

## MEMORANDUM

Agenda Item No. 8(L)(2)

**TO:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

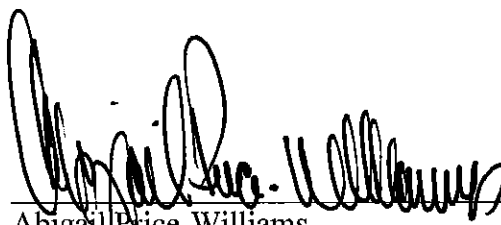
**DATE:** July 10, 2018

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution approving agreement between Miami-Dade County and Florida Resiliency and Energy District (FRED) for a Property Assessed Clean Energy (PACE) program within the unincorporated area; approving indemnification agreements between Miami-Dade County and Renovate America Inc., Florida Development Finance Corporation, Dividend Finance, and PACE Funding Group for the benefit of Miami-Dade County; and authorizing the County Mayor to execute these agreements, execute indemnification agreements with future administrators of Florida Resiliency and Energy District for the benefit of Miami-Dade County, and exercise certain provisions in the agreements

Resolution No. R-712-18

The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.



Abigail Price-Williams  
County Attorney

APW/smm

# Memorandum



**Date:** July 10, 2018

**To:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over the "From:" line.

**Subject:** Resolution Approving Agreements between Florida Resiliency and Energy District (FRED), its administrators, Renovate America Inc., Florida Development Finance Corporation, Dividend Finance, PACE Funding Group and Miami-Dade County for a Property Assessed Clean Energy Program

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## **Recommendation**

Pursuant to Resolution No. R-324-16, the Board of County Commissioners (Board) directed the Administration to develop and negotiate turnkey agreements with qualifying Property Assessed Clean Energy (PACE) Districts that had been created pursuant to Section 163.01(7), Florida Statutes. Furthermore, it was the Board's intent to enter into agreements with multiple PACE Districts to foster competition and create more choices for property owners. The Board outlined additional requirements in Resolution No. R-324-16 for each PACE District that is authorized to operate within Miami-Dade County.

It is recommended that the Board approve the attached Agreements with Florida Resiliency and Energy District (FRED), a PACE District, and its four administrators, Renovate America Inc., Florida Development Finance Corporation, Dividend Finance, and PACE Funding Group for a PACE program, and further authorize the County Mayor or County Mayor's designee to execute the Agreements. The Agreement between Miami-Dade County and FRED and the Agreements between Miami-Dade and FRED's four administrators are attached to the resolution as Attachment A and Attachment B respectively. For the Board's information, Miami-Dade County's Agreement with FRED makes reference to a separate interlocal agreement, the *Interlocal Agreement Relating to the Creation of the Florida Resiliency and Energy District, a Property Assessed Clean Energy District, and Authorizing Financing Pursuant Thereto*, that is provided as Attachment C to the resolution.

## **Scope**

FRED will be authorized to operate a PACE program within all of unincorporated Miami-Dade County.

## **Fiscal Impact/Funding Source**

There is no anticipated fiscal impact to the County with the approval of these Agreements. The Agreements with FRED and the four administrators include terms that will allow the County Mayor or County Mayor's designee to exercise the provisions in the above-mentioned agreements related to audits, enforcement, indemnification, collecting and receiving data and information, termination, and any and all duties of the Property Appraiser or Tax Collector. Per the Agreement with FRED, such costs can be offset by administrative fees that could be established and approved by the Board through separate action, as necessary.

## **Track Record/Monitor**

These Agreements will be monitored by Patricia Gomez in the Office of Resilience within the Department of Regulatory and Economic Resources.

**Background**

The purpose of a PACE District is to facilitate the financing of qualifying improvements for residential, commercial, and industrial property owners in accordance with Section 163.08 of the Florida Statutes. The attached Agreements between Miami-Dade County and FRED, along with its four administrators are the third set of agreements presented to this Board pursuant to Resolution No. R-324-16.

Resolution No. R-324-16 directed that agreements with each PACE District include terms that require the PACE District to acknowledge the role of the County in bringing PACE benefits to property owners, but also makes clear that PACE contractual agreements with property owners are not directly entered into with the County, and that the County is not responsible for operating or administering the PACE District's program in any way. This requirement has been incorporated into the attached Agreement with FRED. In addition to including this language on all customer communications and agreements, FRED and its administrators are also required to provide contact information for participants who have concerns or questions.

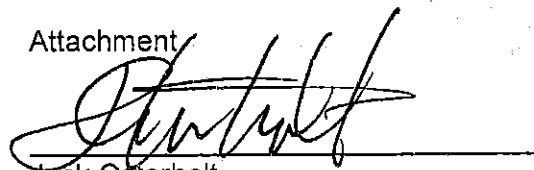
Additionally, the Agreement with FRED authorizes the County to impose administrative fees to recoup the County's administrative expenses associated with implementing the PACE District. However, no such fees are imposed in this Agreement and would require future Board action for implementation. The County will incorporate this term in all agreements with future PACE Districts operating in unincorporated Miami-Dade County.

FRED's four administrators, Renovate America Inc., Florida Development Finance Corporation, Dividend Finance, and PACE Funding Group have agreed to indemnify the County pursuant to the Agreement between the County and the FRED.

Pursuant to Resolution No. R-324-16, the experience and expertise of FRED, and of its administrators and direct affiliates, were considered. For over 20 years, the Florida Development Finance Corporation (FDFC) has operated in communities across Florida, providing access to over \$2 billion in capital for qualified projects. The FDFC provides oversight and serves as the finance authority for multiple PACE administrators, including Renovate America, which currently offers its HERO PACE financing option to over two million Florida homeowners across more than 80 communities, including four in Miami-Dade County. Since HERO launched six years ago, over 115,000 homeowners in more than 600 communities across the country have used HERO to make energy, efficiency and resiliency improvements that are projected to save homeowners billions of dollars on their utility bills, reduce greenhouse-gas emissions by millions of tons and create thousands of local trade jobs that cannot be offshored or automated. FDFC provides all administrative services and their PACE program to FRED, which allows local communities to have a turnkey platform for providing PACE to their constituents.

Additional PACE agreements will be presented to this Board for consideration once they have been fully negotiated and finalized. In the future, should other entities or PACE Districts meet the necessary State and Board criteria, those additional PACE agreements will also be crafted and presented to the Board for consideration.

Attachment



Jack Osterholt  
Deputy Mayor

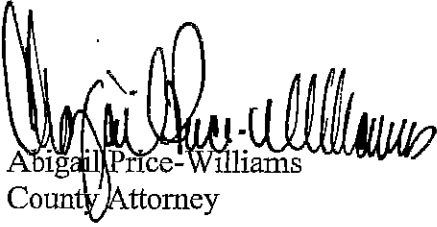


# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

**DATE:** July 10, 2018

**FROM:**   
Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 8(L)(2)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_\_, 3/5's \_\_\_\_\_, unanimous \_\_\_\_\_) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(L)(2)  
7-10-18

RESOLUTION NO. R-712-18

RESOLUTION APPROVING AGREEMENT BETWEEN MIAMI-DADE COUNTY AND FLORIDA RESILIENCY AND ENERGY DISTRICT (FRED) FOR A PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM WITHIN THE UNINCORPORATED AREA; APPROVING INDEMNIFICATION AGREEMENTS BETWEEN MIAMI-DADE COUNTY AND RENOVATE AMERICA INC., FLORIDA DEVELOPMENT FINANCE CORPORATION, DIVIDEND FINANCE, AND PACE FUNDING GROUP FOR THE BENEFIT OF MIAMI-DADE COUNTY; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THESE AGREEMENTS, EXECUTE INDEMNIFICATION AGREEMENTS WITH FUTURE ADMINISTRATORS OF FLORIDA RESILIENCY AND ENERGY DISTRICT FOR THE BENEFIT OF MIAMI-DADE COUNTY, AND EXERCISE CERTAIN PROVISIONS IN THE AGREEMENTS

**WHEREAS**, in Resolution No. R-324-16, this Board directed the County Mayor or County Mayor's designee to develop, negotiate and present agreements between Miami-Dade County and Property Assessed Clean Energy ("PACE") providers to this Board for approval; and

**WHEREAS**, the attached agreements between Miami-Dade County and the Florida Resiliency and Energy District ("FRED") and between Miami-Dade County and Renovate America Inc., Florida Development Finance Corporation, Dividend Finance, and PACE Funding Group, as the four administrators for FRED, have been recommended for approval by the County Mayor or County Mayor's designee as stated in the Mayor's memorandum, which is incorporated by reference to this resolution,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:**

1. This Board hereby approves the agreement between Miami-Dade County and FRED (Attachment A) and the indemnification agreements between Miami-Dade County and Renovate America Inc., Florida Development Finance Corporation, Dividend Finance, and PACE Funding Group, as the administrators of FRED (Attachment B), and this Board authorizes the County Mayor or County Mayor's designee to execute the above-mentioned agreements, in substantially the form attached.
2. This Board authorizes the County Mayor or County Mayor's designee to execute agreements with future administrators of FRED, in a form approved by the County Attorney's Office, to provide that such future administrator of FRED shall indemnify and hold harmless Miami-Dade County.
3. This Board authorizes the County Mayor or County Mayor's designee to exercise the provisions in the above-mentioned agreements related to audits, enforcement, indemnification, collecting and receiving data and information, notices, termination, and any and all duties of the Property Appraiser or Tax Collector.

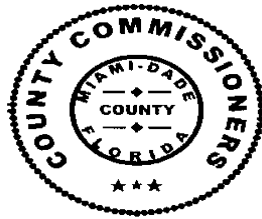
The foregoing resolution was offered by Commissioner **Rebeca Sosa**,

who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman**

and upon being put to a vote, the vote was as follows:

	Esteban L. Bovo, Jr., Chairman	aye	
	Audrey M. Edmonson, Vice Chairwoman	aye	
Daniella Levine Cava	aye	Jose "Pepe" Diaz	aye
Sally A. Heyman	aye	Eileen Higgins	aye
Barbara J. Jordan	aye	Joe A. Martinez	aye
Jean Monestime	aye	Dennis C. Moss	aye
Rebeca Sosa	aye	Sen. Javier D. Souto	aye
Xavier L. Suarez	absent		

The Chairperson thereupon declared the resolution duly passed and adopted this 10<sup>th</sup> day of July, 2018. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Christopher Agrippa**  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

A handwritten signature in cursive script, appearing to read "ASR", enclosed within a hand-drawn circle.

