be subject to the "Local Government Budget Law of Colorado", part 1 of article 1 of title 29, C.R.S., and the "Colorado Local Government Audit Law", part 6 of article 1 of title 29, C.R.S.

(6) The district is a special district included within the definition of the state or any of its political subdivisions for purposes of and as set forth in section 2 (14.6) of article XXVIII of the state constitution and is, accordingly, subject to the sole source contracting provisions of sections 15 to 17 of said article XXVIII.

(7) Because the district is not a part of state government or a county or municipality, neither the district nor any member of the board, executive director of the district, or employee of the district shall be subject to the provisions of article XXIX of the state constitution.

32-20-105. District - purpose - general powers and duties - new energy improvement program

(1) The purpose of the district is to help provide the special benefits of new energy improvements to owners of eligible real property who voluntarily join the district by establishing, developing, financing, and administering a new energy improvement program through which the district can provide assistance to such owners in completing new energy improvements. The district may exercise any of the powers granted to the district in this article before any eligible real property is included within the boundaries of the district; except that the district shall exercise the powers to levy special assessments and issue special assessment bonds only after eligible real property is included within the boundaries of the district.

(2) In order to allow the district to achieve its purpose, in addition to any other powers and duties of the district specified in this article, the district shall have the following general powers and duties:

(a) To have perpetual existence;

(b) To have and use a corporate seal;

(c) To adopt bylaws for the regulation of its affairs and conduct of its business;

(d) To set an annual budget;

(e) To sue and be sued and to be a party to suits, actions, and proceedings;

(f) To enter into contracts and agreements needed for its functions or operations;

(g) To acquire, dispose of, and encumber real and personal property needed for its functions or operations;

(h) To borrow money for the purpose of defraying district expenses, including, but not limited to, the funding of appropriate loss reserves, or for any other purpose deemed appropriate by the board;

(i) To invest any moneys of the district in accordance with part 6 of article 75 of title 24, C.R.S.;

(j) (I) To hire and set the compensation of a program administrator and to appoint, hire, retain, and set the compensation of other agents and employees and contract for professional services.

(II) The board may delegate any of the powers and duties of the district that specifically pertain to the establishment, development, financing, and administration of the program to any program administrator the district hires; except that the district shall not delegate the power to establish assessment units, the power to determine the method of calculating special assessments, or the power to issue special assessment bonds.

(k) In accordance with sections 32-20-106 to 32-20-108, to establish special assessment units, levy and collect special assessments on eligible real property specially benefited by a renewable energy improvement for which the district made reimbursement or a direct payment, and issue special assessment bonds;

(l) To accept gifts and donations and apply for and accept grants upon such terms or conditions as the board may approve; and

(m) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted to the district by this article. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this article.

(3) The district shall establish, develop, finance, and administer a new energy improvement program. However, the district may conduct the program within any given county only if the board of county commissioners of the county has adopted a resolution authorizing the district to conduct the program within the county. If a county adopts a resolution authorizing the district to conduct the program within the county, the county treasurer shall retain a collection fee as specified in section 30-1-102 (1) (c), C.R.S., for each special assessment that it collects as part of the program. The board of county commissioners of any county that has adopted a resolution authorizing the district to conduct the program within the county may subsequently adopt a resolution deauthorizing the district from conducting the program within the county. However, if the county adopts a deauthorizing resolution, the county shall continue to meet all of its obligations under this article as to program financing obligations existing on the effective date of the deauthorization until any and all special assessments within the county have been paid in full and remitted to the district. The district shall design the program to allow an owner of eligible real property to apply to join the district, receive reimbursement or a direct payment from the district, and

consent to the levying of a special assessment on the eligible real property specially benefited by a new energy improvement for which the district makes reimbursement or a direct payment. The district shall establish an application process for the program that allows an owner of eligible real property to become a qualified applicant by submitting an application to the district and that may include one or more deadlines for the filing of an application. The application process must require the applicant to submit with the application a commitment of title insurance issued by a duly licensed Colorado title insurance company within thirty days before the date the application is submitted. The district may charge program application fees. In order to administer the program, the district, acting directly or through a program administrator or other agents, employees, or professionals as the district may appoint, hire, retain, or contract with, may aggregate qualified applicants into one or more bond issues and shall:

(a) Market the program to owners of eligible real property, encourage such owners to obtain the special benefits of completing new energy improvements to their property by providing more attractive and accessible means of funding the completion of new energy improvements, and accept and process program applications from any such owners who are qualified applicants;

(b) Specify the information to be included in a program application. The district shall require an owner of eligible real property who submits a program application to include, at a minimum, a postal address or electronic mail address at which the district may contact the owner, the name and postal or electronic mailing address of any person holding a lien against the eligible real property, and any information that the district requires to verify that the owner will complete a new energy improvement, verify the cost of completing the new energy improvement, determine the appropriate amount of reimbursement or a direct payment to be made to the applicant or a contractor after the new energy improvement has been completed, and estimate the value of the special benefit provided by the completed new energy improvement to the applicant's eligible real property.

(c) Establish such standards, guidelines, and procedures, including but not limited to standards of credit-worthiness for qualification of program applicants, as are necessary to ensure the financial stability of the program and otherwise prevent fraud and abuse;

(d) Encourage or require, as determined by the district, any qualified applicant to obtain an energy audit in order to ensure the efficient use of new energy improvement funding pursuant to this article;

(e) Inform prospective program applicants and qualified applicants of private financing options not provided by the district, including, as appropriate, home equity loans, home equity lines of credit, commercial loans, and commercial lines of credit that may, with respect to a particular applicant, represent viable alternatives for financing new energy improvements;

(f) Take appropriate steps to establish qualifications for the certification of contractors to construct or install new energy improvements; and

(g) Take appropriate steps to monitor the quality of new energy improvements for which the district has made reimbursement or a direct payment if deemed necessary by the board, measure the total energy savings achieved by the program, monitor the total number of program participants, the total amount paid to contractors, the number of jobs created by the program, the number of defaults by program participants, and the total losses from the defaults, and calculate the total amount of bonds issued by the district. On or before March 1, 2014, and on or before each subsequent March 1, the district shall report to the state, veterans, and military affairs committees of the general assembly, or any successor committees, regarding the information obtained as required by this paragraph (g);

(h) Develop program guidelines governing the terms and conditions under which private third-party financing, other than that obtained through issuance of a district bond, is available to qualified applicants through the program and, in connection therewith, may serve as an aggregating entity for the purpose of securing private third-party financing for new energy improvements pursuant to this article; and

(i) In connection with the financing of new energy improvements either by third parties pursuant to paragraph (h) of this subsection (3) or district bonds and in consultation with representatives from the banking industry and property owners, develop the processes to ensure that mortgage holder consent is obtained in all cases for all eligible real property participating in the program to subordinate the priority of such mortgages to the priority of the lien established in section 32-20-107.

(4) The district shall establish underwriting guidelines that consider program applicants' qualifications, credit-worthiness, home or commercial building equity, and other appropriate factors, including credit reports, credit scores, and loan-to-value ratios, consistent with good and customary lending practices, and as required in order for the district or third parties to obtain a bond rating necessary for a successful bond sale. The district shall also arrange for an appropriate loss reserve in order to obtain the necessary bond rating.

32-20-106. Special assessments - determination of special benefits - notice and hearing requirements - certification of assessment roll - manner of collection

(1) The approval by the district of a program application shall establish the qualified applicant who submitted the application as a district member, include the qualified applicant's eligible real property within the boundaries of the district, entitle the district member to reimbursement or a direct payment, and, subject to the provisions of subsection (3) of this section, constitute the consent of the district member to the levying of a special assessment on the district member's eligible real property in an amount that does not exceed the value of:

(a) The special benefit provided to the eligible real property by the new energy improvement; or

(b) The eligible real property.

(2) For the purpose of determining the amount of the special assessment to be levied on a particular unit of eligible real property within the district, "special benefit" includes, but is not limited to:

(a) Repealed.

