

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

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Broad & Cassel
Bank of America Center
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Orlando, FL 32801-4961

(SPACE reserved for Clerk of Court)

LIMITED PURPOSE PARTY MEMBERSHIP AGREEMENT BETWEEN THE FLORIDA RESILIENCY AND ENERGY DISTRICT AND MARTIN COUNTY

This Limited Purpose Party Membership Agreement (the "Agreement") is entered into this ___ day of ___, 20__ by and between the **FLORIDA RESILIENCY AND ENERGY DISTRICT ("FRED")**, a public body corporate and politic created as a separate legal entity pursuant to Section 163.01(7), Florida Statutes, and **MARTIN COUNTY**, a political subdivision of the State of Florida (the "County") (collectively, the "Parties") for the purpose of providing a Property Assessed Clean Energy program in accordance with the provisions of Section 163.08, Florida Statutes, and Article 14 of Chapter 71, General Ordinances, Martin County Code ("PACE Program") within the legal boundaries of the unincorporated area of Martin County, Florida.

W I T N E S S E T H

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 including the needs and development of local communities; and

WHEREAS, Part I of Chapter 163, Florida Statutes, 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, Section 163.08, F.S., provides that a local government (defined to include a legal entity created pursuant to 163.01(7), F.S.), may finance "Qualifying Improvements" through agreements for property to be subject to a voluntary non-ad valorem assessment as the repayment mechanism, commonly known as Property Assessed Clean Energy ("PACE"); and

WHEREAS, FRED is a legal entity established by Interlocal Agreement, dated September 6, 2016, second amended and restated dated April 11, 2017 and recorded in

O.R. Book 2118, Page 999 of the Public Records of Nassau County, Florida (the "Interlocal Agreement") 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 Florida Development Finance Corporation ("FDFC" and, together with the Public Agencies, the "Member Parties"), as a means of implementing aggregate legal boundaries via the levy and collection of voluntary non-ad valorem special assessments on improved property; and

WHEREAS, on May 8, 2018, the County adopted Article 14, Chapter 71, General Ordinances, Martin County Code, establishing regulations for PACE programs within the unincorporated area of Martin County; and

WHEREAS, the Board of County Commissioners has determined it is in the best interest and welfare of the public for Martin County to enter into this Agreement to authorize FRED to implement and finance a PACE Program within the unincorporated area of Martin County.

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

SECTION 1. INCORPORATION OF RECITALS. The above recitals are true and correct and incorporated herein.

SECTION 2. DEFINITIONS. Any capitalized terms used in this Agreement, but not otherwise defined herein, shall have the meaning specified for such term in the Interlocal Agreement.

SECTION 3. PURPOSE. The purpose of this Agreement is to facilitate the financing of Qualifying Improvements through the PACE program, in accordance with Section 163.08, Florida Statutes, and Article 14 of Chapter 71, General Ordinances, Martin County Code; and to permit FRED to administer the PACE Program. The Parties agree that this Agreement is considered an Interlocal Agreement between the County and FRED and that FRED is a PACE Entity as that term is defined in Article 14 of Chapter 71, General Ordinances, Martin County Code. FRED certifies that it and its third party program administrator(s), if any, are in compliance with Section 163.08, Florida Statutes, and Article 14 of Chapter 71, General Ordinances, Martin County Code, and have not had a local government terminate participation for cause in a PACE Program under their control within the three (3) years prior to the date of this Agreement.

SECTION 4. RIGHTS OF PARTIES. FRED, consistent with the terms the Interlocal Agreement, and the County, hereby agree that the County shall become a Party to the Interlocal Agreement as amended by this Agreement, in the capacity of a Limited Member as defined in the Interlocal Agreement. The Parties also agree that, notwithstanding any other provision in this Agreement or in the Interlocal Agreement to

the contrary, in the event of any conflict between the terms of this Agreement, the Interlocal Agreement, or Article 14 of Chapter 71, General Ordinances, Martin County Code, the provisions of Article 14 of Chapter 71, General Ordinances, Martin County Code will control. In the event of a conflict between this Agreement and the Interlocal Agreement which is not addressed by Article 14 of Chapter 71, General Ordinances, Martin County Code, the provisions of this Agreement will control.

SECTION 5. LEVY OF SPECIAL ASSESSMENTS. The non-ad valorem special assessments arising from a property owner's voluntary participation in the PACE Program shall be levied by FRED. FRED is solely responsible for the levy of any non-ad valorem assessments associated with the PACE Program. FRED's power to levy and collect such non-ad valorem assessments is independent from and unrelated to any such power held by the County. FRED will inform every property owner participating in the PACE Program that the non-ad valorem assessments must be collected pursuant to Sections 163.01, 163.08, 197.3632, and 197.3635, Florida Statutes; and, are not imposed by the County, the Property Appraiser or the Tax Collector and that they are levied and imposed solely by FRED, and then only upon voluntary application of the private property owner as part of the PACE Program.