Abbie Schwaderer-Raurell

**LIMITED PURPOSE MEMBERSHIP AGREEMENT BETWEEN THE FLORIDA  
RESILIENCY AND ENERGY DISTRICT AND MIAMI-DADE COUNTY**

**WHEREAS**, this Limited Purpose Membership Agreement (the "Agreement") is entered into this day of \_\_\_\_\_, 2018 by and between the Florida Resiliency and Energy District (the "District" or "FRED"), created as a separate legal entity pursuant to Section 163.01(7), Florida Statutes, and Miami-Dade County, a political subdivision of the State of Florida ("Miami-Dade County" or the "County") (collectively, the "Parties") for the purpose of providing a Property Assessed Clean Energy ("PACE") program within Unincorporated Miami-Dade County; and

**WHEREAS**, the Town of Lake Clarke Shores and the City of Fernandina Beach, both of which are Florida municipalities, entered into an Interlocal Agreement, dated April 11, 2017, related to the establishment of the Florida Resiliency and Energy District as a means of implementing and financing a Qualifying Improvements program, known as a PACE, for energy conservation and efficiency, renewable energy, and wind-resistance improvements pursuant to Section 163.08, Florida Statutes, and to provide additional services consistent with law; and

**WHEREAS**, Miami-Dade County desires to be a limited purpose member of the Florida Resiliency and Energy District for the purpose of facilitating financing of qualifying improvements for properties located within the unincorporated area of Miami-Dade County, as further defined and detailed herein (the "Limited Purpose"), Miami Dade County and the District hereby agree that Miami Dade County shall become a limited purpose member to the Interlocal Agreement.

**NOW, THEREFORE**, in consideration of the terms and conditions, promises and covenants hereinafter set forth, the Parties agree as follows:

1. The foregoing recitals are incorporated into this Agreement and approved.
2. Purpose. The purpose of this Agreement is to facilitate the financing of qualifying improvements through a PACE program, in accordance with Section 163.08, Florida Statutes, for Miami-Dade County property owners within unincorporated Miami-Dade County, including for residential, commercial, and industrial properties.
3. Limited Purpose Membership. The District, together with its member parties, and Miami-Dade County, with the intent to be bound thereto, hereby agree that Miami-Dade County shall become a limited purpose member of the District for it to perform activities only as necessary to fulfill the Limited Purpose Membership Agreement and only as necessary to access financing and processing of non-ad valorem assessments by the District, within unincorporated Miami-Dade County and in accordance with federal, state, and Miami-Dade County laws, rules, regulations, ordinances, and all operational program standards of Miami-Dade County. The District has represented to Miami-Dade County that the operative interlocal agreement related to the establishment of the District is its April 11, 2017 Second Amended and Restated Interlocal Agreement Relating to the Creation of the Florida Resiliency and Energy District (the "April 11, 2017 Agreement"). In the event of a conflict between any terms of that April 11, 2017 agreement and this Agreement between the District and Miami-Dade County, the



terms of this agreement shall control. Miami-Dade County shall not be subject to any amendments to the April 11, 2017 Agreement unless Miami-Dade County has consented to such amendments in writing, via an approval by its Board of County Commissioners. Furthermore, the respective liabilities of the District and Miami-Dade County shall be determined by this Agreement, and in no event shall Miami-Dade County indemnify the District or any of its agents or administrators.

4. Qualifying Improvements. The District may provide "Qualifying Improvements" to real property within unincorporated Miami-Dade County, in accordance with Section 163.08, Florida Statutes, and subject to the terms of this Agreement, as well as applicable federal, state, and County law. "Qualifying Improvements" shall be as defined in the Article CXXXVIII of the Code of Miami-Dade County, as amended from time to time, provided that all such Qualifying Improvements are also included within Section 163.08, Florida Statutes.
5. Financing Agreement. Before extending any financing or subjecting any participating real property within Miami-Dade County to the non-ad valorem special assessment authorized therein, the District shall, on a non-exclusive basis pursuant to the Section 163.08, Florida Statutes and this Agreement, enter into a financing agreement with property owner(s) within unincorporated Miami-Dade County who qualify for financing through the District. This financing agreement shall include a thorough explanation of the PACE program financing process and specify at what point in the process the special assessment will be added to the property's owner's property taxes.
6. Assessment by District. The Parties acknowledge and agree that the non-ad valorem assessments arising from a property owner's voluntary participation in the PACE program are imposed by the District and not by the County.
7. Agreements with Tax Collector and Property Appraiser. This Agreement shall be subject to the express condition precedent that the District enter into separate agreement(s) with the County, on behalf of the Tax Collector, and the County's Property Appraiser, which shall provide for the assessment and collection of any non-ad valorem assessments imposed by the District and establish Jurisdiction Cost Recovery Reimbursements (if any) to be charged for the collection and/or handling of those non-ad valorem assessments. Additionally, the Parties agree that the Property Appraiser's and Tax Collector's assessment, collection, and distribution of any such non-ad valorem assessments imposed by the District are purely ministerial acts.
8. Non-Exclusive. The program is non-exclusive, meaning the County specifically reserves the right to authorize other entities to provide a similar program under Section 163.08, Florida Statutes, or create its own program under Section 163.08, Florida Statutes.
9. Boundaries of the Program. For purposes of the PACE program authorized by this Agreement, the boundaries of the District shall include the legal boundaries of unincorporated Miami-Dade County, which boundaries may be limited, expanded, or more specifically designated from time to time by Miami-Dade County by providing written notice to the District.
10. Properties. Within the unincorporated area of Miami-Dade County, residential, commercial, and industrial properties may be eligible.

11. PACE program guidelines and other materials. All PACE materials for use within Unincorporated Miami-Dade County, or otherwise related to this Agreement, including but not limited to program guidelines, rules, consumer agreements, consumer financing agreements, and promotional materials, shall be fully consistent with the Code of Miami-Dade County, Miami-Dade County resolutions and Miami-Dade County implementing orders, as applicable, all of which may be amended from time to time, and with this Agreement and applicable federal and state laws. The District acknowledges and agrees that PACE materials for use within unincorporated Miami-Dade County, or otherwise related to this Agreement, shall be modified accordingly and reviewed on a continuing basis for consistency with applicable Miami-Dade County, state and federal laws. It shall be the obligation of the District, to establish and maintain such consistency. Miami-Dade County will endeavor to provide the District with a courtesy notice of Miami-Dade County legislative changes that relate to PACE programs, however, failure by Miami-Dade County to send such courtesy notice or failure by the District to receive such courtesy notice shall not affect any action or proceeding and shall be of no legal consequence.
12. Local program guidelines. The Parties agree that Miami-Dade County may, in the future, implement its own local program guidelines or affirmatively modify the program guidelines to be utilized in unincorporated Miami-Dade County, which may be more restrictive than those of the District. If Miami-Dade County decides to exercise these rights, it shall give sixty (60) days written notice to the District. Notwithstanding anything stated herein to the contrary, the PACE materials, including the District's program guidelines, shall be fully consistent with applicable County, state and federal laws, as amended from time to time.
13. Prepayment penalties. To the extent that the District may charge or impose prepayment penalties, the District may not allow or charge any prepayment penalties except in the case when an assessment is paid off in full within five (5) years after the effective date of financial agreements with the property owner. Where the District may charge or impose prepayment penalties, the District shall offer and inform property owners of the District's hardship exception, for instance where a property owner becomes disabled or deceased. If the District imposes prepayment penalties, any such prepayment penalties, as well as information about the hardship exception, shall be clearly disclosed within all property owner financing agreements and in all PACE materials, including but not limited to program guidelines, program rules, consumer agreements, and consumer informational documents. For commercial properties, prepayment penalties may be charged or imposed by the District to the extent permitted by the Code of Miami-Dade County and other applicable legal requirements.
14. District Disclosures. The PACE materials, including but not limited to the financing agreement with the property owner, consumer agreement, and program guidelines, shall clearly disclose, in plain language, the interest rate to be charged, including points, as well as any and all fees or penalties that may be separately charged to the property owner, including prepayment penalties, potential late fees, and potential increases in the applicable interest rate. To the extent that additional fees are not specifically disclosed in a written agreement with the property owner, the subsequent charging or collecting of any such additional fees by the District or its agents, administrators, or subcontractors shall be prohibited. The District shall place the following sentence or similar language (without the County's logo) on all agreements:

While Miami-Dade County's authorization was essential to bringing PACE benefits to property owners in unincorporated Miami-Dade County, please be aware that Miami-Dade County government is not operating or administering the PACE program in any way. All contractual PACE agreements are between property owners and the District, a non-County entity. All concerns about this PACE Program should therefore be addressed to: [District to fill in appropriate contact / remedy information].

In addition, the District shall explain to the property owner under what circumstances the annual PACE assessment would need to be paid in one annual payment as opposed to installments, so that the property owner may understand what the required payments would be.

15. Miami-Dade County Disclosures. Miami-Dade County may compile and make available on a publicly-accessible website the following minimum information about each PACE district or entity with which the County has executed an interlocal agreement: (a) the name of the PACE district or entity; (b) the name, phone number, and website URL for the administrator of the PACE district or entity; (c) the effective date of the interlocal agreement between the PACE district or entity and Miami-Dade County; (d) the start date for reporting to the County; and (e) any non-compliance issues with the interlocal agreement, including non-compliance with required reporting format and timelines.
16. Consumer assistance. In order to assist those persons who may have difficulty reading or understanding the PACE materials, such as the financing agreement, program guidelines and other consumer agreements, the District shall provide optional one-on-one in-person assistance regarding the PACE program, program terms, program process, program documents, and all other pertinent information. Information regarding this option for personal assistance shall be printed in English, Spanish, and Haitian Creole on PACE promotional materials.
17. Disclosures related to lenders. While the District will provide required forms for lender notification, the District shall make clear that the ultimate responsibility for addressing issues with existing lenders remains with property owners. A statement to this effect should be placed in the PACE materials, including all agreements with the property owner. In addition, the PACE materials, including all agreements with the property owners, shall include a statement that strongly urges the property owner to increase monthly escrow immediately after financing is released.
18. Administrative Fees. Miami-Dade County may impose administrative fees to cover the Miami-Dade County's administrative costs related to this Agreement. Such administrative fees may be established by the Miami-Dade County Board of County Commissioners by separate action, and may be charged to the District. Miami-Dade County will endeavor to provide the District with a courtesy notice of Miami-Dade County action on administrative fees changes that relate to PACE programs, however, failure by Miami-Dade County to send such courtesy notice or failure by the District to receive such courtesy notice shall not affect any action or proceeding and shall be of no legal consequence.