(b) Any cost of completing a new energy improvement that is defrayed by reimbursement or a direct payment; and

(c) Repealed.

(d) Any acknowledged value of a new energy improvement to a district member's eligible real property set forth in the program application submitted by the district member.

(3) (a) The district may levy a special assessment against eligible real property specially benefited by a new energy improvement based on the cost to the district of the new energy improvement. The district shall initiate the levy of any special assessment by the adoption of a resolution of the board that sets the special assessment, approves the preparation of a preliminary special assessment roll, and sets a date for a public hearing regarding the special assessment roll. The district shall prepare a preliminary special assessment roll listing all special assessments to be levied. The district may post notice of the hearing on the special assessment on any district internet website and shall send notice that the special assessment roll has been completed and notice of a hearing on the special assessment roll no later than thirty days before the hearing date to:

(I) Each district member at the postal address or electronic mail address, or both if both are specified, specified in the member's program application; and

(II) Each person, by first-class mail or electronic mail, who has a lien against a unit of eligible real property listed on the assessment roll.

(b) The notice required by paragraph (a) of this subsection (3) shall specify:

(I) The amount of the special assessment proposed to be levied on the unit of eligible real property owned by the district member or subjected to a lien by the lienholder to whom the notice is sent;

(II) That any complaints or objections that are made by a district member or lienholder in writing to the board, and filed in writing on or prior to the date of the hearing, will be heard and determined by the board before the passage of any resolution levying a special assessment; and

(III) The date when and place where the hearing will be held at which complaints or objections made in person will be heard.

(c) Following the hearing required by paragraph (a) of this subsection (3) and notice pursuant to paragraphs (a) and (b) of this subsection (3), the board shall adopt a resolution resolving all complaints or objections made and levying the special assessments. A district member or lienholder whose complaint or objection is denied by the board shall have thirty days from the date of the denial to appeal the denial to a court of competent jurisdiction. Thereafter, the complaint or objection shall be perpetually barred.

(4) The board shall prepare or cause to be prepared a district special assessment roll in book form showing for each unit of eligible real property assessed, the total amount of special assessment, the amount of each installment of principal and interest if the special assessment is payable in installments, and the date when each installment will become due. The board shall deliver the special assessment roll, duly certified, under the corporate seal, for collection to the treasurer of each county in which the district has assessed eligible real property no later than December 1 of each year.

(5) All special assessments shall be due at the same time as and payable in the same manner as property taxes, as specified in section 39-10-104.5, C.R.S.

(6) Repealed.

(7) Failure to pay any installment on special assessments, whether of principal or interest, when due gives the district the right to declare the installments delinquent, and upon such a declaration the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the same rate as delinquent property taxes as specified in section 39-10-104.5 (3) (c), C.R.S. The county treasurer shall include the delinquent installment amount as part of the tax lien sale. At any time prior to the day of the tax lien sale, the district member may pay the amount of the delinquent installments, with interest at the penalty rate set by the assessing resolution, and all costs of collection accrued and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not occurred.

(8) (a) Payment of special assessments may be made to a county treasurer at any time after the county assessor has certified the tax roll and the county treasurer is prepared to accept payments for that property tax year, and the county treasurer shall remit all special assessments collected, less the collection fee required by section 32-20-105 (3), to the district in the same manner as taxes are distributed in accordance with section 39-10-107, C.R.S.

(b) Each owner of any divided or undivided interest in eligible real property assessed is jointly and severally liable for the full amount of any special assessment. A special assessment lien remains on the entire property assessed until the entire special assessment is paid, except as otherwise provided pursuant to section 32-20-107.