SECTION 6. QUALIFYING IMPROVEMENTS. Under the terms of this Agreement, the County authorizes FRED to operate the PACE Program to provide access to financing for Qualifying Improvements to real property within the legal boundaries of the unincorporated area of Martin County in accordance with Section 163.08, Florida Statutes, and Article 14 of Chapter 71, General Ordinances, Martin County Code.

SECTION 7. FINANCING AGREEMENT. Before extending any financing through the PACE Program, FRED shall, pursuant to the Section 163.08, Florida Statutes, Article 14 of Chapter 71, General Ordinances, Martin County Code, and this Agreement, enter into a financing agreement (the "Financing Agreement") with the property owner(s) who qualify for financing through FRED as part of the PACE Program. The Financing Agreement shall include a thorough explanation of the PACE Program including the financing process and specify at what point in the process the special assessment will be added to the real property's owner's property tax bills (after completion of the project(s), permit approval, and approval by the property owner).

SECTION 8. BOUNDARIES OF THE PACE PROGRAM. For the limited purposes of administering the PACE Program and imposing non-ad valorem special assessments as described in this Agreement, the legal boundaries of FRED shall include the legal boundaries of the unincorporated area of Martin County, which legal boundaries may be limited, expanded to reflect annexation, or more specifically designated from time to time by the County.

SECTION 9. ELIGIBLE PROPERTIES. Within the legal boundaries of the unincorporated area of Martin County, improved real property, including any

residential, commercial, agricultural and industrial use may be eligible for participation in the PACE Program within the limits otherwise prescribed in Section 163.08, Florida Statutes and Article 14 of Chapter 71, General Ordinances, Martin County Code.

SECTION 10. SURVIVAL OF SPECIAL ASSESSMENTS. During the term of this Agreement, FRED may operate the PACE Program, including the levy of voluntary non-ad valorem special assessments on participating properties within the legal boundaries of the unincorporated area of Martin County to help secure the financing of costs of Qualifying Improvements constructed or acquired on such properties as part of the PACE Program. Those properties receiving financing for Qualifying Improvements shall be assessed by FRED until such time as the financing for such Qualified Improvement is repaid in full, in accordance with Section 163.08, Florida Statutes, Article 14 of Chapter 71, General Ordinances, Martin County Code, and other applicable law. Notwithstanding termination of this Agreement 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 11. TERM. This Agreement shall remain in full force and effect from the date of its execution by both Parties. Any Party may terminate this Agreement for convenience upon thirty (30) days' prior written notice ("Termination Notice"). Should FRED's agreement for operation of a PACE Program be terminated for cause by another local government, FRED will immediately notify the County in writing of such termination and such notice shall be considered a Termination Notice. Beginning on the date of a Termination Notice ("Termination Date"), FRED shall not approve any new applications for the PACE Program. Notwithstanding termination of this Agreement, however, property owners whose applications were approved prior to the Termination Date, and who received funding through the PACE Program, shall continue to be a part of FRED, for the sole purpose of FRED imposing assessments for the repayment of such property's outstanding debt, until such time that all outstanding debt has been satisfied.

SECTION 12. CONSENT. This Agreement, together with the resolution by the Board of County Commissioners of the County approving this Agreement, shall be considered the Parties' consent to authorize FRED to administer the PACE Program within the legal boundaries of the unincorporated area of Martin County, as required by Section 163.08, Florida Statutes and Article 14 of Chapter 71, General Ordinances, Martin County Code.

SECTION 13. NON-EXCLUSIVE. FRED 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 Section 163.08, Florida Statutes.

SECTION 14. LIMITED OBLIGATIONS. Neither FRED nor FDFC is authorized to issue bonds, or any other form of debt, on behalf of the County. To the extent

that FRED or FDFC issues bonds under its own authority in connection with this Agreement, the security for such obligations may be secured by non-ad valorem special assessments imposed by FRED on participating properties in the PACE Program within the legal boundaries of the unincorporated area of Martin County. The issuance of such obligations shall not directly or indirectly or contingently obligate the County in any way. The County will never incur and will never be requested to authorize obligations, to levy or to pledge any form of taxation whatever, or to levy ad valorem taxes on any property within its territorial limits to pay the obligations, and the obligations shall not constitute a lien upon any property owned by the County as part of the PACE Program. For any such obligations, the disclosure document, if any, shall include references to the fact that the County is not an obligated party, and also adequately disclose material attendant risks with PACE programs. Neither FRED nor FDFC, through this Agreement, the Interlocal Agreement, Section 163.08, Florida Statutes, or Article 14 of Chapter 71, General Ordinances, Martin County Code is empowered or authorized in any manner to create a debt against Martin County and shall not pledge the full faith and credit of Martin County in any manner whatsoever.

SECTION 15. LIABILITY, INDEMNIFICATION AND SOVEREIGN IMMUNITY.

