




Kevin Madok, CPA

Clerk of the Circuit Court & Comptroller – Monroe County, Florida

DATE: July 24, 2018

TO: Abra Campo, Ex. Administrator
County Attorney's Office

FROM: Pamela G. Hancock  D.C.

SUBJECT: April 19th BOCC Meeting

Attached is a duplicate original of Item O7, Property Assessment Clean Energy agreement with Florida Resiliency and Energy District ("FRED") at \$0 cost to the County, for your handling.

Should you have any questions, please feel free to contact me at ext. 3130. Thank you.

cc: Finance
File

KEY WEST
500 Whitehead Street
Key West, Florida 33040
305-294-4641

MARATHON
3117 Overseas Highway
Marathon, Florida 33050
305-289-6027

PLANTATION KEY
88820 Overseas Highway
Plantation Key, Florida 33070
305-852-7145

PK/ROTH BUILDING
50 High Point Road
Plantation Key, Florida 33070
305-852-7145

**NON-EXCLUSIVE INTERLOCAL AGREEMENT BETWEEN THE FLORIDA
RESILIENCY AND ENERGY DISTRICT AND MONROE COUNTY, FLORIDA**

This Interlocal Agreement ("Interlocal Agreement") is entered into this 19th day of April, 2018 by and between the Florida Resiliency and Energy District ("FRED"), a public body corporate and politic, and Monroe County, a political subdivision of the State of Florida (County) collectively, the ("Parties"), each one constituting a public agency as defined in Part I of Chapter 163, Florida Statutes, for the purpose of levying and collecting voluntary, non-ad valorem assessments for property owners participating in the Florida Development Finance Corporation ("FDPC") Property Assessed Clean Energy ("PACE") program (the "Program") within the County.

RECITALS

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, Part I of Chapter 163, Florida Statutes, (PACE Statute) permits public agencies as defined therein to enter into interlocal agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, the PACE statute authorizes financing of qualifying improvements through agreements for property to be subject to a voluntary, non-ad valorem special assessment process as the repayment mechanism, commonly known as Property Assessed Clean Energy or PACE; and

WHEREAS, an Interlocal Agreement, dated September 6, 2016, as amended and supplemented from time to time ("FRED Agreement") was entered into between the Town of Lake Clarke Shores, the City of Fernandina Beach, and any subsequent parties thereto (the "Public Agencies") and, in the limited capacity described therein, the FDPC ("together with

the Public Agencies, the "Parties"), for the purpose of facilitating the financing of qualifying improvements for properties located within FRED's aggregate legal boundaries via the levy and collection of voluntary non-ad valorem special assessments on improved property, Attached as Exhibit "A"; and

WHEREAS, on March 21, 2018, the Monroe County Board of County Commissioners adopted Ordinance No. 007-2018 , entitled the Monroe County Property Assessed Clean Energy Ordinance (PACE Ordinance), and provided for certain consumer protections and requirements for PACE Providers; and

WHEREAS, the County is concurrently adopting a Resolution authorizing the Program to provide PACE financing and funding with property owners for qualifying improvements within the County, in accordance with the PACE Statute and the Ordinance; and

WHEREAS, the Parties have determined that entering into this Interlocal Agreement is in the best interest and welfare of the property owners within the County.

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

Section 1. Recitals Incorporated. The above recitals are true and correct and incorporated herein.

Section 2. Purpose. The purpose of this Interlocal Agreement is to facilitate the financing of qualifying improvements for property owners within the County in accordance with the PACE Statute, and the Ordinance, by virtue of the County's joining FRED as a non-voting member and allowing the Program to operate within the County. Pursuant to the Ordinance, this Interlocal Agreement shall be applicable within the unincorporated areas of MONROE County, and in all municipalities that have not adopted an ordinance governing any or all of the subject matter of the Ordinance, regardless of the time of passage of the municipal ordinance.

Section 3. Qualifying Improvements. The County shall allow the Program to provide financing of qualifying improvements, including energy conservation and efficiency,

renewable energy, and wind resistance improvements, as defined in the PACE Statute, as may be amended by law, on properties within the County, pursuant to the Ordinance.

Section 4. Non-Exclusive. The Program is non-exclusive, meaning the County specifically reserves the right to participate with or join any other entity providing a similar program or create its own program under the PACE Statute.

Section 5. Assessment by FRED; County Collection Ministerial. The Parties hereto acknowledge and agree that the non-ad valorem assessments arising from a property owner's voluntary participation in the Program are imposed by FRED and not the County. Additionally, the Parties agree that the County's collection and distribution of any non-ad valorem assessments imposed by FRED are purely ministerial acts.

Section 6. Creation of State, County, or Municipal Debts Prohibited. The County and participating municipalities, pursuant to the Ordinance, shall not incur nor ever be requested to authorize any obligations secured by special assessments associated with qualifying improvements imposed by FRED pursuant to the PACE Statute. No special purpose local government acting pursuant to the PACE Statute, the Ordinance, or this Agreement shall be empowered or authorized in any manner to create a debt as against the County and participating municipalities and shall not pledge the full faith and credit of the County and participating municipalities, pursuant to the Ordinance, in any manner whatsoever. No revenue bonds or debt obligations of any special purpose local government acting pursuant to the PACE Statute, shall ever pledge or imply any pledge that the County, or any participating municipality within the County served by FRED, shall be obligated to pay the same or the interest thereon, nor state or imply that such obligations payable from the full faith and credit or the taxing power of the state, the County, or any municipality within the County served by the Program, as a result of the Ordinance or this Interlocal Agreement. The issuance of revenue or refunding bonds by the Program under the provisions of law, FRED's governance documents, or any agreement or resolution shall not, as the result of the Ordinance or this Interlocal Agreement, be deemed in any manner, directly or indirectly or contingently, to obligate the County and participating municipalities under the Ordinance, to levy or to pledge any

form of ad valorem taxation or other county or municipal revenues or to make any appropriation for their payment whatsoever.