32-20-107. Special assessment constitutes lien - filing - sale of property for nonpayment

(1) (a) A special assessment, together with all interest thereon and penalties for default in payment thereof, and associated collection costs constitutes, from the date of the recording of the assessing resolution and assessment roll pursuant to subsection (2) of this section, a perpetual lien in the amount assessed against the assessed eligible real property and has priority over all other liens; except that:

(I) General property tax liens have priority over district special assessment liens;

(II) A district special assessment lien has priority over preexisting liens only if each lienholder consents as specified in section 32-20-105 (3) (i) and each consent and the special assessment lien and special assessment roll are recorded in the real estate records of the county where the property is located. Before the recording of the special assessment lien and special assessment roll, the applicant must submit to the district:

(A) Written consent to the special assessment by all individuals or entities shown on a commitment of title insurance as holders of mortgages or deeds of trust encumbering the applicant's property; and

(B) Evidence that there are no delinquent taxes, special assessments, or water or sewer charges on the property; that the property is not subject to a trust deed or other lien on which there is a recorded notice of default, foreclosure, or delinquency that has not been cured; and that there are no involuntary liens, including a lien on real property or on the proceeds of a contract relating to real property, for services, labor, or materials furnished in connection with the construction or improvement of the property.

(III) Liens for assessments imposed by other governmental entities have coequal priority with district special assessment liens.

(b) Neither the sale of eligible real property or tax liens in the district to enforce the payment of general ad valorem taxes nor the issuance of a treasurer's deed in connection with the sale extinguishes the lien of a special assessment. If assessed eligible real property is subdivided, the board may apportion the special assessment lien in the manner provided in the assessing resolution.

(2) The district shall transmit to a county clerk and recorder of a county that includes eligible real property included in the district copies of the district's assessing resolution after its final adoption by the board and the assessment roll for recording on the land records of each unit of eligible real property assessed within the county as provided in article 30, 35, or 36 of title 38, C.R.S. The assessing resolution and assessment roll shall be indexed in the grantor index under the name of the district member and in the grantee index under the Colorado new energy improvement district. In addition, the county clerk and recorder shall file copies of the assessing resolution, after its final adoption by the board, and the

assessment roll with the county assessor and the county treasurer. The county assessor is authorized to create separate schedules for each unit of eligible real property assessed within the county pursuant to the resolution.

(3) No delays, mistakes, errors, or irregularities in any act or proceeding authorized or required by this article shall prejudice or invalidate any final special assessment, and such mistakes, errors, or irregularities may be remedied by subsequent filings, amending acts, or proceedings. A remedied special assessment takes effect as of the date of the original filing, act, or proceeding. If a court of competent jurisdiction sets aside any final assessment or if, for any other reason, the board determines it to be necessary to alter any final special assessment, the board, upon notice as required in the making of an original special assessment, may make a new special assessment in accordance with the provisions of this article.

(4) (a) In case of default in the payment of any installment of principal or interest when due, the county treasurer shall advertise and sell the assessed eligible real property tax lien defaulted upon for the payment of the whole of the unpaid installment of principal and interest. Advertisements and sales shall be made at the same times, in the same manner, under all the same conditions and penalties, and with the same effect as provided by general law for sales of real property tax liens in default of payment of the general property tax.

(b) At any tax lien sale by a county treasurer of any eligible real property, the board may participate in the tax lien sale auction by bidding on the lien for the district and receive certificates of purchase for the lien in the name of the district if it is the successful bidder. The certificates shall be received and credited at their face value, with all interest and penalties accrued, on account of the assessment installment in pursuance of which the sale was made. The board may thereafter sell the certificates at their face value, with all interest and penalties accrued, and assign the certificates to the purchaser in the name of the district. The board shall credit the proceeds of the sale to the fund created by resolution for the payment of the special assessments, respectively; except that, if the new energy improvements were financed under section 32-20-105 (3) (h), the board shall credit the proceeds of the tax lien sale to the private third party that financed the new energy improvements. If the district has repaid all special assessment bonds in full, the board may sell the certificates for the best price obtainable at public sale, at auction, or by sealed bids in the same manner and under the same conditions as provided in paragraph (d) of this subsection (4). Such assignments are without recourse, and the sale and assignments operate as a lien in favor of the purchaser and assignee as is provided by law in the case of sale of real estate in default of payment of the general property taxes.