19. Responsibilities of the District. The District shall be solely responsible for all matters associated with origination, funding, financing and administration of each of the District's authorized non-ad valorem assessments, including responding to any complaints or inquiries by participants, tax certificate holders, lenders or others relating to the special assessments, the financing agreements, the qualifying improvements, or any other aspect of the PACE program. Nothing stated herein shall infringe or restrict Miami-Dade County's rights pursuant to this Agreement, including but not limited to Miami-Dade County's right to audit.
20. Survival of Assessments. During the term of this Agreement, the District may, on a non-exclusive basis, levy voluntary non-ad valorem special assessments on participating properties within the boundaries of unincorporated Miami-Dade County to help finance the costs of Qualifying Improvements for those individual properties. Those properties receiving financing for Qualifying Improvements shall be assessed from time to time, in accordance with Section 163.08, Florida Statutes, and other applicable law. Notwithstanding termination of this Agreement or notice of a change in boundaries by Miami-Dade County as provided for herein, those properties that have received financing for Qualifying Improvements shall continue to be a part of the District, until such time that all outstanding debt has been satisfied.
21. Audits. The District agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Audit and Management Services Department of Miami-Dade County, the Office of the Commission Auditor, the Miami-Dade County Office of the Inspector General, or any agent of Miami-Dade County. The District shall retain sufficient books and records demonstrating compliance with this Agreement and State and County requirements, for a period of seven years from the date of each special assessment, and shall allow Miami-Dade County representatives access to such books and records upon request.

Miami-Dade County and/or its authorized representatives shall have the right to audit, examine, and make copies of or extracts from the records of the District or its employees, agents, assigns, successors, administrators, and subcontractors such records as deemed necessary to assess compliance with this Agreement, as well as applicable State law and Miami-Dade County Code.

The District shall, at any time requested by the Miami-Dade County, whether during or after completion of this Agreement and for a period of seven years after the completion of this Agreement, at the District's own expense, make such records available for inspection and audit. Such records shall be made available, to the extent permissible by County, state or federal law at a designated Miami-Dade County's office during normal business hours, subject to 14 days written notice.

Further, the District shall ensure Miami-Dade County has these rights with its employees, agents, assigns, successors, administrators, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Authority and any administrators and subcontractors to the extent that those subcontracts or agreements relate to this Agreement or operations in unincorporated Miami-Dade County.

22. Term. This Agreement shall remain in full force and effect from the date of its execution by both Parties. Either Party may terminate this Agreement for convenience upon ninety

(90) days prior written notice ("Termination Notice"). Beginning on the date the District receives a Termination Notice from Miami-Dade County ("Termination Date"), the District shall not approve any new applications affecting property within the legal boundaries of the unincorporated Miami-Dade County referenced in the Termination Notice. Notwithstanding termination of this Agreement, however, property owners whose applications were approved prior to the Termination Date, and who received funding through the Program, shall continue to be a part of the District, for the sole purpose of paying their outstanding debt, until such time that all outstanding debt has been satisfied.

In addition, if the April 11, 2017 Agreement is terminated, this Agreement shall also terminate, and the effective date of the termination of this Agreement shall be as of the effective date of the termination of the April 11, 2017 Agreement. This clause shall not be triggered if April 11, 2017 Agreement is subsequently amended or modified, regardless of whether Miami-Dade County adopts or approves any such amendment or modification.

23. Termination for cause. In the event that Miami-Dade County determines that the District has violated any of the terms of this Agreement, Miami-Dade County shall have the right to terminate this Agreement for cause via thirty (30) days written notice to the District.
24. Consent. This Agreement, once effective, together with the resolution by the Miami-Dade County Board of County Commissioners approving this Agreement, shall be considered the Parties' consent to authorize the District to administer the PACE program within unincorporated Miami-Dade County, as required by Section 163.08, Florida Statutes.
25. County Coordinator. The Office of Resilience within Miami-Dade County's Department of Regulatory and Economic Resources shall serve as Miami-Dade County's primary point of contact and coordinator. Miami-Dade County will advise the District of any changes to Miami-Dade County's primary contact and coordinator within 30 days of such changes.
26. Carbon or Similar Credits. In the event that the financing agreement or any other PACE agreement with the property owner provides for the transfer of any carbon or similar mitigation credits derived from Qualifying Improvements to the District, any such carbon or similar mitigation credits derived from unincorporated Miami-Dade County, shall be shared in equal parts between the District and Miami-Dade County.
27. Contingency Plans. In the event that Florida's PACE statute is ruled unconstitutional or otherwise struck down by a court or if the PACE assessments are determined by a court to not be special assessments, the District agrees and acknowledges that Miami-Dade County may not be able to place the impacted PACE assessments on the tax rolls or collect PACE assessments, and that such a determination shall be made in the reasonable discretion of Miami-Dade County based on existing Florida legal precedents. The District agrees and acknowledges that it may be advisable for the District to have contingency plans in place should Florida's PACE statute be ruled unconstitutional or otherwise struck down by a court or if the PACE assessments are determined by a court to not be special assessments.
28. Bonds. Neither the District, nor its agents or administrators, is authorized to issue bonds, or any other form of debt, on behalf of Miami-Dade County. To the extent that the District or its agent or administrator issues bonds under its own authority in connection with this

Agreement, the pledge will be based on the PACE assessments, and Miami-Dade County shall not be obligated in any way. For any such bonds, the bond disclosure document (if any) shall include references to the fact that Miami-Dade County is not an obligated party, and also that PACE programs in Florida are new and relatively un- tested and that there may be certain attendant risks.

29. Opinion of Bond Counsel. Prior to the effective date of this Agreement, the District shall deliver to Miami-Dade County an "Opinion of Bond Counsel," stating that, based on counsel's review of the bond validation judgment and the underlying bond documents the Program's structure complies with the bond validation judgment and the underlying bond documents. The District acknowledges that Miami-Dade County is relying on the Opinion of Bond Counsel in its decision to execute this Agreement.
30. Resale or Refinancing of a Property. The District recognizes that some lenders may require full repayment of the PACE program's non-ad valorem assessments upon resale or refinancing of a property. The District agrees to provide written disclosure of this matter in PACE materials, including, but not limited to, all financing agreements with the property owner, financial disclosures, consumer agreements, and program guidelines.
31. Agents of District. The District shall ensure that its agents, administrators, subcontractors, successors and assigns are, at all times, in compliance with the terms of this Agreement and applicable Miami-Dade County, state and federal laws. Miami-Dade County will endeavor to provide the District with a courtesy notice of Miami-Dade County legislative changes that relate to PACE programs, however, failure by Miami- Dade County to send such courtesy notice or failure by the District to receive such courtesy notice shall not affect any action or proceeding and shall be of no legal consequence.
32. Reporting. The District shall provide quarterly reports to Miami-Dade County to include at a minimum: a) dates of reporting period; b) a list of PACE projects started and/or completed during reporting period (i.e. quarterly), separated by building type (e.g., office, retail, multifamily, agricultural, single family) and by sector type (commercial, industrial, or residential); c) for each PACE project identified, specify: (1) the qualifying improvements made to the property; (2) the energy baseline of each PACE project and the projected energy savings in kWh and/or the amount of potential renewable energy in kWh to be generated by the PACE project and number of audits performed detailing type of project, sector type and audit results; (3) start date and completion date for each PACE project; (4) financial information about each PACE project such as cost per kWh generated/saved; and (5) any other resource saving, such as water; d) number of applications declined during the reporting period and why each was declined in the aggregate, by category, and not on an individual basis; e) jobs created for the reporting period, including local versus non-local jobs and permanent versus temporary jobs; f) description of the standardized third-party methodologies, with citations and URL links as appropriate, and supporting assumptions used to verify data, and any changes in the methodologies and assumptions from the previous reporting period. The fourth quarter report shall include a cumulative yearly summary of all reported data. If the District does not currently have the ability to provide reports that contain this minimum reporting information as listed above, it shall modify its data collection and maintenance procedures and systems within one year in order to comply with this fundamental component of the Agreement. Proposed format for data reporting shall be

submitted to Miami-Dade County as soon as possible, and no later than four months in advance of the first reporting period, so that Miami-Dade County can determine whether all reporting requirements have been included. Miami-Dade County shall provide written modifications to the submitted proposed reporting format within three months in advance of the first reporting period. If the County wishes to change the reporting format or require the inclusion of additional data, the County shall provide the request in writing and allow the District one year, if needed, to modify its analytical and reporting process to achieve compliance. The County agrees that it seeks aggregate data, and the District does not believe that such data would be personally identifiable information, as defined in federal law. If, however, a request for data by the County to the District would trigger disclosure or confidentiality requirements under federal law, the District agrees to promptly advise the County in writing before providing such data so that the parties may confer. The District and any and all of the District's administrators are obligated to take all steps, including restructuring their application, making disclosures to their customers or requiring their affiliates to make such disclosures, in order to comply with the obligations, including data reporting obligations, in this agreement. In order to facilitate reporting to Miami-Dade County, the District shall include the following two statements or substantially similar language in a PACE agreement or in a privacy policy signed by the property owner:

This PACE Program may share data pertaining to your PACE project and assessment with government entities and officials for the purposes of identifying demand for the Program, identifying environmental and economic benefits created by the Program, and reviewing matters related to Program Consumer Protection. Government entities and officials may include municipalities, counties, and the state in which your property is located. If you wish to opt out and withhold your information from municipalities and/or counties and their officials, please contact us by email (*email address to be filled in by District*) or phone: (*phone to be filled in by District*-(XXX) XXX-XXXX.) Although you may opt out from sharing personal data with municipalities and/or counties, data from your PACE project and assessment will still be provided to municipalities and/or counties and officials in an aggregated format.

To allow the PACE Program Administrator to better understand energy patterns and measure energy savings for our customers, the Property Owner authorizes electric, gas, water or other utility providers to release billing and consumption data for the Property or agrees to provide utility records to assist the District in tracking utility savings resulting from the Qualifying Improvements. If the PACE Program Administrator shares any results of the analysis, the Property Owner data will only be presented in a manner that does not specifically identify the Property Owner or the Property address.

33. Reporting Standards. It is the responsibility of the District to develop reports consistent with each of the categories of data required in paragraph 32 above and to test and verify the data collection and reporting methods and models used. The District shall describe the methodologies and supporting assumptions and/or sources, and any changes from the previous reporting period, within each quarterly report to Miami-Dade County. All reports shall exclude any sensitive customer information. Failure to report specified information as well as failure to report by the deadline shall be considered non-compliance with this Agreement.

34. Notices. Any notices to be given hereunder shall be in writing and shall be deemed to have been given if sent by hand delivery, recognized overnight courier (such as Federal Express), or by written certified U.S. mail, with return receipt requested, addressed to the Party for whom it is intended, at the place specified. For the present, the Parties designate the following as the respective places for notice purposes:

**If to the District:**

The Florida Resiliency and Energy District  
c/o Florida Development Finance Corporation  
William "Bill" F. Spivey, Jr.  
Executive Director  
156 Tuskawilla Road, Suite 2340

Winter Springs, FL 32708

With a copy to:

Broad and Cassel  
Joseph Stanton, Esq.  
Bank of America Center  
390 North Orange Avenue Suite 1400  
Orlando, FL 32801-4961

**If to Miami-Dade County:**

County Coordinator, Miami-Dade Office of Resilience  
111 NW 1<sup>st</sup> Street, 12<sup>th</sup> floor  
Miami, Florida 33128

35. Amendments. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this agreement and executed by Miami-Dade County and the District or other delegated authority authorized to execute same on their behalf.
36. Joint Effort. The preparation of this Agreement has been a joint effort of the Parties hereto and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.
37. Merger. This Agreement represents the final and complete understanding of the Parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations, correspondence, agreements, or understandings applicable to the matters contained herein; and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.