Section 7. Program Guidelines: The Parties agree that, the Program to be offered in the County will be governed by the Ordinance and the Program's guidelines. If there is a conflict between the Program's guidelines and the Ordinance, the Ordinance shall control. The Program will inform every property owner that by law these non-ad valorem assessments must be collected only pursuant to sections 197.3632, 197.3635, and 163.08, Florida Statutes; and, are not imposed by the County, any municipality within the County served by the Program under the Ordinance, the property appraiser, nor the tax collector, and that they are levied and imposed solely by FRED, and only then upon voluntary application of the private property owner as expressly enabled, authorized and encouraged by the PACE Statute, as well as the Ordinance, to accomplish a compelling state interest with the Program's assistance. In addition to any disclosure requirements in the PACE Statute and the Ordinance as may be amended, the Program shall present to the Property Owner a separate, written notice disclosing the following ("Notice"):

- a. The estimated total amount of the debt, including amount financed, fees, fixed interest rate, capitalized interest and the effective rate of the interest charged ("Annual Percentage Rate" or "APR");
- b. That the Program Administrator(s), who offer their unique brand of PACE financing on behalf of the Program, may only offer fixed simple interest rates and payments that fully amortize the obligation. Variable or negative amortization financing terms are not permitted. Capitalized interest included in the original balance of Financing Agreement does not constitute negative amortization.
- c. The repayment process and terms, amounts and a schedule that fully amortizes the amount financed including the estimated annual special assessment;
- d. That the special assessment will appear on the property owner's tax bill;
- e. That there is no discount for paying the special assessment early;
- f. The nature of the lien recorded and that the special assessment will be collected in the same manner as real estate taxes. That failure to pay the special assessment may cause a tax certificate to be issued against the property, and that failure of

payment thereof may result in the loss of property subject to the special assessment, including homestead property, in the same manner as failure to pay property taxes;

- g. The specific improvements to be financed and installed and that such improvements and special assessment may or may not affect the overall value of the property;
- h. A special assessment payment term that does not exceed the useful life of the improvements;
- i. Prepayment:
 - i. The PACE agencies/authorities/districts shall provide to the Eligible Participant information as to any accrued interest that may be due upon early payment.
 - ii. No prepayment penalties may be charged or allowed on residential projects or on non-residential projects where the total PACE funding does not exceed \$75,000.00. The PACE agencies/authorities/districts shall provide a mechanism for re-amortization of PACE assessments to account for partial pre-payment, particularly for application of tax credits, rebates, or other incentives.
 - iii. For non-residential property where total PACE funding exceeds \$75,000, prepayment penalties may be charged or imposed to the extent permitted by applicable law, as negotiated with the property owner, and providing all financial impacts of such penalties are clearly disclosed and agreed to by the property owner in writing.
- j. Notice that the property owner may be required to pay any special assessment in full at the time of refinance or sale of the property; and
- k. The 3-day right to cancel the financing.
- l. The Notice must be delivered to the property owner by the Program Administrator(s) and must be signed and dated by the property owner prior to or contemporaneously with the property owner's signing of any legally enforceable documents. The property owner and the Program Administrator(s) must keep the signed Notice with the property owner's executed financing agreement.

- m. The Program shall record, or cause to be recorded, the financing agreement or a summary memorandum of the financing agreement, in accordance with the PACE Statute.

Section 8. Opinion of Bond Counsel. Prior to the execution of this Interlocal Agreement, the Program shall deliver to the County an "Opinion of Bond Counsel", stating that, based on the counsel's review of the bond validation judgement and the underlying bond documents the Program's structure complies with the bond validation judgement and the underlying bond documents. The Program acknowledges that the County is relying on the Opinion of Bond Counsel in its decision to execute the Interlocal Agreement.

Section 9. Boundaries. Pursuant to this Interlocal Agreement, the boundaries of FRED shall include the legal boundaries of the County, which boundaries may be limited, expanded, or more specifically designated from time to time by the County by providing written notice to FRED. As contemplated in the Interlocal Agreement (as defined in herein below) and as supplemented by this Interlocal Agreement, FRED will levy voluntary non ad valorem special assessments on the benefitted properties within the boundaries of the County pursuant to the Ordinance 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 the PACE Statute, the Ordinance, and other applicable law. Notwithstanding termination of this Interlocal Agreement or notice of a change in boundaries by the County as provided for above, those properties that have received financing for qualifying improvements shall continue to be a part of FRED, until such time that all outstanding debt has been satisfied.

Section 10. Financing Agreement. The Parties agree that FDFC/FRED may enter into a financing agreement, pursuant to the PACE Statute and the Ordinance with property owner(s) within the County pursuant to the Ordinance who obtain financing through the Program.

Section 11. Responsibilities of FRED; Indemnification; Liability.