(A) The County and FRED are and shall be subject to Section 768.28, Florida Statutes, and any other provisions of Florida law governing sovereign immunity. The County shall not be held jointly liable for the torts of the officers or employees of the FRED, or any other tort attributable to FRED, and 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. The County is completely independent of FRED. To the extent provided by law, FRED shall indemnify, defend and hold harmless the County and its officers, employees and agents from any and all damages, claims, losses, suits, causes of action, judgments, and liability arising from, relating to or resulting from the operation of the PACE Program or performance or non-performance under this Agreement by FRED or its employees, agents, servants, partners, principals, administrators, contractors or subcontractors. FRED 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 attorneys' fees which may issue thereon, in each case with counsel selected by FRED and reasonably acceptable to the County. The Parties agree that Section 19(A) of the Interlocal Agreement does not apply to the County. 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.

(B) The County shall not be obligated in any manner to pay any debts, obligations or liabilities arising as a result of any actions of FRED, the governing board of FRED or any other agents, employees, officers or officials of FRED, except to the extent otherwise mutually and expressly agreed upon, and neither FRED, the governing board of FRED or any other agents, employees, officers or officials of FRED have any authority or power to otherwise obligate the County in the business of FRED in any manner. The Parties agree and acknowledge that the County has granted no such authority to FRED under this Agreement.

(C) 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 shall apply to the officials, officers, agents or employees thereof when performing their respective functions and duties under the provisions of this Agreement.

SECTION 16. AGREEMENTS WITH TAX COLLECTOR AND PROPERTY APPRAISER AND MUNICIPALITIES. This Agreement shall be subject to the express condition precedent that FRED enter into separate agreement(s) with the tax collector and the property appraiser having jurisdiction over the legal boundaries of Martin County, Florida which shall provide for the collection of any non-ad valorem special assessments imposed by FRED within the legal boundaries of the unincorporated area of Martin County. FRED acknowledges that the County has no authority to bind the incorporated municipalities in Martin County, and FRED will be required to enter into separate agreements with the incorporated municipalities in Martin County to the extent FRED wishes to extend the PACE Program into such municipalities.

SECTION 17. OPINION OF BOND COUNSEL. FRED warrants based on counsel's review of the bond validation judgment and the underlying bond documents that the PACE Program's structure complies with the bond validation judgment and the underlying bond documents.

SECTION 18. AGENTS OF FRED. FRED shall ensure that it and its agents, administrators, subcontractors, successors and assigns are, at all times, in compliance with the terms of this Agreement; Section 163.08, Florida Statutes; Article 14 of Chapter 71, General Ordinances, Martin County Code; and any other applicable County, state and federal laws while operating a PACE Program within Martin County. FRED certifies that it and its agents, administrators, subcontractors, successors and assigns have not had a local government terminate participation for cause in a PACE Program under their control within the three (3) years prior to the date of this Agreement. Should FRED's agreement for operation of a PACE Program be terminated for cause by another local government, FRED will immediately notify Martin County in writing of such termination.

SECTION 19. 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 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 32708

and Issuer's Counsel with Nelson Mullins Riley & Scarborough LLP
Joseph Stangle, Esquire
Bank of America Center
390 North Orange Avenue
Suite 1400
Orlando, FL 32801-4961
407.839.4200 (t)

If to County:

Martin County
Attn: County Administrator
2401 SE Monterey Road
Stuart, FL 34996

and Counsel
Martin County
Attn: County Attorney
2401 SE Monterey Road
Stuart, FL 34996

SECTION 20. 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 the County and FRED or other delegated authority authorized to execute same on their behalf.

SECTION 21. 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 22. 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.

SECTION 23. 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.

SECTION 24. THIRD PARTY BENEFICIARIES. None of the Parties 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; provided, however, that counsel to the Parties may rely on this Agreement for purposes of providing any legal opinions required by the issuance of debt to finance the Qualifying Improvements.

SECTION 25. 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.

SECTION 26. RECORDING. This Limited Purpose Party Membership Agreement shall be filed by FRED with the Clerk of the Circuit Court in the Public Records of Martin County, Florida and with a copy of the Interlocal Agreement shall be recorded by FRED in the public records of the Martin County, Florida as an amendment to the Interlocal Agreement, in accordance with Section 163.01(11), Florida Statutes.

SECTION 27. 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.

SECTION 28. EFFECTIVE DATE. This Agreement shall become effective upon the execution by both Parties hereto.

SECTION 29. 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 Nineteenth Judicial Circuit in and for Martin 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 LIMITED PURPOSE PARTY MEMBERSHIP AGREEMENT]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement
on this ____ day of _____, 2020.

MARTIN COUNTY, FLORIDA

By: Its Board of County Commissioners

By: _____
Harold E. Jenkins II, Chairman

ATTEST:

By: _____
Carolyn Timmann, Clerk of
the Circuit Court and Comptroller

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

By: _____
Sarah W. Woods, County Attorney

[SIGNATURE PAGE TO LIMITED PURPOSE PARTY MEMBERSHIP AGREEMENT]

WITNESS:

[Signature]
KEVIN BAROTKUS

WITNESS:

[Signature]
Stacy T. McChesney

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 17th day of July, 2020 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



Jennifer Jenkins
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG141148
Expires 9/5/2021