38. Assignment. The respective obligations of the Parties set forth in this Agreement shall not be assigned, in whole or in part, without the written consent of the other Party hereto.
39. Third Party Beneficiaries. Neither Miami-Dade County nor the District intend to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.
40. Records. The Parties shall each maintain their own respective records and documents associated with this Agreement in accordance with the requirements for records retention set forth in Chapter 119, Florida Statutes.
41. Severability. In the event a portion of this Agreement is found to be unenforceable by a court of competent jurisdiction, that part shall be deemed severed from this Agreement and the remaining provisions of this Agreement shall remain in full force and effect.
42. Indemnification. The District shall indemnify and hold harmless Miami-Dade County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which Miami-Dade County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the District or its employees, agents, servants, partners, principals, administrators, subcontractors, or agents. The District shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of Miami-Dade County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28, Florida Statutes, subject to the provisions of that Statute whereby the District shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$200,000, or any claim or judgment or portions thereof, which, when totaled with all other claims or judgment paid by the District arising out of the same incident or occurrence, exceed the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the District.
43. Administrator Indemnification. Any and all administrators of the District shall be required to execute a separate indemnification agreement with Miami-Dade County. The District acknowledges and agrees that as of the execution of this Agreement, Florida Development Finance Corporation, Renovate America, Inc., PACE Funding Group and Dividend Finance are the only administrators for the District, and that all such entities have executed the separate indemnification agreement with Miami-Dade County for the benefit of Miami-Dade County. If the District changes its administrator or adds a new administrator, the District shall ensure that any and all administrators also provide Miami-Dade County with a separate indemnification agreement, on a form to be approved by the Miami-Dade County Attorney's Office, within ten (10) business days of assuming administrative responsibilities for the District.

44. Effective Date. This Agreement shall become effective upon the execution by both Parties hereto.

45. Law, Jurisdiction, and Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Eleventh Judicial Circuit in and for Miami- Dade County, Florida, the United States District Court for the Southern District of Florida or United States Bankruptcy Court for the Southern District of Florida, as appropriate.

46. Sovereign Immunity. Nothing herein shall constitute a waiver of Section 768.28 of the Florida Statutes or shall be construed as impacting or modifying the protections set forth therein.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

MIAMI-DADE COUNTY, FLORIDA

By: \_\_\_\_\_  
County Mayor or Designee      Date

For the Board of County Commissioners  
Miami-Dade County, Florida

Stephen P. Clark Center  
111 N.W. 1st. Street  
Miami, Florida 33128

HARVEY RUVIN, CLERK  
Attest:

By: \_\_\_\_\_ Deputy  
Clerk      Date

[SIGNATURE PAGE TO LIMITED PURPOSE PARTY MEMBERSHIP AGREEMENT]

WITNESS:

A. Rodriguez  
Aisha Rodriguez

FLORIDA DEVELOPMENT FINANCE  
CORPORATION on behalf of FLORIDA  
RESILIENCY AND ENERGY DISTRICT

By: [Signature]

William "Bill" F. Spivey, Jr.  
Executive Director

WITNESS:

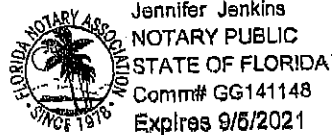
[Signature]  
RYAN V BARRETT

STATE OF FLORIDA  
COUNTY OF Seminole

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of April, 2018, by William "Bill" F. Spivey, Jr., Executive Director of the Florida Development Finance Corporation, who is personally known to me has produced \_\_\_\_\_ as identification.

(SEAL)

[Signature]  
Printed/Typed Name: Jennifer Jenkins  
Notary Public-State of Florida  
Commission Number: GG141148



**AGREEMENT BETWEEN RENOVATE AMERICA, INC., AS  
ADMINISTRATOR OF THE FLORIDA RESILIENCY AND  
ENERGY DISTRICT, AND MIAMI-DADE COUNTY**

This Agreement (the "Agreement") is entered into this 11<sup>th</sup> day of April, 2018 by and between Renovate America, Inc., as the administrator of the Florida Resiliency and Energy District, and Miami-Dade County, a political subdivision of the State of Florida ("Miami-Dade County") (collectively, the "Parties").

**WHEREAS**, Miami-Dade County and the Florida Resiliency and Energy District (FRED) have proposed to enter into a Limited Purpose Membership Agreement to authorize the Florida Resiliency and Energy District to operate within the boundaries of Unincorporated Miami-Dade County for the purposes of providing a Property Assessed Clean Energy (PACE) program; and

**WHEREAS**, Renovate America, Inc. is the third party administrator for the Florida Resiliency and Energy District, and Renovate America, Inc. would be operating on behalf of the Florida Resiliency and Energy District within Unincorporated Miami-Dade County; and

**WHEREAS**, Renovate America, Inc. has agreed to provide Miami-Dade County with a separate indemnification agreement for the benefit of Miami-Dade County,

1. The foregoing recitals are incorporated into this Agreement and approved.
2. Renovate America, Inc. shall indemnify and hold harmless Miami-Dade County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which Miami-Dade County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of the Limited Purpose Membership Agreement by Renovate America, Inc. or its employees, agents, servants, partners, principals, administrators, subcontractors, or agents. Renovate America, Inc. shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of Miami-Dade County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Renovate America, Inc. expressly understands and agrees that any insurance protection shall in no way limit the responsibility to indemnify, keep and save harmless and defend Miami-Dade County or its officers, employees, agents and instrumentalities as herein provided.
3. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in conjunction with this Agreement shall be in the state courts of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, the United States District Court for the Southern District of Florida or United States Bankruptcy Court for the Southern District of Florida, as appropriate.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on this 11<sup>th</sup> day of April, 2018.

MIAMI-DADE COUNTY, FLORIDA

By: \_\_\_\_\_  
County Mayor or Designee      Date

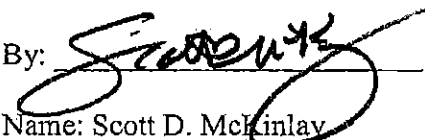
For the Board of County Commissioners  
Miami-Dade County, Florida

Stephen P. Clark Center  
111 N.W. 1st. Street  
Miami, Florida 33128

HARVEY RUVIN, CLERK  
Attest:

By: \_\_\_\_\_  
Deputy Clerk      Date

RENOVATE AMERICA, INC.,  
A DELEWARE CORPORATION  
16409 W Bernardo Drive  
San Diego, CA 92127

By:  \_\_\_\_\_  
Name: Scott D. McKinlay      Date April 11, 2018

Title: Executive Vice President

**AGREEMENT BETWEEN THE FLORIDA DEVELOPMENT  
FINANCE CORPORATION ("FDFC"), AS ADMINISTRATOR OF  
THE FLORIDA RESILIENCY AND ENERGY DISTRICT, AND  
MIAMI-DADE COUNTY**

This Agreement (the "Agreement") is entered into this \_\_\_\_ day of \_\_\_\_, 2018 by and between FDFC, as the administrator of the Florida Resiliency and Energy District, and Miami-Dade County, a political subdivision of the State of Florida ("Miami-Dade County") (collectively, the "Parties").

**WHEREAS**, Miami-Dade County and the Florida Resiliency and Energy District (FRED) have proposed to enter into a Limited Purpose Membership Agreement to authorize the Florida Resiliency and Energy District to operate within the boundaries of Unincorporated Miami-Dade County for the purposes of providing a Property Assessed Clean Energy (PACE) program; and

**WHEREAS**, FDFC is the third party administrator for the Florida Resiliency and Energy District, and FDFC would be operating on behalf of the Florida Resiliency and Energy District within Unincorporated Miami-Dade County; and

**WHEREAS**, FDFC has agreed to provide Miami-Dade County with a separate indemnification agreement for the benefit of Miami-Dade County,

1. The foregoing recitals are incorporated into this Agreement and approved.
2. FDFC shall indemnify and hold harmless Miami-Dade County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which Miami-Dade County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of the Limited Purpose Membership Agreement by FDFC or its employees, agents, servants, partners, principals, administrators, subcontractors, or agents. FDFC shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of Miami-Dade County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. FDFC expressly understands and agrees that any insurance protection shall in no way limit the responsibility to indemnify, keep and save harmless and defend Miami-Dade County or its officers, employees, agents and instrumentalities as herein provided.
3. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in conjunction with this Agreement shall be in the state courts of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida,

the United States District Court for the Southern District of Florida or United States Bankruptcy Court for the Southern District of Florida, as appropriate.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on this \_\_\_\_ day of \_\_\_\_\_, 2018.

MIAMI-DADE COUNTY, FLORIDA

By: \_\_\_\_\_  
County Mayor or Designee Date


For the Board of County Commissioners  
Miami-Dade County, Florida

Stephen P. Clark Center  
111 N.W. 1st. Street  
Miami, Florida 33128

HARVEY RUVIN, CLERK  
Attest:

By: \_\_\_\_\_  
Deputy Clerk Date

FLORIDA DEVELOPMENT FINANCE  
CORPORATION  
156 Tuskawilla Road, Suite 2340,  
Winter Springs, FL 32708

By:  \_\_\_\_\_  
Date 4/19/18

Name: William F Spivey

Title: Executive Director

**AGREEMENT BETWEEN PACE FUNDING GROUP, LLC, AS  
ADMINISTRATOR OF THE FLORIDA RESILIENCY AND  
ENERGY DISTRICT, AND MIAMI-DADE COUNTY**

This Agreement (the "Agreement") is entered into this 12<sup>th</sup> day of April, 2018 by and between PACE Funding Group, LLC, as the administrator of the Florida Resiliency and Energy District, and Miami-Dade County, a political subdivision of the State of Florida ("Miami-Dade County") (collectively, the "Parties").

**WHEREAS**, Miami-Dade County and the Florida Resiliency and Energy District (FRED) have proposed to enter into a Limited Purpose Membership Agreement to authorize the Florida Resiliency and Energy District to operate within the boundaries of Unincorporated Miami-Dade County for the purposes of providing a Property Assessed Clean Energy (PACE) program; and

**WHEREAS**, PACE Funding Group, LLC, is the third party administrator for the Florida Resiliency and Energy District, and PACE Funding Group, LLC, would be operating on behalf of the Florida Resiliency and Energy District within Unincorporated Miami-Dade County; and

**WHEREAS**, PACE Funding Group, LLC, has agreed to provide Miami-Dade County with a separate indemnification agreement for the benefit of Miami-Dade County,

1. The foregoing recitals are incorporated into this Agreement and approved.
2. PACE Funding Group, LLC, shall indemnify and hold harmless Miami-Dade County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which Miami-Dade County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of the Limited Purpose Membership Agreement by PACE Funding Group, LLC, or its employees, agents, servants, partners, principals, administrators, subcontractors, or agents. PACE Funding Group, LLC, shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of Miami-Dade County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. PACE Funding Group, LLC, expressly understands and agrees that any insurance protection shall in no way limit the responsibility to indemnify, keep and save harmless and defend Miami-Dade County or its officers, employees, agents and instrumentalities as herein provided.
3. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in conjunction with this Agreement shall be in the state courts of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, the United States District Court for the Southern District of Florida or United States Bankruptcy Court for the Southern District of Florida, as appropriate.



IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on this 12<sup>th</sup> day of April, 2018.

MIAMI-DADE COUNTY, FLORIDA

By: \_\_\_\_\_  
County Mayor or Designee Date

For the Board of County Commissioners  
Miami-Dade County, Florida

Stephen P. Clark Center  
111 N.W. 1st. Street  
Miami, Florida 33128

HARVEY RUVIN, CLERK  
Attest:

By: \_\_\_\_\_  
Deputy Clerk Date

PACE Funding Group, LLC,  
A CALIFORNIA LIMITED LIABILITY  
COMPANY  
750 University Ave #240  
Los Gatos, CA 95032

By: Robert Gilotti April 12, 2018  
Date  
Name: ROBERT GILOTTI  
Title: CEO

**AGREEMENT BETWEEN DIVIDEND FINANCE, LLC, AS  
ADMINISTRATOR OF THE FLORIDA RESILIENCY AND  
ENERGY DISTRICT, AND MIAMI-DADE COUNTY**

This Agreement (the "Agreement") is entered into this 19<sup>th</sup> day of April, 2018 by and between Dividend Finance, LLC ("Dividend"), as the administrator of the Florida Resiliency and Energy District, and Miami-Dade County, a political subdivision of the State of Florida ("Miami-Dade County") (collectively, the "Parties").

**WHEREAS**, Miami-Dade County and the Florida Resiliency and Energy District (FRED) have proposed to enter into a Limited Purpose Membership Agreement to authorize the Florida Resiliency and Energy District to operate within the boundaries of Unincorporated Miami-Dade County for the purposes of providing a Property Assessed Clean Energy (PACE) program; and

**WHEREAS**, Dividend is the third-party administrator for the Florida Resiliency and Energy District, and would be operating on behalf of the Florida Resiliency and Energy District within Unincorporated Miami-Dade County; and

**WHEREAS**, Dividend has agreed to provide Miami-Dade County with a separate indemnification agreement for the benefit of Miami-Dade County,

1. The foregoing recitals are incorporated into this Agreement and approved.
2. Dividend shall indemnify and hold harmless Miami-Dade County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which Miami-Dade County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of the Limited Purpose Membership Agreement by Dividend or its employees, agents, servants, partners, principals, administrators, subcontractors, or agents. Dividend shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of Miami-Dade County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Dividend expressly understands and agrees that any insurance protection shall in no way limit the responsibility to indemnify, keep and save harmless and defend Miami-Dade County or its officers, employees, agents and instrumentalities as herein provided.
3. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in conjunction with this Agreement shall be in the state courts of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, the United States District Court for the Southern District of Florida or United States Bankruptcy Court for the Southern District of Florida, as appropriate.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement  
on this 19<sup>th</sup> day of April, 2018.

MIAMI-DADE COUNTY, FLORIDA

By: \_\_\_\_\_  
County Mayor or Designee Date

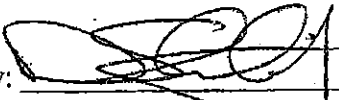
For the Board of County Commissioners  
Miami-Dade County, Florida

Stephen P. Clark Center  
111 N.W. 1st. Street  
Miami, Florida 33128

HARVEY RUVIN, CLERK  
Attest:

By: \_\_\_\_\_  
Deputy Clerk Date

DIVIDEND FINANCE, LLC  
433 California Street, Suite 300  
San Francisco, CA 94104

By:  \_\_\_\_\_  
Date 04.19.18  
Name: Dave Sterlitz  
Title: General Counsel

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INTERLOCAL AGREEMENT RELATING TO THE  
CREATION OF THE FLORIDA RESILIENCY AND ENERGY  
DISTRICT, A PROPERTY ASSESSED CLEAN ENERGY  
DISTRICT, AND AUTHORIZING FINANCING PURSUANT  
THERE TO

BY AND AMONG

THE TOWN OF LAKE CLARKE SHORES, FLORIDA, AND

THE CITY OF FERNANDINA BEACH, FLORIDA, AND

THE FLORIDA DEVELOPMENT FINANCE CORPORATION, FLORIDA, IN ITS

LIMITED CAPACITY DESCRIBED HEREIN

AND ANY SUBSEQUENT PARTIES HERETO

DATED AS OF \_\_\_\_\_, 2016

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**INTERLOCAL AGREEMENT RELATING TO THE CREATION OF  
THE FLORIDA RESILIENCY AND ENERGY DISTRICT, A  
PROPERTY ASSESSED CLEAN ENERGY DISTRICT, AND  
AUTHORIZING FINANCING THERETO**

**THIS INTERLOCAL AGREEMENT** ("Interlocal Agreement") is made and entered into as of \_\_\_\_\_, 2016, by and among the government units executing the Interlocal Agreement, each one constituting a public agency or legal entity under Part I, Chapter 163, Florida Statutes, , comprising the Town of Lake Clarke Shores, a municipality and local government of the State of Florida and the City of Fernandina Beach, a municipality and local government of the State of Florida (the "Public Agency" or "Public Agencies") and, in the limited capacity described herein, the Florida Development Finance Corporation, a public body corporate and politic, a public instrumentality and a public agency organized and existing under the laws of the State of Florida ("FDFC") and, together collective referred to herein as the "Parties".

**WITNESSETH:**

**WHEREAS**, pursuant to Section 163.08, Florida Statutes, as amended (the "Florida PACE Act"), the Florida Legislature found that in order to make qualifying renewable energy, energy efficiency and conservation and wind resistance improvements more affordable and assist real property owners who wish to undertake such improvements, there is a compelling State of Florida ("State") interest in enabling property owners to voluntarily finance such improvements with local government assistance; and

**WHEREAS**, under the Florida PACE Act, the Florida Legislature determined that the actions authorized under the Florida PACE Act, including, but not limited to, the financing of qualifying improvements through the execution of financing agreements between property owners and local governments and the resulting imposition of voluntary non-ad valorem assessments are reasonable and necessary to serve and achieve a compelling state interest and are necessary for the prosperity and welfare of the State and its property owners and inhabitants; and

**WHEREAS**, the Town of Lake Clarke Shores, Florida, and the City of Fernandina Beach, Florida, wish to create an entity to finance PACE projects for themselves and for other local governments pursuant to Section 163.08(2)(a); and

**WHEREAS**, the Town of Lake Clarke Shores pursuant to Resolution 16-15 enacted August 23, 2016, approved the form and authorized the execution of this Interlocal Agreement; and

**WHEREAS**, the City of Fernandina Beach, pursuant to Resolution \_\_\_\_ enacted \_\_\_\_, 2016, approved the form and authorized the execution of this Interlocal Agreement;

and

**WHEREAS**, the Town of Lake Clarke Shores and the City of Fernandina Beach desire to enter into an agreement under Section 163.01(7), Florida Statutes, to create a special district that constitutes (1) a separate legal entity within the meaning of Section 163.01, Florida Statutes, also known as the Florida Interlocal Cooperation Act of 1969 (the "Interlocal Act") and (2) a "local government" within the meaning of the Florida PACE Act and (3) a special district in furtherance of the objectives of the Florida PACE Act; and

**WHEREAS**, the separate legal entity created under this Interlocal Agreement shall be known as the Florida Resiliency and Energy District ("the District" or "FRED") which may, pursuant to section 163.08(2)(a), finance energy related or wind-resistant "qualifying improvements" through voluntary assessments; and

**WHEREAS**, the "Interlocal Act" also permits the FDFC and FRED, as public agencies under the Interlocal Act, to enter into interlocal agreements with each other to provide for the performance of service functions to cooperate on a basis of mutual benefit in the best interest of the real property owners within the boundaries of FRED; and

**WHEREAS**, FDFC has determined that there is a substantial need within the State for a financing program which can provide funds to property owners to enable them to finance qualifying improvements under the Florida PACE Act on a cost-effective basis; and

**WHEREAS**, the Florida Legislature determined that FDFC has the authority to issue revenue bonds for the purpose of financing said qualifying improvements pursuant to Section 288.9606(7), Florida Statutes; and

**WHEREAS**, FDFC acts as a special development financing authority that specializes in providing financing support to fund capital projects that support economic development and job creation on a state-wide basis; and

**WHEREAS**, the Florida PACE Act is an economic development tool that provides communities with an additional option for financing, stimulates production of qualifying products, promotes competition, seeks to increase property values, lower energy consumption, mitigate wind damage, and create jobs; and

**WHEREAS**, on December 4, 2015, the FDFC Board of Directors adopted Resolution No. 15-09, as amended and supplemented from time to time (the "Bond Resolution"), authorizing the issuance of revenue bonds ("Bonds") in order to finance qualifying improvements under the Florida PACE Act, which revenue bonds shall be secured by and payable from the proceeds of voluntary non-ad valorem assessments levied against the real properties that are benefitted by such qualifying improvements (the "Assessments"), all in accordance with the provisions of the Florida PACE Act and other

applicable provisions of law and in accordance with FDFC's Property Assessed Clean Energy ("PACE") Program (the "FDFC PACE Program"); and

WHEREAS, on July 18, 2014, in accordance with Chapter 75, Florida Statutes, the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida issued an Amended Final Judgment validating the issuance of the Bonds by FDFC and on October 15, 2015, the Supreme Court of the State of Florida affirmed such Final Judgment; and

WHEREAS, on December 4, 2015, the FDFC Board of Directors adopted Resolution No. 15-10 setting forth its policies and procedures relating to the FDFC PACE Program; and

WHEREAS, on December 4, 2015, the FDFC Board of Directors adopted Resolution No. 15-11 approving Renovate America, Inc. ("Renovate America") as its first PACE administrator for the FDFC PACE Program; and

WHEREAS, FDFC anticipates adding other PACE providers as PACE residential and commercial administrators to provide a competitive marketplace in Florida for any potential residential and commercial property owners interested in the FDFC PACE Program; and

WHEREAS, FRED and FDFC agree, pursuant to Section 163.01(14), that FRED, as a separate legal entity authorized to facilitate PACE financing pursuant to Section 163.08, Florida Statutes, may contract with FDFC to serve the financing function of the District and therefore serve the property owners of within the District; and

WHEREAS, under this Interlocal Agreement, the Parties agree to have the FDFC PACE Program serve as the administrator for the District PACE program; and

WHEREAS, the District will utilize the FDFC PACE Program to implement PACE exclusively on behalf of the District and take on all costs and responsibilities for administering and operating the program; and

WHEREAS, FDFC will utilize its authority under law to provide, authorize, and issue revenue bonds to finance PACE improvements within and on behalf of property owners within the District; and

WHEREAS, FRED will have immediate access to a turnkey FDFC PACE Program which includes \$2,000,000,000 in judicially validated bonding authority for PACE financing and a trained PACE program staff; and

NOW THEREFORE, THE PARTIES TO THIS INTERLOCAL AGREEMENT AGREE AS FOLLOWS:



**SECTION 1. AUTHORITY FOR INTERLOCAL AGREEMENT.** This Interlocal Agreement is adopted pursuant to the provisions of the Interlocal Act, the Florida PACE Act, and other applicable provisions of law. At all times prior to and during the term of this Interlocal Agreement, the Town of Lake Clarke Shores, Florida, and the City of Fernandina Beach, Florida, constitute local governments as that term is defined in the Florida PACE Act and the Interlocal Act and the Florida Finance and Development Corporation constitutes a "public agency" as that term is defined in the Florida Interlocal Act. That portion of this Agreement creating the separate legal entity pursuant to Section 163.01(7), Florida Statutes, is among and between the Founding Members, and that portion of the Agreement allowing the FDFC PACE Program to provide the financing duties of the District is pursuant to Section 163.01(14), Florida Statutes.