- a. All of the privileges and immunities from liability and exemptions from laws, ordinances and rules which apply to the activity of officials, officers, agents or employees of the parties, including participating municipalities under the Ordinance, shall apply to the officials, officers, agents or employees thereof when performing their respective functions and duties under the provisions of this Interlocal Agreement.
- b. The County, participating municipalities, and FRED are and shall be subject to Sections 768.28 and 163.01(9)(c), Florida Statutes, and any other provisions of Florida law governing sovereign immunity. Pursuant to the PACE Statute and this Interlocal Agreement, the local governments who are either the incorporators, or members of FRED, or any subsequently served or participating local government shall not be held jointly liable for the torts of the officers or employees of FRED, or any other tort attributable to FRED, and that FRED alone shall be liable for any torts attributable to it or for torts of its officers, employees or agents, and then only to the extent of the waiver of sovereign immunity or limitation of liability as specified in Section 768.28, Florida Statutes. The County and FRED acknowledge and agree that FRED shall have all of the applicable privileges and immunities from liability and exemptions from laws, ordinances, rules and common law which apply to the municipalities and counties of the State.
- c. To the extent provided by law, FRED through its Program Administrator(s) agrees to protect, defend, reimburse, indemnify and hold the County, or any participating municipality within the County served by FRED pursuant to the Ordinance, its agents, employees and elected officers (Indemnified Parties), and each of them free and harmless at all times from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses of whatsoever kind or nature (collectively, a "Claim") whether arising in any manner directly or indirectly caused, occasioned or contributed to in whole or in part, by reason of

any act, omission or fault whether active or passive of the County, or any municipality within the County served by FRED pursuant to the Ordinance, of anyone acting under its direction or control, or on its behalf in connection with or incident to the performance of this Agreement. FRED's aforesaid indemnity and hold harmless obligations, or portions or applications thereof, shall apply to the fullest extent permitted by law but in no event shall they apply to liability caused by the negligence or willful misconduct of the County, or any municipality within the County served by FRED pursuant to the Ordinance, its respective agents, servants, employees or officers, nor shall the liability limits set forth in 768.28, Florida Statutes, be waived. Nothing in this Agreement is intended to inure to the benefit of any third-party or for the purpose of allowing any claim, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. In the event any Claim is brought against an Indemnified Party, FRED through its Program Administrator(s), shall upon written notice from an Indemnified Party, defend each Indemnified Party against each such Claim by counsel satisfactory to the Indemnified Party or, at the Indemnified Party's option, it may elect to provide its own defense. The obligations of this section shall survive the expiration or earlier termination of this Agreement.

- d. FRED is an independent local government funding and financing instrumentality. Neither the County, nor any municipality within the County pursuant to the Ordinance, who are served by FRED, shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of the Program, its Board of Directors or any other agents, employees, officers or officials of the Program, except to the extent otherwise mutually and expressly agreed upon in writing. In addition, the Program, its Board of Directors or any other agents, employees, officers or officials of the Program shall have no authority or power to otherwise obligate either the County, or any municipality within the County served by FRED pursuant to the Ordinance.
- e. Notwithstanding the provisions of Sec. 768.28, Florida Statutes, the participation of the County and the Contractor in this Agreement and the acquisition of any

commercial liability insurance coverage, self-insurance coverage, or local government liability insurance pool coverage shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered into by the County be required to contain any provision for waiver.

Section 12. Agreements with Tax Collector, Property Appraiser and Municipalities. FRED acknowledges that the County has no authority to bind the County Tax Collector and the County Property Appraiser, and FRED will be required to enter into separate agreement(s) therewith, which shall establish the fees (if any) to be charged by the Tax Collector and Property Appraiser for the collection or handling of the Program's special assessments. FRED also acknowledges that all incorporated municipalities in the County that have not adopted an ordinance governing any or all of the subject matter of the Ordinance will be included in the Program.

Section 13. Resale or Refinancing of a Property. FRED recognizes that some lenders may require full repayment of the Program's special assessments upon resale or refinancing of a property subject to the Program's special assessments. The Program Administrator(s) agree to provide written disclosure of this matter to all County property owners that may utilize the Program.

Section 14. Term of Agreement; Duration of Agreement; No Exclusivity.

- a. The term of this Interlocal Agreement shall commence as of the date first above written.
- b. The term shall continue so long as FRED has obligations outstanding which are secured by pledged revenues derived from financing agreements relating to any properties within the boundaries of the County, pursuant to the Ordinance, or FRED has projects for qualified improvements underway therein; the applicable provisions, authority and responsibility under this Interlocal Agreement reasonably necessary to carry out the remaining aspects of the Program and responsibilities of FRED then underway, shall remain in effect and survive any termination until such time as those obligations and all associated remaining

FRED responsibilities are fulfilled (including, but not limited to, the collection of assessments in due course). Provided, however, FRED's powers employed and exercised shall be non-exclusive, and the County, pursuant to the Ordinance, is free to and reserves the right to enter into or otherwise encourage or commence any other program for financing qualified improvements using non-ad valorem assessments.

- c. Notwithstanding subsection (b), either party may at any time terminate this Interlocal Agreement upon sixty (60) days written notice provided as required by Section 17. Provided, however, no termination of this Interlocal Agreement shall preclude FRED from exercising any of its power or authority after any termination, including without limiting the generality of the foregoing, that specifically associated with its mission or collection of any of its Obligations outstanding which are secured by pledged revenues derived from Financing Agreements. In the event FRED's rights under this Interlocal Agreement to impose new non-ad valorem assessments shall ever end, then as of the effective date of the termination, all rights and obligations of the parties shall continue as specified in subsection (B) until such time as all FRED's obligations, and all associated remaining Program responsibilities are fulfilled (including, but not limited to, the collection of assessments in due course).

Section 15. Consent. This Interlocal Agreement and any required resolution or ordinance of an individual Party shall be considered the County's consent to participate in the Program pursuant to the PACE Statute.