(c) The board, as a purchaser of tax liens, has the right to apply for tax deeds on certificates of purchase at any time after three years from the date of issuance of the certificates in accordance with article 11 of title 39, C.R.S., and the deeds shall be issued as provided by law for issuance of tax deeds for the nonpayment of the general property taxes or special assessments.

(d) Cumulatively with all other remedies, the district, as the owner of property by virtue of a tax deed, may sell the property for the best price obtainable at public sale, at auction, or by sealed bids. A sale shall be held after public notice by the board to all persons having or claiming any interest in the eligible real property to be sold or in the proceeds of the sale by publication of the notice three times, a week apart, in a weekly or daily newspaper of general circulation within the county in which the property is located. The notice shall describe the property and state the time, place, and manner of receiving bids; except that the time fixed for the sale shall not be less than ten days after the last publication. The board may reject any and all bids. Any interested party, at any time within ten days after the receipt of bids for the sale of property, may file with the board a written protest as to the sufficiency of the amount of any bid made or the validity of the proceedings for the sale. If the protest is denied, the protestor, within ten days thereafter, shall commence an action in a court of competent jurisdiction to enjoin or restrain the board from completing the sale. If no such action is commenced, all protests or objections to the sale shall be waived, and the board shall then convey the property to the successful bidder by quitclaim deed.

(e) Repealed.

(f) The board shall credit the proceeds of any sale of property to the appropriate special assessment fund; except that, if the new energy improvements were financed under section 32-20-105 (3) (h), the board shall credit the proceeds of the sale to the private third party that financed the new energy improvements. The district shall deduct from the appropriate special assessment fund the necessary expenses in securing deeds and taking proceedings for the sale or foreclosure.

(g) If a treasurer's deed is issued for a property that is included within the district pursuant to section 32-20-105 and upon which a priority special assessment lien has been placed, the district shall use its reserve account to satisfy special assessment obligations of the property on behalf of the holder of the treasurer's deed in accordance with the terms and duration specified in a written agreement between the county in which the property is located and the district.

(5) When the district has sold or conveyed at a fair market value certificates of purchase or property that the district has acquired in satisfaction or discharge of special assessment liens, the sales and conveyances are hereby validated and confirmed as against all parties having or claiming any interest in the property or sale proceeds.

32-20-108. Special assessment bonds - legal investment - exemption from taxation

(1) The district shall issue special assessment bonds in an aggregate principal amount of not more than eight hundred million dollars for the purpose of generating the moneys needed to make reimbursement or a direct payment to district members and to pay other costs of the district. The board shall issue the bonds pursuant to a resolution of the board or a trust indenture. The bonds must not be secured by an encumbrance, mortgage, or other pledge of real or personal property of the district and are payable from special assessments, other

than those attributable to private third-party financing under section 32-20-105 (3) (h), and any other lawfully pledged district revenues unless the bond resolution or trust indenture specifically limits the source of district revenues from which the bonds are payable. The bonds do not constitute a debt or other financial obligation of the state. The board may adopt one or more resolutions creating special assessment units comprised of multiple units of eligible real property on which the board has levied a special assessment and may issue special assessment bonds payable from special assessments imposed within the entire district, other than those attributable to private third-party financing under section 32-20-105 (3) (h), or from special assessments imposed only within one or more specified special assessment units.

(2) Bonds may be executed and delivered at such times; may be in such form and denominations and include such terms and maturities; may be subject to optional or mandatory redemption prior to maturity with or without a premium; may be in fully registered form or bearer form registrable as to principal or interest or both; may bear such conversion privileges; may be payable in such installments and at such times not exceeding twenty years from the date thereof; may be payable at such place or places whether within or without the state; may bear interest at such rate or rates per annum, which may be fixed or vary according to index, procedure, or formula or as determined by the district without regard to any interest rate limitation appearing in any other law of the state; may be subject to purchase at the option of the holder or the district; may be evidenced in such manner; may be executed by such officers of the district, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which may be either of the chair of the board or of an agent of the district authenticating the same; may be in the form of coupon bonds that have attached interest coupons bearing a manual or facsimile signature of the chair or the agent; and may contain such provisions not inconsistent with this article, all as provided in the resolution of the board under which the bonds are authorized to be issued or as provided in a trust indenture between the district and any bank or trust company having full trust powers.