**SECTION 2. DEFINITIONS.** The following definitions shall govern the interpretation of this Interlocal Agreement:

"Annual Assessment Resolution" or "Assessment Resolution" means a resolution or resolutions adopted by the District that (A) imposes new Assessments against those property owners entering into financing agreements with the FDFC under the FDFC PACE Program since adoption of the last Annual Resolution or Assessment Resolution, and (B) approves an electronic assessment roll to be submitted to the Tax Collector for the next tax bill containing the required collection information for all property owners with outstanding Assessments under the FDFC PACE Program, in each case limited to those property owners within the boundaries of the local governments that comprise the District.

"Assessments" means the non-ad valorem assessments levied by the District against the properties that are benefitted by the qualifying improvements in accordance with the Florida PACE Act and the FDFC PACE Program.

"Bond Resolution" means Resolution No. 15-09 of the FDFC adopted on December 4, 2015 relating to the Bonds and the FDFC PACE Program, as amended and supplemented from time to time.

"Bonds" means bonds that are issued by FDFC from time to time pursuant to the Bond Resolution.

"Contracted FDFC services" means the services provided by FDFC pursuant to this Interlocal Agreement.

"District" or "FRED" means the Florida Resiliency and Energy District (FRED), a Property Assessed Clean Energy special district, and local government formed pursuant to the Interlocal Act, the Florida PACE Act and this Interlocal Agreement.

**"FDFC"** means Florida Development Finance Corporation, a public body corporate and politic, a public instrumentality and a local agency organized and existing under the laws of the State of Florida.

**"FDFC PACE Program"** means the FDFC's Property Assessed Clean Energy (PACE) Program adopted pursuant to the Bond Resolution and its Policies and Procedures.

**"Florida PACE Act"** means Section 163.08, Florida Statutes, as may be amended from time to time.

**"Founding Members"** means the Town of Lake Clarke Shores, Florida, and the City of Fernandina Beach, Florida. The term does not include FDFC.

**"Interlocal Act"** means Section 163.01, Florida Statutes, as amended.

**"Interlocal Agreement"** means this Interlocal Agreement Relating to the creation of the Florida Resiliency and Energy District, a Property Assessed Clean Energy District, including any amendments or supplements hereto, executed and delivered in accordance with the terms hereof.

**"Limited Purpose Party Membership Agreement"** means an agreement between a Subsequent Party and the District defining the terms and conditions of membership within the District.

**"Party" or "Parties"** means the Town of Lake Clarke Shores, Florida, and the City of Fernandina Beach, and the Florida Development Finance Corporation Florida, and their respective assigns; provided, however, the FDFC is a party only for the contracted FDFC services

**"Property Appraiser"** means the county property appraiser for real property within the boundaries of each Founding Member or Subsequent Party.

**"Public Agency"** means cities or counties of the State of Florida, or any Subsequent Party.

**"Resolution of Enactment"** means Resolution No. 16-15 adopted by the Town of Lake Clarke Shores, and Resolution No. \_\_\_\_\_ adopted by the City of Fernandina Beach, authorizing the creation of a PACE program within its boundaries and authorizing the creation of a PACE District by Interlocal Agreement with FDFC finding that the PACE Program provides a special benefit to residential property within its boundaries and authorizing the levy of special assessments on benefited property consistent with the common powers provided in the Interlocal Agreement.

**"Resolution of Intent"** means a resolution adopted by the District pursuant to the

Uniform Assessment Collection Act providing notice to all owners of real property within the boundaries of District that non-ad valorem assessments may be imposed pursuant to the Florida PACE Act and will be collected pursuant to the Uniform Assessment Collection Act, Sections 197.3632 and 197.3635, Florida Statutes, if the property owner chooses to utilize the FDFC PACE Program and any FDFC approved PACE administrator to finance qualifying improvements.

**"State"** means the State of Florida.

**"Subsequent Party" or "Subsequent Parties"** means additional government units constituting Public Agencies under the Interlocal Act and local governments as defined under the Florida PACE Act which join the District upon application to the District and the affirmative vote of a majority of the Board of Directors for the District and upon execution of a Limited Purpose Party Membership Agreement between the District and a Subsequent Party.

**"Tax Collector"** means the county tax collector for real property within the boundaries of each Founding Member or Subsequent Party.

**"Uniform Assessment Collection Act"** means Sections 197.3632 and 197.3635, Florida Statutes, as amended and supplemented from time to time.

**SECTION 3. INTERPRETATION.** Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations. The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Interlocal Agreement; the term "heretofore" shall mean before the effective date of this Interlocal Agreement; and the term "hereafter" shall mean after the effective date of this Interlocal Agreement. This Interlocal Agreement shall not be construed more strongly against any party regardless that such party, or its counsel, drafted this Interlocal Agreement.

**SECTION 4. PURPOSE.** The purpose of this Interlocal Agreement is for the Founding Members to create the District known as the Florida Resiliency and Energy District ("the District" or "FRED"), pursuant to the Interlocal Act and the Florida PACE Act, and, by also agreeing to contract with the Florida Development Finance Corporation and its FDFC PACE Program, the Resolution of Enactment and the Florida PACE Act to facilitate the financing of qualifying improvements for property owners within the District. The District shall be a separate legal entity, pursuant to Section 163.01(7), Florida Statutes and a local government within the meaning of the Florida PACE Act.

**SECTION 5. QUALIFYING IMPROVEMENTS.** The District shall allow the financing of qualifying improvements by and through the FDFC PACE Program as defined in Section 163.08, Florida Statutes, under authority of Section 163.01(14), Florida Statutes.

**SECTION 6. ENABLING ORDINANCE OR RESOLUTION.** The Founding Members and Subsequent Parties to this Interlocal Agreement agree to approve and keep in effect such resolutions and ordinances as may be necessary to approve, create and maintain the District. Said ordinances and resolutions shall include all of the provisions as may be required or desirable under the Interlocal Act and the Florida PACE Act for the creation and operation of FRED as a separate legal entity and a local government. The District shall be created upon the execution and delivery of this Interlocal Agreement by the Parties.

**SECTION 7. DISTRICT BOUNDARIES; DISTRICT ADMISSION.**  
(A). The boundaries of the District shall initially be the legal boundaries of the Founding Members, and shall be expanded to include all areas within the legal boundaries of, or service area designated by the Limited Purpose Party Membership Agreement entered into by each local government (the "jurisdictional boundaries") that becomes a Subsequent Party to this Interlocal Agreement. As contemplated in this Interlocal Agreement, the District shall levy voluntary assessments on the benefitted properties within the jurisdictional boundaries of the District in order for the FDFC PACE Program to finance the costs of qualifying improvements for those benefitted properties. Upon petition by the landowners of individual residential or commercial properties desiring to be benefitted, those properties receiving financing for qualifying improvements shall be assessed from time to time, in accordance with the applicable law. Notwithstanding a Founding Member's termination of participation in this Interlocal Agreement, or Subsequent Party's termination of participation, those properties that have received financing for qualifying improvements shall continue to be a part of the District, until such time that all outstanding debt has been satisfied.

(B). To the extent permitted by the Interlocal Act, the District may admit any public agency or local government (as such terms are defined in the Interlocal Act and the Florida PACE Act, respectively) as a Subsequent Party to the District upon application of each public agency or local government to the District and the affirmative vote of a majority of the Board of Directors for the District. This Interlocal Agreement need not be amended to admit any such public agency or local government, and the approval of the respective governing boards of the existing Parties to the District shall not be required to admit a Subsequent Party. Each Subsequent Party shall execute, deliver, duly authorize, and record in the public records of each Subsequent Party a Limited Purpose Party Membership Agreement as a precondition to membership in the District.

**SECTION 8. GOVERNING BOARD OF THE DISTRICT.** The District shall be governed by a governing board (the "Board,") which shall at a minimum be comprised of three (3) individuals, all of whom are elected officials, city managers, or their designees, of the Founding Members, and each representing an individual local government within the jurisdictional boundaries of the Parties to this Interlocal Agreement. The next Subsequent Party to join the District (of, if they decline, the next

Subsequent Party), shall have the option to request to become a member of the Board and replace one member of the [City Commission/City Council/County Commission] that has 2 members on the Board until only one member of each [City Commission/City Council/County Commission] remains on the Board. Notwithstanding the foregoing, the maximum number of members on the Board may be increased by a majority vote of the Board to a maximum of 5 members, with the proviso that as much as possible the composition of Board membership reflect the geographic regions of the state of Florida. After the Board is constituted, the Executive Director may recommend procedures for setting terms, Board qualifications and responsibilities, and the means of appointment of members to the Board. In the event a Board member is no longer eligible or able to serve on the Board, the Public Agency represented by the Board member, so long as it continues to be a Party to this Interlocal Agreement, shall have the right to request appointment of a replacement to fulfill the remaining term of that member. FDFC shall have no right to appoint any member of the Board.

**SECTION 9. DECISIONS OF THE BOARD.** Decisions of the Board shall be made by majority vote of the Board. The Board, upon recommendation of the Executive Director, may adopt rules of procedure for the Board. In the absence of the adoption of such rules of procedure, the most current version of Roberts Rules of Order shall apply to the extent it is not inconsistent with Florida law.