Section 16. Voting Rights. The Parties agree that the County shall be a non-voting Limited Member of FRED for the term of this Interlocal Agreement.

Section 17. 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:

County: Monroe County
ATTN: County Administrator
1100 Simonton Street, Suite 205
Key West, Florida 33040

With a copy to: Monroe County
ATTN: County Attorney
1111 12th Street, Suite 408
Key West, Florida 33040

FRED: 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 32708407.956.5695 (t)
bspivey@fdcbonds.com

With a copy to: Issuer's Counsel with Broad and Cassel
Joseph Stanton, Esq.
Bank of America Center
390 North Orange Avenue, Suite 1400
Orlando, FL 32801-4961
407.839.4200 (t)
jstanton@broadandcassel.com

Section 18. Amendments. It is further agreed that no modification, amendment or alteration in the terms or conditions herein shall be effective unless contained in a written document executed by the Parties hereto.

Section 19. 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 20. Merger. This Interlocal Agreement incorporates and includes all prior 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 Interlocal 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.

Section 21. Assignment. The respective obligations of the Parties set forth in this Interlocal Agreement shall not be assigned, in whole or in part, without the written consent of the other Parties hereto.

Section 22. Public Records. FRED shall comply with Florida public records laws, including but not limited to Chapter 119, Florida Statutes and Section 24 of article I of the Constitution of Florida. The County and FRED shall allow and permit reasonable access to, and inspection of, all documents, records, papers, letters or other "public record" materials in its possession or under its control subject to the provisions of Chapter 119, Florida Statutes, and made or received by the County and FRED in conjunction with this contract and related to contract performance. The County shall have the right to unilaterally cancel this contract upon violation of this provision by FRED. Failure of FRED to abide by the terms of this provision shall be deemed a material breach of this contract and the County may enforce the terms of this provision in the form of a court proceeding and shall, as a prevailing party, be entitled to reimbursement of all attorney's fees and costs associated with that proceeding. This provision shall survive any termination or expiration of the contract. FRED is encouraged to consult with its advisors about Florida Public Records Law in order to comply with this provision. Pursuant to F.S. 119.0701 and the terms and conditions of this contract, FRED is required to:

- (1) Keep and maintain public records that would be required by the County to perform the service.
- (2) Upon receipt from the County's custodian of records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if FRED does not transfer the records to the County.

(4) Upon completion of the contract, transfer, at no cost, to the County all public records in possession of FRED or keep and maintain public records that would be required by the County to perform the service. If FRED transfers all public records to the County upon completion of the contract, FRED shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If FRED keeps and maintains public records upon completion of the contract, FRED shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of records, in a format that is compatible with the information technology systems of the County.

(5) A request to inspect or copy public records relating to a County contract must be made directly to the County, but if the County does not possess the requested records, the County shall immediately notify FRED of the request, and FRED must provide the records to the County or allow the records to be inspected or copied within a reasonable time.

IF THE FRED HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE FRED'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, BRIAN BRADLEY, AT (305) 292-3470

Section 23. No Third Party Beneficiaries. It is the intent and agreement of the Parties that this Agreement is solely for the benefit of the Parties and participating municipalities under the Ordinance and no other party or entity shall have any rights or privileges hereunder.

Section 24. Severability. In the event a portion of this Interlocal Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective.

Section 25. Administrator Indemnification. Any and all Program Administrators of the Program shall be required to execute a separate indemnification agreement with the County. The Program acknowledges and agrees that as of the execution of this Interlocal Agreement, Renovate America is currently the only administrator for the Program and that

Renovate America will execute a separate indemnification agreement with the County for the benefit of the County and participating municipalities. If the Program approves additional Program Administrators, the Program shall ensure that any and all Program Administrators also provide the County with a separate indemnification agreement, on a form to be approved by the County Attorney's Office, within 10 business days of assuming administrative responsibilities for the Program.

Section 26. Insurance by FRED. Without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statute, FRED acknowledges to be self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$200,000 Per Person and \$300,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature. In the event FRED maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under Section 768.28 Florida Statute, FRED shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage. FRED agrees to maintain or to be self-insured for Workers' Compensation & Employer's Liability insurance in accordance with Section 440, Florida Statutes. When requested, FRED shall agree to provide an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which County agrees to recognize as acceptable for the above mentioned coverage. Compliance with the foregoing requirements shall not relieve FRED of its liability and obligations under this Interlocal Agreement.

Section 27. Certificate of Insurance. Prior to execution of this Agreement, FRED shall deliver to the County via the Insurance Company/Agent a signed Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Agreement have been obtained and are in full force and effect. During the term of this Interlocal Agreement and prior to each subsequent renewal thereof, FRED shall provide this evidence to Monroe County prior to the expiration date of each and every insurance required herein. Said Certificate(s) of Insurance shall, to the extent allowable by the

insurer, include a minimum thirty (30) day endeavor to notify due to cancellation (10 days for nonpayment of premium) or non-renewal of coverage.

Section 28. Venue. The venue of any legal or equitable action that arises out of or relates to this Agreement shall be in the appropriate state court in MONROE County, Florida. In any such action, Florida law shall apply. BY ENTERING INTO THIS AGREEMENT, FRED AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF FRED FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE COUNTY OF VIOLATION OF THIS SECTION, FRED SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE COUNTY PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

Section 29. Effective Date. This Interlocal Agreement shall become effective upon the execution by the Parties hereto.

Section 30. Delegation of Duty. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or city officers.

Section 31. Filing. This Interlocal Agreement shall be filed by the Program with the Clerk of the Circuit Court in MONROE County.