(3) Bonds may be sold at public or private sale at such price or prices, in such manner, and at such times as determined by the district, and the district may pay all fees, expenses, and commissions that it deems necessary or advantageous in connection with the sale of the bonds. The power to fix the date of sale of the bonds, to receive bids or proposals, to award and sell bonds, to fix interest rates, and to take all other action necessary to sell and deliver the bonds may be delegated to an officer or agent of the district. Any outstanding bonds may be refunded by the district pursuant to article 56 of title 11, C.R.S. All bonds and any interest coupons applicable thereto are declared to be negotiable instruments.

(4) The resolution or a trust indenture authorizing the issuance of the bonds may pledge all or a portion of any special fund created by the district, may contain such provisions for protecting and enforcing the rights and remedies of holders of any of the bonds as the district deems appropriate, may set forth the rights and remedies of the holders of any of the bonds, and may contain provisions that the district deems appropriate for the security of the holders of the bonds, including, but not limited to, provisions for letters of credit, insurance, standby credit agreements, or other forms of credit ensuring timely payment of

the bonds, including the redemption price or the purchase price. The resolution or trust indenture shall contain a provision that states that the bonds do not constitute a debt or other financial obligation of the state, and the same or a similar provision shall also appear on the bonds.

(5) Any pledge of moneys or other property made by the district or by any person or governmental unit with which the district contracts shall be valid and binding from the time the pledge is made. The moneys or other property so pledged shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the pledging party regardless of whether the claiming party has notice of the lien. The instrument by which the pledge is created need not be recorded or filed.

(6) No member of the board, employee, officer, or agent of the district, or other person executing bonds shall be liable personally on the bonds or subject to any personal liability by reason of the issuance thereof.

(7) The district may purchase its bonds out of any available moneys and may hold, pledge, cancel, or resell such bonds subject to and in accordance with agreements with the holders thereof.

(8) (a) The state hereby pledges and agrees with the holders of any bonds, private third parties that have financed new energy improvements under section 32-20-105 (3) (h), and those parties who enter into contracts with the district pursuant to this article that the state will not limit, alter, restrict, or impair the rights vested in the district or the rights or obligations of any person with which the district contracts to fulfill the terms of any agreements made pursuant to this article. The state further agrees that it will not in any way impair the rights or remedies of:

(I) The holders of bonds until the bonds have been paid or until adequate provision for payment has been made; or

(II) The private third parties that have financed new energy improvements under section 32-20-105 (3) (h).

(b) The district may include the provisions specified in paragraph (a) of this subsection (8) in its bonds or contracts with private third parties that have financed new energy improvements under section 32-20-105 (3) (h).

(9) Banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any moneys within their control in any bonds issued under this article. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in bonds only if the bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

(10) Bonds shall be exempt from all taxation and assessments in the state. In the resolution or indenture authorizing bonds, the district may waive the exemption from federal income taxation for interest on the bonds. Bonds shall be exempt from the provisions of article 51 of title 11, C.R.S. The board may elect to apply any or all of the provisions of the "Supplemental Public Securities Act", part 2 of article 57 of title 11, C.R.S.

32-20-109. Credit towards demand-side management goals for public utilities

For any gas utility or electric utility for which the public utilities commission has developed expenditure and natural gas savings targets pursuant to section 40-3.2-103, C.R.S., or established energy saving and peak demand reduction goals pursuant to section 40-3.2-104, C.R.S., the commission shall determine the extent to which the marketing, promotional, and other efforts of the utility have contributed to energy efficiency improvements funded by the district. To the extent that the commission finds that the utility's efforts have created energy savings, the commission shall allow the utility to count the related energy savings towards compliance with the gas utility's expenditure and natural gas savings targets or with the electric utility's energy savings and peak demand reduction goals, as applicable, using any method deemed appropriate by the commission.

32-20-110. Repeal of article - inapplicable if the district has outstanding bond obligations. (Repealed)