**SECTION 10. DISTRICT ADMINISTRATION; DISTRICT STAFF AND ATTORNEY; ADMINISTRATORS**

(A). **Financing.** As a condition of this Interlocal Agreement, the Founding Members, and any Party joining the District consents to FDFC and FDFC PACE Program financing for the District, and FDFC as the PACE Program Sponsor agrees to provide a turnkey PACE program for each jurisdiction that is a Party to this Interlocal Agreement. Notwithstanding any other section of this Interlocal Agreement, the Executive Director of FDFC or his or her appointee shall also be the Executive Director of FRED. The Executive Director shall have sole authority to appoint staff, counsel, professionals, consultants, and all other positions to fulfill the functions of the District per the PACE Act for the District, and all costs and expenses shall be borne by FDFC and the District.

(B). **Additional Administrators.** The Program Development Period, which serves as a soft launch period for the FDFC PACE Program, will end on July 1, 2017, whereby additional qualified administrators for residential PACE programs may be presented to the District. Within 30 days after execution of this Interlocal Agreement, FDFC may present to the District qualified administrators for commercial PACE programs that will be available to serve jurisdictions that are a Party to this Interlocal Agreement. All PACE administrators ("PACE Administrators" or "Administrators") must undergo a vetting process by the FDFC. Once vetted, the PACE Administrators must be presented to the FDFC Board and approved by resolution. In order for an approved PACE provider to provide administrator services through the FDFC PACE Program, it must execute a PACE

Administration Agreement. Each member of the District shall receive notice of all approved PACE Administrators (except for residential PACE Providers during the "soft launch" period above). Notwithstanding any of the foregoing, the only authorized FDFC PACE residential Program Administrator for the District shall be Renovate America until July 1, 2017.

**SECTION 11. FINANCING AGREEMENT.** The Parties agree that FDFC and FRED, and their designees, may enter into financing agreements, pursuant to Section 163.08(8), Florida Statutes, with property owner(s) who obtain financing through the District.

**SECTION 12. POWERS OF THE DISTRICT.** With the approval of a majority vote of the Board, the District may exercise any or all of the powers granted to the District under the Interlocal Act and the Florida PACE Act, which include, without limitation, the following:

(A). To finance qualifying improvements through contracts with property owners in the District, and the District shall impose and levy assessments as a local government in accordance with Section 163.08 to repay the financing received; provided, however, i) FDFC shall provide the form of the financing agreement and ii) that FDFC shall, have independent discretionary authority to authorize and approve the issuance of revenue bonds to finance such improvements without further approval or authorization from the District, and subject to Section 10, to select and approve Program Administrators for the District;

(B). In its own name to make and enter into contracts on behalf of the District;

(C). Subject to Section 10(a), to employ agencies, employees, or consultants for the District;

(D). To acquire, construct, manage, maintain, or operate buildings, works, or improvements for the District;

(E) To acquire, hold, or dispose of property for the District;

(F) To incur debts, liabilities, or obligations, provided, however, that such debts, liabilities, or obligations shall not constitute debts, liabilities, or obligations of the State, FDFC, the Founding Members, or any Subsequent Party to this Interlocal Agreement;

(G) To adopt resolutions and policies prescribing the powers, duties, and functions of the officers of the District, the conduct of the business of the District, and the maintenance of records and documents of the District;

- (H) To maintain an office at such place or places as it may designate within the District or within the boundaries of a Party to this Interlocal Agreement;
- (I) To cooperate with or contract with other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by the Florida PACE Act, and to accept funding from local, state and federal agencies;
- (J) To exercise all powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized in the Florida PACE Act or Florida statutes governing the District; and
- (K) To apply for, request, receive and accept gifts, grants, or assistance funds from any lawful source to support any activity authorized under Florida Statutes and this Interlocal Agreement.

### **SECTION 13. TERM.**

(A). This Interlocal Agreement shall remain in full force and effect from the date of its execution; provided, however, that any Party may terminate its involvement in the District and its participation in this Interlocal Agreement upon ten (10) days' written notice to the other Parties. Should a Party terminate its participation in this Interlocal Agreement, be dissolved, abolished, or otherwise cease to exist, the District and this Interlocal Agreement shall continue until such time as all remaining Parties agree to terminate this Interlocal Agreement.

(B). At its discretion, and with reasonable notice, FDFC may terminate its role as FDFC PACE Program Sponsor for the District.

(C). Notwithstanding a Party's termination of participation in this Interlocal Agreement, to ensure continued collection of Assessments for qualifying improvements acquired within the service area of the terminating Party, such terminating Party shall enter into a written agreement with the District for such Party to consent to the levy of annual Assessments by the District or for such party to levy annual Assessments on those properties that have received financing for qualifying improvements within the legal boundaries of the terminating Party, until such time that all outstanding debt related to such qualifying improvements has been satisfied. The proceeds of the Assessments shall be paid to the designee of the District pursuant to such written agreement.

**SECTION 14. CONSENT.** This Interlocal Agreement and any required resolution or ordinance of an individual Party shall be considered the Party's consent to the creation of the District as required by the Interlocal Act and the Florida PACE Act.

### **SECTION 15. NOTICE OF INTENT; IMPOSITION OF SPECIAL**

## ASSESSMENTS; COORDINATION.

(A) In accordance with the Uniform Assessment Collection Act and the Florida PACE Act, the District hereby agrees to impose Assessments within its jurisdictional boundaries and to utilize the Uniform Assessment Collection Act for collection of such Assessments from each property owner that voluntarily enters into a financing agreement pursuant to the Florida PACE Act and the FDFC PACE Program. Specifically, the District shall:

(1) advertise a public hearing to consider adoption of a Resolution of Intent, thus providing notice to the owners of real property within the jurisdictional boundaries of the District that non-ad valorem assessments may be imposed pursuant to the Florida PACE Act and may be collected pursuant to the Uniform Assessment Collection Act, and such advertisement to be substantially in the form and within the timing requirements set forth in EXHIBIT A attached hereto;

(2) after holding the public hearing referred to in (1) above, adopt a Resolution of Intent, substantially in the form attached hereto as EXHIBIT B, and mail an executed copy to FDFC, the Tax Collector and the Property Appraiser;

(3) enter into a written agreement with the Tax Collector and the Property Appraiser regarding costs associated with use of the Uniform Assessment Collection Act, to the extent such agreement is not already in place;

(4) prior to September 15 of each calendar year, or as frequently as needed adopt an Annual Assessment Resolution or Assessment Resolutions, substantially in the form attached hereto as EXHIBIT C, which imposes new Assessments against those property owners entering into financing agreements with FDFC and FRED since adoption of the last Annual Resolution, and certifies an electronic assessment roll to be submitted to the Tax Collector for the next tax bill, in each case based on information provided by FDFC;

(5) remit Assessment proceeds received on behalf of the District from the Tax Collector directly to the District, FDFC or its designee;

(6) take all actions necessary to enforce collection of the Assessments pursuant to the Uniform Assessment Collection Act; and

(7) on its own behalf and at the request of FDFC, re-impose the Assessments as necessary to the extent required by changes in State law or subsequent judicial decisions.

(B) Each approved Administrator shall be responsible for all other actions required by the Florida PACE Act and their Administration Agreement with FDFC under the FDFC PACE Program, including but not limited to:



(1) assisting each Party to the Interlocal Agreement with preparing all documents required for the District to impose the Assessments pursuant to the Florida PACE Act and the Uniform Assessment Collection Act, including finalization of the documents attached as exhibits hereto and assistance with the written agreement with the Tax Collector and Property Appraiser, if requested by each Party;

(2) providing a copy of the Resolution of Intent, together with any other documents required by the Florida PACE Act or the Uniform Assessment Collection Act, to the Florida Department of Revenue;

(3) ensuring that each property owner that voluntarily enters into a financing agreement with FDFC has met all of the financial and other requirements provided for by the Florida PACE Act and the FDFC PACE Program;

(4) providing the requisite notifications to all real property owners participating in the District;

(5) recording a summary or memorandum of the financing agreement with the property owner in accordance with the Florida PACE Act;

(6) tracking payment information for each property owner participating in the District and maintaining the related assessment rolls for all such participating parcels within the boundaries of the District;

(7) working with the District to ensure the submission of the electronic assessment roll relating to the District each year to the Tax Collector; and

(8) administering all other aspects of the District including the payment of Bonds with proceeds derived from the Assessments,

(C) The District shall fully cooperate and coordinate with the Tax Collector and Property Appraiser with respect to the levying and collection of assessments and comply with all other requirements of the Florida PACE Act and the Uniform Assessment Collection Act.

## **SECTION 16. UNDERLYING POWERS; SEPARATE INTERLOCAL AGREEMENTS.**

(A) For purposes of this Interlocal Agreement and the District, the Parties acknowledge that FDFC currently does not have the power to levy the Assessments. FDFC shall not be a member of the District. FDFC shall be a party to this Interlocal Agreement solely for the purpose of providing turn-key financial and administrative

services through the FDFC PACE Program. The levy of the Assessments within the District is an exercise of the sovereign powers of the Founding Members and Subsequent Parties to this Interlocal Agreement.

(B) In order to maintain the integrity of the Assessments imposed by the District, the FDFC may, at its sole option, terminate its participation in this Interlocal Agreement and enter into a separate Interlocal Agreement or contract which provides the services described herein related to the FDFC PACE Program.

#### **SECTION 17. FEES AND COSTS.**

(A) All fees and costs related to the recording of this Interlocal Agreement, the Resolution of Intent process and any other fees and costs incurred by any Party with respect to the Assessments and the FDFC PACE Program will be paid for solely by FDFC and reimbursed to FDFC through the FDFC PACE Program by the respective FDFC-approved PACE Administrator(s).

(B) To advance the purposes of the Florida PACE Act, to minimize participation costs, and because each property owner is voluntarily undertaking to achieve and underwrite the compelling State interests described in the Florida PACE Act, the District shall seek either (i) the waiver or reduction by the Tax Collector and Property Appraiser of their fees or (b) a flat \_\_\_\_\_ dollar (\$\_.00) fee per year per tax parcel for such purposes which shall be paid by the District and reimbursed to the District through the FDFC PACE Program by the respective FDFC-approved PACE administrator.

**SECTION 18. FILING.** A copy of this Interlocal Agreement shall be filed by the District for record with the Clerk of the Circuit Court in and for such jurisdictions as may be required by Section 163.01(11), Florida Statutes.

#### **SECTION 19. LIMITED LIABILITY.**

(A) To the extent permitted by Florida Law and subject to the limitations of Section 768.28, Florida Statutes, FDFC shall defend, indemnify and hold each other Party to this Interlocal Agreement, and its directors, officials, officers, employees and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of the willful misconduct or gross negligence of FDFC or its directors, officials, officers, employees and agents in connection with the FDFC PACE Program, including without limitation, the payment of expert witness fees and attorneys' fees and other related costs and expenses, but excluding payment of consequential damages. \*Each Party other than FDFC, shall defend, indemnify and hold FDFC and its directors, officials, officers, employees and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries of any kind, in law or equity, to property or

persons, including wrongful death, to the extent arising out of the willful misconduct or grossly negligent acts of such Party or its directors, officials, officers, employees and agents in connection with its obligations under this Interlocal Agreement, including without limitation, the payment of expert witness fees and attorneys' fees and other related costs and expenses, but excluding payment of consequential damages. In no event shall any Party's officials, officers or employees be held directly liable for any damages or liability resulting from this Interlocal Agreement. All Subsequent Party or Subsequent Parties' liabilities shall be governed by the Limited Purpose Party Membership Agreement.