Section 32. Nondiscrimination. County and FRED agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. FRED agrees to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; 2) Title IX of the Education Amendment of 1972, as amended

(20 USC ss. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s.794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101-6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC s. et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 1201 Note), as maybe amended from time to time, relating to nondiscrimination on the basis of disability; 10) Monroe County Code Chapter 14, Article II, which prohibits discrimination on the basis of race, color, sex, religion, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age; and 11) Any other nondiscrimination provisions in any Federal or state statutes which may apply to the parties to, or the subject matter of, this Agreement.

Section 32. Captions. The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

Section 33. Attorney's Fees and Costs. The County and FRED agree that in the event any cause of action or administrative proceeding is initiated or defended by any party relative to the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, court costs, investigative, and out-of-pocket expenses, as an award against the non-prevailing party, and shall include attorney's fees, courts costs, investigative, and out-of-pocket expenses in appellate proceedings. Mediation proceedings initiated and conducted pursuant to this Agreement shall be in accordance with the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit court of Monroe County.

Section 34. Binding Effect. The terms, covenants, conditions, and provisions of this Agreement shall bind and inure to the benefit of the County and Contractor and their respective legal representatives, successors, and assigns.

Section 35. Adjudication of Disputes or Disagreements. County and FRED agree that all disputes and disagreements shall be attempted to be resolved by meet and confer sessions between representatives of each of the parties. If no resolution can be agreed upon within 30 days after the first meet and confer session, the issue or issues shall be discussed at a public meeting of the Board of County Commissioners. If the issue or issues are still not resolved to the satisfaction of the parties, then any party shall have the right to seek such relief or remedy as may be provided by this Agreement or by Florida law.

Section 36. Cooperation. In the event any administrative or legal proceeding is instituted against either party relating to the formation, execution, performance, or breach of this Agreement, County and FRED agree to participate, to the extent required by the other party, in all proceedings, hearings, processes, meetings, and other activities related to the substance of this Agreement or provision of the services under this Agreement. County and FRED specifically agree that no party to this Agreement shall be required to enter into any arbitration proceedings related to this Agreement.

Section 37. Covenant of No Interest. County and FRED covenant that neither presently has any interest, and shall not acquire any interest, which would conflict in any manner or degree with its performance under this Agreement, and that the only interest of each is to perform and receive benefits as recited in this Agreement.

Section 38. Code of Ethics. County agrees that officers and employees of the County recognize and will be required to comply with the standards of conduct for public officers and employees as delineated in Section 112.313, Florida Statutes, regarding, but not limited to, solicitation or acceptance of gifts; doing business with one's agency; unauthorized compensation; misuse of public position, conflicting employment or contractual relationship; and disclosure or use of certain information.

Section 39. No Personal Liability. No covenant or agreement contained herein shall be deemed to be a covenant or agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

Section 40. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

Section 41. Mutual Review. This agreement has been carefully reviewed by FRED and the County, therefore this agreement is not to be construed against either party on the basis of authorship.

[SIGNATURE PAGE FOLLOWS]

WITNESS:

[Signature]
ROYAL BARTHOLOMEW

WITNESS:

[Signature]
Anisha Rodriguez

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

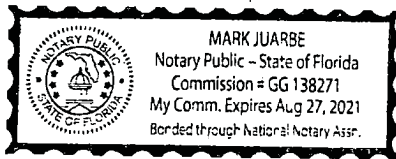
By: [Signature]
William "Bill" F. Spivey, Jr.
Executive Director

STATE OF FLORIDA
COUNTY OF seminole

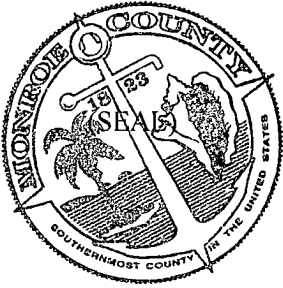
The foregoing instrument was acknowledged before me this 18th day of May, 2018, by William "Bill" F. Spivey, Jr., Executive Director of the Florida Development Finance Corporation, who is personally known to me/has produced FL DL as identification.

(SEAL)


[Signature]
Printed/Typed Name: Mark Juarbe
Notary Public-State of Florida
Commission Number: GG 138271



IN WITNESS WHEREOF, the undersigned have caused this Non-Exclusive Interlocal Agreement to be duly executed and entered into as of the date first above written.



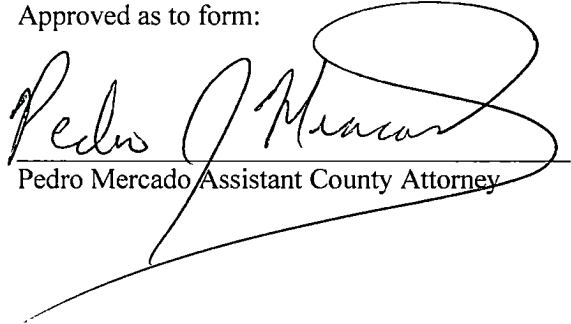
**BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY**

By: 
David Rice, Mayor

Attest:


Kevin Madok, Clerk and Comptroller

Approved as to form:


Pedro Mercado Assistant County Attorney

[SIGNATURE PAGE TO MEMBERSHIP AGREEMENT]

FILED FOR RECORD
2010 JUL 24 AM 8:23
CLK. CIR. CL.
MONROE COUNTY, FLA.

EXHIBIT "A"

INTERLOCAL AGREEMENT

This instrument was prepared by or under the supervision
of (and after recording should be returned to):

BROAD AND CASSEL
390 NORTH ORANGE AVENUE
SUITE 1400
ORLANDO, FL 32804
ATTN: JOSEPH B. STANTON

(SPACE reserved for Clerk of Court)

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

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 _____, 2017

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

THIS SECOND AMENDED AND RESTATED INTERLOCAL AGREEMENT (hereinafter the "Agreement") is made and entered into as of _____, 2017, by and among the government units executing the 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."

W I T N E S S E T H:

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 (collectively, the "Qualifying 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 (collectively, the "Founding Members"), wish to create an entity to finance Qualifying Improvements for themselves and for other local governments pursuant to Section 163.08(2)(a); and

WHEREAS, effective September 6, 2016, the Founding Members and FDFC entered into that certain Agreement (the "Original Agreement"), pursuant to Section 163.01(7), Florida Statutes, creating 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 a "local government" within the meaning of the Florida PACE Act, in furtherance of the objectives of the Florida PACE Act; and

WHEREAS, the separate legal entity created under the Original Agreement has been designated as the Florida Resiliency and Energy District (the "District" or "FRED") which may, pursuant to section 163.08(2)(a), finance Qualifying Improvements through voluntary assessments; and

WHEREAS, FRED, as a separate legal entity created pursuant to section 163.01(7), meets the definition of a local government under section 163.08(2)(a), and may levy assessments to fund qualifying improvements pursuant to authority granted under 163.08(3); and

WHEREAS, subsequent to the execution of the Original Agreement, the parties determined that certain amendments were desired in order provide clarity with respect to the nature of the Qualifying Improvements, and the composition of the Governing Board and the designated principal place of business, among other terms and conditions as are more fully set forth herein; and

WHEREAS, upon agreement of the parties, an Amended and Restated Agreement was ratified by the parties and became effective on January 10, 2017; and

WHEREAS, subsequent to the execution of the Amended and Restated Agreement, the parties determined that certain amendments were desired to be responsive to interpretive concerns raised by some local governments as are more fully set forth herein; and

WHEREAS, the Act also permits FDFC and FRED, as public agencies under the Interlocal Act, to enter into 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 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 Agreement, the Parties agree to have the FDFC PACE Program serve as the administrator for the District's PACE program; and

WHEREAS, in order to provide the property owners within the boundaries of FRED an efficient process for accessing the FDFC PACE Program, FRED will designate FDFC as

its agent for purposes of executing Financing Agreements with property owners on behalf of FRED pursuant to Section 163.08(6), Florida Statutes, and for purposes of administering the FDFC PACE Program within the boundaries of FRED and ensuring compliance with the Florida PACE Act; 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 Qualifying 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 AGREEMENT AGREE AS FOLLOWS:

SECTION 1. AUTHORITY FOR AGREEMENT. This 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 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 Development Finance 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 Agreement:

"Agreement" means this Amended and Restated Interlocal Agreement, including any amendments or supplements hereto, executed and delivered in accordance with the terms hereof.

"Assessment Resolution" means a resolution or resolutions adopted by the District that (A) imposes new Assessments against those property owners entering into Financing Agreements since adoption of the last 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 Agreement.

"District" or **"FRED"** means the Florida Resiliency and Energy District (FRED), a separate legal entity formed pursuant to the Interlocal Act and this Agreement and a local government within the meaning of the Florida PACE Act.

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

"Financing Agreement" means a contract among FRED, FDFC and the owner of a participating parcel in the FDFC PACE Program pursuant to which the owner voluntarily agrees to the levy of Assessments against the participating parcel and the payment thereof to finance the installation of Qualifying Improvements on the participating parcel.

"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.

"Governing Board" means the governing board of FRED as further described in Section 8 hereof.

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

"Joinder Agreement" means a document in which additional government units constituting Public Agencies under the Interlocal Act and local governments as defined under the Florida PACE Act join the District as a Subsequent Party.

"Jurisdictional Boundaries" has the meaning described in Section 7 hereof.

"Limited Member" 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 Governing Board and upon execution of a Limited Purpose Party Membership Agreement between the District and a Limited Member.

"Limited Purpose Party Membership Agreement" means an agreement between additional government units constituting Public Agencies under the Interlocal Act and/or local governments as defined under the Florida PACE Act 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, Subsequent Party or Limited Member.

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

"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 if the property owner chooses to utilize the FDFC PACE Program to finance Qualifying Improvements.

"State" means the State of Florida.

"Subsequent Party" or "Subsequent Parties" means additional governmental units constituting Public Agencies under the Interlocal Act and local governments as defined under the Florida PACE act which execute a Joinder Agreement and agree to serve

on the Governing Board.

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

"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 Agreement; the term "heretofore" shall mean before the effective date of this Agreement; and the term "hereafter" shall mean after the effective date of this Agreement. This Agreement shall not be construed more strongly against any party regardless that such party, or its counsel, drafted this Agreement.

SECTION 4. PURPOSE. The purpose of this Agreement is for the Founding Members to affirm the creation of the District, 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 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 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 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 Joinder Agreement or Limited Purpose Party Membership Agreement entered into by each local government (the "Jurisdictional

Boundaries") that becomes a Subsequent Party or Limited Member to this Agreement. As contemplated in this Amended and Restated 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 Agreement, or Subsequent Party's or Limited Member's termination of participation, those properties that have received financing for Qualifying Improvements shall continue to be a part of the District in accordance with Section 13(C) hereof.