(B) No Party or any agent, board member, officer, official, advisor or employee of such Party shall be liable for any action taken pursuant to this Interlocal Agreement in good faith or for any omission, except to the extent provided in Section 19(A) above, or for any act of omission or commission by any other Party hereto or its agents, officers, officials or employees. The terms of this Section 19 shall survive termination or expiration of this Interlocal Agreement.

(C) Neither this Interlocal Agreement nor any Bonds issued by FDFC on behalf of the District under the FDFC PACE Program shall be deemed to constitute a general debt, liability, or obligation of or a pledge of the faith and credit of FRED, FDFC, or any Party, the State of Florida, or any political subdivision or agency thereof. The issuance of any Bonds by FDFC on behalf of the FDFC PACE Program shall not directly, indirectly, or contingently obligate any Party, FDFC, the State of Florida, or any political subdivision or agency thereof to levy or to pledge any form of taxation whatsoever therefor, or to make any appropriation for their payment.

(D) The District, FDFC, and each Party are and shall be subject to Sections 768.28 and 163.01(9), Florida Statutes, and any other provisions of Florida law governing sovereign immunity. Nothing in this Interlocal Agreement is intended to inure to the benefit of any third-party for the purpose of allowing any claim, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

**SECTION 20. INDEMNIFICATION.** To the extent permitted by Florida Law and subject to the limitations of Section 768.28, Florida Statutes, the Parties agree that the Limited Purpose Party Membership Partnership Agreement for the District shall always indemnify and hold harmless FDFC, the Parties, and the District. The Parties understand and acknowledge that the indemnification provisions included in the Administrative Agreement between FDFC and its approved Administrators extend to each Party and Subsequent Party which are members of the District.

**SECTION 21. AMENDMENTS.** This Interlocal Agreement may be amended only by a writing approved by each Party.

**SECTION 22. ASSIGNMENT.** This Interlocal Agreement may be assigned, in whole or in part, by any Party at any time with the prior written consent of each other

Party hereto, which consent shall not unreasonably be withheld.

**SECTION 23. EXECUTION IN COUNTERPARTS.** This Interlocal Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

**SECTION 24. SEVERABILITY.** In the event that any provision of this Interlocal Agreement shall, for any reason, be determined invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the other provisions of this Interlocal Agreement shall remain in full force and effect.

**SECTION 25. APPLICABLE LAW.** This Interlocal Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

**SECTION 26. JOINT EFFORT.** The preparation of this Interlocal Agreement has been a joint effort of the Parties hereto and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

**SECTION 27. EFFECTIVE DATE.** This Interlocal Agreement shall become effective on the later of (A) the date hereof, or (B) the date the last Founding Member and FDFC executes this Interlocal Agreement and the filing requirements of Section 17 hereof are satisfied.

[SIGNATURE PAGES FOLLOW]

[PUBLIC AGENCY SIGNATURE PAGE TO INTERLOCAL AGREEMENT]

IN WITNESS WHEREOF, this Interlocal Agreement has been executed by and on behalf of the Town of Lake Clarke Shores, Florida by its Mayor, its seal affixed hereto, as attested by its Clerk as of the 31<sup>st</sup> day of August, 2016.

ATTEST:

By: Mary Pinkerman



TOWN OF LAKE CLARKE SHORES, FLORIDA


By: [Signature]  
Robert M.W. Shalhoub, its Mayor

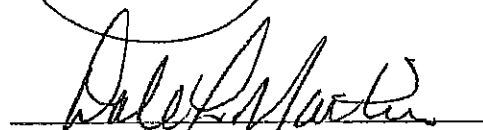
APPROVED AS TO FORM

By: [Signature]  
Charles F. Schoech, Town Attorney

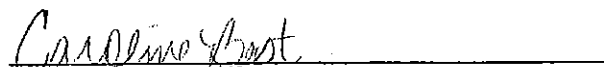
IN WITNESS WHEREOF, this Interlocal Agreement has been executed by and on behalf of the City of Fernandina Beach, Florida by its Mayor and City Manager, its seal affixed hereto, as attested by its City Clerk as of the 6<sup>th</sup> day of September, 2016.

**CITY OF FERNANDINA BEACH, FLORIDA**

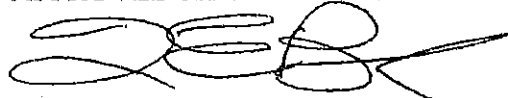
  
\_\_\_\_\_  
John A. Miller  
Mayor/Commissioner

  
\_\_\_\_\_  
Dale L. Martin, City Manager

ATTEST:

  
\_\_\_\_\_  
Caroline Best, City Clerk

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Tammi E. Bach, City Attorney

IN WITNESS WHEREOF, this Interlocal Agreement has been executed by and on behalf of the City of Fernandina Beach, Florida by its Mayor, its seal affixed hereto, as attested by its Clerk as of the            day of, 2016.

, FLORIDA

(SEAL)  
ATTEST:

By:  
\_ its

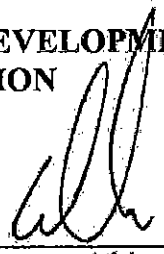
APPROVED AS TO FORM AND CORRECTNESS

By:  
\_ Public Agency Attorney

[FDFC SIGNATURE PAGE TO INTERLOCAL AGREEMENT]

IN WITNESS WHEREOF, this Interlocal Agreement has been executed by and on behalf of the FDFC by the authorized signatory identified below.

**FLORIDA DEVELOPMENT FINANCE  
CORPORATION**

By:   
Name: BILL SPIVEY  
Title: EXECUTIVE DIRECTOR



## EXHIBIT A

### FORM OF PUBLIC HEARING NOTICE FOR RESOLUTION OF INTENT

#### NOTICE OF INTENT TO USE UNIFORM METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS

The Florida Resiliency and Energy District (the "District" or "FRED") hereby provides notice, pursuant to Section 197.3632(3)(a), Florida Statutes, of its intent to use the uniform method of collecting non-ad valorem special assessments to be levied by it over a number of years to fund the cost of qualifying renewable energy, energy efficiency and conservation and wind resistance improvements for those property owners who wish to undertake such improvements within the jurisdictional boundaries of the District as authorized by Sections 163.08 and 197.3632, Florida Statutes, which will allow such assessments to be collected annually, commencing in November 20[17], in the same manner as provided for ad valorem taxes.

The Governing Board of the District will consider the adoption of a resolution electing to use the uniform method of collecting such assessments authorized by Sections 163.08 and 197.3632, Florida Statutes, at a public hearing to be held on [PUBLIC HEARING DATE] at [PUBLIC HEARING TIME], or as soon thereafter as the matter may be heard, in the [STREET ADDRESS OF PUBLIC HEARING LOCATION]; Florida. Such resolution will state the need for the levy by the District and will contain a legal description of the boundaries of the District. Copies of the proposed form of resolution may be obtained from [CONTACT AND PHONE NUMBER]. All interested persons are invited to attend.

In the event any person decides to appeal any decision by the Governing Board of the District with respect to any matter relating to the consideration of the resolution at the above-referenced public hearing, a record of the proceeding may be needed and in such an event, such person may need to ensure that a verbatim record of the public hearing is made, which record includes the testimony and evidence on which the appeal is to be based. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the [ADA CONTACT DEPARTMENT; ADDRESS AND PHONE NUMBER] prior to the date of the hearing.

Publication Dates (may vary based on publication frequency):

[once, 28 days prior to the public hearing]

[once, 21 days prior to the public hearing]

[once, 14 days prior to the public hearing]

[once, 7 days prior to the public hearing]

## **EXHIBIT B**

### **FORM OF RESOLUTION OF INTENT**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF FLORIDA RESILIENCY AND ENERGY DISTRICT ELECTING TO USE THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM SPECIAL ASSESSMENTS LEVIED WITHIN ITS JURISDICTIONAL BOUNDARIES; STATING A NEED FOR SUCH LEVY; PROVIDING FOR THE MAILING OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Florida Resiliency and Energy District ("FRED") is contemplating the imposition of special assessments to fund the cost of qualifying renewable energy, energy efficiency and conservation and wind resistance improvements for those property owners who wish to undertake such improvements within its jurisdictional boundaries as authorized by Sections 197.3632 and 197.3635, Florida Statutes (the "PACE Assessments"); and

**WHEREAS**, FRED intends to use the uniform method for collecting the PACE Assessments because this method will allow such special assessments to be collected annually commencing in November 20[17], in the same manner as provided for ad valorem taxes; and

**WHEREAS**, FRED held a duly advertised public hearing prior to the adoption of this Resolution, proof of publication of such hearing being attached hereto as Exhibit A and incorporated herein by reference.

#### **NOW, THEREFORE BE IT RESOLVED:**

1. Commencing with the Fiscal Year beginning on October 1, 20[17], and with the tax statement mailed for such Fiscal Year and continuing thereafter until discontinued by FRED, FRED intends to use the uniform method of collecting non-ad valorem assessments authorized in sections 197.3632 and 197.3635, Florida Statutes, as amended, for collecting the PACE Assessments within its jurisdictional boundaries. A legal description of such area subject to the assessment is attached hereto as Exhibit A and incorporated herein by reference.

2. FRED hereby determines that the levy of the PACE Assessments is needed to fund the cost of qualifying renewable energy, energy efficiency and conservation and wind resistance improvements for those property owners who wish to undertake such improvements within its jurisdictional boundaries.

3. Pursuant to Section 163.08(4), Florida Statutes, the property appraiser(s) and the tax collector(s) serving the area within the jurisdictional boundaries of FRED have agreed that FRED may have until August 15, 20[17] to adopt this Resolution, such agreements being attached hereto as Exhibit B and incorporated herein by reference.]

4. Upon adoption, the Secretary of FRED is hereby directed to send a copy of this Resolution by United States mail to the Florida Department of Revenue, the applicable tax collector, and the applicable property appraiser by [August 15, 20[17]].

5. This Resolution shall be effective upon adoption.

DULY ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 20[16].

**[FLORIDA RESILIENCY AND ENERGY DISTRICT SIGNATURE PAGE TO  
INTERLOCAL AGREEMENT]**

**IN WITNESS WHEREOF**, this Interlocal Agreement has been executed by and  
on behalf of the FRED by the authorized signatory identified below.

**FLORIDA RESILIENCY AND ENERGY  
DISTRICT**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(SEAL)

ATTEST:

\_\_\_\_\_  
Clerk

**EXHIBIT C**

**FORM OF ANNUAL ASSESSMENT RESOLUTION**

[TO COME]