(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 or Limited Member to the District upon application of each public agency or local government to the District and the affirmative vote of a majority of the Governing Board. This 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 or Limited Member. Each Subsequent Party or Limited Member shall execute, deliver, duly authorize, and record in the public records of each Subsequent Party or Limited Member a Joinder Agreement or 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 the Governing Board which shall at a minimum be comprised of three (3) individuals, two (2) of whom are elected officials, city managers, or their designees, of each of the Founding Members, and each representing an individual local government within the Jurisdictional Boundaries of the Parties to this Agreement. The next Subsequent Party to join the District shall be entitled to the third position as a member of the Governing Board, provided however, that prior to addition of a Subsequent Party, the Founding Members shall have the right to jointly appoint a third Governing Board member. Such third Governing Board member shall be unrelated to either Founding Member (e.g., shall not be an officer, or employee of the Founding Members), but shall have a background or experience in finance or economic development. Notwithstanding the foregoing, the maximum number of members on the Governing Board may be increased by a majority vote of the Governing Board to a maximum of 5 members, with the proviso that as much as possible the composition of the Governing Board membership reflects the geographic regions of the state of Florida. After the Governing Board is constituted, the Executive Director may recommend procedures for setting terms, Governing Board qualifications and responsibilities, and the means of appointment of members to the Governing Board. In the event a Governing Board member is no longer eligible or able to serve on the Governing Board, the Public Agency represented by the Governing Board member, so long as it

continues to be a Party to this 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 Governing Board.

SECTION 9. DECISIONS OF THE GOVERNING BOARD. Decisions of the Governing Board shall be made by majority vote of the Governing Board. The Governing Board, upon recommendation of the Executive Director, may adopt rules of procedure for the Governing 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 Agreement, the Founding Members, and any Party joining the District consents to FDFC and FDFC PACE Program providing financing for the District, and FDFC agrees to provide a turnkey PACE program for each jurisdiction that is a Party, Subsequent Party, or Limited Member to this Agreement. Notwithstanding any other section of this 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 PACE 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 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 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 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. In accordance with the findings described in this Agreement, FRED hereby

designates FDFC as its agent for the limited purpose of executing Financing Agreements with property owners on behalf of FRED pursuant to Section 163.08(6), Florida Statutes, and for purposes of administering the FDFC PACE Program within the Jurisdictional Boundaries of FRED and ensuring compliance with the Florida PACE Act.

SECTION 12. POWERS OF THE DISTRICT. With the approval of a majority vote of the Governing 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) hereof, 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 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 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 Agreement.

SECTION 13. TERM.

(A) This 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 Agreement upon 90 days' written notice to the other Parties. Should a Party terminate its participation in this Agreement, be dissolved, abolished, or otherwise cease to exist, the District and this Agreement shall continue until such time as all remaining Parties agree to terminate this Agreement.

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

(C) Notwithstanding a Party's termination of participation in this 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 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;

(2) after holding the public hearing referred to in (1) above, adopt a Resolution of Intent 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 Assessment Resolutions which impose new Assessments against those property owners entering into Financing Agreements since adoption of the last Assessment 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 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 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 FDFC PACE Program 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 AGREEMENTS.

(A) For purposes of this 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 Agreement solely for the purpose of providing turn-key financial and administrative services through the FDFC PACE Program.

(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 Agreement and enter into a separate 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 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 (ii) a flat fee per year per tax parcel in an amount sufficient to reimburse the Tax Collector and Property Appraiser for their actual costs related to providing such services, 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; PRINCIPAL PLACE OF BUSINESS. A copy of this 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. By agreement of the parties, the principal place of business for the District shall be located in Orange County, Florida at FDFC's principal place of business.

SECTION 19. LIMITED LIABILITY.

(A) To the extent permitted by Florida Law and subject to the limitations of Section 768.28, Florida Statutes, the Parties hereto shall each be individually and separately liable and responsible for the actions of its own officers, agents and employees in the performance of their respective obligations under this Interlocal Agreement. Except as specified herein, the Parties shall each individually defend any action or proceeding brought against their respective agency pursuant to this Interlocal Agreement and shall be individually responsible for all of their respective costs, attorneys' fees, expenses and liabilities Incurred as a result of any such claims, demands, suits, actions, damages and causes of action, including the investigation or the defense thereof, and from and against any orders, judgments or decrees which may be entered as a result thereof. The Parties shall each individually maintain throughout the term of this Interlocal Agreement any and all applicable insurance coverage required by Florida law for governmental entities. Nothing in this Agreement shall be construed to affect in any way the Parties' rights, privileges, and immunities, including the monetary limitations of liability set forth therein, under the doctrine of "sovereign immunity" and as set forth in Section 768.28 of the Florida Statutes.

(B) All Limited Member liabilities shall be governed by the Limited Purpose Party Membership Agreement.

(C) 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 Agreement in good faith or for any omission, 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 Agreement.

(D) Neither this 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 or Subsequent 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.

(E) 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 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. ENTIRE AGREEMENT. This Agreement sets forth all the promises, covenants, agreements, conditions and understandings between the parties hereto regarding the subject matter hereof, and supersedes all prior and contemporaneous agreements (including the Original Interlocal Agreement), understandings, inducements or conditions, expressed or implied, oral or written, regarding the subject matter hereof, except as herein contained.

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

SECTION 22. ASSIGNMENT. This 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 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 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 Agreement shall remain in full force and effect.

SECTION 25. APPLICABLE LAW. This 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 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.

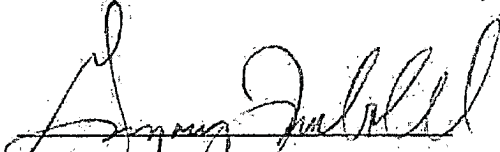
SECTION 27. EFFECTIVE DATE. This Agreement shall become effective on the later of (A) the date hereof, or (B) the date the last Founding Member and FDFC executes this Agreement and the filing requirements of Section 18 hereof are satisfied.

[SIGNATURE PAGES FOLLOW]

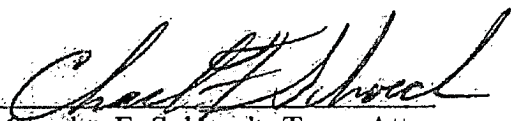
[SIGNATURE PAGE TO AGREEMENT]

IN WITNESS WHEREOF, this 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 11th day of April, 2017.


TOWN OF LAKE CLARKE SHORES, FLORIDA

By: 
Gregory Freetold, Mayor

APPROVED AS TO FORM:

By: 
Charles F. Schoech, Town Attorney

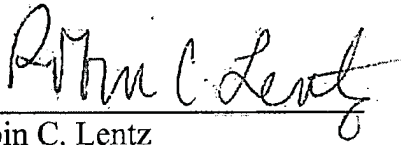
ATTEST:

By: 
Mary Pinkerman, Town Clerk

[SIGNATURE PAGE TO AGREEMENT]

IN WITNESS WHEREOF, this 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 _____, 2017.

CITY OF FERNANDINA BEACH



Robin C. Lentz
Commissioner-Mayor

APPROVED AS TO FORM AND LEGALITY:



Tammie E. Bach
City Attorney

ATTEST:

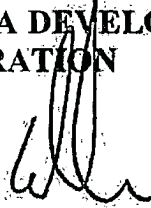


Caroline Best
City Clerk

[SIGNATURE PAGE TO AGREEMENT]

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

**FLORIDA DEVELOPMENT FINANCE
CORPORATION**



By: _____

Name: William "Bill" F. Spivey, Jr.

Title: Executive Director

MONROE COUNTY, FLORIDA

Request For Waiver of Insurance Requirements

It is requested that the insurance requirements, as specified in the County's Schedule of Insurance Requirements, be waived or modified on the following contract.

Contractor: Florida Resiliency and Energy District

Contract for: Non-Exclusive Interlocal Agreement

Address of Contractor: 156 Tuskawilla Road Winter Sprngs, FL 32708

Phone: 407-712-6352

Scope of Work: Purpose of levying and collecting voluntary, non-ad valorem assessments for property owners participating in the FDFC PACE Program within the County.

Reason for Waiver: Not applicable to program.

Policies Waiver will apply to:

Signature of Contractor: [Handwritten Signature]

Approved: [Handwritten Signature] Not Approved: _____

Risk Management

Date: 7-16-18

County Administrator appeal:

Approved: _____ Not Approved: _____

Date: _____

Board of County Commissioners appeal:

Approved: _____ Not Approved: _____

Meeting Date: _____

Administration Instruction

**AGREEMENT BETWEEN
MONROE COUNTY, FLORIDA
AND
RENOVATE AMERICA, INC.**

**AS AN ADMINISTRATOR FOR THE FLORIDA RESILIENCY
AND ENERGY DISTRICT, AND MONROE COUNTY**

This Agreement (the "Agreement") is entered into this 28th day of June, 2018 by and between Monroe County, a political subdivision of the State of Florida (the "Monroe County") and Renovate America, Inc., ("Renovate America"), as a third-party administrator for the Florida Resiliency and Energy District (the "District") (collectively, the "Parties").

WHEREAS, Monroe County and the District have previously entered into that certain Non-Exclusive Interlocal Agreement dated April 19 2018 (the "Interlocal Agreement") which authorizes the District to operate within the unincorporated area of Monroe County, for the purposes of providing a Property Assessed Clean Energy ("PACE") program; and

WHEREAS, Renovate America is a third party administrator for the District, and will be operating on behalf of the District within unincorporated Monroe County; and

WHEREAS, Renovate America has s agreed to provide the County with a separate indemnification agreement for the benefit of the County.

NOW, THEREFORE, the County and Renovate America hereby agree as follows:

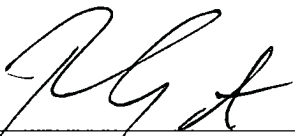
1. The foregoing recitals are incorporated into this Agreement and approved.
2. Renovate America shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the 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 Renovate America or its employees, agents, servants, partners, principals, administrators, subcontractors, or agents Renovate America 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 the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Renovate America expressly understands and agrees that any insurance protection shall in no way limit the responsibility to indemnify, keep and save harmless and defend the 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 connection with this Agreement shall be in the state courts of Monroe 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.

[Signature Pages Follow]

[Signature Page to Indemnification Agreement with Renovate America]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

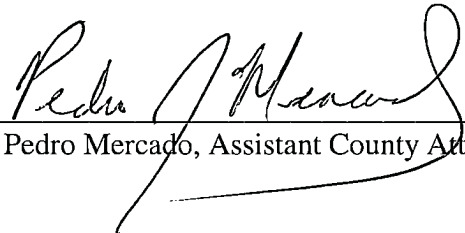
By: 
Roman Gastesi, County Administrator

(SEAL)

Attest:

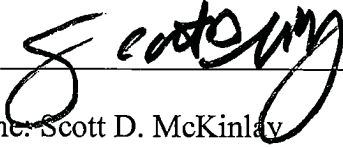
Kevin Madok, Clerk and Comptroller

Approved as to form:


Pedro Mercado, Assistant County Attorney

[Signature Page to Indemnification Agreement with Renovate America]

Renovate America, Inc.

By:  _____

Name: Scott D. McKinlay

Title: Executive Vice President

Date: 6-28-2018 _____